

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

COMMITTEE ON OVERSIGHT AND REFORM

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.

INTERVIEW OF: DEBORAH BIRX

VOLUME II

October 13, 2021

The Interview Commenced at 10:07 a.m.

46 Exhibits

47	<u>Majority Exhibit No.</u>	<u>Page</u>
48	<u>No.</u>	
49	19 Email dated 8/21/2020, Bates commencing	
50	FOIA-00000948	26
51	20 CDC Coronavirus Disease 2019 (COVID-19),	
52	Overview of Testing for SARS-CoV-2	34
53	dated July 17, 2020	
54	21 CDC Coronavirus Disease 2019 (COVID-19),	
55	Overview of Testing for SARS-CoV-2, dated	
56	August 24, 2020	34
57	22 CDC Coronavirus Disease 2019 (COVID-19),	
58	Testing Overview dated September 18, 2020	34
59	23 Email dated 10/15/2020, Bates commencing	
60	SSCC-0035951	97
61	24 Email dated 8/25/2020, Bates commencing	
62	SSCC-035985	102
63	25 Tweet from Alex Azar dated October 5,	
64	2020	115
65	26 Email dated 10/16/2020, Bates commencing	
66	SSCC-0035830	121
67	27 The American Presidency Project, Pool	
68	Reports of August 26, 2020	155
69	28 CDC Coronavirus Disease 2019 (COVID-19),	
70	Interim Guidance for Communities of Faith	161

71 Exhibits (Continued)

72 Majority Exhibit No. Page

73 No.

74 29 CDC Coronavirus Disease 2019 (COVID-19),

75 Interim Guidance for Communities of

76 Faith dated May 23, 2020

77 161

78 30 CDC Coronavirus Disease 2019 (COVID-19),

79 The Importance of Reopening America's

80 Schools this Fall, dated July 23, 2020 174

81 31 The New York Times, Behind the White House

82 Effort to Pressure the C.D.C. on School

83 Openings, dated September 28, 2020 174

84

85 Minority Exhibit No. Page

86 No.

87 B Memorandum, Center for Clinical

88 Standards and Quality/Quality, Safety &

89 Oversight Group, dated March 13, 2020 132

90 C Advisory, New York Department of Health,

91 dated March 25, 2020 132

92 D Article, AP, AP News, Birx travels,

93 family visits highlight pandemic safety

94 perils, dated December 2020 137

95

96 P R O C E E D I N G S

97 Mr. Rechter. I think we can go on the record.

98 So this is day two of the transcribed interview with

99 Dr. Birx.

100 Dr. Birx, my name is Peter Rechter. I'm Majority
101 counsel. Thank you so much for being with us today. We do
102 sincerely appreciate your time.

103 For the record, all the ground rules that we went over
104 yesterday still apply in force today. Before we begin, do
105 you have any questions?

106 Mr. Trout. No questions. We would like to clarify one
107 issue or one answer that Dr. Birx gave yesterday.

108 Mr. Rechter. Sure.

109 Mr. Trout. So, Dr. Birx, you gave an answer about
110 material that was presented to President Trump, I think your
111 answer was in March and April; is that correct?

112 The Witness. Correct.

113 Mr. Trout. Would you like to clarify that answer?

114 The Witness. Yes. March to the 5th of April or the
115 first week of April.

116 Mr. Trout. Okay.

117 Mr. Rechter. What material was that again?

118 The Witness. That was the use of data and graphics in
119 presentations to the President and interpretation of data
120 and graphics by the President. So March to the first week

121 of April.

122 Mr. Rechter. Got it. Okay. Thank you for that
123 clarification.

124 BY MR. RECHTER.

125 Q So, Dr. Birx, I would like to start out today
126 talking about your interactions with Dr. Scott Atlas who we
127 discussed briefly yesterday.

128 My understanding is Dr. Atlas was appointed as special
129 adviser to President Trump on or around August 10, 2020.
130 Does that sound right to you?

131 A I think he came to the White House prior to that
132 and was in the White House daily prior to that, but that may
133 be the correct date for his appointment. I wasn't tracking
134 the exact timing.

135 Q Sure. Do you recall roughly when you first
136 noticed Dr. Atlas in the White House?

137 A I think I was asked to meet with him the end of
138 July, somewhere the last week of July.

139 Q And who asked you to meet with him?

140 A It came to my executive administrative
141 assistant, Tyler Ann McGuffee. I think from --

142 (Pause.)

143 A It came from a junior and a senior White House
144 staffer; and one of the people was John Rader asked me to go
145 through all of the data that we had from the pandemic, what

146 our interpretation of that data was, and the way forward for
147 the fall as I understood it.

148 BY MR. RECHTER.

149 Q Got it. And it was John Rader. Was he the
150 junior or the senior staffer?

151 A Junior.

152 Q And who was the senior staffer?

153 A Jared Kushner.

154 Q Got it. Okay. And so they asked you to meet in
155 the White House with Dr. Atlas in the last week of July?

156 A Yes, correct.

157 Q Got it. And you did meet with Dr. Atlas at that
158 time?

159 A Yes, I did.

160 Q Got it. And what did you initially discuss with
161 Dr. Atlas in this meeting?

162 A I went through all of our data streams, what we
163 were seeing at the county level. We had worked on getting
164 very granular data; so we had granular case test positivity,
165 hospitalizations, ICU admissions, and we were tracking each
166 of those elements each day. We had created this
167 consolidated report that we talked about yesterday, broken
168 down by age bands. So now we had age, sex, and geographic
169 granular data, which it took us to June or July but that's
170 what we used in Sub-Saharan Africa to make sure that we were

171 responsive to all the clients' needs and being able to see
172 them.

173 I also went over all the PPE data with them. I went
174 over all the charts and graphics, my interpretation of the
175 pandemic, my concerns for the fall, the evidence base that I
176 had for mitigation and what was working in the field showing
177 that mask requirements or mask mandates, reducing indoor
178 dining, closing bars that were not seated, increasing
179 physical distancing were all very critical in controlling
180 the pandemic and had worked across the sunbelt as they were
181 implemented by governors across the southern part of the
182 United States.

183 Q Sure. And when you presented this data to him,
184 what was Dr. Atlas' reaction to the mitigation measures that
185 you were showing?

186 A He just nodded. He nodded and said
187 "interesting." He did not at that time push back on any of
188 my interpretations, any of my strong support of critical
189 mitigation measures. He was more just absorbing it, I
190 think, in the moment but did not -- and at this time I
191 didn't know of any of his prior engagements with the White
192 House and I didn't know of his position on Fox News at that
193 time.

194 Q Sure.

195 A So I didn't have any background. I just met

196 with him at the request and went through all the
197 information.

198 Q Sure.

199 Mr. Trout. Can we take a brief time out?

200 Mr. Rechter. Off the record.

201 (Recess.)

202 Mr. Rechter. We can go back on the record.

203 Mr. Trout. So my understanding is that Dr. Atlas became
204 a senior adviser to the President, I believe it was on
205 August 10th. This was obviously before that, but on August
206 10th I think he became a senior adviser. And with respect
207 to any communications after that date, I think we are going
208 to need to defer on that on the basis of executive privilege
209 until we can get further clarity from the White House.

210 Ms. Gaspar. So a couple of follow-ups on that. One, I
211 think this question and the other questions will pertain to
212 the previous period.

213 Mr. Trout. Right.

214 Ms. Gaspar. So we would like to pursue that at this
215 time.

216 Mr. Trout. Yeah. I just was clarifying the August 10
217 date.

218 Ms. Gaspar. But in addition to that, I also think we
219 have some questions about the fact of different meetings and
220 interactions that took place afterwards. I think the fact

221 as differentiated from the substance shouldn't be an issue
222 and would be helpful to clarify any issues down the road.

223 Mr. Trout. Sure. Why don't we just take that up as
224 they come.

225 Ms. Gaspar. Okay. That sounds good.

226 And then to the extent that you're limiting your answer
227 or holding anything back from your answer, if you could just
228 note that you're not giving the full answer on advice of
229 counsel or if counsel could just enter an objection, that
230 would be helpful.

231 Mr. Trout. Okay.

232 Ms. Mueller. And if you want to just add, but some of
233 this has been extensively discussed in interviews that
234 Dr. Birx has done previously, and so I think that should
235 also be fair game for any questions.

236 Mr. Trout. Sure. I think that's correct.

237 Ms. Mueller. Thank you.

238 Mr. Trout. And if you could just remind her what she
239 said before, that will give us a certain freedom to speak to
240 it.

241 Mr. Rechter. Absolutely.

242 BY MR. RECHTER.

243 Q Dr. Birx, I think you had just mentioned that at
244 the moment you were introduced to Dr. Atlas in late July,
245 you were not aware at that time of his prior engagements

246 with the White House.

247 A Correct.

248 Q Sitting here today, were there prior engagements
249 with the White House that you're aware of?

250 A Yes.

251 Q And what were those?

252 A He was writing other senior agency leads in
253 March and April.

254 Q And what senior agency leads were those?

255 A He had written -- the ones that I saw were
256 emails that he wrote to Seema Verma.

257 Q And what was he writing to Seema Verma at this
258 time?

259 A His adamant -- his lack of support for the
260 President's action on the 15 days to slow the spread, and
261 then subsequently the 30 days to slow the spread. He
262 felt -- he called those lockdowns and felt that lockdowns
263 were irrational and not supported by the evidence base.

264 Q Did you see what Ms. Verma said in response to
265 those?

266 A I don't think she responded to it. I don't
267 know. I didn't see those. I just saw this email that he
268 had sent to Seema Verma, and then I saw some of the Fox News
269 reports that he had done. I never watched them at the time,
270 but I heard about his position that this was not worse than

271 the flu and that you only needed to protect those who were
272 vulnerable and you didn't need any of these mitigation
273 measures beyond protecting the vulnerable individuals of the
274 United States.

275 Q Sure.

276 Ms. Mueller. Dr. Birx, do you recall what email address
277 he was using to send those messages to Seema Verma?

278 The Witness. His Stanford address.

279 Ms. Mueller. Thank you.

280 BY MR. RECHTER.

281 Q Other than these --

282 A By my recollection. But that was quite a few
283 months ago.

284 Q Sure. Other than these emails, prior to when
285 you first met Dr. Atlas, to Seema Verma, were there other
286 folks in the White House or the administration that he was
287 contacting that you're aware of?

288 A From the request email to meet with him and
289 looking at that email, it was talking about bringing him in
290 because he had done as much as he could on the media from
291 outside the White House.

292 Q So was he communicating with communications
293 folks in the White House?

294 A No, I think this was on the email with Rader,
295 John Rader.

296 Q Do you recall who else was on that email chain?

297 A That email chain was primarily -- I didn't see
298 the whole chain, but what I was able to see was an email to
299 John Rader to Jared Kushner.

300 Q Okay. So when Jared Kushner, John Rader
301 introduced Dr. Atlas to you in late July --

302 A No one introduced me to him. They asked me to
303 meet with him. He came to my office, and I met with him and
304 went through all of the -- I'm very data-oriented, so I went
305 through all the data with him.

306 Q So what was the basis for your meeting? How was
307 it conveyed to you?

308 A That the White House wanted me to meet with
309 Scott Atlas.

310 Q To talk about the coronavirus response?

311 A Yes.

312 Q Do you have any sense for why specifically
313 Dr. Atlas was brought on?

314 A No. I mean, I didn't know prior and I didn't
315 know post, and I didn't know of him until he showed up into
316 my office. Of course then I did a lot of Google searches,
317 but at that moment -- I don't ever meet with anyone that I
318 haven't done a pretty complete Google search to understand
319 where they're coming from and what their background is.

320 Q Sure. Did Dr. Atlas have an office in the White

321 House?

322 A I think he had an office in the Eisenhower
323 Office Building.

324 Q Okay. Did you ever see who he worked with
325 closely in the White House?

326 A No.

327 Q Was he formally part of the White House
328 coronavirus task force?

329 A That's complicated. I think at one time he was.

330 Q Okay. Can you elaborate on that?

331 A He was attending task force meetings. I wanted
332 him to be known as the senior adviser to the President
333 rather than the task force because I believed that gave him
334 credibility with the American people, and I didn't want the
335 position of the other physicians on the task force to be
336 linked to his position. That was my personal.

337 Q That is not in fact what happened at times?

338 A He came to task force meetings for some time, I
339 would imagine three or four weeks. I was calling into some
340 of those because I was on the road. I didn't miss any of
341 them, but I was not physically present for all of the task
342 force in August.

343 Q So this roughly three to four-week period, can
344 you just give me a rough sense for when that period was?

345 A I think from the time, from August 10th when he

346 was named as the adviser until sometime in September,
347 beginning of September.

348 Q Okay. Did you see Dr. Atlas have access to
349 President Trump?

350 A I assumed he had access to President Trump. I
351 did not see that he had access to President Trump.

352 Q And other high-level administration officials he
353 had access to?

354 A I assume. I wasn't present.

355 Ms. Gaspar. What was that assumption based on?

356 The Witness. Just the way he would talk during task
357 force.

358 BY MR. RECHTER.

359 Q Let's talk about Dr. Atlas' views. You said you
360 had now seen some of his appearances on news channels, some
361 previous correspondence he had.

362 Can you describe for me Dr. Atlas' views on the federal
363 coronavirus response?

364 A I can give you my interpretation of his views
365 based on our interactions and what I had read.

366 He believed -- now, I just want to make a
367 differentiation between theory and practice. In theory, the
368 concept that you could protect the most vulnerable in a
369 country against a virus is -- theoretically can be outlined
370 on a piece of paper.

371 But we had learned through the entire summer surge that
372 the majority of Americans that were over 70 and most
373 vulnerable, the 20 plus million of them, were in the
374 community, and often in the community in multigenerational
375 households and often in the community with multigenerational
376 households of essential workers or other workers. So there
377 was no way to isolate the vulnerable family member from the
378 other family members.

379 So theoretically you could talk about protecting the
380 vulnerable, but in my mind the only way to truly protect the
381 vulnerable that were -- and this could be also because I
382 have a multigenerational household, so I understand the
383 constant risk of the working individual's exposure and
384 coming home every night to the household.

385 And so I understood that there was no way to physically
386 separate people you were caring for from your main
387 household. And so whereas we had implemented very
388 aggressive -- and, again, done by Seema Verma OF CMS, and I
389 just want to, again, call her out, she worked very hard to
390 protect the nursing homes. But only 1.5 million of our
391 elderly are in nursing homes. Ninety percent of our elderly
392 or 95 percent of our elderly are in the community.

393 And so although we could work closely with nursing homes
394 and increase their infection control, which they did, and
395 worked hard with nursing homes to increase the testing of

396 their staff, which they did, and worked hard with nursing
397 homes to really test residents and separate and really do
398 very incredible protective mechanisms within the nursing
399 homes, we still had breakthrough infections in nursing
400 homes.

401 Because even if you were testing staff three times a
402 week, on the days that they weren't tested, they could have
403 asymptomatic spread. And so unless you were testing
404 throughout their shifts, you could never guarantee that
405 someone could turn positive.

406 So I knew all of these infection loopholes that existed
407 not only in nursing homes and in the country, and I felt
408 strongly that there was no way to protect the vulnerable of
409 America without stopping community spread.

410 And so his conceptual framework, although theoretic and
411 possible on paper to make statements about protecting the
412 most vulnerable in the United States, it was not
413 implementable.

414 So that's the difference between understanding theory to
415 practice and having worked on epidemics on the ground and,
416 frankly, been involved on the in-the-ground implementation.
417 So I had already by that time been to several nursing homes
418 throughout the United States, so I could see the
419 difficulties in trying to even protect them --

420 Q Sure.

421 A -- let alone the individuals in the community.

422 Q Sure. And so I think what you're describing
423 here is a theory that Dr. Atlas has publicly spoken on
424 that's known as focused protection. I think it was
425 articulated in a so-called Great Barrington Declaration that
426 was published on October 4, 2020. Is that what you're
427 referring to?

428 A Yes. But I think his views were even more
429 specific than that. I think the converse of that, the
430 corollary of that theory is his strong belief that anybody
431 who was only going to have mild disease or asymptomatic
432 disease should be allowed and actually encouraged to get the
433 virus and spread the virus because that was your pathway,
434 although it's never said that way, to herd immunity.

435 So anybody who wasn't in the vulnerable group should be
436 allowed to increase activities without mitigation because it
437 didn't matter if they became infected with COVID.

438 And my concern about that was not only community spread,
439 my concern about that is many novel viruses trigger other
440 things, maybe two years down the road, ten years down the
441 road.

442 Viruses are very innovative, and because of the way they
443 have to bind to our cells and use our own cell machinery,
444 they do have side effects and potential long-term side
445 effects. And at that time, we were only five or six months

446 into the pandemic. We already were hearing about long
447 haulers and long haulers occurring from mild disease.

448 So I was very worried, and certainly whenever I went to
449 a college campus and talked to the students, I told them you
450 don't want to get this disease because I don't
451 know -- you're only looking at the short term, maybe the ten
452 days that you're infected. I'm concerned about next year.

453 Q Sure.

454 A So I think taking that corollary response that
455 infection of those who would be asymptomatic or mild cases
456 was a pathway to herd immunity was, I think, in my view,
457 reckless when we had vaccines under development to actually
458 prevent infection within. I mean, we knew that those trials
459 were on track, we knew the enrollment was on track. We knew
460 we'd have a vaccine sometime in the fall, and it all
461 depended on, unfortunately, how bad fall cases would be --

462 Q Right.

463 A -- because you needed those endpoints.

464 Q So this approach that you've articulated and
465 explained very well, this is the approach that Dr. Atlas had
466 been advocating the administration to pursue, correct?

467 A Correct.

468 Q How would you describe Dr. Atlas' assessment
469 overall of the risk posed by the coronavirus?

470 A I think he believed there was almost zero risk

471 to anybody unless it would result in hospitalization or
472 death.

473 Q And did you see him -- were there any goals that
474 you saw him prioritize in how he approached the coronavirus
475 response?

476 A He believed that testing and proactive testing,
477 which was a critical compartment of my strategy and I think
478 the rest of the doctors on the task force to actually find
479 the silent in asymptomatic spread. He believed that that
480 was a violation of human rights to want to test people who
481 would not have serious disease and believed that that was
482 equivalent to a lockdown. To ask those people who were
483 positive and young to isolate, that that was considered a
484 lockdown of their human rights and their ability to be in
485 the country.

486 Q How influential would you say Dr. Atlas was in
487 the White House?

488 A Well, I think his influence began much earlier
489 than his arrival into the White House. It's part of the
490 reason why I wanted to clarify that date of the first week
491 of April, because I think in retrospect -- and this is just
492 personal opinion -- in retrospect, he probably had been
493 providing information to senior leaders in the White House
494 since late March, around his hypothesis and around his
495 belief and his fundamental belief using some biased antibody

496 data out of California that the virus was much more
497 widespread, and came back to that full circle that the
498 disease was no worse than flu in his conceptual framework.

499 Q And we'll get to that in a second, but one other
500 question here. In a recent book, it was reported that you
501 told Andy Slavitt in August of 2020, quote, "Fighting the
502 virus and Scott Atlas together is the hardest thing I've had
503 to do."

504 Is that an accurate quote?

505 A That is an accurate quote.

506 Q And what were you fighting about with Dr. Atlas?

507 A The use of partial data to support his theories,
508 the opinions without documentation. I have a very big
509 belief in comprehensive data and data analysis, not just
510 selecting the data that reinforces your viewpoint. That is,
511 I've always found that very -- I'm not someone who using
512 statistics to put forward my point.

513 I am always very clear when the data justifies us being
514 optimistic and I'm always very clear when the data shows
515 clearly what is going to happen over the next four to 12
516 weeks. And I felt that he was utilizing incomplete
517 information to make his case, and I think that is always
518 very dangerous.

519 Even if people don't want to hear what I have to say, I
520 make sure that I say everything that the data shows; and

521 that was in my daily reports every day, that this is what
522 the evidence base is that I have that enforces my summary
523 both of the epidemic and the recommendations I am making at
524 a federal level and at a state and local level.

525 Q But he was using cherry-picked data to conflict
526 with what you were saying; is that right?

527 A So just to be clear how this can happen, because
528 I see it sometimes happening even in this moment where
529 you'll hear people say that the delta surge is improving.
530 And let's be very clear, the delta surge is improving across
531 the southern part of the United States, and we have
532 questions still outstanding of what will happen in the north
533 when people move indoors.

534 But if you give the people the impression that the delta
535 surge is over, people change their behavior. And so there
536 were individuals in the White House, specifically Scott
537 Atlas and I think people outside of the White House, who
538 looked at the fatality data at any one timepoint globally.
539 And at any one time point you can say, oh, these states or
540 Europe are doing much worse than the United States. But
541 it's because the epidemic is displaced in time of when those
542 surges are experienced.

543 And so if you do a cut through specific data; in other
544 words, if you did a cut before our summer surge -- remember,
545 deaths are delayed. So if you just looked at Europe and the

546 United States and say I'm only going to look at deaths
547 through June 30th, realizing that the summer surge
548 fatalities from the United States came in August and early
549 September, you could do this comparator and say we are doing
550 better than Europe even though we're in the middle of a
551 summer surge because the fatalities will be late.

552 So you can't use that kind of time-biased data because
553 it distorts the information. So even if you're looking at
554 this moment now and we're talking about the southern states,
555 and they do have less of a vaccination rate. But to compare
556 the northern states right now to the southern states when
557 the southern states are just finishing their severe
558 fatalities from their summer surge without the comparator or
559 the warning that this could happen in the north and we need
560 to be careful sort of gives the implication that we're
561 better off than we are, or potentially better off than we
562 are.

563 So when I present data, I always make sure that it's
564 clarified based on the region and where we are in that cycle
565 because it will change over the next four to eight weeks.
566 And I think -- that's why I think you've never heard me talk
567 about our comparison to Europe; because Europe summer surge
568 came after their August vacation time, and then kind of went
569 right into their fall and winter surge last year.

570 So when you have that kind of displacement and you know

571 what human behavior is different in different regions of the
572 world, just like we have a northern and southern hemisphere
573 and their outbreaks were often opposite to ours, is you
574 can't do comparisons like that without caveating every
575 single data point and making it clear that these kind
576 of -- this kind of information should never be taken to mean
577 that we are better or somehow having less fatalities or
578 doing better than different parts of the world.

579 Q But Dr. Atlas did make those kinds of
580 comparisons?

581 A Yes. I think others did, too. I just happened
582 to know his.

583 Q Sure. Let's go to our first exhibit, actually.
584 If you wouldn't mind grabbing. This is an August 21, 2020
585 email.

586 (Exhibit No. 19 was identified
587 for the record.)

588 Mr. Rechter. The Bates stamp for the record is FOIA,
589 F-O-I-A, 00000948 to 949.

590 BY MR. RECHTER.

591 Q You're welcome to take a look at it. For the
592 record, this is an August 21, 2020 email that you sent to
593 Dr. Fauci, Dr. Hahn, and Dr. Redfield. The subject line is
594 Task Force 20 August. And you begin by writing in this
595 email, quote, "I am more convinced than ever the dangers of

596 Dr. Atlas' views on this pandemic."

597 So as an initial matter, Dr. Birx, what prompted you to
598 send this email?

599 (Pause.)

600 A So as I discussed in July in my meeting with
601 Scott Atlas where he didn't speak precisely to his position
602 on what I had given him, before August 10th he began -- and
603 I believe that to be true. Before August 10th, he began to
604 write opposite opinions to my daily report.

605 The first several times he took my name off of it, but
606 did a reply all to who I had sent it to and my executive
607 assistant had gotten it. So I was aware that he was writing
608 to everybody who was receiving the daily report a different
609 interpretation of the data, and that continued throughout
610 August, including into task force meetings.

611 Q Do you recall when you first became aware that
612 he was doing this?

613 A I think before August 10th.

614 Q Okay.

615 A But that behavior continued.

616 Q Do you know roughly how long that occurred?

617 (Pause.)

618 A I was concerned about giving credence to his
619 positions in forums where the majority of the people in the
620 room were not epidemiologists, not infectious disease

621 experts, and may misinterpret his statements. And so I made
622 it clear that I would not attend meetings where he would be
623 present kind of to create a line in the sand, because I
624 couldn't, as you noted in conversations with Andy -- which
625 were personal conversations but it's okay as you stated
626 them. I didn't want him to be the -- for people to perceive
627 him as a credible source of information when it came to
628 either the COVID pandemic or our response to the COVID
629 pandemic.

630 And I felt like by my presence and my discussions with
631 him, by even legitimizing my responses to him, that I was
632 giving his theories credibility. I had given him at request
633 all of the information that outlined the comprehensive data
634 we were collecting and what that data was clearly showing
635 across age groups, both rates of infections across age
636 groups and the importance that I believed in controlling
637 community spread to prevent impact on our vulnerable
638 Americans.

639 Because he didn't believe as I believed, he used every
640 opportunity then to push back on those statements; and I
641 felt that that was not going to result in him changing his
642 mind and further confuse agency staff and others that were
643 on the task force that may not understand how to interpret
644 what he was saying.

645 Critically, he was a physician, and so I think when

646 you're a -- when you step back to agency leaderships that
647 are not physician, to their mind, this is Debbie Birx, a
648 physician, saying this, and this is Scott Atlas, a
649 physician, saying that. So what it really means, as neither
650 of them really know and both of them are hypothesizing, what
651 is actually happening.

652 And so it allows, essentially, people to say, how could
653 we have these completely opposing views about the same
654 pandemic and allow people to say either I believe one or the
655 other or I believe neither, and that shows how no one really
656 knows what this pandemic is doing. I thought all of that
657 was quite dangerous.

658 Q Sure. Let's unpack that a bit here. Just
659 taking a step back, you said these emails that Atlas would
660 send taking you off started before August 10th, to your
661 knowledge. And I'm talking about how long into his tenure
662 did that continue to be sent out, as far as you know?

663 A I don't know, because I'm sure I was all -- I'm
664 sure Tyler Ann was also removed from all of the reply alls.

665 Q So you became aware of this from your assistant?

666 A Yes.

667 Q And how did she become aware of this?

668 A She was on the original reply all where I had
669 been deleted.

670 Q Got it. And so generally, who was receiving

671 these emails from Scott Atlas?

672 A I don't know, but in that reply all were all the
673 senior agency leads and everyone on task force and senior
674 White House advisers.

675 Q So everyone --

676 A Were on my daily communication report.

677 Q Okay. So officials who were outside of the
678 White House could have been on them as well?

679 A Correct.

680 Q Okay. You mentioned that you were concerned
681 about lending credibility to Dr. Atlas' views. Why were you
682 concerned about that?

683 A When you're dealing with complicated numbers,
684 and -- I have been dealing with pandemics for a long time.
685 So the numbers create a picture for me that's very clear.
686 But to others, they're very much reliant on your
687 interpretation of that picture; and so that takes on a much
688 higher level of responsibility that you have to be very
689 clear and very careful on your data, your analysis of your
690 data, and what you say about the data.

691 You cannot ever be flippant about data, particularly in
692 a pandemic. And I just felt that it gave people in the
693 White House an alternative position and data source that
694 would allow them to say, again, here's Debbie Birx, a
695 federal employee for 40 years, here's Scott Atlas, an

696 academic, a physician, a thinker versus a technocrat; and I
697 just felt like that was going to make it even more difficult
698 to get across how severe I felt the fall and winter was
699 going to be. And it was my concern over the fall and winter
700 that I didn't want a 180-degree voice present at critical
701 decisionmaking meetings.

702 Q Because you thought his views were dangerous?

703 A I believe that's what you had said in the email
704 that I wrote. And this is the doctor's group, and I really,
705 just to emphasize, this is the group that I trusted and
706 believed in their integrity and their understanding. We
707 would discuss three or four times a week the state of the
708 pandemic. So these were the people I trusted the most on
709 the task force.

710 They were also the individuals that had ability to still
711 at times talk in the national press, and I wanted them to
712 have of course all of the data but also hear my concerns.

713 Q Sure. And the other doctors you mentioned in
714 the doctors group, did they share your concerns about
715 Dr. Atlas?

716 A Yes. I think they may -- some of them may have
717 been more diplomatic than I was by that point, but I had
718 already had a four-week experience now with the individual,
719 and they had a much different experience with him because
720 they weren't in the White House.

721 Q Okay. Let's talk about some of those concerns,
722 if we can. The email here, again, subject line is Task
723 Force 20 August, suggesting that there was an August 20th
724 task force meeting; does that sound right?

725 A Yes.

726 Q You mentioned here that Dr. Atlas' views are
727 dangerous, as you pointed out.

728 Did Dr. Atlas voice views during an August 20th task
729 force meeting?

730 A Yes. He restated -- well, this is after the
731 10th. So I think you could see from the email it was in
732 relationship to a task force meeting of which he attended.

733 Q Okay. And do you know who also was in
734 attendance at this meeting?

735 A I'm not sure who was physically there, because
736 by that point some of the doctors were calling in more than
737 physically coming to the White House.

738 Q Physical or otherwise, who participated?

739 A I'm sure that Bob Redfield, Tony Fauci
740 participated. I'm not sure about Steve Hahn on that day.
741 Seema Verma would have been there. I'm not sure if Alex
742 Azar was there during that task force.

743 I think you have a diagram of the task force from March.
744 It would have been mostly those individuals plus the
745 individual we had added that was head of HRSA, HRSA

746 Administrator Ingels.

747 Q So it's been reported that revised CDC testing
748 guidance was discussed specifically at this August 20th task
749 force meeting. Does that sound right?

750 A It could have been. I can't remember the
751 precise task force, but it was around this time in August.

752 Q Okay. Well, let's pass that here. Three
753 exhibits together, this is going to be CDC's testing
754 guidance as of July 17th, 2020; the testing guidance as of
755 August 24, 2020; and then the testing guidance as of
756 September 18, 2020.

757 (Exhibit Nos. 20, 21, and 22
758 were identified for the record.)

759 BY MR. RECHTER.

760 Q While that's being circulated, just for the
761 record and to ground us here, Dr. Birx, as I know you know,
762 prior to August 24, CDC's testing guidance recommended
763 testing for all close contacts of persons with SARS-CoV-2
764 infections. You mentioned yesterday that there was a change
765 to the CDC guidance. This occurred on August 24, 2020, and
766 the guidance was changed to say, quote, "You do not
767 necessarily need a test unless you are a vulnerable
768 individual or your healthcare provider or state or local
769 public health officials recommend you take one," end quote.

770 Dr. Birx, do you recall the changes I just described?

771 A I do.

772 Q Were these the changes that you raised
773 yesterday?

774 A Yes.

775 Q Who was involved in drafting these changes?

776 A I don't precisely know. I know because Brett
777 Giroir presented on this that he was engaged. I know from
778 statements even before this that this was an intent of Scott
779 Atlas when he came to the White House, to change the testing
780 guidance.

781 Just to be clear, even the 24th guidance I had issues
782 with, because I still believed testing should be much more
783 proactive and I thought there should be much more focused
784 testing on 18 to 35-year-olds looking for the asymptomatic
785 early spread. So I felt even the July one wasn't aggressive
786 enough in endorsing testing because it was still
787 prioritizing symptomatic, and I felt like we were getting to
788 the point with testing supplies that we could be much more
789 strategic and broader than that. So you can imagine my
790 position on the August guidance.

791 Q Sure.

792 A And I felt that this was -- believing that the
793 July guidance is not aggressive enough on testing, I was
794 very concerned about the August guidance.

795 Q Sure. Assistant Secretary Giroir reportedly

796 told The New York Times that this draft went through about
797 20 versions with comments from you, Dr. Redfield, Dr. Fauci,
798 and Dr. Atlas. Does that sound correct?

799 A So early on -- remember, I was on the road. So
800 early on, when the earlier version came through, I again
801 said I want much more of a top priority of testing for
802 asymptomatic individuals to detect the silent spread before
803 you start to see hospitalizations.

804 That version, those corrections were never made. And I
805 personally wrote to Brett Giroir after he went out on the
806 press and said that there was consensus, because I made it
807 clear in task force that I did not agree with the guidance
808 as it was written. But as the fact that it was CDC guidance
809 and CDC was deciding to post revised guidance, I don't
810 interfere and never interfered with CDC's guidance or their
811 posting. So if they felt strongly that this was the right
812 public health response, even though I believed it was not,
813 my last statement was: If CDC is going to post it, then I
814 can't stop CDC from posting it. But I do not want it
815 concurred with or put on the White House website.

816 Q Sure. When did you write this -- you sent the
817 email to Dr. Giroir?

818 A Yes. Sometime after he did press, and I think
819 it was the 24th or 25th of August.

820 Q Okay. And is it your understanding that the

821 decision to post this guidance came from CDC or HHS?

822 A I don't know. My statement in the task force
823 was if CDC decides to post the guidance, that is CDC,
824 not -- I mean, I'm not going to tell -- I mean, I can't tell
825 them what to do.

826 No one corrected that when I made that statement.

827 Q Okay. I think you said yesterday that you
828 understood that these changes were done to reduce the amount
829 of testing being performed in the United States; is that
830 correct?

831 A That's correct.

832 Q And what's your basis for this understanding?

833 A I was -- after this guidance was posted, of
834 course we were tracking every day the number of tests
835 performed. We saw a dramatic decline of the number of tests
836 performed during the end of August and the beginning of
837 September.

838 I was also out in the field talking to states. And at
839 the same time, I was trying to get universities to do
840 required weekly testing of both their on and off campus
841 students because I was already seeing from a series of
842 universities that were doing that that it was having and
843 could have a great impact.

844 So I was pushing for more testing because I believed
845 that it would stop cases. This document resulted in less

846 testing and less -- less aggressive testing of those without
847 symptoms that I believed were the primary reason for the
848 early community spread.

849 Q But what's your basis for understanding that was
850 the goal of this change?

851 A Hmm. That was never explicitly stated that that
852 was the goal of the change. I just knew that that would be
853 the outcome of the change.

854 Q And you've mentioned before, because Dr. Atlas
855 had mentioned intent to you; is that right?

856 A He mentioned that he did not believe isolation
857 of asymptomatic infected individuals should be done. And
858 that's why he felt that they should never even be tested.
859 Because if there's not an action -- in other words, we
860 should never do things that don't result in an action.

861 So I guess in his reasoning, if those that are mild or
862 asymptomatic cases should not alter their behavior and
863 change in any way or do contact tracing or participate at
864 all in any kind of isolation. If you believe that, then you
865 believe that testing is not needed.

866 Q But the science on testing hadn't changed
867 between July 17th and August 24th, correct?

868 A No. If anything, the number of available tests
869 was increasing week over week, and we had both nucleic acid
870 testing obviously and the rapid easy antigen testing.

871 Q So this change wasn't based on science?

872 A It wasn't based on my interpretation of the
873 science and data.

874 Q I think you mentioned yesterday the guidance was
875 again changed on September 18th. I think you mentioned that
876 you were involved in drafting this along with Dr. Redfield
877 and Dr. Walke; is that correct?

878 A That's correct.

879 Q Was there anyone else involved in drafting those
880 revisions?

881 A No one else, except if they were in the CDC.

882 Q Sure. I think you hinted at it yesterday, but
883 just for the record, why was this change made of the
884 guidance?

885 A Because I had seen the dramatic decline in
886 testing at a time when we needed dramatic increase in
887 testing to prevent us from having the depth and breadth of
888 community spread that I knew was coming with the fall surge.

889 Q Did Dr. Atlas agree with this change?

890 A I don't know. By that time, I was not having
891 any conversations with Dr. Atlas.

892 Q By September 18th?

893 A Yes.

894 Q Okay.

895 A I don't think I physically saw Dr. Atlas after

896 the beginning of September.

897 Q Did anybody else object to the changes you all
898 made on September 18th?

899 (Pause.)

900 A There were objections from senior White House
901 personnel. But because of concerns of executive privilege,
902 I can't go into other details.

903 Q Okay. Well, we'll make note of that. Let's
904 return back to the email here --

905 A But it stayed up and posted.

906 Q The guidance stayed up. Let's return to the
907 email here.

908 You also issued a warning to Dr. Fauci and Dr. Hahn and
909 Dr. Redfield here saying, quote, "The dangers of making a
910 broad pronouncement when we don't have any significant data
911 on that issue, we all know the long-term consequences of
912 simple viral infections," and then you list some of those
913 consequences.

914 What specific issue are you referring to here?

915 A Mild, milder or silent infections.

916 Q So --

917 A So asymptomatic. People who are infected and
918 may be both spreading the virus, but also may have personal
919 consequences in the immediate and long-term future.

920 Q Okay. Was there a broad pronouncement that was

921 contemplated on that issue?

922 A No. That was my interpretation of Dr. Atlas'
923 actions and how they were being played out. So at the very
924 time where we need more testing and more ability to identify
925 early infection and stop the spread, because we were able to
926 see the sequence of events in July where the younger age
927 group -- because, remember, we were getting age and sex
928 disaggregated data. And we wouldn't have been able to do
929 any of this and understand this if we hadn't gotten age and
930 sex disaggregated data.

931 Reporting is really very important. And if nothing else
932 comes out of this, reporting definitive laboratory diagnosis
933 of infectious diseases is absolutely required in this
934 country so that we can see age and sex disaggregation.

935 If we had been diagnosing by laboratory diagnosis flu
936 for the last decade, we would have both had the capacity to
937 test for COVID -- for SARS-CoV-2 as well as be able to see
938 that there was a circulating infectious disease that was not
939 flu. So the fact that we were diagnosing flu by symptoms
940 rather than definitive diagnosis in the 21st century I find
941 deeply disappointing.

942 And because of that, then, any time that you test
943 less -- because we had already missed it in the early spring
944 of 2020, because we weren't testing for flu definitively of
945 everybody who had symptoms. So the age and sex

946 disaggregation was very important to me because -- and when
947 you go back and you look at where the cases are identified,
948 which are often symptomatic individuals much more so than
949 those early tests of young people who came in because they
950 potentially were exposed, you could see first a rise in test
951 positivity in 18 to 24-year-olds. And that then started a
952 cascade where a week later you could see the 40-year-olds
953 and a week later.

954 So it was an evolution over two to three weeks, but you
955 could see this happening in slow motion. So the issue was
956 if you were able to identify the asymptomatic individuals
957 who were willing to come forward and be tested and isolate
958 from all my discussions with college students, they were
959 willing to be definitively diagnosed. They were not willing
960 to continue to quarantine based on a theoretic exposure,
961 what they interpreted as a theoretic exposure.

962 Q Sure.

963 A And so young people wanted to know if they were
964 positive or not. So I felt that a testing campaign among
965 young people would really be highly effective when you first
966 saw that early increase and it could potentially prevent the
967 further cascade.

968 So that was -- and I think that's been borne out to be
969 true based on colleges that did weekly mandatory testing.
970 And so that is why I was so adamant about my perception of

971 what Scott was trying to do versus what I thought was
972 critical for public health and stopping the pandemic.

973 Q Got it. Because he was making a broad
974 pronouncement on the ineffectiveness of widespread testing.

975 A Correct.

976 Q Got it. Further in the email here -- just a
977 couple more items -- you do mention that, "We know" -- this
978 is a quote -- "mask mandates, increasing social distancing,
979 closing bars, restricting social gatherings, and personal
980 hygiene does work as evidenced across the sunbelt." I think
981 you had mentioned the sunbelt here in our conversation.

982 By this time, the scientific consensus was these
983 mitigation methods were proven to be effective, right?

984 A I believed that to be true.

985 Q Did Scott Atlas believe that to be true?

986 A No.

987 Q You also continued here.
988 "Fundamentally" -- this is a quote -- "Dr. Atlas believed
989 that this virus has a natural course that is happening
990 independent of any mitigation and what we are witnessing is
991 the natural course of the virus, not the impact of community
992 mitigation."

993 So in your experience in the White House, did Dr. Atlas
994 ever voice any support for any community mitigation
995 measures?

996 A Only for the vulnerable. And I think, just to
997 be clear because sometimes this comes up in media reports
998 that the virus has this two-month kind of characteristic to
999 the surge. My belief, although we're still -- everybody is
1000 still, I think, looking into this, is my belief is people
1001 start to mitigate -- and even those who have not been
1002 aggressive mitigators -- will mitigate when they see that
1003 their hospitals are full. So that often then triggers a
1004 decline in cases and then therefore that cascade.

1005 But my whole point was we know people will do it when
1006 things in their eyes are overwhelming. How do we get people
1007 to do it earlier? And so anything that distracted people
1008 from early mitigation and preventing the consequences of
1009 hospitalizations and deaths was important to me. I believe
1010 that Scott believed that there was still a way to protect
1011 the vulnerable Americans without testing.

1012 Q But as you explained, that's a practical matter
1013 in your opinion, not --

1014 A I have not seen that be able to be implemented
1015 anywhere.

1016 Q We're getting close to our hour -- one last
1017 question for now about this particular email.

1018 You made one more reference -- just appreciate if you
1019 could elaborate on. You said, "I'm very uncomfortable with
1020 the comparison that in children under 18 is less than flu."

1021 What are you referring to here?

1022 A So everybody was talking about two things: That
1023 children were less infected. I didn't believe that. And to
1024 be sarcastic one time I said, was it because they're
1025 shorter? I mean, really, it didn't make sense because kids
1026 are often an important -- and I don't want to say it this
1027 way -- but in infectious disease terms, they're often an
1028 important vector in transmission respiratory diseases both
1029 in schools and in the household.

1030 So I believe that children could get infected probably
1031 at rates equivalent to us. I believe that many parents were
1032 still sheltering their children and protecting their
1033 children, and that's why it looked like their infection
1034 rates were less. I thought it was parental mitigation
1035 rather than the virus was less contagious to children.

1036 I also believed that because children were being
1037 protected often by their parents, I believed that we didn't
1038 understand the full force of this particular virus when it
1039 came to our children. And so I felt, like, to be clear,
1040 I -- because I also had grandchildren, if I was doing it in
1041 my own household because I was concerned about my
1042 grandchildren, I wanted to at least let people know that I
1043 thought this was important because I didn't want to do
1044 anything to protect my own children that wasn't available to
1045 protect Americans.

1046 And so I felt children were vulnerable both to
1047 infection, to transmission, and I didn't know how serious
1048 the virus could be, and I -- in children. And I felt like
1049 there was incomplete data. And so making pronouncements on
1050 what you could see versus what you didn't see and what you
1051 didn't know could potentially six months to 12 months from
1052 then be really very dangerous.

1053 Q And Scott Atlas was making these broad
1054 pronouncements at this time?

1055 A That's correct.

1056 Mr. Rechter. I think we're close to our hour, so it's a
1057 good place to stop. So thank you very much Dr. Birx. We'll
1058 take a five-minute break and go off the record.

1059 (Recess.)

1060 BY MR. BENZINE.

1061 Q Dr. Birx, thank you for coming back for day two.
1062 I have a few kind of questions of when you knew something
1063 versus when it was reported back and forth.

1064 When did you first suspect human-to-human transmission?

1065 A In January, when I saw a social media post from
1066 one of the hospitals.

1067 Q Do you remember the date in January?

1068 A No. Sometime -- I would say the first week or
1069 two of January, it came from media reports, not for anything
1070 that I was seeing through standard public health analyses.

1071 Q When did the WHO first confirm human-to-human
1072 transmission?

1073 A I think it was around January 19th or 20th.

1074 Q Why do you think there was a delay in your
1075 suspicion versus WHO confirmation?

1076 A I think WHO requires actual data evidence from
1077 the country. So unless they are in the country and getting
1078 the data independently, they would be completely reliant on
1079 China providing the data.

1080 But in my mind, there were already cases outside of
1081 China in businessmen that I was hearing about from my
1082 network of global health individuals. And I knew that
1083 Japanese businessmen don't buy from markets, wet markets
1084 when they're in China on business. So in my mind, it was
1085 very evident that there was human-to-human transmission.

1086 Q So do you think China was providing the WHO with
1087 false information that led to a couple week delay in
1088 confirming that to the world?

1089 A I do, because I believe that there were
1090 physicians and nurses on the ground that were trying to get
1091 out that information beforehand. So if they were trying to
1092 get it out to the public, I am sure they were also getting
1093 it to their national Chinese officials.

1094 The infrastructure of public health in China is very
1095 strong. So they have a very good data system, so they would

1096 have noted two things. They would have noted early on an
1097 unusually virulent flu season, which should have triggered
1098 immediately people investigating those cases, as we would
1099 do. Every country would do that. And so I would imagine
1100 even as early as late November, early December they were
1101 noting that this was an unusual flu season.

1102 Q Do you believe the local doctors that were
1103 tracking what was then an atypical pneumonia, I think is how
1104 it was characterized, were put under gag orders by the
1105 Chinese government?

1106 A I'm assuming that to be so.

1107 Q Moving on to asymptomatic transmission. When
1108 did you first suspect there was asymptomatic transmission?

1109 A I suspected it all along, as soon as I saw the
1110 hospitals being built, because you just don't -- you just
1111 don't only have a subgroup usually that sick unless there's
1112 another subgroup feeding it, because sick people go to bed
1113 and they're not going to work and out in public. When you
1114 have a very severe flu case and a temperature of 102, 103,
1115 you're not out in public, by and large.

1116 And so I could see by the number and what I was
1117 interpreting as their epidemiologic slope based on what I
1118 was seeing in hospitalizations, that the only way you have
1119 that kind of tidal wave into your hospitals is that you're
1120 missing a significant community spread, and the way to miss

1121 that is to have a spectrum of disease of which some is very
1122 mild.

1123 The Diamond Princess confirmed it for me in my mind,
1124 because they were only testing symptomatic individuals and
1125 that spread was explosive. And to my mind, the way I
1126 interpreted it is probably young crew members were
1127 asymptotically infected and that resulted in spread to the
1128 passengers of the ship.

1129 Q When was China doing major hospital construction
1130 and when was -- I generally know, but when were your
1131 suspicions confirmed with Diamond Princess?

1132 A So based on what I am writing to Matt and Ng,
1133 the end of January I'm saying to them this is two to three
1134 times SARS. And so I'm already concerned that the spread is
1135 much broader than we're thinking.

1136 So that was the end of January. By the -- I would say
1137 the second week of February, getting the reports from the
1138 Diamond Princess I was convinced. And so we were -- we went
1139 to South Africa I think on the 13th or 14th of February. I
1140 continued to follow the cases on the Diamond Princess, but
1141 we were already assembling, and so I had access to a lot of
1142 international public health individuals with strong ties
1143 into Europe and into Asia.

1144 So they were reporting to me cases before they got to
1145 the Johns Hopkins website. So I could see how many

1146 countries were already experiencing the virus. So I
1147 had -- we added COVID to the opening plenary day of our
1148 PEPFAR meeting, and we talked about it for almost an hour
1149 because we felt so strongly that Africa needed to be
1150 alerted. And then I brought John Nkengasong down the second
1151 week to make it clear that what -- and this is what we had
1152 always hoped would -- not that we hoped that there was a
1153 pandemic. But when you build health systems for one
1154 disease, you hope that they can be utilized in a pandemic.
1155 And it just happened that all the laboratory equipment that
1156 we had put in, the Cepheids for TB and TB/HIV, the Roche and
1157 Abbott machines that we had had on the continent were
1158 immediately adaptable to nucleic acid testing for
1159 SARS-CoV-2.

1160 And so Africa had the technology and the capacity and
1161 the human capacity because of the investments that the U.S.
1162 had made both in PEPFAR and into the Global Fund. So the
1163 platform that was created was the very platform that
1164 responded to COVID in Sub-Saharan Africa. And we're very
1165 proud about that, but I wanted to make sure that people were
1166 alerted to the seriousness. And at that time John
1167 Nkengasong was head of the African CDC, he came down and
1168 also gave a lecture.

1169 And all the ministers of health from all the countries
1170 in Sub-Saharan Africa were at the meeting, and I wanted to

1171 make sure -- they were in the meeting in eight to ten blocks
1172 of countries, so we had to keep repeating things each of the
1173 weeks. But I just really wanted them to know how serious I
1174 thought this pandemic would become. But my focus, of
1175 course, was Africa and Asia because that's where I was
1176 funded to work.

1177 Q When did the WHO confirm asymptomatic
1178 transmission?

1179 A Even as late as June they were discounting the
1180 role of the asymptomatic transmission.

1181 Q Why do you think that is?

1182 A I don't know. I didn't talk to them about it.
1183 You know, I think even our own CDC really believed that the
1184 number of asymptomatic cases was not a significant
1185 contribution to the community spread. And I believed it
1186 was, and I think the evidence base is really clear from
1187 looking at universities.

1188 Q Correct, on June 8, WHO said asymptomatic
1189 transmission was very rare.

1190 So if the CDC and WHO are saying it's rare, how is the
1191 rest of the U.S. government supposed to act on what would
1192 then be contrary information?

1193 A I hear your point. And this is the very problem
1194 in pandemics. I think in that question you have really
1195 summarized the difficulty, because you don't have a complete

1196 evidence base to support every one of your theories and
1197 interventions.

1198 What I could see at the moment is groups that were
1199 testing more aggressively were finding the virus and
1200 isolating those individuals more rapidly. And what we were
1201 hearing from the communities when I was out in the
1202 communities, that the majority of the 18 to 35-year-olds did
1203 not have symptoms. They came forward because they were at a
1204 party or they were together with someone and someone called
1205 them two days later and said I've got COVID, and they went
1206 and got tested and found out they were test positive.

1207 So I was seeing it across the country; but because most
1208 of the testing was directed to hospitals and emergency rooms
1209 and people still weren't getting the surveillance out, the
1210 other piece of information we had by June and -- by July and
1211 August was, thanks to Seema Verma, there was a lot of
1212 testing going on in nursing homes. The surprising thing to
1213 me was she found a third of the residents -- now, these are
1214 80 and 90-year-olds -- were also asymptomatic. No fever, no
1215 symptoms, and they were testing staff and residents.

1216 So where we were testing weekly, we were finding large
1217 segments of America that were positive with no symptoms; not
1218 presymptomatic, but never developed symptoms. And I think
1219 the difference is when you do a -- so let's say you're doing
1220 a behavioral survey in a community to ask everyone

1221 if -- because they're being studied, if you had a headache,
1222 or did you have any runny nose. I think retrospectively
1223 people would say, oh, maybe I had a headache. Well, then
1224 the WHO and CDC would justify that as a symptomatic case.
1225 But I can tell you at the time when they were circulating in
1226 the community, they did not believe they had COVID because
1227 they did not believe that they had any substantial symptoms.

1228 And so in retrospect, maybe they had a headache for
1229 three or four hours and maybe that was unusual for them or
1230 maybe it wasn't unusual for them. Maybe they had allergies
1231 and they discounted it by allergies. And that's the
1232 difficulty of doing intensive, small-group studies and
1233 probing people's memory versus just seeing their reality of
1234 what's occurring on the ground.

1235 Q When did CDC adjust their stance and confirm
1236 asymptomatic spread?

1237 A Well, we were -- I got it in some of the
1238 guidance, but it was always several bullets down. I never
1239 could get it to a place where the first bullet said: We
1240 believe in young people the majority of the spread is
1241 occurring with people who don't feel like they have symptoms
1242 associated with infectious disease. Even if they had put it
1243 like that, and therefore there has to be much more
1244 aggressive testing in the younger age groups, I could never
1245 get the agency to that place.

1246 Q Have you followed the guidances since then? Is
1247 it -- so it sounds like it was never the position of the
1248 U.S. government that there was asymptomatic spread. Is that
1249 still the position of the U.S. government?

1250 A I think by the fall that Steve Hahn and Bob
1251 Redfield and Tony agreed that there was a significant
1252 component of asymptomatic spread, particularly in younger
1253 age groups, because we were getting more and more of the
1254 evidence based not only from nursing homes, but now from
1255 colleges. And so I think there was enough scientific
1256 evidence by that point that there was significant
1257 asymptomatic spread.

1258 Each of these variants, though, have had a different
1259 degree of symptoms. And so when the alpha variant came
1260 through or the New York -- there was a New York variant I
1261 think came through in the spring of 2021 in the colleges.
1262 So I kept in touch with the colleges and universities.

1263 Throughout the fall, about 95 percent of the young
1264 adults didn't have symptoms. With the New York variant, as
1265 I describe it, it was now about 85 percent didn't have
1266 symptoms. And so I'm tracking them right now very closely
1267 with the delta variant to see if there is a shift, but it's
1268 still a majority of their students are asymptomatic. They
1269 would not have found them without testing.

1270 Q So without kind of like an official U.S.

1271 government asymptomatic position before the fall, some
1272 scientific debate back and forth on various testing guidance
1273 wouldn't be unreasonable?

1274 A Well, this is the way I look at it. And I get
1275 your point. Testing someone by swabbing the front of their
1276 nose is not an invasive, difficult procedure.

1277 So if you were discussing what was your evidence base to
1278 put people through a difficult procedure, I could see your
1279 point. But when you're talking about a procedure that is
1280 really fairly innocuous -- now, these aren't nasopharyngeal
1281 tests. These were just front-of-nose tests. And I watched
1282 the students do it across the United States and none of them
1283 reported to me that this was invasive or difficult. In
1284 fact, they said that they appreciated it, because there were
1285 also testing drives right before Thanksgiving, so 100
1286 percent of them were retested right before they went home.
1287 And they felt like that was their way to really understand
1288 that their family was at risk and they wanted to be assured
1289 that they weren't spreading virus.

1290 I found young people to be very responsible. So I have
1291 to disagree. I think when you're in a public health
1292 emergency, you do those things that you believe, even if you
1293 don't have a complete evidence base, that they can change
1294 the course of the pandemic. Especially if they are not a
1295 real imposition to the person you're asking to test.

1296 Q Even if the CDC disagreed -- CDC guidance. You
1297 said you can't stop CDC from doing their guidance. They
1298 didn't think there was asymptomatic -- they didn't confirm
1299 asymptomatic spread. There's no -- I understand it's not
1300 invasive.

1301 A I didn't talk to them specifically when this
1302 guidance went up, so I can't specifically answer that. I do
1303 believe that in talking to Henry Walke and others, that they
1304 do believe that there's a significant number of individuals
1305 who are infected that don't have significant symptoms and,
1306 therefore, don't believe that they're infected. And to me,
1307 that's the bottom line. Not can you probe them and get
1308 anything out of them after the fact, but in the moment,
1309 would they have gotten tested based on their symptoms? And
1310 I would say 95 percent of the time it is no. They would
1311 have only got tested -- they only got tested because tests
1312 were available and they believed that they were exposed.
1313 And so they got proactively tested so that they could not
1314 spread the virus to their friends and family.

1315 So I think the American people would have understood
1316 that even without the comprehensive database at the time.

1317 Q Okay. Yesterday you were talking about UNC. I
1318 went to a UNC system school, not UNC. And I saw
1319 yesterday -- I saw some friends in North Carolina; UNC
1320 cancelled all classes yesterday because of a mental health

1321 issue and a few suicides on campus.

1322 I went to Appalachian State University in the mountains
1323 of North Carolina. It tends to be a little isolated. We
1324 had suicide issues when I was in school, too.

1325 Early in the pandemic there was a lot -- and probably
1326 rightfully so -- focused on limiting people's interactions
1327 with other people before we learned more things. Do you
1328 think there are unintended consequences of both -- I'll use
1329 the word "lockdowns" -- of economic lockdowns and school
1330 closures?

1331 A You know, that's why we worked so hard with the
1332 University of Pennsylvania to find a way where -- and if you
1333 notice in here -- hopefully I said this. Erum Zaidi when I
1334 was on the road -- I mean, we really felt the social
1335 isolation that the students were feeling. And so we talked
1336 about -- we were obviously in the car a long time. And she
1337 said, why don't we switch to physical distancing? Because
1338 it's really not -- we don't want people to be socially
1339 distant; in other words, we want people socially interacting
1340 in a safe way. How do we make that happening?

1341 And that's why I look at tests and masking as a way for
1342 us to be physically together in a safe way. So I think if
1343 we had really pushed testing and masking, we would
1344 have -- and many of the schools that did open and did have
1345 aggressive testing and masking stayed open.

1346 And it will be very interesting to see if those
1347 university students do better on the mental health scale.
1348 Because it wasn't perfect. I am not saying that the
1349 students' experience was perfect or what they expected. But
1350 they were physically interacting in a safe manner, and I
1351 think that made a bit difference and we'll see if there's a
1352 difference.

1353 UNC shut down, UNC State, Eastern Carolina, I think, and
1354 UNC Chapel Hill last year in a very abrupt and disruptive
1355 way. I think if the university had been aggressive with
1356 testing and masking, they could have stayed open because
1357 many universities did.

1358 So I guess I look at mitigation as our pathway into as
1359 much normal as we can have based on being in the middle of a
1360 pandemic.

1361 Q Are there unintended consequences beyond the
1362 mental health consequences? Like we've heard stories of
1363 missed cancer screenings, missed doctor's appointments,
1364 various things like that. Did you see evidence of those
1365 kinds of events?

1366 A Yes. But let me just talk a minute -- just a
1367 second about the human behavior that I observed.

1368 In the middle of a pandemic, when we went out early and
1369 told people who was vulnerable, those were also many of the
1370 same individuals who would have made that screening. And I

1371 think that even though we said go to your doctor, the doctor
1372 is safe, and I had multiple conversations with the
1373 leadership and OB/GYN and pediatrics, because they were very
1374 worried about pregnant women making a choice of not coming
1375 to the hospital and dramatically increasing both maternal
1376 and fetal deaths.

1377 So we went out very strongly in March and April talking
1378 about people still keeping their preventative doctors'
1379 appointments and how critical that was. I think people
1380 really did two things. They were very concerned about the
1381 virus in one case. I think in other cases when hospitals
1382 are overwhelmed, it's impossible for people to get their
1383 preventive care.

1384 And I think -- so if we had contained community spread,
1385 people would have been less afraid and more willing to go to
1386 their doctors because the hospitals wouldn't be overrun.

1387 When you have physicians on your local television set
1388 saying the ICU is filled, that frightens people to not go
1389 when they have a heart attack. And I think that's why I was
1390 so strong about trying to prevent the early community spread
1391 so you didn't have that hospitalization compromised, because
1392 it is that fear of your hospitals being full that further
1393 isolates patients from healthcare.

1394 And I think the whole cascade, it's hard to say whether
1395 it's the chicken or the egg, but I believed if we had

1396 controlled community spread in these communities that people
1397 would have kept up their preventive care.

1398 Q Thank you. I have one or two more questions and
1399 I'll pass it over to Carlton and Ashley.

1400 You've been a scientist an awful long time. Has
1401 everyone agreed with you your entire career?

1402 A Never.

1403 Q Is that part of science?

1404 A It absolutely is part of science. And I
1405 think -- but there's practical common sense, too. So I
1406 believe that I use data in a commonsense way that leads to
1407 solutions, and I think that's the difference of working a
1408 lifetime in infectious diseases and trying to control
1409 pandemics. You know that nothing is perfect, but you're
1410 willing to keep trying things as long as they don't harm the
1411 population to really ensure that you can save more lives.

1412 And I think what I learned in working on HIV, TB, and
1413 malaria, is that policies really matter. And national level
1414 policies really matter probably the most, because we as
1415 individuals put up artificial barriers, as you just
1416 described, artificial barriers to interacting with others.
1417 Artificial barriers in -- we self-delete ourselves out of
1418 systems because we believe we'll either be discriminated
1419 against or stigmatized or the risk is too great.

1420 And it's our job in the health industry and in public

1421 health to address each and every one of those barriers,
1422 whether it's young women's access to care, whether it's
1423 tribal nations' access to care, or whether it's the person
1424 at the far end of a road that PEPFAR brought lifesaving
1425 treatment to. That's our job, and that's not always -- you
1426 don't always have perfect data in making those decisions,
1427 and so you keep implementing the best you can off the best
1428 evidence that you have. But you have to evolve your
1429 thinking with new data. And I think in this pandemic we had
1430 people that didn't evolve their thinking fast enough to
1431 match what the virus was teaching us.

1432 Mr. Benzine. Okay. Thank you.

1433 BY MR. DAVIS.

1434 Q Welcome back. Thank you very much. We
1435 appreciate the conversation you were having about testing
1436 and the nasal swabs and how you said kids were fairly
1437 receptive to them.

1438 I went in Puerto Rico back in August and had to have a
1439 negative test to go. We took our two oldest kids who were 5
1440 and 7. And we rolled up in the back of the car and we came
1441 down and they got the test. I thought it was great because
1442 we spent three hours talking about what the test would be,
1443 the test took 10 seconds and you spend another three hours
1444 talking about what the test was. So it filled up the entire
1445 day talking about the test. So as a parent, I certainly

1446 appreciated that.

1447 A But wouldn't as a parent you really want your
1448 child diagnosed if they have RSV or flu?

1449 Q Of course.

1450 A I mean, I hope we never go backwards to
1451 thinking, oh, they look like they have flu so we're going to
1452 decide they have flu.

1453 Q You said yesterday, I think in response to a
1454 question Mitch asked, that it's been your experience during
1455 pandemics that the CDC operated remotely. Do you remember
1456 that?

1457 A He asked me if the CDC was primarily remote and
1458 I said yes.

1459 Q And should it be?

1460 A So this is my personal opinion, and I have no
1461 evidence base to support this. In a pandemic where many
1462 things are fluid, what you want is your public health actors
1463 in the field. And you want them in states working alongside
1464 of their public health colleagues to not only support them
1465 in that response, but also to bring lessons learned to the
1466 rest of the state. Because what I have -- the rest of the
1467 states.

1468 Because what I have found around the globe is people
1469 find incredible innovations. And I saw them across this
1470 country in every state. I saw something that was amazing

1471 that I took back and then put out through the governors'
1472 phone calls and the governors' reports. But unless you're
1473 actually there, the individual who is doing these incredible
1474 things, these incredible innovations think everybody is
1475 doing them, because they can't believe that they thought of
1476 something that no one else thought of and figured this out.

1477 And so I believe -- now, CDC did send people into the
1478 field, but they're very short periods of time. And when
1479 you're in a crisis, you need someone there for the duration
1480 of the crisis. You need someone there for the entire eight
1481 to 12 weeks, both to see what's happening, take those
1482 lessons learned, until the crisis is resolved.

1483 And I think our CDC personnel are extraordinarily well
1484 trained, and this country would have been better served if
1485 all 6,000 or 7,000 of the individuals who know epidemiology
1486 and public health, independent of what disease they were
1487 currently working on, they understand behavioral change,
1488 they understand communication, and they should have been in
1489 our states as part of the frontline response.

1490 Q You talked earlier today -- you'd mentioned the
1491 term "long haulers." Can you describe what you mean by that
1492 and some of the symptoms that these people are experiencing?

1493 A Right now, this is a very diffuse -- and I think
1494 as we sort through this, we'll find out specifically what
1495 symptoms are similar.

1496 But the common symptoms beyond the overwhelming fatigue,
1497 which is pretty significant, is this brain fog. Now, those
1498 of you who have traveled extensively, if you remember what
1499 that first day of jet lag is like and you're like --

1500 Q Want to sleep.

1501 A Thank you. It's like you're drunk. I mean,
1502 your head is not in the game. And the way I interpret this
1503 in patients is that is their state now. They're in
1504 that -- what we would have perceived as a 24, 36-hour jet
1505 lag, is they have that fatigue, exhaustion, and inability to
1506 focus to really get that clarity. And of course there's
1507 also the complex in both now adults, young adults and
1508 children that is this multi-symptoms complex that is very
1509 much probably immunologically driven.

1510 We don't know the etiology and the causality and
1511 therefore the definitive treatment of the individuals
1512 complaining of the myalgias, the arthralgias, the fatigue
1513 and this brain fog.

1514 Q Are we starting to see symptoms in people who
1515 have long COVID that are not original symptoms of COVID
1516 itself?

1517 A Yes. Because you are seeing individuals with
1518 this syndrome that were either asymptomatic or had very mild
1519 disease. So they may not have had those symptoms during
1520 their initial infection but now in the long term have these

1521 symptoms.

1522 Q You were talking earlier, and we did yesterday
1523 as well, about the WHO. Do you think that this pandemic has
1524 caused the WHO to take a hit in reputation internationally?

1525 A You know, any time that people feel like public
1526 health institutions act late, whether it's HIV, avian flu,
1527 Ebola, SARS, MERS, Zika -- if they feel like more could be
1528 done earlier, then that causes not only states but the
1529 population, nation states as well as the population to worry
1530 about what's missed and why the action isn't quicker. And I
1531 think just as we described with the CDC, WHO has really
1532 worked to put more people in country.

1533 I think what we ought to ask is, where were the WHO
1534 individuals who were in China? And where were the CDC, U.S.
1535 CDC personnel that were assigned to China? Because we had
1536 not only Americans assigned to China through the CDC, we had
1537 a significant group of Chinese nationals who worked on the
1538 CDC program in China. And I imagine that's the same with
1539 WHO.

1540 So I think we have to ask, what happened to our
1541 in-country personnel? Because they're supposed to be like
1542 that safety valve if something is missed in country to
1543 really be able to also alert. And I think if that system
1544 doesn't work, or maybe there weren't enough, we have to look
1545 at all aspects of why we were dependent only on Chinese

1546 nationals when there should have been WHO and CDC, U.S. CDC
1547 personnel in China.

1548 Q Earlier this year, President Biden ordered a
1549 90-day review for the intelligence community of the origins
1550 of the coronavirus. Is that something you've seen?

1551 A I have not.

1552 Q You had mentioned -- you talked about Scott
1553 Atlas for a couple minutes. You had talked earlier about
1554 how he had an office in the EOB; is that right?

1555 A He had a what?

1556 Q He had an office in the Eisenhower Building?

1557 A I think it was in the EEOB, not the West Wing.
1558 But I never saw his office.

1559 Q Did you have an office on the White House
1560 grounds?

1561 A Yes, I did.

1562 Q Where was that?

1563 A It was by the Navy mess.

1564 Q That's in the West Wing itself?

1565 A Yes. Kind of under the sidewalk.

1566 Q Did you ever observe Mr. Atlas meeting with the
1567 President?

1568 A Only in the meetings where I was also.

1569 Q Did you ever observe him meeting with the chief
1570 of staff?

1571 A No.

1572 Q You had mentioned earlier that you believed
1573 Mr. Atlas was providing information to senior leaders in the
1574 White House since late March. Do you remember saying that?

1575 A Yes.

1576 Q Do you have any actual evidence of that?

1577 A No. Only the email that he sent to Seema and
1578 the email that came from John Rader implying that they were
1579 in communication with Scott.

1580 Q So earlier you were talking with Peter about the
1581 August 24 testing guidance and the drafting of that.

1582 Do you know if Dr. Atlas was directly involved in the
1583 drafting of that guidance?

1584 A That's what Brett Giroir said.

1585 Q But you have no firsthand knowledge of that?

1586 A I do not.

1587 Q Do you have any knowledge of whether or not
1588 Dr. Anne Schuchat was involved in the drafting of that
1589 guidance?

1590 A I do not.

1591 Q What about Kate Galatas? Do you have any
1592 firsthand knowledge --

1593 A I do not.

1594 Q And what about Paul Alexander? Do you know if
1595 he had any --

1596 A I do not.

1597 Q Do you know who Paul Alexander is?

1598 A I know now from the media, but I never met Paul
1599 Alexander.

1600 Q You've talked a lot over the last couple of days
1601 about the importance of governors and local municipalities
1602 implementing rules based on what they're observing on the
1603 ground as opposed to national trends. So I can start with
1604 that.

1605 The pandemic that we're involved in right now, are we in
1606 an endemic phase, or will we soon get there? What are your
1607 thoughts on that?

1608 A That's a very good question and it involves a
1609 two-part answer, unfortunately. One, I would be very -- I
1610 would have a much more definitive answer once I see what
1611 happens in the northern plains states over the next three to
1612 four weeks. And if there is a blunted outbreak, not looking
1613 like anything like the southern over the last three months,
1614 then I think we're closer to what you described is this
1615 endemicity.

1616 I think the other piece of that is there's a lot of data
1617 coming in now about waning immunity against infection and
1618 when countries immunized to when they had the delta surge.
1619 There is also data coming in about how protected previous
1620 variants were, the sense that perhaps the original variant

1621 wasn't protective against reinfection but maybe the mu or
1622 lambda or alpha or beta variant were.

1623 And when all of that data gets assembled, then you can
1624 really have a pretty clear perspective on how close we are
1625 to reaching an endemic rather than epidemic state.

1626 Q Do you know roughly what the numbers are for
1627 people who are hospitalized, roughly, nationally that have
1628 had the vaccine versus who have not had the vaccine?

1629 A So the data has been combined with the January
1630 data. So what I really need to see is the southern data
1631 over the last two months, what precisely the vaccinated to
1632 unvaccinated ratio is or was. And I haven't seen that data
1633 yet. Because when you go back into January and February and
1634 March, where most of the country wasn't vaccinated and you
1635 include them in the unvaccinated hospitalizations, you can
1636 distort your denominator. So what we need is a denominator
1637 that goes from July to the end of September of the
1638 hospitalizations so that we can actually look at, during
1639 this delta surge across the south, what that ratio was.

1640 Q You talked earlier today putting yourself back
1641 last summer, you said you did not quite understand the full
1642 effects of the virus in children. Do you remember saying
1643 that?

1644 A Yes, correct.

1645 Q Do you have a better understanding of what the

1646 full effect of the virus is in children currently?

1647 A No, because we are just seeing the significant
1648 increase. Last summer we saw some increase in infection in
1649 children related to the holidays and vacations. We did not
1650 see this level of infection in children in the southern
1651 surge last summer compared to this summer. And so until we
1652 really understand that data and the consequences of the
1653 hospitalization and the long-term possible outcomes for the
1654 younger children who got infected, I don't know.

1655 And that's exactly what I told my daughter when we
1656 decided to send the children back to preschool, is we have
1657 to accept the knowledge as these are things we don't know.

1658 Ms. Callen. I just have a few really basic questions.
1659 Thank you again for your time.

1660 BY MS. CALLEN.

1661 Q We have talked a lot about the data. And I'm
1662 just wondering what data you're using now since you're not
1663 at the White House sort of getting the realtime data.

1664 A So one, I know where all the data is buried at
1665 the state levels. That's very helpful. But secondly, that
1666 HHS community profile that we put up in December is still up
1667 and still being refreshed about three times a week. And
1668 that includes the comprehensive, countrywide county data
1669 across the United States for cases, testing, new hospital
1670 admissions, new overall admission, ICU admissions and

1671 fatalities overall.

1672 Q Thank you. I just want to make sure we're using
1673 the right data.

1674 A You should go to that site. It is so fabulous.
1675 I'm just thrilled that it's still up and still being
1676 refreshed.

1677 Q You've talked a lot about human behavior, and I
1678 think all of that is very interesting. It sounds
1679 like -- well, let me back up.

1680 The media puts a lot of emphasis on what certain
1681 governors do and don't do and how they behaved, and many of
1682 them have been celebrated and many have been demonized. But
1683 it sounds like, and correct me if I'm wrong, you think human
1684 behavior more than anything influences sort of the patterns
1685 of the virus. Is that fair to say?

1686 A Well, I think the governors and his public
1687 health staff are closest to understanding the human
1688 behavior, the cultural barriers, and the issues that need to
1689 be addressed in the states. And I think that was part of
1690 the reason I went to the states, to be honest, to learn from
1691 them, to listen to them, to listen to their communities and
1692 understand what people were hearing when I said certain
1693 things or when they heard certain things from others.

1694 Because you're absolutely right, it's how people
1695 interpret messages that are given that is critically

1696 important because that's what drives actions. So you don't
1697 want to be using messages that either are misunderstood or
1698 lead to the behaviors that you don't want to see. And
1699 that's really, that's a very sophisticated science, often in
1700 the marketing, the marketing world. I had to learn a lot
1701 from private sector in our work in pandemics overseas.

1702 But that's why meeting with the governors was so
1703 critical, because they understood not only the state, they
1704 understood the rural versus urban areas of the state and the
1705 different cultures within their state. And the same way
1706 with the tribal nations. And I think that's critically
1707 important to listen and understand from the governors and
1708 from the public health officials, from the tribal chairmen,
1709 exactly what is possible and plausible when you're talking
1710 about mitigation efforts.

1711 Q And I think one example of that that I recall is
1712 with testing. I think Admiral Giroir said we can't just
1713 throw up all these testing sites where we think they should
1714 go. We have to talk to the localities and make sure that
1715 people can actually get to these testing sites.

1716 Is that something you recall?

1717 A Yeah. I think we may -- Admiral Giroir and I
1718 might diverge at one place in that, in my mind, it's just
1719 not the number of tests and the testing sites, but who is
1720 being tested and why they're being tested. And I think that

1721 often should dictate your sites in the community,
1722 understanding just what you described. How do people access
1723 tests, where should they be, where's a trusted place? It
1724 may not be the clinic; it may be the community center. It
1725 may not be the clinic; it may be what was a gathering point
1726 for 18 to 24-year-olds.

1727 So it's taking advantage of trusted spaces and trusted
1728 communicators to ensure that the population that you're
1729 interested in is getting the right test.

1730 Q Thank you. The last question. Do you think
1731 that local and state-level leaders should make decisions
1732 based on local data or nationwide trends, or is that too
1733 black and white?

1734 A No, I think that both participate. But I think
1735 the most important piece of that is for them to understand
1736 the cascade of infection and spread in their states. We've
1737 been now through -- the south's been through two cycles now,
1738 the north has been two cycles now, and so there should be no
1739 misunderstanding on what that early spread looks like and
1740 how long of a window you have for interventions.

1741 And so you're right, the local data should inform, but
1742 you have to actually get the local data and you have to have
1743 local reporting. So if they're not testing any longer -- I
1744 mean, testing in this country dropped to its lowest level
1745 since March 2020. I mean, June 2020. We dropped to 300 to

1746 400,000 tests a day. We have never been that low since the
1747 prior year. And so that worried me tremendously that many
1748 of the states were blind again to early infection.

1749 And so I think you can't give up on -- even though we
1750 have vaccines, you can't give up on fundamental public
1751 health principles until we get to the place where the virus
1752 is controlled. And we are not in that place in this
1753 country. So you can't give up on testing and you can't give
1754 up on masking when the virus is in your community or coming
1755 into your community. And I think part of the reason why the
1756 south got into so much trouble is testing and a lot of the
1757 testing sites had been removed. So it made the populations
1758 much more vulnerable.

1759 Q Do you know, was that a national decision or a
1760 local decision? Why were those testing sites removed?

1761 A I don't know.

1762 Q You don't know. I wonder if -- I know like I've
1763 gone to the CVS and bought the at-home testing. What do you
1764 think about, I guess, the accuracy of those at-home tests?

1765 A So the accuracy improves with repeated testing.
1766 So I also have the BinaxNOW, but I'm just going to be clear,
1767 they're expensive. So I buy them for the whole family
1768 because I have family members that can't afford them. I
1769 mean, my 92-year-old mother could not afford to have access
1770 to these tests living on her Social Security.

1771 So I think, you know, yes I have availed myself of them
1772 and I've availed the family of them because I can afford
1773 them. If you look at the curves, and you can just go to Our
1774 World in Data -- I think it's Our World in Data -- you go to
1775 Our World in Data and look at testing. Look at the UK
1776 versus the United States. We look like this until December,
1777 January 2021.

1778 Mr. Trout. You've got to explain what "this" looks
1779 like.

1780 The Witness. Oh, sorry.

1781 Tests were going up at a continuous slope of number of
1782 tests utilized every day from March of 2020 to January 2021.
1783 And after January 2021, the UK continued their expansion of
1784 testing and the United States fell off dramatically. And so
1785 their slope was still going up. So if you think of this as
1786 an angle, we're both running at 45 degrees and then all of a
1787 sudden the United States plummets, and we remain about half
1788 the number of tests per day that the UK is doing. And this
1789 is normalized for population. I'm not just talking about
1790 the total numbers of tests; I'm talking about tests per
1791 population.

1792 And when people say to me, well, why is Europe and why
1793 is England doing so much better when their vaccination rates
1794 are the same? Well, they're doing so much better when the
1795 vaccination rates are the same is because testing is readily

1796 available and free to their public, where you can just walk
1797 into any local store in your neighborhood, in your
1798 neighborhood, and get free tests. That's the difference.
1799 That's one of the differences.

1800 And so I get nervous whenever we rely on a single public
1801 health entity. And I think that that's why when you're
1802 still in the pandemic versus the endemic time, that you need
1803 to continue to layer these protections and you need to
1804 absolutely have widespread testing.

1805 And so we're behind now. I'm not sure that we can catch
1806 up in time to really -- if we're going to have trouble in
1807 the winter, to be able to get ahead of what could occur in
1808 the winter. But we will know over the next few weeks,
1809 because it's finally -- we had much lower -- remember, the
1810 summer surge was about three to four weeks later than last
1811 summer. This winter surge will probably be three or four
1812 weeks later because it didn't cool. It's just starting to
1813 cool in the northern plains states now.

1814 Mr. Benzine. Thank you.

1815 Ms. Gaspar. We're off the record.

1816 (Recess.)

1817 Ms. Gaspar. Back on the record.

1818 BY MS. GASPAR.

1819 Q I just wanted to ask you a couple of quick
1820 follow-up questions based on the last round of questioning.

1821 The first question is just simply whether government
1822 policy can influence human behavior.

1823 A Government policies can effectively eliminate
1824 barriers that keep people from accessing healthcare. It can
1825 also be critical in providing services to marginalized
1826 individuals. And we've seen that across the world.

1827 Q Is it fair to say that for reasons you were
1828 going around and visiting the governors was because you were
1829 hoping to influence them so that they could accept policies
1830 that would then not just influence their offices, but the
1831 behavior of the people in their states?

1832 A Correct. Based on data.

1833 Q Of course. Always.

1834 Moving on. So it's been reported that, in January 2017,
1835 CDC had 47 employees out on the ground in China. As of
1836 March 2020, there were reportedly only 14 individuals left
1837 on the ground there. That's a two-thirds reduction, most of
1838 the cuts having been made by the Trump administration in
1839 those last two years before the pandemic.

1840 Do you think that having had more personnel on the
1841 ground in China could have made a difference in terms of
1842 detecting the early outbreaks?

1843 A It depends who the personnel were. And so the
1844 personnel that -- I have, unfortunately or fortunately, a
1845 deep understanding of the China personnel, because the

1846 primary number of personnel that were decreased were the
1847 groups working on HIV. And the decision was almost five
1848 years ago that China had great control of their pandemic and
1849 a great response to their HIV pandemic.

1850 And so if you look at those numbers, I think the
1851 majority of the individuals -- and we could go back and
1852 look -- were HIV personnel. And the people who remained
1853 were the global health security, solely global health
1854 security.

1855 So I think the question is were their global health
1856 security personnel removed, not the other diseases? I think
1857 tobacco also left China as well as HIV.

1858 And so if there was a diminution in the global health
1859 security component in the China offices, yes. But if it was
1860 HIV, tobacco, hypertension, and salt personnel, then no.

1861 Q Would you agree that more international
1862 cooperation, more resources devoted to international
1863 cooperation is necessary or would be helpful to detecting
1864 and hopefully preventing future pandemics?

1865 A It depends what it's focused on. So you can
1866 spend a lot of money, as I have seen overseas over the
1867 years, and not have really the outcomes and the impacts that
1868 you desired.

1869 So I think if we move past a simple number of tests that
1870 their laboratories should be capable of doing to more of an

1871 institutional capacity related to a response to their
1872 current diseases that give them also the ability to respond
1873 more effectively to pandemics, absolutely. And so it's
1874 really about how the dollars are utilized and what capacity
1875 is built.

1876 In this case, it was probably our work on training
1877 laboratory technicians and building physical laboratory
1878 infrastructure and providing equipment that then resulted in
1879 Africa's ability to test. But it was also frontline
1880 community health workers. So you can't just look at this as
1881 an isolated, well, we just need the laboratory.

1882 As you can see from the United States, you need the
1883 frontline trusted health workers that are in the community
1884 and of the community that also can help bring the community
1885 to testing, to treatment and hopefully to vaccination.

1886 Q And my last question is just, so I understand
1887 that in 2015, and this was apparently a reaction to the
1888 Ebola outbreak in Africa the previous year, President Obama
1889 established the Global Health Security and Biodefense unit
1890 under the National Security Council in the White House.
1891 That unit was reportedly disbanded by President Trump in May
1892 2018, although I understand some of those individuals
1893 continued to work on pandemic detection related functions.

1894 Do you think that the disbanding of that unit was a
1895 mistake, or that any existence of that or a similar unit

1896 could have helped detect the outbreaks that we saw in
1897 January?

1898 A I think having a broader White House
1899 coordinating team that's inclusive of that team and ensuring
1900 that the U.S. has the capacity to respond effectively in the
1901 future would be a very helpful unit to have had and to have
1902 in the future.

1903 I have to say, in defense of the people who are still
1904 there, they were really magnificent. So when I arrived on
1905 the ground, they really helped me. They also were
1906 assembling. They were doing what I was doing on a big
1907 global scale.

1908 So having access to Peter -- I think it was Peter Farrow
1909 and a whole group of them -- was really helpful to me. And
1910 Matt, I think, was kind of shepherding and overseeing that
1911 group.

1912 And so I think for what was dismantled as you described,
1913 there were personnel that were very much devoted to doing
1914 all they can with this pandemic. But I think we've learned
1915 from this situation that there needs to be a broader -- a
1916 broader interesting group that comes together that takes
1917 what we've learned from this current pandemic what needs to
1918 be specifically strengthened in the United States. And I
1919 don't think it's all in the public health sector, as I
1920 discussed about definitive diagnosis of flu and definitive

1921 diagnosis of COVID and requiring that for treatment. That
1922 would drive new treatments, too, both for flu and other
1923 respiratory infectious diseases.

1924 Imagine if we had an effective treatment for RSV in our
1925 children who have suffered greatly from it.

1926 So I think there's a lot that that office could do to
1927 ensure through expanded current viral disease work, probably
1928 working with the NIH or others, as well as the broader
1929 pandemic preparedness.

1930 Hopefully we'll look at pandemic preparedness in a
1931 broader way now and bring in private sector also to be part
1932 of that response. Because they were critical in ensuring
1933 that we got PPE and tests and vaccines and treatment. And I
1934 think that we can learn also from that.

1935 BY MR. RECHTER.

1936 Q Just two quick housekeeping items, Dr. Birx. In
1937 our last session you mentioned, I think it was two emails,
1938 one that your assistant received and forwarded to you that
1939 was Dr. Atlas' alternative interpretations of your daily
1940 reports, and then an email that you sent to Dr. Giroir
1941 sometime after August 24th.

1942 Those two emails, would they be in the production that
1943 you turned over to archives?

1944 A Yes.

1945 Q Both of them?

1946 A Okay. I know the one about -- to Brett was.

1947 What was the other one? Oh, the Tyler Ann? Yes.

1948 Q Thank you. I just have a couple more questions
1949 about the email chain we looked at.

1950 A But it should be in the electronic world. I
1951 mean, I did keep everything on the computer, so I assume
1952 that those electrons were preserved.

1953 Q Sure. Sure. I'm sure you're right.

1954 I'll just direct you back to the August 21st email that
1955 you had sent to Dr. Fauci, Dr. Hahn, and Dr. Redfield. A
1956 couple more quick questions about this.

1957 Towards the end of your email here you're discussing
1958 Dr. Atlas again, and you're saying, quote, "providing
1959 information not based on data or knowledge of pandemics, nor
1960 pandemic responses on the ground, but by personal opinion
1961 formed by cherry-picking data from non-peer-reviewed
1962 publications."

1963 You had said earlier that Dr. Atlas was cherry-picking
1964 incomplete data and would reach these misleading or
1965 inaccurate conclusions; is that correct.

1966 A That's correct.

1967 Q Okay.

1968 A From my perspective.

1969 Q Sure. And I know we discussed your interview
1970 earlier this year on Face the Nation, and you had mentioned,

1971 quote, "I saw the President presenting graphs I never made,
1972 so I know that someone or someone out there, someone inside,
1973 was creating a parallel set of data and graphics that were
1974 shown to the President." And then you went on to say, "I
1975 know by watching some of the tapes that certainly
1976 Scott Atlas brought in parallel data streams."

1977 Is the cherry-picked data you were referring to in this
1978 email what you were referring to in your interview?

1979 A I still don't know, I think it was the Axios
1980 interview that the President gave, which is public
1981 knowledge.

1982 Q Sure.

1983 A When I looked at what was in the President's
1984 hand, those graphics, I have no idea where they came from.
1985 They could have come from Scott Atlas, they could have come
1986 from someone in the White House. I don't know, but what I
1987 can tell you is they never came to task force, they were
1988 never in any of my daily reports, and I've never seen those
1989 graphics before.

1990 So my assumption is that graphics were coming in to the
1991 White House both from outside and potentially from inside,
1992 but I don't know who was providing them.

1993 Q And you said you saw it in the President's hand.
1994 When was that interaction? What was that?

1995 A No, that was the Axios interview that we all saw

1996 on TV.

1997 Q Got it.

1998 A When he was referring to those graphs that were
1999 in his hand.

2000 Q Sure.

2001 A I had never seen those, and the task force had
2002 never seen them.

2003 Q Are you aware of any other parallel data or
2004 graphics that went to the President?

2005 A No. I'm assuming that other went in to the
2006 President, because he would make comments in press briefings
2007 that were not consistent with the information that I was
2008 providing up the chain.

2009 Q And what kind of comments?

2010 A His comments about fatalities or the issues
2011 about children and children not being infected. That I
2012 believe came from others within the White House or outside
2013 the White House.

2014 Q Got it. So these then tended to downplay the
2015 severity of the virus?

2016 A That's how I would interpret it.

2017 Q Do you think these parallel data streams
2018 impacted how the President viewed the severity of the virus?

2019 A I absolutely believe that. And the reason I
2020 discussed yesterday about the President comprehending the

2021 graphs and figures I was giving to him is because those
2022 graphs and figures were used to support the policy of the 15
2023 days to slow the spread and then the 30 days to slow the
2024 spread.

2025 And there was clarity of the impact on the economy. I
2026 mean, I just want to be clear. As much as I had public
2027 health graphics, the brilliant economists that were -- and
2028 certainly Secretary Mnuchin was brilliant. I mean, they had
2029 their graphics on the impact on the economy. So what was
2030 reassuring to me in the moment is the public health threat
2031 and the graphic displays of the public health threat was
2032 enough to change the policy.

2033 Then subsequently, clearly the policies were changed.
2034 And my interpretation is there was other graphs and data and
2035 information being provided to the President.

2036 And in my mind this is particularly dangerous because,
2037 in even traveling around the United States -- because it
2038 does create confusion when they have two groups that are
2039 providing information that are 180 degrees away from each
2040 other, I think as a leader that is very difficult to put
2041 that into perspective. And I saw governors also struggle
2042 with that in their states.

2043 And I think in the end, I think the one thing that I had
2044 going for me is the projections that I made often for 12
2045 weeks in advance and the response that were needed were

2046 borne out over and over again. So people who underestimated
2047 the fatalities and underestimated the hospitalizations, they
2048 were proved over and over again to be wrong. But I think in
2049 the moment, that's very difficult to get people to look into
2050 the future.

2051 Q Sure.

2052 A And it's a matter of whose data you believe is
2053 more compelling.

2054 Q Sure. So these alternative or parallel data
2055 streams may actually influence the President to take
2056 mitigation measures less seriously?

2057 A I believe that to be true.

2058 Q Let's just move up to Dr. Fauci's response to
2059 your email here, if I can flip a page.

2060 A Yes.

2061 Q So in response, I'll let you take a look but Dr.
2062 Fauci recommends, quote, "we need to sit down with him," him
2063 being Dr. Atlas, "in a hopefully non-confrontative
2064 discussion," end quote, and, quote, "go over in detail the
2065 basis of his claims."

2066 Do you know if this meeting ever occurred?

2067 A I do not believe the meeting occurred. At this
2068 time when Tony wrote this, he didn't -- I hadn't explained
2069 to him that I had spent hours going over the data with him.
2070 So in my mind, there was no new data or information that I

2071 could bring to the table that was going to change his mind.
2072 I had already spent hours and hours with him. I had already
2073 spent hours refuting his emails and in meetings. And I was
2074 never confrontational, but I think I had already put in
2075 hours of effort utilizing data and science to refute his
2076 arguments but I was not successful.

2077 So I told the team of doctors if they wanted to meet
2078 with him, they should go ahead and meet with him, but I
2079 don't believe they ever did.

2080 Q Okay. And then in these hours of meeting with
2081 Dr. Atlas going over the data, did you ever see any evidence
2082 that he changed his mind or adapted his opinion?

2083 A No.

2084 Q You have one follow-up here on top of
2085 Dr. Fauci's email. You mentioned there's a, quote, repeat
2086 issue in that Dr. Atlas believes or is convinced that herd
2087 immunity had been reached in the northeast, Midwest, and
2088 sunbelt.

2089 Just for the record, had Dr. Atlas been raising herd
2090 immunity and it being achieved in these areas in this August
2091 20th task force meeting?

2092 A He believed a majority of the country had
2093 already achieved enough protection to prevent further
2094 surges.

2095 Q And did he voice this in task force meetings?

2096 A Yes.

2097 Q And at that time, what did the science show
2098 about the state of play in terms of herd immunity?

2099 A Well, they knew there wasn't adequate antibody
2100 levels; so there was new literature showing up that
2101 suggested maybe there was a large number of people who had
2102 T-cell immunity without generating antibodies. Now, that
2103 can happen. That is fairly rare because your B-cells, in
2104 order to make antibody, need to have helper T-cells work
2105 with them, by and large. So there are those rare cases of
2106 people who generate cellular immunity without any humoral
2107 immunity. It's extraordinarily rare. I thought it would
2108 also be rare in this.

2109 And so there were scientists using that potential to
2110 explain why the antibody levels that were being detected
2111 were not sufficient to explain how they achieved herd
2112 immunity. But I knew if our antibody levels were in the 30
2113 to 40 percent range -- and I'm being generous -- at that
2114 time, that there wasn't another 30 or 40 percent that had
2115 cellular immunity without humoral immunity. I mean, that
2116 had never been found in nature at that level.

2117 So sometimes these theoretic arguments -- and again,
2118 just like the theoretic position he took on controlling the
2119 pandemic by protecting the vulnerable -- I mean, yes,
2120 theoretically that's true. But it's not implementable and

2121 we knew it couldn't be. And this theory that there was this
2122 huge number of Americans who had cellular immunity without
2123 humoral immunity was just another way to try to get to the
2124 concept that everybody had already been infected and
2125 protected, which is the concept of herd immunity.

2126 Q Sure.

2127 A But let's be clear for the statement and
2128 everything, herd immunity is not usually discussed as it
2129 comes to humans. Herd immunity comes out of vaccinating
2130 your cows and your pigs. And so in that case you're
2131 vaccinating 100 percent of your cows and pigs, and you are
2132 assuming you're reaching herd immunity because you assume
2133 that 3 to 5 percent of the cows and pigs don't generate an
2134 effective immune response but it may be enough to protect
2135 the herd. And so you're relying on the herd protecting the
2136 small number who, either from genetics or because of the way
2137 they're constructed, that they didn't generate an effective
2138 immune response.

2139 So that's how herd immunity is discussed. We don't
2140 discuss that usually about humans.

2141 Q Sure.

2142 A And human infectious diseases.

2143 Q Let's talk just a little bit more about herd
2144 immunity, at least in the context of coronavirus, but I
2145 appreciate that background.

2146 So following this August 20 task force meeting, we know
2147 that CDC issued the guidance we already discussed. Are you
2148 aware of any steps, other steps that Dr. Atlas took to push
2149 the administration to adopt this herd immunity approach that
2150 he was advocating for?

2151 A I don't know what else he did because I was not
2152 in those meetings when he discussed this.

2153 Q Are you familiar with any memos he drafted?

2154 A I saw one op-ed that he drafted and wrote to the
2155 people who sent it to me that this should not be published;
2156 that if it's going to be published, he could not represent
2157 himself as task force.

2158 Q I think we actually have that email. This might
2159 be a good time to actually just introduce it. It is an
2160 October 14, 2020 email Bates stamped SSCC0035951.

2161 (Exhibit No. 23 was identified for
2162 the record.)

2163 BY MR. RECHTER.

2164 Q And while that's being passed around, Dr. Birx,
2165 I'll just say for the record this is an October 14, 2020
2166 email from the White House staff secretary to officials in
2167 the EOP, including you. The subject line is: For Review:
2168 Draft Op-ed by Dr. Atlas re: the harms of lockdowns. And
2169 the staff secretary writes, quote, "Attached for your review
2170 is a draft op-ed by Dr. Scott Atlas re: the harms of

2171 lockdowns."

2172 Is this the op-ed that you mentioned?

2173 A It was one of them.

2174 Q Were there more than one?

2175 A I think so, but I don't remember all of them, to
2176 be honest.

2177 Q Were there different drafts, or actually
2178 different op-eds?

2179 A I think there were additional op-eds, but
2180 I -- you know, I have the same response to all of them.

2181 Q Sure. Do you have a rough sense for how many
2182 op-eds you saw from Dr. Atlas?

2183 A I thought there were at least two op-eds and a
2184 roundtable with, I'll call them, scientists. Because I just
2185 want to be clear, the scientists that were supporting this
2186 and supporting Scott's position were brilliant statisticians
2187 or epidemiologists from other fields. I mean, they had done
2188 really incredible cancer work or other work. So these were
2189 very accomplished individuals. And so that's -- there was a
2190 proposed roundtable as well as this op-ed.

2191 Q Got it. I think we'll touch on that I think in
2192 a second, too.

2193 But sticking with this here, so from the subject line it
2194 appears that this draft op-ed regarded lockdowns,
2195 quote/unquote. What do you recall about the content of this

2196 op-ed?

2197 A It was talking about -- and I can't really
2198 remember because I just immediately said none of this has
2199 any science or data behind it.

2200 But I think it was about young people, the fact that the
2201 virus had zero risk to young people and it was only -- but
2202 all the downsides of mental health, education, and abilities
2203 were being compromised because of finding and testing and
2204 isolating and quarantining. He considered testing and
2205 isolation to be a lockdown.

2206 Q Okay. And you said your reaction when you read
2207 this was that it was not based on science or data; is that
2208 right?

2209 A It was based on his science and data.

2210 Q Sure. Did you speak with the doctor's group
2211 about this?

2212 A No, I didn't take this to them because -- I
2213 mean, it wouldn't have -- everyone was very busy. So I
2214 utilized the doctors group to do important things with their
2215 agencies and tried not to distract them with Scott Atlas
2216 pieces.

2217 Q Did you speak with anyone about this draft?

2218 A I probably spoke personally to other members of
2219 the White House team staff.

2220 Q Could I ask you who those were?

2221 Mr. Trout. Without getting into any details of your
2222 conversations, you can state who you spoke with.

2223 The Witness. Because it was my pattern at times, I
2224 probably spoke to the head of staff secretary or his
2225 representative, Jared Kushner, Mark Meadows, and Marc Short.

2226 BY MR. RECHTER.

2227 Q Okay. And for the record, could I ask what you
2228 spoke about?

2229 Mr. Trout. And for the record, I'm going to ask her not
2230 to answer that question on the grounds of executive
2231 privilege and defer at this time to pending further
2232 discussion.

2233 BY MR. RECHTER.

2234 Q Can I ask, in terms of quantity, how many
2235 conversations you had with those folks about Dr. Atlas'
2236 op-eds?

2237 A I think it's probably easier for me to answer
2238 how many discussions I had about Scott Atlas and his
2239 presence in the White House.

2240 Q Sure.

2241 A And I would say that they were numerous. Even
2242 though I was on the road, I would say weekly at a minimum.

2243 Q Okay. As with the --

2244 A With that -- those individuals.

2245 Q Okay. Let me turn back to this email here. Do

2246 you know who asked Dr. Atlas to write these op-eds?

2247 A No.

2248 Q The fact that it's coming from the draft, the
2249 White House staff secretary is being circulated to the EOP
2250 for review, would that indicate that senior White House
2251 officials approved of this op-ed?

2252 A No. I think, in my mind, this is the way the
2253 White House is supposed to function, that anything a senior
2254 official in the White House does is supposed to go through
2255 staff secretary, including everything that goes to the
2256 President.

2257 So in my mind, this was actually normal procedure and
2258 the way White Houses should act in that information to the
2259 President, the Vice President and information before it's
2260 released to the public should go through a vetting process.
2261 And I took this to mean that this vetting process was
2262 actually occurring.

2263 Q Got it. The reason I'm asking is, the fact that
2264 it's being circulated in this process would indicate that
2265 this draft op-ed is being moved through the formal
2266 procedures in the administration.

2267 A Correct.

2268 Q Do you know if this op-ed was ever published?

2269 A I don't know.

2270 Q Do you know if any of Scott Atlas' op-eds were

2271 ever published?

2272 A I don't know.

2273 Q Okay. You had mentioned a roundtable also that
2274 was circulated. I think we have that email here as well.

2275 (Exhibit No. 24 was identified for the
2276 record.)

2277 BY MR. RECHTER.

2278 Q And while it's being circulated, again, just for
2279 the record, this is an August 24th -- SSCC0035985.

2280 And while it's being circulated, this is an August 24,
2281 2020 email from the White House staff secretary, again, to
2282 officials in the EOP including you. Subject line quote,
2283 "For Review: Draft POTUS Remarks - Meeting with Medical
2284 Experts."

2285 A Oh, wow.

2286 Q The staff secretary writes, "Attached for your
2287 review are draft remarks for the President for Wednesday's
2288 meeting with medical experts."

2289 So you just exclaimed, Dr. Birx, "Oh wow." What moved
2290 you to say that?

2291 A Well, I'm completely blanked out in my response
2292 to this.

2293 Q So we received these for the record from HHS and
2294 we're having conversations right now regarding that
2295 particular issue.

2296 I will ask you, do you recall what this meeting with
2297 medical experts referred to?

2298 A This was a meeting that I heard about first in
2299 the hallways of the White House that Dr. Atlas was proposing
2300 to bring -- and I won't get all their names right -- but
2301 another individual from Stanford, another individual from
2302 Harvard, and an individual from Oxford to actually discuss
2303 the science and data that they saw supported their position
2304 of letting the virus infect healthy Americans and protect
2305 the vulnerable Americans.

2306 Q Do the names Dr. Jay Bhattacharya, Dr. Martin
2307 Kulldorff, or Dr. Sunetra Gupta sound familiar?

2308 A Yes, those are the names.

2309 Q Those are the three. And those are the authors
2310 of the so-called Great Barrington Declaration; isn't that
2311 right?

2312 A I believe that to be true.

2313 Q You said you heard about this meeting in the
2314 halls of the White House. Do you know roughly when you
2315 heard about it?

2316 A Somewhere around this time, the third week of
2317 August, that -- there were discussions previously, and I
2318 think it's clear what my position was. And I think at this
2319 moment, Scott was looking for additional personnel to
2320 support his position. So this I believe in his mind was the

2321 next step to really cement his interpretation into the White
2322 House -- into the White House's response to the pandemic.

2323 Q Got it.

2324 Ms. Gaspar. Sorry, additional White House personnel?

2325 The Witness. No, no. The additional scientists to
2326 support his position already taken in the White House.

2327 BY MS. MUELLER.

2328 Q Who else in the White House or other federal
2329 agencies seemed to support Dr. Atlas' views?

2330 A I don't know. And they wouldn't -- they knew my
2331 position on this, so.

2332 BY MR. RECHTER.

2333 Q No one else from the task force?

2334 A Not that I know of.

2335 Q Who did you hear this from in the hallways?

2336 A I probably heard it first from my executive
2337 assistant, Tyler Ann McGuffee, who often was more social
2338 than I was while I was working on my computer. So she would
2339 often ferret out information. So like what we previously
2340 discussed, if we're going there next, is my concerns were
2341 taken the same way up to the same individuals.

2342 Q Okay. So turning back here to this email, we
2343 see that there are draft remarks and you do reply here.

2344 "Best if this proceeds without my presence."

2345 I think you've alluded to it, but what did you mean when

2346 you said this?

2347 A I did not want to be present at the roundtable
2348 to give any credibility to the positions being taken. And I
2349 didn't want it to be inferred that the White House response
2350 coordinator, because our response was not going to be as
2351 outlined by Scott Atlas, to be taken as the position of the
2352 task force or the White House response coordinator.

2353 Q So you weren't consulted about this meeting
2354 ahead of time?

2355 A I was not.

2356 Q Okay. Do you know who else was invited to this
2357 meeting besides the three doctors who authored the Great
2358 Barrington Declaration?

2359 A I don't know.

2360 Q Hopefully, that the President was invited?

2361 A I'm assuming. That's what my admin had heard.

2362 Q Dr. Scott Atlas?

2363 A Oh, yes.

2364 Q And he was the one who was organizing this
2365 meeting, correct?

2366 A Correct.

2367 Q So after responding to this email here, you do
2368 forward it with the attachments to Marc Short, who was Vice
2369 President Pence's chief of staff.

2370 Why did you forward the draft remarks to Mr. Short?

2371 A Because I thought this was dangerous. I thought
2372 giving any credibility to these individuals' position was
2373 dangerous, and I wanted Marc Short to know my feelings on
2374 this. And that I felt that any credibility given to these
2375 individuals in this moment while we were headed into the
2376 fall would be dangerous for our overall response and ability
2377 to contain the virus.

2378 Q Did you -- besides this instance -- frequently
2379 tell Marc Short about your concerns about Dr. Atlas?

2380 A Yes.

2381 Q And what did he say or do in response?

2382 Mr. Trout. Let's defer on that.

2383 BY MR. RECHTER.

2384 Q Did you have any further conversations with
2385 Mr. Short about this meeting specifically?

2386 Mr. Trout. If the answer is yes, don't give any
2387 details.

2388 The Witness. Yes. No details.

2389 BY MR. RECHTER.

2390 Q How did you feel after having conversations
2391 about this meeting with Mr. Short?

2392 A I think it was common knowledge in the White
2393 House my position on the science, the data, and what was
2394 occurring; and that it was in direct opposition to
2395 Dr. Atlas' position and what he was proposing for the

2396 country to do.

2397 Q Were you feeling undermined?

2398 A I think it made it very difficult for people who
2399 were not deep into epidemiology to understand that there
2400 were fundamental flaws in his theory. And I think that's
2401 difficult for nonmedical and non-epidemiologists to see.
2402 And that's why I was concerned about his presence and his
2403 position within the White House, because I believed that he
2404 could potentially have influence with the President and
2405 others within the White House at a very vulnerable time when
2406 I was concerned about the fall and the potential for
2407 widespread -- wide viral spread in the more populous areas
2408 of the United States after what we had seen in the south.

2409 Q Okay. You also forward the draft remarks to
2410 Dr. Hahn, Dr. Fauci, Dr. Redfield, the so-called doctors'
2411 group. It looks like the file attached here ends with the
2412 letters DB, which I take to mean stands for Deborah Birx.
2413 Did you provide comments on this document here?

2414 A Which document?

2415 Q So the document unfortunately doesn't exist, or
2416 we did not receive it, but if you look at the top email
2417 here --

2418 A Oh, yes. I'm sure on this one I provided
2419 comments that were very clear.

2420 Q Okay. And do you recall what comments you

2421 provided?

2422 A Beyond the fact that this shouldn't occur and
2423 these people shouldn't have comments to the White House.

2424 Q Okay. And you're not limiting your answer for
2425 any privilege reason there? Just making sure.

2426 A Well, yes. So I mean, those involved specific
2427 conversations with senior leaders in the White House. I can
2428 state I was very clear in my position.

2429 Q Okay. Do you know if this meeting ultimately
2430 occurred?

2431 A I do not believe that the meeting ultimately
2432 occurred in the way that it was proposed.

2433 Q Why do you believe that?

2434 A There was supposed to be -- I mean, this was
2435 supposed to be a very big deal with press and it was to be a
2436 show. So I don't believe the show occurred.

2437 Q Do you know why that happened?

2438 A I mean, hopefully they listened to my concerns.
2439 I don't know. No one told me -- I did not seek follow-up
2440 and I did not get follow-up.

2441 Q You say this was supposed to be initially part
2442 of a big show. Was this part of a contemplated policy
2443 rollout?

2444 A Oh, I don't know.

2445 Q Did you ever hear an Executive Order being

2446 prepared in connection with this?

2447 A No.

2448 Q No formal pronouncement?

2449 A Not that I know of.

2450 Q Okay. Let's turn to Exhibit 2 which was given

2451 to you yesterday. It was the packet of White House

2452 Coronavirus Task Force agendas.

2453 Ms. Mueller. Can I jump?

2454 Mr. Rechter. Sure.

2455 BY MS. MUELLER.

2456 Q You said that you're not aware that the meeting

2457 took place as was originally envisioned. Are you aware if

2458 the meeting didn't take place?

2459 A I'm not aware of a meeting taking place at the

2460 White House.

2461 Q Are you aware of any meeting taking place with

2462 administration officials?

2463 (Pause.)

2464 A I think Secretary Azar reported in a press
2465 conference that he had met with them, this roundtable group.

2466 BY MR. RECHTER.

2467 Q We're going to switch gears here very briefly.

2468 So you have Exhibit 2 in front of you, Dr. Birx?

2469 A Yes.

2470 Q Okay. I'll direct you to page 70 in the packet.

2471 And while you're flipping there, I'll say this is a
2472 September 2nd, 2020 White House Coronavirus Task Force
2473 Agenda. It lists you and Dr. Atlas as presenting on college
2474 campus guidelines.

2475 Do you recall what you and Dr. Atlas spoke on in this
2476 meeting?

2477 (Pause.)

2478 Mr. Trout. Based on the guidance we've received, I
2479 believe that we should assert executive privilege to decline
2480 to give specific conversations that occurred during the task
2481 force meetings. So we will defer on that.

2482 Mr. Rechter. Okay.

2483 BY MR. RECHTER.

2484 Q Do you recall attending this meeting?

2485 A Yes. I mean, I can speak about my -- I made it
2486 clear in my press that I've done all over the country the
2487 campus and policy guidelines that I was strongly supportive
2488 of, and that's why I went to 33 universities. And so it was
2489 about proactive planning, proactive understanding of having
2490 isolation and quarantine space, proactive testing, ensuring
2491 support to the students that had to be isolated.

2492 So it was -- I had reviewed a lot of the university
2493 plans, and I thought that a majority that I reviewed were
2494 quite strong and had good -- and I emphasized the importance
2495 of the university's relationship with the town and ensuring

2496 the town policies were consistent with the university
2497 policies. Because you didn't want students masking on
2498 campus and then not masking in retail in the town. So I
2499 really thought for behaviors it was important to have
2500 consistency, so that was my position.

2501 Q Do you recall Dr. Atlas attending this meeting?

2502 A Yes.

2503 Q And not asking about your conversation, but did
2504 you all work together on campus guidelines?

2505 A Oh, no.

2506 Q No. Okay. Let's turn to page, I think it's 74,
2507 that same exhibit. It's a September 29th, 2020 White House
2508 Coronavirus Task Force Agenda. It also lists you and
2509 Dr. Atlas both in attendance. It lists Dr. Atlas presenting
2510 with Dr. Redfield on CDC testing guidelines.

2511 Do you recall attending this meeting?

2512 A I would have to look at my schedule to see if I
2513 attended in person or on the phone.

2514 Q You participated in this meeting?

2515 A I didn't miss any task forces, so I would have
2516 participated one way or the other.

2517 Q Do you recall Dr. Atlas participating in this
2518 meeting?

2519 A I'm not sure. I mean, you can see the thread.
2520 This was in response to CDC posting the new guidance, the

2521 new guidelines.

2522 Q And just for the record, do you recall Dr. Atlas
2523 being in this meeting?

2524 A I don't remember.

2525 Q So we discussed, on September 18th, CDC reissued
2526 testing guidance that you were involved in drafting. I
2527 think we discussed that you did not have any conversations
2528 with Dr. Atlas about that; is that correct?

2529 A I did not.

2530 Q Okay. For the record, during this meeting was
2531 that testing guidance change discussed?

2532 A I believe it was.

2533 Q Do you recall what Dr. Atlas said about it?

2534 A I do not.

2535 Q Do you recall what anyone in the task force said
2536 about the testing guidance change in this meeting?

2537 A My only focus was to ensure that the testing
2538 guidance remained up on the CDC website.

2539 Q Would that have concerned --

2540 A And that was the outcome.

2541 Q Was that a concern at this time?

2542 A I don't remember. I remember the outcome that I
2543 was focused on, and that was what happened, so I don't
2544 remember the specifics.

2545 Q So this meeting was 11 days after the September

2546 18th guidance was up. Were other changes to CDC testing
2547 guidance under consideration?

2548 A I don't know. I mean, I didn't see any others,
2549 but that doesn't mean it didn't happen.

2550 Q Okay. Let's turn back. We just discussed
2551 before heading toward the meeting the roundtable with the
2552 three scientists that you had concerns about in August. Are
2553 you familiar with an October 5th, 2020 meeting between HHS
2554 Secretary Azar, Dr. Atlas, and those same three doctors,
2555 Dr. Bhattacharya, Dr. Kulldorff and Dr. Gupta?

2556 A That's the meeting I referred to that I believe
2557 Secretary Alex Azar had a press conference and noted he had
2558 met with them.

2559 Q So the October --

2560 A I didn't know ahead of time.

2561 Q Okay. So is this -- just to clarify, the last
2562 email we looked at was August 24th.

2563 A Correct.

2564 Q So this is October 5th. Were those discussing
2565 two different meetings?

2566 A I think that was the resolution of this,
2567 but -- of the original roundtable, but I am not -- I don't
2568 have situational awareness to know if there were two
2569 roundtables. I'm assuming that the Secretary's roundtable
2570 was the resolution of this proposed roundtable in August.

2571 Q Okay. And why do you think that?

2572 A Because I don't know if this one, the one
2573 proposed for the White House, ever occurred.

2574 Q We'll pass around here another exhibit. This is
2575 Exhibit 25.

2576 (Exhibit No. 25 was identified for
2577 the record.)

2578 BY MR. RECHTER.

2579 Q This is an October 5th, 2020 tweet from
2580 Secretary Azar following this meeting.

2581 Do you recall seeing this tweet, Dr. Birx?

2582 A I believe my admin forwarded this tweet to me.

2583 Q And what was your reaction when you saw this
2584 tweet?

2585 A I think I was glad that there wasn't a big press
2586 conference and a White House endorsement of the scientists
2587 and their positions.

2588 Q Did you have any other thoughts?

2589 A My position on these -- and I just want to make
2590 it clear. These are accomplished individuals in their own
2591 field, and I think that's what gave them great credibility.
2592 So these were not junior scientists. These were senior
2593 scientists that were well published, that had earned
2594 credible reputations in their fields, including Dr. Atlas as
2595 a nuclear radiologist and had participated as an editor in

2596 an MRI book. So he was well-accomplished in his field of
2597 radiology. Many of these individuals were well-accomplished
2598 in their field of cancer, non-infectious disease,
2599 epidemiology.

2600 And so in a way, those are often the most dangerous in
2601 science that have significant credentials and have an
2602 opposing view based on their theories, but the theory not
2603 consistent with the science or data of SARS-CoV-2.

2604 And so that's why I had concerns about these experts,
2605 because they had credible credentials, they were from very
2606 credible institutions, yet they were interpreting the
2607 science and data that I was seeing in a very different way.

2608 Q And it's the most dangerous because they appear
2609 credible to people even though their opinions are not based
2610 on the prevailing --

2611 A Well, not based on the science and data as I'm
2612 seeing it. And, again, I can understand having a theory.
2613 But when you have a theory -- we all have theories in
2614 science. And then we do the experiments --

2615 Q Sure.

2616 A -- to prove whether our hypothesis was correct
2617 or not.

2618 I believe that their theory and their hypothesis had
2619 already been disproved by the evidence base of what the
2620 United States and the globe had experienced relevant to

2621 SARS-CoV-2 epidemic in those first six months. So I believe
2622 that there was an evidence base that their hypothesis was
2623 wrong and therefore, if it was pursued, would result in the
2624 loss of more Americans and potentially others around the
2625 globe who followed their theory and their hypothesis.

2626 Q Sure. Turning to this tweet here, Secretary
2627 Azar mentions that he met with Dr. Atlas and these three
2628 doctors, and then he went on to say, quote, "we heard strong
2629 reinforcement of the Trump Administration's strategy of
2630 aggressively protecting the vulnerable while opening schools
2631 and the workplace."

2632 So Secretary Azar here seems to be saying that the
2633 authors of the Great Barrington Declaration's herd immunity
2634 strategy had strongly reinforced the Trump administration's
2635 current strategy.

2636 Would you agree that the Trump administration had
2637 incorporated a herd immunity approach into their response at
2638 this time?

2639 A Well, as the White House coronavirus response
2640 coordinator, that was not my approach. And that was not the
2641 approach of anything we did or recommendations that we made
2642 in the governor's report or up through anyone in the White
2643 House. I never received a new strategy after the arrival of
2644 Scott Atlas, and I was never told to not proceed with the
2645 strategy that was on the way, which was very much a fall

2646 strategy related to increased testing, increased
2647 therapeutics, increased mitigation to try to protect as many
2648 Americans lives as possible.

2649 So that was the strategy that I was operating on. So if
2650 Scott and HHS had a different strategy, I don't know what it
2651 was. And I never saw it.

2652 Q Right. But looking at this tweet here, your
2653 conversations with Dr. Atlas, seeing the August 24th CDC
2654 testing guidance change, would you agree that senior
2655 administration officials had adopted this herd immunity
2656 approach as their strategy?

2657 A I don't know who he was able to convince, but I
2658 was not executing on that strategy.

2659 Q And he, being Dr. --

2660 A Scott Atlas.

2661 Q -- Atlas. And you don't think he was able to
2662 convince Secretary Azar based off this tweet?

2663 A So it's a little misleadingly worded. I don't
2664 want to parse words, but it is true that we had an
2665 aggressive strategy to protect the elderly and the
2666 vulnerable, particularly the vulnerable in nursing homes.
2667 We were providing nursing homes PPE. We were providing them
2668 tests. We were providing them strike teams and support.

2669 So, yes, it's absolutely true we were
2670 aggressively -- and that was part of the

2671 strategy -- aggressively protecting the long-term care
2672 facilities.

2673 Q Right.

2674 A But it didn't stop there. And it didn't stop
2675 there as an added element of opening schools and the
2676 workplace. That was part of -- we were still working off of
2677 opening up America safely with the criteria, because we
2678 never said to any state don't follow these.

2679 Now, I hear you that states may have chosen not to
2680 follow all of the criteria, but that's why we went out to
2681 the states and had the meetings directly with governors.
2682 And it wasn't just those in-person meetings. Obviously, we
2683 kept in touch with their staff throughout the whole pandemic
2684 and called them when we had concerns or saw things that we
2685 were concerned about.

2686 Q Sure.

2687 A So in a way, to my mind, this tweet is
2688 misleading and I don't know really what it means.

2689 Q But to put a finer point on it, we've been
2690 discussing in detail here how Dr. Atlas had this theory that
2691 you could somehow isolate the vulnerable and let low-risk
2692 populations have community spread and that would be okay.

2693 Isn't this the exact language that we had used to
2694 discuss Dr. Atlas' strategy?

2695 A Well, protecting the vulnerable without anything

2696 else. But he doesn't say there's anything else here. So I
2697 can't -- did he mean this to be his sole tweet? I'm not in
2698 Secretary Azar's head, so I don't know what the secretary
2699 meant by this. It was not the strategy we were executing.

2700 Q But Dr. Atlas was.

2701 A That was his recommendation.

2702 Q Okay. I have, I think, just one more document
2703 for you. It is SSCC0035830.

2704 (Exhibit No. 26 was identified for
2705 the record.)

2706 BY MR. RECHTER.

2707 Q And while this is being distributed, I will say
2708 this is an October 16, 2020 email from Dr. Fauci to you
2709 copying Dr. Redfield, Dr. Hahn, Dr. Collins, and
2710 Administrator Verma. The subject line is, "Today's Doctor
2711 meeting and Task Force." It looks like Dr. Fauci was out of
2712 action, as he put it, that morning and was going to miss the
2713 doctors' call and task force meeting. And he writes that he
2714 had, quote, "come out very strongly publicly against the
2715 'Great Barrington Declaration.'" And he asked you to quote,
2716 "Please speak out for me," end quote, when Dr. Atlas played
2717 down certain risks of coronavirus infection.

2718 Do you recall receiving this email?

2719 A Yes. It's post a phone call that I had with Dr.
2720 Fauci.

2721 Q Okay. And what did you and Dr. Fauci discuss in
2722 that call?

2723 A We talked about both my concerns about the
2724 medium and long-term consequences of COVID infection even
2725 among the young, and that I needed him to be putting
2726 that -- remember, they had a clinical treatment guidelines
2727 up, and to make sure that they were alerting out through
2728 IDSA the complications and making sure that people
2729 understood the seriousness or potential seriousness of even
2730 mild COVID disease, which is what I was saying on the
2731 college campuses.

2732 And so I wanted to make sure that Tony was fully
2733 supportive, and he is and was, and he wrote this memo to
2734 make sure that we also conveyed that information in the task
2735 force.

2736 Q He wrote a memo?

2737 A No, he wrote this --

2738 Q Got it.

2739 A -- after our phone call.

2740 Q Got it. What prompted your phone call?

2741 A Well, I talked to all the doctors probably two
2742 or three times a week in addition to the actual formal
2743 doctor meeting.

2744 Q So there was a regular phone call?

2745 A Yes.

2746 Q Did the tweet from Secretary Azar that we just
2747 reviewed prompt any actions between you and Dr. Fauci? Any
2748 discussions?

2749 A I was constantly raising the alert in the
2750 doctors' meetings of the depth of my concern about
2751 Dr. Atlas' position, Dr. Atlas' access, Dr. Atlas' theories
2752 and hypothesis, and the depths and breadths of my concern.
2753 And the fact that, you know, in hotspots across the northern
2754 plains states -- and I was just coming off of being in
2755 Billings, Montana and being in hospitals where -- many of
2756 these smaller states and smaller hospitals, despite the fact
2757 that they are superb hospitals, they may only have one
2758 infectious disease person or one or two intensivists.

2759 And when you're meeting with an incredible intensivist
2760 that's taking care of what should be 22 to 24 patients in an
2761 ICU that has expanded now to 32 patients distributed through
2762 the hospital where you can't as a physician have eyes on all
2763 their monitors all at the same time, and watching the
2764 sacrifices that they're making to try to care for their
2765 patients.

2766 And then you're talking about someone saying that
2767 community spread should be allowed when probably at that
2768 time, 90 to 95 percent of the patients in the ICU had been
2769 infected outside of a long-term care facility. They were
2770 infected in the community, they were infected often at

2771 birthday parties or at family gatherings.

2772 And so I could see the consequences of what was
2773 occurring out across the United States and the severity of
2774 the virus among the most ill, and my concern about those who
2775 were potentially less ill. And inside the White House is a
2776 person that is basically wanting community spread to
2777 increase.

2778 Q And you saw evidence that his approach was
2779 gaining steam in the White House?

2780 A Yes.

2781 Q Dr. Fauci writes to you here in this email,
2782 "This is all part of his theme that infections do not bother
2783 healthy people." This email again is from October 16th,
2784 2020.

2785 This was as the U.S. was ascending up the deadly winter
2786 surge that we saw; and at this time, your understanding
2787 that, with no vaccine available although vaccines were
2788 hopefully imminent by this time, as you had pointed out,
2789 Dr. Atlas was still advocating against using the proven
2790 mitigation measures that were available; is that right?

2791 A That's correct.

2792 Q Did you attend this October 16th task force
2793 meeting?

2794 A I believe I called in from the field, but I
2795 would have to look at my schedule.

2796 Q Did you need to speak out for Dr. Fauci in this
2797 meeting?

2798 A Oh, I always speak out. I don't need to be told
2799 to speak out. It's a natural phenomenon. So I don't think
2800 any member of the task force would say I was retiring or shy
2801 or I didn't speak what I thought was the truth from the data
2802 I was seeing.

2803 Q Sure. We're getting closer. I just have a
2804 couple of wrap-up questions for you. Thank you so much
2805 again for your time. You've been super helpful.

2806 We've walked through a series of concerns that you
2807 raised about Dr. Atlas primarily to the other doctors on the
2808 task force. Did you ever escalate your concerns about
2809 Dr. Atlas with administration officials beyond those
2810 doctors?

2811 A Oh, many times as I stated. Probably at least
2812 once a week to the senior --

2813 Q To the senior staff?

2814 A (Nodding head).

2815 Q What about to Vice President Pence?

2816 (Pause.)

2817 A So since Vice President Pence chaired all the
2818 task force meetings, I believe the Vice President was well
2819 aware of my position.

2820 Ms. Gaspar. Is there any part of your answer that you

2821 have held back because of concerns of revealing details?

2822 The Witness. Yes.

2823 Mr. Trout. Yeah. And she is not going to provide any
2824 detailed conversations that she had with the vice president.

2825 BY MR. RECHTER.

2826 Q Did you ever raise any concerns to President
2827 Trump?

2828 A There's a widely reported Oval Office meeting
2829 where both Dr. Atlas and I were present with the President
2830 and many others, and the President was clearly aware of my
2831 position.

2832 Q Did either the Vice President or the President
2833 take any actions in response to your concerns?

2834 Mr. Trout. Object to her discussing any conversations
2835 she had with either the President or Vice President on
2836 executive privilege grounds. Deferred until further
2837 discussion.

2838 BY MR. RECHTER.

2839 Q Sitting here today looking back, who in the
2840 administration would you say enabled Dr. Atlas to operate as
2841 he did?

2842 A Well, the fact that -- I mean, this is my
2843 personal opinion. The fact that he was brought in and given
2844 a title of senior adviser to the President, I'm assuming
2845 that most of the senior advisers supported him being there

2846 because he remained there for a number of months.

2847 Q Anyone specific you can think of?

2848 A No.

2849 Q Jared Kushner we discussed introduced him to
2850 you; that's correct?

2851 A Yes. I never talked to Jared Kushner
2852 specifically about Scott Atlas' presence.

2853 Q And would you say that Dr. Atlas' tenure in the
2854 White House undermined the work of the task force?

2855 A I think it not only undermined the work of the
2856 task force, it undermined the positions I was taking to the
2857 states.

2858 Q Would you say that his appointment undermined
2859 the effectiveness of the coronavirus response?

2860 A It certainly made it harder to execute.

2861 Q Okay.

2862 Mr. Rechter. I think that's it. We can go off the
2863 record. Thank you so much.

2864 (Recess.)

2865 BY MR. BENZINE.

2866 Q Dr. Birx, you said earlier about the new masking
2867 guidance for vaccinated individuals, that you thought it was
2868 premature. Can you elaborate on that?

2869 A So I'm an equal opportunity public health person
2870 if you haven't noticed. I'm very direct in what I'm seeing

2871 and what I think needs to be done.

2872 I think two things: Decrease in testing left America
2873 vulnerable because we couldn't see the early asymptomatic
2874 spread. And I think without knowing if the vaccinated
2875 individuals were susceptible to infection or not with the
2876 delta variant, it was premature.

2877 We knew the delta variant was coming. It had already
2878 gone from India in the beginning of December 2020 to the UK,
2879 and that's how the original variant came to us was through
2880 Europe. So you knew the delta variant was coming, you could
2881 see how infectious it was, and we didn't have data on
2882 protection from infection with the delta variant. We had
2883 data that fairly made it very clear that you protected
2884 against severe disease and hospitalization, but I was
2885 worried about community transmission and reigniting another
2886 surge.

2887 If you look at May of 2020, we also came way down in
2888 case counts. And if you look at May of 2021, we came way
2889 down in case counts, and then came the summer surge. So I
2890 was worried about a summer surge. And on the verge of a
2891 summer surge to have low testing and giving people
2892 permission that are vaccinated that will keep making the
2893 impression that a vaccinated individual could not become
2894 infected and transmit the virus to others I think was very
2895 premature.

2896 And I do think vaccinated individuals, as immunity wanes
2897 and as you can see from the data now with Pfizer, your
2898 protection of infection goes from the high 80s and 90s down
2899 to 50 percent. And so even if you have most of the people
2900 immunized but vaccinated individuals are transmitting, then
2901 it gets to the people who are -- who haven't developed an
2902 effective immune response or to children who are
2903 unvaccinated.

2904 Q In terms of public health, was it a mistake to
2905 reverse that mask guidance.

2906 A I think it was premature. It may not be a
2907 mistake in the future, but it was too early to change that
2908 guidance; because overnight, I saw in Washington just from
2909 my -- I like to know what's going on on the ground, so I do
2910 get out with my mask on. And I went to a book signing, and
2911 everybody there was unmasked except for Dr. Fauci and I and
2912 his wife.

2913 So I think -- and they all said, well, I'm vaccinated,
2914 with the implication that I could not become infected. And
2915 I think whether it was a misinterpretation of the CDC
2916 guidance, however, I don't think they thought through that
2917 the vaccinated would take that as a clear signal that they
2918 were no longer infectious to others.

2919 Q You've talked a few times about how important
2920 testing is and the drop-off in testing in early 2021. It

2921 appears to coincide with you leaving the White House.

2922 Do you know why there was a drop-off in testing?

2923 A I don't know. One of the last things that Brett
2924 and I had worked together on was to create surge sites. And
2925 so --

2926 Mr. Trout. Brett?

2927 The Witness. Brett Giroir. We had worked together
2928 through most of November to develop a proposal, which was
2929 something I had worked on in July, but I sensed that there
2930 was another moment in time that we could get that proposal
2931 back out.

2932 And so it was to set up -- in addition to continuing to
2933 expand the antigen testing and further expand that
2934 production. I think that production was at 50 million a
2935 month. I think it could have gone to 100 million a month
2936 just with antigen tests alone.

2937 We had met with other of the high throughput
2938 manufacturers, and they had enough equipment and tests to
2939 set up these regional surge centers that could be used for
2940 flu outbreaks, could be -- so you have definitive diagnosis
2941 of all of these different respiratory infections.

2942 So we had set aside, I think it was between 300 and \$500
2943 million at HHS to execute this proposal and get those grants
2944 out before we left on January 19th. And the last thing
2945 Brett said to me is that the RFAs were up and they were

2946 going to be funded. And I don't think they were ever
2947 funded.

2948 BY MR. BENZINE.

2949 Q You've also talked quite a bit about your work
2950 with Administrator Verma on nursing homes and how impressive
2951 that was.

2952 I want to hand out two things. The first is CMS
2953 guidance from March 13th that I'll mark as Exhibit B, and
2954 the second is New York State Public Health Guidance from
2955 March 25th that I'll mark as C.

2956 (Exhibit Nos. B and C were
2957 identified for the record.)

2958 BY MR. BENZINE.

2959 Q On the bottom of page 4 of this CMS guidance it
2960 gives guidance on how to return a resident diagnosed with
2961 COVID-19 back to their nursing home; and it says it should
2962 be done if a facility can follow CDC guidance for
2963 transmission-based precautions.

2964 First, what would those transmission-based precautions
2965 have been?

2966 A So that would require isolation and gowning,
2967 masking, and ensuring no contact with any other residents.

2968 Q Okay.

2969 A So they'd have to be in a private room and
2970 independently protected.

2971 Q Did you work with CMS on this guidance?

2972 A You know, I'm not sure I worked with CMS
2973 directly on this guidance, because when Seema Verma saw an
2974 issue, she put her entire staff on finding solutions. And
2975 so she was often one step ahead of the task force and would
2976 come to the task force with the issue and the solution and
2977 the guidance already written.

2978 And I imagine that's what happened this time. She
2979 understood the levers that CMS could pull to protect the
2980 residents, and she used that lever not only to write these
2981 new policies and regulations, but she used that lever to
2982 also require reporting.

2983 And once we could see and once the state could
2984 see -- because remember, federal reporting also helps the
2985 state have increased transparency on what's happening in
2986 their state. So Seema was able to identify issues, get her
2987 people on it, write new guidance, execute new guidance, have
2988 the calls with all of the individuals that would be impacted
2989 by this, and then modify guidance based on how things
2990 continued to evolve. And so I believe that she was one of
2991 the most proactive agencies that we had around the task
2992 force.

2993 Q I read it as a nursing home can do this if --

2994 A If they can meet all of the precautions.

2995 Q -- if they can meet all the requirements.

2996 Administrator Verma said about this guidance under no
2997 circumstances should a hospital discharge a patient to a
2998 nursing home that is not prepared to take care of those
2999 patients' needs.

3000 A Correct.

3001 Q If we turn now to the New York guidance, the
3002 fourth paragraph down with the underlined sentence, there's
3003 two sentences in that paragraph. The first one says, "No
3004 resident shall be denied re-admission or admission to the
3005 nursing home solely based on a confirmed or suspected
3006 diagnosis of COVID-19."

3007 Does that have the same qualifier of able to take CDC
3008 precautions as the CMS guidance required?

3009 A No.

3010 Q So would this guidance have violated CMS
3011 guidance?

3012 A Yes. I've never actually looked at this before.

3013 Q We'll get to the second sentence if that's what
3014 you're more concerned about, yes.

3015 A The second sentence is more concerning than the
3016 first sentence.

3017 Q So the first sentence on its own violates CMS
3018 guidance.

3019 A Yes.

3020 Q The second sentence reads, "Nursing homes are

3021 prohibited from requiring a hospitalized resident who is
3022 determined medically stable to be tested for COVID-19 prior
3023 to admission or readmission."

3024 I'll just let you talk about that one.

3025 A Well, earlier, remember, I talked about nursing
3026 home residents, a third of them were asymptomatic. So you
3027 cannot assume because a person was not having symptoms that
3028 they would not or -- be or not be infected. And so if you
3029 don't test them, you could have been moving someone who had
3030 COVID into that nursing home unknowingly and spread -- we
3031 know how contagious this virus was -- and spread it
3032 throughout the entire nursing home.

3033 Q In that sentence, do you think -- I'm asking you
3034 to speculate. So if you don't want to answer, please don't.

3035 What do you think medically stable means? Do you think
3036 it means no longer showing symptoms, or just able to move
3037 from point A to point B?

3038 A I don't know what they mean by medically stable.
3039 I mean, there are criteria -- so there's two sides of the
3040 equation. One of them is the hospital that always wants to
3041 move recovering patients, independent of what their illness
3042 is, back to their residence. And there's the accepting
3043 group who says I can't. I need this and this and this to
3044 improve before accepting that patient.

3045 It sounds like this took away the nursing home's ability

3046 to say that person isn't stable enough to return to the
3047 nursing home. The way I read this is it implies that the
3048 hospital alone can determine medical stability and move them
3049 to the nursing home independently.

3050 And that dialogue is really critical, because the
3051 hospitals I'm sure want the patients to have good care. But
3052 the nursing home knows what their census is, how complicated
3053 their patients are, what their staffing is, and they would
3054 be the optimal group to determine whether they could accept
3055 that patient.

3056 Q Do you think admitting potentially positive
3057 COVID-19 nursing home residents back into the nursing home
3058 without the ability to quarantine or isolate them is
3059 dangerous and could lead to unnecessary deaths?

3060 A Yeah, I think that's why the CDC guidance was
3061 very clear about precautions needed to protect them. And I
3062 think that's why Seema was proactively working on these
3063 infection control guidance.

3064 But not only the guidance. Behind the guidance were
3065 these -- I forget what she called them. So CMS reserves the
3066 right to go into any nursing home unannounced. So it wasn't
3067 just that they wrote the guidance, they informed all the
3068 nursing homes that their survey teams that would be coming
3069 would be looking specifically and only for infectious
3070 control guidance being followed.

3071 So it said to them this is the most important thing that
3072 you can do for your residents and protect your residents,
3073 and it's so important that when our survey teams come, we're
3074 only going to concentrate on this because we believe that
3075 you're absolutely the most vulnerable group to COVID
3076 infection.

3077 Q All right. Thank you.

3078 Mr. Benzine. I think my colleagues have some questions.

3079 Mr. Davis. Just one question. I'm going to pass out
3080 Exhibit D.

3081 (Exhibit No. D was identified for
3082 the record.)

3083 BY MR. DAVIS.

3084 Q This is an article from the Associated Press,
3085 December 20, 2020. The headline says, "Birx travels, family
3086 visits highlight pandemic safety perils." You can read the
3087 article if you want.

3088 I just want you to comment on the headline of the
3089 article.

3090 A Yeah, thank you.

3091 So what concerned me the most about this article is -- I
3092 even talked to the AP reporter to refute the claims, and it
3093 was published anyway.

3094 So to be absolutely pinpoint clear on what happened, I'm
3095 in a multi-generational household. I had left that

3096 household from March until August because of my exposure, or
3097 what I perceived to be a potential exposure. It was early
3098 in the epidemic and that household got locked down and no
3099 one went in or out of that household.

3100 I have two daughters. One lives three miles -- three
3101 minutes away from me or five minutes away from me and one
3102 lives about 18 minutes away from me in Potomac. So my
3103 daughter was taking care of my 91-year-old, my 95-year-old,
3104 a one-year-old, and a two-and-a-half-year-old throughout
3105 this March, onward.

3106 Q And you're absent from the house?

3107 A In my absence. So I was Facetiming on any kind
3108 of medical condition. But my daughter became pregnant with
3109 her third child in the summer, and I felt like I had to
3110 physically reengage in the household.

3111 So not only did I follow all of CDC precautions, I was
3112 making sure I was testing all the time and I masked most of
3113 the time in the household because I was on the road. But I
3114 had to reprod with my original household.

3115 So when Thanksgiving -- I was cooking meals, so I cooked
3116 a regular meal for Thanksgiving. My daughter who lives
3117 three or four minutes away from me was not inside the house.
3118 So there's no family gathering. My daughter wasn't there,
3119 my son-in-law wasn't there, the only people what were in the
3120 house are the people who lived in that house, my husband and

3121 I who had re-podded with that house over four months
3122 previously.

3123 And I explained all of this to the reporter. And our
3124 normal Thanksgivings are about 30 to 40 people because both
3125 of my daughters are married and we bring in all of their
3126 extended family. There was no one in that household except
3127 for the people who lived there.

3128 And what was really disappointing to me is it came at a
3129 time when it was really important to encourage people to
3130 follow the guidelines that I was following: Masking,
3131 protecting the vulnerable. And to this date no one in my
3132 family including my brother, his disabled child, no one, my
3133 two sons by marriage, no one has gotten COVID because I send
3134 out almost a weekly alert that says this is what we all have
3135 to do.

3136 And so I not only took the guidance seriously, I was
3137 probably over-guidanced because I was on the road in every
3138 hotspot and obviously in the White House where there were
3139 multiple outbreaks and didn't become infected.

3140 And what really hurt me about the article was the
3141 implication that I would put my family at risk, because I
3142 would never put my family at risk. And I knew what the
3143 risks were particularly with a 91-year-old and a 95-year-old
3144 and pregnant daughter.

3145 And the implication that I would do something frivolous

3146 to put my family at risk is just so inexcusable. But it
3147 didn't seem to matter what the truth of the story was. They
3148 wanted the headline and they wanted this piece.

3149 After Thanksgiving, my husband and I, who got married
3150 right before COVID on 9/19/19, together we had been looking
3151 for a beach house that could accommodate both families
3152 because now we are -- I had two daughters. Now I have two
3153 daughters and two sons. So -- I know that's a long story.
3154 But now we have four children and we want all of the
3155 children to be part of one combined family.

3156 But my beach house, it was a tiny townhouse, didn't have
3157 space for everybody. So we had been looking for a home for
3158 a long time where the family could come together. So we
3159 found one in September. It closed in November right before
3160 Thanksgiving. I wasn't at the closing. I mean, I couldn't
3161 do any of these things because I was in the White House and
3162 so I hadn't been to the house. So -- after we bought it.

3163 So the day after Thanksgiving we went down to the house.
3164 Empty house, no one there. We took all of our food. We
3165 didn't meet anyone. You know, it's two-and-a-half hours
3166 away. We didn't meet anyone. We didn't speak to anyone. I
3167 took all of my own food. And we were in this house we had
3168 just bought.

3169 And they made it sound like I got on an airplane or was
3170 out partying and going to -- the implication was so horrific

3171 because it implied to people that a public health -- and
3172 this is the same time when people were doing indoor dining
3173 without masks after telling people to mask. You would have
3174 never -- and I could tell you if the press had found me on
3175 any of the trips unmasked or indoor dining, it would have
3176 been a story, so obviously it didn't happen. I was on the
3177 road for almost 90 days.

3178 So it was just -- what was discouraging is they wrote
3179 the story despite the truth. And I think right before
3180 Christmas it really inhibited my credibility. I was still
3181 doing a lot of local press, I was still going out on the
3182 road, and I think more than anything it really hurt my
3183 family to see that it didn't matter anymore what was true or
3184 untrue. What mattered is the perception that people could
3185 create. And I think it did hurt my public health
3186 credibility.

3187 But I think more importantly, it decreased my ability to
3188 honestly convey what we do and what we do every day to
3189 protect one another. And I think the truth is in that no
3190 one became infected in our family. Which I think -- there's
3191 over 20 of us and I think that's pretty unusual. We were
3192 all over the country and a large number of children plus
3193 older individuals.

3194 But we all had a reason to be careful, because we all
3195 had vulnerable individuals in our families. And I think it

3196 discredits every family that's tried to do the right thing
3197 through very difficult times.

3198 But thank you for bringing it up.

3199 Q Thank you for your response.

3200 Ms. Callen. I just have a few quick questions, too.

3201 BY MS. CALLLEN.

3202 Q Yesterday I mentioned that I worked here at the
3203 committee for several years, so I've been an observer of Dr.
3204 Fauci, and from time to time this committee does hearings on
3205 public health issues. We did one on Ebola, we've done one
3206 on hospital-acquired infections, we did one on H1N1. So
3207 that's going back. I've been here since 2008. I've seen
3208 Dr. Gerberding testify, Dr. Frieden testify, Dr. Fauci,
3209 Dr. Redfield.

3210 And we've sort of alluded to what we talked about CDC
3211 working remotely; we have talked about some of their
3212 guidance and how oftentimes it wasn't practicable for all
3213 the different governors to institute. We haven't talked
3214 about testing. And just if you're okay with it, I'd like to
3215 stipulate that at the beginning, they made some -- I think
3216 they've admitted -- some mistakes in developing the test.

3217 Do you agree with that?

3218 A So, to me, the issue was bigger than the quality
3219 of the test. To me, the issue was who were the tests
3220 designed for?

3221 So these tests were only designed to be executed within
3222 public health laboratories, which would have never supported
3223 a pandemic response. I mean, each state only has one, the
3224 equipment and the way the test was made.

3225 There's very specific equipment that's in public health
3226 laboratories because they don't have to do what we call high
3227 throughput. They're a more low throughput scenario. And to
3228 me, the biggest issue is, and remains, that it was all built
3229 on the assumption that you could track this virus through
3230 symptoms.

3231 And I think it was that assumption that drove kind of
3232 the not disinterest, but the position that they took on
3233 testing. And often the position that they took on testing
3234 throughout a large time point of the pandemic is they really
3235 believed that this virus could be tracked, traced, and
3236 prevented by only tracking those that had symptoms and those
3237 exposed to individuals that had symptoms.

3238 And we know from each of the outbreaks that the symptoms
3239 almost always lagged behind the early increase in test
3240 positivity, because most of the young people who test
3241 positive don't have symptoms and don't show up in emergency
3242 rooms, are at hospitals to get tested.

3243 So I think it was more the supposition that they had
3244 early on. And I think that really begs a larger question:
3245 Why wasn't our pandemic preparedness, even our flu pandemic

3246 preparedness, based on definitive laboratory diagnosis? And
3247 I think that is also a hole in our flu pandemic preparedness
3248 and we should really as a country move towards definitive
3249 laboratory diagnosis and respiratory diseases.

3250 And then I think two things will happen. One, we'll
3251 really know as parents and grandparents when there is virus
3252 circulating, and people then could take additional
3253 precautions if they thought that that was reasonable,
3254 because we still lose a lot of pregnant women and young
3255 children as well as the elderly to flu or their
3256 complications from flu.

3257 And it would also drive new therapeutics, because people
3258 would know that they were positive, and it would have driven
3259 testing innovations so that every doctor's office and every
3260 clinic had the ability to diagnose flu.

3261 So I think it was not just the testing issue. The
3262 testing issue was symptomatic of a larger issue of trying to
3263 track infectious diseases through syndromes rather than in
3264 this world and day of having great laboratory technology to
3265 not definitively diagnose by a laboratory.

3266 So I think, yes, they had trouble with the tests, but it
3267 was more why were the tests only designed for public health
3268 laboratories? Why was the commercial sector never brought
3269 in? Why were there never any meetings with the commercial
3270 sector and the large commercial laboratories and the

3271 diagnostic developers to really spur? Those sequences were
3272 known. They built their own tests on the sequences for
3273 their public health lab, but any of the large laboratories
3274 could have done the same upon request.

3275 Q Thank you. So this is the Committee on
3276 Oversight and Reform. It used to be the Committee on
3277 Oversight and Government Reform. So I think at least on the
3278 Republican side, we would like to have sort of an effect on
3279 reforming government.

3280 So continuing to talk about the CDC, on May 11th Senator
3281 Sue Collins told Dr. Walensky at a hearing, public, and I'm
3282 just quoting from her press release. She said, "I always
3283 considered the CDC to be the gold standard. I don't
3284 anymore. And I want to give you three examples." And she
3285 went through and she talked about teachers' influence on the
3286 guidance as one example, then some information they put out
3287 about transmission, and then some Draconian guidance for
3288 summer camp.

3289 But that is more just to say, like when Senator Collins
3290 said that, I said, oh, my gosh. I feel the same way. And I
3291 am a hyper informed, probably, parent because of where I'm
3292 situated. But I think parents were informing themselves
3293 during that time because their children were affected, their
3294 lives were affected, particularly especially for women. So
3295 many women lost their jobs and/or were thrown into parenting

3296 24/7 which they weren't used to.

3297 And so I just want to ask you, what do you think -- and
3298 I'm not saying she's not doing this. But what do you think
3299 Dr. Walensky should really be focused on? And I think she's
3300 doing this, but would just love your opinion on how we can
3301 better the CDC.

3302 A I think, first and foremost, someone has to be
3303 responsible for the data. And to my mind it's not just
3304 public health data. And I wouldn't divorce public health
3305 data from routine medical data because our country doesn't
3306 work in those two separated instances.

3307 I think the medical data that this country collects,
3308 because that's how hospitals and emergency rooms and
3309 doctor's offices get paid, all of this stuff is coded now.
3310 And so it's not a matter of having access to all the codes
3311 on the EMRs, it's about which selected codes are critical to
3312 protect the country from infectious pandemics. And I'm just
3313 staying with the infectious pandemics. It's a very limited
3314 number of codes.

3315 And I think if you went to hospitals and to the private
3316 sector groups that collect a lot of the EMRs -- but the real
3317 key is the hospitals -- and said would you be willing to
3318 report age band data of these codes without any other
3319 demographics; or potentially, if you have more than 5
3320 percent of the cases in any demographic, you could also

3321 report demographics? You just don't want to report
3322 demographic if there's only one Hispanic individual with
3323 that specific code, because you don't want to be able to
3324 identify the individual. But that's what we do in PEPFAR,
3325 and we collect data on our clients, their outcomes and their
3326 impacts at the most granular level by sex and age, age band.

3327 And so if that was happening, the CDC would have a body
3328 of realtime data in which to analyze. Because part of the
3329 problem that the CDC is up against is their data collection
3330 is so arcane and behind despite investments and
3331 modernization of data, they're still trying to do it through
3332 the public health system rather than getting reporting up
3333 100 percent of the hospitals, emergency rooms, urgent care
3334 of specific codes. And that would have led them with the
3335 ability to really understand this pandemic and also
3336 understand -- you'd have a baseline met. And so you would
3337 be able to see any deviation from the baseline which would
3338 suggest a new emerging infectious disease.

3339 So I think it's not just about where the data is, but
3340 where that data goes and how it gets collected both from the
3341 laboratories and from our clinical sites.

3342 I think there are good analysts found at the CDC that
3343 would be very good about analyzing that data, but it needs
3344 to be concurrent and we need to stop doing small, little
3345 studies of 100 people here or 500 people there.

3346 When we asked the CDC to expand their sequencing in July
3347 of 2020, it was to be ready to understand the development of
3348 variants. And instead, they went to a very limited number
3349 of universities when -- I said do a whole state. We'll give
3350 you the money. We really want to know how these viruses
3351 evolve and how people get infected and where they're getting
3352 infected. And instead of a theory that they got infected at
3353 that camp or a theory that they got infected during a
3354 football game, you would actually see the viruses would be
3355 so similar that you would be able to account for those
3356 individuals at a specific place, which is what has happened
3357 in HIV.

3358 So it's just a matter of bringing them into the 21st
3359 century, of utilizing technical and data tools that have
3360 been available. I'm sure every Starbucks in the country can
3361 tell you who ordered a cappuccino within the last hour. CDC
3362 can't do that, to tell you how many people just got admitted
3363 within the last hour. We have that capacity and we're not
3364 utilizing it, and I think there has to be -- so that's the
3365 one thing, data.

3366 Secondly, the CDC should be held specifically
3367 accountable to outcomes and impact. And so the big public
3368 health problems of the United States should be understood at
3369 the most granular level of age and sex, and they should have
3370 clear goals that they work on with states that are

3371 associated with their state granting money to tackle
3372 obesity, diabetes, hypertension, maternal and child
3373 fatalities, maternal/child mortality, all of those issues at
3374 the state level. And they, in partnership with the state,
3375 should be held accountable so that there can't just be money
3376 dislinked from outcomes and impacts.

3377 I think when you link those together and the county, at
3378 the most granular level, can see this program is having an
3379 impact. If you're only analyzing the data every five years,
3380 you never can tell if that program that was funded way back
3381 there but stopped three years ago had an impact or not.

3382 So you need continuous data on these core public health
3383 issues, and then you need to see if the solutions that
3384 you're working on with the state are having an impact or
3385 not.

3386 We learned from PEPFAR there's a lot of things that we
3387 did that in our minds we thought were impactful, but when we
3388 analyzed the data, it was nice to have, not needed.

3389 And so the reason we were able to go from 7 million
3390 people on treatment in 2014 to 18 million people on
3391 treatment in 2021 without any increase in budget was because
3392 we moved to those things that were required for outcomes and
3393 impact, and held ourselves and the governments of the
3394 countries and the communities where we worked accountable
3395 for the results and the outcomes and the impacts that we

3396 saw.

3397 So I know it can be done because we've done it in over
3398 50 countries, and so it should be able to be done with 50
3399 states. And so I think it's about data, but it's more than
3400 that. It's about money linked to accountability,
3401 transparency, and holding ourselves as an institution. If
3402 we're going to be the public health institution of the
3403 United States, we have to hold ourselves to improvement of
3404 the health of the United States, not the deterioration of
3405 the health of the United States. And now that we know the
3406 linkage between comorbidities and severity of disease, we
3407 know now that there is an imperative to hold CDC accountable
3408 to address these underlying issues.

3409 And I know they're big, but if you don't start tackling
3410 them, you won't find what really works. And I know people
3411 said to us all the time, you can't control the HIV/AIDS
3412 pandemic in Sub-Saharan Africa without a vaccine, and we
3413 did. And we did because that was our goal. So you've got
3414 to have goals, you have to have objectives, and you have to
3415 hold yourself accountability.

3416 So that's what I hope comes out of this, because there
3417 are very smart and good people at the CDC. But they've
3418 become very attached to their computer, they don't stay out
3419 in the field to really look at programs and ensure program
3420 improvement. I mean, imagine if we didn't spend all of our

3421 waking hours in Sub-Saharan Africa when that was our program
3422 and I sat here in Washington and just kind of looked at my
3423 computer and said, oh, this is what I think is happening.
3424 That isn't reality, because every situation is a little bit
3425 different.

3426 So I don't mean to be longwinded but I'm passionate
3427 about this. There are good people there, but they have to
3428 be brought into the 21st century but they also have to be
3429 held to accountability. The Congress held PEPFAR to very
3430 specific results. CDC needs to be held to very specific
3431 results and improvement in these significant health
3432 conditions that this country faces.

3433 Q Thank you. Have you had the opportunity to
3434 share those thoughts with Dr. Walensky?

3435 A No, she's never -- I don't reach out. I mean, I
3436 figure if they're interested in what my opinion is, they
3437 will ask. She hasn't ever asked.

3438 I think there were some Senators and Congressmen who
3439 asked me. I was in a period between January 19th and when I
3440 left federal government on the 8th of March that I made
3441 myself available to Congress. And so I did present
3442 information very similar to that to the Members who called
3443 me.

3444 Q Well, thank you. We appreciate you sharing with
3445 us today.

3446 Ms. Callen. I think that's all I have.

3447 Mr. Rechter. Thank you. We can go off the record.

3448 (Recess.)

3449 Mr. Rechter. Back on the record. I just have some very
3450 brief follow-up questions and then I'm getting the hook.

3451 BY MR. RECHTER.

3452 Q I'll direct you to Exhibit 24, which we have
3453 looked at during our last conversation. Let me know when
3454 you're there.

3455 A Okay, yes.

3456 Q This is the email on August 24th from the staff
3457 secretary to you and others in the EOP. And the staff
3458 secretary noted that the draft remarks were for the
3459 President's Wednesday meeting with medical experts, and this
3460 was sent on Monday, August 24th. So the implication there
3461 being there was a meeting on Wednesday, August 26.

3462 You had mentioned you weren't sure if there were two
3463 roundtables, maybe that one on October 5th with Secretary
3464 Azar was the result of this conversation. I'm going to
3465 distribute now the pool reports from August 26, 2020.

3466 A I notice they did hold the roundtable.

3467 (Exhibit No. 27 was identified for
3468 the record.)

3469 BY MR. RECHTER.

3470 Q While those are being passed around, Dr. Birx,

3471 these are the press pool reports from Wednesday, August
3472 26th, 2020, that document, the President's schedule and his
3473 actions on that day.

3474 If you turn to the second page there is an input for
3475 August 26th, 2020 at 10:39. And the pool reporter writes,
3476 "POTUS has no public events on his schedule today. He meets
3477 with medical professionals in the Oval Office at 3 p.m. to
3478 discuss COVID, but that meeting is closed press."

3479 Does that sound like the meeting that was contemplated
3480 in Exhibit 24?

3481 A Could have been, but I'm thrilled it was closed
3482 press.

3483 Q So does this sounds like the meeting that day?

3484 A Could have been, yes.

3485 Q You have no reason to doubt that?

3486 A I have no reason to doubt that.

3487 Q That's fine. Thank you so much.

3488 BY MR. DIAZ.

3489 Q Let me introduce myself first, Dr. Birx. My
3490 name is Diego Diaz, I'm also Majority counsel.

3491 I think I want to take us back to May of 2020 around
3492 Memorial Day, and continue on the topic of the CDC and some
3493 guidance that came out around that time specifically having
3494 to do with faith communities and houses of worship.

3495 And turning your attention, well, first generally to the

3496 data and the science around outbreaks amongst faith
3497 communities. Can you tell us a little bit about what was
3498 known then?

3499 A Well, the original -- one of the original
3500 spreading events that had been tracked was a choir in
3501 Washington state at a rehearsal. I think one person ended
3502 up infecting, I don't know, 10 or 12 other choir members.
3503 And I think from that time on, I think all of us knew that
3504 any indoor gathering without masking was going to be
3505 potentially a spreading event. And I think certainly
3506 churches fell into that category.

3507 At that moment, I think during the 15 days to slow the
3508 spread and then the 30 days to slow the spread, all of us
3509 were assuming that those institutions were shuttered, so it
3510 was more about reopening and reopening safely and what that
3511 looked like. And I think -- I thought CDC put out pretty
3512 specific guidance about physical distancing, masking, if the
3513 churches were to reopen.

3514 Q Did you work on the guidance that was specific
3515 for this type of setting?

3516 A No.

3517 Q Okay.

3518 A I don't think so.

3519 Q Okay. I actually want to turn back to a
3520 document that we looked at yesterday, and it was Exhibit 12.

3521 And it's an email that was sent --

3522 A The one where I said I wasn't interested in --

3523 Q The one that sort of reminded you about the OIRA
3524 folks.

3525 A Oh, yeah.

3526 Q So it's an email that ends in Bates number --

3527 A With Nancy Beck.

3528 Q Yes, exactly. So looking at this email and you
3529 were copied, it mentions in the second sentence that these
3530 drafts are the product of the agency resolution processes
3531 held over the weekend with the exception of the faith-based
3532 guidance. I'm circulating the EOP preferred version of that
3533 guidance with which CDC has maintained disagreement.

3534 Were you generally aware of disagreement between the
3535 EOP, I guess the Executive Office the President, and the CDC
3536 about this particular guidance?

3537 A I would -- I think this was during the opening
3538 up America, the bullet guidance that had to then be followed
3539 with full CDC guidance. And there was a division of labor,
3540 and this, all of these guidances were under Bob, Kellyanne
3541 Conway, Joe Grogan. So I was not an active participation in
3542 their guidance. I was working on the gating criteria and
3543 the guidance, and the testing and surveillance criteria.

3544 Q Did they seek out your advice on this particular
3545 guidance at that time?

3546 A I wasn't so engaged in this, because Olivia
3547 Troye was the Office of the Vice President's liaison with
3548 the agencies on this type of guidance. And, frankly, this
3549 whole OMB review process, I didn't understand. I wasn't
3550 part of that process. So I just assumed that they were
3551 following their regular processes, and to this day, I can't
3552 remember what the disagreement was on the faith-based
3553 guidance.

3554 Q Okay. Turning your attention to the press
3555 conference on Friday, May 22nd, and that was --

3556 A Is that HHS?

3557 Q No. It was task force.

3558 A Where were we, though?

3559 Q I think you were in the White House and you
3560 presented some data, you talked about activities to do
3561 Memorial Day, playing golf, playing tennis with marked
3562 balls; do you remember?

3563 A Yes, I remember. Outdoor activities, yes.

3564 Q So President Trump began that press conference
3565 on May 22nd and he said, "At my direction, the Centers for
3566 Disease Control and Prevention is issuing guidance for
3567 communities of faith." And he thanked Dr. Redfield and all
3568 of the others who've worked on it for what seems like a long
3569 period of time. And he identified houses of worship as
3570 essential places that provide essential services, and he

3571 said, "I call upon governors to allow churches and places of
3572 worship to open right now. If they have any question, they
3573 will have to call me, but they are not going to be
3574 successful in that call."

3575 And then he went on to say that if the governors don't
3576 do it, he will override the governors.

3577 Do you remember this?

3578 A Vaguely.

3579 Q Okay. You were asked at that press conference,
3580 and I'll read it back to you, specifically about this
3581 guidance and sort of the disconnect between what the
3582 President was saying and orders from governors in place at
3583 that time.

3584 And in response to a question, you said that the leaders
3585 in the faith communities should be in touch with their local
3586 health department so they can communicate with their
3587 congregants. And you said ensuring that their congregants
3588 are safe, maybe those with comorbidities shouldn't go this
3589 week if there's a heightened number of COVID cases.

3590 Do you remember that?

3591 A Yes.

3592 Q Okay. Now, was it your recommendation that
3593 these houses of worship should open immediately as the
3594 President announced that day?

3595 A Well, you know that I had put out the gating

3596 criteria in opening up America again safely, and so there
3597 was clear criteria. So if you weren't essentially in the
3598 green zone -- what has now become known as the green zone or
3599 light green zone, we did not recommend opening of any place
3600 where you couldn't be masked.

3601 And so it really relied on those critical mitigation
3602 precautions that CDC had put out about six feet of distance,
3603 uniform masking at all times indoors. And so if those
3604 aren't followed, people would be at risk.

3605 Q And based on what was known, that Washington
3606 state report in the settings of churches, what were the
3607 risks sort of identified by the CDC up until that point?

3608 A CDC felt very strongly about singing because of
3609 that -- I mean, that was the Washington state piece. And I
3610 think -- as long as I remember, they talked specifically
3611 about no unmasking and no unmasked singing.

3612 Q Now, I want us to look at the guidance that was
3613 posted on the CDC's website that day. And that will be
3614 Exhibit 28 and Exhibit 29, and it's a document entitled
3615 Interim Guidance for Communities of Faith.

3616 (Exhibit Nos. 28 and 29 were
3617 identified for the record.)

3618 The Witness. Are there two?

3619 BY MR. DIAZ.

3620 Q Yes, there are two. And just to point

3621 everyone's attention, let's look on the second page of each
3622 under the heading Promote Social Distancing.

3623 So I learned from our interview yesterday that I should
3624 look closely at the bullets in these documents. And under
3625 promote social distancing, so as has been reported, on that
3626 Friday, the day of the press conference, the version of this
3627 guidance that has eight bullet points under promote social
3628 distancing was published on the CDC website. And then
3629 later, the following day, that version was taken down in
3630 favor of this other version that has only five bullet points
3631 under promote social distancing.

3632 Do you have any recollection of this sequence of events?

3633 A No.

3634 Q Okay. Looking at the substance of these two
3635 lists and the bullet points, I'm wondering if you
3636 could -- and I'll just highlight a few of them and talk
3637 about sort of what the messaging was out to the governors at
3638 that point and how these particular points were important in
3639 terms of their mitigation strategies.

3640 So now we're looking under promote social distancing;
3641 the second bullet was shortened from one version to the
3642 other that begins with promote social distancing at
3643 services. And the second sentence was removed from one
3644 version to the next that reads, "This may include
3645 eliminating lines or queues, if a 6-foot distance between

3646 attendees is hard to ensure. Use of cloth face coverings
3647 should be encouraged when social distancing cannot be
3648 maintained."

3649 So that sentence was removed from the second bullet.

3650 And then going down to the fourth bullet here, the use
3651 of cloth face coverings -- sorry, the sixth bullet, that's
3652 been removed as well, and the reference to, "Use of cloth
3653 face coverings should be encouraged when social distancing
3654 cannot be maintained," removed as well.

3655 Moving down to the longer list in the second-to-last
3656 bullet, it says, "Consider suspending or at least decreasing
3657 use a choir/musical ensembles and congregant singing,
3658 chanting, or reciting during services or other programming,
3659 if appropriate within the faith tradition. The act of
3660 singing may contribute to transmission of COVID-19, possibly
3661 through emission of aerosols."

3662 So based on the data and the science, was this an
3663 important message to get out to houses of worship at that
3664 time?

3665 A I would have agreed with the original document.
3666 And I don't know -- I mean, I don't know the decisions that
3667 went into it and maybe they think that first heading of
3668 cloth face coverings highlighted the importance when you say
3669 they removed it. Because it's also at the top as an
3670 independent stand-alone.

3671 So this one was taken down and this one was put up.

3672 Q That's right, over the course of the Memorial
3673 Day weekend.

3674 A So do you know why one was taken down and one
3675 was put up?

3676 Q It's been reported that senior officials in the
3677 White House reached out to Director Redfield, specifically
3678 Kellyanne Conway called him over the weekend and then asked
3679 him to put in the administration's changes.

3680 A Because this didn't come to task force. So
3681 these are individuals that must have acted as individual
3682 senior advisers, if that's what Dr. Redfield reports. I
3683 mean, I can tell you this didn't come to task force for a
3684 discussion of addition or removal.

3685 Q Had these changes come to task force, what would
3686 have been your position?

3687 A There would have been a discussion about
3688 singing, because I think that in my mind, that's what I
3689 remember as the most controversial piece of whether cloth
3690 masks were adequate. And again, cloth masks should have
3691 been studied, and cloth masks should have been studied under
3692 singing, shouting, breathing, to make sure that they were as
3693 effective in catching droplets under each of those
3694 categories. And that could have been done. That study
3695 ended up not being done until the end of October.

3696 But I think that is the core scientific question of
3697 this, is what evidence did we have and did we have evidence
3698 about the efficacy of cloth masks in general, but during
3699 these activities in specifics.

3700 And did then the school guidance also then encourage
3701 schools not to have singing?

3702 Q We'll get to that.

3703 A Okay.

3704 Q The school guidance.

3705 A I just like to have consistency. When I go out
3706 into the communities, that was the question, the fundamental
3707 question that I kept getting from community members is how
3708 could cloth masks only protect one direction?

3709 And so this was very confusing to people when I went out
3710 on the road trip. Now, I haven't gone out on the road trip
3711 and the governors' reports didn't exist when this guidance
3712 went out. But that was the number one question because it's
3713 the same pieces of cloth. So how can a piece of cloth
3714 protect droplets from going out and then not protect
3715 droplets from coming in?

3716 And I think that -- and that was very difficult then for
3717 me to explain that it hadn't been studied either way, but we
3718 made the assumption that it only worked one way. And I
3719 think this is what often leads to confusion in the public,
3720 is not having definitive answers that don't make common

3721 sense. Because there's no way a mask only works one
3722 direction if it's cloth.

3723 Now, these are specially made with special layers that
3724 they are definitive in what is trapped at what layer. But
3725 with cloth masks, the front cloth is often identical to the
3726 back cloth and so people just couldn't understand that.

3727 Mr. Trout. When you refer to these, you're referring to
3728 the KN95?

3729 The Witness. Yes, I'm referring to the KN95 that we
3730 have on our faces.

3731 BY MR. DIAZ.

3732 Q Looking at the course of the evolution of this
3733 document over the course of a day, do you think this
3734 sequence of events led to public confusion about how to
3735 safely congregate in these settings?

3736 A I think the number of guidelines that were put
3737 up for special activities rather than just having one,
3738 because really a space is a space. And so my position has
3739 always been, why aren't we just saying in indoor spaces this
3740 is what you need to do, rather than schools are different
3741 from churches are different from community halls?

3742 I just think it's very confusing to people to think that
3743 a space determines your mitigation rather than humans in the
3744 space determine your mitigation. And so we should have
3745 consistency across all of the spaces. And that's why I

3746 asked you about schools, because this -- this is frankly why
3747 we started writing the governors' report, because governors
3748 would get this and they would obviously -- people would go
3749 to the website, I'm sure, and read the isolated reference.

3750 So there would be parents reading the school guidance
3751 and camp guidance, and there would be congregants reading
3752 the church guidance. And sometimes those overlapped, and
3753 then people didn't understand why guidances were different
3754 based on spaces rather than consistent guidance for any
3755 indoor space.

3756 Q The sort of edits that you see here, were they
3757 similar to what you were dealing with with your governors'
3758 reports, sort of the removal of references to cloth face
3759 coverings, the removal of other guidance?

3760 A I think the South Dakota piece we went through
3761 yesterday sort of illustrates the evolution and what we did
3762 to ensure the presence of those guidance despite potentially
3763 others telling us to remove those lines. And so when you
3764 see lines removed, but you see them in a different context
3765 in a later governors' report, you can tell them what lines
3766 were removed and then what lines we figured out how to get
3767 back into the report.

3768 Q The specific point on singing and choirs, when
3769 you were out visiting the states, did you meet with faith
3770 leaders?

3771 A I did meet with faith leaders, but this did not
3772 come up. They didn't have questions about -- I mean, when I
3773 say to the state we need to have a statewide mask mandate,
3774 it's sort of -- it takes all of that down to the same level,
3775 that everybody should be masked.

3776 Q The coverage of this particular change, the news
3777 coverage in terms of the reaction that CDC has been widely
3778 reported, Dr. Butler at CDC, according to a report from
3779 ProPublica that came out in October of 2020, said -- he
3780 wrote in an email to colleagues, "I'm very troubled on this
3781 Sunday morning that there will be people who will get sick
3782 and perhaps die because of what we were forced to do."

3783 Do you agree with that sentiment expressed by
3784 Dr. Butler?

3785 A I believe that any time you modify public health
3786 guidance to not provide consistent, easy-to-follow
3787 information that people can follow through the different
3788 institutions where they interact, so that they know that
3789 there's consistency and the public health message is
3790 consistent leads to confusion and lack of ability to follow
3791 direct public health guidance; because there shouldn't be
3792 one guidance for schools that's different from guidance of
3793 churches, because we all know churches often function in an
3794 equivalent way to schools because they have Sunday school.
3795 So very much they're a similar setup to our schools.

3796 I just think consistency and guidance -- and simple
3797 guidance. I still think both of these are complicated, and
3798 I would have just said you need to maintain six-foot
3799 physical distancing and masking at all times. And then it's
3800 just clear without caveats and other instances. But that's
3801 just my opinion based on trying to translate complicated
3802 guidance into straightforward implementation.

3803 Q And what's your personal opinion on others
3804 without scientific training editing, removing pieces of
3805 guidance like this?

3806 A I don't know who edited this because I wasn't
3807 involved in those discussions. I think very often people
3808 reported -- I mean, I'm just -- from what I saw, I would see
3809 reports that the White House altered the guidance and I can
3810 tell you I didn't alter the guidance. And I think that
3811 sometimes it was HHS that potentially altered the guidance.

3812 I don't know, and maybe from the CDC's perspective they
3813 don't know, who was changing their guidance and what words
3814 were changed. I have no recollection -- I have no
3815 understanding of that OIRA process and who was on that
3816 process and what guidance the CDC and changes they received
3817 out of that process, because that was parallel to the task
3818 force.

3819 Q Sitting here today, when you see this, these two
3820 versions, do you have an opinion as to who should be doing

3821 this type of work and editing these types of documents that
3822 go out to the public and the public relies on?

3823 A I understand where you're going, and I'm going
3824 to make a very important point, that I think is very
3825 important.

3826 Yes, I believe the CDC agency is trusted with public
3827 health and public health guidance for this country. But
3828 when you're entrusted with something that critical, you also
3829 have to do the hard work of getting the data in real time
3830 that allows you to make critically informed science and
3831 data-driven decisions. And the fact that this kept going
3832 out with these recommendations that cloth masks -- I think
3833 it's in here -- are meant to protect people in case the
3834 wearer is unknowingly infected and does not have symptoms,
3835 that is not a complete public health recommendation.

3836 And I think if you're going to be making
3837 recommendations, you need to do the time and the effort to
3838 get the science about something like cloth masks, about
3839 something about six feet, about aerosols versus droplets.
3840 And I think the lack of investigation into those core
3841 elements, while I was running around getting data from
3842 everywhere in the country to try to understand what this
3843 pandemic was doing, it was CDC's job to make sure when they
3844 were making recommendations that they took the time to get
3845 the evidence base that supported that.

3846 Doing experiments on cloth masks would have been very
3847 easy and could have been done within 24 hours. And so when
3848 you have that responsibility as a public health institution,
3849 you also need to do the hard work to make sure that your
3850 guidance is not opinion, but grounded in science.

3851 Now, I believe cloth masks worked. I believe that CDC
3852 should have proven that they worked and that would have been
3853 the number one bullet. And I think then there would have
3854 been a lot less confusion from the beginning about cloth
3855 masks, because this constant difficulty of removal and
3856 adding cloth masks here and there, and the conceptual
3857 framework that it could only effect your droplets one way,
3858 not breathing in but only breathing out, led to confusion,
3859 and we could have had that answer very quickly.

3860 Also, really understanding how much was really surface
3861 transmission versus aerosol, and did we miss the aerosol
3862 component of the transmission, instead move right to surface
3863 transmission which may have had a very small role?

3864 If we don't know, we should say at the very front of the
3865 guidance: We don't have data on these specific areas and
3866 we're making these recommendations; and as we get the data,
3867 we will modify the recommendations based on information.
3868 And I think if you're going to say you're science and
3869 data-driven, you've got to take the time to get the science
3870 and data to prove your point.

3871 It is difficult, and I worked very hard to get the data
3872 that proved the point that I had about asymptomatic spread
3873 and how it starts in younger people with test positivity.
3874 That's hard work. And I think as an institution, CDC has
3875 both the capacity and the scientific ability to ask and
3876 answer these critical questions that really, frankly, have
3877 hounded us throughout the pandemic.

3878 The fact that I got the first evidence of the efficacy
3879 of cloth masks the end of October of 2020 based on a
3880 Japanese study, that to me has been unacceptable, and I
3881 think we have to be very clear that our public health agency
3882 needs to both provide guidance, but also do the hard work of
3883 proving that guidance to have an outcome and an impact,
3884 rather than just a suggestion. And I think that is
3885 different and I think they're capable of that.

3886 Q On this topic, another document that has gotten
3887 a lot of attention had to do with reopening the schools and
3888 released in July. Do you know what I'm talking about?

3889 A I saw so many different copies of school
3890 guidance, I don't know which one eventually got posted. I
3891 didn't edit it. I did ask for them to include a mental
3892 health component that SAMHSA had worked on so it could be
3893 consolidated HHS guidance.

3894 Q I'm going to have my colleague distribute two
3895 exhibits. One is a New York Times article from September

3896 28th, 2020, the other is a CDC document entitled The
3897 Importance of Reopening Schools this Fall.

3898 (Exhibit Nos. 30 and 31 were
3899 identified for the record.)

3900 Mr. Diaz. The guidance itself can be 30 and the article
3901 can be 31.

3902 BY MR. DIAZ.

3903 Q Starting with The New York Times report, The New
3904 York Times released portions of an email that you sent to
3905 Director Redfield, and they're included here after the text
3906 of the article.

3907 A What did it say that I did?

3908 Q The email attached to the end of the article is
3909 from July 19, 2020. It's from you to Director Redfield.
3910 And it says, "Bob, I think somewhere and perhaps in the
3911 consideration for parents the SAMHSA and Child Development
3912 (NIH) document be included as" -- I guess should be
3913 included, maybe -- "as background in the introduction
3914 section. I have pasted this together and hoping you can
3915 have your team review for full consideration. Deb."

3916 A Correct.

3917 Q Can you tell us a little bit about what went
3918 into the development of this guidance in July?

3919 A So you notice I'm not speaking to the guidance
3920 itself. The task -- the SAMHSA, head of SAMHSA, came to the

3921 task force sometime in July and presented data on high
3922 school and middle schoolers' mental health difficulties as
3923 registered by calls to suicide lines and visits to emergency
3924 rooms, and presented data for parents' consideration that
3925 when they're considering whether to be virtually or in
3926 school, that they should consider and work with their
3927 pediatrician about what to look for as far as mental health
3928 issues.

3929 So the introduction only said those elements so that
3930 parents, when they read this, would be alerted to potential
3931 mental health pieces of both not being or being in school,
3932 particularly with being having been out since March, and
3933 really understanding that a child has both the educational
3934 environment but also the mental health environment.

3935 I thought that she made an incredibly compelling case
3936 and she had done a lot of science and evidence, and I asked
3937 Bob to take it to have -- CDC has an excellent child and
3938 adolescent health group, and I took all of that information
3939 and sent it to Bob and said at least have your agency look
3940 at it because we should have the consideration of the whole
3941 child. And this should play into parents' decisions about
3942 mental health awareness of their child.

3943 So it was based on the science and evidence that
3944 SAMHSA -- SAMHSA is not a well-known agency. They are at
3945 the tip of the spear for our opioid problem in this United

3946 States, so I think that's a little dismissive of The New
3947 York Times.

3948 That said, what CDC should care about is the whole
3949 child. And since they were the only ones writing on the
3950 whole child, I thought this was an excellent opportunity,
3951 since we didn't have another one, to really alert parents to
3952 the mental health conditions of their children and what to
3953 look for. It was not about being in school or out of
3954 school; it was about a consideration that a child is more
3955 than what was occurring in a book in a classroom. And I
3956 wanted parents aware of that.

3957 So I see how they have made this sound. But my sole
3958 interest in this was this was our opportunity to alert
3959 parents to the fact that some children were struggling with
3960 mental health issues, and they should be considering that as
3961 well as the return to school.

3962 And you can see it says put it in the introduction, but
3963 more importantly, have your staff look at the science and
3964 data that SAMHSA has provided.

3965 I am hoping that, as a federal government, that we are
3966 willing to look at other agencies' science and data. I
3967 think if we are coming to a place where we say, oh, it's
3968 SAMHSA whose job it is to be worried about mental health and
3969 substance abuse, that we are discounting their role in the
3970 development of school-based guidance for which CDC had the

3971 responsibility.

3972 So yes, I told them to look at it. I didn't want it to
3973 be part of the guidance. I just wanted it as part of the
3974 introduction so that parents would realize there can be
3975 mental health consequences to what happened in March, April,
3976 and May. And I see how it's written -- I don't read any of
3977 this stuff because I found it so demoralizing, to be frank,
3978 that I didn't read social media or newspapers because it
3979 angered me that people inferred the intention, was in
3980 somehow I was doing something that would undermine the
3981 public health of the nation when what I was trying to do is
3982 ensure that CDC took a comprehensive, whole-of-child
3983 response.

3984 And the fact that we even bring this up -- you should be
3985 asking me, why didn't CDC want to take a whole-of-child
3986 response and include any concerns about mental health? I
3987 mean, what have we become that we have -- we make the
3988 assumption that somebody is doing something evil and trying
3989 to hurt a child or expose them to COVID, versus having the
3990 parents, in the introduction, understand that their child
3991 may be at risk for mental health issues?

3992 That was what SAMHSA wanted in the guidelines. They
3993 wrote to me and said: I'm being ignored by the CDC. Can
3994 you get this information to them? And I said yes.

3995 Q Taking a look at this -- and this document

3996 the --

3997 A And you can see it's not here.

3998 Q Yes. And --

3999 A And so you should be asking the CDC, why isn't
4000 the whole of child and the mental health of our children
4001 represented at the same time that we're worried about
4002 infectious disease? I was worried about both. And why
4003 would it have hurt CDC to approach this from the whole of
4004 the child?

4005 I didn't tell Bob to make any other changes to his
4006 school guidance. I'm not -- that's not my job. That was
4007 where Olivia Troye was and she worked with CDC on guidance.
4008 My job was response and coordinating the response. And I
4009 thought it was in the best interest of America's children
4010 for them to at least look at the data that SAMHSA had put
4011 together on the increased calls, the increased anxiety, the
4012 increased suicidal ideation that was occurring across the
4013 country.

4014 Now, maybe from The New York Times' perspective it made
4015 a better headline to talk about how someone in the White
4016 House was asking to change guidance. No, I asked them to
4017 put something in the introduction about the whole of
4018 American children. I stand by that today.

4019 I am disgusted about how it was written with the
4020 implication that I somehow was buying into some other part

4021 of this guidance. And if people read it carefully, they
4022 would see that I only wanted CDC to include the whole of the
4023 child. And I am disappointed -- of course I didn't look for
4024 the guidance. I am disappointed that they chose not to
4025 include the excellent information that SAMHSA had acquired,
4026 because they had not put together the risk to American's
4027 children and their mental health. SAMHSA had. I thought
4028 they could benefit from looking at the science and data.

4029 Q Just quickly, you mentioned Olivia Troye as sort
4030 of handling -- being the liaison. She's quoted in that
4031 article. She said she was repeatedly asked to get the CDC
4032 to produce more reports and charts showing a decline in
4033 coronavirus cases among young people.

4034 She says she regretted being complicit in this effort,
4035 and she was appalled that Marc Short was tasking junior
4036 staff in the Office of the Vice President to develop charts
4037 for White House briefings.

4038 I'm wondering about some of the other -- beyond sort of
4039 your suggestion to look at that data involving the whole of
4040 the child. Beyond that, there are other points in this
4041 guidance piece that I just want to ask you about.

4042 Quickly, on the first page under the heading COVID-19 in
4043 Children, there's several comparisons here to the flu. And
4044 the article -- the guidance sort of gives the impression
4045 that the flu would be more harmful to children in terms of

4046 deaths than COVID-19.

4047 Was that your understanding of the science at that time?

4048 A So, let me be very clear about this part of the
4049 COVID-19 in children. As you remember from earlier today, I
4050 did have discussions with the CDC, with their position that
4051 children had a lower infection rate and a lower transmission
4052 rate. Literally I wrote to them and said, "Is it because
4053 they're shorter?" It didn't make any sense to me, and it
4054 doesn't make any sense to me today, and now they realize
4055 that it doesn't make sense.

4056 But this section about the risk being low to children,
4057 that came out of the CDC and their data. I had nothing to
4058 do with writing this because I wouldn't have written it this
4059 way.

4060 But secondly, I was so concerned about the children in
4061 schools that obviously in the governor's recommendation, we
4062 said it's very difficult. And I got asked this all the time
4063 when I was on the road and said very clearly, I don't know
4064 how you're going to open schools when your county is in the
4065 red zone. Because there's too much -- red zone means
4066 community transmission is widespread. Children will bring
4067 it into the school. Even if it's not in the school, it will
4068 come into the school through the community just like a
4069 nursing home.

4070 But secondly, in a task force and then in a daily

4071 report, I got the MMWR from CDC about the Georgia camp, and
4072 I immediately sent that to everyone in the White House so
4073 that they understood that pediatric and child transmission
4074 was occurring. That camp study couldn't have been only the
4075 camp counselor did all the transmission. I mean, I don't
4076 think -- it was like 88 kids at that Georgia camp became
4077 COVID positive.

4078 So I did not believe -- yes, the children got less sick.
4079 But I didn't know about the long-term consequences, we were
4080 just learning about the multisystem complex. It was CDC
4081 putting forward the data to us that the infection rates were
4082 lower in children. And, frankly, they believed that the
4083 children weren't transmitting the virus as much as adults.

4084 Q Was that something -- in terms of when you
4085 shared that MMWR and the data on infections among children,
4086 how was that received on the task force and in the White
4087 House?

4088 Mr. Trout. Don't get into specific conversations.

4089 The Witness. I used it as my way of providing science
4090 that showed that children were actively involved in
4091 transmission. And I didn't want parents to believe that if
4092 there was an infected child in their classroom and they were
4093 unmasked, that somehow because they were under 10 that the
4094 virus couldn't make it into their noses. I mean, I think
4095 the camp study clearly shows that it can.

4096 And I not only wanted the White House to know, but I
4097 wanted the task force, including Bob Redfield, to be
4098 aware -- I mean, it was his data -- to understand that these
4099 spreading events could happen in school if there was high
4100 community spread already.

4101 BY MR. DIAZ.

4102 Q I'll move on from this particular guidance.

4103 The New York Times reported in October that the White
4104 House had blocked an order drafted by the CDC in September
4105 of 2020 requiring all passengers and employees to wear masks
4106 on all forms of public and commercial transportation,
4107 including planes, trains, buses, subways, and transit hubs.

4108 Were you aware that the CDC had drafted that order?

4109 A I think at one of the task forces Bob was on the
4110 schedule to present that, and I don't think he ever
4111 presented it. I think it was scheduled to be presented. So
4112 I don't know. I never saw the order that I recollect.

4113 Q Do you know why he didn't present it?

4114 A I don't.

4115 Q Okay. What were your -- looking back now,
4116 knowing what you know about how --

4117 A It's not what I know. It's what was in every
4118 governor's report.

4119 Q Sure. What was in every governor's report and
4120 what your data showed.

4121 A Yes.

4122 Q Would this have been an important piece of
4123 mitigation, this order that sort of people on public
4124 conveyances should wear masks or had to wear masks?

4125 A You know, I think it would have helped. I think
4126 there was obviously much more exposure in retail, and that's
4127 why I really wanted statewide mask mandates. Not because so
4128 much I needed it to be statewide, but what happened -- when
4129 you write a statewide mask mandate -- and I know this from
4130 being on the road -- when people remind you constantly,
4131 because you forget. I mean, it's a big behavioral change
4132 for us and it was a big behavioral change for me.

4133 And so when I would get to the door of a gas station and
4134 it had the mask picture and said masks are required, it
4135 reminded me. And that continual reminding was what made it
4136 possible for me, I believe, to stay uninfected while in the
4137 field, because you get tired, you forget.

4138 And so I think any time that you can mandate masks,
4139 whether it's conveyance, whether it's a train, whether it's
4140 a plane, whether it's a state, whether it's a gas station,
4141 all of that helps because it's consistent. And it reminds
4142 people that virus is circulating in their area and people
4143 need to take extra precautions.

4144 I think you know my position on mask and mask
4145 management.

4146 Q Did you ever discuss that order with Director
4147 Redfield?

4148 A I don't think so.

4149 Q Was it discussed amongst anyone else on the task
4150 force?

4151 A I think because I was writing for statewide mask
4152 mandates everyone knew my position and how strongly I
4153 supported masks.

4154 Q And did you have any role in the guidance that
4155 came from the CDC on restaurants and bars?

4156 A I don't think I saw it, but I wrote to
4157 restaurants and bars and talked about closing them and
4158 decreasing their occupancy to 25 percent. But I don't know
4159 that specific guidance. Does it say that?

4160 Q It says a number of things, but it's okay. In
4161 the interest of time, we don't have to go through it.

4162 Mr. Diaz. I think that's all I have.

4163 Ms. Gaspar. I'll follow up with you in the last few
4164 minutes of this hour.

4165 BY MS. GASPAR.

4166 Q What was your role in -- or did you have any
4167 role, in reviewing CDC scientific reports, specifically the
4168 morbidity and mortality weekly report?

4169 A So early on I asked them to -- I believed that
4170 the MMWR was a key way to get out the critical science and

4171 data, and I wanted to make sure that they weren't interfered
4172 with. So I said to just send them to me and then you can
4173 say that the White House cleared them. And that worked I
4174 think almost through sometime in the summer, and I don't
4175 know when HHS started to engage in the MMWR.

4176 My comments to the MMWR were science and technical
4177 based. Sometimes I got frustrated with them when they were
4178 presenting data from April and now it was August. I asked
4179 them to turn around their data more quickly.

4180 It's a little bit like the Marin County School piece,
4181 that recent MMWR. I mean, that would have been critical
4182 data for the south when they were considering their mask
4183 mandates and reopening. I think it's a very critical MMWR.
4184 They had all the data in May. They published it the end of
4185 August. The end of August meant every school across the
4186 south was already in.

4187 So those were the kinds of comments. If they would have
4188 sent that to me, I would have said why didn't you publish
4189 this June 1st? I mean, we have to turn these things around.
4190 If you have the data, it doesn't have to be perfect. Get
4191 the information out so parents and school boards can make
4192 decisions.

4193 And so there were several MMWRs like that and there were
4194 some that the -- I kept saying to them why do we only have
4195 189 people that you're doing the analysis on? And they

4196 would say, well, that's the only number that they had the
4197 complete data on. So I was occasionally frustrated by their
4198 numbers and I wanted them to be bigger.

4199 Q You said you wanted to make sure they weren't
4200 being interfered with. What made you concerned that they
4201 were being interfered with?

4202 A No, I just wanted to make sure they weren't and
4203 I wanted to get them out quicker. So that's what I told Bob
4204 to do, to just send them to me and they could consider my
4205 approval as the sole approval that they needed.

4206 Q But when you say "interfered," are you referring
4207 to review by individuals at HHS?

4208 A At that time, I was getting the sense for what
4209 you're picking up on that guidance or other things were
4210 being changed. But not that -- when -- Olivia, I think, is
4211 very clear in this, it was junior staff within the OVP
4212 office, but I don't see that. That happens outside. I
4213 mean, we're one person, so it's not like I had a staff
4214 looking for these things.

4215 So when I had the sense that something like that could
4216 happen, I wanted to make sure that the MMWRs got out quickly
4217 and were helpful to the country, because I think that was a
4218 vehicle to get out. It doesn't have to be complete science,
4219 but it could be the science that justifies their guidance,
4220 and I thought that that was really critical.

4221 It was important to me also because I wanted the MMWR
4222 that showed the impact of masking and reducing indoor dining
4223 and closing bars from Arizona out, and I asked them to write
4224 that MMWR. I just saw it as a vehicle to get science out to
4225 the American people.

4226 Q You talked about Paul Alexander a little bit
4227 earlier and having read about him in the press. Did you
4228 have any interactions with Michael Caputo?

4229 A I think Michael Caputo was present during some
4230 of the Operation Warp Speed board meetings. And I think if
4231 I met him, I met him there.

4232 I don't think I've ever met Paul Alexander. I did get
4233 one email from him in my duration at the White House and I
4234 don't even know if I answered it. It was -- it just didn't
4235 sound right when I read it. I'm sorry. I mean, when you
4236 get hundreds of emails and you're scanning it, you're like,
4237 this doesn't even make sense to me right now.

4238 So, I'm sorry, yes, I probably ignored it.

4239 Q No, that's okay. My question was just to try to
4240 understand if you ever heard about either Michael Caputo or
4241 Paul Alexander requesting changes to MMWRs.

4242 A No. I heard about it after the fact when it was
4243 in the media. And I went back to Bob and said, why are you
4244 sending them to them? I told you to only send them to me.
4245 And then he said, well, they found out that we weren't

4246 getting HHS clearance.

4247 Q Did you ever hear about officials in the White
4248 House being upset with the content of MMWRs?

4249 A Not in the White House.

4250 Q You mentioned junior staff in OVP possibly
4251 making changes to --

4252 A That's what Olivia said.

4253 Q Okay.

4254 A I never saw that. I can tell you no one changed
4255 my graphics before -- because I always had graphic control.
4256 I made my own graphics or my data team made my own graphics,
4257 and those are the ones that appeared on the slides. I never
4258 used anyone else's graphics.

4259 Q There was one MMWR over the summer about an
4260 outbreak at a Georgia summer camp. Do you remember that
4261 one?

4262 A Yes. That's the one I was citing that I sent up
4263 to the task force.

4264 Q And you wanted that one published quickly?

4265 A Yes.

4266 Q Is that right? Because you thought the data was
4267 important?

4268 A I used the data in my daily report.

4269 Q Are you aware that the public release of that
4270 report was held back by a few days deliberately?

4271 A No.

4272 Q Does that concern you?

4273 A Yes, since I was on them about like the Marin
4274 County piece. Why do we wait three months to send out
4275 something so straightforward that can be helpful to school
4276 boards?

4277 So whatever is happening, it seems like it hasn't been
4278 fixed. So really, I mean, this is about -- I don't care
4279 who's Republican or Democrat. It really, it bothers me
4280 when -- of course I looked at that Marin County MMWR. It
4281 was sentinel just like the Georgia camp one. And just like
4282 I think the Georgia camp one should have come out as soon as
4283 we knew the data, but I swear it came out faster than the
4284 Marin County one because the Marin County one cited data
4285 from end of last year's school year.

4286 And it took until the end of August? No, schools open
4287 in the south the beginning of August. They should have had
4288 that out the end of June. That would have given them a
4289 whole 30 days to make it perfect and get it out to the
4290 school boards that could have used the information.

4291 I just think if we're going to do studies, then we have
4292 to also hold ourselves accountable to getting the data out
4293 quickly.

4294 Ms. Mueller. Just to be clear, you have no reason to
4295 believe that there's been interference or intentional delay?

4296 The Witness. No, I'm just saying in general, it has to
4297 be faster and it's still slow. I'm not saying there's any
4298 interference. I'm saying that slowness persists.

4299 Ms. Mueller. Thank you.

4300 Ms. Gaspar. Okay. We can go off the record.

4301 (Recess.)

4302 BY MR. DAVIS.

4303 Q Dr. Birx, I want to draw your attention back to
4304 Exhibit 27. It looks like this.

4305 A Yes.

4306 Q Page 2 of the exhibit under the 10:39 entry,
4307 second paragraph, no public events on his schedule today.
4308 "He meets with medical professionals in the Oval Office at 3
4309 p.m. to discuss COVID, but that meeting is closed press."

4310 Do you see that?

4311 A Yes, I saw that. Yes.

4312 Q Do you have any firsthand knowledge of who the
4313 medical professionals were?

4314 A I do not.

4315 Mr. Davis. That's all I have. Thank you.

4316 (Recess.)

4317 BY MS. MUELLER.

4318 Q Thank you, Dr. Birx. I want to go back in time
4319 a little bit back to what we were discussing yesterday.

4320 You mentioned you did an interview with CNN on August

4321 2nd, 2020; subsequently received a very uncomfortable call
4322 from the President.

4323 Two days later, on August 4, President Trump tweeted
4324 that you and other members of the White House coronavirus
4325 task force met with him in the Oval Office. Do you recall
4326 what was discussed during that meeting?

4327 (Pause.)

4328 A Without my notes, I can't remember precisely
4329 which Oval Office meeting that was because I can't remember
4330 if there were one or two in August.

4331 Mr. Trout. There was one I think that was widely
4332 reported about a meeting with Scott Atlas and Dr. Birx, but
4333 I don't want her to get into greater detail than she already
4334 has on --

4335 Ms. Mueller. On that meeting?

4336 Mr. Trout. On that meeting.

4337 BY MS. MUELLER.

4338 Q What happened at that second meeting?

4339 A I don't know if there were two meetings or there
4340 was just one.

4341 Ms. Mueller. And to be clear, you're objecting on --

4342 Mr. Trout. On grounds of privilege, yes.

4343 BY MS. MUELLER.

4344 Q It's been reported that President Trump stated
4345 during the August 24, 2020 meeting in the Oval Office,

4346 quote, I'm sick and tired of how negative you are, I'm sick
4347 and tired of your speculations.

4348 He then reportedly turned to Dr. Fauci saying, quote,
4349 you've got to stop being so negative.

4350 President Trump reportedly pointed to you stating,
4351 quote, Every time you talk I get depressed. You have to
4352 stop that.

4353 Dr. Birx, is that correct?

4354 A That could have happened that way.

4355 Q What do you mean by "could have happened"?

4356 A Well, those are very specific words. So I can't
4357 remember the precise words as you described them, but I
4358 think the gist of the words are correct.

4359 Q Did you take any action based on President
4360 Trump's statements from that meeting?

4361 A I mean, as you can tell I talk the same way no
4362 matter who is in the room, and I did not change my
4363 projections or my understanding of the epidemic or how I
4364 spoke about it.

4365 Q Did you view President Trump's statements as an
4366 order to stop warning the public about the --

4367 A Oh, no.

4368 Q -- dangers of the coronavirus?

4369 A No, I did not.

4370 Q Did you view it as criticism of how you were

4371 portraying information to the public?

4372 A I viewed it as his personal criticism of how I
4373 was speaking on national news; and it's probably why you
4374 won't see a lot of other national news references from me
4375 and only local news.

4376 Q Because of what you were talking about
4377 yesterday, that you were -- the White House stopped making
4378 you available to speak to the public?

4379 A Well, at the time I assumed that the national
4380 news had requested me.

4381 Q But then you found out that that was untrue?

4382 A After I left the White House, yes.

4383 Q And you found out that you were kept from
4384 telling the public, the national public exactly what you
4385 thought the data posed by the fall surge were?

4386 A All I know is no national news opportunities
4387 were referred to me.

4388 Q You testified yesterday that White House
4389 officials, including President Trump, were less focused on
4390 the pandemic in the spring and -- or in the spring and
4391 summer as the -- let me strike that.

4392 You testified yesterday that White House officials,
4393 including President Trump, were less focused on the pandemic
4394 later in the spring and summer. As the fall and winter
4395 progressed, was the same still true?

4396 A I hope I didn't say spring and summer. If I
4397 did, I would have meant to say throughout the summer. And I
4398 would say, in my judgment, that continued through the fall.

4399 Q You've mentioned a few times now that you were
4400 concerned about a possible surge in the fall of 2020 which,
4401 unfortunately, ultimately came to pass. When did you start
4402 to see an indication that cases were starting to rise in the
4403 fall of 2020?

4404 A So the preparation for the fall of 2020 and what
4405 I thought would happen started in May. And so part of
4406 the -- there was a whole fall strategy that I had written
4407 out related to how to combat the pandemic in the fall based
4408 on what we had seen in March and April, and the amount of
4409 the country that was still vulnerable. Remember, that March
4410 and April outbreak or surge was really in ten isolated
4411 metros, 10 or 11, not across both the rural and urban areas.

4412 After the summer, and it's why in August I talked about
4413 how this was very much widespread into the rural areas,
4414 because I wanted Americans in the rural areas across the
4415 north and the Midwest to understand that they were not
4416 naturally protected from this virus because of their sense
4417 that lower population areas were substantially physically
4418 distanced enough to not transmit the virus because we had
4419 seen that thought fail in the south.

4420 So I started to see cases beginning to rise starting in

4421 North Dakota and Montana in the, I believe, September
4422 timeframe. And I immediately left for that area and going
4423 across the Rocky Mountain states twice, once right before
4424 that to get them -- because I knew they would cool shortly,
4425 and then again in October. I was gone for two weeks up
4426 until election day through the Rocky Mountain states and the
4427 northern plains states and Nevada.

4428 Q It's been publicly reported that in early
4429 November you delivered a private warning to White House
4430 officials that the coronavirus was entering a new and deadly
4431 phase that required a more aggressive approach; is that
4432 correct?

4433 A I think you're referring to my daily report that
4434 was leaked I think the day before the election. That was
4435 report number 230 or something. I had been alerting to this
4436 new phase probably from the first or second week of October,
4437 so those first several sentences were similar for two to
4438 three weeks in a row.

4439 Q So we have not yet received a copy of I think
4440 the report 230-something that you're referencing. But what
4441 was quoted in The New York Times was that you expressed,
4442 quote, "we are entering the most concerning and most deadly
4443 phase of the pandemic," and that you added, "This is not
4444 about lockdowns. It hasn't been about lockdowns since March
4445 or April. It's about an aggressive and balanced approaches

4446 not being implemented."

4447 Does that sound accurate to you?

4448 A Yes. And then it went on to give what those
4449 solutions were.

4450 Q What were those solutions?

4451 A There's a whole list of activities from unified
4452 communication, statewide mask mandate, the physical
4453 distancing, and most critically, reducing all indoor
4454 gatherings in red zones to immediate family only.

4455 Q Were you recommending that just in red zone
4456 states?

4457 A Well, the entire country was a -- at that time,
4458 going into November and throughout November, there was
4459 probably 2,500 of the 3,100 counties in the red zone.

4460 Q So, in effect, were you advocating to institute
4461 nationwide mask mandate and capacity limitations. Any other
4462 things that you were recommending?

4463 A Well, I knew those could only be done at the
4464 state level. Remember, our federal workforce was primarily
4465 not at work. So this was really about protecting essential
4466 workers who were at the front lines, who I believed were
4467 always at the highest risk and that collectively we had to
4468 do more to stop the transmission that was impacting them.

4469 Q And is it fair to say that, at least in some
4470 states, that aggressive approach was not being implemented?

4471 A Well, after we went out west, I think all of the
4472 states that we visited implemented a statewide mask mandate,
4473 decreased occupancy in their restaurants, and some of them
4474 closed the bars and put out alerts to decrease family
4475 gatherings.

4476 Q You said that was after you went out west, the
4477 states you visited implemented those restrictions?

4478 A Yes.

4479 Q What states didn't, if you can recall?

4480 A I believe South Dakota did, but I didn't go to
4481 South Dakota. But I believe in the end, Montana, Wyoming,
4482 North Dakota, Idaho, Utah, and of course Colorado already
4483 had implemented.

4484 Q What about in the south, which soon had --

4485 A They already had full statewide mask mandates.

4486 Q Even in Florida?

4487 A Not Florida. But Arizona, Texas still had
4488 theirs, Mississippi still had theirs, Alabama still had
4489 theirs. Florida did not. Georgia still was allowing each
4490 of the counties to implement appropriate mitigation.

4491 Mr. Trout. Could I ask for a clarification? Let me ask
4492 for a clarification. Are you saying Montana, Wyoming, North
4493 Dakota, Idaho, and Utah did not implement?

4494 The Witness. They did. They did implement statewide
4495 mask mandates and mitigation.

4496 Mr. Trout. Sorry.

4497 BY MS. MUELLER.

4498 Q So in this time period, early November, were you
4499 concerned about the growing surge in cases?

4500 A I was very concerned. I mean, that report went
4501 out every morning with escalation in the opening bullets.
4502 And if you had the governors' reports, you could see even in
4503 the November -- South Dakota governor's report, there was an
4504 escalation. We started writing common bullets so that each
4505 state could see -- because by that time it was 65 percent,
4506 70 percent of America.

4507 Q Following that warning in your daily report to
4508 senior leaders, did the White House begin to take more
4509 aggressive mitigation and other measures to try to beat back
4510 the surge?

4511 A They certainly let me and the others do more
4512 local media hits from Washington, DC, as well as of course I
4513 was still going out to the field. So they let us increase
4514 our communications to the states that were having -- of
4515 course, it was almost across the board. Of course, we
4516 increased our calls to the governors and mayors; increased
4517 the level of directness in the governors' reports, and tried
4518 to get the White House to do more national media.

4519 Q Did the White House do more national media?

4520 A I think there was one press conference in

4521 November.

4522 Q Who participated in the press conference?

4523 A I think it was Vice President Pence, myself. I
4524 think it was around November 20th or November 22nd.

4525 Q During that press conference, did Vice President
4526 Pence urge everyone to take all the measures that you had
4527 been recommending?

4528 A I think he recommended they increase their
4529 vigilance, and then let me speak to the pandemic itself.

4530 Q Did he encourage everyone to wear masks?

4531 A I can't remember in the press conference. More
4532 than likely, I did.

4533 Q You previously suggested that President Trump
4534 admonished you and Dr. Fauci for being so negative. Did you
4535 feel that the comments made during that press conference
4536 were fully and accurately conveying the threat of the
4537 increased surge to the American people?

4538 A I hope I did. I don't remember my precise
4539 words. But certainly at the same time I was also doing
4540 local media hits across the country and I hope each and
4541 every one of them was specific and also raised my level of
4542 concern. I mean, they hopefully raised their level of
4543 concern based on my level of concern.

4544 Q What about Vice President Pence?

4545 A I don't remember his precise words at the press

4546 conference.

4547 Q Apart from that one press conference, did the
4548 White House do any additional press conferences or allow you
4549 to do national media appearances during this period?

4550 A I was allowed to do another CBS Face the Nation
4551 over Thanksgiving weekend that Sunday.

4552 Q Would you have liked to do more appearances,
4553 given the threat?

4554 A I was sending all my data to Tony and Bob and
4555 Steve, and they were doing -- and they were being
4556 more -- they were out more in the media. I think their
4557 media was controlled more by HHS than the White House.

4558 I just wanted to make sure that the message was getting
4559 out. And they were all, Steve and Bob and Tony were all
4560 equally capable delivering the message that I was
4561 delivering.

4562 Q Moving on slightly in time. During your January
4563 24th, 2021 Face the Nation interview, you mentioned the
4564 election several times, including remarking, quote, "The
4565 worst possible time you could have a pandemic is in a
4566 presidential election year." And you also noted, quote, "It
4567 was difficult in the run-up to the election."

4568 What did you mean by that?

4569 A Well, even across the country, the governors and
4570 mayors and others that were campaigning, as well as the

4571 White House that was campaigning, just took people's time
4572 away from and distracted them away from the pandemic in my
4573 personal opinion.

4574 Q Did you also feel that the election was taking
4575 people in the White House away from working on the pandemic?

4576 A That was my feeling, that they were actively
4577 campaigning and not as present in the White House as
4578 previously.

4579 Q You also mentioned in that interview that there
4580 was a point where you felt like you weren't, quote, "getting
4581 anywhere," unquote. And that right before the election you
4582 wrote a detailed communication plan of what had to happen
4583 after the election; and you were asked whether the election
4584 was a factor in the communication to the public about the
4585 virus and you answered yes.

4586 What did you mean by that?

4587 A Well, I wonder what I meant by that. I don't
4588 know whether I was referring back to the length of time
4589 people were -- spent campaigning and out across the country
4590 at campaign events.

4591 The other piece that you mentioned, it was very
4592 important to me and it was my personal interpretation that
4593 people would be more available the day after the election.
4594 And I wanted to make sure that there was a comprehensive
4595 plan that all of the doctors and the White House would agree

4596 to up front, even prior to the election, for how to proceed
4597 immediately after the election, because I felt like there
4598 was still time to have an impact on the degree of community
4599 spread.

4600 Q Why do you feel you weren't getting anywhere?

4601 A I just felt that the message that I needed to
4602 get out was not reaching everyone who needed to reach it.
4603 And although I was out in states carrying that message, I
4604 just felt that we needed everybody out saying the same thing
4605 in a way that resonated with each of the different groups so
4606 that we could spur people to greater action.

4607 When I was out, I just felt like people were traveling
4608 more. Remember, I had been out in the pandemic since the
4609 summer. So throughout the fall, I really got the sense that
4610 people were letting down their guard and I could see that
4611 this was going to be the most intense time of viral spread.

4612 I knew that Thanksgiving and Christmas and Hanukkah and
4613 Kwanzaa were coming and I just felt like, in general, people
4614 had gotten somewhat complacent and I felt like the White
4615 House had gotten somewhat complacent through the campaign
4616 season, and I wanted to make sure that as soon as everyone
4617 was back the day after the election, that people would
4618 comprehensively reengage.

4619 Q How did you feel as though the White House folks
4620 had gotten complacent? What did you mean by that?

4621 A Just that they weren't there and we weren't
4622 having COVID meetings continuously.

4623 Q Were there any actions that you thought needed
4624 to be taken that weren't taken?

4625 A They were in the daily report. It was -- as
4626 well as the summary of the critical actions to take.
4627 Obviously, you know, some of them were around testing as
4628 well as the mask mandates as well as trying to get people to
4629 be more virtual for Thanksgiving and Christmas. And if they
4630 wouldn't be virtual, to at least mask.

4631 We added household masking to the governors' report
4632 trying to encourage people and to get the message out that
4633 you can still see grandma, but please mask, please test.
4634 That there was a way to be engaged, but it needed to be done
4635 safely. And I felt like we had better technology, we had
4636 much better masks. I mean, by June or July, I was able to
4637 get surgical masks. Before that, I couldn't.

4638 So I was able on all of my trips to wear surgical masks
4639 throughout my entire visits, and I felt like if I could get
4640 them, other people could get them. So I was very much
4641 encouraging people to upgrade their masks and to wear masks
4642 when they were even with family indoors in order to see one
4643 another.

4644 Q I just want to make sure that I'm clear. My
4645 question was, were there any actions that you felt needed to

4646 be taken that weren't taken, and then you said they were in
4647 the daily report.

4648 So just to be clear, were there actions that you were
4649 recommending that were not actually implemented during that
4650 period?

4651 A Yeah, there were recommendations around on
4652 availability of treatment, ensuring that monoclonal infusion
4653 centers were available across the country so that people had
4654 access to the monoclonal antibodies. They were not being
4655 utilized at the rate that they should have been utilized.

4656 I made recommendations about compassionate use of
4657 vaccines into the long-term care facilities, aggressive
4658 testing from what we had learned from the schools to ensure
4659 the 18 to 35-year-olds were tested before they gathered, if
4660 they were going to gather, and of course then masking; and a
4661 communication plan around the critical elements of each of
4662 those mitigations.

4663 Q So after the election, were the recommendations
4664 in that communication plan actually implemented promptly?

4665 A I think there was a lot of concern in the White
4666 House about that daily report being leaked on the eve of the
4667 election with the implication that I could have potentially
4668 leaked the daily report.

4669 Well, the daily report had gone out over 200-some times.
4670 I had never leaked the daily report. To this day, I don't

4671 know who leaked it. It didn't go to anyone extra on that
4672 day. It went to the same people it had always gone to.

4673 But that particular report was leaked. It was no
4674 different than the report the day before except with the new
4675 data or the day after.

4676 So I still don't really understand it. That caused, I
4677 think, some people in the White House to believe that I had
4678 intentionally leaked the report 24 hours before the
4679 election. I think that led to a lot of distrust, and that
4680 kind of distrust then bleeds over into public health
4681 recommendations that you're making.

4682 Q How did that distrust impact the recommendations
4683 that you were making and able to implement during that
4684 period?

4685 A I think you can see there was a very orderly
4686 communication plan rollout that involved national media,
4687 regional media, and local media, and that did not happen. I
4688 think as far as the supply chain, the testing, the
4689 therapeutics, I think there was a lot of support to continue
4690 to work on those areas. It was just being able to go to the
4691 American people with a comprehensive mitigation plan that
4692 would fit into their lives where people could make clear,
4693 informed decisions for their own holiday plans.

4694 I felt like we didn't get that out successfully. We did
4695 have that one press conference before Thanksgiving and they

4696 did let me do Face the Nation after Thanksgiving, the day
4697 after or the weekend after Thanksgiving. But I just felt
4698 that we could have done a lot more with the communications.

4699 Q You just said that you felt like "we could have
4700 done a lot more with the communications." What do you think
4701 the impact of not being able to do that communication was?

4702 A I don't know the immediate impact from the
4703 national level communication versus local communication. I
4704 do know that a lot of the local networks are more watched,
4705 and so we did markedly increase the number of us doing local
4706 media. So I know, myself, I was doing 12 at a time, like
4707 five minutes apart, back-to-back. And many of the other
4708 doctors were doing the same.

4709 So I can't -- I don't have the data and statistics to
4710 say we could have reached more people because I don't really
4711 know how many we reached locally through the local media
4712 versus the national.

4713 Q But you thought that it was important enough to
4714 put it in a communication.

4715 A I did.

4716 Q And it didn't happen?

4717 A It did not.

4718 Q So sitting here today, you're not exactly sure
4719 could it have an impact.

4720 A No, what I'm saying is I don't know what

4721 additional impact it would have had. I think it would have,
4722 but I don't have science and data to prove that.

4723 Q So you think it might have been helpful in
4724 helping to contain the rapidly surging cases at that time?

4725 A I do.

4726 Q According to The Washington Post, you and the
4727 other doctors on the task force decided to stage an
4728 intervention as cases started to tick upward in
4729 mid-November; is that correct?

4730 A Well, there were -- I mean, there were multiple
4731 times that we used our voice to talk about the pandemic,
4732 including the daily reports. I don't think it was the
4733 November timeframe.

4734 Q When did you think that was?

4735 A In December.

4736 Q December? What happened then?

4737 Mr. Trout. So we're going to object to her giving any
4738 specifics about what happened in a task force meeting and
4739 any specific conversations.

4740 BY MS. MUELLER.

4741 Q But at that time you were concerned, and did you
4742 express that concern?

4743 A Yes. But that was a daily expression of
4744 concern.

4745 Q The same article mentions that you and the other

4746 doctors had a meeting with Mr. Meadows where he told you
4747 that he did not believe your troubling assessment about the
4748 pandemic and accused you of outlining problems without
4749 prescribing solutions.

4750 Does that sound correct?

4751 (Pause.)

4752 A I don't believe that's an accurate
4753 representation.

4754 Q What did happen?

4755 Mr. Trout. Don't discuss specific conversations you had
4756 with Meadows.

4757 The Witness. I don't remember -- I remember all the
4758 doctors meeting. I don't remember all the doctors meeting
4759 as a group with the chief of staff.

4760 BY MS. MUELLER.

4761 Q Are you aware that anyone met with the chief of
4762 staff from the doctors' group?

4763 A I'm aware of Dr. Hahn having meetings with the
4764 chief of staff, but I was not present for those meetings.

4765 Q Are you aware of the nature of those
4766 communications?

4767 A I am not.

4768 Q Are you aware of when they happened?

4769 A Only because I saw him occasionally in the White
4770 House.

4771 Q When did they happen?

4772 A I think a couple of times in November and a
4773 couple of times in December.

4774 Q You mentioned in December that you had concerns.
4775 Were those concerns adequately addressed?

4776 A To be very straightforward, these concerns that
4777 I began to raise in late September and into October and
4778 continuing, they continued every single day until January
4779 19th, until actually January 8th where I said I think we
4780 have reached our plateau and cases were finally begin to
4781 decline. But up to that point the level of concern and the
4782 solutions proposed to address those concerns were
4783 escalating, not declining.

4784 Q So you --

4785 A And they were daily.

4786 Q So over this period, you're raising the alarm
4787 every single day by your reports?

4788 A Correct.

4789 Q And it's increasing in the level of alarm. Is
4790 that fair to say?

4791 A I would say the adjectives used to describe the
4792 situation continued to escalate.

4793 Q And were you advocating for more aggressive and
4794 broader mitigation measures to try to --

4795 A More mitigation, more treatment, and early use

4796 of vaccines to protect the elderly.

4797 Q And were those steps put in place?

4798 A I think some of the treatment awareness, which
4799 we continued on the governors' call and Seema really worked
4800 with FEMA and others to really set up these infusion centers
4801 and show states examples of how they could be done. It
4802 never moved fast enough from my perspective, but there was
4803 slow movement on increasing access to monoclonal antibodies.

4804 Q But none of the other recommendations or most
4805 of --

4806 A Not at the level that I felt they were needed.

4807 Q And what was the impact of the failure to
4808 implement the measures to the extent that you felt was
4809 needed?

4810 A Well, it's difficult to give you a statistical
4811 answer on that and a number. But when I start looking at
4812 states that had some of the different mitigation pieces
4813 utilized, when they had very similar demographics across
4814 states and looking at states that are similar, ones that had
4815 mask mandates versus those that didn't have mask mandates,
4816 there was about anywhere between a 10 to 15 percent increase
4817 in fatalities for those without a mask mandate.

4818 Then it gets very tricky because individual cities will
4819 have mask mandates and will have closed their indoor dining,
4820 whereas the state that has a mask mandate maybe they didn't

4821 close their indoor dining as much.

4822 I believe if we had fully implemented the mask mandates,
4823 the reduction in indoor dining, the getting friends and
4824 family to understand the risk of gathering in private homes,
4825 and we had increased testing, that we probably could have
4826 decreased fatalities into the 30 percent less to 40 percent
4827 less range. But we were still, despite masking and weekly
4828 testing, still losing a large number in our long-term care
4829 facilities. So even with those mitigations, there was still
4830 breakthrough of virus into those facilities.

4831 Q You said you thought 30 to 40 percent fewer
4832 fatalities.

4833 A If you had done all of the parameters perfectly.

4834 Q And that's not a full lockdown; it's the things
4835 that you were recommending by the time late fall came?

4836 A Yes.

4837 Q So 30 to 40 percent fewer fatalities, is that
4838 tens of thousands of people, hundred of thousands of people?

4839 A So we lost about 100,000 Americans, close to
4840 that -- I'm going to give you just round numbers -- in that
4841 March, April, May timeframe because the April
4842 hospitalizations can trail into May. In the June, July,
4843 August timeframe we lost about another 100,000 Americans,
4844 and from September until March 1st, because I'm taking into
4845 account the trailing, we lost about another 300,000

4846 Americans.

4847 So all told, by March 1st, if I remember correctly,
4848 close to a half a million Americans. And then since March
4849 1st, we've lost another 200,000 Americans.

4850 Q So taking the period from summer 2020 to you
4851 said March 1st due to the trailing deaths, in your opinion
4852 30 to 40 percent of the half a million --

4853 A No. Of that --

4854 Q -- of what --

4855 A The first 100,000 we --

4856 Q That's right. That's right.

4857 A So, really, we're talking about the 400,000.
4858 So, yes, I'm talking about a third of those, I think, could
4859 have been prevented with optimal mitigation across this
4860 country.

4861 Q And you were making those optimal mitigation
4862 recommendations?

4863 A Both at the federal and the state level,
4864 correct.

4865 Q And you had been making them for months at this
4866 point?

4867 A Correct.

4868 Q And you had been having exhaustive meetings and
4869 phone calls with state and federal officials showing them
4870 the data, explaining why these measures were necessary, but

4871 they weren't listening to you in all cases?

4872 A I think they were listening. I think -- because
4873 I could see states doing it. So depending on when they
4874 began to mitigate, instead of saving 30 percent, they may
4875 save 20 percent.

4876 So I guess what I'm trying to tell you is, in a very
4877 unclear way, is we're seeing an evidence of different
4878 degrees of mitigation, but most of the states were doing
4879 some mitigation. Many states were doing significant
4880 mitigation, although it may have been a week or two or three
4881 late.

4882 And so there could have -- I still believe that we would
4883 have gotten very close to that 1.5 million people lost
4884 rather than the 500,000-million lost if states hadn't done
4885 and the American people hadn't participated actively in some
4886 degree of mitigation.

4887 And so do I think we could have done more? Yes. Do I
4888 think that what was done did save some lives? Absolutely.
4889 I just can't give you precise figures because it was very
4890 variable state by state by what combination of mitigation
4891 was utilized and how quickly it was implemented.

4892 Q Thank you. During the interview that you did on
4893 CNN with Sanjay Gupta, I think you mentioned those kinds
4894 of -- I'll quote it back to you. You said, "I look at it
4895 this way. The first time we had an excuse. There were

4896 about 100,000 deaths that came from the original surge. All
4897 the rest of them in my mind could have been mitigated or
4898 decreased substantially if we took the lessons we had
4899 learned from that moment. That's what bothers me every
4900 day."

4901 Is that what you're talking about then?

4902 A Yes. Yes, but I think people took home that I
4903 thought all 400,000 deaths could have been prevented. I do
4904 not believe that all 400,000 deaths could have been
4905 prevented, but I do believe that some of that number, more
4906 so in certain states and less so in other states, could have
4907 been prevented. Even the states that were excellent
4908 mitigators and followed the criteria, particularly in the
4909 northeast, they still had deaths during that winter surge.

4910 And so it's not zero. It's my personal estimate, I've
4911 got to really -- the reason I wanted the material was so I
4912 could really work state by state, because I knew what each
4913 state was doing and I had to go back through the data and
4914 marry it up in real time.

4915 And NARA has all of them, but I'm sure we're going to
4916 get access so that we can do those analyses. But I think
4917 those analyses need to be done. I think it's very important
4918 to do them. And I think being able to say clearly to the
4919 American people: These mitigation efforts make the biggest
4920 difference, these are the second biggest difference, this is

4921 what they look like in combination.

4922 I find the American people can understand all of that,
4923 and I think when we can give them that clear data we will be
4924 much better prepared, because in the end it's human behavior
4925 along with technology that, in partnership, changes the
4926 course of pandemics.

4927 Q I think this gets back to what you were saying
4928 earlier about -- I think some people call it the Swiss
4929 cheese model?

4930 A Yes.

4931 Q Not any one mitigation step will work 100
4932 percent of the time; but when you layer enough of them
4933 together, they do help to reduce the risk, correct?

4934 A Correct.

4935 Q So one of the things that struck me about what
4936 you said to Dr. Gupta was if we took the lessons we had
4937 learned from that moment. What other lessons -- we've
4938 talked about this a lot over the last two days. What
4939 lessons have you learned perhaps of what didn't work last
4940 year? And I'll caution we've talked about this, so anything
4941 that we have not discussed.

4942 A I think we just talked briefly about this. It's
4943 really important to mitigate when you first see the
4944 increased test positivity. And I think that is a very
4945 difficult concept for governors, mayors, and the American

4946 people. Because American people and governors are often
4947 waiting for the outcomes. But if you wait until the
4948 hospitalizations start, the community spread is so far gone
4949 that you're in for a tidal wave of infections and a tidal
4950 wave of hospitalizations and then fatality.

4951 And the reason why that tidal wave is so important and
4952 why that mitigation early is so important is there's only so
4953 much hospital and human capacity. And the hospital and
4954 human capacity is not equally distributed across the
4955 country.

4956 So you have rural hospitals that have extraordinarily
4957 good doctors and nurses, but they depend on the regional
4958 hospitals to take their most complicated cases.

4959 And when you have this kind of broad community spread,
4960 both the regional referral hospitals fill up and the
4961 community hospitals do not have a place to send their
4962 sickest patients, and patients were lost that way. Not
4963 because they didn't have great doctors and nurses, but they
4964 didn't have ECMO. ECMO was -- that's special. That's like
4965 an extra, that's like lungs outside a body. So oxygenating
4966 your blood outside the body.

4967 Major city hospitals have that, but not our community
4968 hospitals. And so I think it's really important to
4969 understand that the very earliest -- getting everyone to
4970 understand early, early mitigation that can stop that onward

4971 community spread to prevent it even to getting to the level
4972 that it impacts both the rural hospitals and the regional
4973 hospitals is absolutely critical.

4974 But, once again, the same thing happened this summer.
4975 And we had learned not to do that. We had learned that if
4976 your test positivity starts to increase, that's when you
4977 need to aggressively mitigate. Unfortunately, with the
4978 delta variant, which is 2.4 times more infectious, you have
4979 to even mitigate more.

4980 So processes that may have worked last summer may not
4981 work this summer. And I think really being very crystal
4982 clear about that each time; so that 400,000 we lost after
4983 the first 100,000, some of them could have been saved based
4984 on decreasing the amount of community spread, and the same
4985 thing of the 200,000 that we have lost subsequently. We
4986 have to act earlier.

4987 But people -- it's hard for people to grasp, because I
4988 saw this kind of disbelief among everyone that we spoke to.
4989 Exponential growth is so difficult for people to see because
4990 we're not used to anything growing like that. We're used to
4991 linear growth. The stock market doesn't go from 1,000 to
4992 2,000 to 4,000 to 8,000 to 16,000 over a week or two. I
4993 mean, it's just not in our mindset. We think of things
4994 incrementally.

4995 But you've got to stop the community spread when it's

4996 still in that linear spread phase before it goes into that
4997 exponential high slope phase. And I think we continue to
4998 miss that moment.

4999 Q You mentioned to Dr. Gupta that the failure to
5000 learn the lessons from the early surge bothers you every
5001 day. Is that true?

5002 A Yes. I'm still, unfortunately, writing to
5003 colleagues about what I think they should be doing, all the
5004 time.

5005 Q Is there any moment over the course of your time
5006 as White House coronavirus task force coordinator that you
5007 felt especially upset or angry that what you were
5008 recommending wasn't being done?

5009 A You know, I've had to work in very difficult
5010 situations around the world and I usually can find a way or
5011 make one. And I always felt that I needed to be finding a
5012 way or making one, whether that was going back to more
5013 states; I mean, I always was questioning myself, how could I
5014 explain this better? Or what kind of visual would really
5015 impress upon people that this was the moment?

5016 And I worked at that all the time. We changed visuals
5017 continuously. We also wanted people to see improvements.
5018 So certainly when we improve the under 70 -- the over 70
5019 fatality from over 25 percent down to 9 and 8 percent, it
5020 was a big deal. I mean, that's a combination of really

5021 great hospital work, new therapeutics, better treatments,
5022 better care. We all should be proud of that, and certainly
5023 getting PPE stabilized was a good thing. So there was a lot
5024 of positives.

5025 But you can't be positive when there's Americans still
5026 dying. So for all of our vaccines, all of our therapeutics,
5027 all of our PPE, all of our expanding testing, it still
5028 wasn't enough and I always was working to see what else
5029 could be done and what else could I do personally to make a
5030 difference.

5031 I know that I physically couldn't have done more
5032 because, I mean -- and I say that about the task force in
5033 general. I know there wasn't any -- I mean, we're all
5034 working seven days a week and I was certainly out on the
5035 road as much as I could have been. But I always was looking
5036 for that one graph, that one collection of words that would
5037 be better at getting people's attention and increasing their
5038 awareness.

5039 Q You said you don't think there's anything you
5040 could have done more, and --

5041 A Physically more. I'm sure -- I always could do
5042 more and better in speaking and creating graphs and using
5043 the right words to compel people to action. I'm still
5044 working that because I think, yes, every American loss of
5045 life is important to me.

5046 Over the last few weeks I've lost my father. I did get
5047 him home, though, which is what he wanted. He didn't have
5048 COVID, but the isolation that I put them through and the
5049 keeping them in my house did result in physical
5050 deterioration. And there was no amount of walkers and
5051 support that made up for not going to the grocery store and
5052 walking the aisle.

5053 And so everybody was making these compromises. So he
5054 had a bad fall at 96, and we did -- he was in the hospital
5055 for two months and rehab for a month and we got him home for
5056 a month. But I think everybody in America was facing those
5057 same things with special needs of the elderly, confined with
5058 COVID.

5059 So I think as we reflect and go back, I mean certainly
5060 we need better data, we need better diagnostic capability in
5061 this country. Because I still believe that people now would
5062 learn to act earlier if we presented data in a way and had
5063 the diagnosis more readily available for them.

5064 Q First, I want to say I'm very sorry for your and
5065 your family's loss, especially after what's been I know a
5066 difficult year. That's just more difficulties. I'm very
5067 sorry.

5068 I don't doubt that you worked very hard during the
5069 pandemic and the doctors on the task force as well. Would
5070 you say the same thing of President Trump? Did he do

5071 everything he could to try to save lives during the
5072 coronavirus pandemic?

5073 A I made it clear to the White House through my
5074 time there, and you know how I speak here. I didn't speak
5075 any differently in the White House. I've never changed my
5076 language based on the situation that I'm in. I find that if
5077 you're straightforward and honest, that's the best you can
5078 be.

5079 Do I think that we could have done more on unified
5080 messaging coming out of the White House? Do I think we
5081 could have done more on -- very early on showing the
5082 efficacy of masks? Yes. And I think that would have
5083 decreased the confusion. Could we have done more to
5084 understand people and the adult people's reaction to adult
5085 immunizations? Yes. We could have been doing that with the
5086 flu vaccine. We could have known precisely who our hesitant
5087 vaccinators were and we could have been prepared to combat
5088 that.

5089 So there are things we could have done over the last
5090 decade and there are things that we could have done over the
5091 last 12 months. And together what will be -- what is
5092 important to me, and part of the reason why I wanted to be
5093 here is together we need to work on those things. We need
5094 to fix those things. We need to fix the data. We need to
5095 fix who's going to do science. We need to ensure that our

5096 academic institutions are fully there alongside us during an
5097 outbreak, not just those ones who want to be there, but
5098 everybody who wants to be there.

5099 We need to have many more CDC personnel in the field.
5100 We need to do real outcomes and impacts for comorbidities
5101 that already exist in this country. If out of this we
5102 change the course of obesity, hypertension, and diabetes,
5103 the sacrifice that others have made will at least result in
5104 something good for this country.

5105 And I think it's on all of us who survive this to take
5106 this much more seriously and hold each and every one of us
5107 much more accountable. We need to be much more accountable
5108 to the tribal nations. I was in tribal reservations that
5109 had less capacity than many of the communities in
5110 Sub-Saharan Africa. I am devastated by that. I think there
5111 are solutions out there, I think there's culturally
5112 appropriate solutions. I don't think we should be
5113 paternalistic to our Indian nations. I think they're
5114 capable. I think they have what they need as far as on
5115 paper solutions, and we have to -- we have to make that
5116 happen now.

5117 So I think, yes, I have a long list. I'm not going to
5118 stop working on it. I've been working on it since I left
5119 the federal government. I think the private sector needs to
5120 be at the table for federal government pandemic

5121 preparedness. It was the private sector that in the end
5122 gave up profits to change the course of therapeutics, PPE,
5123 and then vaccines.

5124 And so there's a lot of work that we could do in
5125 partnership, but we have to be attentive to the community
5126 and we have to be attentive to the private sector. And when
5127 we form that triangle, we can get a lot more done.

5128 Q Thank you for that response. I do just want to
5129 be clear. I don't think I got an answer to the question
5130 that I asked, so I just want to repeat it and ask it again.

5131 Do you think that President Trump did everything he
5132 could to try to mitigate the spread of the virus and save
5133 lives during the pandemic?

5134 A No. And I've said that to the White House in
5135 general, and I believe I was very clear to the President in
5136 specifics of what I needed him to do.

5137 Q Thank you. I just have two, I think, very quick
5138 additional topics just to do a little cleanup.

5139 In September 2020, was there any -- or at any other time
5140 during the pandemic -- was there any discussion at the White
5141 House about whether coronavirus deaths might be falsely
5142 inflated?

5143 A There were external groups --

5144 Mr. Trout. Just a minute.

5145 (Pause.)

5146 A There were external groups that continued
5147 throughout the pandemic reporting that the coronavirus
5148 deaths and coronavirus hospitalizations were overreported.
5149 I took the position very early on and we never deviated from
5150 that position that 100 percent of those in the hospital,
5151 even if incidentally found to be COVID positive, were COVID
5152 patients. And 100 percent of those who died either
5153 presumptively from COVID or specifically died while having a
5154 COVID diagnosis would be counted as COVID deaths.

5155 That all can be cleaned up later. Do I think that
5156 there's a tiny percent that were incidentally diagnosed?
5157 Perhaps, because every single -- every single preop elective
5158 surgery was prescreened for COVID and a lot of tests were
5159 utilized that way. So did we find probably asymptomatic
5160 incidental cases that way? Probably. I do not think it's a
5161 large number. And as far as I know, we never deviated from
5162 counting 100 percent of the cases as I described.

5163 Q Back to the White House coronavirus task force
5164 agenda. If you look at page 71, the meeting of September 8,
5165 2020, if you look at Roman VII, it says Incentives to
5166 Miscode, and lists Administrator Verma.

5167 Do you recall if specific work was being done to
5168 investigate this issue? And I will note for the record that
5169 subsequent -- the subsequent days lists similar items,
5170 including on the 15th and 23rd.

5171 A I don't remember a report on that. You see how
5172 it keeps reappearing? It's probably because it never was
5173 discussed and it kept getting bumped to another day. And
5174 the last time it's there on September 23rd, I honestly can
5175 tell you, I don't know. I know if it came up, I probably
5176 said exactly what I said today. And to my knowledge, the
5177 way that reporting for deaths and hospitalizations have
5178 remained unchanged since the hospital reporting system was
5179 stood up in the end of June and the death reporting since
5180 March of 2020.

5181 Q You mentioned outside groups who brought this to
5182 the White House. Were there any specific White House staff
5183 that were asking the task force or anyone else to look into
5184 them?

5185 (Pause.)

5186 Mr. Trout. All right. I'm going to ask Dr. Birx not to
5187 answer with respect to any conversations that she had with
5188 individuals, senior officials, at the White House on the
5189 grounds of executive privilege.

5190 BY MS. MUELLER.

5191 Q Can you identify who you had those discussions
5192 with?

5193 A So just to make it clear, when this would come
5194 up, and it would come up on a regular basis because it would
5195 be reported in social media that someone was in an

5196 automobile accident, they came in, they died from their
5197 automobile accident, they were found to be COVID -- I'm just
5198 giving you like an anecdote which were appearing all the
5199 time -- they were found to be COVID positive and coded as a
5200 COVID death.

5201 I think when you look at two things, what I always would
5202 point out is excessive mortality. So excessive mortality
5203 will take into account both the community hospitals and
5204 regional hospitals that are being overwhelmed and people are
5205 not getting effective treatments for other conditions that
5206 may result in death.

5207 So the excess mortality is very clear. So you can use
5208 that number realizing that that includes those who died of
5209 COVID and those that died because there's a COVID pandemic.
5210 And, to my mind, those are overlapping.

5211 The second piece that I think you can utilize is the
5212 hospitals do not -- did not profit from having COVID
5213 admissions. Indeed, they lost most of their elective
5214 surgery, which is their primary bill payer. So I'm sure the
5215 hospitals were not trying to find more COVID. It was in
5216 their best interests and for what they needed to do to
5217 sustain their hospitals is their elective procedures which
5218 paid substantially better and it still is true. Internists,
5219 pediatricians, primary care do not make the same money as
5220 surgeons and the procedures that they do.

5221 So hospitals are not trying to inflate the number of the
5222 COVID patients that they have. They don't want to be
5223 overwhelmed with patients, and they frankly would prefer to
5224 do many more elective procedures than the complex and
5225 difficult care that needs to be provided to a very sick
5226 COVID patient.

5227 So in the reality of being at hospitals, I just kept
5228 telling people this -- hospitals have no real financial
5229 incentive. Did some things probably get miscoded?
5230 Probably, but I don't think it's even more than a few
5231 percentage points in the whole big picture.

5232 Q So fair to say you didn't see any evidence to
5233 suggest that coronavirus deaths were massively inflated
5234 during this period?

5235 A I have no evidence that coronavirus deaths were
5236 massively inflated.

5237 Q And it's equally true that there might be
5238 coronavirus deaths that were missed and not included?

5239 A Early on I am sure there were coronavirus deaths
5240 that were missed.

5241 Q One last quick discussion. It's been reported
5242 that Director Redfield intended to extend a no-sail order at
5243 the end of September to run through February 2021, but that
5244 the White House overruled him. Were you aware of Director
5245 Redfield's plans to extend the no-sail order at that time

5246 period?

5247 A I think what he presented in general, both to
5248 the doctors group and to task force, that he was working
5249 with the cruise ship industry to fully implement the full
5250 CDC guidance for sail. And until that was fully
5251 implemented, he felt that the no-sail order should continue,
5252 and it was my understanding that it did continue.

5253 Q Into 2021?

5254 A I think that it continued until the end of the
5255 presidency. I could be wrong.

5256 Q My understanding was October 31st --

5257 A The test sailings went before that? There
5258 were -- there was a whole plan on -- so there was no sail,
5259 and then there was the individual requirements that each of
5260 the companies had to make.

5261 So he wanted to extend the order until the companies had
5262 completed all of the key elements. So there may be
5263 companies that completed whatever the CDC guidance was
5264 before February.

5265 I don't follow the cruise industry, but I know what was
5266 agreed upon at task force was companies should not sail
5267 until all of the CDC recommendations had been completed.
5268 And then they were supposed to do test sailings to prove
5269 that they could successfully -- and I think that was over a
5270 two-week or a one-month period. I can't remember all the

5271 regulations. But it was regulation-based rather than time
5272 at that point.

5273 Q Can I draw your attention to page 65 of that
5274 agenda. This is a July 15, 2020 agenda.

5275 A July 15th?

5276 Q That's correct.

5277 A Okay.

5278 Q The Roman IV says: No-sail order discussion,
5279 and in handwritten notes, it appears to read September 30th,
5280 X -- which I believe means extension -- and then it says
5281 DeSantis outreach.

5282 Do you recall this discussion?

5283 A No, and I don't know if those notes are correct.
5284 I mean, are they?

5285 Q Do you have any reason to believe that they are
5286 incorrect?

5287 A Well, I think they may have extended to
5288 September 30th. I have no idea what the DeSantis outreach
5289 is, but I thought by September 30th there was a continuation
5290 until all of the CDC requirements were met.

5291 Q Let me direct your attention now to page 73,
5292 which is the September 23rd, 2020 agenda. You'll see at
5293 Roman VI, it says no-sail order, and it mentions Gary
5294 Rasicot from HHS.

5295 Who is Mr. Rasicot?

5296 A I don't know.

5297 Q The following page, page 74, the September 29,
5298 2020 agenda, has handwritten notes next to no-sail order
5299 which reflects October 31st no sail. Do you recall this
5300 meeting?

5301 A I don't recall that discussion, but they may
5302 have continued. I mean, you can see they're extending it 30
5303 days at a time. I don't have an idea of why that was done
5304 except that they were -- all I know is Bob saying that
5305 they're working with the cruise companies in order to have
5306 them prepared for any test sailings.

5307 Q And just one more, the next page, page 76,
5308 October 16, 2020. Roman IV says: Conditional safe sail
5309 order.

5310 Is that what you were referring to?

5311 A I think that's what Bob was presenting, those
5312 recommendations, in order to sail.

5313 Q Do you believe at that time that cruise ships
5314 could safely reopen before vaccines were available?

5315 A I never saw what the CDC -- I mean, obviously
5316 the CDC is the one who gave them these recommendations of
5317 what they had to do in order to sail again. And I know that
5318 they had been working on those recommendations since the
5319 original no-sail order back in March or April. So this is
5320 now -- now 18 months? Six months, eight months? The eight

5321 months later. So I don't know how far -- I can't tell you.

5322 I wasn't -- that's a CDC and cruise ship discussion.

5323 Ms. Mueller. I'm going to very briefly pause. We can

5324 go off the record.

5325 (Recess.)

5326 Mr. Benzine. Just a few questions.

5327 BY MR. BENZINE.

5328 Q As I'm sure you're aware, deaths from COVID in

5329 2021 have topped deaths from COVID in 2020.

5330 A Correct.

5331 Q Three quick yes-or-no questions. Are you

5332 concerned with the current status of the pandemic?

5333 A Yes.

5334 Q Is the U.S. government doing everything in their

5335 power, all the mitigation strategies, currently?

5336 A I think neither the federal government or state

5337 and local governments are doing everything that they could

5338 at this moment.

5339 Q Are there currently preventable deaths?

5340 A Yes.

5341 Mr. Benzine. Thank you. That's all I have.

5342 Ms. Gaspar. I just have one follow-up question from

5343 that.

5344 BY MS. GASPAR.

5345 Q Could wider vaccine uptake earlier this year

5346 have prevented the majority of deaths that we have been
5347 seeing in the latest phase?

5348 A Like we discussed before, not all of them. And
5349 I think -- and that's why I keep coming back to vaccines are
5350 critical and everybody should get vaccinated. But we know
5351 we knew before the summer surge what the percent of
5352 unvaccinated were; and just like all of the work I've done
5353 around the world, you don't single out a group and blame
5354 what occurs on that group. It is your responsibility to get
5355 in with that group, to talk to that group, to listen to that
5356 group and come to a place where that group can agree to an
5357 understanding on the role of vaccines.

5358 So I hold all of us as public health officials to the
5359 same standard that I held myself to during the pandemic, and
5360 I think we need to listen to people and understand what
5361 their hesitancy is and address that hesitancy. Because any
5362 American dying at this point is a tragedy for all of us, it
5363 has been throughout the pandemic, and we ought to all be
5364 doing everything collectively that we can to decrease
5365 vaccine hesitancy and increase uptake, but also of mask and
5366 testing. And I think if we do those three things, we will
5367 have a dramatic decline in the number of fatalities.

5368 I was very encouraged to see funding directly to local
5369 NGOs. I think that is absolutely key. Those are peer
5370 outreach community workers who know where the individuals

5371 are and can hold one-on-one meetings with individuals.

5372 We should not be stigmatizing and further putting people
5373 into a box that implies that they somehow don't have -- that
5374 they're somehow not processing the information. They may
5375 not have gotten all the information.

5376 And so having worked on pandemics around the world, this
5377 is a very critical point to me personally that we never
5378 alienate and further alienate individuals in communities by
5379 stigmatizing them for being in one position or another.
5380 Instead, we should talk to them and listen to them and
5381 collectively get to that place where people can all be
5382 vaccinated.

5383 Q In your response you said that not all of them.
5384 So that means some of the deaths that we've seen in the
5385 latest wave of coronavirus deaths?

5386 A I think there's two pieces of this. We don't
5387 have a clear understanding of the full immunogenicity or
5388 lack of immunogenicity in particularly our most elderly. We
5389 lost another probably 6 or 7,000 residents of nursing homes
5390 in the southern surge. It was better, significantly better
5391 than the summer previously. I think we lost about 22,000.
5392 Now, the numbers are still coming in, so it may get as high
5393 as six and a half or 7,000.

5394 So that's a remarkable decline. But in my mind, when
5395 you have a vaccine and supposedly all of the residents of

5396 the nursing homes had been vaccinated, I don't know if they
5397 all were or all weren't, that still needs to be our number
5398 one priority. And now it has to be our number one priority
5399 that those individuals also have received their third shot.
5400 Because we just really don't know the immunogenicity in
5401 really old people.

5402 The immune system is an organ just like your liver and
5403 your lungs and your kidneys, and your knees. And like all
5404 organs, and as you age, it loses some of its abilities. And
5405 so we shouldn't just go with the assumption that 100 percent
5406 of the nursing home residents are protected because they've
5407 been vaccinated.

5408 So we just have to again continue to layer the
5409 protection, like the Swiss cheese model, to make sure that
5410 we're doing everything we can with the technology we now
5411 have available to us. We need to dramatically increase
5412 testing.

5413 And so that's why I'm saying that not all of them,
5414 because I do believe that we responded to the southern surge
5415 again late.

5416 Q You said "we responded to the southern surge
5417 late. "

5418 A Again late.

5419 Q Yeah. And is it fair to say some of those
5420 decisions were made by southern state governors who refused

5421 to implement measures in late 2020 as well?

5422 A You know, I could have said that the whole time
5423 that I was in my federal position and I chose not to say
5424 that, instead to go state by state to find out what their
5425 issues were and address those. And I think -- if that is
5426 being done now, that's terrific, that's what it takes. But
5427 if you're sitting in Washington and you're not talking to
5428 the states but once a week on a governors' call and you
5429 don't have people representing you in those states and
5430 talking to those governors, then that's on us.

5431 I think we can't -- I hope out of this we will realize
5432 that no matter where you live in this country, that you
5433 deserve to have a vibrant life and health. I know that
5434 sounds Pollyannish, but that's the approach I took in the
5435 Sub-Saharan Africa. And if you start from that approach
5436 that everyone is valuable and everyone's health is valuable
5437 and everyone should survive COVID, then you have a very
5438 different approach than saying it's -- you know, we're
5439 making excuses for this person or that person or the fact
5440 that we were less than effective.

5441 I try to hold myself to a place where I was not making
5442 those kinds of excuses, but instead going out and finding
5443 out what their issues were.

5444 Ms. Gaspar. Thank you so much. Off the record.

5445 [Whereupon, at 4:56 p.m., the taking of the instance

5446 interview ceased.]

Dr. Birx Witness Errata (October 13, 2021)

Location	Proposed Change
336	my personal POSITION
381	were TO LIMIT COMMUNITY SPREAD
388	MITIGATION IN LTCF
458	prevent SEVERE DISEASE not infection with
478	ALL the rest
511	very MISLEADING ; SOMEONE WHO USES (not using)
512	INCOMPLETE statistics
646	physicians
746	Engels not Ingels
1333	Irum Zaidi
1405	think there is science and data
1416	in WHICH
1466	SEEN WOKING IN ONE STATE, I COULD TAKE TO THE REST
1477	the rest
1621	BUT
1745	JUNE 2021 NOT 2020
1747	prior year April 2020
1800	entity (vaccines only)
1805	really HAVE the NEEDED
1808	finally cooling, we had a much warmer October this year so the winter surge will be later
1905	assembled DATA
2067	Peter's name is wrong
2200	it was only A COLD
2290	I was shocked you have these internal White House documents
2421	shouldn't have MEETINGS IN not comments to
2899	who AREN'T VACCINATED
2907	my EXPERIENCE
3113	so when Thanksgiving came, I had been reengaged fully with my Potomac household and was cooking regularly evening meals, so
3114	my other daugther who lives in Glover Park but not part of the Potomac househild was not inside the house but on the deck so there was no family gathering
3160	we DROVE not went
3433	No, she never reached out and I didn't think I should reach out
4128	road -- YOU NEED PEOPLE not when
4378	new had NOT requested
4478	South Dakota DIDN'T