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Sean D. Reyes
Utah Attorney General
350 North State Street, Suite 230
Salt Lake City, Utah 84114

RE Screening for state prosecution of Centers for Disease Control (CDC) officials for reckless endangerment of Utah residents under Utah Code § 76-5-112.

Dear Mr. Reyes:

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 such a level of neglect and omission may have violated Utah's reckless endangerment criminal code section, that is, CDC officials "recklessly engaging in conduct [omitting to report] that create[d] a substantial risk of death or seriously bodily injury to [Utah residents]." *See* Utah Code § 76-5-112(2) and related definitional section for "organ[.]" meaning the human heart damaged by myocarditis.

Given what we now know 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,

¹ Karl Jablonowski (surname spelling corrected from 11/5/22 original) & 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.

including Utahns, and state health agencies, and its omission may rise to a criminal offense, which is of course your decision to make for your jurisdiction.

Thus, I encourage you and your office to consider investigating and screening this matter for possible prosecution, which would understandably require further investigation, *see* footnote 2, also to include determining the number of persons in your jurisdiction put at "substantial risk of death or seriously bodily injury" by the CDC's act of omission, and determining when the myocarditis warning was put into the vaccine package insert, to name a few items for further investigation.

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

For jurisdiction, *see* Utah Code § 76-1-201(1)(a), -201(2). For criminal recklessness, *see* Utah Code § 76-2-103(3).

I realize reckless endangerment is "only" a class A misdemeanor, but it carries 364 days in jail per conviction, which would deter future wrongdoing by federal officials, if charges are supported and if convictions happen.

Also, I believe there are times to "think small" and "start somewhere" and "do one thing" to initiate later, more comprehensive accountability. To mix metaphors, take the mustard seed approach, instead of taking on the whole edifice, start by removing a few bricks at the bottom, destabilize things by starting somewhere to begin the state-by-state work to curb the irresponsibility and overreach by some federal agencies during the pandemic.

It is one thing to "hold hearings"⁵ and quite another to hold offenders accountable.

I hope you will consider the foregoing. I'm available for contact from your office.

Sincerely yours,

/s/ Edward A. Berkovich
Attorney at Law

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⁴ This is a separate issue from the civil law realm where vaccine manufacturers, as private corporations, have immunity from civil products liability actions from vaccine-injured persons.

⁵ Holding hearings may be counterproductive in terms of accountability, because sometimes people subpoenaed to testify before legislative bodies do so only on condition of receiving immunity from criminal prosecution. If there are post-election hearings, I am concerned the rush to hold hearings will make grand political theater, but any concomitant immunity grants will preclude real accountability from criminal prosecution. Maybe you could ask those with whom you are acquainted who are in power in Washington, DC, to consider that.