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November 17, 2022

The Honorable Ashley B. Moody
Attorney General
State of Florida
PL-01 The Capitol
Tallahassee, FL 32399-1050

RE State criminal prosecution of Centers for Disease Control (CDC) officials for reckless endangerment under Florida's culpable negligence statute

Dear Ms. Moody:

The enclosed article asserts:

[T]he CDC delayed reporting the incidence of myocarditis to the general public for three months after the first statistically significant signal appeared in the VAERS database. The delay kept about 120,000,000 Americans in the dark until after they had already unknowingly exposed themselves to one or more doses of the COVID-19 injections that were, according to the analysis presented here, in all probability, the proximate cause of the increased incidence of myocarditis, especially in young male Americans from 8 to 21 years of age.¹

If that assertion is correct,² that level of negligence by omission may have violated Florida's culpable negligence criminal code section, in that CDC officials "through culpable negligence, expose[d] another person [Floridians] to personal injury[.]" § 784.05(1), *Florida Statutes*, given what we are learning about the incidence of post-COVID-19 vaccination myocarditis.³

I believe CDC should have timely reported the incidence of myocarditis to the general public, and to state health agencies, and may have been culpably negligent in not doing so.

¹ Karl Jablonski & Brian Hooker, *Delayed Vigilance: A Comment on Myocarditis in Association with the COVID-19 Injections*, International Journal of Vaccine Theory, Practice, and Research 2(2), October 17, 2022 (quotation from abstract).

² On information and belief, at least one health freedom advocacy organization has filed, or will soon file, a Freedom of Information Act (FOIA) request for relevant internal CDC emails.

³ Sintaroo Watanabe & Rokuro Hama, *SARS-CoV-2 Vaccine and Increased Myocarditis Risk: A Population Based Comparative Study in Japan*, <https://www.medrxiv.org/content/10.1101/2022.10.13.22281036v1> (preprint) (last accessed 11/05/2022), and citations therein to already-published studies.

There cannot be "informed consent" without being "informed."

As you are aware, federal officials do not have absolute Supremacy Clause immunity from state law prosecution, *see e.g., Wyoming v. Livingston*, 443 F.3d 1211 (10th Cir. 2006) (discussing Supremacy Clause, removal, and "reasonable and necessary").⁴

While Florida's statute of limitations may have run for an act of culpable negligence occurring in February through May 2021, CDC's recent decision to recommend new omicron boosters for children as young as five years old, without convening a meeting of CDC's panel of vaccine experts, especially since that decision appears to have been made in reliance on the Food and Drug Administration (FDA)'s authorizing those shots for kids without direct human data on their effectiveness,⁵ may similarly be within the realm of possible culpable negligence.

I encourage your office to consider whether criminal prosecutions of federal officials under Florida state law in the context above or in related contexts are appropriate and legally supportable.

Regarding jurisdiction, that would be a matter for staff to research. In my home state of Utah, if an offense is committed outside our state, but one of the resulting elements occurs within our state, a state court could possibly have jurisdiction.

I recently sent a similar letter to my state Attorney General. His office has not yet responded.

Sincerely yours,

/s/ Edward A. Berkovich
Attorney at Law

Enc.

Cc (without enclosure): Florida State Surgeon General Joseph A. Ladapo, MD, PhD

⁴ This is a separate issue from the civil law realm where vaccine manufacturers enjoy broad products liability immunity.

⁵ CDC recommends Covid omicron booster shots for kids as young as 5 years old (cnbc.com) (last accessed 11/16/2022).