

Arnold & Porter

December 3, 2024

BY E-MAIL

The Honorable Brad Wenstrup, D.P.M.
Chairman
Select Subcommittee on the Coronavirus Pandemic
2157 Rayburn House Office Building
Washington, DC 20515

Re: Select Subcommittee on the Coronavirus Pandemic Final Report, “After Action Review of the COVID-19 Pandemic: The Lessons Learned and a Path Forward.”

Dear Chairman Wenstrup:

We are writing on behalf of our client Dr. Francis S. Collins, M.D., Ph.D., the former Director of the National Institutes of Health (“NIH”), regarding the Select Subcommittee’s Final Report. We do so to highlight some of the Final Report’s material misrepresentations regarding the public health mitigation strategies employed during the pandemic and its mischaracterizations of Dr. Collins’ actions and motivations during the pandemic.

Dr. Collins has spent his entire career dedicated to public health and public service. As a physician-scientist, he is renowned for his landmark discoveries of a number of disease genes, including those responsible for cystic fibrosis, neurofibromatosis, Huntington’s disease, a familial endocrine cancer syndrome, type 2 diabetes, and Hutchinson-Gilford progeria syndrome, and for his leadership of the international Human Genome Project. He served as director of the National Human Genome Research Institute at NIH from 1993 to 2008 and as Director of NIH from 2009 to 2021, across three Presidential administrations, both Democrat and Republican. And during the COVID-19 pandemic, he assumed a leadership role in building public-private partnerships to advance vaccine and therapeutic development. For his dedication to advancing the public good, he has earned the Presidential Medal of Freedom, the National Medal of Science, and the Templeton Prize.

In assessing the federal government’s response to the most serious global pandemic in more than a century, it was appropriate for Congress to look closely at how the public health system performed in response to the COVID-19 pandemic. There will be future pandemics, and it is critical that we as a society—including scientists, physicians, researchers, public health experts, and government officials—learn from this recent health crisis. Indeed, Dr. Collins has written about these very topics.¹ To this end, Dr. Collins engaged voluntarily with the Select Subcommittee, including by participating in a seven-and-a-half hour transcribed interview with

¹ See, e.g., Francis S. Collins, *COVID-19 Lessons for Research*, 371 *Sci.* 1081, 1081 (2021); Francis Collins et al., *The NIH-Led Research Response to COVID-19*, 379 *Sci.* 441, 441–444 (2023).

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the Select Subcommittee and the House Committee on Energy & Commerce. Dr. Collins was hopeful that the Select Subcommittee would approach its weighty task with prudence and objectivity; that it would reach evidence-based conclusions, introduce legislation to strengthen pandemic preparedness and our public health system, and seek to restore public trust in science.

Throughout its investigation, though, the Select Subcommittee appears to have been acutely focused on reaching a set of pre-determined conclusions. This is apparent from the Select Subcommittee’s Final Report, which selectively credits evidence, inaccurately characterizes documents and transcribed interviews, and makes declarative statements not supported by the facts.

For instance, the Final Report wrongly characterizes vaccines and subsequent boosters as ineffective, stating: “it was already evident then and is now commonly known that the vaccines do not prevent you from getting infected or transmitting the virus.” Final Report, p. 346. This broad statement oversimplifies the data and ignores the significant benefits of COVID-19 vaccines to both individual and public health. COVID-19 vaccines not only saved millions of lives by diminishing likelihood of severe disease and death, a point the Final Report rightly notes, they also significantly reduce the chance of symptomatic infection.² Clarity, here, is essential to avoid undermining public health efforts in future pandemics. Indeed, during the COVID-19 pandemic, vaccine hesitancy, fueled by misinformation that tragically continues, led to the unnecessary deaths of an estimated 234,000 Americans between June 2021 and March 2022.³

The Final Report also fly-specks studies to support its broad conclusion that face masks do not work at all to mitigate COVID-19 transmission. *See, e.g.*, Final Report, p. 204. To support this conclusions, the Select Subcommittee’s Final Report relies heavily on a review by the Cochrane Collection, published in January 2023. Despite the authors cautioning that “[t]he high risk of bias in the trials, variation in outcome measurement, and relatively low adherence with the interventions during the studies *hampers drawing firm conclusions*,” that is precisely what the Final Report does. The Editor-in-Chief of the Cochrane Library, Dr. Karla Soares-Weiser, has herself provided clarifications about that study that correct the types of misinterpretations in the Final Report.⁴ Specifically, Dr. Soares-Weiser noted that while “[m]any commentators have claimed that a recently-updated Cochrane Review shows that ‘masks don’t work’” such statement is “*an inaccurate and misleading interpretation*.”⁵ Dr. Soares-Weiser went so far as issuing an apology for the wording of the Report which was “open

² Early Estimates of Updated 2023–2024 (Monovalent XBB.1.5) COVID-19 Vaccine Effectiveness, Morbidity and Mortality Weekly Report, Feb. 1, 2024, <https://www.cdc.gov/mmwr/volumes/73/wr/mm7304a2.htm>.

³ *COVID-19 Mortality Preventable by Vaccines*, Kaiser Family Foundation, <https://www.kff.org/coronavirus-covid-19/issue-brief/covid-19-continues-to-be-a-leading-cause-of-death-in-the-u-s/>.

⁴ Statement on ‘Physical Interventions to Interrupt or Reduce the Spread of Respiratory Viruses’ Review, Cochrane, March 10, 2023, <https://www.cochrane.org/news/statement-physical-interventions-interrupt-or-reduce-spread-respiratory-viruses-review>.

⁵ *Id.*

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to misinterpretation.”⁶ The Final Report compounds this misinterpretation by ignoring the weight of evidence regarding masking. A systematic review of mask-related studies reveals that: (1) more studies determined that masks and mask mandates reduced infection, and (2) wearing masks generally reduced COVID-19 transmission.⁷

The Final Report’s imprecise and misleading statements about the utility of vaccines and masks greatly undermines our nation’s ability to prepare for the next pandemic.

The Final Report also mischaracterizes Dr. Collins’ actions, statements, and motivations—as well as the positions and statements of other dedicated public health professionals, including Dr. Anthony Fauci, who have worked tirelessly for the greater good. An accurate description of Dr. Collins’ positions and statements is important not only for an informed policy debate, but for Dr. Collins personally. As you know, Dr. Collins and his family have been the target of ongoing threats largely fueled by misinformation. Accurate and even-handed accounts of the facts are critical.

We have spoken numerous times with the Select Subcommittee about its incorrect interpretations of Dr. Collins’ past statements. We appreciate that the Select Subcommittee agreed to a small number of our requested revisions to particular language. But unfortunately, the Select Subcommittee refused other requests, leaving in place the inaccurate impression that Dr. Collins was somehow perversely motivated to “push a single agenda.” See Final Report, p. 335. We reiterate our objections and requested revisions here:

1. We object to the Select Subcommittee’s inclusion of Dr. Collins in a section of the Report titled, “The Possible Motives of Proximal Origin.” See Final Report, p. 26. In that section, the Report contends that one “motive” “to downplay the lab leak theory was an interest by those involved to defend China.” Final Report, p. 26. The Report states, “Similarly, Dr. Collins expressed concerns regarding ‘international harmony,’” implying that Dr. Collins was motivated to “downplay” the lab leak theory by a desire to shield China from criticism. *Id.* The Final Report cites to an excerpt of an email in which Dr. Collins stated, “the voices of conspiracy will quickly dominate, doing great potential harm to science and international harmony.” *Id.* This section of the Report is flawed. Had the Report included Dr. Collins’ full email, the public would see that Dr. Collins’ email has nothing to do with “downplay[ing] the lab leak theory,” as the Report suggests. When Dr. Collins sent that email, on February 2, 2020, he did not yet have an opinion regarding whether COVID-19 originated from a lab leak or through natural origins. In fact, in that email, Dr. Collins argued for a “swift convening of experts . . . WHO seems

⁶ *Id.*

⁷ Leah Boulos et al., Effectiveness of Face Masks for Reducing Transmission of SARS-CoV-2: A Rapid Systematic Review, *Philos Trans A Math Phys Eng Sci.*, Aug. 24, 2023, <https://pmc.ncbi.nlm.nih.gov/articles/PMC10446908/>.

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really the only option” to explore the origins of COVID-19 with scientific rigor in order to avoid “voices of conspiracy” (*i.e.*, to avoid speculation without evidence) regarding the origins of the virus. As we have explained to your staff, Dr. Collins’ reference to “international harmony” in the cited email was an expression of the importance of international collaboration across the global community in the face of a global pandemic. Yet, the Final Report wrongly suggests that Dr. Collins, in referencing “international harmony,” was somehow defending China. That suggestion is wholly without merit. The evidence shows that Dr. Collins has been critical—not defensive—of China. Dr. Collins testified: “I think it’s in the Chinese’s best interest for this to be unresolved. If it was a lab leak, [the Chinese are] responsible. If it was a natural origin in a wet market that was selling wild animals that [the Chinese] were not supposed to be doing, they’re responsible.” Dr. Collins TI at 100:2460-2465. Dr. Collins further testified that the Chinese government is likely “just as culpable” regardless of whether the origins of the COVID-19 vaccine is through a lab accident or through natural origins. Dr. Collins TI at 101:2472. The Select Subcommittee’s inclusion of Dr. Collins in this section of the Final Report ascribes motives to Dr. Collins that are untrue and inconsistent with his testimony and evidence.

2. In a section of the Final Report titled, “The Involvement of Dr. Fauci, Dr. Collins, and Dr. Farrar,” the Select Subcommittee inaccurately suggests that Dr. Collins played a substantive role in the *Proximal Origin* paper. See Final Report, pp. 27-31. Dr. Collins testified that he played no role in prompting or drafting *Proximal Origin*. Dr. Collins TI at 76:1860-1869. He also stated that he received a draft of *Proximal Origin* “for information, not for me to edit it.” Dr. Collins TI at 77:1878-1879. Further, two of the paper’s actual authors, Dr. Andersen and Dr. Garry, confirmed that Dr. Collins did not have a substantive role. See Dr. Andersen TI at 64:12-13 (“[T]here is no involvement at any stage of the production of the papers from Drs. Collins or Fauci.”); Dr. Garry TI at 40 (“Q: Was either Dr. Fauci or Dr. Collins involved in the nitty-gritty of your drafting process . . .? . . . A: And actually neither one of them played that role.”). Yet the Final Report makes the following misrepresentations regarding Dr. Collins’ involvement with the *Proximal Origin* paper:
 - The Final Report quotes an email from Dr. Collins, which states, “. . . repeated tissue culture passage is still an option – though it doesn’t explain the O-linked glycans” and “I’d be interested in the proposal of accidental lab passage in animals (which ones?).” Final Report, p. 28. The Final Report then adds that Dr. Farrar shared Dr. Collins’ responses to Dr. Holmes to imply that Dr. Collins’

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comment affected the drafting of *Proximal Origin*. *Id.* In the quoted email, Dr. Collins simply raises clarifying questions about scientific theories that were addressed in the *Proximal Origin* draft. There is nothing in this email to suggest Dr. Collins was making statements regarding what should or should not be included in the draft publication.

- The Final Report states that Dr. Collins gave *Proximal Origin* “the final publication push and approval” and that he “signed off on publishing.” Final Report, p. 44. These statements again exaggerate and mischaracterize Dr. Collins’ role in *Proximal Origin*. The Final Report’s cited source, in which Dr. Collins opines that the paper was “really well done, and I would argue ought to be made public ASAP,” is inapposite. Final Report, p. 44. Dr. Collins was expressing his opinion of the quality of the research in the paper and his view that the findings of the paper would be beneficial to the public. He did not “sign[] off on publishing” the paper—indeed, there was nothing for him to sign-off on: it was not his paper. A more accurate representation would be that the authors shared the final draft with Dr. Farrar, who shared it with Dr. Collins before the authors submitted it for publication.
3. We object to the Final Report’s incorrect characterization of Dr. Collins’ actions regarding the Great Barrington Declaration. Without providing adequate context, the Select Subcommittee argues that critics of the proposal “immediately disqualified it . . . to an unsettling degree never seen before in the scientific community,” and that they did so to “push a single agenda.” Final Report, p. 333, 335. The Select Subcommittee relies on an internal email exchange between Dr. Collins and three of his colleagues regarding his concerns about the public health consequences of the policy. Final Report, p. 334. During his transcribed interview, Dr. Collins testified about this email and provided useful context, explaining that at the time, he was alarmed that the proposal was being presented to HHS Secretary Alex Azar within just 24 hours of its publication and without scientific review or debate. Dr. Collins testified that his fear was that the Declaration, which was published in October 2020 before the release of vaccines and which ran counter to his scientific understanding about how to respond to the pandemic, would result in tens of thousands of additional deaths. Thus, contrary to the Final Report’s suggestion, Dr. Collins sought only to ensure an opportunity to “engage in scientific and political debate” about a topic of grave importance.

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The Final Report also fails to acknowledge that fourteen nongovernmental public health organizations independently published a strongly worded critique of the Great Barrington Declaration within 10 days of its appearance.⁸ The Director of the World Health Organization and the scientific leadership of the United Kingdom agreed with that critique.⁹ And eighty public health experts published the “John Snow Memorandum” in *The Lancet*, systemically explaining the Great Barrington Declaration’s flawed premises and dangerousness.¹⁰ These independent critiques—which Dr. Collins had no part in authoring or publishing, and which express genuine disagreement and alarm about the Great Barrington Declaration—undergird his position then and now that the Great Barrington Declaration’s premise was unworkable and, if implemented as policy, would have led to significantly more deaths.

4. The Final Report includes excerpts of a conversation that Dr. Collins had during a July 10, 2023 panel discussion that he participated in as part of a “Braver Angels” event. Final Report, pp. 214, 334, 392. Braver Angels is a non-profit organization formed to address concerns about rising political polarization. It convenes individuals of different political ideologies to engage in productive conversations and mutual understanding. Dr. Collins has been participating in these events to facilitate open bipartisan conversations about science and COVID-19. Dr. Collins’ experience is that these discussions are more productive when each side acknowledges the other’s perspective. The Final Report makes much hay of Dr. Collins’ statements in one Braver Angels conversation, but the context in which Dr. Collins made these statements is important and should be noted. Dr. Collins’ participation in these events underscores his longstanding commitment to open dialogue and truth, and that he is not motivated by politics of personal agenda. He has instead devoted his entire career to protecting and advancing public health.

* * *

⁸ Public Health Organizations Condemn Herd Immunity Scheme for Controlling Spread of SARS-CoV-2, American Public Health Association news release, October 14, 2020.

⁹ WHO Virtual Press Conference, October 12, 2020; *Chris Whitty Decries Great Barrington Plan to Let Covid Run Wild*, Guardian, November 3, 2020.

¹⁰ “The John Snow Memorandum: Scientific Consensus on the COVID-19 Pandemic: We Need To Act Now,” *The Lancet* 396 (2020); e71-e72.

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Truth and science should go hand-in-hand. They have been the bedrock of the grandest achievements and insights in human history. And together, they offer Americans—and all humans—the promise of a healthy and better future. To give up on truth and science now—for the sake of political expediency—would be our grandest failure.

Thank you for your attention to our concerns.

Sincerely,



Catherine A. Brandon



John Nassikas

ARNOLD & PORTER LLP
601 Massachusetts Avenue, NW
Washington, DC 20001

cc: The Honorable Raul Ruiz, Ranking Member