



Partisan Probes Over Pandemic Prevention and Preparedness

*Select Subcommittee Republicans Spent the 118th
Congress Putting Politics Over People and Public Health*

Democratic Final Report
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Table of Contents

EXECUTIVE SUMMARY	1
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PART I: SELECT SUBCOMMITTEE REPUBLICANS’ “COVID ORIGINS” PROBE FAILED TO FIND THE VIRUS’S ORIGIN OR ADVANCE OUR UNDERSTANDING OF HOW THE NOVEL CORONAVIRUS CAME TO BE	6
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- Republicans’ Investigation Did Not Uncover the Origins of COVID-19—Both Pathways Remain Plausible, and We Are More or Less Where We Started 6
- Republicans Spent the 118th Congress Amplifying Extreme Claims Against Our Nation’s Scientists 9
- Select Subcommittee Democrats Pressed for Accountability Regarding Professional Conduct of Concern 19
- Lessons Learned for Future Pandemic Prevention and Preparedness and the Need for Continued Investment in Scientific Research 28

PART II: SELECT SUBCOMMITTEE REPUBLICANS’ INVESTIGATION INTO NEW YORK STATE’S NURSING HOME POLICY UNDERSCORED DAMAGE CAUSED BY THE TRUMP ADMINISTRATION’S FAILED PANDEMIC RESPONSE AND EMPHASIZED THE NECESSITY OF TRANSPARENCY FROM ELECTED OFFICIALS DURING PUBLIC HEALTH CRISES	31
--	----

- The Trump Administration’s Disastrous Pandemic Response Led to the Uncontrolled Spread Of COVID-19 In Nursing Homes Across the Country .. 32
- Any Public Official Who Sought to Evade Transparency or Mislead the Public About the COVID-19 Pandemic Should Be Held Accountable 35
- Forward-Looking Policies to Better Protect Seniors and Nursing Home Residents from Future Pandemics 44

PART III: SELECT SUBCOMMITTEE REPUBLICANS' PROBE INTO THE BIDEN-HARRIS ADMINISTRATION'S SAFE AND SWIFT REOPENING OF SCHOOLS FAILED TO SUBSTANTIATE BASELESS ALLEGATIONS OF UNDUE INFLUENCE OVER CENTERS FOR DISEASE CONTROL AND PREVENTION GUIDANCE 44

- Select Subcommittee Republicans' Probe Has Not Substantiated Allegations of Political Interference in the Development of the Biden-Harris Administration's School Reopening Guidance 45
- Republicans Baselessly Suggested the Biden-Harris Administration and the American Federation of Teachers Sought to Obstruct Their Probe 54
- Forward-Looking Policies to Minimize Disruptions to In-Person Learning While Protecting Students and Staff During Future Pandemics 55

PART IV: SELECT SUBCOMMITTEE REPUBLICANS ASSAILED ESSENTIAL PUBLIC HEALTH MEASURES THAT PROTECTED AMERICANS FROM COVID-19 55

- Republicans Amplified Extreme and Debunked Claims about COVID-19 Vaccines and COVID-19 Vaccine Policies 55
- Republicans Sought to Undermine Confidence in Social Distancing Measures and Cast Aspersions on Public Health Officials 56

PART V: CONCLUSIONS 56



EXECUTIVE SUMMARY

During the 118th Congress, the Republican-led Select Subcommittee on the Coronavirus Pandemic fueled extreme narratives vilifying America's public health officials, scientists, and teachers. Instead of putting people over politics, Select Subcommittee Republicans prioritized partisan probes over meaningful opportunities to strengthen future pandemic prevention and preparedness and save future lives.

Select Subcommittee Republicans' "COVID Origins" Probe Failed to Find the Virus's Origins or Advance Our Understanding of How the Novel Coronavirus Came to Be

Under the guise of investigating the origins of the COVID-19 pandemic, the Republican-led Select Subcommittee on the Coronavirus Pandemic has been probing federally funded research grants administered through the National Institute of Allergy and Infectious Diseases (NIAID) within the National Institutes of Health (NIH). This probe has largely focused on three things: an article published in *Nature* in March 2020 titled "The proximal origin of SARS-CoV-2," the conduct of Dr. Anthony Fauci, and funding awarded to the nonprofit organization EcoHealth Alliance (EHA). Republicans' focus on these three issues appears to have been driven largely by a desire to substantiate the extreme and baseless narrative that Dr. Fauci was involved in the origins of the COVID-19 pandemic.

Select Subcommittee Republicans' probe into federally funded research has failed to shed meaningful light on the question of the COVID-19 pandemic's origins. Today, a zoonotic origin and lab accident are both plausible, as is a "hybrid" scenario reflecting a mixture of the two. It was repeatedly explained to the Select Subcommittee that all prior epidemics and pandemics, as well as almost all prior outbreaks, have zoonotic origins. At the same time, a lab origin for SARS-CoV-2 also remains plausible. Although arguments for a lab origin are largely circumstantial, they cannot and should not be dismissed out of hand. However, one thing that nearly all witnesses who testified on this issue agreed upon was that without greater transparency from the Chinese Communist Party, it will be difficult, if not impossible, to know the origins of COVID-19.

Over the 118th Congress, the Republican-led Select Subcommittee has relentlessly attacked Dr. Anthony Fauci, the former NIAID Director, under the guise of investigating the origins of the COVID-19 pandemic. Similarly, other scientists, both at NIH and outside the federal government, were also targeted by the Republicans. As this staff report explains, those attacks have ranged from baseless to frivolous and are not substantiated by evidence provided to the Select Subcommittee, which instead revealed the following findings:

- Dr. Fauci did not organize a lab leak suppression campaign. He did not orchestrate the Proximal Origin paper, he did not bribe that paper's authors with federal funding, and he did not direct NIAID staff to manipulate public media coverage of the issue.



- EHA did not create SARS-CoV-2 and cause the COVID-19 pandemic. As a result of EHA's work with WIV, Select Subcommittee Republicans have accused Dr. Daszak of creating SARS-CoV-2, the virus responsible for the COVID-19 disease, and causing the pandemic. Evidence provided to the Select Subcommittee does not support those accusations. The viruses studied under the grant and WIV subaward are too genetically distant from SARS-CoV-2 to have caused the pandemic.
- Similarly, Dr. Fauci did not create SARS-CoV-2. There is no evidence that the viruses studied under NIAID grants caused the COVID-19 pandemic, or that Dr. Fauci was even aware of the EHA grant until after the outbreak.
- Dr. Fauci did not lie to Congress regarding gain-of-function research at WIV. Dr. Fauci's prior Senate testimony explicitly referred to the regulatory definition of the term "gain-of-function," rather than to an informal usage of the term, and his testimony was accurate in that respect.

While the Republican-led origins investigation failed to uncover the origins of COVID-19, evidence did point to potential areas of misconduct. Select Subcommittee Democrats pressed for accountability regarding professional conduct of concern.

- Dr. Daszak and EHA may have misled the federal government about their work and participated in other questionable conduct. During its investigation, the Select Subcommittee reviewed evidence that calls EHA's professional conduct into question. As a grantee, EHA's questionable conduct spanned administrative issues, such as annual reporting requirements, and substantive scientific issues, such as representations of its work in communications with NIAID staff. Dr. Daszak also engaged in conduct outside the scope of EHA's grant that raises reasonable questions regarding his professional integrity. The evidence uncovered is pertinent to the ongoing debarment of EHA by the Department of Health and Human Services (HHS).
- Dr. David Morens, a NIAID employee, exhibited professional conduct that was unbecoming of a public servant when he seemingly attempted to evade Freedom of Information Act and Public Records Act requirements. Select Subcommittee Democrats continue to support the full investigation and proper disciplinary measure for these actions.

Throughout Republicans' probe into federally funded research, numerous witnesses spoke of the dangers to future pandemic prevention and preparedness presented by threats made to scientists and public health officials, as well as concerns about decreased investment in scientific research. In order to best prepare our country for the next pandemic, the Select Subcommittee needs to heed these warnings by protecting scientists and investing critical resources into continued scientific research.



Select Subcommittee Republicans' Investigation into New York State's Nursing Home Policy Underscored Damage Caused by the Trump Administration's Failed Pandemic Response and Emphasized the Necessity of Transparency from Elected Officials During Public Health Crises

The Select Subcommittee also examined allegations that guidance issued by former New York State Governor Andrew Cuomo's Administration caused widespread fatalities in New York State nursing homes and that the Cuomo Administration sought to obscure data regarding these fatalities from the public.

Ultimately, it was the Trump Administration's disastrous pandemic response that led to the uncontrolled spread of COVID-19 in nursing homes across the country. Failing to ensure an adequate supply of personal protective equipment (PPE) left states to compete with each other for limited resources, leaving vulnerable populations and those who cared for them without the protection necessary to contain the spread of the virus. Additionally, delays in developing and scaling up effective COVID-19 testing hampered efforts to contain outbreaks of the virus across the country. These Trump Administration failures paved the way for broader community spread, which was the primary driver of nursing home fatalities in every state, not just New York. Further, the Trump Administration's efforts to roll back nursing home regulations left seniors more vulnerable to the COVID-19 pandemic through less stringent infection control measures.

Throughout the 118th Congress, Select Subcommittee Democrats consistently maintained that any public officials who sought to obscure transparency or mislead the public about the COVID-19 pandemic should be held accountable. For this reason, Select Subcommittee Democrats seriously questioned former Governor Cuomo about his Administration's alleged interference with the data reporting of its Department of Health, as well as their failure to maintain transparency around New York State nursing home deaths. At the same time, the Trump Administration's campaign to deceive the American public about the severity of the COVID-19 pandemic, which included consistently downplaying its threat with false or misleading information, also constituted a fundamental betrayal of the public trust and a failure to satisfy elected officials' obligations to lead with transparency.

Select Subcommittee Democrats are committed to forward-looking policies that build on the Biden-Harris Administration's legacy of protecting and advancing the health of America's seniors and nursing home residents. For example, Select Subcommittee Democrats introduced the Sustained Allocations for Evaluations and Reviews of Nursing Homes Act (SAFER Nursing Homes Act), which increases and reforms federal investments in Centers for Medicare and Medicaid Services (CMS) nursing home oversight. The bill will increase funding for CMS's Survey and Certification inspections and surveys—which uncover poor and substandard care and conditions for residents—and subsequently reclassify funding for these activities as mandatory.



Select Subcommittee Republicans' Probe into the Biden-Harris Administration's Safe and Swift Reopening of Schools Failed to Substantiate Baseless Allegations of Undue Influence Over Centers for Disease Control and Prevention Guidance

In an attempt to distract from the Trump Administration's failure to safely reopen America's schools and undermine the Biden-Harris Administration's legacy of safely and swiftly returning kids to classrooms, Select Subcommittee Republicans probed allegations that former Centers for Disease Control and Prevention (CDC) Director Rochelle Walensky permitted the American Federation of Teachers (AFT) to exert undue influence over the development of the Biden-Harris Administration's February 2021 school reopening guidance.

The Republicans' probe did not substantiate allegations of political interference in the development of the Biden-Harris Administration's school reopening guidance. To the contrary, evidence provided to the Select Subcommittee affirmed that the CDC developed its "Operational Strategy for K-12 Schools through Phased Mitigation" to reopen schools quickly while keeping students and staff safe from COVID-19.

While Select Subcommittee Republicans chose to focus on suggestions from AFT, the CDC consulted approximately 50 organizations in developing the Operational Strategy, including boards of education, superintendents, public health and medical professional organizations, and parents' groups. Select Subcommittee Democrats found that many of these stakeholders were conferred with before AFT was even aware the guidance was forthcoming.

Ultimately, CDC included two commonsense suggestions made by AFT in its Operational Strategy:

- AFT's first suggestion requested that teachers and staff with high-risk conditions be offered appropriate accommodations. The suggestion advised that accommodations be determined "keeping in mind Equal Employment Opportunity (EEO) concerns" and was consistent with contemporaneous EEO guidance related to accommodations for high-risk employees.
- AFT's second suggestion sought to clarify that if a new variant emerged that caused high community transmission, then an update to the guidance might be necessary. This suggestion supplemented existing pre-release language stipulating that CDC reopening guidance might need to be updated in light of new evidence on SARS-CoV-2 variants and risk of transmission.
- No evidence provided to the Select Subcommittee over the course of its probe substantiates Republicans' claims that CDC "obliged" AFT's suggestion to install a closure trigger specifying transmission rates at which schools should automatically close.



By May 2021, just a few months into the Biden-Harris Administration, the percentage of school districts providing full-time in-person learning had risen to 63% from 46%. And less than a year into the Biden-Harris Administration, 95% of public elementary and middle schools were open for full-time in-person learning.

As a result of Republicans' narrow and partisan focus on vilifying our nation's public health officials and teachers, the Select Subcommittee missed an opportunity to examine forward-looking reforms to strengthen school preparedness and minimize disruptions to safe in-person learning in the event of a future pandemic.

Select Subcommittee Republicans Assailed Essential Public Health Measures That Protected Americans from COVID-19

Over the course of the 118th Congress, Select Subcommittee Republicans assailed essential interventions that protected Americans from COVID-19 as part of their campaign to vilify America's public health officials.

Select Subcommittee Republicans repeatedly perpetuated dangerous falsehoods about COVID-19 vaccines and COVID-19 vaccine policies that defied the consensus of the scientific and medical communities. In multiple hearings, Select Subcommittee Republicans and their witnesses echoed extreme and debunked claims about the safety and effectiveness of COVID-19 vaccines, including by casting doubt on whether the COVID-19 vaccines saved millions of lives and by suggesting a potential link between COVID-19 vaccines and autism. Select Subcommittee Republicans also claimed widely supported policies to promote the uptake of COVID-19 vaccines violated the doctor-patient relationship, despite the overwhelming backing of physician groups and medical societies for these policies.

Select Subcommittee Republicans also sought to cast doubt on the CDC's six feet of social distancing recommendation, including through excerpts of Dr. Fauci's transcribed interview testimony. In his subsequent hearing testimony, Dr. Fauci explained that his prior comments were being "distorted" and clarified that although a clinical trial had not been conducted at the time the recommendation was issued, the recommendation had a scientific basis in what little was known of COVID-19 and how it spread so early on in the pandemic.

Conclusion

In an attempt to whitewash the tragedy that ensued from the Trump Administration's failed pandemic response, Select Subcommittee Republicans have spent the 118th Congress advancing partisan probes that smeared our nation's public health officials and sought to undermine the successful legacy of the Biden-Harris Administration's pandemic response. As this report shows, these efforts repeatedly proved unsuccessful and came at the expense of meaningful work to prevent and prepare for future pandemics.



During the 118th Congress, the Republican-led Select Subcommittee on the Coronavirus Pandemic fueled extreme narratives vilifying America’s public health officials, scientists, and teachers. Instead of putting people over politics, Select Subcommittee Republicans prioritized partisan probes over meaningful opportunities to strengthen future pandemic prevention and preparedness and save future lives.

I. SELECT SUBCOMMITTEE REPUBLICANS’ “COVID ORIGINS” PROBE FAILED TO FIND THE VIRUS’S ORIGIN OR ADVANCE OUR UNDERSTANDING OF HOW THE NOVEL CORONAVIRUS CAME TO BE

Under the guise of investigating the origins of the COVID-19 pandemic, the Republican-led Select Subcommittee has been probing federally funded research grants administered through the National Institute of Allergy and Infectious Diseases (NIAID) within the National Institutes of Health (NIH). This probe has largely focused on three things: an article published in *Nature Medicine* in March 2020 titled “The proximal origin of SARS-CoV-2,” the conduct of former NIAID director Dr. Anthony Fauci, and funding awarded to the nonprofit organization EcoHealth Alliance (EHA). Republicans’ focus on these three issues appears to have been driven largely by a desire to substantiate the extreme and baseless narrative that Dr. Fauci was involved in the origins of the COVID-19 pandemic.

A. Republicans’ Investigation Did Not Uncover the Origins of COVID-19—Both Pathways Remain Plausible, and We Are More or Less Where We Started

Select Subcommittee Republicans’ probe into federally funded research has failed to shed meaningful light on the question of the COVID-19 pandemic’s origins. After twelve hearings, over 100 hours of closed-door testimony, and more than 500,000 pages of documents, the Select Subcommittee remains in the same position in which it started: the origins of COVID-19 are unknown. A zoonotic origin and lab accident are both plausible, as is a “hybrid” scenario reflecting a mixture of the two. It was repeatedly explained to the Select Subcommittee that all prior epidemics and pandemics, as well as almost all prior outbreaks, have zoonotic origins. At the same time, a lab origin for COVID-19 also remains plausible. Although arguments for a lab origin are largely circumstantial, they cannot and should not be dismissed out of hand. However, one thing that nearly all witnesses who testified on this issue agreed upon was that without greater transparency from the Chinese Communist Party, it will be difficult, if not impossible, to know the origins of COVID-19.

i. Zoonotic Theory of COVID-19’s Origins

A natural origin of SARS-CoV-2, the virus responsible for the COVID-19 pandemic, remains plausible. One witness explained to Select Subcommittee staff that all prior epidemics and pandemics, as well as almost all prior outbreaks, have been zoonotic.¹ For example, the origin of SARS-CoV-1 (SARS) has been traced to the human-wildlife interface in China, where the virus spread to humans either directly from bats or through an intermediate host involved in

¹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Kristian Andersen (June 16, 2023).

China's wildlife trade.² In that sense, a zoonotic origin is a far likelier source of SARS-CoV-2 than a lab accident.

However, it is not possible to draw firm conclusions regarding a specific zoonotic source. Some witnesses argued that the Huanan Seafood Market is the clear source of the virus,³ pointing in part to the prevalence of early cases around the market.⁴ Other witnesses cautioned that the data showed that the market was “a site for amplification,”⁵ but that the amplification event likely occurred too late to be the original source of the virus.⁶ There is also a separate question of whether early case definitions were biased toward the market, and if so, whether that may have skewed early case data in favor of locations in and around the market.⁷

Similar uncertainty surrounds other market-related data, such as the clustering of environmental samples containing SARS-CoV-2 in areas of the market known to be selling wildlife that were susceptible to the virus.⁸ Select Subcommittee Democratic staff's understanding is that the samples indicate that both the virus and the wildlife were present, but not necessarily that the wildlife was infected with the virus.⁹ Others have pointed to the presence of two different lineages of the virus at the market, arguing that two separate spillover

² Ning Wang, et. al, *Serological Evidence of Bat SARS-Related Coronavirus Infection in Humans, China*, *Virologica Sinica* (Mar. 2, 2018) (online at www.ncbi.nlm.nih.gov/pmc/articles/PMC6178078/).

³ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Kristian Andersen (June 16, 2023) and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Robert Garry (June 9, 2023).

⁴ Michael Worobey, et. al, *The Huanan Seafood Wholesale Market in Wuhan was the Early Epicenter of the COVID-19 Pandemic*, *Science* (July 26, 2022) (online at www.science.org/doi/10.1126/science.abp8715).

⁵ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. W. Ian Lipkin (Apr. 6, 2023).

⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Ralph Baric (Jan. 22, 2024).

⁷ Some early COVID-19 cases reported an association with the Huanan Seafood Market. For a period of time, suspected cases were then identified on the basis of clinical and epidemiological features, including exposure to wet markets in Wuhan. World Health Organization, *WHO-convened Global Study of the Origins of SARS-CoV-2* (Mar. 2020) (online at www.who.int/emergencies/diseases/novel-coronavirus-2019/origins-of-the-virus). Dr. George Gao, former Director of the Chinese CDC, has also stated that case search efforts focused on areas around the Huanan Seafood Market may have missed cases from other areas. *Fever: The Hunt for Covid's Origin*, British Broadcasting Company (July 4, 2023) (online at www.bbc.co.uk/sounds/play/m001ng7c).

⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Kristian Andersen (June 16, 2023). Dr. Andersen was likely referring to an analysis published in March 2023 of data from environmental samples collected in the Huanan Seafood Market. The analysis found that some environmental samples positive for SARS-CoV-2 also contained genetic material from mammals susceptible to the virus. Alex Crits-Cristoph, et. al, *Genetic Evidence of Susceptible Wildlife in SARS-CoV-2 Positive Samples at the Huanan Wholesale Seafood Market, Wuhan: Analysis and Interpretation of Data Released by the Chinese Center for Disease Control*, Zenodo (Mar. 20, 2023) (online at https://zenodo.org/records/7754299#.ZEUz_uzMLX0). The data informing the March 2023 analysis had come separately from the Chinese CDC following their collection of samples on or after January 1, 2020, and publication of a February 2022 preprint, finding that no animal samples were positive for SARS-CoV-2, though some environmental samples were. *Unearthed Genetic Sequences from China Market May Point to Animal Origin of COVID-19*, *Science* (Mar. 16, 2023) (online at www.science.org/content/article/covid-19-origins-missing-sequences).

⁹ Given the Chinese CDC's own view that their data does not prove the presence of infected animals at the Huanan Seafood Market or rule out the possibility that infected humans introduced the virus to the site, Select Subcommittee Democratic staff cannot definitively conclude that the virus emerged via zoonosis at the Huanan Seafood Market. William J. Liu, et. al, *Surveillance of SARS-CoV-2 at the Huanan Seafood Market*, *Nature* (Apr. 5, 2023) (online at www.nature.com/articles/s41586-023-06043-2).

events are therefore likely to have occurred there.¹⁰ However, another witness called that theory “a stretch” and emphasized the slim difference of just two mutations between the two lineages.¹¹

At a minimum, there is convincing evidence that the virus was not *designed* by humans.¹² However, that fact alone does not rule out the possibility of a lab accident involving natural viruses, such as chimeric or recombinant work, or a lab escape of a virus that was collected in the field (which Select Subcommittee Democratic staff would view as a “hybrid” combination of a natural origin and lab accident).

Ultimately, the search for a natural origin will likely remain inconclusive until a progenitor virus is found, or until China releases additional early case data or samples for the scientific community to assess.¹³

ii. Lab Leak Theory of COVID-19's Origins

A lab origin of SARS-CoV-2 is also plausible. Arguments for a lab origin are largely circumstantial but cannot be dismissed out of hand.

For example, although EHA President Dr. Peter Daszak originally testified to the Select Subcommittee that WIV has published all SARS-like coronavirus sequences generated as a result of the EHA grant or its other work, he later acknowledged that he is unaware of whether WIV held other nonpublic viruses or genetic sequences.¹⁴ That fact alone makes it difficult to rule out lab work at WIV involving SARS-CoV-2 or its progenitor virus.

Unanswered questions also continue to surround the controversial research proposal called Project DEFUSE. That project, which was a joint proposal between EHA, WIV, and University of North Carolina at Chapel Hill, proposed introducing furin cleavage sites (FCS) into

¹⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Robert Garry (June 9, 2023).

¹¹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Ralph Baric (Jan. 22, 2024). Although Dr. Baric told Select Subcommittee staff that the lineages differ by a single nucleotide, Select Subcommittee Democratic staff’s understanding from the literature is that they are separated by two nucleotides. Jonathan E. Pekar, et. al, *The Molecular Epidemiology of Multiple Zoonotic Origins of SARS-CoV-2*, Science (July 26, 2022) (online at www.ncbi.nlm.nih.gov/pmc/articles/PMC9348752/).

¹² Kristian G. Andersen, et. al, *The Proximal Origin of SARS-CoV-2*, Nature Medicine (Mar. 17, 2022) (online at www.nature.com/articles/s41591-020-0820-9). Although Select Subcommittee Democratic staff view the paper’s conclusions as being stated too strongly, as do some of its authors in retrospect, the fact that SARS-CoV-2’s receptor binding domain would have been predicted to be suboptimal, the furin cleavage site is also suboptimal, and that very similar receptor binding domains exist in nature, all strongly suggest that the virus’s genome, or some substantial portion of it, originated in nature. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. W. Ian Lipkin (Apr. 6, 2023) and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Robert Garry (June 9, 2023).

¹³ Searches for zoonotic origins of previous viruses have sometimes taken a decade or more to bear fruit (e.g., SARS), even without accounting for obstruction in the home country.

¹⁴ Select Subcommittee on the Coronavirus Pandemic, *A Hearing with the President of EcoHealth Alliance* (May 1, 2024) (online at <https://oversight.house.gov/hearing/a-hearing-with-the-president-of-ecohealth-alliance-dr-peter-daszak>). EHA partnered with WIV to perform experiments on SARS-like coronaviruses. Some aspects of that partnership were funded by NIAID and are discussed throughout this report.

SARS-like viruses.¹⁵ The Defense Advanced Research Projects Agency (DARPA) declined to fund the project, and a collaborator on the proposal told Select Subcommittee staff that he does not know whether WIV ultimately performed the experiments described in the application.¹⁶ Select Subcommittee Democratic staff believe that the proposal and the eventual attributes of SARS-CoV-2 are similar enough to raise a reasonable question as to whether they are linked,¹⁷ but it is unfortunately impossible to draw any conclusions without reviewing additional lab records from WIV.

The Office of the Director of National Intelligence's (ODNI) June 2023 report on potential links between WIV and COVID-19 origins adds another layer of uncertainty. That report confirmed WIV's collaboration on coronavirus research with the CCP's People's Liberation Army,¹⁸ which reinforces the possibility that the full scope of WIV's work remains unknown to the Select Subcommittee and the American public.

Because the full scope of WIV's virus collection and lab work is unknown—and in light of the similarity between Project DEFUSE and SARS-CoV-2, WIV's links to the Chinese military, and the sheer coincidence of the proximity between the outbreak and China's premier coronavirus research lab—Select Subcommittee Democratic staff believe that a lab accident is also plausible.

B. Republicans Spent the 118th Congress Amplifying Extreme Claims Against Our Nation's Scientists

Over the 118th Congress, the Select Subcommittee Republicans have relentlessly attacked Dr. Fauci under the guise of investigating the origins of the COVID-19 pandemic.

¹⁵ In 2018, EHA submitted a grant application titled Project DEFUSE to the Defense Advanced Research Projects Agency (DARPA). The application proposed SARS-like CoV experiments similar to those performed at WIV under the EHA grant and involved collaboration with WIV and the University of North Carolina Chapel Hill (UNC). The application further described experiments introducing furin cleavage sites (FCS) into natural SARS-like CoVs. FCS have not been observed in the Sarbecovirus subgenus other than SARS-CoV-2 but are found in many other viruses within the Betacoronavirus genus. Many viruses rely on a host-produced enzyme to cleave their viral glycoprotein and mediate viral entry into host cells. Furin is one such enzyme and has been shown to cleave the viral glycoproteins of some viruses within the coronavirus family. For an overview of furin cleavage sites, see Elisabeth Braun and Danuel Sauter, *Furin-Mediate Protein Processing in Infectious Diseases and Cancer*, Clinical and Translational Immunology (Aug. 5, 2019) (online at www.ncbi.nlm.nih.gov/pmc/articles/PMC6682551/).

¹⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Ralph Baric (Jan. 22, 2024).

¹⁷ One witness explained to Select Subcommittee staff that the FCS in SARS-CoV-2 is suboptimal, in other words, that it is unlikely to have been designed de novo by scientists. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Kristian Andersen (June 16, 2023). Select Subcommittee Democratic staff acknowledge that point but are unable to rule out the possibility of lab experiments introducing FCS's already known to exist in nature.

¹⁸ Office of the Director of National Intelligence, *Potential Links Between the Wuhan Institute of Virology and the Origin of the COVID-19 Pandemic* (June 2023) (online at www.dni.gov/files/ODNI/documents/assessments/Report-on-Potential-Links-Between-the-Wuhan-Institute-of-Virology-and-the-Origins-of-COVID-19-20230623.pdf).

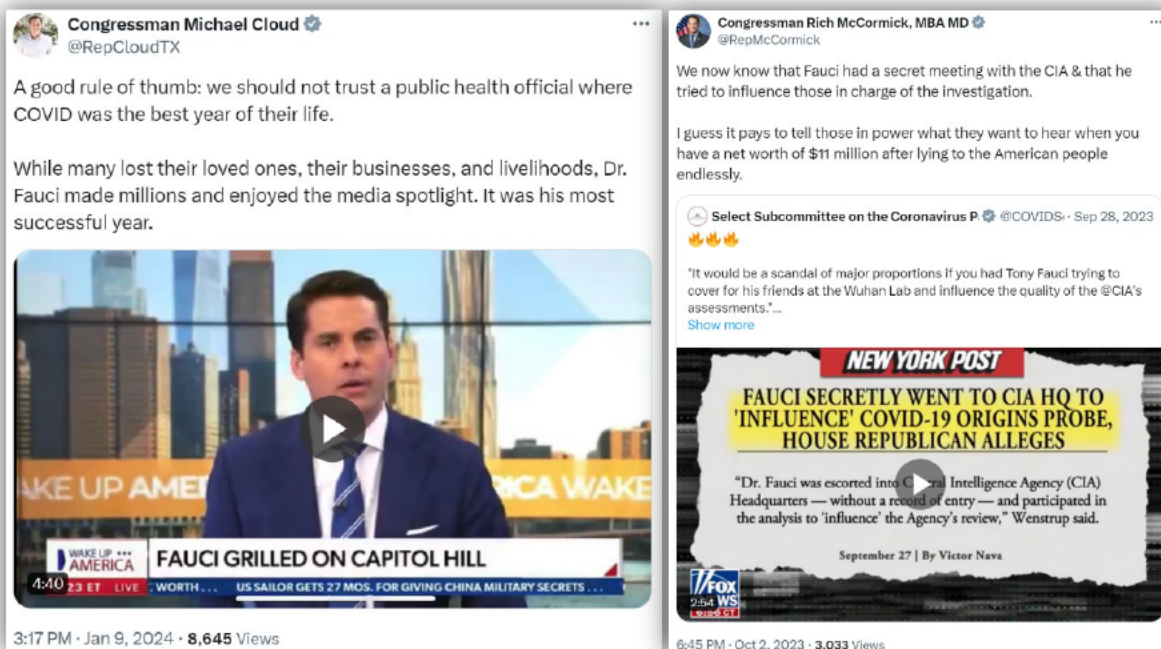
Republican Members of Congress,¹⁹ including members of the Select Subcommittee²⁰ have claimed that Dr. Fauci created SARS-CoV-2 and is responsible for the millions of ensuing deaths.



Republican Members of the Select Subcommittee have also claimed that Dr. Fauci enjoyed or benefitted from the COVID-19 pandemic.

¹⁹ E.g., Select Subcommittee on the Coronavirus Pandemic, *Investigating the Origins of COVID-19, Part 2: China and the Available Intelligence*, 118th Cong. (Apr. 18, 2023) (online at <https://oversight.house.gov/hearing/investigating-the-origins-of-covid-19-part-2-china-and-the-available-intelligence/>) (Chairman Comer stating that “[t]his is a how-to manual in orchestrating a cover-up by using some of the most powerful and influential institutions in our country. If you ask me, this was set in motion by Dr. Fauci to hide U.S. funding of gain of function research and dodge accountability for a virus that has killed more than one million Americans.”).

²⁰ Congresswoman Marjorie Taylor Greene “accused [Fauci] of ‘enhancing viruses’ to create vaccines to treat them.” *Marjorie Taylor Greene Says Fauci Should be Jailed After Congress Grilling*, Newsweek (Jan. 9, 2024) (online at www.newsweek.com/marjorie-taylor-greene-anthony-fauci-coronavirus-testimony-congress-1858931).



Similarly, other scientists, both at NIH and outside the federal government, were also targeted by Republicans.

These attacks have ranged from baseless to frivolous and are not substantiated by evidence provided to the Select Subcommittee, and merely lead to further attacks on our nation's scientists.

i. Drs. Fauci and Collins Did Not Orchestrate the “Proximal Origin” Paper Or Offer Bribes To Its Authors

The first phase of the Select Subcommittee's Republican-led investigations focused on a paper entitled “The proximal origin of SARS-CoV-2” (“Proximal Origin”), which concluded that SARS-CoV-2 was likely of natural origin. Select Subcommittee Democrats released a July 2023 interim staff report with findings from this investigative phase.²¹ A June 2024 Democratic staff report incorporated later testimony from Dr. Fauci and Dr. Collins refuting Republican claims related to the “Proximal Origin” paper.²²

²¹ Democratic Staff, Select Subcommittee on the Coronavirus Pandemic, “‘They Played No Role’ Select Subcommittee Republicans’ Own Investigation Disproves Allegations that Dr. Fauci and Dr. Collins Suppressed the Lab Leak Theory Through the ‘Proximal Origin’ Paper” (July 2023) (online at <https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/For%20Distribution-2023.07.11%20Proximal%20Origin%20Democratic%20Staff%20Report.pdf>) [hereinafter July 2023 Democratic Interim Staff Report].

²² Democratic Staff, Select Subcommittee on the Coronavirus Pandemic, “Republicans’ Fauci Flop: Select Subcommittee’s Fifteen-Month Probe Fails to Find Evidence of Extreme Claims Linking Dr. Fauci to COVID-19’s Origins” (June 2024) (online at https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/SSCP%20Dr.%20Fauci%20Democratic%20Staff%20Report_FINAL.pdf) [hereinafter June 2024 Democratic Staff Report].

Contrary to Republicans' claims that Drs. Fauci and Collins orchestrated "Proximal Origin" to suppress the lab leak theory, all authors interviewed by the Select Subcommittee confirmed that Drs. Fauci and Collins did not lead, oversee, or influence the drafting of the paper.²³ The authors also confirmed that neither Dr. Fauci nor Dr. Collins directed that "Proximal Origin" should argue for a natural origin.²⁴

To begin with, all evidence confirms that Dr. Jeremy Farrar, a British scientist, organized the February 1, 2020, conference call that Republicans allege led to the drafting of "Proximal Origin." All participants on that call interviewed by the Select Subcommittee testified that Drs. Fauci and Collins played no substantive role on that call.²⁵ That testimony is consistent with documentary evidence which shows that Dr. Farrar introduced and defined the focus of the call, set desired outcomes for the call, and established next steps after the call.²⁶

"Proximal Origin" authors testified that Drs. Fauci and Collins did not "[do] anything really to influence the paper in any way"²⁷ and "played no role in the paper."²⁸ No documentary evidence or witness testimony indicates that Drs. Fauci and Collins provided substantive input on any draft of "Proximal Origin." To the extent that Dr. Fauci suggested writing a paper at all, both he and the lead author of the paper understood that the paper would *endorse* the lab leak theory, as that was the authors' initial view of SARS-CoV-2's origin at that time.²⁹

Dr. Fauci, Dr. Collins, and authors of "Proximal Origin" also refuted the allegation that Dr. Fauci and Dr. Collins bribed the authors with federal grant money.³⁰ In addition to witnesses' sworn testimony, publicly available information on NIH's website shows that the authors' grant at issue had passed NIH's Scientific Merit Review in November 2019—prior to the first reported case of COVID-19 in December 2019—and NIH's Advisory Council Review in January 2020—prior to the February 1, 2020, conference call.³¹

²³ July 2023 Democratic Interim Staff Report.

²⁴ *Id.*

²⁵ *Id.* At their transcribed interviews, Drs. Fauci and Collins corroborated the "Proximal Origin" authors' testimony. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Anthony Fauci (Jan. 8-9, 2024) and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Francis Collins (Jan. 12, 2024).

²⁶ Email from Dr. Jeremy Farrar, Director, Wellcome Trust to Dr. Anthony Fauci, Director, National Institute of Allergy and Infectious Diseases, et al. (Feb. 1, 2020) (on file with Select Subcommittee staff).

²⁷ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Robert Garry (June 9, 2023).

²⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Kristian Andersen (June 16, 2023).

²⁹ *See e.g.*, Email from Dr. Anthony Fauci, Director, National Institute of Allergy and Infectious Diseases, to Dr. Jeremy Farrar, Director, Wellcome Trust (Feb. 1, 2020) (on file with Select Subcommittee Staff). "Proximal Origin" authors have stated that certain features of SARS-CoV-2's genome led the authors to adopt an initial view that the virus had a laboratory origin. Upon further examination of those features and other emerging evidence, the authors' view of the likely origin shifted to nature. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Robert Garry (June 9, 2023) and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Kristian Andersen (June 16, 2023).

³⁰ Relevant witness testimony refuting this allegation is cited in the July 2023 Democratic Interim Staff Report and June 2024 Democratic Staff Report.

³¹ National Institutes of Health, NIH Guide - RFA-AI-19-028 (online at <https://grants.nih.gov/grants/guide/rfa-files/RFA-AI-19-028.html>) (accessed July 5, 2023).

ii. *EcoHealth Alliance Did Not Create COVID-19*

Claims that EHA invented SARS-CoV-2 are unsupported by available evidence.

EHA is an international nonprofit based in New York City that focuses on assessing the risks of emerging infectious diseases from wildlife.³² On May 27, 2014, NIAID awarded EHA a five-year grant titled, “Understanding the Risk of Bat Coronavirus Emergence.” The grant proposed to assess the risk of coronavirus emergence by studying the intersection of coronavirus wildlife reservoirs and humans and examining natural coronaviruses of interest.³³ Through a subaward from EHA to WIV, WIV conducted the grant’s sequencing and genetic experiments on coronaviruses.

Claims that Dr. Fauci created SARS-CoV-2 revolve around the NIAID grant to EHA and the subaward to WIV. However, there is no evidence that the viruses researched at WIV sparked the COVID-19 pandemic. As NIH Principal Director Dr. Lawrence Tabak explained in 2021, the published viruses studied under this grant were too evolutionarily distant from SARS-CoV-2 to be its progenitor virus.³⁴ Republicans have failed to demonstrate that any virus related to the EHA grant could even *possibly* have led to the creation of SARS-CoV-2, despite several years of taxpayer-funded efforts to do so.

iii. *Dr. Fauci Did Not Create COVID-19*

Claims that Dr. Fauci created SARS-CoV-2 are equally false. These claims stem from the fact that Dr. Fauci was the Director of NIAID when EHA received its grant. However, Dr. Fauci was unfamiliar with both the EHA grant and EHA’s president, Dr. Peter Daszak, prior to the COVID-19 pandemic. At his transcribed interview, Dr. Fauci testified that he did not recall any specific interaction with Dr. Daszak and that NIAID’s coronavirus portfolio was largely outside of his expertise and involvement during this time.³⁵

³² EcoHealth Alliance, *About* (online at www.ecohealthalliance.org/about) (accessed on Apr. 15, 2024).

³³ EHA Grant Application (June 6, 2013) (on file with Select Subcommittee Staff).

³⁴ Letter from Dr. Lawrence Tabak, Principal Deputy Director National Institutes of Health, to Ranking Member James Comer, Committee on Oversight and Reform (Oct. 20, 2021) (on file with Select Subcommittee Staff). On October 20, 2021, NIH Principal Deputy Director Dr. Lawrence Tabak sent a letter and analyses to then-House Committee on Oversight and Reform Ranking Member James Comer, explaining that published viruses studied under the grant were too evolutionarily distant from SARS-CoV-2 to be its progenitor virus. There is no other virus included in work performed under the EHA grant, whether at WIV or elsewhere, that Select Subcommittee Democrats are aware of that is closely enough related to SARS-CoV-2 such that it could be a progenitor virus. It should be noted, however, that EHA acknowledges that WIV continues to withhold lab notebooks related to work performed under that grant. In that sense, this analysis is incomplete and will remain so until WIV produces all related records.

³⁵ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Anthony Fauci (Jan. 8-9, 2024).

Democratic Counsel:	If I could ask a quick, more global question, when it comes to EcoHealth Alliance or Dr. Peter Daszak, there's been significant focus on him. There have been suggestions, sometimes, that you and he somehow collaborated or conspired to hide something. Let me just ask, what is the extent to which you knew Dr. Daszak prior to the pandemic, let's say?
Dr. Fauci:	Prior to the pandemic, I really don't recall any specific interaction with him. In the course of all of these activities that were going on, someone—I guess it was in the press—showed a picture of me with Dr. Daszak. I take probably thousands of pictures with people at scientific meetings. So the picture shows I've met him. If you ask me, do I have a relationship of back-and-forth discussions with him, the answer to that would be "no."
Democratic Counsel:	Would that relationship, as you just described it, be pretty similar to other well-known folks in their respective fields who have grants with the agency?
Dr. Fauci:	I would say less so. And the reason I say "less so" is that there are people who are grantees who are in an area of research that I am very familiar with and that I'm involved with. For example, my relationship with many people in the field of HIV/AIDS research is something in which I talk to them all the time. Sometimes I collaborate with them on research. I see them at the scientific meetings that I go to. That is not the relationship I had with Dr. Daszak.
Democratic Counsel:	That's helpful. Also, you touched on it, but you may want to expand on the idea that, under the umbrella of NIAID, I mean, there are all sorts of grants on all sorts of different branches of subject matter. You have this intimate relationship with HIV, professionally. How would you describe your, sort of, links to the coronavirus field prior to, of course, the pandemic?
Dr. Fauci:	Very little. In the division of microbiology and infectious diseases, I would have much more interaction with things like malaria and tuberculosis and things like that.

	Coronaviruses, except for a brief period of time during that very small window in 2002-2003 with coronavirus, I am not integrated, as it were, into the coronavirus field of researchers. I know them now. Obviously, there's a lot of discussion about them. But we have thousands of grants and grantees, and on each grant there may be many investigators. So we have a lot of people coming by, talking to me, meeting me at meetings.
Democratic Counsel:	And that's helpful.
	What is the extent to which you were familiar with not necessarily Dr. Daszak as a person but this particular grant prior to all the scrutiny?
Dr. Fauci:	Yeah. I do not recall any familiarity with this grant prior to the outbreak.

Furthermore, Dr. Fauci testified that, as Director of NIAID, he oversaw anywhere between two to three thousand grants at any given time, along with his other many responsibilities as Director.³⁶ Therefore, there is no reason to believe that Dr. Fauci had any involvement in the creation of SARS-CoV-2 and the origins of the COVID-19 pandemic.

iv. Dr. Fauci Did Not Lie About Gain-Of-Function Research—His Statements Were Based On the Regulatory Definitions, While Republicans Have Tried To Use a Layperson's Definition That Is Not Relevant for Gain-Of-Function Analyses

Select Subcommittee Democrats found that Dr. Fauci testified truthfully to Congress when he stated that NIH had not funded “gain-of-function” research at WIV. Dr. Fauci’s truthful testimony on this issue was thoroughly examined in a June 2024 Democratic staff report.³⁷

In May 2021, Dr. Fauci testified to the Senate that “the NIH has not ever and does not now fund gain-of-function research in the Wuhan Institute of Virology.”³⁸ Dr. Fauci again testified to the Senate the following November and provided similar testimony.³⁹ Many right-wing figures have since accused Dr. Fauci of lying to Congress.⁴⁰

³⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Anthony Fauci (Jan. 8-9, 2024).

³⁷ Democratic Staff, Select Subcommittee on the Coronavirus Pandemic, “Republicans’ Fauci Flop: Select Subcommittee’s Fifteen-Month Probe Fails to Find Evidence of Extreme Claims Linking Dr. Fauci to COVID-19’s Origins” (June 2024) (online at https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/SSCP%20Dr.%20Fauci%20Democratic%20Staff%20Report_FINAL.pdf).

³⁸ Senate Committee on Health, Education, Labor, and Pensions, *An Update from Federal Officials on Efforts to Combat COVID-19*, 117th Cong. (May 11, 2021) (online at www.help.senate.gov/hearings/an-update-from-federal-officials-on-efforts-to-combat-covid-19).

³⁹ Senate Committee on Health, Education, Labor, and Pensions, *Next Steps: The Road Ahead for the COVID-19 Response*, 117th Cong. (Nov. 4, 2021) (online at www.help.senate.gov/hearings/next-steps-the-road-ahead-for-the-covid-19-response).

⁴⁰ *The Repeated Claim That Fauci Lied to Congress About ‘Gain-Of-Function’ Research*, Washington Post (Oct. 29, 2021) (online at www.washingtonpost.com/politics/2021/10/29/repeated-claim-that-fauci-lied-congress-about-gain-

These accusations stem from confusion over the meaning of the term “gain-of-function.” Throughout the Republican-led investigation, the term “gain of function” has been used to refer to at least three different definitions:

- **Definition 1:** a layman, nonregulatory definition determined by the simple question of whether an experiment has modified an organism and yielded a “gain in function,” or a change in function, even if that new function is not dangerous;⁴¹
- **Definition 2:** a regulatory definition contained in the 2014 Federal Gain-of-Function Moratorium (“the pause”), which was narrowly drawn and temporarily paused all federally funded work falling under its scope;⁴² and
- **Definition 3:** the operative and regulatory definition contained in the 2017 Department of Health and Human Services’ (HHS) *Framework for Guiding Funding Decisions about Proposed Research Involving Enhanced Potential Pandemic Pathogens* (P3CO Framework), which differs from and replaced the pause and subjected all federally funded work meeting the new definition to increased regulatory scrutiny.⁴³

Accusations that Dr. Fauci lied to Congress appear to focus squarely on Definition 1 and ignore Dr. Fauci’s repeated references to the operative, regulatory definition during his 2021 Senate testimony.

of-function-research/); *Ted Cruz tells CPAC That Fauci Should Be Jailed Over COVID-19 ‘Lies’ and Mandates*, Dallas Morning News (Mar. 2, 2023) (online at www.dallasnews.com/news/politics/2023/03/02/ted-cruz-tells-cpac-that-fauci-should-be-jailed-over-covid-19-lies-and-mandates/); *Dr. Anthony Fauci Is Caught in His Biggest COVID Lie Yet*, New York Post (July 31, 2023) (online at <https://nypost.com/2023/07/31/dr-anthony-faucis-caught-in-his-biggest-covid-lie-yet/>);

⁴¹ National Institutes of Health, *Gain-of-Function Research Involving Potential Pandemic Pathogens* (online at <https://web.archive.org/web/20211019065407/https://www.nih.gov/news-events/gain-function-research-involving-potential-pandemic-pathogens>) (accessed May 8, 2024). Select Subcommittee Republicans often point to an archived NIH webpage for this definition. That page defined gain-of-function as “a type of research that modifies a biological agent so that it confers new or enhanced activity to that agent.”

⁴² Department of Health and Human Services, *U.S. Government Gain-of-Function Deliberative Process and Research Funding Pause on Selected Gain-of-Function Research Involving Influenza, MERS, and SARS Viruses* (Oct. 17, 2014) (online at www.phe.gov/s3/dualuse/Documents/gain-of-function.pdf). The pause affected projects “that may be reasonably anticipated to confer attributes to influenza, MERS, or SARS viruses such that the virus would have enhanced pathogenicity and/or transmissibility in mammals via the respiratory route.” The pause did not apply to characterization of naturally occurring flu, MERS, or SARS, unless the tests were reasonably anticipated to increase transmissibility and/or pathogenicity. The pause was in effect from 2014-2017.

⁴³ Department of Health and Human Services, *Framework for Guiding Funding Decisions about Proposed Research Involving Enhanced Potential Pandemic Pathogens* (Jan. 9, 2018) (online at www.phe.gov/s3/dualuse/Documents/P3CO.pdf). The Framework implemented new defined terms such as “potential pandemic pathogen,” or PPP, and “enhanced PPP.” Those definitions are discussed later in this report, but they differ from the pause in at least two important ways: the Framework is limited to humans, rather than all mammals, and covers all pathogens, rather than just flu, MERS, and SARS. The P3CO Framework remains in effect today. Effective May 6, 2025, the P3CO Framework will be superseded by a new White House-created framework. See The White House, *Implementation Guidance for the United States Government Policy for Oversight of Dual Use Research of Concern and Pathogens with Enhanced Pandemic Potential* (May 6, 2024) (online at www.whitehouse.gov/wp-content/uploads/2024/05/USG-DURC-PEPP-Implementation-Guidance.pdf).

At his transcribed interview and hearing with the Select Subcommittee, Dr. Fauci explained that in his Senate testimony, he was referring to the P3CO Framework (Definition 3).⁴⁴

Dr. Fauci's Senate testimony was clear in this respect. For example, in his May 2021 Senate testimony, Dr. Fauci specifically noted that he was referring to the P3CO definition (Definition 3).⁴⁵

Mr. Marshall:	My point is, is there national security implications with something as theoretically lethal as viral gain-of-function?
Dr. Fauci:	Sure, there is. That is why we have committees. We have a P3CO committee, which is the Potential Pathogen—Pandemic Pathogen Care and Observation—and Oversight, excuse me. And that is a committee separate from the NIH that looks at these types of grants to see if they need to be funded. So, there is a considerable amount of oversight to make sure grants that are doing research that would obviously be of danger is not performed.

Dr. Fauci did the same in a November 2021 exchange with Senator Paul.⁴⁶

Mr. Paul:	We don't anticipate the Chinese are going to reveal the virus if it came from their lab. You know that, but you continue to mislead. You continue to support NIH money going to Wuhan. You continue to say you trust the Chinese scientist. You appear to have learned nothing from this pandemic. Will you, today, finally take some responsibility for funding gain-of-function research in Wuhan?
Dr. Fauci:	Senator, with all due respect, I disagree with so many of the things that you have said. First of all, gain-of-function is a very nebulous term. We have spent—not us, but outside bodies—a considerable amount of effort to give a more precise definition to the type of research that is of concern that might lead to a dangerous situation. You are aware of that. That is called P3CO.

This was logical, as the P3CO definition (Definition 3) was the framework that Dr. Fauci's Institute was tasked with implementing.

⁴⁴ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Anthony Fauci (Jan. 8-9, 2024) and Select Subcommittee on the Coronavirus Pandemic, *Hearing on A Hearing with Dr. Anthony Fauci* (June 3, 2024) (online at <https://oversight.house.gov/hearing/a-hearing-with-dr-anthony-fauci/>).

⁴⁵ Senate Committee on Health, Education, Labor, and Pensions, *Hearing on An Update from Federal Officials on Efforts to Combat COVID-19*, 117th Cong. (May 11, 2021) (online at www.govinfo.gov/content/pkg/CHRG-117shrg46765/pdf/CHRG-117shrg46765.pdf).

⁴⁶ *Id.*

Definition 1, by contrast, had no regulatory significance during Dr. Fauci’s tenure as Director and thus formed no part of his 2021 Senate testimony.⁴⁷ Dr. Fauci reiterated this point at his June 3, 2024, hearing before the Select Subcommittee.

Republican Counsel:	According to the broad definition of gain of function research and the definition Dr. Tabak was testifying pursuant to, did NIAID fund gain of function research via EcoHealth in Wuhan?
Dr. Fauci:	The broad definition of gain of function, in my mind, is not applicable here and does nothing but confuse the situation. And that is the reason why, after 3 years of deliberation by the bodies, including the NSABB as well as the National Academies, it was decided to make an operative and regulatory definition. If you harken back to the original broad definition, it does nothing but confuse people. And that's why every time I have mentioned gain of function, at the Senate hearing with Senator Paul and the TI and today, the definition that I use is not my personal definition. It's a codified regulatory and operative definition made by a body that has nothing to do with me.
Republican Counsel:	Thank you.

At his transcribed interview, Dr. Fauci also explained that he was neither involved in “gain-of-function” assessments nor aware of them at the time they were made by NIAID subject matter experts.⁴⁸ Dr. Fauci confirmed that NIAID staff had assessed whether the EHA grant fit either the pause or P3CO definitions of “gain-of-function” (in 2016 and 2018, respectively) and found the answer to be “no” in both cases.⁴⁹

Dr. Fauci’s testimony to the Senate and Select Subcommittee was both clear and accurate. Select Subcommittee Democrats hope that public figures will stop levying baseless attacks against him.

⁴⁷ Select Subcommittee on the Coronavirus Pandemic, *Hearing on A Hearing with Dr. Anthony Fauci* (June 3, 2024) (online at <https://oversight.house.gov/hearing/a-hearing-with-dr-anthony-fauci/>). Select Subcommittee on the Coronavirus Pandemic, *Hearing on Overseeing the Overseers: A Hearing with NIH Deputy Director Lawrence Tabak* (May 16, 2024) (online at <https://oversight.house.gov/hearing/overseeing-the-overseers-a-hearing-with-nih-deputy-director-lawrence-tabak/>). At a May 16, 2024, Select Subcommittee hearing, in response to a question about whether NIH funded “gain-of-function” research at WIV, NIH Deputy Director Dr. Lawrence Tabak testified, “If you’re speaking about the generic term, yes we did.” Dr. Tabak later clarified that NIAID applied Definitions 2 and 3 in assessing whether proposed research was or was not “gain-of-function” research, and that the generic Definition 1 had no relevance to that assessment. He continued to confirm that, under the regulatory definition, NIH and NIAID did not fund “gain-of-function” research through the EcoHealth Alliance grant.

⁴⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Anthony Fauci (Jan. 8-9, 2024).

⁴⁹ *Id.*

C. Select Subcommittee Democrats Pressed for Accountability Regarding Professional Conduct of Concern

While the Republican-led origins investigation failed to uncover meaningful evidence to determine the origins of COVID-19, evidence did point to potential areas of misconduct by an NIH grantee and a NIAID employee. Select Subcommittee Democrats took these issues seriously. In transcribed interviews and in hearings, Select Subcommittee Democrats pressed for information and accountability regarding professional conduct of concern.

i. EcoHealth Alliance's Conduct Called Its Professional Integrity Into Question

Select Subcommittee Democrats identified information that draws into question EHA's professional conduct as a grantee and recipient of federal taxpayer funding. These findings were covered in a May 2024 Democratic staff report.⁵⁰ In September 2024, EHA released a report addressing questions and concerns previously posed by the Select Subcommittee about EHA's conduct.⁵¹ Any new information provided in that report does not alter the conclusions Select Subcommittee Democrats made from previously available evidence.

a. EcoHealth Alliance's Failure to Submit its Year 5 Report Raises Questions Regarding its Truthfulness

NIH grantees are required to submit annual research performance progress reports (RPPRs) summarizing their work.⁵² EHA's Year 5 RPPR was due on September 31, 2019,⁵³ a deadline that EHA missed. EHA ultimately submitted the report on August 3, 2021.⁵⁴

EHA staff have consistently maintained that they uploaded the Year 5 RPPR in July 2019, but that when they tried to officially submit the report, they were locked out of NIH's electronic filing system.⁵⁵ EHA claims that NIH never responded to outreach or asked for the report, which EHA took to mean that its submission was not required.

⁵⁰ Democratic Staff, Select Subcommittee on the Coronavirus Pandemic, "EcoHealth Alliance Did Not Cause the COVID-19 Pandemic but Did Engage in Questionable Professional Conduct" (May 2024) (online at https://oversightdemocrats.house.gov/sites/evo-subsites/democrats-oversight.house.gov/files/evo-media-document/SSCP%20EHA%20Democratic%20Staff%20Report_FINAL.pdf).

⁵¹ EcoHealth Alliance, *A New Report from EcoHealth Alliance Corrects the Record* (Sep. 24, 2024) (online at www.ecohealthalliance.org/2024/09/a-new-report-from-ecohealth-alliance-corrects-the-record).

⁵² National Institutes of Health, *NIH Grants Policy Statement* (Dec. 2022) (online at <https://grants.nih.gov/grants/policy/nihgps/nihgps.pdf>).

⁵³ Letter from Dr. Michael Lauer, Deputy Director for Extramural Research, National Institutes of Health, to Drs. Aleksei Chmura, Chief of Staff, EcoHealth Alliance, and Peter Daszak, President, EcoHealth Alliance (July 23, 2021) (on file with Select Subcommittee Staff).

⁵⁴ EHA Year 5 Interim RPPR (Aug. 3, 2021) (on file with Select Subcommittee Staff).

⁵⁵ See e.g., Letter from Dr. Peter Daszak, President, EcoHealth Alliance, to Dr. Michael Lauer, Deputy Director for Extramural Research, National Institutes of Health (Oct. 26, 2021) (on file with Select Subcommittee Staff). NIH performed an electronic forensic investigation and found no evidence that EHA were locked out of the system. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Michael Lauer (Nov. 2, 2023) (on file with Select Subcommittee Staff). EHA made similar claims to the Department of Health and Human Services Office of the Inspector General, which also found no corroborating evidence. Department of Health and Human Services, Office of the Inspector General, *The National Institutes of Health and EcoHealth Alliance Did Not*

The documentary evidence available to the Select Subcommittee appears to be inconsistent with a July 2019 upload and system lockout. For example, on July 30, 2019, EHA emailed a NIAID grants management officer (“grants officer”) to inquire about the report’s due date. The email lacks any mention of a lockout. In addition, the email does not state that the report has been uploaded, only that EHA “[expects] to have everything uploaded and submitted by the end of July.”⁵⁶

In fact, the Select Subcommittee has received no records or communications that corroborate a late July 2019 upload or system lockout.⁵⁷ At his transcribed interview, Dr. Daszak suggested that the absence of documentary evidence is consistent with EHA’s later unsuccessful efforts to communicate with the grants officer exclusively by phone.⁵⁸ Given that EHA had emailed the grants officer regarding the report at least twice in the final two weeks of July 2019,⁵⁹ it is difficult to conceive that EHA would shift and persist in a different pattern of communication despite their unsuccessful efforts. EHA’s claimed reliance on a resolution over phone is particularly questionable considering Dr. Daszak had emailed copies of EHA’s RPPRs to grants or program officers in previous years, and, on occasion, ahead of official submission.⁶⁰

Other documentary evidence is also in tension with EHA’s representations regarding their submission of the Year 5 report. In a September 17, 2019, email, Dr. Daszak wrote that EHA “[has] worked up a draft report, and I’ll rapidly finish that off and submit it.”⁶¹ At his transcribed interview, Dr. Daszak testified that his description of a “draft report” referred to a Year 5 report that had been finalized and uploaded but not accepted into NIH’s system, and that

Effectively Monitor Awards and Subawards, Resulting in Missed Opportunities to Oversee Research and Other Deficiencies (Jan. 2023) (online at <https://oig.hhs.gov/oas/reports/region5/52100025.pdf>).

⁵⁶ Email from Dr. Aleksei Chmura, Chief of Staff, EcoHealth Alliance, to Grants Officer, National Institute of Allergy and Infectious Diseases (July 30, 2019) (on file with Select Subcommittee Staff).

⁵⁷ In support of EHA’s claim that they uploaded the Year 5 RPPR in July 2019, Dr. Daszak has repeatedly referred to a screenshot of NIH’s filing system that shows EHA “initiated” submission of the Year 5 report on June 24, 2019. *See, e.g.*, Email from Dr. Peter Daszak, President, EcoHealth Alliance, to Dr. Michael Lauer, Deputy Director for Extramural Research, National Institutes of Health, et al. (Oct. 26, 2021) (on file with Select Subcommittee Staff). The Select Subcommittee has not received documentary evidence or testimony demonstrating that “initiated” represents an upload of a report that EHA then tried to officially submit in July 2019. On the contrary, an August 5, 2019, draft report, with whole sections that are incomplete, suggests that EHA was not prepared to, and did not attempt to, officially submit the report the month prior. EHA Year 5 NIAID CoV Report_V01 (Aug. 5, 2019) (on file with Select Subcommittee Staff).

⁵⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁵⁹ Email from Dr. Aleksei Chmura, Chief of Staff, EcoHealth Alliance, to Grants Officer, National Institute of Allergy and Infectious Diseases (July 30, 2019) (on file with Select Subcommittee Staff). Dr. Chmura copied and pasted the report-related portion of his July 30, 2019, email from a July 24, 2019, email he previously sent to the grants officer. Email from Aleksei Chmura, Chief of Staff, EcoHealth Alliance, to Grants and Program Officers, National Institute of Allergy and Infectious Diseases (July 24, 2019) (online at <https://s3.documentcloud.org/documents/21170561/536974886-gain-of-function-communications-between-ecohealth-alliance-and-niaid.pdf#page=303>). The excerpted portion is identical in the two emails, and neither email mentions a system lockout.

⁶⁰ Email from Peter Daszak, President, EcoHealth Alliance, to Grants and Program Officers, National Institute of Allergy and Infectious Diseases (Apr. 25, 2018) (on file with the Select Subcommittee) and Email from Peter Daszak, President, EcoHealth Alliance, to Program Officer, National Institute of Allergy and Infectious Diseases (Apr. 9, 2017) (on file with the Select Subcommittee).

⁶¹ Email from Dr. Peter Daszak, President, EcoHealth Alliance, to Zhengli Shi, Senior Scientist, Wuhan Institute of Virology, et al. (Sept. 17, 2019) (on file with Select Subcommittee Staff).

the lockdown had already occurred at the time of his email.⁶² Similar to the events in July 2019, EHA has failed to produce any communications indicating an effort to bypass a lockdown and submit the report following the September 2019 email and before the submission deadline.

Despite two separate occasions, nearly two months apart, that would reasonably warrant documented outreach from EHA to NIH, the Select Subcommittee has yet to receive any evidence corroborating the occurrence of a lockdown preventing timely submission of EHA's Year 5 RPPR.

b. EcoHealth Alliance's Scientific Arguments to NIAID Regarding the Federal Gain of Function Pause Raise Questions

In May 2016, EHA submitted their Year 2 RPPR,⁶³ which mentioned that they planned to perform chimeric work with SARS-like viruses. In response, NIAID asked EHA to provide their view on whether EHA's work was affected by the 2014 federal pause on gain-of-function research ("the pause"), which paused federal funding for "gain-of-function research projects that may be reasonably anticipated to confer attributes to influenza, MERS, or SARS viruses such that the virus would have enhanced pathogenicity and/or transmissibility in mammals via the respiratory route."⁶⁴

EHA wrote a June 8, 2016, letter to NIAID, in which they argued that their SARS-like work was not subject to the pause for several reasons,⁶⁵ many of which could reasonably be questioned.

First, EHA noted that planned chimeric work would be performed on a WIV1 virus backbone, which "has never been demonstrated to infect humans or cause human disease."⁶⁶ However, a paper cited in EHA's own letter⁶⁷ was titled "SARS-like WIV1-CoV poised for human emergence." The paper concluded that "results indicate the WIV1-coronavirus (CoV) cluster has the ability to directly infect and may undergo limited transmission in human populations."⁶⁸ Therefore, EHA's argument, while factually accurate, lacked critical context about WIV1's potential for human infectivity.⁶⁹

⁶² Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁶³ EHA Year 2 RPPR (May 13, 2016) (on file with Select Subcommittee Staff).

⁶⁴ Department of Health and Human Services, *U.S. Government Gain-of-Function Deliberative Process and Research Funding Pause on Selected Gain-of-Function Research Involving Influenza, MERS, and SARS Viruses* (Oct. 17, 2014) (online at www.phe.gov/s3/dualuse/Documents/gain-of-function.pdf).

⁶⁵ Letter from Dr. Peter Daszak, President, EcoHealth Alliance, to Grants and Program Officers, National Institute of Allergy and Infectious Diseases (June 8, 2016) (on file with Select Subcommittee Staff).

⁶⁶ *Id.*

⁶⁷ Dr. Daszak's citation of the paper later in his letter was for a different proposition unrelated to the question of whether WIV1 capable of infecting humans.

⁶⁸ Vineet D. Menachery et al., *SARS-like WIV1-CoV Poised for Human Emergence*, Proceedings of the National Academy of Sciences of the United States of America (Mar. 14, 2016) (online at <https://pubmed.ncbi.nlm.nih.gov/26976607/>).

⁶⁹ In preparing EHA's June 2016 letter to NIAID, Dr. Daszak consulted an author on both papers cited in the letter. That author suggested Dr. Daszak advise NIAID that WIV1 "has never been demonstrated to infect humans or cause human disease."

Second, EHA argued that because WIV1 was only 90% similar to SARS, and the spike proteins EHA planned to insert were even more distant from SARS, “it seems progressively less likely that any of these viruses would be more pathogenic or transmissible than the SARS-CoV.”⁷⁰ Select Subcommittee Democratic staff question that logic—if SARS-like viruses that were 95-97% similar to SARS could not infect humans,⁷¹ but WIV1, which was 90% similar to SARS, seemed as if it *could* infect humans, it is reasonable to conclude that human infectivity in SARS-like viruses may not bear a linear relationship to SARS itself.⁷²

Third, EHA argued that existing papers showed that WIV1 spike on a SARS backbone exhibited reduced pathogenicity in mice with the human ACE-2 receptor as compared to SARS, and that planned SARS-like chimeric viruses “should not have enhanced pathogenicity in animals.”⁷³ First, neither paper involved pathogenesis studies of a WIV1 chimera in mice with the human ACE-2 receptor. Second, EHA’s planned chimeric work involved the WIV1 virus backbone, not its spike. Third, one of the paper’s noted from other work that the SHC014 virus spike, which was a spike EHA planned to insert on a WIV1 backbone, showed increased pathogenicity in mice compared to a SARS spike, when both were inserted on a mouse-adapted SARS backbone.⁷⁴ That finding suggests that chimeric work with SHC014 spike may enhance pathogenicity or transmissibility of a virus, as compared to SARS, and it is odd that EHA failed to mention the finding in their letter to NIAID.⁷⁵

NIAID ultimately deemed EHA’s work not subject to the pause, largely on the view that mouse-adapted SARS was the appropriate comparator, rather than naturally occurring SARS, and that the planned experiments were therefore unlikely to increase pathogenicity and/or transmissibility in mammals via the respiratory route.⁷⁶

⁷⁰ Letter from Dr. Peter Daszak, President, EcoHealth Alliance, to Grants and Program Officers, National Institute of Allergy and Infectious Diseases (June 8, 2016) (on file with Select Subcommittee Staff). The author Dr. Daszak spoke with also provided this argument for EHA’s June 2016 letter to NIAID. .

⁷¹ At his transcribed interview, Dr. Daszak testified that EHA had found SARS-like viruses that were 95-97% similar to SARS but could not infect humans. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁷² This ended up being the case—SARS-CoV-2 is only 80% similar to SARS.

⁷³ Letter from Dr. Peter Daszak, President, EcoHealth Alliance, to Grants and Program Officers, National Institute of Allergy and Infectious Diseases (June 8, 2016) (on file with Select Subcommittee Staff).

⁷⁴ Vineet D Menachery et al., *A SARS-like Cluster of Circulating Bat Coronaviruses Shows Potential for Human Emergence*, *Nature Medicine* (Nov. 9, 2015) (online at www.nature.com/articles/nm.3985).

⁷⁵ It should be noted, however, that those experiments were in wild-type mice, while EHA planned to work with mice expressing the human ACE-2 receptor.

⁷⁶ NIAID staff concluded that “it is not reasonably anticipated that these chimeric viruses will have enhanced pathogenicity and/or transmissibility in mammals via the respiratory route.” Letter from NIAID Grants and Program Officers, National Institute of Allergy and Infectious Diseases, to Aleksei Chmura, Senior Coordinator of Operations, EcoHealth Alliance (July 7, 2016) (on file with Select Subcommittee Staff). With respect to the comparator virus against which NIAID judged the anticipated pathogenicity and/or transmissibility of EHA’s chimeric viruses, a NIAID program officer testified that they viewed mouse-adapted SARS as the appropriate comparator virus, rather than naturally occurring SARS, because naturally occurring SARS does not cause disease in wild-type mice. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of NIAID Program Officer (Nov. 13, 2023). Given that naturally occurring SARS causes disease in mice expressing the human ACE-2 receptor, the infection subjects involved in EHA’s work, it is conceivable that naturally occurring SARS could be considered the appropriate comparator virus. In addition, because mouse-adapted SARS is naturally occurring SARS adapted for comparatively higher rates of mortality in wild-type mice, Select Subcommittee Democratic staff examined whether it represented an artificially high ceiling for enhanced pathogenicity and/or transmissibility in

c. EcoHealth Alliance Did Not Adequately Monitor Virus Growth in WIV's Experiments, and Its Arguments that Virus Growth Did Not Exceed Administrative Thresholds Are Questionable

Beginning with Year 3 of EHA's grant, NIAID instituted a special grant term and condition whereby if any chimera showed more than 1 log of virus growth above the growth shown by the full-length version of its parental backbone strain, EHA would immediately stop all experiments and inform NIAID grants and program officers of these unanticipated outcomes (the "1 log rule").⁷⁷ Available evidence indicates that EHA did not adequately monitor WIV's compliance (and thus, its own compliance) with the 1 log rule.

To begin with, EHA's Year 3 RPPR lacks a measurement for the virus growth of WIV1, the parental backbone strain in WIV's chimeric work involving infection in mice.⁷⁸ At his transcribed interview, Dr. Daszak testified that EHA relied on WIV for information about virus growth to be included in EHA's RPPRs.⁷⁹ He further testified that EHA reviewed the information submitted by WIV in order to assess enhanced virus growth.⁸⁰ However, it is evident that enhanced growth cannot be assessed without a measurement of WIV1's baseline growth. It is, therefore, evident that EHA could not and did not independently monitor WIV's compliance with the 1 log rule in Year 3 of the grant.

Moreover, EHA's Year 4 and Year 5 RPPRs both appear to show enhanced virus growth greater than 1 log over the parental backbone strain.⁸¹ Nevertheless, Dr. Daszak has argued that neither year's experiments triggered the 1 log rule.

First, he argued that WIV measured virus growth in imprecise viral genome copies per gram, which possibly included dead virus material, rather than the more precise method of viral

NIAID's analysis. In response to questioning by Select Subcommittee Democratic staff, the NIAID program officer explained that they implemented policy in light of "the body of evidence, not just a single experiment or paper." Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of NIAID Program Officer (Nov. 13, 2023). Select Subcommittee Democratic staff observe that NIAID staff's choice of the appropriate comparator virus reflected the fact that leading scientific literature examined pathogenesis of mouse-adapted SARS and SARS-like chimeras in wild-type mice (and not in mice expressing the human ACE-2 receptor). Under that choice, NIAID's conclusion regarding EHA's work appears to be correct.

⁷⁷ See e.g., EHA Grant 5R01AI110964-03 Revised Notice of Award (Nov. 30, 2019) (on file with Select Subcommittee Staff).

⁷⁸ The infection studies involved mice with a human ACE-2 receptor. EHA Year 3 RPPR (Apr. 12, 2017) (on file with Select Subcommittee Staff).

⁷⁹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁸⁰ *Id.*

⁸¹ Figures 35(B) and 13(B) in EHA's Years 4 and 5 RPPRs, respectively, both appear to show enhanced virus growth greater than 1 log. EHA Year 4 RPPR (Apr. 13, 2018) (on file with Select Subcommittee Staff) and EHA Year 5 RPPR (Aug. 3, 2021) (on file with Select Subcommittee Staff). The question of whether EHA immediately stopped WIV's chimeric work and reported the results to NIAID is complicated by EHA's claim that Figures 35 and 13 derive from the same experiment conducted and completed in Year 4. Select Subcommittee Democrats are skeptical of that claim.

titers.⁸² However, the 1 log rule did not specify a particular method of measuring virus growth, nor is there any indication that EHA requested titer measurements from WIV.⁸³

Second, Dr. Daszak argued that, although the chimeric viruses grew in excess of 1 log over the parental backbone strain on days 2, 4, and 6 of infection, the excess growth measured in Year 4 had dissipated by day 8 and was too transient to trigger the 1 log rule.⁸⁴ However, the special grant term and condition did not include a “transient”-related caveat to the 1 log rule. Further, the researcher who first proposed the 1 log rule in the context of his own grant told Select Subcommittee staff that he would view the excess growth in Year 4 as triggering the 1 log rule’s obligations.⁸⁵ Finally, with respect to Year 5, the same chimeric viruses as in Year 4 appear to have sustained excess growth through the duration of subject infection.

Third, Dr. Daszak has maintained that the excess growth in Year 5, though intransient, was not statistically significant for a number of reasons, including the method of measurement (genome copies) and sample size (seven mice) of the infection study.⁸⁶ However, the special grant term and condition does not specify a particular sample size that could trigger the 1 log rule. In addition, the Select Subcommittee heard testimony that a sample size of more than three animal subjects is large enough to generate a statistically significant result.⁸⁷

d. EcoHealth Alliance May Have Provided Incomplete or Misleading Information about the Bat Samples Available for the Unsuspended EHA Grant

NIAID reinstated the EHA grant in April 2023 without the subaward to WIV.⁸⁸ Two senior NIAID officials involved in that decision testified that part of the logic in unsuspending the grant was preserving access to existing sequences generated through prior work.⁸⁹ Moreover,

⁸² Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁸³ Dr. Daszak testified that he assumed WIV had measured virus growth in viral titers. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023). It should also be noted that WIV measured the virus growth of both its chimeric viruses *and* the parental backbone strain WIV1 in genome copies. Therefore, even accepting that genome copies may inflate virus growth shown by the chimeric viruses, it is surprising that Dr. Daszak’s argument appears to discount a similar presumption of inflation for growth shown by the parental backbone strain.

⁸⁴ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁸⁵ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Ralph Baric (Jan. 22, 2024).

⁸⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁸⁷ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Ralph Baric (Jan. 22, 2024).

Given that experiments EHA cited in its June 2016 letter to NIAID involved a sample size of three mice, Select Subcommittee Democratic staff question Dr. Daszak’s dismissal of the Year 5 results involving a larger sample size of seven mice.

⁸⁸ Government Accountability Office, *NIH Could Take Additional Actions to Manage Risks Involving Foreign Subrecipients*, (June 14, 2023) (GAO- 23-106119) (online at www.gao.gov/assets/gao-23-106119.pdf).

⁸⁹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Emily Erbeling (Nov. 28, 2023). *See also* Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Hugh Auchincloss (Dec. 20, 2023).

they were of the understanding that EHA possessed the bat samples previously collected under the EHA grant, including the samples jointly collected with WIV.⁹⁰

Dr. Daszak testified that EHA does not actually possess any of those samples. Rather, WIV remains in control over all jointly collected bat samples and EHA has no access to them, and EHA relies on WIV to sequence the samples and send the sequences to EHA via email.⁹¹

There is an apparent gap in understanding between EHA and NIAID regarding the status of bat samples collected under the EHA grant, and an open question about the extent to which that gap is attributable to omissions or misrepresentations by EHA.⁹²

e. HHS Debarment of EcoHealth Alliance and Continuing Investigation of the Organization's Conduct

Following the Select Subcommittee's May 1, 2024, hearing with Dr. Daszak regarding his stewardship of EHA, HHS suspended and proposed for debarment EHA from participating in United States Federal Government procurement and nonprocurement programs.⁹³ Several of the allegations outlined by HHS mirrored the Select Subcommittee's bipartisan findings. While HHS's proceedings remain ongoing, the suspension took effect on May 14, 2024, and remains in effect.⁹⁴

It should be noted that despite allegations to the contrary from Select Subcommittee Republicans, HHS and its operating divisions were cooperative parties to the Select Subcommittee's investigation into federally funded research. The Biden-Harris Administration provided dozens of internal document productions to the Select Subcommittee and made multiple witnesses available for both transcribed interviews and hearings on a voluntary basis.

ii. *Dr. Morens' Conduct Was Unbecoming of a Public Servant*

NIAID documents produced to and reviewed by the Select Subcommittee revealed a September 9, 2021, email⁹⁵ from Dr. David Morens, a Senior Advisor at NIAID, to Dr. Daszak, where Dr. Morens said, "I always try to communicate over gmail because my NIH email is FOIA'd constantly." He added, "[d]on't worry, just send to any of my addresses and I will delete

⁹⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Hugh Auchincloss (Dec. 20, 2023); Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Emily Erbelding (Nov. 28, 2023).

⁹¹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Daszak (Nov. 14, 2023).

⁹² Dr. Daszak has attributed this gap in understanding to Dr. Erbelding's conflation of bat samples with bat virus sequences. EcoHealth Alliance, *EcoHealth Alliance Responses to Questions from SSCP* (Sep. 2024) (online at www.ecohealthalliance.org/wp-content/uploads/2024/09/EcoHealth-Alliance-Responses-to-Questions-from-SSCP.pdf).

⁹³ Select Subcommittee on the Coronavirus Pandemic, *Press Release: BREAKING: HHS Suspends Funding and Proposes Formal Debarment of EcoHealth Alliance, Cites Evidence from COVID Select Report* (May 15, 2024) (online at <https://oversight.house.gov/release/breaking-hhs-suspends-funding-and-proposes-formal-debarment-of-ecohealth-alliance-cites-evidence-from-covid-select-report/>).

⁹⁴ Letter from H. Katrina Brisbon to EcoHealth Alliance (May 14, 2024) (online at https://oversight.house.gov/wp-content/uploads/2024/05/Tab-1-EHA-SUSP4D-Notice_5.15.2024_signed.pdf).

⁹⁵ Email from Dr. David Morens to Dr. Peter Daszak (Sept. 9, 2021) (on file with Select Subcommittee Staff).

anything I don't want to see in the New York Times." These statements raised concerns that Dr. Morens was not properly following federal records laws and was attempting to evade public scrutiny through the use of his personal email for official matters.

Further investigation into Dr. Morens' conduct revealed more emails of concern—including a communication where Dr. Morens says, "i learned from our foia lady her how to make emails disappear after i am foia'd but before the search starts, so I think we are all safe. Plus i deleted most of those earlier emails after sending them to gmail."⁹⁶ Dr. Morens' statements underscored his willful disregard for the Freedom of Information Act (FOIA) and other federal records laws.

Dr. Morens' emails also suggested that he shared internal NIAID information with individuals outside of the federal agency, including Dr. Daszak. For instance, Dr. Morens forwarded a NIAID email containing a COVID-19 Weekly Update that was marked FOUO (For Official Use Only) to non-government employees, including Dr. Daszak.⁹⁷ Similarly, Dr. Morens forwarded another internal NIH email that instructed employees not to "release anything having to do with EcoHealth Alliance/WIV" per guidance from the Office of General Counsel.⁹⁸

These misconduct allegations were taken seriously by both Select Subcommittee Democrats and Republicans, as Republicans have publicly stated.⁹⁹ However, Republicans continuously attempted to tie Dr. Morens' misconduct to Dr. Fauci, stating that Dr. Fauci enlisted Dr. Morens to covertly suppress the lab leak theory at Dr. Fauci's behest.

For example, Select Subcommittee Republicans identified an email in which Dr. Morens said "... to my total surprise, my boss Tony actually ASKED me to speak to the National Geographic on the record about origins. I interpret this to mean that our government is lightening up but that Tony doesn't want his fingerprints on origin stories."¹⁰⁰

⁹⁶ Email from Dr. David Morens to Dr. Gerald Keusch, et al. (Feb. 24, 2021) (on file with Select Subcommittee).

⁹⁷ Email from Dr. David Morens to Dr. Peter Daszak, et al. (Apr. 28, 2020) (on file with Select Subcommittee).

⁹⁸ Email from Dr. David Morens to Dr. Peter Daszak, et al. (May 28, 2021) (on file with Select Subcommittee).

⁹⁹ Select Subcommittee on the Coronavirus Pandemic, *Press Release: Hearing Wrap Up: Dr. Fauci's Top Advisor Held Accountable for COVID-19 Federal Records Violations, Undermining NIH Operations* (May 23, 2024) (online at <https://oversight.house.gov/release/hearing-wrap-up-dr-faucis-top-advisor-held-accountable-for-covid-19-federal-records-violations-undermining-nih-operations/>).

¹⁰⁰ Email from Dr. David Morens, Senior Adviser to the Director, National Institute of Allergy and Infectious Diseases, to Jason Gale, Senior Editor, Bloomberg News, et. al (July 29, 2021) (on file with Select Subcommittee Staff).

From: [REDACTED]@niaid.nih.gov At: 07/29/21 07:38:47
To: Jason Gale (BLOOMBERG/ NEWSROOM:), [REDACTED]@TULANE.EDU,
[REDACTED]@sydney.edu.au, [REDACTED]@utah.edu
Subject: RE: Fwd:Re: URGENT: Seeking comment on paper in Nature:
Scientific reports

Jason, I can almost always talk on background or off the record, and if needed I MIGHT be able to speak ON the record. In the US government we all have to get approval from HHS or the Whitehouse to speak to the press. Sometimes they are touchy about certain issues and say no. For many months, I have not been approved to talk about "origins" on the record.

But today, to my total surprise, my boss Tony actually ASKED me to speak to the National Geographic on the record about origins. I interpret this to mean that our government is lightening up but that Tony doesn't want his fingerprints on origin stories.

Bottom line, I can speak to you on background and, if you need or want quotations or attributions, you can request to speak to me formally. They can only say no or, better yet, steer you to Tony....

Have you asked Dr. Newman when he bmight be able to share the paper he mentioned? I would love to see that....

Republicans claim that this email shows that Dr. Fauci deliberately sought to suppress the lab leak theory by using Dr. Morens as a conduit.¹⁰¹

To the contrary, Dr. Fauci testified that he never told Dr. Morens or any other NIAID employee what they could or could not discuss publicly.¹⁰²

Republican Counsel:	Did you have any conversations with Dr. Morens about what he could or could not discuss regarding origins?
Dr. Fauci:	No. I never tell somebody what they could or could not discuss, because that's a press office thing.
Republican Counsel:	He said that he interpreted your asking him to discuss origins as you didn't want your fingerprints on origin stories. Any idea what that meant?
Dr. Fauci:	I have no idea what he's talking about. Yeah.

Dr. Morens testified similarly:¹⁰³

¹⁰¹ Letter from Chairman Brad R. Wenstrup, Select Subcommittee on the Coronavirus Pandemic, to Dr. David Morens (June 29, 2023) (online at https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins_Redacted_Final.pdf).

¹⁰² Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Anthony Fauci (Jan. 9, 2024).

¹⁰³ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. David Morens (Jan. 18, 2024).

Republican Counsel:	Did you ever have any conversations with Dr. Fauci regarding you speaking to the press and what you would say or not say?
Dr. Morens:	This [email] would be the only thing. I don't remember the context. In fact, I don't remember this letter, but I do remember that at one time he asked me to talk to the press or approved me talking to the press, which normally he wouldn't do. He wouldn't get involved in that, the press office would handle that.

The July 29, 2021, email appears to be the sole source for the claim that Dr. Fauci directed Dr. Morens to suppress the lab leak theory. Failure to follow federal records retention and freedom in information laws are of great concern to Select Subcommittee Democrats. However, absent further evidence—which Select Subcommittee Democrats have not been presented with in more than 30,000 pages of emails produced by Dr. Morens—any allegation that Dr. Fauci directed Dr. Morens’ actions is simply unsubstantiated.

Further, Dr. Fauci repeatedly stated during his hearing before the Select Subcommittee that Dr. Morens’ conduct was “wrong, inappropriate and violated policy.”¹⁰⁴ When asked if he was “ever engaged in attempts to obstruct the Freedom of Information Act and the release of public documents,” Dr. Fauci quickly answered “no.”¹⁰⁵ Dr. Fauci seemed as troubled by Dr. Morens’ conduct as bipartisan Members of the Select Subcommittee.

D. Lessons Learned for Future Pandemic Prevention and Preparedness and the Need for Continued Investment in Scientific Research

Throughout the COVID-19 “origins” investigation, numerous witnesses spoke of the dangers to future pandemic prevention and preparedness presented by threats made to scientists, as well as concerns about decreased investment in scientific research. In order to best prepare our country for the next pandemic, Congress should heed these warnings by strengthening efforts to restore public confidence in America’s scientists (including by continuing to fortify lab safety standards for pathogen research) and by rejecting proposals to implement draconian cuts to scientific research as a kneejerk reaction the possibility that SARS-CoV-2 could have emerged from a lab.

In his transcribed interview, Dr. Peter Hotez warned the Select Subcommittee about how a diminished workforce of scientists could undermine efforts to prevent and prepare for future pandemics:¹⁰⁶

Democratic Counsel:	And what is the importance for our future pandemic preparedness in having a well-qualified workforce of scientists and medical professionals working on these issues?
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¹⁰⁴ Select Subcommittee on the Coronavirus Pandemic, *Hearing with Dr. Anthony Fauci* (June 3, 2024) (online at <https://oversight.house.gov/hearing/a-hearing-with-dr-anthony-fauci/>).

¹⁰⁵ *Id.*

¹⁰⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Peter Hotez (Oct. 10, 2024).

Dr. Hotez:	Well, let's think what happens now if another pandemic were to strike. First of all, the disinformation machine would get into high gear right away, and it's much more sophisticated than the actual information system. And the first thing that would happen is, the vaccination rates would resemble something along the lines of the last two boosters, the bivalent booster in 2022 and the annual immunization in 2023, about 20 percent. So that's going to be a problem, and we're not going to be able to persuade the American people to take vaccines. We're also -- we're not going to have the workforce, because people have walked away from certain professions like virology or infectious diseases. And so, as a result of this disinformation ecosystem, we're in much worse shape now as a consequence. And so, when we talk about pandemic preparedness, we have to be able to have a frank discussion of what it is and describe it, like I have in my book, "The Deadly Rise of Anti-Science," and start figuring out a way to begin chipping away at it. Because, right now, no one -- no one has the appetite, at least at the government level, to take it on. And I've said the same thing to Tedros at WHO, Dr. Tedros, that, you know, the World Health Organization is not going to solve this problem globally, because now it's expanding and it's being exported from the U.S. We need to bring in other U.N. agencies to get some advice on how to do this. And the same with the Federal Government. The health sector doesn't know what to do, but there are a lot of smart people in government who can help us figure it out.
Democratic Counsel:	But it is –
Dr. Hotez:	And, finally, remember, we have foreign actors doing this as well, right? We know a lot of this is coming from the Putin government and the Russians. It's not the only country; Iran does it, North Korea does it, but Russia especially. And this means bringing in State Department, too, to get some help and advice on it.
Democratic Counsel:	But it is a vital piece of our pandemic preparedness to have a well-qualified scientific community and medical professionals who are willing to work in these areas, right?
Dr. Hotez:	And feel safe doing it.

Dr. Hotez's testimony echoed findings from the Government Accountability Office, which determined that "researchers may experience unwanted attention or pressure because of

their involvement in pandemic origin investigations and leave the field or refuse to participate.”¹⁰⁷

The editors of the scientific journal *Nature* similarly said:

Taking steps to support scientists who face harassment does not mean silencing robust, open criticism and discussion. The coronavirus pandemic has seen plenty of disagreement and changing views as new data have come in, as well as differing stances on which policies to adopt. Scientists and health officials should expect their research to be questioned and challenged, and should welcome critical feedback that is given in good faith. But threats of violence and extreme online abuse do nothing to encourage debate — and risk undermining science communication at a time when it has never mattered more.¹⁰⁸

In addition to a well-qualified workforce, there also needs to be adequate funding for scientific research. As Dr. Francis Collins told the Select Subcommittee:¹⁰⁹

Dr. Ruiz:	And how had prior research on coronavirus transmissibility contributed to the development of vaccinations for SARS-Co-V-2? And do you think that also helped expedite?
Dr. Collins:	If we had not already had a big program at NIH on coronaviruses based on SARS and MERS, the previous examples, including an effort to try to see whether mRNA vaccines would work, we would never have been able to respond as quickly as we did.
Dr. Ruiz:	So the NIH funding for the underlying research is important.
Dr. Collins:	Absolutely.
Dr. Ruiz:	And it's also important for future pandemic preparedness.
Dr. Collins:	It is. I wrote an editorial in Science Magazine as I was preparing to step down as NIH director about lessons learned from COVID-19. And that was a big, important one, that you have to invest not just in the acute need of today, but in the basic science that prepares you for what might be coming next, so that you're not caught off guard.
Dr. Ruiz:	So cutting funding to NIH on these type of research and development programs would be detrimental to the public safety for any future pandemic in terms of putting us behind in vaccine development?

¹⁰⁷ Government Accountability Office, *Pandemic Origins: Technologies and Challenges for Biological Investigations* (Jan. 27, 2023) (GAO-23-105406) (online at <https://www.gao.gov/products/gao-23-105406>).

¹⁰⁸ *Covid scientists in the public eye need protection from threats*, *Nature* (Oct. 13, 2021) (online at <https://www.nature.com/articles/d41586-021-02757-3>).

¹⁰⁹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Francis Collins (Jan. 12, 2024).

Dr. Collins:	Seriously detrimental and shortsighted.
Dr. Ruiz:	And being detrimental would also mean more lives lost potentially in a future pandemic without the therapeutic or modalities or the vaccines?
Dr. Collins:	We are going to see other pandemics in the future. We should learn every time this happens about how to prepare for the next one. I think we saw opportunities that now ought to be invested in, such as figuring out what are the most likely pathogens for the next one? Could we actually start now with building the first steps in vaccine preparation or in therapeutics or diagnostics? A whole plan like that was put together. Unfortunately, it was not provided with resources.
Dr. Ruiz:	So when a new virus emerges, what basic understanding do scientists need about a virus and how it replicates in order to begin the development of vaccine development?
Dr. Collins:	We need to understand its basic biology. Viruses are clever little stretches of nucleic acid, but they're often not immediately obvious in terms of how they do what they do. They have their own set of genes that help them replicate, that help them get inside human cells, that help them package themselves so they could get into the next set of human cells. All of that basic science is critical if you're going to be successful in coming up with both vaccines and with therapeutics.

It is imperative that scientific research continues to be funded at adequate levels—as opposed to defunded—in order to help our nation prepare for the next pandemic.

II. SELECT SUBCOMMITTEE REPUBLICANS’ INVESTIGATION INTO NEW YORK STATE’S NURSING HOME POLICY UNDERScoreD DAMAGE CAUSED BY THE TRUMP ADMINISTRATION’S FAILED PANDEMIC RESPONSE AND EMPHASIZED THE NECESSITY OF TRANSPARENCY FROM ELECTED OFFICIALS DURING PUBLIC HEALTH CRISES

Early in the COVID-19 pandemic, New York dealt with one of the most severe outbreaks of the virus in the United States. In the spring of 2020, New York hospitals overflowed with patients as hundreds and eventually thousands of Americans died each day. As President Trump tried to downplay the threat of COVID-19, state and local governments were left to grapple with the reality of COVID-19 on the ground in their communities. During that chaos, public officials at every level of government were left to make challenging decisions in real time with constantly evolving information and extremely limited resources.

Looking back on decisions that were made in the early stages of the COVID-19 pandemic, it is reasonable to acknowledge that with hindsight, certain decisions could have been made differently. Select Subcommittee Democrats have consistently maintained that identifying

potential improvements to the public health response at every level of government is essential for bolstering future pandemic preparedness. Furthermore, Select Subcommittee Democrats have reiterated that if efforts to mislead the American public were uncovered in the process of reviewing these policy decisions, then those involved in potential misconduct should be held accountable.

A. The Trump Administration’s Disastrous Pandemic Response Led To The Uncontrolled Spread Of COVID-19 In Nursing Homes Across The Country

The Trump Administration’s early mishandling of the federal response to the novel coronavirus resulted in widespread shortages and prices spikes, and left states to fend for themselves in obtaining PPE, tests, and other medical supplies. The Administration’s failures reduced the ability of communities and nursing homes to stem transmission and mitigate risk in the early stages of the pandemic.¹¹⁰

i. Testing And PPE Failures Contributed to Community Spread That Drove Nursing Home Fatalities

In January 2020, the need for COVID-19 testing became clear, and reports began to emerge that the United States would have an inadequate supply of PPE if the coronavirus outbreak reached pandemic levels.¹¹¹ In fact, in describing the Trump Administration’s early response to the pandemic, former Republican Governor of Maryland Larry Hogan stated: “Eventually, it was clear that waiting around for the President to run the nation’s response was hopeless; if we delayed any longer, we’d be condemning more of our citizens to suffering and death.”¹¹²

On January 13, 2020, the World Health Organization (WHO) released a protocol for designing a test for the novel coronavirus,¹¹³ which the Trump Administration decided to forgo use of despite the obvious need for the federal government to track and mitigate the early spread of COVID-19.¹¹⁴ Instead, the Trump Administration chose to delay testing by developing its own test through the Centers for Disease Control and Prevention (CDC). These tests experienced design and contamination issues that delayed the United States’s ability to conduct real pandemic mitigation. By the end of February 2020, the United States had only conducted fewer than 500 tests.¹¹⁵

¹¹⁰ *COVID-19 Is Still Devastating Nursing Homes. The Trump Administration Isn’t Doing Much to Stop It*, Time (Sept. 11, 2020) (online at <https://time.com/5887699/nursing-homes-covid-19-federal-help/>).

¹¹¹ *We Don’t Have Enough Masks*, The Atlantic (Jan. 30, 2020) (online at <https://theatlantic.com/health/archive/2020/01/viral-masks/605761/>).

¹¹² *Fighting Alone*, Washington Post (July 16, 2020) (online at www.washingtonpost.com/outlook/2020/07/16/larry-hogan-trump-coronavirus/?arc404=true).

¹¹³ *World Health Organization*, Listings of WHO’s Response to COVID-19 (June 29, 2020) (online at www.who.int/news/item/29-06-2020-covidtimeline).

¹¹⁴ *How Testing Failures Allowed Coronavirus to Sweep the U.S.*, POLITICO (Mar. 8, 2020) (online at www.politico.com/news/2020/03/06/coronavirus-testing-failure-123166).

¹¹⁵ *After Missteps, CDC Says its Coronavirus Test Kit is Ready for Primetime*, NBC News (Feb. 28, 2020) (online at www.nbcnews.com/health/health-news/after-missteps-cdc-says-its-coronavirus-test-kit-ready-primetime-n1145206).

At this point, industry representatives and White House advisors privately warned of the need to strengthen domestic supply chains.¹¹⁶ However, through February and March 2020, President Trump continued to downplay the spread of the virus and neglected to develop and execute a strategy to scale up PPE supply.

It was not until March 29, 2020, that President Trump announced the creation of a White House supply chain task force led by Senior Advisor Jared Kushner and staffed, in part, by volunteers from venture capital and private equity firms.¹¹⁷ One volunteer who served on the task force told the Select Subcommittee on the Coronavirus Crisis: “None of the volunteers working on the sourcing team had any significant experience in procurement or distribution. Every volunteer on the sourcing team came from a finance background and was under 28.”¹¹⁸

The Trump Administration’s failure to secure adequate supplies of PPE and testing kits led to increased transmission in the communities surrounding nursing homes.¹¹⁹ Independent research has established that nursing homes in areas with high community prevalence of COVID-19 were at the greatest risk for COVID-19 outbreaks and fatalities.¹²⁰ A leading expert working on this research has said:¹²¹

Staff were vectors early in the pandemic, too, but (there was more) trouble getting tested then. Bigger facilities and facilities in areas with high community prevalence are at the greatest risk for COVID-19: It’s about the staff coming and going every day.

The GAO has reiterated this point, stating:¹²²

Studies have shown that larger nursing homes with more beds and, subsequently, more residents and staff, may have a higher risk of exposure to COVID-19—particularly in areas of high community spread—and thus greater potential for more people in the facility to become infected.”

¹¹⁶ Letter from Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (July 20, 2020) (online at <https://oversightdemocrats.house.gov/sites/democrats.oversight.house.gov/files/documents/Project%20Airbridge%20Memo%2007-02-20.pdf>).

¹¹⁷ Kushner Coronavirus Effort Said to be Hampered by Inexperienced Volunteers, The Washington Post (May 5, 2020) (online at www.washingtonpost.com/politics/kushner-coronavirus-effort-said-to-be-hampered-by-inexperienced-volunteers/2020/05/05/6166ef0c-8e1c-11ea-9e23-6914ee410a5f_story.html).

¹¹⁸ Select Subcommittee on the Coronavirus, PPE Responses (online at <https://coronavirus-democrats-oversight.house.gov/sites/democrats.coronavirus.house.gov/files/Response%20to%20investigation%20questions%20%28Kennedy%29.pdf>).

¹¹⁹ COVID-19 Is Still Devastating Nursing Homes. The Trump Administration Isn’t Doing Much to Stop It, Time (Sept. 11, 2020) (online at <https://time.com/5887699/nursing-homes-covid-19-federal-help/>).

¹²⁰ Elizabeth M. White et al., Variation in SARS-CoV-2 Prevalence in U.S. Skilled Nursing Facilities, Journal of the American Geriatrics Society (Aug. 21, 2020) (online at www.ncbi.nlm.nih.gov/pmc/articles/PMC7404330/).

¹²¹ Vince Mor Describes New Study to Examine Nursing Home COVID-19 Testing Strategies, Brown University Center for Long-Term Care Quality & Innovation (Oct. 7, 2020) (online at <https://qandi.sph.brown.edu/news/2020/10/nursing-home-study>).

¹²² Government Accountability Office, COVID-19 in Nursing Homes: Most Homes Had Multiple Outbreaks and Weeks of Sustained Transmission from May 2020 through January 2021 (May 19, 2021) (GAO-21-367) (online at <https://www.gao.gov/products/gao-21-367>).

Although Republicans have pointed to readmission policies that allowed nursing homes to accept COVID-19 patients from hospitals, several states without such policies still experienced significant outbreaks in their facilities.¹²³ As late as the fall of 2020, one in five nursing homes still reported “severe” shortages of PPE.¹²⁴ Supplies that actually arrived were limited in quantity and often unusable.¹²⁵ In addition, nursing homes in areas experiencing high rates of community infection faced shortages in rapid COVID-19 testing.¹²⁶

ii. *Efforts to Roll Back Nursing Home Regulations Left Seniors More Vulnerable to the COVID-19 Pandemic*

The Trump Administration oversaw several efforts to roll back nursing home quality of care and infection prevention regulations. In 2017, President Trump eased enforcement of daily fines for violators of nursing home regulations, and instead encouraged the use of one-time fines for ongoing violations. The average fine levied against nursing homes that endangered or injured residents fell by more than 30% during the Trump Administration’s first year. Moreover, the Trump Administration levied those fines on a one-off basis for two-thirds of infractions, rather than on an ongoing basis for each day a facility was out of compliance.¹²⁷ In the same year, the Administration rescinded an Obama-era ban on mandatory arbitration in legal disputes between nursing homes and their residents.¹²⁸

In July 2019, the Trump Administration proposed a new rule to relax a federal requirement that nursing homes employ on-site infection prevention specialists. Under the proposal, nursing homes would be allowed to use consultants for infection prevention, rather than hiring dedicated staff.¹²⁹ Although the proposal did not ultimately take effect, CMS inspectors reported that the proposal led some facilities to “cut corners” and assign infection control duties to already over worked nurses, leaving those facilities unprepared to confront the

¹²³ *We Can’t Protect Nursing Homes from COVID-19 Without Protecting Everyone*, The Washington Post (June 25, 2020) (online at www.washingtonpost.com/opinions/2020/06/25/we-cant-protect-nursing-homes-covid-19-without-protecting-everyone/).

¹²⁴ Brian E. McGarry et al., *Severe Staffing and Personal Protective Equipment Shortages Faced by Nursing Homes During the COVID-19 Pandemic*, Health Affairs (Aug. 2020) (online at www.healthaffairs.org/doi/full/10.1377/hlthaff.2020.01269).

¹²⁵ *Nursing Homes Receive Defective Equipment as Part of Trump Administration Supply Initiative*, CNN (June 11, 2020) (online at www.cnn.com/2020/06/10/politics/nursing-homes-ppe-defective-equipment-fema/index.html).

¹²⁶ Brian E. McGarry et al., *COVID-19 Test Result Turnaround Time for Residents and Staff in US Nursing Homes*, JAMA Internal Medicine (Apr. 2021) (online at www.ncbi.nlm.nih.gov/pmc/articles/PMC7600050/).

¹²⁷ *Nursing Home Fines Drop as Trump Administration Heeds Industry Complaints*, KFF Health News (Mar. 15, 2019) (online at <https://kffhealthnews.org/news/nursing-home-fines-drop-as-trump-administration-heeds-industry-complaints>).

¹²⁸ *Trump Moves to Impede Consumer Lawsuits Against Nursing Homes*, The New York Times (Aug. 18, 2017) (online at www.nytimes.com/2017/08/18/us/politics/trump-impedes-consumer-lawsuits-against-nursing-homes-deregulation.html).

¹²⁹ *Id.*; The Center for American Progress, *The Trump Administration’s Deregulation of Nursing Homes Leaves Seniors and Disabled at Higher Risk for COVID-19* (Apr. 21, 2020) (online at www.americanprogress.org/article/trump-administrations-deregulation-nursing-homes-leaves-seniors-disabled-higher-risk-covid-19/).

arrival of the coronavirus.¹³⁰ In addition to no longer requiring nursing homes to employ an on-site infection prevention specialist, the Trump Administration had also proposed increasing the interval between when facilities must review patient care needs, including a review of necessary staffing levels.¹³¹

B. Any Public Official Who Sought to Evade Transparency Or Mislead the Public About the COVID-19 Pandemic Should Be Held Accountable

i. The Cuomo Executive Chamber Interfered with the Data Reporting of the New York State Department of Health

On March 25, 2020, citing “an urgent need to expand hospital capacity,” the New York State Department of Health (NYSDOH) issued an Advisory related to nursing homes that read “no resident shall be denied re-admission or admission to the [nursing home] solely based on a confirmed or suspected diagnosis of COVID-19.”¹³² Governor Cuomo was immediately criticized for the Advisory,¹³³ which also arguably contradicted federal CMS guidance by requiring nursing homes to accept patients with a COVID-19 diagnosis. He reversed the Advisory six weeks later, requiring patients to obtain negative COVID-19 tests prior to nursing home readmission.¹³⁴

After the reversal and to stem public criticism, Governor Cuomo ordered NYSDOH to publish a report defending the original Advisory. On July 6, 2020, NYSDOH released a report titled “Factors Associated with Nursing Home Infections and Fatalities in New York State During the COVID-19 Global Health Crisis.”¹³⁵ The report concluded that nursing home staff—not the Advisory—brought COVID-19 into New York nursing homes and drove resident infections and deaths. The report faced immediate skepticism, in part due to limited publicly available data supporting its conclusions. The absence of out-of-facility deaths received particular criticism. On January 28, 2021, a report from the New York State Attorney General (OAG)¹³⁶ stated that

¹³⁰ *As Pandemic Raged and Thousands Died, Government Regulators Cleared Most Nursing Homes of Infection-Control Violations*, Washington Post (Oct. 29, 2020) (online at www.washingtonpost.com/business/2020/10/29/nursing-home-deaths-fines/).

¹³¹ *Trump Administration Is Relaxing Oversight of Nursing Homes*, The New York Times (Mar. 14, 2020) (online at www.nytimes.com/2020/03/14/business/trump-administration-nursing-homes.html).

¹³² New York State Department of Health, *Advisory: Hospital Discharges and Admissions to Nursing Homes* (Mar. 25, 2020) (online at https://skillednursingnews.com/wp-content/uploads/sites/4/2020/03/DOH_COVID19_NHAdmissionsReadmissions_032520_1585166684475_0.pdf).

¹³³ *New York's Coronavirus Nursing Home Death Toll Didn't Have to be So High*, New York Post Editorial Board (May 5, 2020) (online at www.nypost.com/2020/05/05/new-yorks-coronavirus-nursing-home-deaths-didnt-have-to-be-so-high/); *New York Sent Recovering Coronavirus Patients to Nursing Homes: “It Was a Fatal Error,”* Wall Street Journal (May 14, 2020) (online at www.wsj.com/articles/new-york-sent-recovering-coronavirus-patients-to-nursing-homes-it-was-a-fatal-error-11589470773).

¹³⁴ New York Exec. Order No. 202.30 (May 10, 2020) (online at www.governor.ny.gov/sites/default/files/atoms/files/EO202.30.pdf).

¹³⁵ *New York State Department of Health, Press Release: New York State Department of Health Issues Report on COVID-19 In Nursing Homes* (July 6, 2020) (online at www.health.ny.gov/press/releases/2020/2020-07-06_covid19_nursing_home_report.htm).

¹³⁶ New York Attorney General, *Press Release: Attorney General James Releases Report on Nursing Homes’ Response to COVID-19* (Jan. 28, 2021) (online at <https://ag.ny.gov/press-release/2021/attorney-general-james-releases-report-nursing-homes-response-covid-19>).

NYSDOH appeared to have undercounted the total deaths from COVID-19 associated with nursing homes by 50 percent.

Select Subcommittee interviews with staff from NYSDOH and members of Governor Cuomo’s Executive Chamber and COVID-19 Task Force¹³⁷ revealed how the Executive Chamber interfered with the work of NYSDOH. Below are the key findings from these interviews.

- A senior NYSDOH official testified that she and others within NYSDOH drafted a scientific article about the nursing home data and shared a draft of this with NYSDOH leadership around June 11, 2020.¹³⁸ The draft article included in-facility and out-of-facility deaths. The senior NYSDOH official continued to work on the article as part of a working group, but she testified that the report released on July 6, 2020, used different data from what she had been working on.¹³⁹
- Dr. James Malatras, a member of Governor Cuomo’s COVID-19 Task Force, spoke of his involvement with the July 6, 2020, NYSDOH report in his interview, and he said that several members of the Cuomo Executive Chamber and COVID-19 Task Force were involved with editing the report.¹⁴⁰ His involvement began when two high-ranking officials, Melissa DeRosa and Linda Lacewell, shared the senior NYSDOH official’s data with him, and he then became part of the editing team.¹⁴¹ He also reported that a phone call took place on June 27, 2020, where “Ms. DeRosa said she wanted to keep a different number—she wanted to use a different number [of nursing home deaths] than what we had in the report.”¹⁴² According to Dr. Malatras, Ms. DeRosa directed the removal of out-of-facility deaths, despite some opposition from others members of the COVID-19 Task Force.¹⁴³

¹³⁷ Governor Cuomo assembled a task force to respond to the COVID-19 outbreak in New York. Based on interviews with members of the Cuomo Administration, Select Subcommittee Democrats assess that participation was fluid and individual members exercised varying levels of influence. *See e.g.*, Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Howard Zucker (Dec. 18, 2023) (“It was obviously led by the governor. It was myself, Jim Malatras . . . Beth Garvey, Melissa DeRosa, and those are the key – Linda Lacewell -- and those were the key . . . Gareth Rhodes I think was.”).

¹³⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Eleanor Adams (Apr. 8, 2024).

¹³⁹ *Id.*

¹⁴⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. James Malatras (May 20, 2024).

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ *Id.* It is possible that Ms. DeRosa’s direction to remove out-of-facility deaths later proved prescient. According to Gareth Rhodes, a member of the COVID-19 Task Force, Ms. DeRosa was concerned about double-counting in nursing home fatality data and asked him to conduct an audit in August 2020. Mr. Rhodes told Select Subcommittee staff that his audit found approximately 600 “inconsistent” data entries. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Gareth Rhodes (May 3, 2020). According to Ms. DeRosa, those 600 inconsistencies fell squarely in out-of-facility fatality data and represented an approximately 20 percent error rate in that subset. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024). However, it was not clear from Mr. Rhodes’s testimony that the inconsistencies he had flagged related only to out-of-facility deaths and whether those inconsistencies referred to double-counting. If Mr. Rhodes had identified

- Ms. Lacewell recalled this phone call as well, and while she invoked privilege with regards to the details of the conversation, she did confirm that the nursing home death data intended to be used for the report changed during this call, and that Ms. DeRosa was the only person on the call who had the authority to make final decisions.¹⁴⁴
- Dr. Malatras also testified that Governor Cuomo reviewed and edited the July 6 report himself, as well.¹⁴⁵
- Although Governor Cuomo testified that he did not edit the July 6 report or recall doing so,¹⁴⁶ emails obtained by the Select Subcommittee show that he handwrote edits to drafts of the report.¹⁴⁷
- While the former Commissioner of Health for New York State, Dr. Howard Zucker, testified that he stands by the conclusions of the July 6 report, he also testified that he did not know how numbers within the report changed from initial drafts to what was ultimately released.¹⁴⁸ However, Dr. Zucker did confirm that Governor Cuomo and several other members of his Executive Chamber and COVID-19 Task Force were involved with editing the report.¹⁴⁹

ii. *The Cuomo Administration Was Not Transparent About New York Nursing Home Deaths*

The Cuomo Administration's protracted failure to disclose out-of-facility deaths has been criticized on a bipartisan basis as a failure of transparency.¹⁵⁰ Although some witnesses have argued that the Administration did not release data for those deaths due to ongoing accuracy concerns,¹⁵¹ multiple members of Cuomo's COVID-19 Task Force testified that the

600 "inconsistencies" across out-of-facility and in-facility fatality data, then it is conceivable that the percent error rate specific to out-of-facility data was significantly lower than the 20 percent represented by Ms. DeRosa.

¹⁴⁴ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Linda Lacewell (May 31, 2024).

¹⁴⁵ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. James Malatras (May 20, 2024).

¹⁴⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Andrew Cuomo (June 11, 2024)

¹⁴⁷ See e.g., Email from Cuomo Executive Chamber Staff 3, New York State Executive Chamber, to Dr. James Malatras, COVID-19 Task Force, et al. (June 23, 2020) (on file with Select Subcommittee Staff). Select Subcommittee Democrats are not aware of evidence demonstrating that Governor Cuomo directed, through Ms. DeRosa, the removal of out-of-facility deaths from the July 6 report.

¹⁴⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Howard Zucker (Dec. 18, 2023). At her transcribed interview, Ms. DeRosa claimed that she brought her concerns about the accuracy of the out-of-facility data to Dr. Zucker, and he made the decision to remove those deaths from the July 6 report's analysis. Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024).

¹⁴⁹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Howard Zucker (Dec. 18, 2023).

¹⁵⁰ See, e.g., *Cover-up Claims Engulf Cuomo as Scandal over Nursing Home Deaths Grows*, Politico (Feb. 12, 2021) (online at www.politico.com/states/new-york/city-hall/story/2021/02/12/coverup-claims-engulf-cuomo-as-scandal-over-nursing-home-deaths-grows-1363353).

¹⁵¹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Linda Lacewell (May 31, 2024); Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Andrew Cuomo (June 11, 2024); and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024).

Administration simply withheld the data.¹⁵² Select Subcommittee Democrats tend to agree with the latter.

a. The Executive Chamber Removed Out-of-Facility Deaths from NYSDOH's Public Reporting

Over the course of the COVID-19 pandemic, the Administration published nursing home deaths on NYSDOH's website. The website counted cumulative nursing home deaths up to the date of publication. An audit by the New York State Comptroller found that NYSDOH "used alternating methodologies to account for nursing home deaths" and "consistently lacked transparency, and was at times inaccurate, inconsistent, incomplete, and/or not amenable to analysis."¹⁵³

Although NYSDOH personnel told auditors that "decisions on how to report deaths [were] made by officials outside those collecting the data," personnel did not identify those decisionmakers.¹⁵⁴ The findings of Select Subcommittee Democrats mirror and expand upon those of the New York State Comptroller. Select Subcommittee Democrats found that Governor Cuomo's Executive Chamber and COVID-19 Task Force determined NYSDOH's methodology for publicly reported nursing home deaths.

In early April 2020, NYSDOH began reporting nursing home deaths related to COVID-19. At the time, NYSDOH's website counted resident deaths that occurred inside *and* outside of the facility. In mid-April, NYSDOH shifted to add only in-facility deaths to the running death count.¹⁵⁵ By early May, NYSDOH had removed all out-of-facility deaths from its public reporting specific to nursing homes.¹⁵⁶

Given that Mr. Rhodes completed his audit in August 2020, Select Subcommittee Democrats question the assertion that nursing home fatality data continued to be inaccurate until the end of 2020.

¹⁵² Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Howard Zucker (Dec. 18, 2023) and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. James Malatras (May 20, 2024).

¹⁵³ Office of the New York State Comptroller, *Department of Health: Use, Collection, and Reporting of Infection Control Data* (Mar. 2022) (online at www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2022-20s55.pdf?utm_medium=email&utm_source=govdelivery).

¹⁵⁴ *Id.*

¹⁵⁵ Email from Cuomo Executive Chamber Staff 1, New York State Executive Chamber, to Dr. James Malatras, COVID-19 Task Force, et al. (Apr. 25, 2020) (on file with Select Subcommittee Staff).

¹⁵⁶ NYSDOH began publishing nursing home deaths with a footnote explaining that the data did not reflect out-of-facility deaths. See, e.g., *Counts of Nursing Home and ACF COVID Related Deaths Statewide* (May 5, 2020) (online at https://web.archive.org/web/20200505171217/https://www.health.ny.gov/statistics/diseases/covid-19/fatalities_nursing_home_acf.pdf). The Cuomo Administration has emphasized this point in arguing that it reported nursing home deaths in a transparent manner. For example, Ms. DeRosa testified that "we were fully transparent in how we were presenting the data" and "there was never any confusion as to how we were releasing the death data." Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024). To the extent the public was informed that the released data excluded out-of-facility deaths, Select Subcommittee Democratic staff would also note the public's calls for the Administration to include those deaths as part of its nursing homes reporting. *New York's True Nursing Home Death Toll Cloaked in Secrecy*, Politico (Aug. 11, 2020) (online at <https://apnews.com/article/virus-outbreak-ap-top-news-understanding-the-outbreak-new-york-andrew-cuomo-212ccd87924b6906053703a00514647f>). NYSDOH would report out-of-facility deaths only as part of an overall COVID-19 fatality tracker until February 2021. *Gov. Cuomo says N.Y. couldn't report nursing home*

One former senior NYSDOH official told Select Subcommittee Democratic staff that the Executive Chamber determined policy decisions about the number of nursing home deaths NYSDOH publicly reported.¹⁵⁷ At his transcribed interview, a member of the COVID-19 Task Force explained that “only [Ms. DeRosa] could choose what numbers got posted.”¹⁵⁸ The documentary evidence available to the Select Subcommittee likewise indicates that the Executive Chamber determined the death numbers NYSDOH posted.¹⁵⁹ Another former senior NYSDOH official testified to a similar understanding of that process.¹⁶⁰

At her transcribed interview, Ms. DeRosa claimed that although NYSDOH consulted the Executive Chamber on changes to its public reporting, those changes did not require her approval.¹⁶¹

For its part, NYSDOH has confirmed that “the scope of health data that was released to the public by the prior Administration was determined by that Executive Chamber, not Department personnel.”¹⁶² Internal communications reviewed by Select Subcommittee Democratic staff indicate that on February 5, 2021, the Executive Chamber directed NYSDOH to resume reporting out-of-facility deaths.¹⁶³

b. The Executive Chamber Delayed Releasing Nursing Home Death Data to the New York State Legislature

In August 2020, the Cuomo Administration received requests for nursing home death data from the New York State Legislature. The Administration did not provide the requested data until February 2021. In a meeting with Democratic lawmakers that month, Ms. DeRosa stated that a concurrent Department of Justice (DOJ) request and potential investigation “froze” the

deaths in hospitals. But other states did., NBC News (Feb. 23, 2021) (online at www.nbcnews.com/politics/politics-news/gov-cuomo-says-new-york-couldn-t-report-nursing-home-n1258641).

¹⁵⁷ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Brad Hutton (Aug. 27, 2024).

¹⁵⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. James Malatras (May 20, 2024).

¹⁵⁹ See e.g., Email from Senior NYSDOH Official 3, New York State Department of Health, to Cuomo Executive Chamber Staff 2, New York State Executive Chamber, et al. (June 24, 2022) (on file with Select Subcommittee Staff) (Stating in part, “Here is the 6/24/2020 NH/ACF Report, as per Chamber, for posting to the website.”) (emphasis added). Dozens of additional emails on file with Select Subcommittee staff contain virtually identical language.

¹⁶⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Eleanor Adams (Apr. 8, 2024).

¹⁶¹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024).

¹⁶² Office of the New York State Comptroller, *Department of Health: Use, Collection, and Reporting of Infection Control Data* (Mar. 2022) (online at www.osc.ny.gov/files/state-agencies/audits/pdf/sga-2022-20s55.pdf?utm_medium=email&utm_source=govdelivery).

¹⁶³ Email from Senior NYSDOH Official 4, New York State Department of Health, to Cuomo Executive Chamber Staff 2, New York State Executive Chamber, et al. (Feb. 5, 2021) (The email with subject line “RE: NH/ACF 02/05/2021 report for website – UPDATED” reads, in part, “Today’s email has been updated to include out of facility deaths for NH residents, per Chamber.”). In addition to public pressure stemming from the OAG’s January 28th report, on February 3, 2020, the New York Supreme Court ordered the Cuomo Administration to release nursing home death data a third-party had requested under the Freedom of Information Law. *Supreme Court Rules Against Cuomo on Nursing Home Data*, NEWS10 ABC (Feb. 3, 2021) (online at www.news10.com/news/supreme-court-rules-against-cuomo-on-nursing-home-data/).

Administration's response to the legislature.¹⁶⁴ Ms. DeRosa later clarified her comments to mean that the Administration had "paused" its response time to the legislature's requests until the 2021 legislative session so that it could first resolve the DOJ inquiry.¹⁶⁵

Select Subcommittee Democrats acknowledge public reporting that reflects a request made by the Administration to pause its response time to the state legislature.¹⁶⁶ However, given that the Administration responded to DOJ's August inquiry by early September, Select Subcommittee Democrats question whether a pause until February 2021 was warranted.¹⁶⁷

At her transcribed interview, Ms. DeRosa testified that a second, October 2020 data request from DOJ again seized the Administration's attention and sustained the pause on a response to the legislature.¹⁶⁸ Although it is correct that the Administration received a second DOJ inquiry in October,¹⁶⁹ it is difficult to understand why the Administration would be unable to respond to the legislature's requests from two months prior. It is especially difficult in light of testimony from Ms. DeRosa and Dr. Zucker that he had prepared a response by Thanksgiving 2020.¹⁷⁰ The Executive Chamber declined to furnish Dr. Zucker's response to the legislature at that time. Ms. DeRosa told Select Subcommittee staff "our priority was getting back to DOJ."¹⁷¹

However, it is not clear whether the Administration ultimately responded to DOJ with the data requested in DOJ's October inquiry. Contrary to past statements made by Governor Cuomo,¹⁷² Ms. DeRosa testified that the Administration had not, to "the best of [her] recollection."¹⁷³ Other than deference to counsel, Ms. DeRosa was unable to justify the Administration's apparent failure to meet the stated purpose for the pause on its response time to the legislature.¹⁷⁴

¹⁶⁴ New York State Office of the Governor, *Statement from Secretary to the Governor Melissa DeRosa* (Feb. 12, 2021) (online at www.governor.ny.gov/news/statement-secretary-governor-melissa-derosa-0).

¹⁶⁵ Melissa DeRosa, *What's Left Unsaid: My Life at the Center of Power, Politics, & Crisis* (Oct. 24, 2023).

¹⁶⁶ It should be noted that some lawmakers dispute that the Administration disclosed its rationale when requesting the pause. *Cover-up Claims Engulf Cuomo as Scandal over Nursing Home Deaths Grows*, Politico (Feb. 12, 2021) (online at www.politico.com/states/new-york/city-hall/story/2021/02/12/coverup-claims-engulf-cuomo-as-scandal-over-nursing-home-deaths-grows-1363353).

¹⁶⁷ Memorandum from Morvillo Abramowitz Grand Iason & Anello PC to Department of Justice, *Memorandum of Law to Dissuade Further Investigation and Prosecution* (July 29, 2021) (on file with Select Subcommittee Staff) (Stating in part, "New York State responded two weeks later in a letter from DOH . . . Following New York State's response, DOJ never contacted New York State to seek clarification of any of the information provided by the State in connection with the [August] inquiry.").

¹⁶⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024).

¹⁶⁹ Letter from Jeffrey Bossert Clark, Department of Justice, to Senior NYSDOH Official 5, New York State Department of Health (Oct. 2020) (on file with Select Subcommittee Staff) and Memorandum from Morvillo Abramowitz Grand Iason & Anello PC to Department of Justice, *Memorandum of Law to Dissuade Further Investigation and Prosecution* (July 29, 2021) (on file with Select Subcommittee Staff).

¹⁷⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024) and Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Howard Zucker (Dec. 18, 2023).

¹⁷¹ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024).

¹⁷² *Press Conference with Governor Andrew Cuomo*, New York State Office of the Governor (Feb. 15, 2021).

¹⁷³ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Melissa DeRosa (June 21, 2024).

¹⁷⁴ *Id.*

iii. *The Trump Administration Deceived the American Public About the COVID-19 Pandemic*

As the novel coronavirus swept the country, some states, including New York, issued policies that arguably required nursing homes to readmit COVID-19 patients to relieve debilitating strain across the health care system. These policy missteps were made within the context of limited and evolving information during an emerging and unprecedented pandemic. Unfortunately, that context was exacerbated by the Trump Administration's political interference with the nation's understanding and response to the COVID-19 pandemic.

In the 117th Congress, Democrats on the Select Subcommittee on the Coronavirus Crisis uncovered the Trump Administration's systematic interference with public health authorities to deceive the American public with limited or inaccurate information about the novel coronavirus and downplay the risk of the COVID-19 pandemic.¹⁷⁵

For instance, following a February 25, 2020, CDC briefing in which an agency official warned the public about the risks of community spread, Trump officials, led by HHS Secretary Alex Azar, arranged a second briefing and various appearances on television news outlets in which they claimed COVID-19 was "contained".¹⁷⁶ On February 26, 2020, the White House mandated that all media requests related to the pandemic be first approved by the Office of the Vice President, effectively blocking CDC's ability to hold telebriefings for several months. When CDC's telebriefings were allowed to resume, the Trump Administration continued to downplay the risks posed by COVID-19 and declined to invite a senior CDC official who had previously shared views the Administration considered "too alarming."¹⁷⁷

Beyond limiting CDC communications with the American public, Trump Administration officials also altered multiple CDC pandemic-related guidance. Alterations included the removal of a clear definition for "social distancing" in place of an "ambiguous" standard in a May 2020 guidance,¹⁷⁸ and the August 2020 recommendation to reduce the amount of testing, including for

¹⁷⁵ Democratic Staff, Select Subcommittee on the Coronavirus Crisis, *"It Was Compromised": The Trump Administration's Unprecedented Campaign to Control CDC and Politicize Public Health During the Coronavirus Crisis* (Oct. 2022) (online at <https://coronavirus-democrats-oversight.house.gov/sites/evo-subsites/coronavirus-democrats-oversight.house.gov/files/2022.10.17%20The%20Trump%20Administration%E2%80%99s%20Unprecedented%20Campaign%20to%20Control%20CDC%20and%20Politicize%20Public%20Health%20During%20the%20Coronavirus%20Crisis.pdf>).

¹⁷⁶ Health Officials Warn Americans to Plan for the Spread of Coronavirus in U.S. (Feb. 25, 2020) (online at www.npr.org/sections/health-shots/2020/02/25/809318447/health-officials-warn-americans-to-start-planning-for-spread-of-coronavirus-in-u); Department of Health and Human Services, Health and Human Services Briefing on the Coronavirus Outbreak (Feb. 25, 2020) (online at www.c-span.org/video/?469708-1/hhs-officials-hold-newsconference-coronavirus).

¹⁷⁷ Democratic Staff, Select Subcommittee on the Coronavirus Crisis, *"It Was Compromised": The Trump Administration's Unprecedented Campaign to Control CDC and Politicize Public Health During the Coronavirus Crisis* (Oct. 2022) (online at <https://coronavirus-democrats-oversight.house.gov/sites/evo-subsites/coronavirus-democrats-oversight.house.gov/files/2022.10.17%20The%20Trump%20Administration%E2%80%99s%20Unprecedented%20Campaign%20to%20Control%20CDC%20and%20Politicize%20Public%20Health%20During%20the%20Coronavirus%20Crisis.pdf>).

¹⁷⁸ *Id.*

asymptomatic people despite prior exposure to the virus.¹⁷⁹ In addition, Trump Administration officials revised a May 2020 CDC Morbidity and Mortality Weekly Report (MMWR) in order to understate the early spread of the virus within the United States, and in August 2020 pressured an MMWR CDC editor to delete an email reflecting other political interference.¹⁸⁰ Trump Administration officials ultimately interfered with at least 19 scientific reports from CDC related to the COVID-19 pandemic.

Under President Trump's leadership, the CDC was sidelined causing health guidance such as "Considerations for Election Polling Locations and Voters"¹⁸¹, "Opening Up America Again"¹⁸², and "The Importance of Reopening of America's Schools this Fall"¹⁸³ to not fully reflect leading public experts' recommendations on how Americans could best protect themselves and their families from COVID-19.

Trump Administration officials used every opportunity to push the political goal of downplaying the pandemic. In May 2020, Dr. Paul Alexander, a Senior Trump Administration official, suggested comparing the virus to the seasonal flu on a press statement. The next week, when the U.S. COVID-19 death toll reached 100,000 and the CDC was drafting a statement, Dr. Alexander made edits to a statement designed to make it "more positive" because the unprecedented death toll of the pandemic was too "heavy".¹⁸⁴ Multiple CDC officials

¹⁷⁹ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Ronald A. Klain, Chief of Staff, The White House (Feb. 8, 2020) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-02-08.Clyburn%20to%20Klain%20re%20WH%20Failures%20on%20Pandemic%20.pdf>).

¹⁸⁰ Democratic Staff, Select Subcommittee on the Coronavirus Crisis, *"It Was Compromised": The Trump Administration's Unprecedented Campaign to Control CDC and Politicize Public Health During the Coronavirus Crisis* (Oct. 2022) (online at <https://coronavirus-democrats-oversight.house.gov/sites/evo-subsites/coronavirus-democrats-oversight.house.gov/files/2022.10.17%20The%20Trump%20Administration%E2%80%99s%20Unprecedented%20Campaign%20to%20Control%20CDC%20and%20Politicize%20Public%20Health%20During%20the%20Coronavirus%20Crisis.pdf>).

¹⁸¹ Select Subcommittee on the Coronavirus Crisis, Transcribed Interview of Anne Schuchat (Oct. 1, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.10.01%20SSCC%20Interview%20of%20Anne%20Schuchat%20-%20REDACTED.pdf>); see also Memorandum from Democratic Staff to Members of the Select Subcommittee on the Coronavirus Crisis, *The Trump Administration's Pattern of Political Interference in the Nation's Coronavirus Response* (July 26, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/7.26.2021%20Timeline%20of%20Political%20Interference%20-%20final.pdf>).

¹⁸² See Centers for Disease Control and Prevention, Summary of Guidance Review (Mar. 10, 2021) (online at www.cdc.gov/coronavirus/2019-ncov/downloads/communication/Guidance-Review.pdf); Select Subcommittee on the Coronavirus Crisis, Transcribed Interview of Anne Schuchat (Oct. 1, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.10.01%20SSCC%20Interview%20of%20Anne%20Schuchat%20-%20REDACTED.pdf>).

¹⁸³ See Centers for Disease Control and Prevention, Summary of Guidance Review (Mar. 10, 2021) (online at www.cdc.gov/coronavirus/2019-ncov/downloads/communication/Guidance-Review.pdf); Select Subcommittee on the Coronavirus Crisis, Transcribed Interview of Anne Schuchat (Oct. 1, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.10.01%20SSCC%20Interview%20of%20Anne%20Schuchat%20-%20REDACTED.pdf>).

¹⁸⁴ Email from Paul Alexander, Senior Advisor, Department of Health and Human Services, to Michael Robinson, Strategic Planning, Department of Health and Human Services, et al. (May 28, 2020) (SSCC-0013519 – 23) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020.05.28%20SSCC0013519-23_Redacted.pdf).

interviewed by Select Subcommittee on the Coronavirus Crisis Democratic staff stated that more Americans would have lived if not for the political interference by the Trump Administration.¹⁸⁵

President Trump's own coronavirus response coordinator, Dr. Deborah Birx has said that COVID-19 deaths, after the initial surge, "could have been mitigated or decreased substantially," but for the actions of the Trump Administration.¹⁸⁶

iv. *Republican Allegations of Hochul Administration Obstruction Are Baseless*

Select Subcommittee Republicans have sought to mischaracterize New York State Governor Kathy Hochul and her Executive Chamber as obstructing the investigation into former Governor Cuomo's handling of New York State nursing home policy, including by issuing a subpoena to the New York State Executive Chamber for documents relating to former Governor Cuomo's COVID-19 response and nursing home policies at the Select Subcommittee's September 10, 2024, hearing.¹⁸⁷

The Hochul Administration has cooperated with the Select Subcommittee since its initial document requests were made. Between June 2023 and May 2024, the Hochul Administration turned over more than 300,000 pages of records to the Select Subcommittee for review. Furthermore, in May 2024, the Executive Chamber provided a privilege log, as they had promised to do once productions were complete. The Republicans did not express any concerns over the completeness of the document productions or privilege log until September 2024, and they did not provide the Hochul Administration with time to respond before they issued the subpoena.

Since the issuance of the subpoena, in a further show of good faith, the Hochul Administration has continued to cooperate with Republican requests, including by making an additional production of over 1,000 pages on November 8, 2024, and by continuing to search and review records responsive to Republican demands.

Ultimately, the allegation that the Hochul Administration has not cooperated are untrue and constitute a blatant political effort to target Governor Hochul at the expense of the facts.

¹⁸⁵ Democratic Staff, Select Subcommittee on the Coronavirus Crisis, *"It Was Compromised": The Trump Administration's Unprecedented Campaign to Control CDC and Politicize Public Health During the Coronavirus Crisis* (Oct. 2022) (online at <https://coronavirus-democrats-oversight.house.gov/sites/evo-subsites/coronavirus-democrats-oversight.house.gov/files/2022.10.17%20The%20Trump%20Administration%E2%80%99s%20Unprecedented%20Campaign%20to%20Control%20CDC%20and%20Politicize%20Public%20Health%20During%20the%20Coronavirus%20Crisis.pdf>).

¹⁸⁶ Birx recalls 'very difficult' call with Trump, says hundreds of thousands of Covid deaths were preventable, NBC News (Mar. 28, 2021) (online at <https://www.nbcnews.com/politics/donald-trump/birx-recalls-very-difficult-call-trump-says-hundreds-thousands-covid-n1262283>).

¹⁸⁷ Select Subcommittee on the Coronavirus Pandemic, *Press Release: BREAKING: Wenstrup Announces Subpoena for State of New York, Office of the Governor During Hearing with Andrew Cuomo* (Sept. 10, 2024) (online at <https://oversight.house.gov/release/breaking-wenstrup-announces-subpoena-for-state-of-new-york-office-of-the-governor-during-hearing-with-andrew-cuomo/>).

C. Forward-Looking Policies to Better Protect Seniors and Nursing Home Residents from Future Pandemics

The COVID-19 pandemic made it clear that America's seniors are particularly vulnerable to public health crises. To strengthen oversight of care provided in nursing homes, including potential lapses in infection prevention and control, Select Subcommittee Democrats introduced legislation to increase and ensure that sustainable funding will be available for Centers for Medicare and Medicaid Services (CMS) Survey and Certification activities.

The Sustained Allocations For Evaluations and Reviews of Nursing Homes Act (SAFER Nursing Homes Act) increases and ensures that sustainable funding will be available for CMS Survey and Certification activities that identify instances of poor and substandard care and treatment of skilled nursing facility and nursing facility residents, including (but not limited to) lapses in infection control and prevention efforts. Approximately 90% of Survey and Certification funds flow to State Survey Agencies that conduct direct survey work across the country.

The SAFER Nursing Homes Act increases funding for CMS Survey and Certification Activities in the upcoming fiscal year to \$492 million (21% above Fiscal Year 2023 funding). In subsequent fiscal years, the SAFER Nursing Homes Act reforms the CMS Survey and Certification funding stream to classify it as a mandatory funding stream, as opposed to a discretionary funding stream, meaning that comprehensive and sustained funding will be reliably available for the oversight activities going forward to help protect our nation's seniors.

III. SELECT SUBCOMMITTEE REPUBLICANS' PROBE INTO THE BIDEN-HARRIS ADMINISTRATION'S SAFE AND SWIFT REOPENING OF SCHOOLS FAILED TO SUBSTANTIATE BASELESS ALLEGATIONS OF UNDUE INFLUENCE OVER CENTERS FOR DISEASE CONTROL AND PREVENTION GUIDANCE

In a seeming effort to distract from the Trump Administration's failure to safely reopen America's schools by attempting to undermine the Biden-Harris Administration's legacy of success in safely and quickly returning kids to classrooms during the COVID-19 pandemic, Select Subcommittee Republicans have spent the 118th Congress on a probe into allegations that former Centers for Disease Control and Prevention (CDC) Director Rochelle Walensky permitted the American Federation of Teachers (AFT) to exert undue influence over the development of the Biden-Harris Administration's February 2021 school reopening guidance.

More than three thousand pages of internal documents, transcribed interviews with two senior AFT staff members and a senior CDC official, and hearings with AFT President Randi Weingarten and former CDC Director Walensky have failed to substantiate Select Subcommittee Republicans' allegations regarding the inclusion of two commonsense recommendations in the school reopening guidance to protect students and staff.¹⁸⁸

¹⁸⁸ Centers for Disease Control and Prevention, *Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 12, 2021) (on file with Select Subcommittee Staff).

A. Select Subcommittee Republicans’ Probe Has Not Substantiated Allegations of Political Interference in the Development of the Biden-Harris Administration’s School Reopening Guidance

Despite Republican’s efforts to prove political interference, the investigation confirmed the opposite. The CDC developed guidance to reopen schools quickly while keeping students and staff safe from COVID-19, and the CDC consulted a wide range of stakeholders before AFT was even aware that guidance was forthcoming.

i. CDC Developed Guidance to Reopen Schools Quickly While Keeping Students and Staff Safe from COVID-19

a. Pandemic Conditions in Late January and Early February 2021

In January 2021, the COVID-19 pandemic was still raging. Although the first COVID-19 vaccines were authorized for emergency use, the Trump Administration’s mismanaged rollout meant that only 23 million doses of the COVID-19 vaccine had been administered as of January 26, 2021.¹⁸⁹

In the months preceding President Biden taking office, the Trump Administration’s failure to provide personal protective equipment, testing kits, vaccines, and coherent CDC guidance severely hindered school reopening efforts. Ms. Nedrow’s transcribed interview testimony to Select Subcommittee staff underscored how the Trump Administration’s early mishandling of the pandemic hindered schools from reopening:

... we were sharing information about our members dying because they didn’t have adequate protective gear. They didn’t have direction from their employers. The employers didn’t have direction from the state or the Federal Government.¹⁹⁰

We were talking about our views about the strategic stockpile reserve and how woefully unprepared the Federal Government was. We were talking about the inability of our members and ourselves to follow the CDC guidance because there was either deficient gaps in the guidance, conflicting information on the CDC website, lack of funding, lack of availability of testing kits, all of the issues that were making it problematic, if not impossible, for our members. . . .¹⁹¹

We were talking about the transmission rates and the rates of positivity that went up when the adequate mitigation strategies were not in place, which was almost everywhere at that point, and then just the general angst and anger of our members, and, of course, we were trying to give the transition committee ideas about the policies that we would like to see based upon the failure of the Federal Government.¹⁹²

... we still have it, the wall outside of our building with a list of our members who died

¹⁸⁹ Centers for Disease Control and Prevention, *COVID-19 Timeline* (Mar. 15, 2023) (online at www.cdc.gov/museum/timeline/covid19.html).

¹⁹⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (June 23, 2023).

¹⁹¹ *Id.Id.*

¹⁹² *Id.Id.*

from COVID. For the people who—even people who didn’t have high-risk conditions, that made it very scary to them, because we still didn’t have all of the answers about COVID. There wasn’t—vaccines weren’t available. Test kits were hard to come by and people didn’t want to go into work and die. They didn’t.¹⁹³

Further, Ms. Nedrow told Select Subcommittee staff that the Trump Administration’s threats to withhold federal funding from schools that did not immediately reopen for in-person learning—including those from former Secretary of Education Betsy DeVos¹⁹⁴ and from the former President himself¹⁹⁵—undermined efforts to safely reopen schools and “would have probably resulted in total collapse in education systems across the country.”¹⁹⁶

b. CDC Developed the Guidance with the Aim of Reopening Schools Safely And Quickly

Under Director Walensky, CDC prioritized developing guidance to reopen schools safely and quickly. On February 21, 2021, the CDC issued its “Operational Strategy for K-12 Schools through Phased Mitigation” (Operational Strategy or “the guidance”), which offered guidance that schools could follow when returning to in-person learning.¹⁹⁷

Internal development notes on the Operational Strategy circulated among CDC and HHS leadership state: “It is critical for schools to open as safely and as quickly as possible to achieve the benefits of in-person learning and key support services.”¹⁹⁸ CDC continued to engage with implementing stakeholders after the guidance’s release and encouraged alignment with the goal of reopening schools safely and quickly. For example, in a March 15, 2021, letter to the Council of Chief State School Officers, CDC reiterated: “It is critical for K-12 schools to open, and stay open, as safely and as soon as possible.”¹⁹⁹

During her transcribed interview, Dr. Massetti reiterated CDC’s commitment to reopening schools safely and quickly. She told Select Subcommittee staff that while working on the guidance to re-open schools, CDC staff “were thinking about what did we need to do to

¹⁹³ *Id.*

¹⁹⁴ Education Secretary Faces Backlash After Demanding Schools Reopen Full-Time Amid Pandemic, *ABC News* (July 13, 2020) (online at <https://abcnews.go.com/Politics/education-secretary-faces-backlash-demanding-schools-reopen-full/story?id=71752468>).

¹⁹⁵ Donald J. Trump, *Tweet on July 8, 2020, at 9:16am* (July 8, 2020) (online at <https://twitter.com/realDonaldTrump/status/1280853299600789505>).

¹⁹⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (June 23, 2023).

¹⁹⁷ Centers for Disease Control and Prevention, *Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 12, 2021) (on file with Select Subcommittee Staff).

¹⁹⁸ Email from Centers for Disease Control and Prevention to Department of Health and Human Services (Jan. 26, 2021) (on file with Select Subcommittee Staff).

¹⁹⁹ Letter from Centers for Disease Control and Prevention to Council of Chief State School Officers and Council of the Great City Schools (Mar. 15, 2021) (on file with Select Subcommittee Staff).

really support schools and reopening for in-person instruction in January, and we were very worried about the possibility that another semester would go by and schools wouldn't be able to take that step.”²⁰⁰

AFT had the same perception of CDC’s goal. According to internal AFT notes presented to Ms. Weingarten, AFT understood the guidance to “prioritize in-person schooling above all else” and viewed that as the document’s “primary strength”:²⁰¹

Its primary strength for local affiliates struggling with decision matrices around in-person schooling is a rationale and assumptions that undergird the guidance (pg 14). These include that non-essential place-based and activity-based vectors of transmission in the community be contained to prioritize in-person schooling above all else. In other words, if there are bars and restaurants open for regular business, serving people indoors, that is in violation of the guidance. In short, as a precondition for in-person schooling, a community must first commit to contain its spread from other activities. Another strength of the guidance is an improved focus on the role of COVID19 testing and tracing in schools including a checklist for considerations on whether and how to establish testing (pg 23).

In developing the Operational Strategy, CDC included commonsense precautions to ensure a safer learning environment for students and staff. For example, following a January 25, 2021, virtual forum with public health stakeholders, CDC sent a January 27, 2021, complete draft guidance to the forum’s attendees. In its email, CDC noted that “based upon input from partners,” the agency had implemented structural revisions to “shift the overall frame of the document to emphasize safe reopening of schools through mitigation,” including by “moving the order of the essential elements to shift mitigation first.”²⁰²

As part of CDC’s effort to develop guidance that would quickly reopen schools while keeping students and staff safe from COVID-19, CDC included two commonsense suggestions made by AFT in the Operational Strategy.

Select Subcommittee Chairman Brad Wenstrup agrees that the two suggestions were reasonable. At an April 26, 2023, hearing with Ms. Weingarten, the Chairman stated, “These guidelines that I questioned [Ms. Weingarten] about as being accepted, I agreed with them. I didn’t have a problem with them.”²⁰³

c. The First Suggestion: Accommodations for High-Risk Teachers And Staff

²⁰⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Greta Massetti, Principal Deputy Director, CDC, National Center for Injury Prevention and Control (October 31, 2023).

²⁰¹ AFT Internal Notes Regarding the January 27, 2021, Operational Strategy Draft (Feb. 1, 2021) (on file with Select Subcommittee Staff).

²⁰² Email from Centers for Disease Control and Prevention to National Association of County and City Health Officials, et al. (Jan. 31, 2021) (on file with Select Subcommittee Staff).

²⁰³ Select Subcommittee on the Coronavirus Pandemic, The Consequences of School Closures, Part 2: The President of the American Federation of Teachers, Ms. Randi Weingarten (Apr. 26, 2023) (online at <https://oversight.house.gov/hearing/the-consequences-of-school-closures-part-2-the-president-of-the-american-federation-of-teachers-ms-randi-weingarten/>).

AFT’s first suggestion requested that teachers and staff with high-risk conditions be offered appropriate accommodations. The suggestion advised that accommodations be determined “keeping in mind Equal Employment Opportunity (EEO) concerns”²⁰⁴ and was consistent with contemporaneous EEO guidance related to accommodations for high-risk employees.²⁰⁵ In her transcribed interview, Ms. Ucelli-Kashyap explained that staff accommodations would protect the health of students and staff and prevent larger problems “within the school setting itself” that would interfere with in-person learning:

Democratic Counsel:	Could you talk a little bit about your recollection, to the extent you recall, of this suggestion, why it made sense, why it was important?
Ms. Ucelli-Kashyap:	Yes. We wanted to make sure that educators and school staff had the opportunity to work and continue to fill—fulfill their responsibilities and to do so in a way that would not endanger them, endanger members of their household, and, frankly, create potentially other problems within the school setting itself should they become ill as a result of their own significant potential for illness or that of their family members or those for whom they were caring. ²⁰⁶

Dr. Massetti underscored that CDC’s included this suggestion to ensure that schools would have flexibility when implementing commonsense accommodations for high-risk teachers and staff.

Democratic Counsel:	And is the language here, those mitigation factors, are those reasonable ways to limit severe health consequences for some while still allowing schools to reopen?
Dr. Massetti:	Yes. I think the intent of the language really is to encourage schools and school officials to consider these issues in whatever ways is the best fit for them, so they can provide opportunities for reassignment, remote, or other options. We really wanted to avoid saying, this is how you must handle it, but this is really something that should be considered by school officials. ²⁰⁷

²⁰⁴ Email from Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers, to Centers for Disease Control and Prevention, et. al (Feb. 1, 2021) (AFT_EXT0000130-31).

²⁰⁵ Equal Employment Opportunity Commission, *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and other EEO Laws* (Dec. 16, 2020) (online at <https://web.archive.org/web/20210212064841/https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws>).

²⁰⁶ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Marla Ucelli-Kashyap, Director of Educational Issues, American Federation of Teachers (June 20, 2023).

²⁰⁷ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Greta Massetti, Principal Deputy Director, CDC, National Center for Injury Prevention and Control (Oct. 31, 2023).

To be clear, the Trump Administration’s CDC had considered the need for staff accommodations in its July 2020 school reopening guidance:²⁰⁸

Considerations for Schools: General Readiness Assessment
Use the following tool when making initial preparations to promote healthy behaviors, environments, and operations that reduce the spread of COVID-19.

Policies and Procedures	Facilities and Supplies	Education and Training
Point Person(s): _____ ☐ Review relevant local/state regulatory agency policies and orders, such as those related to events, gatherings, and travel. ☐ Consult local health officials about the school's approach to planning for COVID-19. ☐ Designate a staff person responsible for responding to COVID-19 concerns. Make sure other staff, parents, and students know how to contact this person. ☐ Develop policies that encourage sick staff members to stay at home without fear of job loss or other consequences and protect their privacy, particularly for those with <u>underlying medical conditions</u> and at <u>higher risk</u> for severe illness. ☐ Offer options (e.g., telework or virtual learning opportunities) for staff and students at higher risk for severe illness. ☐ Offer flexible sick leave policies and practices. ☐ Offer options for flexible worksites (e.g., telework) and flexible work hours (e.g., staggered shifts).	Point Person(s): _____ ☐ Obtain supplies including: ☐ soap ☐ hand sanitizer (at least 60% alcohol) ☐ paper towels ☐ tissues ☐ <u>cleaning and disinfection supplies</u> ☐ <u>cloth face coverings</u> (as feasible) ☐ no-touch/foot pedal trash cans ☐ no-touch soap/hand sanitizer dispensers ☐ disposable food service items ☐ other: _____ ☐ Develop a schedule for increased routine cleaning and disinfection in collaboration with maintenance staff, including areas such as the following: ☐ buses or other transport vehicles ☐ frequently touched surfaces (e.g., desks,	Point Person(s): _____ ☐ Educate staff, students, and their families about when they should <u>stay home</u> if they have COVID-19 <u>symptoms</u> , have been diagnosed with COVID-19, are waiting for test results, or have been <u>exposed</u> to someone with symptoms or a confirmed or suspected case, and when they can <u>return</u> to school. ☐ Educate staff on flexible work and leave policies that encourage sick staff members to stay at home without fear of job loss or other consequences. ☐ Teach the importance of <u>handwashing</u> with soap and water for at least 20 seconds. ☐ Teach the importance of <u>social distancing</u> and staying with small groups, if applicable. ☐ Identify who should wear <u>cloth face coverings</u> , and communicate the importance of wearing them. Cloth face coverings should not be placed on: ☐ Children younger than 2 years old ☐ Anyone who has trouble breathing, or is

Former Trump Administration CDC Director Robert Redfield himself stated: “There is going to need to be accommodation for those teachers that have high risk.”²⁰⁹ Select Subcommittee Republican staff did not dispute the logic of this suggestion in the transcribed interviews with AFT staff.²¹⁰

d. The Second Suggestion: Planning for Future Variants

AFT’s second suggestion sought to clarify that if a new variant emerged that caused high-community transmission, then an update to the guidance might be necessary. This suggestion supplemented existing pre-release language stipulating that CDC reopening guidance might need to be updated in light of new evidence on SARS-CoV-2 variants and risk of transmission:

Draft Language	AFT Suggestion No. 2	Final Language
Multiple SARS-CoV-2 variants are circulating globally. Some variants seem to spread more	In the event high-community transmission	Multiple SARS-CoV-2 variants are circulating globally. Some variants seem to spread more easily and quickly

²⁰⁸ Centers for Disease Control and Prevention, *Considerations for K-12 Schools: Readiness and Planning Tool* (July 1, 2020) (online at <https://web.archive.org/web/20200723230640/https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/School-Admin-K12-readiness-and-planning-tool.pdf>).

²⁰⁹ Dr. Robert Redfield, *Head of CDC, Says Greater Risk Is to Keep Schools Closed*, The Dialog (Aug. 12, 2020) (online at <https://thediolog.org/national-news/dr-robert-redfield-head-of-cdc-says-greater-risk-is-to-keep-schools-closed/>).

²¹⁰ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Marla Ucelli-Kashyap, Director of Educational Issues, American Federation of Teachers (June 20, 2023); Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (June 23, 2023).

easily and quickly than other variants, which may lead to more cases of COVID-19 As more information becomes available, it is possible that mitigation strategies and school guidance may need to be updated to account for new evidence on risk of transmission and effectiveness of mitigation. ²¹¹	results from a new variant of SARS-CoV-2, a new update of these guidelines may be necessary. ²¹²	than other variants, which may lead to more cases of COVID-19 As more information becomes available, it is possible that due to increased levels of community transmission resulting from a variant of SARS-CoV-2, mitigation strategies and school guidance may need to be updated to account for new evidence on risk of transmission and effectiveness of mitigation. ²¹³
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In her transcribed interview, Ms. Nedrow refuted Select Subcommittee Republican staff’s insinuations that AFT’s second suggestion to allow evidence-based updates to the guidance had “no scientific rationale”:

Republican Counsel:	But to be clear, there was no scientific rationale for it; it was-- the reason you proposed that statement was to comfort your members, not because AFT had a specific scientific study that said mitigation measures were going to need to change if a new variant arose? ...
Ms. Nedrow:	Yeah. I mean, we had evidence from the previous year that that was precisely the case.
Republican Counsel:	Did mitigation measures ever change with new variants? It was always masking, social distancing, washing your hands, not going to work when you're sick.
Ms. Nedrow:	That’s actually incorrect. At one point, there was guidance saying that people didn't need to wear masks in the general public and then there was guidance that said we do need to wear masks. There was guidance that said that we could wear a bandana on our faces. That actually—it actually did evolve over the course of the pandemic. ²¹⁴

²¹¹ See Centers for Disease Control and Prevention, *Draft Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 2, 2021) (on file with Select Subcommittee Staff); Centers for Disease Control and Prevention, *Draft Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 9, 2021) (on file with Select Subcommittee Staff).

²¹² Email from Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers, to Director Rochelle Walensky, Centers for Disease Control and Prevention, et al. (Feb. 11, 2021) (on file with Select Subcommittee Staff).

²¹³ Centers for Disease Control and Prevention, *Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 12, 2021) (on file with Select Subcommittee Staff).

²¹⁴ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (June 23, 2023).

Contrary to Republican claims, AFT made both suggestions with the goal and intention of facilitating schools reopening:

So we had a lot of discussion internally, Randi and our team at the AFT, about how we could find ways to help ease the fears of people who at least were high risk and getting them back to school, and this was what we came up with.²¹⁵

There was still a lot of panic. We were trying to allay fears. Randi was really trying to allay fears of our members to kind of coax them back into the buildings. We really wanted the Federal Government to hear what that would take.²¹⁶

Select Subcommittee Republicans have also claimed that CDC “obliged” AFT’s suggestion to install a closure trigger specifying transmission rates at which schools should automatically close.²¹⁷ Dr. Massetti refuted this claim during her transcribed interview.

Republican Counsel:	...
	Did the CDC ever evaluate a closure trigger or a closure threshold?
Dr. Massetti:	We never recommended a closure trigger or closure threshold. When it was recommended, we assessed the evidence and did not feel that there was any scientific evidence to suggest that one was necessary. ²¹⁸

As CDC ultimately did not incorporate a closure trigger or closure threshold into the Operational Strategy, Republican claims to the contrary are demonstrably false.

ii. *CDC Consulted a Wide Range of Stakeholders Before AFT Was Even Aware the Guidance Was Forthcoming*

CDC consulted approximately 50 organizations in developing the Operational Strategy, including boards of education, superintendents, public health and medical professional organizations, and parents’ groups.²¹⁹

During her transcribed interview, Dr. Massetti told the Select Subcommittee how CDC’s broad stakeholder engagement informed the development of the Operational Strategy. She explained that in their outreach, CDC staff “emphasized often that we were inviting feedback,

²¹⁵ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (June 23, 2023).

²¹⁶ *Id.*

²¹⁷ Republican Staff, Select Subcommittee on the Coronavirus Crisis, *Interim Findings: Union Officials Wrote Key Portions of the Biden Administration’s School Reopening Guidance* (Mar. 30, 2022) (online at <https://oversight.house.gov/report/interim-findings-union-officials-wrote-key-portions-of-the-biden-administrations-school-reopening-guidance/>).

²¹⁸ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Dr. Greta Massetti, Principal Deputy Director, CDC, National Center for Injury Prevention and Control (Oct. 31, 2023).

²¹⁹ Letter from Melanie Anne Egorin, Assistant Secretary for Legislation, Department of Health and Human Services, to Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic (June 5, 2023) (on file with Select Subcommittee Staff).

but we were not obligated to implement the feedback—that really our approach was to interpret the recommendations that were made to us, especially against the evidence at the time or the data at the time, and then we could either make some changes accordingly or not, depending on what our internal experts would advise.”

In direct contradiction to Republican claims that CDC gave AFT “unprecedented access” to drafts of the Operational Strategy, evidence available to the Select Subcommittee demonstrates that CDC shared complete drafts of the guidance with other stakeholders before AFT was even aware that guidance was forthcoming.

On January 25, 2021, CDC hosted two virtual forums to preview and receive feedback on the forthcoming guidance. CDC did not invite AFT to attend either forum. Invited public health stakeholders included the Association of Public Health Laboratories, the National Association of County and City Health Officials, the Council of State and Territorial Epidemiologists, and the Association of State and Territorial Health Officials.²²⁰ Invited education stakeholders included the Council of Chief State School Officers, the National Association of State Boards of Education, the National Association of School Nurses, the National School Boards Association, the National Education Association, and the School Superintendents Association.²²¹ In fact, the overwhelming majority of organizations that responded to Republican document requests produced a January 22, 2021, CDC email invitation to a January 25 virtual forum. CDC sent a January 21, 2021, complete Operational Strategy draft along with the email invitations:²²²



²²⁰ Email from Centers for Disease Control and Prevention to Association of Public Health Laboratories, et al. (Jan. 22, 2021) (on file with Select Subcommittee Staff).

²²¹ Email from Centers for Disease Control and Prevention to National Association of School Nurses, et al. (Jan. 22, 2021) (on file with Select Subcommittee Staff).

²²² *Id.*; Email from Centers for Disease Control and Prevention to Association of Public Health Laboratories, et al. (Jan. 22, 2021) (on file with Select Subcommittee Staff).

AFT did not receive an invitation or the January 21 draft. Documents and testimony received by the Select Subcommittee indicate that AFT became aware of forthcoming guidance on January 27, 2021, and did not have a draft at that time:²²³

Democratic Counsel:	And's it dated January 27, 2021. I'll read it. It has an unknown recipient, but your side of the message says: "Hi. It seems CDC is expected to release new reopening guidance for schools. Who can we talk to about an advanced copy?"
	I'll just pause there. To the extent that you recall or sitting here reading it, am I reading this right that on January 27th, certainly, you did not have a draft of the CDC guidance? Is that right?
Ms. Nedrow:	That's right.
Democratic Counsel:	Do you recall whether AFT, just as an organization at this point, had a draft? I would assume that they did not. In other words, if anybody had it, it seems like it probably would be you. Is that your recollection?
Ms. Nedrow:	That's correct.
Democratic Counsel:	So putting those two documents together, is it right to say that on January 22nd, five days earlier, the American Association—I'm sorry—the Association of Public Health Laboratories had a draft, and five days later, on the 27th, you did not?
Ms. Nedrow:	Correct.
Democratic Counsel:	And it almost seems as if the news of the draft guidance might have been news to you at this point; is that right?
Ms. Nedrow:	Yes. ²²⁴

The earliest date known to Select Subcommittee staff for AFT's possession of draft guidance was January 29, 2021,²²⁵ seven days after CDC sent complete draft guidance to a number of other stakeholders for feedback. Organizations other than AFT continued to receive and inform draft guidance that AFT did not obtain. CDC circulated at least three separate

²²³ Text Message from Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (Jan. 27, 2021) (on file with Select Subcommittee Staff).

²²⁴ Select Subcommittee on the Coronavirus Pandemic, Transcribed Interview of Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers (June 23, 2023).

²²⁵ Email from Kelly Trautner Nedrow, Director of Health Issues, American Federation of Teachers, to Marla Ucelli-Kashyap, Director of Educational Issues, American Federation of Teachers, et al. (Jan. 29, 2021) (on file with Select Subcommittee Staff).

complete drafts to organizations other than AFT, dated January 21,²²⁶ February 2,²²⁷ and February 9 of 2021.²²⁸ Meanwhile, AFT learned about the February draft guidance from *The New York Times*.²²⁹

> -----Original Message-----
 > From: Marla Ucelli-Kashyap, Educational Issues [REDACTED]
 > Sent: Wednesday, February 10, 2021 1:52 PM
 > To: [REDACTED] Innovation Fund [REDACTED]; [REDACTED] Educational Issues
 > Subject: Was this in what we read ?
 >
 > -Nyt has leaked copy and called [REDACTED]... esp first sentence "At any level of community transmission, all schools can provide in-person instruction (either full or hybrid), through strict adherence to mitigation strategies. Recommended learning modes vary to minimize risk of SARS-CoV-2 transmission in school by emphasizing layered mitigation, including school policies requiring universal and correct mask use. The recommended learning modes (in-person, hybrid) depend on the level of community transmission and strict adherence to mitigation."

B. Republicans Baselessly Suggested the Biden-Harris Administration And the American Federation of Teachers Sought To Obstruct Their Probe

Throughout this investigation, Select Subcommittee Republicans have repeatedly attempted to mischaracterize AFT and CDC as obstructing their probe.

On May 23, 2023, Select Subcommittee Republicans publicly threatened AFT with a subpoena—claiming that AFT was “[continuing] to obstruct”²³⁰ the Select Subcommittee’s probe, even though AFT had already voluntarily begun production of internal documents and communications, offered for staff to sit for requested transcribed interviews, and made Ms. Weingarten available for testimony at a congressional hearing less than a month prior.

On June 1, 2023, Select Subcommittee Republicans alleged that the Department of Health and Human Services (HHS) and CDC had “chosen to frustrate Congressional oversight rather than participate in the process.”²³¹ Select Subcommittee Republicans levied this allegation a week after HHS offered to make CDC Director Walensky available to testify on multiple dates—including the date Select Subcommittee Republicans originally requested.²³²

²²⁶ See Centers for Disease Control and Prevention, *Draft Operational Strategy for K-12 Schools through Phased Mitigation* (Jan. 21, 2021) (on file with Select Subcommittee Staff).

²²⁷ See Centers for Disease Control and Prevention, *Draft Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 2, 2021) (on file with Select Subcommittee Staff).

²²⁸ See Centers for Disease Control and Prevention, *Draft Operational Strategy for K-12 Schools through Phased Mitigation* (Feb. 9, 2021) (on file with Select Subcommittee Staff).

²²⁹ Email from Marla Ucelli-Kashyap, Director of Educational Issues, American Federation of Teachers, to AFT Staff (Feb. 10, 2021) (on file with Select Subcommittee Staff).

²³⁰ Select Subcommittee on the Coronavirus Pandemic, *Tweet on May 23, 2023, at 3:52pm* (May 23, 2023) (online at <https://twitter.com/covidselect/status/1661097894919782400?s=51&t=mck0iMzRyk9v3ua2LVjMow>).

²³¹ Letter from Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic, to Director Rochelle Walensky, Centers for Disease Control and Prevention (June 1, 2023) (online at <https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.01-BRW-Letter-to-CDC-Re.-Schools-Follow-Up.pdf>).

²³² Letter from Melanie Anne Egorin, Assistant Secretary for Legislation, Department of Health and Human Services, to Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic (May 24, 2023) (on file with Select Subcommittee Staff).

C. Forward-Looking Policies to Minimize Disruptions to In-Person Learning While Protecting Students and Staff During Future Pandemics

By May 2021, the percentage of school districts providing full-time in-person learning had risen to 63% from 46% before CDC released the guidance.²³³ And within a year, 95% of public elementary and middle schools were open for full-time in-person learning. Contrary to Republican assertions, the CDC guidance’s provides a model for how America can keep children in school during a future pandemic. In opting to vilify our nation’s public health officials and educators for political gain, Select Subcommittee Republicans squandered an opportunity to meaningfully examine reforms necessary to ensure that we can minimize disruptions to in-person learning while keeping students and staff safe during future pandemics.

IV. SELECT SUBCOMMITTEE REPUBLICANS ASSAILED ESSENTIAL PUBLIC HEALTH MEASURES THAT PROTECTED AMERICANS FROM COVID-19

Throughout the 118th Congress, Select Subcommittee Republicans assailed essential interventions that protected Americans from COVID-19 as part of their campaign to vilify America’s public health officials.

A. Republicans Amplified Extreme and Debunked Claims about COVID-19 Vaccines and COVID-19 Vaccine Policies

Select Subcommittee Republicans repeatedly perpetuated dangerous falsehoods about COVID-19 vaccines and COVID-19 vaccine policies that defied the consensus of the scientific and medical communities. In multiple hearings, Select Subcommittee Republicans and their witnesses echoed extreme and debunked claims about the safety and effectiveness of COVID-19 vaccines, including by casting doubt on whether the COVID-19 vaccines saved millions of lives and by suggesting a potential link between COVID-19 vaccines and autism.

At a March 21, 2024, Select Subcommittee hearing examining America’s vaccine safety systems, one Republican Member inquired about “an accentuation of children or young adults with autism who were exposed to or received the COVID-19 vaccine”—a link that has been overwhelmingly rejected by the scientific and medical communities.²³⁴ In addition, at the Select Subcommittee’s final hearing, another Republican Member warned, “The rise of autism, learning disabilities, neurological problems, and so much more, that children are suffering from today is absolutely being forced upon children and these families because of vaccines.”²³⁵ She also claimed that Americans were being “forced to take another vaccine that the government is telling us to take after they created a deadly virus.”²³⁶

²³³ Letter from Melanie Anne Egorin, Assistant Secretary for Legislation, Department of Health and Human Services, to Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic (June 5, 2023) (on file with Select Subcommittee Staff).

²³⁴ Select Subcommittee on the Coronavirus Pandemic, *Assessing America’s Vaccine Safety Systems, Part 2* (Mar. 21, 2024) (online at <https://oversight.house.gov/hearing/assessing-americas-vaccine-safety-systems-part-2/>).

²³⁵ Select Subcommittee on the Coronavirus Pandemic, *Preparing for the Next Pandemic: Lessons Learned and the Path Forward* (Nov. 14, 2024) (online at <https://oversight.house.gov/hearing/preparing-for-the-next-pandemic-lessons-learned-and-the-path-forward/>).

²³⁶ *Id.*

Select Subcommittee Republicans also claimed widely supported policies to promote the uptake of COVID-19 vaccines violated the doctor-patient relationship,²³⁷ despite the overwhelming backing of physician groups and medical societies for these policies.

B. Republicans Sought to Undermine Confidence in Social Distancing Measures and Cast Aspersions on Public Health Officials

Select Subcommittee Republicans also sought to cast doubt on the CDC’s six feet of social distancing recommendation, including through excerpts of Dr. Fauci’s transcribed interview testimony. They claimed Dr. Fauci said the “6 feet apart” social distancing recommendation forced on Americans by federal health officials was arbitrary and not based on science.²³⁸

In his subsequent hearing testimony, Dr. Fauci explained that his prior comments were being “distorted” and clarified that although a clinical trial had not been conducted at the time the recommendation was issued, the recommendation had a scientific basis in what little was known of COVID-19 and how it spread so early on in the pandemic.²³⁹

In this same hearing, Select Subcommittee Republicans devolved into personal attacks against Dr. Fauci. For example, one Republican Member claimed that Dr. Fauci should not be recognized as a doctor and was chastised by the Chairman for refusing to do so. These personal attacks followed the Select Subcommittee receiving a letter from more than 90 public health and medical organizations—including the American Public Health Association, the American College of Physicians, the American Academy of Family Physicians, the Infectious Diseases Society of America, the Association of State and Territorial Health Officials, and the National Association of County and City Health Officials—urging the Members to “stand against efforts to weaken the ability of the nation’s public health agencies to protect the nation’s health” and to take additional action to fortify of nation’s public health workforce and infrastructure.

V. CONCLUSIONS

During the 118th Congress, Select Subcommittee Republicans have failed to prove their spurious allegations. They failed to shed additional light on the origins of SARS-CoV-2—and instead advanced baseless attacks on Dr. Fauci and other public health professionals and further eroded in public trust in our nation’s scientists and public health officials.

²³⁷ Select Subcommittee on the Coronavirus Pandemic, *Press Release: Hearing Wrap Up: COVID-19 Mandates Fractured Physician Autonomy, Doctor-Patient Relationships* (Sept. 15, 2023) (online at <https://oversight.house.gov/release/hearing-wrap-up-covid-19-mandates-fractured-physician-autonomy-doctor-patient-relationships/>).

²³⁸ Select Subcommittee on the Coronavirus Pandemic, *Press Release: COVID Select Subcommittee Releases Dr. Fauci’s Transcript, Highlights Key Takeaways in New Memo* (May 31, 2024) (online at <https://oversight.house.gov/release/covid-select-subcommittee-releases-dr-faucis-transcript-highlights-key-takeaways-in-new-memo/>).

²³⁹ Select Subcommittee on the Coronavirus Pandemic, *Hearing with Dr. Anthony Fauci* (June 3, 2024) (online at <https://oversight.house.gov/hearing/a-hearing-with-dr-anthony-fauci/>).

In addition, the re-investigation of claims of misconduct regarding New York nursing homes during COVID-19 failed to reveal information that would put America's nursing homes on firmer footing to protect their residents in the event of a future pandemic. In contrast, it was Select Subcommittee Democrats who introduced SAFER Nursing Homes Act to lay the groundwork for stronger infection control and prevention in America's nursing homes.

Furthermore, Select Subcommittee Republicans' probe of the CDC's school reopening guidance, which was meant to distract from the Trump Administration's failed pandemic response that kept kids out of classrooms, ultimately failed to undermine the Biden-Harris Administration's success in safely and swiftly resuming in-person learning in communities across the country. In the process of playing politics with our nation's students, Select Subcommittee Republicans neglected to develop any reforms necessary to strengthen our schools for future pandemics.

At the expense of coming together around forward-looking work to prevent and prepare for future pandemics, Select Subcommittee Republicans spent the 118th Congress advancing a political agenda that has contributed little to the essential work of getting ahead of future public health crises and saving future lives.

