

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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October 20, 2023

Dr. Mandy K. Cohen
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Dr. Cohen:

I am inquiring about how and the extent to which the Centers for Disease Control and Prevention (CDC) maintained and promoted inaccurate information on its website about vaccine efficacy for individuals with evidence of prior SARS-COV-2 infection. The CDC has continued to promote some of this information, even after being notified of its error—apparently disregarding relevant guidance I provided the CDC as a Member of Congress. As the Chairman of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust, I take a strong interest in how and whether the agency follows rules and regulations relating to public health.¹ The Subcommittee is scrutinizing the operations of the CDC in exercising its authorities, and I write to request relevant documents and information.

Once the COVID-19 vaccine began to roll out at the end of 2020,² the CDC's Advisory Committee on Immunization Practices (ACIP) published in the Morbidity and Mortality Weekly Report (MMWR)—also known as the “voice of the CDC”—that the COVID-19 vaccine was 92% effective for individuals with evidence of prior COVID-19 infection.³ However, neither Pfizer's trial data nor the Food and Drug Administration's analysis of Pfizer's trial data in

¹ The CDC has authorities to implement regulations to help protect against health and safety threats, both foreign and in the United States, and to increase public health security. *See, e.g., CDC Regulations*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/regulations/index.html> (last visited Sept. 29, 2023).

² Will Feuer, *U.S. administers first shots of Pfizer's Covid vaccine, launching a historic rollout*, CNBC (Dec. 14, 2020).

³ *The Advisory Committee on Immunization Practices' Interim Recommendation for Use of Pfizer-BioNTech COVID-19 Vaccine – United States, December 2020*, MORBIDITY AND MORTALITY WEEKLY REPORT, CENTERS FOR DISEASE CONTROL AND PREVENTION (Dec. 18, 2020), <https://www.cdc.gov/mmwr/volumes/69/wr/pdfs/mm6950e2-H.pdf>; *see also About the Morbidity and Mortality Weekly Report (MMWR) Series*, CENTERS FOR DISEASE CONTROL AND PREVENTION (last visited Sept. 29, 2023), <https://www.cdc.gov/mmwr/about.html>.

authorizing the vaccine for emergency use supported such a finding or conclusion.⁴ These inaccuracies led me to reach out to the CDC to verify the CDC's support for the information on its website.⁵

I spoke to at least four individuals at the CDC in attempts to address the misguided statistics.⁶ On December 16, 2020, I spoke to Dr. Amanda Cohn, who at the time was Chief Medical Officer of the CDC's National Center for Immunization and Respiratory Diseases (NCIRD) and Executive Secretariat of the ACIP.⁷ Dr. Cohn conceded that the CDC had no basis to claim that the vaccine was 92% effective in individuals with prior infection.⁸ Dr. Cohn called me "Eagle Eye Massie" and said the CDC would take down the incorrect information.⁹ However, the CDC took no action to correct the misinformation in the MMWR.¹⁰

I called the CDC again one month later and spoke to Ms. Anstice Brand Kenefick, the CDC's Washington, DC Deputy Director.¹¹ I also spoke to Dr. Sara Oliver, Lead for the COVID-19 vaccines ACIP Work Group and Medical Officer in the Division of Viral Diseases at NCIRD, who said individuals with prior infection were still likely to benefit from the vaccine.¹² Dr. Oliver also happened to be the author of the MMWR at issue.¹³ I again called the CDC and spoke to Dr. Anne Schuchat, Principal Deputy Director at the CDC, who admitted to me during the call that "there is not sufficient analysis to show that in the subset of only the people with prior infection, there's efficacy."¹⁴ Dr. Schuchat acquiesced that the CDC's assertion in its MMWR was inaccurate and needed to be corrected.¹⁵

On January 29, 2021, the CDC finally amended the language on its website concerning vaccine efficacy for individuals with natural immunity; however, the revised language was still incorrect.¹⁶ The CDC continued to claim that "[e]fficacy was similarly high in a secondary analysis including participants both with or without evidence of previous [COVID-19] infection."¹⁷

⁴ See Press Release, *Pfizer and BioNTech Announce Publication of Results from Landmark Phase 3 Trial of BNT162b2 COVID-19 Vaccine Candidate in The New England Journal of Medicine*, PFIZER (Dec. 10, 2020); Press Release, *FDA Takes Key Action in Fight Against COVID-19 By Issuing Emergency Use Authorization for First COVID-19 Vaccine*, FOOD AND DRUG ADMINISTRATION (Dec. 11, 2020), <https://www.fda.gov/news-events/press-announcements/fda-takes-key-action-fight-against-covid-19-issuing-emergency-use-authorization-first-covid-19>.

⁵ See Thomas Massie (@RepThomasMassie), TWITTER (Mar. 9, 2023, 5:31 PM).

⁶ *CDC Investigation*, FULL MEASURE (Jan. 31, 2021), <https://fullmeasure.news/news/full-episodes/full-measure-january-31-2021-cover-story-cdc-investigation>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *See id.*

¹¹ *Id.*

¹² *Id.*

¹³ See *The Advisory Committee on Immunization Practices' Interim Recommendation for Use of Pfizer-BioNTech COVID-19 Vaccine*, *supra* note 3.

¹⁴ *CDC Investigation*, *supra* note 6.

¹⁵ *Id.*

¹⁶ *Id.*; see also Erratum: Vol. 69, No. 50, CENTER FOR DISEASE CONTROL AND PREVENTION (Jan. 29, 2022), https://www.cdc.gov/mmwr/volumes/70/wr/mm7004a5.htm?s_cid=mm7004a5_w#suggestedcitation.

¹⁷ *Id.*

In response to a Freedom of Information Act (FOIA) request by Aaron Siri, the CDC produced heavily redacted internal communications regarding the very conversations I had with CDC employees.¹⁸ I now seek the unredacted information contained in these emails and other communications pertaining to myself and the several conversations I had with CDC staff.

Accordingly, please provide the following documents by 5 p.m. on November 3, 2023:

1. All documents and communications referring or relating to myself, including, but not limited to, documents and communications reflecting my conversations with Dr. Amanda Cohn, Dr. Sara Oliver, Dr. Anne Schuchat, and Ms. Anstice Brand Kenefick;
2. All documents and communications concerning the CDC's decision to maintain this inaccurate information in the MMWR instead of promptly correcting it;
3. All documents and communications regarding the CDC's subsequent edits to the MMWR;
4. All documents and communications between Todd O'Boyle, former Senior Manager of Public Policy at Twitter, and the CDC;
5. All documents and communications regarding the CDC's tracking of CDC-related tweets from members of Congress; and
6. All documents and communications referring or relating to the CDC's claim, described above, that "efficacy was similarly high in a secondary analysis"

The above documents will assist in my efforts to further ascertain the degree to which truthful information was withheld from American citizens, particularly my constituents, who sought to make informed decisions about whether to receive the COVID-19 vaccine. Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "administrative practice and procedures" to inform potential legislative reforms.¹⁹ Thank you for your prompt attention to this important matter.

Sincerely,



Thomas Massie
Chairman
Subcommittee on the Administrative State,
Regulatory Reform, and Antitrust

¹⁸ Sharyl Attkisson, *Internal CDC docs on the agency's false Covid vaccine claims*, SHARYLATTKISSON.COM (May 9, 2022).

¹⁹ Rules of the House of Representatives, R. X (2023).

Dr. Mandy K. Cohen

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cc: The Honorable Lou Correa, Ranking Member
Subcommittee on the Administrative State, Regulatory Reform, and Antitrust