

Summary Report Concerning Responses to COVID-19 in the USA

E. Donald Elliott

Abstract. This article concludes that the U.S. response to COVID-19 was hampered by politics; the decentralization of the U.S. political system and the “fee for service” approach of the U.S. healthcare system. However, the technological prowess of U.S.-based pharmaceutical companies resulted in the development of effective mRNA vaccines in record time.

Keywords: COVID-19, Vaccine Mandates, Travel Bans, Federalism, Decentralization

1. Introduction

With almost 600,000 deaths and over 33 million confirmed cases of COVID-19 in the U.S.¹ (and estimates of actual cases as high as 83 million²), no fair-minded person would judge the U.S.’s initial response to the pandemic as satisfactory. On the other hand, today - roughly sixteen months into the pandemic - half of adults in the U.S. have been fully vaccinated and infection rates are declining sharply.³ However, vaccination was voluntary in the U.S. at the time this was written and substantial resistance to taking the vaccines has arisen among certain groups.⁴ This reluctance has spawned numerous schemes, including a \$1 million lottery in Colorado,⁵ to try to incentivize reluctant people to consent to take the vaccine. In addition, some private employers are beginning to require vaccination as a condition of allowing employees to return to work in person.⁶ As of this writing, it is not clear whether the current system of voluntary vaccinations plus private employer requirements will result in sufficient immunizations to achieve

herd immunity. (Subsequently vaccine mandates were promulgated for large companies at the national level and in some localities, but have been challenged with mixed results in the courts.⁷)

The thesis of this paper is that the initial response to COVID-19 in the U.S. was hampered by structural weaknesses in the U.S. political and healthcare systems that caused them to be ill-adapted to deal decisively with a pandemic on the scale of COVID-19 but presumably have numerous advantages and offsetting benefits in other areas.⁸ These structural features did not inevitably doom the U.S. to respond as it did; individual actors in politics, the administrative state, and the media all could have behaved differently. Rather, those features constituted weaknesses that created incentives for the counter-productive but predictable behaviors that we describe.

In the long run, however, the U.S.’s technological and administrative ability to develop and deploy an effective vaccine may eventually overcome some of the U.S.’s initial administrative problems and missteps, but not until after we suffered a large number

¹ <<https://www.nytimes.com/interactive/2021/us/covid-cases.html>> accessed 5 July 2021.

² <<https://www.wsj.com/articles/the-virus-lessons-were-getting-wrong-11612562285>> accessed 5 July 2021.

³ <<https://www.npr.org/sections/coronavirus-live-updates/2021/05/25/1000171685/half-of-all-u-s-adults-will-be-fully-vaccinated-against-covid-19-as-of-tuesday>> accessed 5 July 2021.

⁴ <<https://www.scientificamerican.com/article/7-ways-to-reduce-reluctance-to-take-covid-vaccines/>> accessed 5 July 2021 (“Vaccine reluctance looms large among certain subgroups: 42 percent of Republicans, 35 percent of Black adults and 33 percent of essential workers, for varying reasons”).

⁵ <<https://www.denverpost.com/2021/06/04/colorado-covid-vaccine-lottery-winner/>> accessed 5 July 2021.

⁶ <[https://www.npr.org/2021/05/28/1001116485/for-employers-the-law-is-mostly-on-their-side-when-it-comes-to-vaccines#:~:text=Etics,Eploers%20Can%20\(Mostly\)%20Require%20Vaccines%20For%20Workers%20Returning%20To%20The,But%20woers%20can%20clim%20exceptions](https://www.npr.org/2021/05/28/1001116485/for-employers-the-law-is-mostly-on-their-side-when-it-comes-to-vaccines#:~:text=Etics,Eploers%20Can%20(Mostly)%20Require%20Vaccines%20For%20Workers%20Returning%20To%20The,But%20woers%20can%20clim%20exceptions)> accessed 5 July 2021.

⁷ For a summary of cases, see <<https://www.networkforphl.org/wp-content/uploads/2021/10/Western-Region-Memo-COVID-Vaccine-Mandate-Cases-1.pdf>> accessed 5 July 2021.

⁸ For more detail on these points, please see the PowerPoint slides that accompanied my oral presentation with a co-author on March 5, 2021 <https://www.globalpandemicnetwork.org/news_events/webinar-5th-march-2021/> accessed 5 July 2021.

of deaths and illnesses, some of which might have been avoided by better planning and preparation. This pattern is not atypical of other responses by the U.S. to crises, which has been compared to that of a “sleeping giant” that is slow to awaken but can deploy strong measures once it does.⁹

2. Lesson One: Don’t Hold a Presidential Election in the Midst of a Pandemic

One over-riding lesson to be learned from the U.S. response to the COVID-19 pandemic is “*Don’t try to hold a U.S. presidential election while trying to contain a pandemic.*” The on-going presidential election made it very difficult to coordinate a unified national response. In the U.S., two competing political parties are evenly divided in terms of popular support, and each of them has allies in the media and in control of state governments. In addition, in the U.S. governmental structure, our states possess the primary authority to respond to a public health crisis in the absence of an executive or legislative declaration vesting emergency powers in the national government. The Trump Administration decided not to take control nationally on an emergency basis, but instead to provide non-binding “guidance” and recommendations at the national level, but to leave most implementation to the governors of our fifty states. This approach has not changed substantially since President Biden took office in January, 2021.

The states responded in different ways, with some imposing more stringent mandatory controls than others. Again, this was not an inevitable response, but it is typical of U.S. political culture that often favors a diversity of responses on a decentralized basis. Our decentralized approach that divides government power among many power centers has its strengths and weaknesses. On the positive side, it protects our liberties and like diversified strategies in other areas of life, it is never entirely right or wrong, but allows room for experimentation and learning.¹⁰ In this instance, we learned from experimentation at the state level that those states with more lenient policies toward wearing masks and shutting down businesses appear to have done roughly as well at preventing the spread of the virus as those with more

aggressive government controls which were implemented at substantial economic cost but ended up having little if any public health benefit¹¹ (and some even argue had adverse effects on public health via increase rates of depression and drug use¹²). However, our states differ widely in terms of a number of factors relevant to the spread of an infectious disease such as population density and political culture regarding centralized government control. Consequently, it would have been undesirable to try to impose a single national approach – at least, according to the conservative republicans who formed part of President Trump’s base.

3. Examples of the Pandemic as a Political Issue

The politicization of mask wearing became symbolic of competing philosophies between our two political parties. For example, then-candidate Joe Biden showed up for the second debate with then-President Trump twirling a face mask around his finger for no reason other than to remind 60 million T.V. viewers that Biden assiduously wore a mask, while President Trump was less diligent in doing so. The press repeatedly noted the lack of mask wearing at Trump rallies -- and of course, Trump contracted the virus and was rushed to Walter Reed Hospital for emergency treatment.

Another example of the politicization of responses to the virus was Vice Presidential candidate, Kamala Harris, the first woman of color to run for that position on a major party ticket, stating on national television that she would not take a vaccine if it were recommended by then-President Trump.¹³ However, politicization of scientific issues was not limited to one political party. As the crisis continued, a number of conservative Republican governors, perhaps typified by Florida’s Ron DeSantis, became leaders in opposing policies recommended by some scientific “experts” from the permanent administrative government, such as Dr. Anthony Fauci, head of the National Institute for Allergy and Infectious Disease at our National Institutes of Health. The governors focused particularly on topics such as reopening schools and wearing face masks in public places. The credibility of experts

⁹ <https://en.wikipedia.org/wiki/Isoroku_Yamamoto%27s_sleeping_giant_quote> accessed 5 July 2021.

¹⁰ See E. Donald Elliott, *Why the United States Does Not Have a Renewable Energy Policy*, 43 *Environmental Law Reporter* 10095 (Feb. 2013) <https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=6123&context=ess_papers> accessed 5 July 2021.

¹¹ <<https://www.americanexperiment.org/states-that-stayed-open-fared-much-better-than-states-that-shut-down/>> accessed 5 July 2021.

¹² <<https://www.kff.org/coronavirus-covid-19/issue-brief/mental-health-and-substance-use-considerations-among-children-during-the-covid-19-pandemic/>> accessed 5 July 2021.

¹³ <<https://www.masslive.com/politics/2020/10/covid-vaccine-amid-growing-distrust-kamala-harris-says-she-wont-take-it-if-it-has-presidenttrumps-support.html>> accessed 5 July 2021.

such as Dr. Fauci with the public was undermined, because their advice kept changing as we learned more about the virus.¹⁴ On the other hand, Democrat governors such as New York's Andrew Cuomo presented a contrast to President Trump leadership – or lack thereof – depending upon one's political affiliations and sources of news.

More importantly, very few states restricted travel from other states, and the few that did generally only required testing or quarantine periods rather than prohibiting travel entirely. Although we do have a constitutional right to travel from one state to another,¹⁵ it would not necessarily have been illegal to limit the right of citizens to travel to other states on an emergency basis; however, if a travel ban had been adopted and were challenged in court, the government would have had to persuade an independent judiciary that the risk of COVID transmission from interstate travel was sufficient to justify such extreme measures and that less intrusive measures were insufficient. But it would have been very difficult politically and contrary to our traditions to restrict travel within the U.S., and none of our governors or the national government even tried to make that argument. We contrast that feature of U.S. political culture with the decision by China to lock down 50 million people, which is credited by some analysts with halting the spread of the virus in China,¹⁶ but discounted by others as merely delaying the spread by only a few days.¹⁷ We mention China not to endorse its more “authoritarian” approach,¹⁸ but merely to show the contrast between our two different political cultures, such that some public health measures acceptable in other countries were not acceptable politically in the U.S.

4. Lesson Two: The U.S. Healthcare System is Not Optimized for Pandemics.

The structure of the U.S. healthcare system is largely still based on private, for-profit healthcare

providers and a fee-for-service model. Healthcare in the U.S. is a \$16 trillion-a-year business, roughly the size of the economy of Italy. This system has proved effective at providing high quality, technologically advanced healthcare to those who can afford it. However, there are still strong disparities in the quality of care received based on economic and ethnic status. These disparities resulted in COVID-19 hitting some disadvantaged and under-served groups in the U.S. harder than the population generally. As stated by our Centers for Disease Control,

“There is increasing evidence that some racial and ethnic minority groups are being disproportionately affected by COVID-19. Inequities in the social determinants of health, such as poverty and healthcare access, affecting these groups are interrelated and influence a wide range of health and quality-of-life outcomes and risks.”¹⁹

The charts below (in the next page) show death rates by ethnicity.

A second criticism of the U.S. healthcare system is that the Food and Drug Administration's protocols for approving vaccines are designed for normal times and place a higher value on preventing side effects to individuals than on public health.²⁰ While the U.S. did eventually develop highly effective vaccines using innovative technology relying on genetically-engineered messenger RNA rather than the traditional approach of exposure to a deactivated pathogen, and deployed them in record time under an “emergency use authorization,” still the U.S. was slower than its international competitors including both China and Russia to deploy vaccines. Skeptics have noted that the FDA and the companies involved delayed announcing that their vaccines were effective until a week *after* the U.S. presidential election, although they undoubtedly knew that preliminary data from on-going trials were showing encouraging results.²¹ More charitable observers attribute the delay to a

¹⁴ <<https://news.yahoo.com/lawmakers-call-fauci-resignation-firing-195751511.html>> accessed 5 July 2021 (52% of Americans no longer trust recommendation from the Centers for Disease Control regarding the virus).

¹⁵ <<https://www.law.cornell.edu/constitution-conan/amendment-14/section-1/the-right-to-travel>> accessed 5 July 2021.

¹⁶ <<https://ldi.upenn.edu/healthpolicysense/wuhan-lockdown-halted-spread-coronavirus-across-china>> accessed 5 July 2021.

¹⁷ <<https://science.sciencemag.org/content/368/6489/395>> accessed 5 July 2021.

¹⁸ <<https://theconversation.com/china-beat-the-coronavirus-with-science-and-strong-public-health-measures-not-just-with-authoritarianism-150126>> accessed 5 July 2021.

¹⁹ <<https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html>> accessed 5 July 2021.

²⁰ Under the law, FDA generally must determine that a drug is “safe and effective” before approving its use. <<https://www.fda.gov/drugs/information-consumers-and-patients-drugs/fdas-drug-review-process-ensuring-drugs-are-safe-and-effective>> accessed 5 July 2021. However, the agency has authority to issue “emergency use authorizations” when necessary to address public health emergencies <<https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization>> accessed 5 July 2021.

²¹ <<https://spectator.org/2020-election-voting-co-vid-19/>> accessed 5 July 2021.

“miscalculation” that following standard vaccine approval protocols designed for ordinary times would increase public confidence and willingness to take the vaccine.²² However, as noted above, the hoped-for acceptance has not materialized and roughly 30% of the U.S. population states that they will not receive the vaccine voluntarily, but some employers are starting to require vaccination (subject to religious and other objections) for those returning on on-site work.

Moreover, the search for effective therapeutic agents has been slower than anticipated. Some contend that the delay is due to the uncoordinated, decentralized approach to research in the U.S.

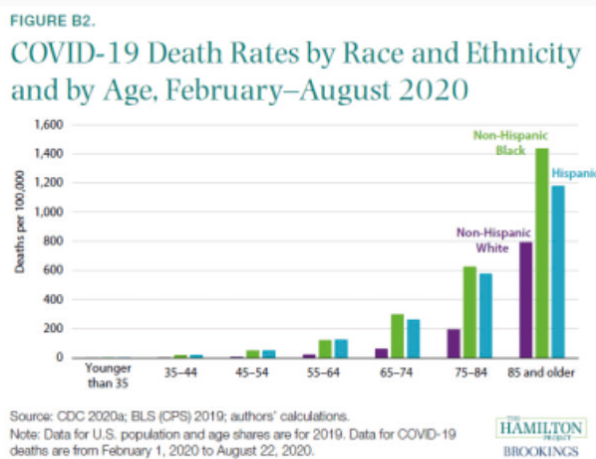
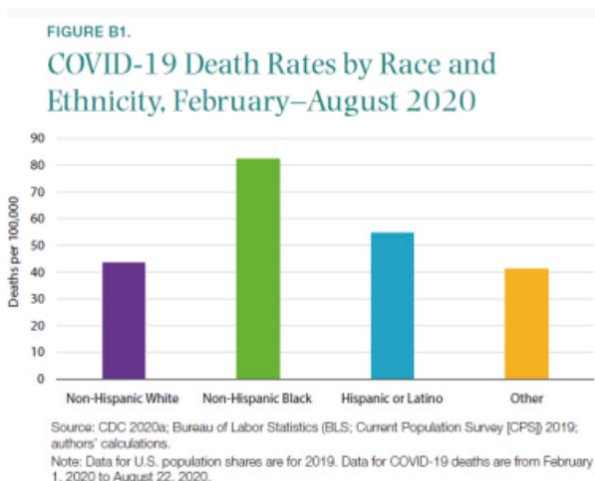
“Much of the blame for limited progress in this area lies with the lack of collaborative, centralized research programs able to identify and collect valid data on existing and new therapies. Instead, hundreds of researchers and clinicians have launched multiple trials of available drugs, most without adequate controls and size needed to yield useful evidence. ...”²³

On the other hand, our hospital system was not over-whelmed as some had feared might occur at the outset.

5. Conclusion

A perceptive comparison of U.S. and Chinese responses to the pandemic by Elanah Uretsky, Associate Professor of International and Global Studies at Brandeis University, concludes that China’s response was more effective not only because of “draconian public health policies that can be instituted only by an authoritarian government” but also because China learned from “the experience of living through a similar epidemic” of SARS in 2002-2003.²⁴ According to Professor Uretsky, “Following SARS, the [Chinese] government improved training of public health professionals and developed one of the most sophisticated disease surveillance systems in the world. While caught off guard for this next big coronavirus outbreak in December 2019, the country quickly mobilized its resources to bring the epidemic almost to a halt inside its borders within three months.”²⁵

It remains to be seen whether the U.S. will learn similar lessons from the problems it encountered in dealing with COVID-19 and thereby be better prepared to respond the next time a similar public health crisis.



²² <<https://www.wsj.com/articles/the-virus-lessons-were-getting-wrong-11612562285>> accessed 5 July 2021.

²³ <<https://www.biopharminternational.com/view/where-are-the-therapeutics-to-combat-covid-19->> accessed 5 July 2021.

²⁴ <<https://theconversation.com/china-beat-the-coronavirus-with-science-and-strong-public-health-measures-not-just-with-authoritarianism-150126>> accessed 5 July 2021.

²⁵ *Ibidem.*