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Sent by email to contactdoj@mt.gov (formatted for email) and by regular U.S. mail

The Honorable Austin Knudsen
Office of the Attorney General
Justice Building, Third Floor
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

RE State criminal investigation of Centers for Disease Control (CDC) officials for criminal endangerment

Dear Mr. Knudsen:

I support your November 17, 2022 letter to Secretary Becerra and Administrator Brooks-LaSure.

The enclosed/linked 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 omission may provide reasonable suspicion to investigate CDC officials for violating Montana's criminal endangerment law, section 45-5-207 (MCA), for "knowingly engag[ing] in conduct that create[d] a substantial risk of death or serious bodily injury to" Montanans, especially given what we are learning about the incidence of post-COVID-19 vaccination myocarditis,³ to confirm or dispel reasonable suspicion.

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 Sitaroo 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) (accessed 11/05/2022), and citations therein to already-published studies.

I believe CDC should have timely reported the incidence of myocarditis to the general public, and to state health agencies, and not doing so may support reasonable suspicion to investigate.

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 Montana's statute of limitations may have run for an act of criminal endangerment occurring in February through May 2021, CDC's recent decision to recommend new omicron boosters for children as young as five years old, without even convening a meeting of CDC's panel of vaccine experts⁵ similarly may give rise to reasonable suspicion to investigate for criminal endangerment. 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.^{6 7}

I encourage your office to consider whether investigation of federal officials for state law prosecutions is warranted for either their actions mentioned herein or other pandemic response activities.

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, to Florida's, and to a county prosecutor in Wyoming.

Sincerely yours,

/s/ Edward A. Berkovich
Attorney at Law, Utah Bar. No. 6180

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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) (accessed 11/16/2022). I have filed a FOIA request for the document memorializing that recommendation.

⁶ *Id.*

⁷ Even an FDA panel member questioned a recent, separate FDA decision. Paul Offit, Philly's most vocal vaccine advocate, on science, truth, and why he's not a fan of the latest COVID boosters (inquirer.com) (accessed 11/19/2022).