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September 16, 2020

The Honorable Michael R. Pence Vice President The White House 1600 Pennsylvania Avenue, N.W. Washington, D.C. 20500

Dr. Deborah L. Birx Coronavirus Response Coordinator The White House 1600 Pennsylvania Avenue, N.W. Washington, D.C. 20500

Dear Vice President Pence and Dr. Birx:

I write to follow up on the Select Subcommittee's July 29, 2020, letter regarding private reports from the White House Coronavirus Task Force warning about surges in new coronavirus infections and making public health recommendations to improve states' responses to the pandemic. I am concerned that after months of political pressure from President Trump, the Task Force appears to have weakened some of these reports' scientific recommendations, including for states that failed to follow prior guidance and are now facing severe outbreaks. I am also troubled that the Trump Administration has refused for months to publicly release the Task Force's reports. Hiding reports and watering down recommendations will not save American lives. It is imperative that the Task Force be led by science—not politics—and that its unvarnished recommendations be laid bare to the American people and incorporated into a national plan to finally get this pandemic under control.

On August 31, 2020, the Select Subcommittee released eight Task Force reports dated from June 23 to August 9, 2020, which were obtained as part of the Select Subcommittee's investigation. These reports, which had not been publicly released by the White House, showed the virus spreading at an alarming rate and contradicted rosy public claims from the President and Vice President that the virus is "going to disappear" and that "panic" over the virus is "overblown." The Select Subcommittee also found many state governments were failing to comply with the Task Force's private recommendations and in some cases withheld the reports from local public health officials.¹

On September 10, 2020, the Task Force's September 6 report was disclosed by ABC News. The report found that 23 states are now in the "red zone" for new cases or for test positivity, and that many states saw significant spikes since the previous week. 22 states reported an increase in new cases of more than 10 percent—with cases up 27 percent in South

¹ Select Subcommittee on the Coronavirus Crisis, *Press Release: Select Subcommittee Releases Eight Weeks of Coronavirus Task Force Reports Kept Secret by the White House* (Aug. 31, 2020) (online at coronavirus.house.gov/news/press-releases/select-subcommittee-releases-eight-weeks-coronavirus-task-force-reports-kept).

Dakota, 28 percent in Oklahoma, and nearly 30 percent in Nebraska. 12 states reported an increase in test positivity in the red zone—with the rate of positive tests up 2 percent in Oklahoma and 3.4 percent in South Carolina.²

Despite these alarming findings, the Task Force inexplicably appears to be weakening its recommendations to certain "red zone" states, including states that failed to comply with previous Task Force recommendations. For example:

South Dakota

Cases have surged across South Dakota over the past month—with the number of new cases tripling (from 626 to 2,078), the rate of new cases per 100,000 population tripling (from 71 to 235), and the test positivity rate increasing from 7.1 percent to 13.6 percent from August 9 to September 6. Yet the Task Force recently dropped its prior recommendation that the state implement a mask mandate, even though the Governor refused to implement it:

Previous Recommendation	State's Response	Latest Recommendation
On August 2, the Task Force	Masks are not required in all	On September 6, the Task
recommended South Dakota	hot zones. On August 31,	Force dropped its earlier
implement "community mitigation	Governor Kristi Noem said she	recommendation to
efforts for all yellow and red-zone	has no plans to impose a	require face masks, and
areas" and "require face masks in	statewide mask mandate. ⁴ She	instead recommended
indoor public settings." The August	has claimed that "about 95% of	South Dakota
9 report reiterated this and warned,	the population is not at risk	"aggressively promote
"A rise in cases coincides with	for serious infection" and that	social distancing and use
increased foot traffic across hotels,	"more South Dakotans have	of face coverings,
bars, and restaurants and should	died from accidental injuries	particularly in indoor
prompt intensification of community	than from COVID-19 in the	settings, statewide."6
mitigation efforts." ³	past 5 months." ⁵	

² See, e.g., In Exclusive Interview, Dr. Birx Sends Message to People Attending Trump Rallies in North Carolina: 'Please Wear a Mask,' ABC 11 (Sept. 10, 2020) (online at abc11.com/deborah-birx-dr-nc-trump-rally/6415772/); White House Coronavirus Task Force, State Reports for Nebraska, Oklahoma, South Carolina, & South Dakota (Sept. 6, 2020) (online at drive.google.com/file/d/1WN6FSXnwvjay_i7509_s06fdaxOUqdcE/view).

³ White House Coronavirus Task Force, *South Dakota State Report* (Aug. 2, 2020) (emphasis added) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/08-02-2020_Report.pdf); White House Coronavirus Task Force, *South Dakota State Report* (Aug. 9, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/08-09-2020_Report.pdf).

⁴ Virus Fallout from the Sturgis Motorcycle Rally: A Death in Minnesota, Cases in South Dakota and More, New York Times (Sept. 2, 2020) (online at www.nytimes.com/2020/09/02/world/coronavirus-covid-live.html#link-7dd0f7a0).

⁵ *An Optimistic Outlook*, South Dakota State News (Aug. 7, 2020) (online at news.sd.gov/newsitem.aspx?id=27133).

 $^{^6}$ White House Coronavirus Task Force, South Dakota State Report (Sept. 6, 2020) (online at drive.google.com/file/d/1WN6FSXnwvjay_i7509_s06fdaxOUqdcE/view).

<u>Nebraska</u>

The Task Force also curtailed its recommendation for a mask mandate in Nebraska despite a worsening outbreak in the state. Nebraska now has the highest number of new cases and the highest rate of new cases per 100,000 population that the state has seen since the Task Force started issuing reports on June 23.

Previous	State's Response	Latest Recommendation
Recommendation		
On August 23, the Task	Masks are not currently required	On September 6, the Task
Force stated: "With the	across the state in counties with 20	Force wrote that "Nebraska
continuing high level of	or more cases. Governor Pete	has seen an increase in new
COVID-19 transmission,	Ricketts has refused to implement a	cases and remains at a
a mask mandate needs to	statewide mask mandate. ⁸ He also	critically high threshold for
be implemented statewide	has tried to block local jurisdictions	test positivity." Yet the Task
(in counties with 20 or	from enacting mask requirements,	Force only recommended
more cases) to decrease	stating that counties would not	requiring masks in "metro
community	receive CARES Act funding if they	areas and counties with
transmission." ⁷	instituted mandates and that he	COVID-19 cases among
	would file lawsuits to invalidate any	students or teachers in K-12
	such ordinances. ⁹	schools."10

North Dakota

North Dakota had the highest rate of cases per 100,000 population—245—in the country last week and "has experienced a gradual increase in cases from early July to mid-August, followed by a sharper increase since then." Despite the fact that the outbreak has drastically worsened over the past few weeks, the Task Force significantly pared back its recommendations to the state:

⁷ White House Coronavirus Task Force, *Nebraska State Report* (Aug. 23, 2020) (emphasis added) (online at www.documentcloud.org/documents/7047165-Nebraska-8-23-20.html).

⁸ Ricketts Defends His Decision Not to Mandate Masks, Lincoln Journal Star (Aug. 5, 2020) (online at journalstar.com/news/state-and-regional/govt-and-politics/ricketts-defends-his-decision-not-to-mandate-masks/article_1fa7fab1-dfb3-57e0-89cd-63afdcae013a.html).

⁹ *Id.*; *Ricketts Tells Local Governments They Won't Get Federal COVID-19 Money If They Require Masks*, Omaha World-Herald (June 18, 2020) (online at omaha.com/state-and-regional/ricketts-tells-local-governments-they-wont-get-federal-covid-19-money-if-they-require-masks/article_d15459b9-26df-527e-9899-9f579a3d8597.html).

¹⁰ White House Coronavirus Task Force, *Nebraska State Report* (Sept. 6, 2020) (online at drive.google.com/file/d/1WN6FSXnwvjay_i7509_s06fdaxOUqdcE/view).

 $^{^{11}}$ White House Coronavirus Task Force, North Dakota State Report (Sept. 6, 2020) (online at drive.google.com/file/d/1WN6FSXnwvjay_i7509_s06fdaxOUqdcE/view).

Previous	State's Response	Latest Recommendation ¹³
Recommendation ¹²		
"Support masking mandates	Masks are not currently required in	The September 6 report
in highly affected	highly affected counties and cities.	does <u>not</u> call for mask
counties/cities."	Governor Doug Burgum has refused	mandates, but merely
	to institute a statewide mask	recommends: "Recruit
	mandate. ¹⁴ North Dakota's state	college and university
	guidance has encouraged people to	students to expand public
	wear face coverings in public places	<u>health messaging</u> and
	where social distancing is difficult. ¹⁵	protect local communities
	Among localities, only tribal leaders	by strict mask wearing and
	on two American Indian reservations	social distancing off
	have implemented mask mandates. ¹⁶	campus."
"Adjust restrictions on	Bars and restaurants are permitted to	The September 6 report
occupancy and operating	operate in 13 counties—including in	dropped the
hours of bars and	hot-spot counties—with no	recommendations to close
restaurants in counties	restrictions. Governor Burgum has	bars and restrict restaurant
with continued increase in	recommended—but refused to	occupancy. Instead, it
cases." For counties in red	mandate—occupancy and social	recommends: "Support
zones, "Close bars." For	distancing restrictions on bars and	<u>local authorities</u> to ensure
counties in yellow zones,	restaurants in the rest of the state. 17	that community mitigation
"close bars until percent		measures are complied with,
positive rates are under		especially in restaurants and
3%."		bars."

¹² White House Coronavirus Task Force, *North Dakota State Report* (Aug. 16, 2020) (emphases added) (online at www.documentcloud.org/documents/7042231-North-Dakota-8-16-20.html).

¹³ White House Coronavirus Task Force, *North Dakota State Report* (Sept. 6, 2020) (emphases added) (online at drive.google.com/file/d/1WN6FSXnwvjay_i7509_s06fdaxOUqdcE/view).

¹⁴ Spirit Lake Tribe Mandates Masks, Curfew as COVID-19 Spreads on Reservation, Grand Forks Herald (July 30, 2020) (online at www.grandforksherald.com/newsmd/coronavirus/6597513-Spirit-Lake-Tribe-mandates-masks-curfew-as-COVID-19-spreads-on-reservation).

¹⁵ State of North Dakota, #MaskUpND (online at www.health.nd.gov/maskupnd); State of North Dakota, Standards for All Industries (online at ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Standards%20for%20all%20Industries.pdf).

¹⁶ Top North Dakota Doctors Say Bismarck Area Should Mandate Masks: 'We Are Doing Insanity,' Grand Forks Herald (Sept. 4, 2020) (online at www.grandforksherald.com/newsmd/coronavirus/6648028-Top-North-Dakota-doctors-say-Bismarck-area-should-mandate-masks-We-are-doing-insanity).

¹⁷ State of North Dakota, *Restaurants, Bars, Breweries, Distilleries, Food Trucks* (online at ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restaur/Restaurants/Restaurants%20Standards.pdf); *Bochenski Urges Bars, Restaurants to Follow New Guidelines*, Knox News Radio (Sept. 4, 2020) (online at knoxradio.com/news/local/bochenski-urges-bars-restaurants-follow-new-guidelines).

Previous	State's Response	Latest Recommendation ¹³
Recommendation ¹²	•	
For counties in red zones, "Close gyms." For counties in yellow zones, "Limit gyms to 25% occupancy."	Gyms are permitted to operate in 13 counties—including in hot-spot counties—at full capacity with no social distancing. Governor Burgum has recommended—but refused to mandate—social distancing and other restrictions on gyms in the rest of the state. 18	Recommendation removed.
"Adjust gathering sizes in counties with continued increase in cases." For counties in red zones, "Limit social gatherings to 10 people or fewer." For counties in yellow zones, "Limit social gatherings to 25 people or fewer."	Social gatherings of any size are permitted in 13 counties—including in hot-spot counties—without social distancing. Governor Burgum has recommended—but refused to mandate—size and social distancing restrictions on large gatherings in the rest of the state. ¹⁹	Recommendation removed.
For counties in the red and yellow zones, "Ensure that all business retailers and personal services require masks and can safely social distance."	Businesses, including retailers and personal service providers, are permitted to operate in 13 counties—including in hot-spot counties—with no restrictions. Governor Burgum has recommended—but refused to mandate—social distancing and other restrictions at businesses in the rest of the state. Although face coverings are "encouraged," masks are not required at businesses statewide. 20	Recommendation removed.

¹⁸ State of North Dakota, *Fitness Centers* (online at ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Fitness%20Centers/Fitness%20Centers%20Guidelines.pdf); *Burgum Moves North Dakota's COVID-19 Hot Spots up to 'Yellow' Risk Level After Health Officials Urged Change*, Grand Forks Herald (Sept. 3, 2020) (online at www.grandforksherald.com/newsmd/coronavirus/6646148-Burgum-moves-North-Dakotas-COVID-19-hot-spots-up-to-yellow-risk-level-after-health-officials-urged-change).

¹⁹ State of North Dakota, *Large Gathering Protocols* (online at ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Large%20Gatherings/SmartRestart_Gatherings.pdf).

²⁰ State of North Dakota, *Personal Services* (online at ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Personal%20Services/Personal%20Services%20Guidelines.pdf); State of North Dakota, *Standards for All Industries* (online at ndresponse.gov/sites/www/files/documents/covid-19/ND%20Smart%20Restart/Standards%20for%20all%20Industries.pdf).

Overall, these changes reflect a marked departure from the Task Force's prior guidance. Since June 29, the Task Force has repeatedly called for states to implement mask mandates to reduce community transmission.²¹ Dr. Birx explained on July 30:

We believe if the governors and mayors of every locality right now would mandate masks for their communities and every American would wear a mask and socially distance and not congregate in large settings where you can't socially distance or wear a mask, that we can really get control of this virus and drive down cases.²²

The Task Force's previous calls for requiring masks in public settings are supported by scientific studies showing these policies minimize community transmission of the coronavirus.²³ State health departments in Oklahoma and South Carolina have found that areas with local mask mandates significantly reduced the rate of new infections as compared to localities without them.²⁴ The Task Force's previous recommendations that states close bars and gyms, restrict

²¹ See, e.g., White House Coronavirus Task Force, Florida State Report (June 29, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/06-29-2020 Report.pdf); White House Coronavirus Task Force, South Carolina State Report (July 5, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/07-05-2020_Report.pdf); White House Coronavirus Task Force, Arkansas State Report (July 14, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/07-14-2020 Report.pdf); White House Coronavirus Task Force, Indiana State Report (July 19, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/07-19-2020 Report.pdf); White House Coronavirus Task Force, Georgia State Report (July 26, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/07-26-2020 Report.pdf); White House Coronavirus Task Force, Tennessee State Report (Aug. 2, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/08-02-2020 Report.pdf); White House Coronavirus Task Force, Iowa State Report (Aug. 9, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/08-09-2020 Report.pdf); White House Coronavirus Task Force, Utah State Report (Aug. 16, 2020) (online at www.documentcloud.org/documents/7041162-Utah-8-16-2020.html); White House Coronavirus Task Force, Oklahoma State Report (Aug. 23, 2020) (online at www.documentcloud.org/documents/7047169-Oklahoma-8-23-20.html); White House Coronavirus Task Force, Missouri State Report (Aug. 30, 2020) (online at www.documentcloud.org/documents/7201488-Missouri-8-30-20.html).

²² Birx Says State and Local Leaders Should Issue Mask Mandates as Cases Rise, The Hill (July 30, 2020) (online at thehill.com/homenews/coronavirus-report/509767-birx-says-state-and-local-leaders-should-issue-mask-mandates-as).

²³ See, e.g., Dr. John T. Brooks, Dr. Jay C. Butler, & Dr. Robert R. Redfield, Centers for Disease Control and Prevention, *Universal Masking to Prevent SARS-CoV-2 Transmission—The Time Is Now*, JAMA (July 14, 2020) (online at jamanetwork.com/journals/jama/fullarticle/2768532); Dr. M. Joshua Hendrix, et al., *Absence of Apparent Transmission of SARS-CoV-2 from Two Stylists After Exposure at a Hair Salon with a Universal Face Covering Policy – Springfield, Missouri, May 2020, Morbidity and Mortality Weekly Report (July 17, 2020) (online at www.cdc.gov/mmwr/volumes/69/wr/mm6928e2.htm?s_cid=mm6928e2_w).*

²⁴ Oklahoma's Mask Mandates Are Working. Here's the Proof, The Oklahoman (Aug. 23, 2020) (online at oklahoman.com/article/5669814/oklahomas-mask-mandates-are-working-heres-the-proof); Coronavirus Cases Drop 46% in Parts of S. Carolina with Mask Mandates Compared to Areas Without, Forbes (Aug. 12, 2020) (online at www.forbes.com/sites/nicholasreimann/2020/08/12/coronavirus-cases-drop-46-in-parts-of-s-carolina-with-mask-mandates-compared-to-areas-without/#7f391d857123).

indoor dining, and strictly limit gatherings are similarly supported by science.²⁵ In light of these findings, I am deeply troubled that the Task Force appears to have dropped its prior recommendations that state and local governments facing significant outbreaks implement mask mandates and other restrictions.

The weakening of the Task Force's recommendations comes after President Trump repeatedly publicly disputed the Task Force's scientific recommendations. For example, on July 19, President Trump said, "I don't agree with the statement that if everybody wears a mask, everything disappears" and claimed without evidence that "masks cause problems, too." On September 12, President Trump said that states "have to open up," asserting, "It's only the Democrats that are closed and in my opinion they're closed for political reasons." ²⁷

In light of President Trump's admission that he has downplayed the coronavirus crisis to the public—stating in March 2020, "I wanted to always play it down. I still like playing it down" am concerned that recent changes in the Task Force's recommendations are part of a broader pattern of the federal government retracting or altering science-based recommendations in response to political pressure from high-ranking officials. For instance, in May, the Centers for Disease Control and Prevention (CDC) abandoned plans to release detailed guidelines for reopening local communities and businesses, reportedly due to concerns from the White House that the guidance was "overly prescriptive" and risked damaging the economy by slowing down the reopening effort. In August, CDC weakened its guidance on testing of asymptomatic individuals who may have been exposed to the coronavirus, reportedly after pressure from political appointees.

²⁵ See, e.g., Kiva A. Fisher, et al., Community and Close Contact Exposures Associated with COVID-19 Among Symptomatic Adults ≥ 18 Years in 11 Outpatient Health Care Facilities – United States, July 2020, Morbidity and Mortality Weekly Report (Sept. 11, 2020) (online at www.cdc.gov/mmwr/volumes/69/wr/mm6936a5.htm?s_cid=mm6936a5_x); Yuki Furuse, et al., Clusters of Coronavirus Disease in Communities, Japan, January–April 2020, Emerging Infectious Diseases (Sept. 2020) (online at wwwnc.cdc.gov/eid/article/26/9/20-2272_article); Sukbin Jang, et al., Cluster of Coronavirus Disease Associated with Fitness Dance Classes, South Korea, Emerging Infectious Diseases (Aug. 2020) (online at wwwnc.cdc.gov/eid/article/26/8/20-0633_article).

²⁶ *Trump, Governors Diverge on Mask Mandates*, Politico (July 19, 2020) (online at www.politico.com/news/2020/07/19/trump-governors-masks-371304).

²⁷ *Donald Trump Judge Jeanine Pirro Interview Transcript September 12*, Rev (Sept. 12, 2020) (online at www.rev.com/blog/transcripts/donald-trump-judge-jeanine-pirro-interview-transcript-september-12).

²⁸ 'Play It Down': Trump Admits to Concealing the True Threat of Coronavirus in New Woodward Book, CNN (Sept. 9, 2020) (online at www.cnn.com/2020/09/09/politics/bob-woodward-rage-book-trump-coronavirus/index.html).

²⁹ White House Coronavirus Task Force Asked CDC to Revise Reopening Guidelines, Axios (May 7, 2020) (online at www.axios.com/white-house-coronavirus-task-force-cdc-guidelines-60786909-00a7-4ecd-8a9d-3c19b1eb65d1.html); White House Rejects C.D.C.'s Coronavirus Reopening Plan, New York Times (May 7, 2020) (online at www.nytimes.com/2020/05/07/us/politics/trump-cdc.html).

³⁰ Trump Officials Pressured CDC to Change Virus Testing Guidelines, Politico (Aug. 26, 2020) (online at www.politico.com/news/2020/08/26/brett-giroir-coronavirus-testing-cdc-402524); Local Health Departments Rebuke CDC's Softened Covid-19 Testing Guidelines, Wall Street Journal (Aug. 28, 2020) (online at www.wsj.com/articles/local-health-departments-rebuke-cdcs-softened-covid-19-testing-guidelines-11598651097).

With more than 6.6 million Americans infected with the coronavirus and more than 195,000 dying thus far, and tens of thousands more getting infected and hundreds more dying each day, it is imperative not only that the Task Force's scientific assessments and recommendations not be interfered with by the White House for political purposes, but also that these reports be shared with the public.³¹ I called on the White House to publicly release these documents more than a month ago, during the Select Subcommittee's July 31, 2020, hearing with Dr. Anthony Fauci, Dr. Robert Redfield, and Admiral Brett Giroir. I explained:

I would like to know whether or not we can depend upon, going forward, these kinds of reports to be made public rather than be issued to these States privately. Because it seems to us that, while the White House is maintaining a public statement as it relates to this virus, they have been sending some stuff to States privately. And I would hope that this could come to an end.³²

It is undoubtedly in the public interest to release the Task Force's assessments of outbreaks in local communities and recommendations aimed at keeping Americans safe, but the White House has refused to do so. While some reports have been released by states or leaked to the press, most of the Task Force's reports issued over the last month remain secret.

Given the White House's continued refusal to make the Task Force's reports public, I request that you produce to the Select Subcommittee by September 23, 2020, all reports, memoranda, presentations, or assessments prepared for or by the Task Force that include descriptions or projections of the spread of the coronavirus or make recommendations for containing the virus. This production should include but not be limited to any reports issued to states that were not previously produced to the Select Subcommittee.

Going forward, I request that you produce to the Select Subcommittee all White House Coronavirus Task Force reports, memoranda, presentations, and assessments within three days of the document's issuance.

In addition, I reiterate the second and third requests in the Select Subcommittee's July 29, 2020, letter. These requests seek detailed descriptions of whether states are fully complying with the Task Force's recommendations and the steps the Administration is taking or plans to take to ensure the Task Force's recommendations are implemented nationwide.³³ To date, you have not responded to either request.

³¹ *Covid in the U.S.: Latest Map and Case Count*, New York Times (Sept. 15, 2020) (online at www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html).

³² Select Subcommittee on the Coronavirus Crisis, *Hybrid Hearing on "The Urgent Need for a National Plan to Contain the Coronavirus"* (July 31, 2020) (online at coronavirus.house.gov/subcommittee-activity/hearings/hybrid-hearing-urgent-need-national-plan-contain-coronavirus).

³³ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Vice President Michael Pence and Coronavirus Response Coordinator Dr. Deborah L. Birx (July 29, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-29.Clyburn% 20to% 20WH% 20re% 20State% 20Task% 20Force% 20Recommendations.pdf).

If you have any questions regarding this matter, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,

James E. Clyburn

Chairman

cc: The Honorable Steve Scalise, Ranking Member