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COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY,
SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

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INTERVIEW OF: LAWRENCE TABAK

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Friday, January 5, 2024

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Washington, D.C.

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The interview in the above matter was held in Room 5480, O'Neill House Office

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Building, commencing at 10:03 a.m.

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Appearances:

For the SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC:

MITCH BENZINE, STAFF DIRECTOR

JACK EMMER, COUNSEL

ERIC OSTERHUES, CHIEF COUNSEL

[REDACTED] MINORITY CHIEF COUNSEL

[REDACTED] MINORITY COUNSEL

[REDACTED] MINORITY SENIOR COUNSEL

For the COMMITTEE ON ENERGY AND COMMERCE,
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[REDACTED], MINORITY PROFESSIONAL STAFF MEMBER

1 For the U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES:

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3 DARIA BERSTELL, LEGISLATIVE ANALYST FOR OVERSIGHT AND INVESTIGATIONS, OFFICE
4 OF THE ASSISTANT SECRETARY FOR LEGISLATION

5 MARTA COOK, SENIOR ADVISOR FOR OVERSIGHT, NATIONAL INSTITUTES OF HEALTH

6 TARA GANAPATHY, SENIOR COUNSEL, OFFICE OF THE GENERAL COUNSEL

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24 Mr. Benzine. This is a transcribed interview of Dr. Lawrence Tabak, conducted by
25 the House Select Subcommittee on the Coronavirus Pandemic, the Committee on

1 Oversight and Accountability, and the Committee on Energy and Commerce under the
2 authority granted to them by House Resolution 5, House rule X, and the rules of the
3 Committee on Oversight and Accountability and Committee on Energy and Commerce.

4 This interview was requested by Chairman Brad Wenstrup, Chairman James
5 Comer, Chair Cathy McMorris Rodgers, Chairman Morgan Griffith, and Chairman Brett
6 Guthrie as part of the committees' oversight of the Federal Government's response to the
7 coronavirus pandemic.

8 Pursuant to House Resolution 5, the select subcommittee has wide-ranging
9 jurisdiction but specifically to investigate the origins of the coronavirus pandemic,
10 including but not limited to the Federal Government's funding of gain-of-function
11 research and executive branch policies, deliberations, decisions, activities, and internal
12 and external communications related to the coronavirus pandemic.

13 Pursuant to House rule X, the Committee on Oversight and Accountability has
14 jurisdiction to investigate any matter at any time. And pursuant to House rules X and XI,
15 the Committee on Energy and Commerce has jurisdiction for public health service
16 agencies, including the National Institutes of Health and the entities it funds, as well as
17 Federal biomedical research and development.

18 Can the witness please state his name and spell his last name for the record?

19 Dr. Tabak. Lawrence Tabak, T-a-b-a-k.

20 Mr. Benzine. Thank you, Dr. Tabak. My name is Mitch Benzine, and I am the
21 staff director for the majority staff of the select subcommittee.

22 I want to thank you for coming in today for this interview. We recognize that
23 you are here voluntarily, and we appreciate that.

24 Under the select subcommittee and Committee on Oversight and Accountability's
25 rules, you are allowed to have an attorney present to advise you during this interview.

1 Do you have an attorney representing you in a personal capacity today?

2 Dr. Tabak. I do not.

3 Mr. Benzine. Is there an attorney present representing the Department with you
4 today?

5 Dr. Tabak. There is.

6 Mr. Benzine. Will counsel identify themselves?

7 Ms. Ganapathy. Tara Ganapathy, senior counsel, HHS.

8 Mr. Benzine. For the record, starting with the rest of the -- starting to my left,
9 can the additional staff members please introduce themselves with their name, title, and
10 affiliation?

11 Mr. Strom. John Strom, senior counsel, House Energy and Commerce
12 Committee, Subcommittee on Oversight and Investigations.

13 Mr. Osterhues. Eric Osterhues, chief counsel, Select Subcommittee for the
14 Coronavirus Pandemic, majority staff.

15 Mr. Slobodin. Alan Slobodin, chief investigative counsel, House Energy and
16 Commerce Committee, majority staff.

17 Mr. Emmer. Jack Emmer, senior counsel, Select Subcommittee on the
18 Coronavirus Pandemic.

19 [REDACTED], chief counsel, Energy and Commerce Committee,
20 Oversight and Investigations, minority staff.

21 [REDACTED] select subcommittee, senior counsel, minority staff.

22 [REDACTED], professional staff member, Energy and Commerce
23 Committee, Oversight and Investigations Subcommittee, minority staff.

24 [REDACTED], chief minority counsel, select subcommittee.

25 [REDACTED] minority counsel, select subcommittee.

1 Ms. Cook. Marta Cook, Senior Advisor for Oversight at NIH.

2 Ms. Berstell. Daria Berstell, Office of the Assistant Secretary for Legislation, HHS.

3 Mr. Benzine. Thank you all.

4 Dr. Tabak, before we begin, I would like to go over the ground rules for this
5 interview.

6 The way this interview will proceed is as follows: The majority and minority staff
7 will alternate asking you questions, 1 hour per side per round, until each side is finished
8 with their questioning. The majority staff will begin and proceed for an hour, and then
9 the minority staff will have an hour to ask questions. We will then alternate back and
10 forth in this manner until both sides have no more questions.

11 If either side is in the middle of a specific line of questions, they may choose to
12 end a few minutes past an hour to ensure completion of that specific line of questioning,
13 including any pertinent followups.

14 In this interview, while one member of the staff for each side may lead the
15 questioning, additional staff may ask questions.

16 There is a court reporter taking down everything I say and everything you say to
17 make a written record of the interview. For the record to be clear, please wait until the
18 staffer questioning you finishes each question before you begin your answer and the
19 staffer will wait until you finish your response before proceeding to the next question.

20 Further, to ensure the court reporter can properly record this interview, please
21 speak clearly, concisely, and slowly. The court reporter cannot record nonverbal
22 answers, such as nodding or shaking your head, so it is important that you answer each
23 question with an audible, verbal answer.

24 Exhibits may be entered into the record. Majority exhibits will be identified
25 numerically. Minority exhibits will be identified alphabetically.

1 Do you understand?

2 Dr. Tabak. I do.

3 Mr. Benzine. We want you to answer our questions in the most complete and
4 truthful manner possible, so we will take our time. If you have any questions or do not
5 fully understand the question, please let us know. We will attempt to clarify, add
6 context to, or rephrase our questions.

7 Do you understand?

8 Dr. Tabak. I do.

9 Mr. Benzine. If we ask about specific conversations or events in the past and you
10 are unable to recall the exact words or details, you should testify to the substance of
11 those conversations or events to the best of your recollection. If you recall only a part
12 of a conversation or event, you should give us your best recollection of those events or
13 parts of conversations that you do recall.

14 Do you understand?

15 Dr. Tabak. I do.

16 Mr. Benzine. Although you are here voluntarily and we will not swear you in,
17 you are required, pursuant to title 18, section 1001 of the United States Code, to answer
18 questions from Congress truthfully. This also applies to questions posed by
19 congressional staff in this interview.

20 Do you understand?

21 Dr. Tabak. Yes, I do.

22 Mr. Benzine. If at any time you knowingly make false statements, you could be
23 subject to criminal prosecution.

24 Do you understand?

25 Dr. Tabak. I do.

1 I want to start with going through your education and experience really quickly.

2 Where did you attend undergraduate school, and what degree did you graduate with?

3 A City College of New York. Bachelor's degree in biology, with a minor in
4 chemistry.

5 Q Where did you get your Doctor of Dental Surgery?

6 A Columbia University in New York.

7 Q And where did you get your Ph.D. and in what field?

8 A The then SUNY at Buffalo. I think they call it University of Buffalo now.

9 And my Ph.D. was in oral biology, but the expertise is in biochemistry.

10 Q All right.

11 Who is your current employer and your current job title?

12 A My current employer is the National Institutes of Health, and my job title is
13 Principal Deputy Director of NIH.

14 Q Just very briefly, understanding every day is different, what are your, kind of,
15 standard roles and responsibilities or standard day-to-day?

16 A Every day is different. I mostly focus on administrative issues at NIH.

17 That's really the summary.

18 Q All right. What's an example of an administrative issue?

19 A I have a number of offices that report to me within the Office of the Director.

20 I meet on an ad-hoc basis with institute and center directors or their deputies. Again,
21 that varies from day to day.

22 Q All right.

23 Do you currently hold or have you previously held any honorary academic
24 positions?

25 A I have not.

1 Q Do you currently hold or have you previously held any positions on boards or
2 nonprofits?

3 A None.

4 Q When did you become Principal Deputy Director?

5 A I became the permanent Principal Deputy Director in 2010.

6 Q Is there a -- can you differentiate between acting and permanent?

7 A I served as the Acting Deputy Director from late 2008 to sometime in 2009.

8 Q You're not Senate-confirmed, correct?

9 A That's correct.

10 Q What's the process for acting to permanent?

11 A Acting Deputy Director was simply an appointment by the then-Acting
12 Director of NIH with concurrence by the Department.

13 Q Okay. And what's the process to become permanent?

14 A There was a formal search, which I participated in. And, again, the NIH
15 Director makes a selection, and the Department confirms that appointment.

16 Q Okay. So the -- sorry for all these -- but the --

17 A Oh, no.

18 Q -- primary difference is the active search? So, if there was a vacancy, the
19 Director, in consultation with the Department, can name an acting; then they have to go
20 through the search process to find the permanent. Is that --

21 A That's my understanding.

22 Q All right.

23 And then you served as Acting NIH Director from December of 2021 until
24 November 2023. Is that right?

25 A The beginning of November 2023, that's correct.

1 Q In your current role as Principal Deputy, do you report directly to the
2 Director?

3 A I do.

4 Q Ballpark, how many direct reports to you?

5 A I'd have to count them up. I have a number of direct reports. Many
6 people report to the Director through me administratively. So all of the institute and
7 center directors have that situation. All of the Office of the Director deputy directors
8 have that situation. But then I also have an immediate staff of several people who
9 report to me directly.

10 Q So the institute directors, kind of, on paper, their direct report would be the
11 NIH Director but, fundamentally, they go through you to get to her?

12 A I handle all the administrative issues related to their appointments.

13 Q All right.

14 As Principal Deputy, are there decisions that you can make on your own?

15 A There are, and they tend to be administrative.

16 Q Okay. Are there any, kind of, in your wheelhouse that require Director
17 approval?

18 A It's my job to know when I need to seek the Director's approval.

19 Q Are there any, like, policies or procedures on what specific categories of
20 decisions you need to do that, or is it kind of a judgment call?

21 A I would say it's a judgment call, for the most part.

22 Q Do you currently hold a security clearance?

23 A I do.

24 Q What level?

25 A TS/SCI.

1 Q During the course of the pandemic, did you receive any classified briefings
2 regarding the origins or China?

3 A I don't recall if the briefing was classified or not.

4 Q Okay.

5 A I do recall receiving a briefing, but I don't remember if it was classified.

6 Q Okay. Do you recall when or where it was?

7 A It was around the time that President Biden asked for an analysis, you know,
8 a rapid analysis. So it was around that time, once that analysis was completed.

9 Q So summer 2021?

10 A I don't remember the dates --

11 Q Okay.

12 A -- but it was related to that exercise.

13 Q Was it a briefing? Or, like, who did you meet with?

14 A I don't have any real recollection of it, but I do remember participating in a
15 meeting about it.

16 Q Okay. Thank you.

17 I want to -- bear with me while I go through a long list of people, and just "yes" or
18 "no" for now if you recall any conversations with these people regarding origins,
19 EcoHealth, or the WIV, kind of that --

20 A Those three.

21 Q -- bucket of topics.

22 Former President Trump?

23 A No.

24 Q Vice President Pence?

25 A No.

- 1 Q Mick Mulvaney?
- 2 A No.
- 3 Q Matthew Pottinger?
- 4 A No.
- 5 Q Joe Grogan?
- 6 A No.
- 7 Q Marc Short?
- 8 A No.
- 9 Q Deborah Birx?
- 10 A No.
- 11 Q Mark Meadows?
- 12 A No.
- 13 Q Jeff Zients?
- 14 A Repeat the three categories again.
- 15 Q Origins of COVID, EcoHealth, or the Wuhan Institute of Virology.
- 16 A No.
- 17 Q Ashish Jha?
- 18 A No.
- 19 Q Andy Slavitt?
- 20 A No.
- 21 Q Jake Sullivan?
- 22 A No.
- 23 Q Francis Collins?
- 24 A Yes.
- 25 Q Anthony Fauci?

- 1 A Yes.
- 2 Q Hugh Auchincloss?
- 3 A Yes.
- 4 Q Cliff Lane?
- 5 A Yes.
- 6 Q David Morens?
- 7 A No.
- 8 Q Ping Chen?
- 9 A No.
- 10 Q Ian Watson?
- 11 A No.
- 12 Q Andrew Pope?
- 13 A No.
- 14 Q Victor Zao?
- 15 A I don't believe so.
- 16 Q Robert Redfield?
- 17 A Yes.
- 18 Q Michael Lauer?
- 19 A Yes.
- 20 Q Christian Hassell?
- 21 A No.
- 22 Q Erik Stemmy?
- 23 A Yes.
- 24 Q Gray Handley?
- 25 A I don't think so.

- 1 Q Greg Folkers?
- 2 A No. Wait. Excuse me. Let me rethink that for a moment --
- 3 Q Uh-huh.
- 4 A -- because I'm trying to remember who he is.
- 5 Q Former Director Fauci's former chief of staff.
- 6 A No.
- 7 Q Jeremy Farrar?
- 8 A I have been to meetings, but no direct conversation, no one-on-one
- 9 conversation.
- 10 Q Well, I'll come back and we can --
- 11 A Okay.
- 12 Q -- revisit.
- 13 Kristian Andersen?
- 14 A No.
- 15 Q Michael Farzan?
- 16 A No.
- 17 Q Eddie Holmes?
- 18 A No.
- 19 Q Ian Lipkin?
- 20 A Yes.
- 21 Q Andrew Rambaut?
- 22 A No.
- 23 Q Christian Drosten?
- 24 A No.
- 25 Q Ron Fouchier?

- 1 A No.
- 2 Q Marion Koopmans?
- 3 A No.
- 4 Q Peter Daszak?
- 5 A No.
- 6 Q Aleksei Chmura?
- 7 A Say it again.
- 8 Q Aleksei Chmura?
- 9 A No.
- 10 Q Kevin Olival?
- 11 A No.
- 12 Q Michael Worobey?
- 13 A No.
- 14 Q Jonathan Pekar?
- 15 A No.
- 16 Q Florence Debarre?
- 17 A No.
- 18 Q James LeDuc?
- 19 A No.
- 20 Q Shi Zhengli?
- 21 A No.
- 22 Q George Gao?
- 23 A No.
- 24 Q Ralph Baric?
- 25 A No.

1 Q Okay. I'm going to start at the bottom and work back up, and if there's
2 any -- if we can help refresh recollection or anything.

3 Generally, what were the conversations with Dr. Lipkin?

4 A It was a random conversation. Ian had been on the Advisory Committee to
5 the Director, the ACD, and he called me at one point -- I honestly don't remember when,
6 but I do remember him calling me -- and just simply said that he was concerned that
7 there was, you know, such a furor over events.

8 We really commiserated. That was really the extent of the call.

9 Q Do you remember the events he would've been referencing?

10 A The whole issue related to whether people should be vaccinated or not
11 vaccinated, largely that sort of thing.

12 Q Generally just kind of, like, politicizing events during the pandemic; is that it?
13 Or was it specifically to vaccinations?

14 A I don't remember the specifics, but I do remember he called me.

15 Q Okay.

16 A Yeah.

17 Q I'll go with a soft "maybe" on Dr. Farrar. Do you have any recollection --

18 A Only because I attended meetings -- or a meeting for sure, at least
19 one -- that Dr. Farrar actually led, where this was discussed. But I never spoke to him
20 one-on-one.

21 Q Was that the conference call on February 1st of 2020?

22 A If that's the call where the scientists gathered, yes --

23 Q All right.

24 A -- that's the call I'm referring to.

25 Q Dr. Stemmy? Do you recall the contents of those conversations?

1 A We spoke about the award to EcoHealth Alliance and, in particular, the
2 sub-award to the Wuhan Institute of Virology.

3 Q Do you recall when?

4 A I'm sorry, I don't.

5 Q Do you recall any more specifics? Was it regarding the suspension, or was
6 it gathering information?

7 A As I recall, the conversation with Dr. Stemmy was more about the progress
8 report. I think that was the context.

9 Q The year 5 progress report?

10 A The progress report that was delayed. If that was the year 5 report, yes.

11 Q Yes. Okay.

12 We'll get into more specific conversations with Dr. Lauer, but I'm assuming it's
13 conversations regarding the suspension and termination, the EcoHealth situation?

14 A That's correct.

15 Q Did you have any conversations with him outside of that process?

16 A Dr. Lauer and I work very closely together. We speak on an almost daily
17 basis. So I'm not quite sure how to answer your question properly.

18 Q Any conversations with him regarding origins or EcoHealth or the Wuhan
19 Institute that were kind of separate and apart from the enforcement action?

20 A We had general conversations as well.

21 Q What were those?

22 A Well, again, as you just described, about EcoHealth Alliance, about origins,
23 and about WIV. You know, just general conversation.

24 Q Do you recall him or you, for that matter, expressing any concerns regarding
25 any of those three topics?

1 A These were obviously three very important topics. I mean, I'm not sure
2 how else to answer that question.

3 Q Any -- I'll go, like, one by one. To the best of your recollection, what were
4 your conversations regarding the origins with Dr. Lauer?

5 A At what point in time? So, obviously, everybody's understanding evolved
6 over time.

7 Q Uh-huh.

8 A At the very, very beginning, in common with everybody, there was
9 absolutely no understanding of what was going on. And then, slowly, as time
10 progressed, there was an increased understanding. So our conversations evolved
11 similarly.

12 Q Okay.

13 I'll skip over EcoHealth, but conversations regarding the Wuhan Institute, do you
14 remember any regarding biosafety, biosecurity, anything like that?

15 A With Dr. Lauer, those were fundamentally conversations about
16 administrative oversight.

17 Q Okay.

18 What about Dr. Redfield? What do you recall about those?

19 A Again, I recall Dr. Redfield calling me while he was still in the administration,
20 the Trump administration. I'm hard-pressed to remember any of the details, but I know
21 he called me, because it was unusual for him to call me.

22 Q Uh-huh.

23 A And, again, I think it was more a general conversation; I don't recall any
24 specific.

25 Q Okay. And, again, if you don't recall -- I'm asking a followup to try to jog

1 your memory --

2 A Sure.

3 Q -- but if you don't recall. General about, kind of, the origins issue? Or, at
4 that point, had he already started bringing -- was this about EcoHealth compliance?

5 A Oh, nothing about compliance.

6 Q Okay.

7 A I think it was probably -- I would be guessing. I really don't remember the
8 specifics.

9 Q Okay.

10 Dr. Lane? Do you recall those conversations?

11 A Those conversations were more directed to, how can we best protect our
12 own NIH workforce? As you know, Dr. Lane is a physician, expert in that field. That
13 was really what we spoke about.

14 Q Did you have any conversations with him regarding his February 2020 trip to
15 China?

16 A No.

17 Q Dr. Auchincloss? Do you remember the substance of those?

18 A I don't remember the substance of any one conversation, but, again, as
19 Deputy, we did interact and I'm sure that these topics came up. But I don't remember
20 with any specificity.

21 Q Do you recall if he ever expressed concern regarding NIH's handling of the
22 EcoHealth grant?

23 A I can't recall him saying that.

24 Q Dr. Collins? Obviously, you reported directly to him --

25 A I did.

1 Q -- so, I imagine, any number of conversations.

2 A We did.

3 Q Do you recall, again, generally -- we'll get into more specifics later, but
4 generally the substance of those?

5 A Again, we had very frequent conversations. It would be impossible for me
6 to distill them.

7 Q Okay. We'll get into more specifics later --

8 A That's fine.

9 Q -- for him.

10 I'm going to make an assumption, and tell me if I'm wrong. Probably the same
11 thing for Dr. Fauci -- a number of conversations? Or were they more discrete?

12 A Far fewer conversations, but --

13 Q Yeah.

14 A -- again, it would be difficult to, you know, distill those.

15 Q Did you have any conversations with him regarding the enforcement actions
16 taken on EcoHealth?

17 A We did, because -- and I don't recall if it was -- I don't recall if I notified him
18 about certain enforcement actions or if Dr. Lauer did, but I imagine one of us did. I just
19 don't remember the specifics.

20 Q Do you remember if Dr. Fauci ever expressed concern regarding those
21 actions?

22 A I don't know if "concern" is the correct word. The initial action was quite
23 unusual.

24 Q Uh-huh. And he expressed that?

25 A That it was certainly an unusual action.

1 Q Okay. We'll get into more later.

2 A Uh-huh.

3 Q There was one name I forgot on the list. Any conversations with
4 Secretary Azar?

5 A Yes.

6 Q What were the nature of those?

7 A Again, these are general conversations, and I was, frankly, more of an
8 observer. I never met with the Secretary alone. I was always with Dr. Collins and/or
9 other people.

10 Q Were any of those conversations regarding the enforcement actions on
11 EcoHealth?

12 A Again, I don't recall the specifics, although I'm sure either Dr. Collins or I
13 notified him.

14 Q Uh-huh.

15 A But I don't recall the specifics.

16 Q Okay. Thank you.

17 Again, there weren't any specifics in here, but just generally, did you have any
18 conversations with anyone affiliated with the State Department regarding the origins or
19 EcoHealth?

20 A None that I am aware of, no.

21 Q What about the Department of Energy?

22 A I don't remember any specific conversation.

23 Q Do you remember any conversations with Department of Energy Deputy
24 Secretary Dan Brouillette?

25 A I don't recall any specific conversations with him.

1 Q I'm going to run through some questions, and, again, if you don't recall,
2 just --

3 A Sure.

4 Q -- keep saying that.

5 Recently, Vanity Fair reported that in mid-2019 Deputy Secretary Brouillette
6 alerted a top advisor to Dr. Fauci that the coronavirus work funded at the Wuhan
7 Institute of Virology risked being misappropriated for military purposes.

8 Were you aware of that warning?

9 A Was I aware of?

10 Q That warning.

11 A No, I was not.

12 Q Vanity Fair also reported that in October of 2020 -- he was then
13 Secretary Brouillette -- contacted Dr. Fauci and NIAID and told them that the Department
14 of Energy had evidence suggesting that COVID-19 originated at the Wuhan Institute.

15 Do you have any knowledge of that?

16 A I do not.

17 Q Again, reportedly, Secretary Brouillette offered Department of Energy
18 national laboratory resources and computing capacity to the NIH to help with the
19 outbreak.

20 Do you have any knowledge of that?

21 A Not related to the specific issue, no, but the Department of Energy is always
22 offering their supercomputers.

23 Q Did NIH take up the Department of Energy? Did you use Department of
24 Energy --

25 A For this particular set of questions?

1 Q For response to the COVID-19 pandemic.

2 A No, not to my knowledge.

3 Q Okay.

4 A I don't know if they did or not.

5 Q Again, just a couple questions. They may sound accusatory, but they're
6 not, I promise. I'm just trying to get a baseline.

7 Did you ever conduct official business via a personal email?

8 A I have not.

9 Q What about a personal cell phone?

10 A I don't have a personal cell phone.

11 Q That probably answers this next question, but do you ever use Signal or
12 WhatsApp or any other encrypted --

13 A I don't know what those things are.

14 Q Does NIH use Microsoft Teams or any other messaging app on a desktop?

15 A We do use Microsoft Teams, yes.

16 Q Do you know if those messages are kept or --

17 A I have no idea.

18 Q Okay.

19 A lot of high-ranking HHS officials have more than one email account. Do you
20 have more than one email account?

21 A To my knowledge, I only have one.

22 Q Okay.

23 I want to start here with majority exhibit 1.

24 [Tabak Majority Exhibit No. 1

25 was marked for identification.]

1 BY MR. BENZINE:

2 Q And, again, some of this is for my own education in here.

3 So this is an email chain. It has you on it and Dr. Collins and Dr. Lauer and a
4 couple others. And it's Bates marked SSCP_NIH 3452 through 3453.

5 And I just want to focus on the top, your email to Dr. Lauer there: "Mike may be
6 off-line. I just sent to you by secure mail."

7 What do you mean by "secure mail"?

8 A We have a secure mail system. The acronym is SEFT. I don't know what
9 the acronym specifically stands for.

10 [REDACTED] I'm sorry, Dr. Tabak. Could you just speak up a little bit?

11 Dr. Tabak. Oh, I'm very sorry.

12 [REDACTED] I'm far away.

13 Dr. Tabak. No, no. I apologize.

14 [REDACTED] I appreciate it.

15 Dr. Tabak. The acronym is SEFT, S-E-F-T. I don't know what the acronym stands
16 for.

17 BY MR. BENZINE:

18 Q When would you use secure mail?

19 A For something that might be sensitive and we don't want many, many
20 people reading it. Because of my position, a number of people have access to my email.

21 Q A number of people in your office have access --

22 A Yes.

23 Q -- to your email? So this, the secure side of your email, would limit that
24 access?

25 A Would limit access of staff members to be able to read that.

1 Q It would just -- like the people that you just put on the "To" or "CC" line
2 would be able to read that email?

3 A That's correct.

4 Q To your knowledge, are those emails retained?

5 A I don't know.

6 Q Are you a capstone employee?

7 A I am.

8 Q Okay.

9 Just along these lines, too, just so that we can be aware, this will be majority
10 exhibit 2.

11 [Tabak Majority Exhibit No. 2
12 was marked for identification.]

13 BY MR. BENZINE:

14 Q And it is what looks like an encrypted or secure email from you to Dr. Collins,
15 Dr. Lauer. It appears to be whatever you were referencing in exhibit 1 and Bates
16 numbered SSCP_NIH 3296.

17 Is my assumption there correct, that this is kind of what a secure email looks like?

18 A I'm just trying to see if this -- I believe that's correct, yes.

19 Q Have you received secure emails before?

20 A Yes.

21 Q When you receive them, do you get this kind of prompt?

22 A I have received these types of prompts before. Why -- why -- yes. "View
23 encrypted email." Right. So you would click on "View encrypted email." Correct.

24 Q Would there be any other reasons to use an encrypted email service versus
25 limiting access?

1 A The reason I use it is because I have a number of staff members who have
2 access to my email and there's a subset of things that we would prefer they not have
3 access to.

4 Q All right. Thank you.

5 I'm going to move on from the, kind of, administrative questions and move on to
6 the reason we're here. I want to discuss gain-of-function research really quick and walk
7 through, kind of, the definitions and make sure that I have everything right --

8 A Okay.

9 Q -- in my head.

10 My, kind of, understanding is that there's -- it's a complicated definition. There's
11 a lot of different pieces to it. There's pieces that NIH regulates; there's pieces that HHS
12 regulates. There are pieces that have dual-use problems. So I'm going to run through
13 each definition, and you just tell me if I'm kind of on the right page.

14 The high-level gain-of-function, as was defined by NIH: a type of research that
15 modifies a biological agent so that it confers new or enhanced activity to that agent.

16 Is that right?

17 A It -- as an agent, yes.

18 Q Then the NSABB put out a definition for gain-of-function research of
19 concern, and I'm going to read that.

20 A Uh-huh.

21 Q "Studies that result in the generation of a pathogen with pandemic
22 potential -- that is, a pathogen that is highly virulent and highly transmissible, as judged
23 by its likely ability to spread among human populations."

24 Does that sound right?

25 A That sounds correct.

1 Q The operative difference between the two being that gain-of-function of
2 concern is research that is generating a virus of pandemic potential, correct?

3 A I'm sorry. Say it once more, please, because --

4 Q The difference between kind of, like, general gain-of-function, of modifying a
5 virus to give it a new function that it did not have before, and gain-of-function of concern
6 is that "of concern" would involve research on viruses that are of pandemic potential.

7 A Of human pandemic potential, correct.

8 Q And then, before I read it, is there a functional difference between
9 gain-of-function research of concern and the research that HHS regulates through the
10 P3CO framework?

11 A My understanding is they're one and the same.

12 Q Okay.

13 Then the next definition -- and kind of, like, getting worse as we go through the
14 definitions -- dual-use research of concern. And this is the definition from the ASPR.

15 "Life sciences research that, based on current understanding, can be reasonably
16 anticipated to provide knowledge, information, products, or technologies that could be
17 directly misapplied to pose a significant threat, with broad potential consequences to
18 public health and safety, crops and other plants, animals, the environment, or national
19 security."

20 Does that sound right?

21 A I haven't committed that to memory, but it sounds correct.

22 Q And, again, trying to understand, kind of, the difference between what HHS
23 regulates and what would be DURC, being -- it can be ePPP research without having the
24 national-security-threat component?

25 A I'm not a security expert, so I would not be able to give you an answer.

1 Q All right.

2 Again, I'm trying to distill all the definitions into, kind of, layman's terms.

3 So there could be a set of research that can qualify under the broad
4 gain-of-function definition but not the ePPP or "of concern" definition?

5 A Again, I'm not quite sure what you mean by "gain-of-function research." If
6 you could start again.

7 Q So --

8 A What gain-of-function research are you referring to?

9 Q A type of research that modifies a biological agent so that it confers new or
10 enhanced activity to that agent.

11 A Okay. So that's just generic gain-of-function research.

12 Q Yes.

13 A All right. Thank you. And, now, if you could repeat the question.

14 Q Can there be a subset of research that would qualify under that definition of
15 modifying -- of providing a new function to a biological agent --

16 A Uh-huh.

17 Q -- without falling under the categories of being regulated by the P3CO?

18 A Absolutely.

19 Q Okay.

20 I'm going to ask more questions along these lines later, and if you need me to
21 reference back to definitions, I'm happy to do so.

22 A Thank you.

23 Q Are there, kind of, open concerns -- I mean, obviously, HHS regulates it more
24 than other research -- are there concerns regarding gain-of-function research of concern
25 or ePPP work?

1 A I'm sorry. I don't get the question.

2 Q That subset of research, the ePPP research, is regulated more heavily than
3 other research.

4 A Yes.

5 Q What are the concerns that warrant that regulation?

6 A So, if you are purposefully attempting to enhance some attribute of an
7 organism that could cause a pandemic in humans, obviously you have to take great care,
8 vis -- verse, understanding why that work is central --

9 Q Uh-huh.

10 A -- and to take great care and to ensuring that the work is properly contained.

11 Q And that's because the virus has already been shown to infect humans, the
12 research's at least stated goal is to drive up the infectivity or virulence?

13 A Or transmissibility.

14 Q Or transmissibility.

15 A Right.

16 Q And, obviously, if it's already a virus that can infect humans, doing that kind
17 of work --

18 A Uh-huh.

19 Q -- would cause concerns? All right.

20 Mr. Strom. Is it only to humans, or is it also viruses that can cause increased
21 transmissibility, increased pathogenicity in mammals?

22 Dr. Tabak. Humans.

23 Mr. Strom. Okay.

24 Mr. Benzine. I'm going to introduce majority exhibit 3.

25 [Tabak Majority Exhibit No. 3

1 of Wisconsin notified NIH. They wanted to publish it. There were some concerns
2 around that. Researchers came with the voluntary pause, which I think was before
3 2014.

4 A Uh-huh.

5 Q And then, based off that voluntary pause, this went into -- into deliberation, I
6 guess?

7 A Yes, I think that's reasonable.

8 Q Okay.

9 The, kind of, again, operative paragraph is in the middle of the first page of text
10 and in all italics. I'm not going to read it, but if you want to take a minute and read it,
11 and I'm going to ask you some questions about it.

12 The first question: At the last line, it says, "... unless the tests are reasonably
13 anticipated to increase transmissibility and/or pathogenicity." And that's kind of a
14 theme throughout. Do you recall what the meaning of "reasonably anticipated" was?

15 A This is an assessment by experts in the field as to whether or not what is
16 being proposed would be anticipated to increase those two attributes.

17 Q Would it have to be proposed to increase the attributes, or, just looking at
18 what the proposal was, that there was a possibility that it would increase the attributes?

19 A I can't make that distinction.

20 Q Okay.

21 A I don't know.

22 Q The next part I want to ask about is the second line. It lists three viruses:
23 influenza, MERS, or SARS viruses.

24 A Uh-huh.

25 Q And, again, I realize I'm asking you to recall back to 2014 or 2013, whenever

1 this was. But, reading that, do you think that applied -- like, it's kind of been an open
2 question in our investigation of whether or not that means, putting influenza aside, just
3 MERS and just SARS, versus SARS-related or MERS-related viruses. Do you have an
4 opinion?

5 A I have no opinion on that.

6 Q Okay.

7 Again, as John kind of asked, the operative language in here is "enhanced
8 pathogenicity and/or transmissibility in mammals via the respiratory route."

9 Again, we've heard a couple contradictions on this, of this pause only applied to
10 human viruses, but there are more mammals than just humans.

11 A Indeed.

12 Q So this pause would've applied to any virus that could infect -- any influenza,
13 MERS, or SARS virus, depending on if you want to include related or not, that could infect
14 mammals?

15 A As is indicated in the document.

16 Q All right. Thank you.

17 I want to shift and kind of still stay in this lane but move to 2017 when the P3CO
18 framework came out and introduce that as majority exhibit 4.

19 [Tabak Majority Exhibit No. 4
20 was marked for identification.]

21 BY MR. BENZINE:

22 Q And some of this is for our own edification, and I think it's come out, via a
23 number of papers and the most recent NSABB recommendations, that the language in
24 this document is confusing and virologists don't necessarily know how to apply it, NIH and
25 NIAID maybe don't necessarily know how to apply it.

1 So we're trying to figure out, in accordance with the NSABB recommendations
2 that went to the White House, how we can best fix these, if it needs to be a legislative
3 change.

4 So this came out, I believe, January 9, 2021. Do you recall when this came out?

5 Ms. Ganapathy. Could you give the witness just a minute to take a look at the
6 document?

7 Mr. Benzine. Yeah.

8 Dr. Tabak. Thanks.

9 Okay. So, I'm sorry. So this -- the 2017 document came out in --

10 Mr. Benzine. Early January. January 9th, I think. I think the OSTP document
11 that directed the Federal Government to do it was December 2016 --

12 Dr. Tabak. Yeah. I --

13 Mr. Benzine. -- but --

14 Dr. Tabak. I accept that. I don't recall specifically.

15 Mr. Benzine. Okay. That's fine. Do you recall being involved in the crafting of
16 the framework?

17 Ms. Ganapathy. So just one minute. That's actually not correct. It was
18 January 2017 and December 2017, just for clarity of the record.

19 Mr. Benzine. Okay.

20 Dr. Tabak. Oh, okay. Thank you.

21 Ms. Ganapathy. Or I believe, at least, but --

22 Mr. Benzine. So this one was December 2017?

23 Ms. Ganapathy. I believe so.

24 Mr. Benzine. Okay.

25 BY MR. BENZINE:

1 Q Well --

2 A I'm sorry. If you could repeat --

3 Q Were you involved in developing this?

4 A I certainly contributed to the conversation, but was not, you know,
5 responsible for this.

6 Q Like I said, we want to make sure that we're, kind of, understanding what
7 would apply to these definitions.

8 A Uh-huh.

9 Q So, in order for a research proposal to warrant further oversight from HHS
10 level, from the P3CO, the research had to propose enhancing the transmissibility or
11 virulence of a PPP?

12 A With the subsequent two --

13 Q Exceptions?

14 A Well --

15 Mr. Strom. Conditions.

16 Dr. Tabak. Conditions.

17 BY MR. BENZINE:

18 Q Conditions. So that the -- well, the definition of a PPP being likely highly
19 transmissible and likely capable of wide and uncontrolled spread in humans --

20 A Right.

21 Q -- and likely highly virulent and likely to cause significant morbidity and/or
22 mortality in humans.

23 A Correct.

24 Q So, in order to fall under this, it would have to first meet the definition of a
25 PPP, what they were working on?

1 A Uh-huh.

2 Q And then the research proposed would have to enhance that PPP in some
3 way?

4 A Yes.

5 Q Okay.

6 And, again, just trying to -- it says "in human populations." So a prerequisite to
7 be a PPP would have to be that this has previously infected humans?

8 A That's correct.

9 Q So, understanding it's all pathogens and not just viruses, but it would not
10 apply to novel SARS-related coronaviruses?

11 A Again, I wouldn't be able to answer that. You would need an expert to
12 answer that. You're parsing what, you know, SARS versus SARS-CoV are.

13 Q If I went and categorized a coronavirus -- it was a SARS-related virus that
14 we've never seen in human populations before -- and I wanted to enhance the virulence
15 or transmissibility of that virus, this definition would not apply. Is that correct?

16 A I don't know the answer.

17 Q Okay. Do you know who would know the answer?

18 A I would've presumed people who are on the P3CO committee.

19 Q The chair is Dr. Hassell. Do you think he would know?

20 A I don't know Dr. Hassell --

21 Q Okay.

22 A -- so I couldn't speak to that.

23 Q All right. Thank you.

24 Again, as we're kind of looking for recommendations here, understanding you're
25 not maybe an expert in this field of research, but do you think this level of oversight is

1 sufficient, or do you think it should apply more broadly?

2 A I think you need to speak to those experts.

3 Mr. Benzine. Unless you have any further questions, that's a good stopping
4 point.

5 Mr. Strom. Sure.

6 BY MR. STROM:

7 Q Under the P3CO process, sir, what's your understanding of who makes the
8 initial determination at the NIH level that a proposed experiment would or could be a
9 potential covered experiment?

10 A It's a multistep process. It starts with the peer-review process that we use
11 for any grant application, initial scientific merit by the so-called study sections, a
12 subsequent review by the National Advisory Council, and then review by staff who are
13 expert in this type of research, who could send this to an internal committee that exists
14 for the purpose of deciding if it reaches the threshold.

15 Q And the internal committee, does that reside at, sort of, main NIH Building 1,
16 or is it in the individual institutes and centers?

17 A It is not within the Office of the Director, no.

18 Q Okay. So is it -- well, first of all, to your knowledge, other than NIAID, are
19 there any institutes or centers that were engaged in this kind of research that implicated
20 the policy?

21 A Not to my knowledge.

22 Q So this is NIAID-specific, sort of. Which makes sense, because they're the
23 infectious disease guys.

24 A My understanding, that NIAID was the institute involved in this type of
25 research.

1 The Reporter. If you could repeat that?

2 Dr. Tabak. I apologize. It's my understanding that this type of research was
3 conducted by N-I-A-I-D, NIAID.

4 BY MR. STROM:

5 Q So the internal committees at NIAID.

6 A That's my understanding, yes.

7 Q And then what is the Office of Director's role in reviewing this NIAID
8 committee's determination that, yes, we need to refer it up or, no, we're okay?

9 A To my knowledge, the Office of the Director had no role.

10 Q Okay.

11 BY MR. SLOBODIN:

12 Q If I could just follow up.

13 So my understanding is that there are two processes; it depends on whether it's
14 extramural research or there is intramural research. So, if it's extramural research that
15 is at issue, then it's reviewed by this internal review committee. And if we're talking
16 about a proposal before NIAID, it would be presented to the internal committee there at
17 NIAID.

18 However, if it was an experiment that was going to be conducted in the intramural
19 program, that's a review process that's conducted by a review committee that I believe is
20 operating under the auspices of the Office of Science Policy? Does that sound right to
21 you?

22 A It does not. To my knowledge, the Office of Science Policy has no such
23 review committee.

24 Q Well, there is some NIH-wide office that -- well, I'll check during the break.
25 We got a letter from the Department saying there's an NIH-wide office that reviews the

1 proposals --

2 A Right.

3 Q -- for intramural research.

4 It's a different committee; that's all. I don't know if it's fundamentally different
5 review criteria. I just wanted the record to reflect there are two different processes
6 depending on what kind of research they did.

7 A I can't speak to the issue you're raising, because I'm unaware of such a
8 committee in the Office of Science Policy.

9 Q Okay. Are you aware just in general that there would be a different
10 process for review for intramural research?

11 A I would assume that that process would be conducted by the Office of
12 Intramural Research, but not the Office of Science Policy.

13 Q Okay. But within the Office of NIH Director?

14 A As -- yes. It's --

15 Q It's one of the two?

16 A -- one of the broad -- yes. One of the entities within the Office of the
17 Director.

18 Q Okay. Thanks.

19 Mr. Benzine. All right. We can go off the record.

20 [Recess.]

21 [REDACTED] On the record.

22 Good morning, Dr. Tabak. And my name is [REDACTED] I am senior counsel for
23 the select subcommittee, on the Democratic staff. And I just want to reiterate the
24 thanks for you being here today and thank you for your years of service at NIH.

25 We have some questions for you. I'm going to do a bunch, but I'm going to kick

1 it over to my colleague, [REDACTED] to start.

2 [REDACTED] How are you? Thanks for coming in.

3 EXAMINATION

4 BY [REDACTED]

5 Q We just had a couple of very brief questions that touched on some of the
6 things that you discussed in the previous hour, all these different definitions of
7 gain-of-function.

8 If you recall some of the ones that we touched on, I think the first one was a
9 pretty broad definition --

10 A Uh-huh.

11 Q -- something to the effect of "modifying an organism such that there's a gain
12 in function or a change in function" -- a very broad, literal definition.

13 Our understanding is that that definition at some point existed somewhere on
14 NIH's website. If you recall, did that broad definition have any regulatory significance at
15 any point for your purposes?

16 A For our purposes, no.

17 Q Okay.

18 With respect to the 2014 moratorium -- and I think you will have that in front of
19 you somewhere. It's majority exhibit 3, if you don't mind putting it in front of you.

20 Ms. Ganapathy. Is that this one?

21 Dr. Tabak. This one.

22 BY [REDACTED]

23 Q That's the one.

24 A Okay.

25 Q Two, sort of, questions on the operative language of this, so that paragraph

1 on the second page.

2 This is maybe the trouble with lawyers, that we get so far into the weeds as to
3 what exactly the words mean. But if I could ask you, when we talk about something
4 being "reasonably anticipated to increase transmissibility or pathogenicity," just from a
5 textual, sort of plain English point of view, I interpret that to mean that one would
6 reasonably anticipate that to happen, not that you would reasonably anticipate that it
7 might happen or that there's a 30 percent chance that maybe it'll happen. It's that
8 somebody is sitting there saying, it would be unreasonable for me not to predict that this
9 is going to increase transmissibility or pathogenicity.

10 That's how I read it, and I'm curious whether you have had a similar reading in
11 your experience.

12 A I would read it that way.

13 Q The differences might be small, but they're differences nonetheless, and so I
14 just wanted to get a little clarity on that.

15 And one other question about how the moratorium was framed. It's a
16 forward-looking policy. In other words, it depends on a moment prior to the research in
17 question having occurred, and it's all about what is reasonable to anticipate at that
18 moment.

19 It does not have any connection to the separate question of after an experiment
20 has occurred and you're looking at, "Well, what ended up happening? Oh, it turns out
21 there was a gain in function." That has no literal connection to the question of this
22 moratorium. This is exclusively forward-looking.

23 Is that right?

24 A That would be the way I interpret it, yes.

25 Q Okay. Great.

1 One question about the P3CO definitions. So that's majority exhibit 4.

2 And on the second page of that policy, in the definition of a "potential pandemic
3 pathogen," a PPP, that's a two-part definition. And, in order to be a PPP, it looks like
4 you have to meet both parts 1 and 2 here.

5 And I just wanted to note that it seems to me as a reader that part 1 requires that
6 it be "likely highly transmissible and likely capable of wide and uncontrollable spread in
7 human populations."

8 Am I reading that correctly?

9 A That's how I would read it.

10 Q That, in your experience, it feels to me -- although I lack that scientific
11 background -- that feels like a relatively high bar. There are not a ton of pathogens out
12 there that meet that characteristic.

13 A It's a select number.

14 Q Great. And if a particular pathogen, for lack of better term, is not already
15 likely capable of wide and uncontrollable spread in humans, then, just from a legal point
16 of view -- I know you're not an attorney, but -- from a technical point of view, it cannot
17 possibly be a PPP and, therefore, it can't end up being an enhanced PPP?

18 A Again, as a non-attorney --

19 Q Yeah.

20 A -- that's the way I would describe it, yes.

21 Q All right. I appreciate it. That's all I wanted to ask about.

22 [REDACTED] Thanks.

23 BY [REDACTED]

24 Q During the previous round of questions, at the very beginning today, you
25 spoke a little bit about your career and your background, but I just want to dive a little bit

1 deeper and get a little bit more information about that, because I think that would be
2 helpful for us all as we move forward today.

3 So you mentioned that you have two advanced degrees, correct?

4 A That's correct.

5 Q Can you tell me about each of those degrees?

6 A I have a Doctor of Dental Surgery from Columbia University, and so I'm
7 trained as a dentist. I did additional training in the subspecialty of endodontics, so I'm
8 the person that everybody fears.

9 Q Hey, endodontists save from you the pain, so --

10 A Thank you.

11 And then the second degree is a Ph.D. in oral biology. It was a unique program
12 for dentists who wanted to get research training. And then the discipline that you chose
13 to pursue was up to you, and in my case it was biochemistry.

14 Q And after receiving that Ph.D., what did you do?

15 A I was invited to stay on the faculty at the then State University of New York
16 at Buffalo. And I did so through 1986, when I was recruited to the University of
17 Rochester in New York to join their faculty.

1 [11:09 a.m.]

2 BY [REDACTED]:

3 Q And what did you do after -- or I'm sorry. After the University of Rochester,
4 that's when you moved to NIH, correct?

5 A Right. So I, as I say, rose through the ranks at the University of Rochester.
6 Ultimately, I was the senior associate dean for research. And it was at that time that I
7 was recruited to NIH to be the director of the National Institute of Dental and Craniofacial
8 Research, NIDCR, and I joined NIH in 2000.

9 Q And what kind of work did you do as the director of the institute?

10 A As an institute director, I was responsible for guiding the research supported
11 by the institute, either in the extramural program space through grants or contracts, or
12 through the intramural program, through the -- the intramural program mechanisms. I
13 mean, that's basically what an institute director does.

14 Q And then from there, you first moved to acting Principal Deputy Director,
15 and then the position was made permanent, correct?

16 A Correct. During the transition between Dr. Zerhouni and Dr. Collins, Dr.
17 Raynard Kington was the acting director. He assumed that role because he had been
18 the Principal Deputy Director. He invited me to join him as the acting deputy director,
19 which I agreed to do. I served concomitantly as the director of NIDCR during that time.

20 Dr. Collins came to NIH. Dr. Kington went back to being the principal deputy,
21 and I returned full time to the NIDCR as their director.

22 Then Dr. Kington decided to leave NIH to become president of Grinnell, and Dr.
23 Collins had a search process to determine who the next permanent principal deputy
24 would be. I participated in that process. He selected me. And that's, you
25 know -- and obviously, after departmental approval, I was appointed to that role.

1 Q So you've been in that position now 13, 14 years?

2 A Well, with the one break, obviously, of being the acting director, but my
3 position of record for all that time has been principal deputy. Correct.

4 Q And you spoke about that role being dealing largely with administrative
5 issues. Is that correct?

6 A Yes.

7 Q So that might be described as sort of keeping the wheels on the bus going?

8 A I've never heard it described quite that way, but yes. I mean, it's the sort of
9 routine type of things for the most part that one must do to run a very, very large
10 organization.

11 Q And I just want to clarify one thing regarding your role. You do not sit on
12 any committees that are making gain-of-function determinations or P3C0 determinations,
13 correct?

14 A That's correct.

15 Q So you're not involved in any specific grant review for those determinations?

16 A That's correct.

17 Q And so your knowledge when you've been asked all these questions about
18 gain-of-function and P3C0, that's more of an academic knowledge, the knowledge that
19 being involved at high levels at NIH would give you?

20 A That's accurate.

21 Q But you haven't actually had to implement those decisions?

22 A I've not awarded any grants of these types, no.

23 Q So thinking back to your role as Principal Deputy Director and all the things
24 that you've told us you do on a regular basis, I would imagine at the beginning of
25 COVID -- so end of December 2019 forward -- things looked dramatically different for

1 you?

2 A Well, it was dramatically different for everybody. And so I enhanced my
3 focus on the administrative aspects so that Dr. Collins could enhance his focus on the
4 outwardly facing things related to the pandemic. I took responsibility for how we were
5 dealing with our internal workforce, and so I helped Dr. Collins in that regard. And I also
6 assumed responsibility for the -- you know, the sort of scientific administration of several
7 large research programs that were in the Office of the Director, but none of these were
8 related to COVID or anything related to the pandemic.

9 Q Sure. And we've heard from some other witnesses that, at that time, focus
10 at NIH at least partially was largely directed to mitigation measures and vaccine research.
11 Is that your recollection as well?

12 A The outwardly facing efforts, yes, I think that that's accurate.

13 Q So the administrative work you were doing would have been in support of
14 those efforts?

15 A In support of those efforts and in support of the various staff members who,
16 you know, were coming to work and doing what they needed to do.

17 Q So that might be ensuring that staff who had to work from home had the
18 appropriate equipment to do so?

19 A Correct. We needed to make sure we had a robust telework apparatus in
20 place, we had a robust testing service in place, and we had, you know, a robust strategy
21 to minimize transmission within the workplace. And, again, this is at the very early, you
22 know, phases of the pandemic.

23 [REDACTED] I believe those are all of my questions.

24 Anything else from anyone?

25 All right. We can go off the record.

1 [Recess.]

2 Mr. Benzine. We can go on the record.

3 BY MR. BENZINE:

4 Q So, thus far, we've talked a lot about experience and about gain-of-function
5 generally. I want to start talking about EcoHealth and the NIH enforcement efforts, but
6 I'm going to start a little further back and just see where your knowledge is and where it
7 begins and what's gone on.

8 When did you first become aware of the organization of EcoHealth?

9 A At the time that then-President Trump announced that he was very
10 concerned about funding organizations in China.

11 Q So organizations in China or EcoHealth in general?

12 A It was tied to China, as I recall.

13 Q Okay. Do you recall the timeframe of that?

14 A I don't.

15 Q Okay.

16 Mr. Strom. Was it after the start of the pandemic or before the pandemic?

17 Dr. Tabak. It was after the start of the pandemic.

18 BY MR. BENZINE:

19 Q And then when former President Trump said he was concerned about
20 money going to China, did you take any action to look up what NIH's involvement in China
21 would be?

22 A So I asked Dr. Lauer to do this.

23 Q Okay. And then after Dr. Lauer did that, is that when you became aware
24 that there was money going from NIAID to EcoHealth to China?

25 A Yes.

1 Q So I guess it's safe to say based on that that you had no interactions with
2 EcoHealth -- and I'm going to extrapolate further to Dr. Daszak -- prior to the pandemic?

3 A None.

4 Q Okay. Before we get into specifics, you've obviously been at NIH a long
5 time and involved in a lot of -- seen a lot of grantees, been involved in a lot of grantees,
6 been in a lot of processes, and then were involved or at least secondarily involved in the
7 enforcement process throughout the beginning of 2020 through, like, even currently.

8 What is your perspective on how EcoHealth behaves as a grantee?

9 A Well, that's a complicated question because, in fact, in my role as principal
10 deputy, I really don't deal with individual grantees at all.

11 Q All right.

12 A Typically, the deputy director for extramural research is charged with that
13 responsibility when referred, you know, from institutes of centers who actually make the
14 grant. So I'm not quite sure how to answer the question because I really don't deal with
15 individual grantees.

16 Q Okay. Then that's the answer to the question, is --

17 A Okay.

18 Q -- that it was -- anything involving EcoHealth would have been -- that level of
19 involvement in grants would have been unique to you starting in April of 2020?

20 A There may have been other instances where there was a unique policy issue,
21 but I can't think of an example off the top of my head. But it would have to be a very
22 unique issue for --

23 Q Okay.

24 A -- to be consulted with.

25 Q I'm going to avoid flooding you with paper, and if you need to look at it when

1 I reference it, let me know, and I have them.

2 A Okay.

3 Q The original notice of award to EcoHealth was in May of 2014. Obviously,
4 you were not aware of it in 2014. Did you become aware of it and did you look at the
5 notice of award in 2020?

6 A I don't recall looking at it. I mean, I may have had a stack of papers that it
7 was part of, but I don't recall it specifically.

8 Q And then, again, to try to avoid asking questions that you may not have
9 direct knowledge of, enforcing the terms and conditions of that award, does it -- are the
10 institutes responsible for enforcing those, and then if it gets out of hand, it goes to Dr.
11 Lauer, or is Dr. Lauer responsible for enforcing the terms?

12 A It's the former. The institutes are responsible for enforcing terms and
13 conditions. In the unusual circumstance that there's some issue, then it would be
14 elevated to Dr. Lauer.

15 Q What would kind of a stereotypical issue be that would require elevation?

16 A Inappropriate fiscal reporting, for example.

17 Q Okay. Just, would being late on progress reports elevate that high or would
18 that normally be an institute situation?

19 A No, that would very likely not be elevated to Dr. Lauer.

20 Q And, again, if you need to -- I have them if you need to look at them, but I
21 think we can probably move pretty quickly through some of this.

22 In 2016, there was a back-and-forth between NIAID, Dr. Stemmy and Dr. Greer,
23 and EcoHealth regarding whether or not EcoHealth's research applied -- whether or not
24 the gain-of-function pause applied to EcoHealth's research. Were you involved in any of
25 that?

1 A Not to my knowledge, no.

2 Q Did you evaluate any of that after the fact?

3 A Not to my knowledge.

4 Q And in 2018, after the P3CO Framework came out, there was a similar
5 back-and-forth between Dr. Stemmy and EcoHealth on whether or not the framework
6 was going to apply to EcoHealth's grants at the time. Were you involved in any of that?

7 A I was not.

8 Mr. Strom. Just going back in the process, I understand that it's a NIAID-driven
9 process because that's where the subject matter expertise resides at NIH and where the
10 grants that are being issued that implicate that policy reside, but are they giving
11 you -- just thinking of the flow of paperwork here as they make a determination, are
12 they -- does NIAID tell you, hey, we have -- we reviewed this proposed -- say it's a mouse
13 experiment involving MERS. We don't think it reaches the threshold of tripping the
14 policy, but -- so we're comfortable as subject matter experts going forward with it.

15 Do they send you guys notices of like, I guess, when they had their meetings or
16 when they convened the panel or anything like that, or is it they only notice -- they only
17 send you guys -- sorry, you guys -- the Office of Director a heads-up if they're saying, hey,
18 this is a really borderline case, we want the P3CO to look at it?

19 Dr. Tabak. So the antecedent to P3CO, that's correct. It's the latter.

20 Mr. Strom. Okay. So it's only if it's -- the Office of Director in the typical course
21 of business would only know about -- because you've got thousands and
22 thousands -- tens of thousands of grants across all these institutes, you would only know
23 about a potential gain-of-function of concern or EPP experiment if NIAID had determined
24 it needs to go through departmental review?

25 Dr. Tabak. That's my understanding of the process.

1 Mr. Strom. Okay. Thank you.

2 BY MR. BENZINE:

3 Q So understanding there wasn't, if any, involvement prior to 2020, I'm going
4 to shift ahead to the 2020 to present timeframe as it pertains to EcoHealth and start with
5 one question.

6 We had a similar interview with Dr. Lauer, and he testified at that interview that
7 he would not sign or send a letter that he disagreed with. Do you have any reason to
8 doubt that assertion?

9 A I have no doubt at all about that.

10 Q I'm going to start -- I believe it's Majority Exhibit 5.

11 [Tabak Majority Exhibit No. 5
12 was marked for identification.]

13 BY MR. BENZINE:

14 Q So this is an email chain with you and Dr. Erbelding, who's the division
15 director at DMID. Is that correct?

16 A Between me?

17 Q On the bottom here there's an email from Dr. Erbelding, "Specifics on dollar
18 amounts to Wuhan Institute of Virology are in attached document."

19 A Oh, I'm sorry.

20 Q And then there's a response from you.

21 Ms. Ganapathy. Could you give him just a minute to read?

22 Dr. Tabak. Okay.

23 Mr. Strom. And you have to read them sort of --

24 Dr. Tabak. Yeah, I've got --

25 BY MR. BENZINE:

1 Q The Bates mark is cut off, but it's SSCP-NIH-6262.

2 So as I said, Dr. Erbeiding, the division director of DMID, attaches a document with
3 the specific dollar amounts to Wuhan Institute of Virology. This is April 14th, 2020.

4 And you respond, "Still running interference on this. Is this the overall grant in
5 its final year? Will it be renewed?"

6 Is this what you were talking about where, after the former President kind of
7 expressed concern with grant dollars going to China, that you began collecting
8 information on that?

9 A That's correct.

10 Q And just, again, sometimes black-and-white words on paper, the definitions
11 aren't necessarily what it means.

12 You're not trying to interfere in that process, you're --

13 A Oh, no, no. Just trying to understand what's going on.

14 Q Yeah. I'm going to introduce Majority Exhibit 6.

15 [Tabak Majority Exhibit No. 6
16 was marked for identification.]

17 BY MR. BENZINE:

18 Q These are emails with you, Dr. Lauer, and Jodi Black, and they are produced
19 via FOIA to BuzzFeed News. And I'll give you a minute to -- I'll give you a minute to look
20 at them if you need to look at them. And, again, it starts at the last page and works
21 forward.

22 Do you have a vague recollection of these emails?

23 A Not at all. But, you know, I've read through it, obviously.

24 Q Yeah, yeah. So the first email is an email from Sarah Arbes, who is the
25 assistant secretary for legislation at HHS during this time, asking for some information on

1 this.

2 I'm assuming, again, this is what you were just discussing, that after the former
3 President said he was concerned about these grants, that NI -- you went in to find more
4 information about it, including how much money went to Wuhan --

5 A Correct.

6 Q -- total number of grants to China, that kind of information?

7 You have to --

8 A No, no. I mean, that's --

9 Ms. Ganapathy. Dr. Tabak, you need to give an oral response.

10 Dr. Tabak. Oh, I'm very sorry. Yes. That's correct. I apologize.

11 Mr. Benzine. No problem.

12 Dr. Tabak. Kick me under the table.

13 Mr. Benzine. And this is all leading into April 20th, which will be the kind of next
14 exhibit on -- going to the first letter that Dr. Lauer sent on April 19th, 2020, as exhibit 7.

15 [Tabak Majority Exhibit No. 7

16 was marked for identification.]

17 BY MR. BENZINE:

18 Q So like I said, this is Majority Exhibit 7. It's an April 19th, 2020 letter from
19 Dr. Lauer to EcoHealth and Columbia -- I believe Columbia was on there by mistake -- but
20 primarily to EcoHealth, notifying EcoHealth that they're not to provide funds to the
21 Wuhan Institute of Virology anymore pursuant to a couple regulations and OMB
22 provisions.

23 Were you aware of this letter at the time it was sent?

24 A I was.

25 Q Did you have any discussions with anyone about this letter prior to it being

1 sent?

2 A Yes.

3 Q Who?

4 A I discussed this letter with Dr. Lauer and I discussed this letter with Dr.
5 Collins. I don't know if I discussed it with anyone else.

6 Q Do you remember how this -- the drafting process of this letter, how it came
7 to be?

8 Ms. Ganapathy. We're getting into potentially deliberative territory, so I'm going
9 to allow the witness to answer but only in generalities.

10 Dr. Tabak. Okay.

11 So this was done with the help of a senior administrative official. That's really all
12 I could say.

13 BY MR. BENZINE:

14 Q Can you give me a little bit more generality about that? A grants officer?
15 A program officer? Who was the --

16 A A senior administrative official.

17 Q Who is that?

18 A That's --

19 Q The who isn't deliberative.

20 Ms. Ganapathy. Yeah. You can say the name.

21 Dr. Tabak. Mr. Charrow.

22 BY MR. BENZINE:

23 Q The Office of General Counsel at HHS?

24 A Correct.

25 Q All right. Is this the first time or the days preceding this that you became

1 aware of efforts to suspend or terminate or otherwise alter the EcoHealth grant?

2 A I don't remember the dates. I remember the -- but I remember the event
3 that was time-sensitive. Former President Trump was to give a news conference of
4 some sort, and apparently he wanted to articulate that this had been suspended, and so
5 that was the time sensitivity.

6 Q And who communicated that sensitivity to you?

7 Ms. Ganapathy. I'll allow you to answer the question, but you can't go any
8 further. But anything further than that would be highly deliberative and potentially
9 privileged, so we have departmental interests in protecting those communications.

10 Dr. Tabak. So I can answer the question with a person's name?

11 Ms. Ganapathy. Yes.

12 Dr. Tabak. Mr. Charrow.

13 Mr. Benzine. Okay. And do you know who had communicated with Mr.
14 Charrow?

15 Ms. Ganapathy. No. That's highly deliberative.

16 Mr. Benzine. It's not. "Do you know" is a yes or no question. It gets into no
17 deliberations whatsoever.

18 Ms. Ganapathy. You can answer yes or no.

19 Dr. Tabak. I was told who it was, but I don't have any evidence of who it was.

20 Mr. Benzine. Who were you told who it was?

21 Ms. Ganapathy. I'm going to step in and instruct the witness not to respond to
22 the question.

23 Mr. Benzine. On what grounds?

24 Ms. Ganapathy. On departmental -- it's both deliberative and potentially
25 implicates White House communications, and so there's strong executive branch interests

1 in keeping that information confidential.

2 Mr. Benzine. We'll take both. "Who" is not deliberative. The name of a
3 person can inherently -- is inherently not deliberative.

4 Ms. Ganapathy. This is -- yeah, but he didn't act -- he doesn't actually know the
5 "who" firsthand. He just said --

6 Mr. Benzine. He can testify to secondhand knowledge. This isn't a court of law.

7 Ms. Ganapathy. He just said -- no. Secondhand knowledge would be a
8 discussion. That would be the substance of a communication.

9 Mr. Benzine. The "who" is not a deliberative discussion.

10 Ms. Ganapathy. If he learned that "who" in a deliberative discussion, then that is
11 deliberative.

12 Mr. Benzine. I'm not asking about the deliberations of the discussion. I'm
13 asking about the "who." The name of a person, a fact, cannot be deliberative.

14 Ms. Ganapathy. Mitch, this is not a controversial issue. This is deliberative.
15 And we're going to instruct the witness not to answer. We're happy to discuss this
16 further with you at a separate time and place.

17 If you have an urgent and compelling need for that information, we're happy to
18 talk about getting that information to you in another format or another medium, another
19 meeting. But we are here today voluntarily as an accommodation. We're not going to
20 get into that today.

21 Mr. Osterhues. Yeah. I just want to understand something.

22 So we've established that either, you know, directions or decisions were made to
23 send a letter or to -- that there was a desire to terminate this grant. So the
24 Department's position is that people involved in that decision -- just the people
25 themselves, regardless of the advice and the things that could be deliberative or that

1 would be sensitive -- that itself is privileged.

2 Ms. Ganapathy. Okay.

3 Mr. Strom. The identity of White House employees is --

4 Ms. Ganapathy. Okay. All right, John. I take your point.

5 I will allow the witness to answer the names to the best of his knowledge, but I
6 will not allow him to answer how he knows those names.

7 Mr. Benzine. That's all we're asking.

8 Mr. Osterhues. That's all we're asking.

9 Ms. Ganapathy. Okay. All right.

10 You can go ahead, Dr. Tabak.

11 Dr. Tabak. Okay. My secondhand knowledge is that it was the White House
12 chief of staff.

13 Mr. Benzine. Mark Meadows?

14 Dr. Tabak. Correct.

15 Mr. Benzine. Thank you.

16 I want to then -- well, I'm going to summarize the timeline then leading up to April
17 19th without getting into any of the discussions of how April 19th happened.

18 Your understanding -- and, granted, some of this is secondhand -- is a
19 conversation took place between Chief of Staff Meadows and Mr. Charrow, who then had
20 a conversation with you, and then you had a conversation with Dr. Lauer that resulted in
21 this letter?

22 Dr. Tabak. Assuming that that's legally accurate -- I mean, it is factually. I just --

23 Ms. Ganapathy. Dr. Tabak, you should provide the truthful answer to the best of
24 your recollection.

25 Dr. Tabak. That is correct.

1 Ms. Ganapathy. If that's your understanding --

2 Dr. Tabak. That's all. Thank you.

3 Mr. Benzine. Thank you. No, I'm not trying to get into like who told what who
4 but that the order of events was these people.

5 Dr. Tabak. Yes.

6 Mr. Benzine. I'm going to introduce Majority Exhibit 8.

7 [Tabak Majority Exhibit No. 8

8 was marked for identification.]

9 BY MR. BENZINE:

10 Q This is another email chain. You can see your name up here at the bottom
11 of the email chain, but most of it is Dr. Lauer to Jodi Black, I'm assuming. Again,
12 produced via FOIA to BuzzFeed.

13 At the very bottom email before there's a big block on one page, you write to Dr.
14 Lauer on April 18th, "Mike, I have been directed to have this sent on Sunday. I presume
15 you're the right person to send it? I will send it if you prefer. Just let me know."

16 So this is the result of those conversations that we just talked about. Is that
17 correct?

18 A Correct.

19 Q Dr. Lauer responds, "It should come from me. I will get to the appropriate
20 official tomorrow."

21 And then I'm assuming there was some in between there. We don't need to get
22 into it. We don't need to have that discussion, but there were some discussions on
23 what it would look like.

24 The big blocked-out text on the last page, was that a draft version of the April 19th
25 letter?

1 A I have no idea what it was.

2 Q When you emailed Dr. Lauer, did you provide him a draft of the letter or did
3 he draft it in accordance with OGC?

4 A I don't recall providing him with a draft.

5 Q Okay. Just information regarding the grant. Is that correct?

6 A The information -- well, which grant, yes.

7 Q So --

8 A But then he -- but Dr. Lauer obviously could, you know, find out whatever
9 information was necessary for specifics.

10 Q So the information that you provided Dr. Lauer on April 18th would have
11 been just kind of baseline -- the information that you had been gathering on grants to
12 China, the kind of like prime recipients, subrecipients, dollar amounts. Is that kind of
13 fair speculation?

14 A I don't know if it is because he would be privy to that information also
15 because, in fact, he was probably the source of the information.

16 Q Okay.

17 A He was, and perhaps NIAID. So I think it was a combined effort.

18 Q Okay. This is not a document that has been produced to us, so I'm going to
19 ask, do you have any recollection of what's underneath that redaction?

20 A I have no idea.

21 Q All right.

22 A I don't know.

23 Q Going up the chain a little bit, I don't recall the exact time on April 19th this
24 letter was sent, but Dr. Black asked, "Does Fauci know and has Emily been informed?"

25 Emily, being the chief grants management officer, is, I believe, what that acronym

1 stands for.

2 A What is the acronym?

3 Q CGMO. It's on the middle of the first page.

4 Ms. Ganapathy. Right over here, Dr. Tabak.

5 Dr. Tabak. Oh, yes. That's the chief grants management official. Correct.

6 Mr. Benzine. Okay. And Dr. Lauer responds, "Hi, Jodi. Yes, Tony knows."

7 Do you recall how Dr. Fauci was informed that this letter would be sent?

8 Dr. Tabak. I do not -- I would assume either I or Mike Lauer -- Dr. Lauer spoke to
9 him about it, but I don't recall who did.

10 Mr. Benzine. Okay. I'm going to keep moving through the timeline. I'll
11 introduce this one as Majority Exhibit 9.

12 [Tabak Majority Exhibit No. 9
13 was marked for identification.]

14 BY MR. BENZINE:

15 Q This is kind of the next letter in the series of letters sent by Dr. Lauer to
16 EcoHealth on April 24th, 2020. So a couple days later.

17 Were you involved in this letter?

18 A I don't recall specifically, but I would imagine I, you know, reviewed it.

19 Q So it shifts it from severing the Wuhan portion of the grant to terminating
20 the entirety of the grant.

21 Do you recall any conversations about that?

22 A This is later that month.

23 Q Uh-huh.

24 A I don't recall the specifics of it.

25 Q Okay. In June of 2020, before the House Committee on Energy and

1 Commerce, Dr. Fauci was asked about this grant and its cancellation and said, and I'm
2 quoting, "Why was it canceled? It was canceled because the NIH was told to cancel it.
3 I don't know the reason, but we were told to cancel it."

4 Is that consistent with the timeline that we just ran through of Mr. Meadows to
5 Mr. Charrow to you to Dr. Lauer?

6 A Could you -- the date again of Dr. Fauci's comment?

7 Q June 2020.

8 A Yes, that's consistent.

9 Q So when he's testifying NIH was told to cancel it, he's referencing what you
10 just testified to us?

11 A I presume that's what it was.

12 Q Yeah. I'm going to keep moving through the timeline here and introduce
13 Majority Exhibit 10.

14 [Tabak Majority Exhibit No. 10
15 was marked for identification.]

16 BY MR. BENZINE:

17 Q This is another letter from Dr. Lauer to Dr. Daszak dated July 8th, 2020.
18 Were you involved at all in this letter?

19 A I was.

20 Q Can you explain your involvement?

21 A I participated in the sort of group discussions that led to the drafting of this.

22 Q And, generally, what were those?

23 A I'm sorry?

24 Q Generally, what were those discussions?

25 A What elements that we should lay out to the grantee organization.

1 Q Did you agree with sending this letter?

2 A I did agree with sending it.

3 Q Okay. It asks for a number of things, and I know EcoHealth responded.
4 Some of these, I want to ask if -- just if you were aware of the basis for some of these
5 questions.

6 Did you have any awareness of the basis for asking EcoHealth to explain the
7 apparent disappearance of Huang Yanling?

8 A Again, this was a letter written by committee, and so different people
9 contributed different things to this. I can't speak to that specific element, only that this
10 was a letter written by committee.

11 Q So, obviously, part of that committee was you and Dr. Lauer. Do you recall
12 who else was involved in the drafting of this?

13 A Dr. Collins and -- I'm allowed to --

14 Ms. Ganapathy. You're allowed to say.

15 Dr. Tabak. -- and Mr. Charrow.

16 BY MR. BENZINE:

17 Q After the fact, did you -- you said you agreed with the drafting of this letter.
18 Did you have any conversations with Dr. Fauci about this letter?

19 A I'm sure we did, but I don't recall any specific conversations.

20 Q Okay. I want to move on again to the next one. We're going to -- there
21 was quite a bit of back-and-forth with a lot of science and all kinds of things that we've
22 asked Dr. Daszak about, we've asked Dr. Lauer about, we've asked a few other people. I
23 just want to -- I'm going to skip forward a couple letters --

24 A Okay.

25 Q -- and introduce Majority Exhibit 11.

1 [Tabak Majority Exhibit No. 11
2 was marked for identification.]

3 BY MR. BENZINE:

4 Q And this is another letter from Dr. Lauer to EcoHealth, dated July 23rd, 2021.
5 Again, were you involved in the drafting of this letter?

6 A I don't know that I was involved with the drafting. I imagine I saw it, but I
7 don't believe I participated in the drafting.

8 Q Do you recall any conversations about this letter?

9 A I don't recall any specific conversations about the letter. I do recall specific
10 convers- -- you know, I recall, like, general conversations about the letter contents.

11 Q Okay. I want to focus on -- I'm going to skip over part 1 of the letter and go
12 to part 2, the report section.

13 This is the first time, at least in writing, that we're aware of, of NIH noticing that
14 the year 5 progress report was late. Is that consistent with your understanding?

15 A I couldn't comment. I don't know.

16 Q When did you personally learn that the progress report was late?

17 A It was probably during a meeting where we were discussing, you know, the
18 general situation. I don't recall a specific time.

19 Q It was their year 5 annual. It was due September 30th, 2019, the end of
20 fiscal year, and at this point was 22 months late. Is that kind of common? Are
21 progress reports usually that late?

22 A It's not common to be that late.

23 Q Is it common to be -- well, what's, like, common lateness?

24 A It depends on the situation. As I recall, they were at the point where they
25 were or had prepared their competing renewal application. As part of preparing a

1 competing renewal application, you would typically include in a section preliminary
2 results a summary of all the work that you have performed which has not yet been
3 published. And in many instances, that overlaps or indeed is identical to any progress
4 report that you would submit.

5 And so in my experience as an institute director -- going back to that time -- the
6 requirement of that progress report is not quite as keen because you're already seeing
7 that information in the continuing renewal -- you know, competing renewal
8 application -- the application.

9 So I don't know that there's a -- I don't have any data as to, you know, what the
10 spread is, but I will say that when there's a competing -- a competitive renewal, it
11 sometimes shifts a bit.

12 Mr. Strom. I think one of the things we're struggling with is just the sheer
13 amount of time that elapsed when it seems that the year 5 was -- the first notice was
14 missing. But it's also that this grant had been under significant scrutiny since at least
15 April of 2020, including, you know -- and there's no reason you would specifically know
16 this, but NIAID -- the scientific officer on the grant being interviewed by the FBI.
17 Obviously, lots of political scrutiny on it.

18 Given all that, is it unusual to you that NIAID apparently never noticed that the
19 year 5 was missing? That they would speak to the FBI without looking at sort of the first
20 set of grant files?

21 Dr. Tabak. I can only state what I know, and that is that they missed it. I can't
22 really speculate beyond that.

23 Mr. Strom. Okay.

24 BY MR. BENZINE:

25 Q I have a few more, and then we'll cut this hour short and we can break for

1 lunch and come back.

2 So understanding -- you can correct me if this is not the correct characterization,
3 but not involved in the drafting but kind of involved in the discussions surrounding this
4 letter. Is that fair?

5 A I think that's accurate.

6 Q And you talked a little bit about your knowledge of the report. In drafting
7 this letter, did you consult with Dr. Stemmy or Dr. Erbelding?

8 A I don't have a recollection of that.

9 Q I guess, to the best of your recollection and knowledge, how was the missing
10 progress report discovered?

11 A I honestly don't remember. I believe -- I just don't remember. But I was
12 made aware of it, though. I'm sure of that.

13 Q The progress report was eventually submitted a couple months after this.
14 Did it contain like, to the best of your knowledge -- again, I don't know if you've seen the
15 competing renewal application -- but did the progress report contain results of
16 experiments that were conducted at the Wuhan Institute of Virology?

17 A I believe that's correct, yes.

18 Q Consistent with kind of your years of experience, do researchers routinely
19 publish every virus that they sequence or collect?

20 A No.

21 Q Do researchers routinely publish every experiment that they conduct?

22 A No.

23 Q So by July 23rd, 2021, the date of this letter asking for the progress report,
24 EcoHealth and the WIV had not reported the results of all of their experiments under the
25 grant to NIAID. Is that correct?

1 A Again, the timeframe, by --

2 Q By July 23rd, 2021.

3 A I can't sequence the timing. By the time they had -- maybe if you would
4 repeat the question. Sorry.

5 Q So by this time -- I guess what we're trying to understand is if EcoHealth, to
6 your knowledge, had reported everything that they were supposed to report -- all the
7 experiments, all the virus sequences that they worked on -- to NIAID?

8 A I don't know the answer to that.

9 Q But they're asking for a report, so I would assume that they haven't reported
10 it?

11 A But I don't know what they prepared prior to that. That's why I can't
12 answer your question.

13 Q Okay. To your knowledge, had they contemporaneously published all of
14 the results?

15 A Again, I don't know what all the results were. They did publish, but I don't
16 know if they -- you know, what, if anything, was excluded.

17 Q Okay. Yeah.

18 BY MR. STROM:

19 Q On this letter, is it accurate to say that Dr. Lauer's office sort of had the lead
20 pen? Even though it was written by committee, this is sort of -- I mean, it strikes me as
21 a compliance issue for --

22 A This comes -- yes. Because in this context, this has become a compliance
23 issue.

24 Q So when you say by committee, he's making sure that there is, I guess,
25 alignment within the Office of Director's office on it?

1 A Well, making sure that all the facts are accurate.

2 Q Uh-huh. But some of this where you're saying you don't recall is maybe
3 perhaps because Dr. Lauer's office is the one that's going out and gathering a lot of the
4 facts?

5 A It's possible. I really don't know.

6 Q Okay. Thank you.

7 Mr. Benzine. One more exhibit before we break. Exhibit 12.

8 [Tabak Majority Exhibit No. 12
9 was marked for identification.]

10 BY MR. BENZINE:

11 Q And this is a longer one, so I'll give you a minute to look at it while it is
12 passed out and while I identify it.

13 So Majority Exhibit 12. It's a letter from former NIH Director Francis Collins to
14 then-ranking member of the Oversight Committee, James Comer, and dated July 28th,
15 2021. So 5 days after the letter that we just referenced.

16 It goes through a lot of things. I think it was responding to two separate letters
17 that Mr. Comer had sent at that point. So --

18 Ms. Ganapathy. Mitch, can you give just -- the witness just a few minutes to
19 read through it? It's a few pages long.

20 Mr. Benzine. Yeah.

21 Dr. Tabak. Okay. Thank you.

22 BY MR. BENZINE:

23 Q So it goes through a number of things. What NIH knows about the origins
24 of the virus, how they conduct oversight and research involving ePPPs, role of NIAID in
25 that. And then talks about the EcoHealth grant a little bit as well. And I want to flip to

1 page 5.

2 First, were you involved at all in the drafting of this letter?

3 A I don't recall when -- I don't know if I cleared it or not, but I certainly was
4 involved in drafting it.

5 Q Okay. On page 5, the third paragraph down, "Results of the WIV
6 experiments under the EcoHealth Alliance grant were reported to NIAID and published
7 contemporaneously in peer-reviewed scientific literature to inform the global scientific
8 community of these findings."

9 Five days earlier, NIH was saying that EcoHealth hadn't reported everything to
10 NIAID. They were missing a progress report.

11 Did the progress report come in between July 23rd and July 28th, 2021?

12 A I don't know the date of the receipt.

13 Q It came in August 3rd.

14 I guess we're trying to figure out -- which we can ask Dr. Collins this as well -- but I
15 guess the presumption then from what you've said is that, in order for this sentence to be
16 accurate, what was reported in the year 5 progress report should have also been
17 reported in the competing grant renewal?

18 A As well as any published work.

19 Q Okay. And we kind of just touched on it a little bit, but it's not -- to avoid
20 the double negative, it's common that researchers hold some information back or don't
21 publish all of their information?

22 A That's accurate.

23 Q Okay.

24 A Again, when a researcher -- and when you say "holds back," some of the
25 result is -- at least at the moment in time seems tangential to whatever it is that -- the

1 research question is that you're trying to focus on. So I don't know that there's a
2 purpose of, as you say, holding back.

3 Q Maybe not intentionally, but they don't --

4 A But they don't provide everything because it may be tangential to whatever
5 the question is at hand.

6 Q And there could be results of experiments that they choose not to publish
7 even if it's not tangential. Is that correct?

8 A It would be rare, because if it's interesting, you know, you want to make it
9 known to the scientific community.

10 Q And then using EcoHealth as kind of an example in what they do in their
11 surveillance gathering -- they go out and gather a couple thousand viruses, come back,
12 sequence them -- they wouldn't necessarily be obligated to report every sequence that
13 they gathered?

14 A I would have to look at the actual grant application to see what they said
15 they would do, but I would suspect that that's correct, that they would not be obligated
16 to submit every single sequence.

17 Q And it would be maybe not common but not uncommon that researchers
18 wouldn't publish every sequence that they gather?

19 A I don't know what the sort of -- "standard" is too strong a word. I don't
20 know what the norm is in this particular field. But I can tell you that researchers gather
21 lots of information, and some of it does not find its way immediately into publication,
22 again, because at the time it may be tangential to whatever the question is that's being
23 asked.

24 Mr. Benzine. Okay. Thank you.

25 We can go off the record.

1 [Recess.]

2 [REDACTED]. We can go back on the record.

3 BY [REDACTED]:

4 Q I just had a couple of discrete questions about one of the letters that we
5 were just looking at. That's Majority Exhibit No. 10, dated July 8th of 2020. I'll give
6 you a second to shuffle.

7 So on the second page of that letter is a numbered list asking for all sorts of
8 different things. I can give you a moment to glance back over it. You might be familiar
9 with it at this point.

10 A Okay. Thank you.

11 Q Is it the case that not every single item on this list is something that a
12 grantee would ordinarily be required to include in their annual reports? Is that right?

13 A That's accurate.

14 Q In other words, it's not that -- sitting here at the time that this letter was
15 sent -- that the grantee was otherwise out of compliance because they had not yet
16 explained the apparent disappearance of Huang Yanling, correct?

17 A That's correct.

18 Q I think this is one of the letters or maybe all of them that were written by
19 committee, as you put it, so you may not recall. But to the extent you do, was there a
20 thought that the grantee would probably be able to answer some of these questions or
21 that it might be challenging for the grantee to?

22 A So when you say grantee, I assume you mean EcoHealth Alliance?

23 Q I do. Exactly.

24 A If you mean EcoHealth Alliance, we understood that, without the
25 cooperation of their subawardee, it would be difficult for them to answer some of these

1 questions.

2 Q If you recall, were the questions themselves -- were you all largely drawing
3 from publicly available information?

4 A I would say that that's largely the case.

5 [REDACTED]. I think those are my only questions about that letter.

6 BY [REDACTED]:

7 Q Okay. So, Dr. Tabak, thank you for your candor today. I just want to
8 clarify a few things.

9 We had, you know, a series of letters -- exhibits 7, 9, 10, and 11, and -- regarding
10 one of the -- I'll go through them in order, but just to let you know where I'm going with
11 this.

12 A Okay.

13 Q So I understand that at least for one of them and maybe more, this sort of
14 chain of command as it were as you understood it of decision-making went from Mr.
15 Meadows to Mr. Charrow, who was acting as GC of HHS at that point. Is that accurate?
16 If you don't know, that's fine.

17 A No, no. Mr. Charrow was the general counsel at the time at HHS.

18 Q Okay. Great. And then to some combination of Dr. Collins and then
19 yourself.

20 So I'll go through each of them, but all I'm trying to do is get an understanding of
21 what the process was for each of these letters and to what extent, you know, they
22 differed between them.

23 A Okay.

24 Q So we can start with exhibit 7, which is the April 19th, 2020 letter from Dr.
25 Lauer to Kevin Olival and Naomi Schrag.

1 So what's your understanding of the -- I'll call it, you know, the chain of command
2 or the directive on this letter?

3 A I was informed by Mr. Charrow that this grant needed to be terminated. I
4 informed Mike Lauer -- Dr. Lauer. I mean, that was the chain.

5 Q Okay. Great. I'm not trying to get at anything else there.
6 Were you informed directly or was Dr. Collins involved as well?

7 A I made this decision without Dr. Collins' input.

8 Q Okay. Was Dr. Collins aware that it was going to happen?

9 A After the fact. In other words, after this decision was made, I asked Dr.
10 Lauer to proceed, and it was only then that I was able to catch up with Dr. Collins, let him
11 know what was going on.

12 Q Okay. So he was -- Dr. Collins was aware after the decision was made, but
13 was it before the communication went out?

14 A I don't recall.

15 Q Okay.

16 A I don't -- I hope so, but I don't recall.

17 Q I understand, especially with this one, that things happened very quickly. I
18 think probably within the same day or so.

19 A Yeah, I just don't remember.

20 Q Okay. That's fine.

21 So if you could turn to exhibit 9. That's the April 24th, 2020 letter from Dr. Lauer
22 to Dr. Chmura and Dr. Daszak about the termination of the grant.

23 So let me just go back to the same question there. You know, what is your
24 understanding of, you know, the chain of command in making the decision to send this
25 letter?

1 A I don't know for certain. I believe Mr. Charrow reviewed the letter. I
2 don't know if he had any input into the text that you see. And I know I reviewed the
3 letter, but I don't believe I had any changes to the text.

4 Q And so who was it that made the decision to terminate the grant?

5 A The decision was made through Mr. Charrow, as I described previously. I
6 mean, that was where we received the instruction to terminate this grant.

7 Q And do you -- so similar to the letter we were talking about previously, do
8 you understand that decision to have come to Mr. Charrow from Mr. Meadows?

9 A I can't speak to this letter.

10 Q Okay.

11 A I don't know about this letter.

12 Q Okay. And then turning to exhibit 10, which is the July 8th, 2020 letter.
13 Again, this is from Dr. Lauer to Dr. Chmura and Dr. Daszak.

14 Same question there. You know, where did the decision originate?

15 Ms. Ganapathy. And just once again, I would instruct the witness to -- you know,
16 you are to not -- to answer to the best of your ability without getting into the specifics of
17 internal deliberations.

18 Dr. Tabak. Okay. You will stop me if I do that.

19 Again, as I previously stated, this letter was written by committee. There were a
20 number of people who contributed, and it was a group effort. And as I previously said,
21 it included Mr. Charrow, Dr. Lauer, Dr. Collins, and myself. I don't know -- I don't recall
22 anybody else being involved in this.

23 ██████████. You know, understanding that the process of, you know, drafting
24 this letter was by committee, you know, who had the authority or gave the direction to
25 say, let's get this committee together to write this letter?

1 Ms. Ganapathy. [REDACTED], I'm going to step in there. That's highly deliberative.
2 We're not going to get into that today.

3 BY [REDACTED]:

4 Q Who asked you to join the committee to work on this letter?

5 A This was organically -- this happened organically. There was no formal,
6 let's create a committee. We had a responsibility to do this and worked together to get
7 it done.

8 Q So, basically, after -- I mean, let me know if this characterization is fair at a
9 high level. After the decision to terminate the grant on April 24th was made, you know,
10 there's some understanding that there needed to be some next steps here, and that was
11 a natural group to sort of figure out what are those next steps?

12 A I think that's accurate, yes.

13 Q Okay. And then I'm assuming, then, that the same thing for exhibit 11,
14 which is the July 23rd, 2021. I'm assuming the answer is the same. It's exhibit 11.

15 A Yes. I think that's accurate.

16 Q So there were individuals that were working on figuring out what are the
17 next steps here, what is required --

18 A Yes.

19 Q -- and then this was a product of that?

20 A Yes.

21 Q Okay. In terms of the involvement of -- well, first of all, are there any other
22 situations that you can recall similar to this one in terms of, you know, a decision being
23 made to step in, suspend, and then shortly thereafter, you know, terminate a grant
24 altogether? Any other sort of precedent? You don't have to get into the details of it,
25 but I'm just curious if this was novel or not.

1 A We do occasionally terminate grants for cause, if that's the question you're
2 asking.

3 Q And, I mean, in your opinion, was this a termination of a grant for cause?

4 A The initiation of it was very -- how do I say this properly? Was very sudden.
5 It was very precipitous.

6 Q Who would normally decide to terminate a grant for cause or begin the
7 process of --

8 A That would typically be done at the level of the institute leadership of the
9 grant in question.

10 Q And so this differed how?

11 A The precipitating event for this came through the Department to the Office
12 of the Director of NIH. So it was, for lack of a better term, top down.

13 Q And normally -- I mean, let me know if this is correct -- but normally, what
14 you might see in terms of, you know, grant noncompliance, decision on termination, you
15 might see a bottom-up result where you would have a program officer, somebody within
16 the institute raising issues?

17 A Yes. Sorry. A program officer or a grants official would more likely be the
18 person engaged in this.

19 Q So it would typically -- fair to say it would typically be somebody who had
20 been closer to the grant and how the work had been proceeding?

21 A If it were a program officer, that would be accurate. If it were a grants
22 management official, I don't think that would be accurate. They would be more
23 involved with the fiscal, you know, issues surrounding the grant.

24 Q Understood.

25 ██████████: Maybe just one quick question on that.

1 Limiting ourselves just to the question of your understanding of who spoke with
2 whom, which we've covered in some detail -- the chain of communication, Mark
3 Meadows, Mr. Charrow, yourself -- do you have an understanding, even if it's
4 secondhand, of whether that chain of communication started somewhere earlier than
5 Mark Meadows, and if so, where that would be?

6 Dr. Tabak. I have no knowledge of that.

7 ██████████. That's it.

8 ██████████. Yep. I don't have anything else.

9 We can go off the record.

10 [Recess.]

1 [1:03 p.m.]

2 Mr. Benzine. We can go back on the record.

3 BY MR. BENZINE:

4 Q I want to start this hour with one, kind of, big-picture question.

5 So we talked a lot about the various letters, the various enforcement letters, that
6 NIH sent to EcoHealth in the past hour and a half or so.

7 Sitting here today, do you agree with NIH's enforcement efforts regarding
8 EcoHealth?

9 A I think we are where we should be, yes.

10 Q Okay. Each of the letters sent, you were in agreeance to send?

11 A Yes.

12 [REDACTED]. I'm sorry. I wasn't able to hear the first answer. If you could
13 speak up, Dr. Tabak.

14 Dr. Tabak. I'm sorry. I said that we are where we should be on the compliance.
15 I apologize.

16 I'm sorry. The second one?

17 BY MR. BENZINE:

18 Q Each of the letters Dr. Lauer sent, you were in agreeance with them being
19 sent?

20 A I was.

21 Q All right. Thank you.

22 I want to introduce majority exhibit 13, a letter that hopefully looks familiar to
23 you.

24 A Yes.

25

[Tabak Majority Exhibit No. 13

1 was marked for identification.]

2 BY MR. BENZINE:

3 Q This is a letter from you to Ranking Member Comer on October 20, 2021.
4 Obviously, you signed the letter. Were you also the primary drafter of this
5 letter?

6 A I had the pen. Obviously, I had help. I had the pen.

7 Q Who else was involved?

8 A It's probably members of our OLPA staff. I don't remember specific people,
9 but, you know, again, we put things together as a team. But I signed it, so it's me.

10 Q And OPA, O-P-A, is Office of Public Affairs?

11 A Office of Legislative Policy and Analysis.

12 Right? Is that right, guys?

13 I think that's right.

14 Ms. Cook. What, the Office of Science Policy?

15 Mr. Benzine. OPA.

16 Ms. Cook. Oh. Office of Legislative Policy and Analysis.

17 Dr. Tabak. I got it right.

18 BY MR. BENZINE:

19 Q How was the determination made to send this letter? I guess, what was
20 the process in --

21 A The general process is a letter comes from, in this case, the ranking member
22 at the time and it goes to that office that we just referenced. And work is done to
23 assemble the information required to answer whatever questions were posed. And
24 then it goes through a clearance process, in this case ending with me as the signatory.

25 Q This letter provides a decent amount of information, but also mostly notifies

1 the ranking member that EcoHealth had subsequently submitted their fifth and final
2 progress report and that it included an experiment that resulted in, I guess, a change of
3 some sort to the underlying virus.

4 Is that accurate?

5 A It describes -- yes. It describes a change to the virus, which ultimately
6 resulted in the laboratory mice that were infected with the modified virus to become
7 more ill than those that were affected by the wild type -- you know, the original strain.

8 Q Yes. But that was the primary purpose of sending this, was to notify
9 Congress of this experiment and the progress report?

10 A I don't know if that was the primary -- I mean, I think each of these elements
11 was important to notify the Congress, and so I don't know if one was more important
12 than the other.

13 Q It also attached, and it's referenced in here, an analysis on the viruses that
14 EcoHealth and the WIV were working on.

15 A Yes.

16 Q When did that analysis occur? Was it in conjunction with the letter?

17 A I don't remember exactly, but, I mean, obviously, it occurred before we sent
18 the letter. So it was probably within that timeframe. I don't recall the exact dates.

19 Q I want to start by discussing the experiment that was mentioned in here.

20 A Uh-huh.

21 Q And it's the fourth paragraph. And it says, "The limited experiment
22 described in the final progress report provided by EcoHealth Alliance was testing if spike
23 proteins from naturally occurring bat coronaviruses circulating in China were capable of
24 binding to the human ACE2 receptor in a mouse model. All other aspects of the mice,
25 including the immune system, remained unchanged. In this limited experiment,

1 laboratory mice infected with the SHC014 WIV1 bat coronavirus became sicker than those
2 infected with the WIV1 bat coronavirus. As sometimes occurs in science, this was an
3 unexpected result of the research, as opposed to something that the researchers set out
4 to do. Regardless, the viruses being studied under this grant were genetically very
5 distant from SARS-CoV-2."

6 This is describing -- and the specifics aren't in here, but it's describing what
7 EcoHealth did with making a chimera between WIV1 and SHC014. Is that correct?

8 A It describes taking the spike protein from a naturally occurring virus and
9 putting it into the backbone of this, sort of, standard strain that they'd been using --

10 Q Uh-huh.

11 A -- to see what would occur. And as I pointed out in the letter, it was not
12 expected that the mouse, you know, would become sicker. That was an unexpected
13 result.

14 Q In EcoHealth's progress report, the WIV1s, the backbone virus, killed two of
15 the mice infected; the SHC014 version of WIV1 killed six of the mice infected.

16 So that's what you're saying, that the new virus was more lethal to the mice than
17 the backbone strain.

18 A Again, it was a limited experiment, in the sense that these are very tiny
19 numbers for an animal experiment, but they are what they are. And so that's why we
20 concluded that they, you know, were sicker.

21 Q I'm just trying to -- the chimeric version that EcoHealth made with the
22 SHC014 spike in the WIV1 backbone was more lethal than the original WIV1.

23 A It would appear that way. But, again, these are very tiny numbers for a
24 mammal experiment.

25 Q Yeah. What would be, like -- what would be the expectation in an animal

1 experiment? Obviously, more than eight mice. But is there --

2 A I would have to do a -- you would do a formal power calculation based on
3 previous work. But this is a tiny sample.

4 BY MR. STROM:

5 Q It says in the fourth paragraph, the first sentence, "The limited experiment
6 described in the final progress report provided by EcoHealth Alliance...."

7 Is it your understanding or recollection that the experiment in year 5 was different
8 from the experiment in year 4?

9 A That was our conclusion.

10 Q Okay.

11 A That was our conclusion. Yes.

12 Q That was the only question I had.

13 BY MR. SLOBODIN:

14 Q Could I just ask -- because you mentioned several times the tiny numbers,
15 it's a limited experiment. So what would be the point of doing an experiment like this
16 with such little statistical power behind it?

17 A One often does, like, a pilot experiment to see if the genetic manipulation
18 can be done and to see if the resultant strain could, in fact, infect the test animal. But,
19 you know, it's a pilot.

20 Q And if that were the case, right -- say, you do a small preliminary study, and
21 then, based on those results, you then see where you go to the larger-scale or
22 appropriate statistical power study?

23 A That's one possible approach, yes.

24 Q And if that were -- well, what other reason would there be other than that?
25 Why would you do -- if it wasn't leading to something that had proper statistical power,

1 why would you do it?

2 A It depends on what you observe. I'm sorry, I'm speaking in generalities
3 here.

4 Q Uh-huh.

5 A It depends on what you observe.

6 If your construct is to assess the effect on immune function and none of your
7 readouts show any immune effect or change --

8 Q Uh-huh.

9 A -- you might say, this isn't worth pursuing.

10 I mean, I'm making that up. I'm not saying that's the case here.

11 Q Okay.

12 So, if it was a pilot experiment, should we expect that the grantee, when they're
13 reporting to the program officer, or, in this case, you know, when they were proposing
14 this experiment in the first place, would've explained that, would've said, we're planning
15 to do an experiment with SARS-like viruses with these transgenic mice, and we're going to
16 start with a very small study, with tiny numbers for each of these mice groups, you know,
17 for individual chimeras, and depending on how that goes, we may go to a larger-scale
18 study?

19 A It's possible. I wouldn't say that it -- I don't --

20 Q They don't have to say that? They don't have to explain that -- that's not
21 pertinent information, that they're scoping out a proposed experiment?

22 And, in this particular case, you know, regardless of, you know, whatever the
23 interpretation of whether the gain-of-function pause that was in effect applied to this
24 experiment, the program officer treated it as if it was applicable. Whether he was
25 legally required to do that is another question.

1 But the point was, NIH was being cautious even if they thought it was, in the end,
2 okay to go forward. But there were issues that they wanted to get subject-matter
3 experts to weigh in, make sure they had the right risk-benefit determination.

4 So, for those kinds of decisions, I'm trying to understand, like, what's the right
5 policy as it applies to our Members, applies to Congress. What's the right policy for
6 overseeing experiments that entail some risk that require additional scrutiny by experts?
7 And what kind of information should be in there?

8 So I'm going back to my original question. Doesn't it make more sense -- don't
9 you want to know the whole thing, not partial information, but complete information, as
10 to what the research plan is going to be with these experimental viruses?

11 A I'm having a little trouble following the thread.

12 The program officer, in this case, I think, was appropriately responding --

13 Q Uh-huh.

14 A -- to the requirement that the grantee inform NIH if there were any
15 unexpected findings.

16 Q Uh-huh.

17 A This was an unexpected finding.

18 Q Right.

19 A And so I think that's what the program officer was responding to.

20 Q Well, he didn't know. No, no. The program officer didn't know the results
21 of the experiment. I'm going back -- let me make it clear. Sorry if I didn't make it clear.

22 A Okay.

23 Q So what I was referring to is beforehand, before the conduct of the
24 experiment, the review, in this case by this internal review committee at NIAID that
25 reviews these kinds of issues.

1 And so what we're doing, in looking back at this, one of the questions we're asking
2 was, did NIH have all the information it should've had? Did the grantee provide enough
3 information in order to make such a determination?

4 And I'm raising a question, because, as an outsider, as a non-scientist, we have a
5 description of an experiment with very tiny numbers of mice, and then EcoHealth, in fact,
6 used that as a defense against NIH's compliance action on the excessive virus growth,
7 which I'm sure we'll get to.

8 A Uh-huh.

9 Q But then that gets me wondering, why are we even doing it this way?
10 Right? If you're conducting an experiment that lacked the statistical power, and that's
11 all there is, why would you do it? What kind of science are we investing in, if that's what
12 this was all about?

13 Mr. Strom. I guess --

14 Mr. Slobodin. Now, what you said makes sense. But if that were the case, it
15 wasn't explained. We don't know if that was EcoHealth's intention -- or the Wuhan
16 Institute of Virology's intention. We haven't seen any information on this. Nothing
17 was spelled out.

18 Sorry, John.

19 BY MR. STROM:

20 Q No. I was just going to say, I think the point is, it makes sense that it would
21 be a pilot experiment.

22 A Uh-huh.

23 Q Low numbers, not statistically powered.

24 What is your understanding of what the next experiment was going to be?

25 A I don't have that information.

1 Q Okay.

2 A I haven't read the application. I can't answer the question. I understand
3 the question, but I can't give you an answer.

4 BY MR. SLOBODIN:

5 Q But shouldn't NIH have that information, the information of what the
6 research plan is?

7 A I would have to --

8 Q If it was a pilot program and there's a larger-scale experiment with numbers,
9 shouldn't that have been presented up front?

10 A To answer the question accurately, I would have to go back and look at the
11 application to see what was and was not provided. And I just don't recall that
12 information.

13 Q Well, I think we're going to go -- it wasn't provided. There's no other detail.
14 That's why I'm asking this question as an outsider. I don't know why -- that's all we
15 have. We're not aware of any publication about this experiment.

16 And this is partly why Dr. Lauer and the Office of Extramural Research was going
17 to EcoHealth Alliance and asking them to get the laboratory notebooks and other
18 electronic data associated with this experiment. It didn't happen. There was no
19 publication detailing this. All they had were, you know, one-paragraph summary
20 descriptions in the progress report.

21 So, again, I'm just asking a policy question, because, right now, the executive
22 branch is trying to make a decision on how should -- we continue to make adjustments,
23 right, of the scope of experiments that require this extra scrutiny, and we have experts
24 weighing in.

25 And my question is, going forward, shouldn't NIH have all the information, not

1 partial information, from a grantee who's proposing research that has some risk? That
2 they should present the full research plan, not one subset of the experiment, but that this
3 is a pilot project leading to a larger study?

4 A I do understand your question. I can't give you a better answer than the
5 one I've provided.

6 The context of this is not that people thought these were dangerous experiments.
7 The context of this was the requirement that they report any unexpected results.

8 The viruses that they were working on are still nonhuman pathogens, and so they
9 did not fall under the P3CO framework. These were not experiments that you would --

10 Q Well, there was risk. That's why they added these provisions in there on
11 the excessive virus growth. They did see some risk. And, you know, we can go back
12 and forth on exactly how to characterize it, but that's why they did it. They didn't do it
13 for grounds. There was a risk. They wanted to cover themselves, so they put that in
14 there.

15 But just to close this out, though, EcoHealth says there's only one experiment, this
16 experiment with tiny numbers of mice. What was the point? Why would they do
17 that? And you're still funding them. I mean, what kind of science is this?

18 A It's a rhetorical question. I don't know how to answer it.

19 Q Well, you guys are funding -- you funded this experiment, and I'm not seeing
20 anybody asking these kinds of questions. And that raises a concern about the adequacy
21 of oversight of research experiments that may have very important benefits to them, but
22 we need to make sure that the risks are being properly identified and evaluated and that
23 the people who are making these determinations have an adequate amount of
24 information.

25 And if you're right and it was a pilot program, they didn't have the whole picture.

1 And they lacked the data on where were they going with this and exactly when they
2 should be reporting on the excessive virus growth.

3 Because, at that point, then it make senses that they would only report on the
4 excessive virus growth at the end of the whole experiment, because it was preliminary
5 and meant to decide whether they go to the larger one.

6 But it's not clear at all. In fact, there's nothing that says that. In fact, the
7 grantee says the opposite; it was just one experiment.

8 So then we've got to wonder, well, what kind of science is this, that you would
9 fund a study with no statistical power? I just don't get it.

10 I mean, I don't -- you all ought to be asking questions about this, because it's
11 pertinent for the future, about what are the best policies to put in place for adequate
12 oversight.

13 Do you see at all where I may be coming from on this?

14 A I think we have differing opinions as to the extent of risk that was inherent
15 within this experiment.

16 Q Well, I mean, that's fine. I'm not debating -- I'm really not -- you know,
17 again, we can have differing characterizations. But my point is, as an outsider, this does
18 not make sense to me. If you believe EcoHealth and there's only a single experiment, it
19 doesn't make sense, because it's not good science. It doesn't have any statistical power.
20 How would you even publish on it? Which they didn't publish on it. The WIV didn't
21 publish on it. We never got the underlying notebooks. We don't know what
22 happened.

23 On the other hand, if you're right, which kind of makes some sense to me -- but
24 that's not what EcoHealth is saying. But if this was a pilot experiment leading to a larger
25 one, then that information was not put forward. When this was originally proposed, it

1 was going to be before internal review.

2 That, to me, is problematic. You're okay with that?

3 A Well, no investigator can put into, you know, a finite, page-limited
4 application every single possible experiment.

5 Without actually reading the grant, it's difficult for me to answer you specifically,
6 because people do pilots all the time --

7 Q Uh-huh.

8 A -- but don't necessarily follow them up with, as you would say, larger
9 experiments. They may not have seen any signal that was interesting based on the
10 context of the question that they're trying to answer.

11 So I appreciate that you take, you know, my characterization of this as a pilot as
12 meaning that now they're going to do the larger experiment or intended to do the
13 larger --

14 Q Right.

15 A -- experiment, but it is not true that every pilot experiment turns into a
16 larger experiment. Maybe this one should have. Maybe it would have. I don't know
17 the answer to that.

18 Q Well, what's the big deal about just saying it's a pilot experiment?

19 A I'm sorry?

20 Q What's the big deal if EcoHealth just said, this is going to be a pilot
21 experiment? What's the big deal with that?

22 A I can't answer. I don't know.

23 Q They didn't make that clear. They didn't say that.

24 A I --

25 Q It doesn't make sense.

1 A Well, I accept that. I don't know why they did or did not do something.

2 Q I understand. I'm just saying, from a policy standpoint -- and I'll close this
3 out -- I'm trying to see if we can get some kind of agreement that there's a certain
4 baseline of information that NIH needs to make a determination on whether, you know,
5 the benefits outweigh the risks of a particular proposal that has risks attached to it,
6 whatever, enhanced pathogens, or the potential, that need to be evaluated to see if
7 they're properly mitigated, managed, or worked, you know, whatever the risk level is,
8 because there are very important benefits to be derived.

9 Can we agree that there's a certain baseline of information, and that baseline of
10 information ought to be clear, it ought to be detailed? It shouldn't be something we
11 have to guess on, what's in or what's out. Can we agree on that?

12 A I'm sorry. I'm not even sure what we'd be agreeing to anymore. The --

13 Q It's about oversight of gain-of-function research --

14 A This is not gain-of-function research.

15 Q Okay. Fine. Research that requires additional scrutiny. I don't want to
16 get hung up on the titles.

17 A Okay.

18 Q Because NIH itself, to its credit, took it upon itself to say, we want to get an
19 additional -- we're going to get a review, we want a review of subject-matter experts.

20 A Right.

21 Q I'm just trying to get some agreement on what that oversight should look
22 like. What's the standard that, you know, as outsiders, we can look to and say, okay,
23 here are the criteria, here's the pieces of information NIH needs, and, you know, did they
24 get it? Did they have it? Did the grantee present it? And if they didn't, then the
25 review committee can go back and say, we don't have the information.

1 But I don't understand -- that's the piece I don't understand, because we know
2 very little about this experiment.

3 A The missing piece that you're referring to, are you referring to information
4 that you would've anticipated should be in the grant? Or are you referring to
5 information that you would've anticipated would've been in a progress report?
6 Because, unfortunately --

7 Mr. Strom. I think it's, sort of, all three of those. It's the grant, particularly the
8 renewal documents; it's the progress reports; and it's the lab notebooks that, to you all's
9 credit, you tried to get.

10 Dr. Tabak. Right. So, trying to --

11 Mr. Slobodin. Uh-huh.

12 Dr. Tabak. -- parse this out, no investigator, no matter how skilled they are, can
13 put every single experimental detail in an application. There's a limited number of
14 pages to write an application.

15 Mr. Slobodin. Uh-huh. Uh-huh.

16 Dr. Tabak. And, again, I would have to read the application to see where the
17 deficiency is.

18 Because, for example -- and I'm giving this just as an example; I don't know that
19 this is true or not, because I haven't seen the application -- they may have described
20 power calculations for a similar experiment elsewhere in the application. They may
21 have had a separate section on power calculations in the application. I don't know if
22 that's true, but it could be, which might have been the reason why they didn't add it in
23 the application.

24 As far as why they didn't add it in the progress report, I think the graph speaks for
25 itself. We can all look at it and say, oh, there's only, you know, eight animals, or

1 whatever the actual number is --

2 Mr. Strom. Uh-huh.

3 Dr. Tabak. -- and you can come to that conclusion, and there's no statistical
4 analysis provided, and you can come to that conclusion. You don't need them to
5 articulate that we did not power this for statistical significance. We can determine that.

6 BY MR. SLOBODIN:

7 Q But here's the problem. In the year 4 report, EcoHealth, you know,
8 reported partially the results of this experiment, or experiments. Well, it says it's one
9 experiment. And one of the graphs had to do with virus growth.

10 A Uh-huh.

11 Q And there was a bar graph. And there was clearly more than a one-line
12 difference in virus growth by 6 days post-infection. It was a big difference between the
13 WIV1, which was your comparison, and the SHC014. And Dr. Lauer apparently took the
14 position that that was not a violation, because they didn't look -- the policy of excessive
15 virus growth only applied at the end of the experiment.

16 Now, again, as an outsider, it doesn't make any sense. If there's only a single
17 experiment and the idea is to monitor excessive virus growth during the experiment and
18 they're measuring at intervals, then as soon as you see excessive virus growth, then you
19 would want to stop the experiment and notify NIH and decide what to do next.

20 But what he's saying is, oh, no, you can save all the measurements for the end of
21 the experiment of year 4. Now, that would make sense if it's what you're saying, it was
22 a preliminary study, it was a pilot study, and it was going to go to a larger study, because
23 then the decision to notify has meaning. But if it's only a single experiment, it's an
24 empty exercise.

25 I mean, that's what it looks like. And it's not clear -- it's not clear, in the

1 agreement between NIH and EcoHealth, when you take the measurements. There's a
2 lack of clarity. What are the rules on this?

3 And the other thing that didn't make sense is, by the end of the experiment, there
4 was a convergence so that the disparity in virus growth disappeared at the end of the
5 experiment, but then you mention you've got all these mice deaths.

6 So there's a lot of things about this experiment that don't make sense. Like, if
7 the virus growth was pretty much the same but one of the groups, you know, had a
8 75-percent death rate and one had a 25-percent, even if they're tiny numbers, like, it
9 doesn't make sense. It's like, what kind of science are we getting out of this? Where
10 are we going with this?

11 So this is what I'm posing to you all, that you need to have a more spelled-out
12 policy, wouldn't you agree, on the oversight of these types of experiments? Would you
13 be willing to look at that? Isn't that something you all ought to be looking at?

14 A We are always willing to try and make ourselves better, and so of course I'm
15 willing to look at things. But I can't give you a specific answer to the questions that you
16 have just posed.

17 Q Well, you know, I'm actually asking -- you know, it's a point in principle, not
18 necessarily on the EcoHealth thing. It prompts the question. It's about going forward
19 and what kind of oversight are we going to have going forward.

20 A But, again -- and I apologize for perseverating -- oversight of what?

21 Q The risks posed by proposed experiments.

22 A And the risks here were minimal. That's the whole point. If it were an
23 experiment with a virus that was a human pathogen and they were enhancing the
24 infectivity or the transmissibility or the virulence, that's a very different question.

25 Q Uh-huh.

1 A These particular experiments are not threatening to humans.

2 Q Well, I just want to -- you've heard of David Relman, right?

3 A I know David.

4 Q A microbiologist at the University -- maybe he's even been on some advisory
5 committees --

6 A He has.

7 Q -- at NIH.

8 A Uh-huh.

9 Q So he's quoted in this New Yorker article on this very issue. And he says on
10 the experiment in question -- this is discussed in this October letter -- he says, "According
11 to Shi, the W.I.V. has only isolated and grown in culture three novel coronaviruses out of
12 their nineteen thousand samples. What this chapter of her work demonstrates,
13 however, is a high tolerance for risk."

14 Quote, "'They were essentially playing Russian roulette with the virus that the
15 world's expert had labelled poised for human emergence,' David Relman, a microbiologist
16 at Stanford, said. 'It's the willingness to manipulate them without due concern.'"

17 So this comment from Dr. Relman sounds a bit different than what you're telling
18 us.

19 A I can't --

20 Q And so I'm just saying, some scientists who know something about viruses
21 wouldn't necessarily consider the risk to be trivial. I'm just pointing that out. I mean,
22 you can tell us that you don't think that there was risk, but this is -- to outsiders like us,
23 when we're talking to different scientists -- and Relman's a respected figure, and he's
24 saying they're playing Russian roulette.

25 A Uh-huh.

1 Q So do you understand why we may be concerned, why our Members would
2 be concerned about the oversight of this experiment and other experiments?

3 A I'm not sure what the question is, Alan. I'm sorry.

4 Q I'm saying, do you see where we're coming from? Do you understand why
5 we would be concerned?

6 A I'm not familiar with the thing you're quoting there.

7 Q I'm happy to give you a copy of the article to look at it.

8 A I--

9 Q It's just a one quote. It's not all --

10 A Well, all right.

11 Ms. Ganapathy. Would you like this to be an exhibit, Alan?

12 Mr. Slobodin. I wasn't planning -- it doesn't have to be an exhibit. I don't want
13 to take up time on this.

14 I was just trying to make the point, though, that there are people who are, you
15 know, not necessarily hostile to the NIH, who are part of the biomedical research
16 enterprise, that have a very respected difference of opinion about how to view these
17 experiments at the Wuhan Institute of Virology.

18 That's all. That's all I'm trying to point out.

19 Dr. Tabak. Point made. One may not be hostile to NIH to have a differing
20 opinion. Scientists disagree all the time.

21 Mr. Slobodin. Oh, yeah, I understand. But we're not scientists. And our
22 Members are trying to figure out, well, what are the property authorities, what are the
23 proper resources, and what's the best way to do this. And we need your help and we
24 need the help of other experts to guide us in this. We have a lot of questions.

25 Dr. Tabak. And as I understand --

1 Mr. Slobodin. I just want you to understand why we have these questions.

2 Dr. Tabak. Right.

3 Mr. Slobodin. Maybe help us out, maybe acknowledge that this oversight could
4 stand for some strengthening.

5 Dr. Tabak. And as I indicated a few moments ago, certainly willing to help in that
6 regard.

7 Mr. Slobodin. Great. Thank you.

8 Sorry, Mitch.

9 Mr. Benzine. All right. Thanks, Alan.

10 I want to talk a little bit more about the experiment here and understand -- like
11 minority counsel said, we're lawyers, so coming at definitions from a legal definition,
12 versus how it's interpreted in the scientific community. Just trying to understand the
13 differences.

14 I want to introduce majority exhibit 14.

15 [Tabak Majority Exhibit No. 14
16 was marked for identification.]

17 BY MR. BENZINE:

18 Q This is a screenshot of the NIH's website on gain-of-function research
19 involving potential pandemic pathogens and was the operative website at the time of this
20 letter. And this is where, when we were discussing definitions, I pulled the definition of
21 gain-of-function research. It's in the second paragraph, describing a type of research
22 that modifies a biological agent so that it confers new or enhanced activity to that agent.

23 A Uh-huh.

24 Q NIH has said a lot that the experiment in the EcoHealth grant was not
25 gain-of-function research, that it didn't qualify. Did NIH mean it wasn't ePPP research?

1 A It certainly is an example of generic gain-of-function, if that's what you
2 mean.

3 Q Yes. So I'm trying to get at, like, words matter. And using a term that has
4 an established definition, "gain-of-function" -- it's on the NIH's website --

5 A Right.

6 Q -- has an established definition, that when people say that what EcoHealth
7 did was not gain-of-function research, that's not true. It's not gain-of-function research
8 of concern or that HHS would regulate. Is that fair?

9 A That is fair. And I have always, when asked, tried to make that distinction.

10 Q All right.

11 A Because, as you point out, there's lots of gain-of-function research, and, as is
12 written here, however, not all such research entails the same level of risk.

13 Q And I agree with that. I'm just --

14 A Yeah.

15 Q When there's such a -- like, I don't remember the infection count or the
16 death toll in 2021. And origins has been such a hot-button issue. But, like, when I
17 write things for my bosses that are going to go out and speak or if I was prepping
18 someone for congressional testimony, I'd want to make sure that they're using the right
19 phrases.

20 And whenever we've talked to NIH -- I think I was briefed by you once; it might've
21 been on this letter -- maybe outside of that, we've heard "NIH did not fund
22 gain-of-function research in Wuhan," period. That's, at best, misleading.

23 A I have always tried to make sure that whoever is asking the question is
24 speaking about gain-of-function research of concern. I can only speak for how I'm trying
25 to answer questions of this type. Because, you're right, words matter.

1 Q And I won't harp too long, but just -- you would agree, what's described in
2 this letter, what's described in the EcoHealth year 5 progress report, would fit the
3 definition -- the broad definition of gain-of-function research?

4 A The generic, broad description of what gain-of-function is, yes.

5 Q But it would not be -- and has been since reviewed a few times -- not be
6 subject to HHS oversight because it is not ePPP research.

7 A Correct.

8 Q Thank you.

9 You can keep this one in front of you, and I'll introduce exhibit 15.

10 [Tabak Majority Exhibit No. 15
11 was marked for identification.]

12 BY MR. BENZINE:

13 Q This is the same website from NIH.

14 A Uh-huh.

15 Q If you go back to exhibit 14 --

16 A The one before?

17 Q Yes, sir.

18 A All right.

19 Q The last-updated date on the back is July 12, 2021. It's in very, very small
20 font above the gray bar.

21 A I'll take your word for it.

22 Q If you look on exhibit 15, the last-updated date is October 20, 2021, which
23 matches the date of your letter.

24 A Okay.

25 Q And we find it interesting that, when Congress was notified of something

1 that would fall under a specific definition that was on NIH's website, the same day, NIH
2 changes the website.

3 Were you involved -- what's the process of updating the NIH website?

4 A Well, we're constantly updating websites. And usually the Office of
5 Communications is the one that leads the mechanics of that, with input from the
6 scientists who help with the content.

7 I think -- but I -- I mean, I don't recall, you know, when or why this happened. I
8 don't know what the specific differences are.

9 BY MR. STROM:

10 Q So, just given that, as we mentioned earlier, the ePPP P3CO process was
11 exclusive to NIAID amongst the NIH institute and centers, is it safe to assume or to guess
12 that NIAID would've led the change in content? That's where the expertise was?

13 A I won't guess, because I don't know how this was generated. I wouldn't
14 guess.

15 Q Do you recall a time when HHS ordered a change to content on NIH
16 websites?

17 I'm just trying to understand --

18 A No, I understand what you're saying.

19 Q -- is it an internal process or can it be externally forced?

20 A No. I mean, I'm not aware of any HHS request for us to change things.

21 And so I presume -- and I'm presuming --

22 Q Sure.

23 A -- that this was internally changed, as we -- you know, we change the
24 websites all the time.

25 Q Sure. But the institute or center within NIH that it is most relevant to is

1 NIAID, given their work?

2 A Oh. That's correct.

3 Q Thank you.

4 BY MR. BENZINE:

5 Q And I don't want to diatribe, but it just seems coincidental that a website
6 that described gain-of-function research for years since the P3 had been formed --

7 A Right.

8 Q -- gets taken down the day Congress is notified about an experiment --

9 A Oh, now I understand what you're saying. Okay.

10 So I don't know what the -- you know, the timing of this. I do know that there
11 was considerable confusion, exactly the type of discussion we just had: What's
12 gain-of-function? You correctly point out it's a very broad context. What are the
13 things that we are concerned about that require very high oversight? ePPPs.

14 And so I presume that was an attempt to provide some clarity. But now
15 you -- that is a presumption on my part.

16 Q No problem. Thank you.

17 Sticking, kind of, in this area, I'll avoid introducing it, but John and Alan touched on
18 that EcoHealth and Dr. Daszak claim that the experiment in year 4 and year 5 are the
19 same, it's just different results, and that the year 4 satisfied their notification under their
20 grant terms for the one log growth.

21 You said earlier, but I want to ask more directly, it's NIH's position that they are
22 two separate experiments?

23 A That is what I think we concluded, having reviewed all of the material.

24 Q The only way to know as certain as possible, though, would be to get the lab
25 notebooks? Is that fair?

1 A That's very fair.

2 Q And that was why NIH requested the lab notebooks?

3 A In part, yes.

4 Q And NIH has since changed or is attempting to change the regulations to
5 require access to lab notebooks?

6 A We have reiterated what has always been a requirement, but we're trying to
7 make people understand that we're serious about it and that they really do need to
8 comply.

9 Q So, at the time of the EcoHealth enforcement actions, it would have been a
10 requirement, if NIH requested lab notebooks, for EcoHealth to provide them?

11 A Yes, it would've been.

12 Q And January -- I believe January 6, 2022, might have been one of the last
13 enforcement letters Dr. Lauer sent prior to the shifting gears to suspension and
14 debarment and reinstatement of the grant --

15 A Okay.

16 Q -- where he again, I think for the second or third time, requested the
17 notebooks.

18 And EcoHealth's response was: We do not have copies of those, which were
19 created and retained by the Wuhan Institute of Virology. Nonetheless, I have forwarded
20 your letter to the Wuhan Institute of Virology and will let you know their response as
21 soon as the WIV responds to our request.

22 First, today -- it's been a while since that request; it's been a while since a lot of
23 things have happened -- has EcoHealth provided NIH with those lab notebooks?

24 A Not to my knowledge.

25 Q Is it -- we've discussed this, but I want to ask very directly. Is it the

1 grantee's obligation under the grant and standard practice to have access to those lab
2 notebooks?

3 A It is.

4 Q So EcoHealth's, kind of, defense of this situation, that, well, the Wuhan
5 Institute made them, the Wuhan Institute is holding them, we asked for them but I doubt
6 we're going to get them, would violate their grant terms?

7 A Well, it also violates the sub-award terms, right? Because the sub-award
8 terms indicate that they have to provide that to the award recipient.

9 Q Did EcoHealth include that term in their sub-award agreements?

10 A I don't know the answer.

11 Q All right.

12 Mr. Strom. But to be compliant with NIH policy, they would presumably have to
13 include that term in their agreements?

14 Dr. Tabak. Yes, that's correct.

15 Mr. Strom. I've got one quick --

16 Mr. Benzine. Yeah, if you want.

17 BY MR. STROM:

18 Q So, just, I guess, to summarize, I think, some of Alan's concerns, we've run
19 into this repeatedly, where there is a disconnect regarding how this kind of virus research
20 is done.

21 So, when you said SHC014 spike in the WIV1 backbone is not dangerous to
22 humans, it seems to me that's the position when there's, sort of, scrutiny around the
23 regulation of the experiment. But when they're seeking funding or writing up
24 experiments regarding SHC014 -- the authors, whether it's Ralph Baric or others, Peter
25 Daszak, stressed that it's poised for human emergence.

1 A Uh-huh.

2 Q And so, I mean, just candidly, because this isn't a world I'm super-familiar
3 with, is it common in science to have this sort of disconnect, where you have, sort of, like,
4 sales -- I mean, it's going to be a little cruder than I intend it to be, but -- sales terminology
5 when they're seeking funding, when they're going for high-impact papers, when they're
6 trying to, you know, promote the importance of their research, when they say things like
7 "poised for human emergence" or, you know, "a clear and present threat," and then, if
8 you look under the hood, it's actually a pretty low-risk experiment?

9 A Well, I can't speak to these specific, you know --

10 Q Sure.

11 A -- grants, but, unfortunately, there is some hyperbole in science.

12 Q Uh-huh. I think that's what a lot of us are struggling with, because we've
13 got these academic papers going back years --

14 A Right.

15 Q -- to seek funding, and it's, "This is the next thing around the corner, this is
16 the big risk as cities expand into jungles, is the animal-human interface," and then,
17 actually, when it comes to the scrutiny as to whether or not this could be done at BSL-2
18 appropriately or BSL-3 appropriately, "Well, guys, none of this actually matters. It's not
19 statistically powered. These aren't big experiments."

20 I mean, I do think, to your point, the pilot proposal makes a lot of, sort of, intuitive
21 sense.

22 So that's something I think we're struggling with. I don't really have a question
23 for you there, but wanted to get your insight on that.

24 Mr. Benzine. We're at a good stopping point. We can go off the record.

25 [Recess.]

1 [REDACTED]. We can go back on the record.

2 BY [REDACTED]:

3 Q Dr. Tabak, again, I just have a few questions about some of the topics that
4 were discussed in the previous round.

5 First, as it relates to the analysis that was done in the summer of 2016 about
6 whether these experiments that we're now discussing the results, WIV1 and
7 SHC014 -- that analysis before the experiment occurred in December 2016 about what
8 the reasonable expectation was likely to be, you were not part of that analysis; is that
9 right?

10 A I was not.

11 Q Okay.

12 I struggled a little bit to follow some of the exchange or conversation that went to
13 the question of the size of the study.

14 This question of whether it's more of a pilot with a smaller sample size, is it bigger,
15 were you more confident in the statistical certainty, would that question, in and of itself,
16 have a relationship to -- to the extent you can theorize -- relationship to the reasonable
17 expectation of what's likely to happen in the experiment?

18 In other words, it seems to me more like a question of scope but not of substance.
19 It's the same viruses being combined in the same ways, isn't it?

20 A If I understand your question, regardless of the sample size, the same
21 manipulation is being done.

22 Q That's exactly my question. And it's the manipulation that's being done
23 and the specific viruses that are being manipulated and the body of knowledge that is
24 understood about those specific viruses that affects the reasonable expectation?

25 A Right. That would be what it's predicated upon.

1 Q There are all sorts of variables that exist for any given experiment that folks
2 would not ordinarily describe for purposes of that analysis. The day of the week or the
3 month in which the experiment is to occur has no relevance to the gain-of-function
4 analysis. Is that correct?

5 A The things you mention would not, that's correct.

6 Q This is difficult in the abstract, and I acknowledge that, but is there any
7 extent to which a smaller-scale experiment would be more contained to the extent that
8 risks do exist?

9 In other words, if, in theory, you're planning to experiment with a very dangerous
10 virus, would it be a little safer do it on a smaller scale, in a more contained environment,
11 as opposed to doing a very large experiment?

12 A So it is an abstract question, so I'll give you an abstract answer. If -- if -- you
13 have a sufficiently robust signal that a smaller number of whatever it is that you're
14 studying can give you enough confidence that that signal is real and not by chance alone.
15 But that's an if.

16 Q And that's helpful.

17 And I think you just did a little bit, but if you could describe again -- because I
18 know you did it before -- just generally, the value of a smaller-scale pilot experiment?

19 A It can -- well, it can give you an indication of whether or not the mechanical
20 things that you're doing are doable.

21 It can give you an indication of, for example, whether the chimeric virus would
22 even survive. Maybe it wouldn't.

23 It could give you some insight as to whether or not this chimeric virus triggers the
24 immune system, for example, or increases, you know, digestive flow or, you know,
25 whatever the parameters that you're looking at. But, again, this is all hypothetical,

1 obviously.

2 Q Understanding that it was not precisely your lane, if you are able or if you'd
3 like to, could you give us a 30,000-foot explanation of, with respect to these particular
4 experiments, the scientific value in the first place that was hoped to be gained from
5 them?

6 A I think the general premise is that you're trying to get a preview of what
7 nature has in store for you.

8 And so the manipulations that are done, taking a spike protein from one virus and
9 putting it on the backbone of a virus that you know is not a human pathogen, is
10 something that can and likely does occur naturally. Viruses swap their nucleic acid all
11 the time, and these sorts of recombinations, if you will, occur in nature.

12 And so that's what this type of experiment allows you to do. It allows to you
13 preview what nature may have in store for you.

14 Q Great.

15 If I could ask you a discrete question about majority exhibit 14, which is the
16 website.

17 A The first one or the second one?

18 Q It's the first version that you received.

19 A First one. Yep.

20 Q I think there was a mention or a discussion of this being an operative
21 website. And I just want to get to that, because it feels like a little bit of a misnomer.

22 This language that we're looking at under the header "Gain-of-Function" that
23 we've looked at a few times, that definition -- I'll give you a second to look back at it, if
24 you'd like.

25 A Okay.

1 Yes?

2 Q That, as I understand it -- I think I've asked it earlier -- has no regulatory
3 significance for your purposes?

4 A The general term "gain-of-function" has no regulatory underpinning.

5 Q And I don't think -- but, please, you tell me -- that it ever did, this particular
6 definition.

7 A When people first started doing recombinant DNA work, there was some
8 oversight. That's way before I came to NIH. But that might be characterized as
9 having -- because what you were doing there was you were imparting a new function to a
10 cell, basically, when you inserted some DNA.

11 But that's the very, very beginning of when recombinant DNA technologies were
12 in place. Once everybody realized that those types of experiments could be done very
13 safely and without concern, that level of oversight disappeared.

14 So I wouldn't be able to say "never."

15 Q When would that have been, approximately?

16 A Oh, gee. I am guessing it's sort of late '60s, early '70s.

17 Q Great.

18 A Yes, I was alive then. I was actually doing experiments.

19 Q That would not overlap with any time periods of interest, as far as you know,
20 with respect to --

21 A It would not.

22 Q There is some mention of the term "gain-of-function research of concern."

23 A Uh-huh.

24 Q And I think that that lives somewhere -- actually, I don't know exactly where
25 that term lives. Do you? NSABB I think I heard, but I'm not sure exactly which policy

1 document or --

2 A I believe that's the origin, but I'd have to go back and actually look at the
3 materials.

4 Q Is that specific term a -- does that term have regulatory significance, in your
5 experience, for NIH?

6 A It does.

7 Q Well, what is that significance?

8 A So that is where we would, after doing the peer review, first level, for
9 scientific merit, the second level, the National Advisory Council, if program officers and/or
10 those who reviewed it previously put a flag saying this might constitute work with
11 potential pandemic pathogens that is being enhanced, that's what would trigger the
12 internal review at NIH. And if the work met some threshold, then it would go on to the
13 P3CO committee.

1 [2:12 p.m.]

2 BY [REDACTED]:

3 Q So that answer you just gave is describing P3CO?

4 A That is found in the P3CO, which was informed by another USG document.

5 Q Okay. All right. So that I understand, is the term "gain-of-function
6 research of concern," at least by you, being used synonymously with P3CO, research
7 subject to further review under the P3CO Framework?

8 A I -- yeah, that's correct. I mean, that's where it would go if indeed it were,
9 you know, meeting that threshold.

10 Q And the reason I'm harping on it -- I don't have it in front of me, but just
11 from memory, I'm not sure, but I'm happy to be corrected, that the P3CO Framework -- to
12 your recollection, does that framework use the term "gain-of-function research of
13 concern"?

14 A I'd have to look at the document. Your memory is much better than mine.

15 Q I doubt that, but -- and we can, of course, look into that as well ourselves,
16 but I am not familiar with, and that's why I'm trying to get at here, that term,
17 "gain-of-function research of concern" as a formal regulatory term of art --

18 A Right.

19 Q -- in the context of either the 2014 pause or the P3CO in and of itself. It's
20 here, so I can look at it. I don't know whether you are.

21 A I just don't remember.

22 Q Okay.

23 A I -- you know, what -- we could all look it up, you know, if it's important.

24 Q When it comes to the question of whether this website was edited or
25 changed or altered, I just want to be really clear, you have absolutely no idea how this

1 website changes either in general or in this particular example?

2 A I know who does the mechanical changing, because the communications
3 office, you know, does -- does all of our website stuff. But I -- and I -- but I don't have
4 any recollection of why this particular change was made.

5 Q A similar type of question with respect to the topic of whether the
6 experiments found in the EcoHealth year 4 report are the same or are different than
7 experiments in the year 5 report. To be really clear, do you have personal, direct
8 knowledge of the answer to that question? I know that NIH may have a view. I think
9 EcoHealth has a view, but do you know the answer?

10 A So I have not looked at the lab notebooks of these experiments, so this
11 is -- you know, we have -- we have surmised that they are likely to be different
12 experiments.

13 Q Is it right that the lab notebooks -- and I think we've heard this
14 elsewhere -- the lab notebooks are the source of information that would permit one to
15 know the answer with certainty --

16 A Right.

17 Q -- as close as you can get?

18 A Indeed.

19 Q Okay. There was a little bit of discussion about access to lab notebooks --

20 A Uh-huh.

21 Q -- in the case of subcontractors and what's routine and what's not, and
22 what's required and what's not.

23 A Right.

24 Q It's just a clarification for me. I totally understand that access to a
25 subgrantee's lab notebooks is and should be routine. I'm just wondering, in your

1 experience, in the ordinary course -- in the ordinary course, would all of those notebooks,
2 all of that volume of paper ordinarily -- although there's access to it, would it ordinarily be
3 being sent back and forth? Would the subcontractor ordinarily be saying, here's what
4 happened in this experiment, and here's 200 pages showing every detail?

5 A I would think not. There might be circumstances where you would need to
6 provide that level of detail. But more likely, you know, you're getting summary data.
7 I -- you know, it's -- it's probably very dependent upon the relationship among the
8 awardee and subawardee or -- and the nature of the experiments being done and so
9 forth.

10 Q That's exactly what I was wondering, is this model of summary data, and of
11 course there is underlying --

12 A Right.

13 Q -- records.

14 A Right.

15 Q It's perhaps not unusual in the ordinary situation for the summary data to
16 be --

17 A Right.

18 Q -- what's being passed around.

19 A That -- that would be a typical -- a way to do it. But, again, you know, there
20 are times when you deal in raw data.

21 Q Of course.

22 [REDACTED] I think that's all I have.

23 BY [REDACTED]:

24 Q So I just had a few questions on -- we spent a lot of time talking about risks
25 oversight related to certain gain-of-function research. Could you talk for a moment

1 about -- what's the point of doing research that bears some of these risks in the first
2 place? Are there benefits to them that in certain circumstances outweigh the risks if
3 controlled properly?

4 A Well, again, this general category of experiments is -- is, as I mentioned just a
5 moment ago, designed to give you a preview of what nature has in store. And so, for
6 example, if -- and I'll use a hypothetical to make it easy.

7 If you have a viral infection and you have a vaccine against that viral infection, and
8 you know that the virus is capable of evolving, it would be great to know ahead of time if
9 variant 1 versus variant 2 was or was not still covered by the vaccine that you had
10 available or if you now need to create a new vaccine or an enhanced vaccine.

11 These types of experiments can give you a preview as to how viruses may change
12 with time, because, again, there's no attempt being made to force the virus in a direction
13 that nature wouldn't necessarily go. And you can then sort of put that against the
14 countermeasures that you have available to see if they may, you know, make some sense.

15 Q And so the alternative to that, if I'm understanding correctly, is, instead of
16 doing these experiments in a controlled laboratory environment, is functionally a natural
17 experiment where something infects somebody and then you have to figure out how it
18 has changed, what the risks are, and how effective the countermeasures are?

19 A Yes. And -- and to be fair, you know, some of medical science is done that
20 way. I mean, so yes. But that would be the -- you know, an alternative approach.

21 Q So -- but the motivating -- the motivating force, I suppose, is my point. The
22 motivating force behind doing, you know, certain gain-of-function research, even with
23 risks, is that it is better to be able to anticipate, change countermeasures and vaccines, if
24 necessary, than wait until --

25 A Yeah.

1 Q -- it is already infecting and killing or making people seriously ill and then
2 having to react to it?

3 A Right. It's proactive versus reactive. That's correct.

4 Q Just, you know, stepping back broadly in terms of the COVID-19 pandemic.
5 This is a very broad question, but, you know, you were in a position to see a lot of things
6 that were happening. The government responds to some degree, how different States
7 responded, how the public responded.

8 And I think -- just appreciate your thoughts on what are the major lessons that
9 we've learned from or should have learned from the COVID-19 pandemic in terms of, you
10 know, Federal response? Let's start there.

11 A Well, at a very high level, continued support of fundamental basic research is
12 essential. We -- we got lucky, because we happened to know a lot about coronaviruses
13 because a lot of antecedent work. That would be one lesson learned.

14 I think a second lesson is cooperation across the United States Government is
15 critical. The work that HHS did with the Department of Defense, that did -- you know,
16 and so forth, was essential to get to where we got.

17 And then I think the third lesson we learned was the government can't do it alone
18 and that you've got to get industry involved. And we did, and in different ways. But
19 having industry partners who look at things in a different way than academics do, then
20 look at different things than the way government scientists do, having all of those
21 different perspectives together was invaluable.

22 And those to me are the three biggest lessons that -- that I take away from it.

23 Q How do you think -- I mean, how do you think, you know, we're doing as a
24 country in response to those lessons? Do you think that we're acting on those so that
25 we'll be better prepared for the next pandemic? Do you think there are some areas that

1 we've taken a step back on?

2 A I -- I think -- I think it's a mixed response. And, you know, it's human
3 nature, when the real threat may be seen to be in the rearview mirror -- it may or may
4 not be, but let's assume for the moment it is -- you know, you become complacent and
5 worry about the next big thing that you think is, you know, most important.

6 I think what the pandemic showed us was we can't be complacent.

7 Q And so that actually -- I mean, that ties into something I was going to ask you
8 about. You mentioned the importance of, you know, fundamental research --

9 A Uh-huh.

10 Q -- and that we benefited, even if it didn't feel like it, in a universe where we
11 hadn't done antecedent work on coronaviruses, it would have looked worse presumably.

12 So am I right that a lot of that antecedent work on coronaviruses was -- you know,
13 a lot of it happened after SARS-CoV-1 and before SARS-CoV-2 that then lent to our
14 understanding of coronaviruses?

15 A Yes. But -- but just studying the family itself very early on, just basic
16 understand -- it's an RNA virus. You know, these basic things had to be learned, and,
17 fortunately, you know, this is one of the viral families that we knew, you know, quite a bit
18 about.

19 Q And so I guess related to that, the need to, you know, carry out fundamental
20 research, even when, you know, the -- at least the worst of a pandemic has waned,
21 however you sort of want to characterize where we are now --

22 A Sure.

23 Q -- regardless of that -- I think we all agree on that -- you know, what would
24 the impact be of budget cuts to NIH in its ability to make grants and do this research?

25 A It -- it becomes an exercise in prioritization, and the agency will have to use

1 whatever resources we are provided and what we think is the best possible way.

2 You know, we always have finite resources, right. And, I mean, you all have finite
3 resources. I mean, we all do the same -- you know. So the effect is going to be
4 dictated, in part, by the choices that the agency makes going forward. And -- and I'm
5 sure those are -- you know, we're, you know, thinking a lot about, if, then, what, and so
6 forth.

7 But there are always finite resources, and you always have to make decisions and
8 choices. So you always have to prioritize. You know, if you have greater resources, it
9 makes it a little bit easier to make those choices. If you have fewer resources, those
10 decisions are more complicated.

11 Q And in terms of prioritization, you know, safe to say that NIH doesn't always
12 know if the next threat -- next major pandemic threat is going to be an influenza virus, is
13 going to be, you know, a coronavirus, or whatever else? Fair to say? You don't know
14 what the next pandemic is going to be?

15 A Difficult to predict way ahead of time.

16 Q Okay. So one of the results of having to prioritize, which would mean
17 reducing funding for certain kinds of research, could mean that, you know, we guess
18 wrong and that research in what turns out to be the next major threat has been reduced?

19 A That -- yeah. I mean, that's fair. It's the sort of -- to use a sports analogy,
20 it's the shot on goals, right?

21 Q Yeah.

22 A The more shots on goal, the more likely you're going to, you know, score a
23 goal. And, obviously, if your degrees of freedom to explore are, you know, reduced,
24 then, yeah, you have a lower likelihood of success.

25 [REDACTED]. Great. Anything else?

1 BY [REDACTED]:

2 Q I had -- just to close a loop, which is, as far as we can tell, the phrase
3 "gain-of-function research of concern" does not live inside the P3CO Framework.

4 A Okay.

5 Q I only note it because I think we've all gone through substantial confusion
6 trying to understand what different people mean at different times with different
7 phrases. And so research referred for further review under the P3CO Framework is a
8 phrase whose meaning is clear to you?

9 A Yes.

10 Q Yes?

11 A Yes.

12 Q Great.

13 [REDACTED]: I'll stop there, and we can go off the record.

14 [Recess.]

15 Mr. Benzine. We can go on the record.

16 BY MR. BENZINE:

17 Q I don't recall the exhibit number, but your October 20th, 2021 letter, if you
18 want to pull it back out.

19 We talked about the research explained in that a little bit, but --

20 A Okay.

21 Q -- hadn't yet talked about the NIH analysis --

22 A Uh-huh.

23 Q -- on the viruses.

24 So in the letter, it says, "The analysis attached confirms that the bat coronaviruses
25 studied under the EcoHealth Alliance grant could not have been the source of SARS-CoV-2

1 and the COVID-19 pandemic."

2 And I want to parse that out a little bit. And I, again, apologize for the words
3 matter thing, but we had discussed earlier that they don't -- grantees don't always report
4 every virus they work on. They don't always report every experiment that they conduct.

5 This is an unequivocal statement that no NIH money could have possibly gone to
6 COVID-19. And I'm not saying it did. I'm saying maybe it should have been hedged a
7 little bit of no published viruses of the WIV.

8 A Uh-huh. Well, and maybe -- maybe I'm not exactly getting what you're
9 getting at, because what I -- what I wrote, "While it may appear that similarity of RaTG13
10 and BANAL-52," so I was referring to those two specific viruses --

11 Q Uh-huh.

12 A -- no other viruses, are close, they overlap, 96 to 97 percent, and those are
13 far too divergent. So I was referring to those two specific viruses, but maybe there are
14 other viruses that you're referring to.

15 Q Apologies. I --

16 A You want this back?

17 Q No.

18 Ms. Ganapathy. You should keep the exhibits until --

19 Dr. Tabak. Oh.

20 Ms. Ganapathy. -- the end of the hearing.

21 Dr. Tabak. Okay. I'm sorry. I'm happy to show it to you.

22 Mr. Strom. Let's go off the record for one second.

23 Mr. Benzine. Yeah. Let's go off the record.

24 [Discussion off the record.]

25 Mr. Benzine. Okay. We can go back on the record.

1 BY MR. BENZINE:

2 Q So underneath that paragraph describing RaTG13 and BANAL-52, is the
3 sentence that I just read, "The analysis attached confirms that the bat coronaviruses
4 studied under the EcoHealth Alliance grant could not have been the source of SARS-CoV-2
5 and the COVID-19 pandemic."

6 A Uh-huh.

7 Q That's assuming EcoHealth is publishing everything that we paid for.

8 A The sentence was referring back to the preceding paragraph where I
9 articulate which viruses I'm referring to.

10 BY MR. STROM:

11 Q So the viruses are RaTG13 and BANAL-52?

12 A And WIV-1.

13 Q So RaTG13 wasn't collected with NIH funding. BANAL-52 also --

14 A Right.

15 Q -- was found by a French team.

16 A Correct. And WIV-1 was the one that the EcoHealth folks were working on,
17 and so I was looking at showing you the worst-case scenarios.

18 Q Uh-huh. But I guess we don't -- because there's an unknown -- because
19 this is an iterative process, they go out to the field, they collect the samples, they bring
20 the samples back --

21 A Right.

22 Q -- they sequence them. And it seems like the process they
23 developed -- there is no reason you should necessarily know this, but it's do their RdRp, a
24 small segment.

25 A Right.

1 Q And as it looks interesting, you sort of build it out --

2 A Yeah.

3 Q -- and you can see your family trees.

4 A That's right.

5 Q The -- prior to the pandemic, for example, nobody outside the WIV knew
6 about RaTG13, even though it was collected in 2016. So I guess -- excuse me. Part of it
7 was going through publication in this EcoHealth paper prepandemic.

8 So I guess the statement that this analysis confirms that bat coronaviruses studied
9 under the EcoHealth Alliance grant could not have been the source of the SARS-CoV-2
10 and the COVID-19 pandemic seems to maybe have like an unspoken caveat of like, to the
11 best of the information that NIH has. Is it --

12 A We don't know what we don't know.

13 Q Right. So that's kind of what --

14 A So that's the point.

15 Q -- we are getting to, yeah.

16 Mr. Benzine. Yeah.

17 Dr. Tabak. But in writing the letter, I was referring to the viruses that are
18 articulated in the grant application.

19 BY MR. STROM:

20 Q Well, and that's what -- that's what sort of what we were talking about
21 earlier, and this has come up with also with like Dr. Erbeling and some other peoples of
22 theirs. You know, when scientists are saying, you know, one thing, they mean sort
23 of -- it's a term of art or a pseudo term of art.

24 So when you're saying that confirms that the bat coronaviruses under the
25 EcoHealth Alliance grant could not have caused the pandemic, there's sort of an

1 unstated -- it seems to us, having gone a number of these, that there's sort of an unstated
2 understanding that of the -- of -- to the best of NIH's knowledge, what the WIV has shared
3 with us through EcoHealth that they have done, there is nothing that suggests they had
4 SARS-CoV-2 in their possession beforehand.

5 But the two things we don't know are, you know, we don't have the lab
6 notebooks; we don't have, you know, updates from the WIV past a certain point. We
7 also don't know -- and, you know, the WIV is -- is a big institution. I think -- I've seen
8 numbers quoted of like a \$35 million annual budget. NIAID's funding for it was just a
9 small, small portion of that.

10 A That's correct.

11 Q It was like a couple hundred thousand dollars a year.

12 A That's correct, right.

13 Q So there's a whole bolus of other work similar -- presumably similar
14 coronavirus work. And I've seen titles of, you know, China's National Science
15 Foundation, other grants that are of similar interest.

16 A Uh-huh.

17 Q So it just seems that to the lay reader reading that sentence, while you're
18 referencing the EcoHealth grant, it's a strong assertion given sort of the -- what you don't
19 know.

20 A Right. And I accept that point --

21 Q Okay.

22 A -- because I don't know what we don't know. The work that we
23 supported --

24 Q Uh-huh.

25 A -- certainly was consistent with what they've published in terms of the

1 amount of money we gave them.

2 Q Uh-huh.

3 A You know, they did some very nice work. It was quite extensive.

4 Q Uh-huh.

5 A And the amount of money is modest. And so -- but were they doing other
6 work funded by other sources?

7 Q Uh-huh.

8 A I can't speak to that.

9 Q But even then, within the universe of NIH-funded work, there's still
10 presumably some work that was done in year 5 that, if there was no pandemic, would
11 have been reported, and, you know, there is just that sort of -- you're drawing an artificial
12 line.

13 A I take your point.

14 Q Okay.

15 A I take your point.

16 BY MR. BENZINE:

17 Q Yeah. And not to -- it's just -- it's been a theme in some of the letters that
18 we've received of these like unequivocal assertions --

19 A Right.

20 Q -- instead of acknowledging --

21 A Sure.

22 Q -- what we don't know.

23 A Well, again, I take the point.

24 Q All right.

25 A You know, when you parse it out in that way, I understand the point you're

1 making.

2 Q All right. I appreciate it.

3 I want to talk, sticking with EcoHealth for just a little while longer, about the grant
4 reinstatement, and then get into the -- some things with the Wuhan Institute.

5 Dr. Erbeling testified to us and gave us a briefing a while ago that one of, if not
6 the primary reason, for reinstating the grant was to continue to have access to samples
7 that EcoHealth said they had access to that they had collected with taxpayer dollars.

8 Is that consistent with your understanding?

9 A I -- I don't have any insight into that.

10 Q You weren't involved in the reinstatement?

11 A I -- no, not -- I mean, I was told about it, but I was not a decisionmaker there.

12 Q Were you involved in any of the discussions surrounding --

13 A Oh, I'm sure I was -- I'm sure I was involved with discussions, but that
14 specificity, I -- no.

15 Q No. All right. So you would not have been the final decisionmaker on
16 reinstating the grant?

17 A No, I would not.

18 BY MR. STROM:

19 Q Could you elaborate on your understanding of the division of labor between
20 Dr. Lauer's office, Office of Director at the NIH level, and then the NIAID level
21 regarding -- you have -- at some point, all enforcement actions have to be resolved one
22 way or the other.

23 A Right.

24 Q And then there's a separate discussion, it seems, as to what to do with the
25 remaining segments of the scientific proposal.

1 Q Could you delineate the respective responsibilities?

2 A So the -- in that specific case, the institute staff would evaluate what remains
3 and what value it might have --

4 Q Uh-huh.

5 A -- if it were to either go forward or to be terminated completely.

6 Q Would that be a formal -- this is my own ignorance here. Would that be a
7 formal reapplica- -- like a formal application, some sort of formal written submission?

8 A If -- so I don't know if it's applicable in this case because these are subawards
9 and --

10 Q Sure.

11 A -- there are recipients and so forth. But typically, if you change more than
12 about -- I think it's 25 or 30 percent of a grant --

13 Q Uh-huh.

14 A -- you need to put in some new -- it's called a revision. You need --

15 Q Sure.

16 A -- to put in a new -- new -- it's not a full application, but you need to put
17 something in writing. I don't -- again, I don't know if that is considered a reapplication.

18 Q I think I've seen those in other contexts where they had to sub out like a
19 collaborator, and it was maybe, to your point, like 25 percent of the work.

20 A Yeah.

21 Q We're going to go with hospital B and university B --

22 A Right.

23 Q -- instead of A, because they got busy --

24 A Right.

25 Q -- or something like that.

1 A Yes. And it's sort of similar to that.

2 Q Is that -- the change difference, is that measured by a combination of money
3 and sort of scientific aims? It's probably more of an art than a science.

4 A It's more of an art than science.

5 Q Okay.

6 A And so the institute would -- would make their case. In this -- you know, to
7 Dr. Lauer's office or to -- or Dr. Lauer directly -- I don't know if he -- if he has an
8 intermediate who would do this -- as to what the appropriate approach would be going
9 forward.

10 Q And I know suspensions are not common, but is it normal for institute staff
11 that are funding the grant and overseeing the grant to advocate to Dr. Lauer that the
12 grant be reinstated? This is before a determination is made, while the investigation is
13 ongoing.

14 A We -- we have few suspensions, so I don't have a large number of events to
15 draw upon here.

16 Q Sure. And just in your experience.

17 A I -- I'm just trying to think about other examples. It -- I mean, I know of
18 other examples where it's happened, but it's a small number that I --

19 Q Sure.

20 A -- that I can think of.

21 Q Yeah. And I'm just wondering of -- the closest analogue to this is sort of
22 some of those allegations of, you know, commitment of time problems with talent --

23 A Uh-huh.

24 Q -- planned recipients or things like that, where that's maybe -- the top down
25 there is DOJ coming in or some entity coming in.

1 A Actually, in those -- concerns of commitment are really generated through
2 our compliance efforts.

3 Q Uh-huh.

4 A What DOJ did was largely separate from --

5 Q Okay.

6 A -- what NIH was doing. And in those instances, sometimes it was the
7 program officer at a particular institute who raised a hand and said, there's something
8 screwy going on here. Other times, it was people on Dr. Lauer's staff who said the same
9 thing. And it was really just by looking at publications and/or progress reports
10 depending upon, you know, where people sit.

11 Q And then, with the -- would it be, I guess, irregular for, if an individual is
12 under suspension, for the funding institute to try to find him new opportunities to apply
13 to?

14 A So, again, you have to parse out what was suspended and what was
15 reinstated --

16 Q Sure.

17 A -- right. And so you have --

18 Q Well, this is while Dr. Lauer's compliance review is ongoing. What we have,
19 just to be candid, are emails from the NIAID program officials --

20 A Right.

21 Q -- saying, Hey, Dr. Daszak, we hope you apply for this. We hope you can
22 continue this work through other funding. It strikes a layman as kind of working across
23 purposes.

24 A I wasn't aware of those, so --

25 Q Okay.

1 A -- I can't comment on those. I don't know anything about it.

2 Q It just -- it strikes, like, a layman as sort of working across purposes. I know
3 the institutes have a lot of independence vis-à-vis the direct -- the big NIH.

4 Mr. Strom. But I'll let you go.

5 Mr. Benzine. No. Thank you.

6 BY MR. BENZINE:

7 Q Our understanding is, in order for the grant to be restarted or -- that NIH,
8 Dr. Lauer, had to certify that the grantee, EcoHealth, was in compliance. Is that
9 accurate?

10 A Okay. So let -- I'm sorry. I want to make sure I know which grant we're
11 referring to.

12 Q The R01.

13 A The original -- the original grant that EcoHealth Alliance had that was
14 precipitously terminated, ultimately reinstated, then suspended, and then reinstated?
15 Is --

16 Q Correct.

17 A Okay.

18 Q The second reinstatement, that --

19 A Right.

20 Q -- NIAID-level reinstatement --

21 A Right.

22 Q -- that cut out the China portion --

23 A Right.

24 Q -- and cut out a few other things --

25 A Right.

1 Q -- they were not able to take that action until Dr. Lauer gave them the
2 sign-off.

3 A Right.

4 Q Is that accurate?

5 A I would assume that that is accurate.

6 Q So this is, again, where we get confused. So if Dr. Lauer has asked for
7 things that EcoHealth has not provided him --

8 A Right.

9 Q -- they are not in compliance with NIH but were somehow certified to
10 continue receiving taxpayer funds. And those seem to be competing interests.

11 A Okay. So, again, the complication here, which, unfortunately, I don't know
12 enough about to be convolute for you, is whether or not -- and I don't mean to sound like
13 I'm a lawyer, because God knows I'm not.

14 Q No.

15 A But whether or not -- what the EcoHealth was able to provide versus what
16 WIV refused to provide, whether that separation is what allows you to consider whether
17 or not EcoHealth is now back in compliance, because you can't -- I mean, so Wuhan
18 Institute of Virology is debarred. They -- you know, so they don't exist anymore.
19 We've -- a lot of them are out of existence. So if you take that away, is what's left
20 certifiable? That's -- that's the only way that I could explain it.

21 Q Okay. I understand that, and that, I guess, makes fundamental sense --

22 A Yeah.

23 Q -- that you can't send money to the WIV anymore.

24 A Correct.

25 Q Are you still a viable path forward is the kind of the thought process?

1 A That is -- that, at least to me, is the thought process. Obviously, you know,
2 Dr. Lauer is the expert.

3 Q I guess my confusion is there is still unanswered questions regarding
4 EcoHealth's previous work on grants. In the year 4, year 5 experiment --

5 A Uh-huh.

6 Q -- NIH has a position. EcoHealth has a position. Whether or not that
7 experiment was properly notified to the NIH is -- all of this is kind of answered by the lab
8 notebooks that Dr. Lauer has requested that presumably now United States Government
9 will never get access to, is my presumption.

10 A I think that's a pretty good presumption, yeah.

11 Q And the answer may be the same, but what we're struggling to figure out is,
12 like, that's clearly out of compliance.

13 A It -- well, again, the answer that I would provide is basically the same.

14 Q Okay. Yeah. I appreciate that. That's just --

15 A Okay.

16 Q It's just the separation, it seems contradictory of, in order -- like, if I was
17 asked to do something and I didn't do it, then I wouldn't then be asked to do more things,
18 you know, like --

19 A That's the way we --

20 Q Okay.

21 A -- look at it.

22 Q I'm going to talk a little bit about the suspension, debarment stuff. And
23 whether or not you were involved, we can get to that.

24 When I ran through the long list of names, one of them was Dr. Ping Chen.

25 A Uh-huh.

1 Q And I think you said no conversations on origins, WIV, or EcoHealth?

2 A I don't -- I don't think I've ever -- I mean, I've never spoken to her directly.

3 I -- maybe she was in a meeting that I was in, but --

4 Q She was stationed in Beijing as a NIAID employee until mid-December 2019.

5 A I don't know the dates, but I know that she was stationed in Beijing.

6 Q And then had previously toured the Wuhan Institute as well in 2017.

7 A Again, I don't know the dates, but I -- I understand that she did visit

8 that -- that institution.

9 Q Do you have any knowledge of whether or not anyone at NIH requested a
10 meeting with her? She seemed like she was in Beijing when the pandemic broke out.
11 She had visited the Wuhan Institute of Virology, which had come under the microscope.
12 She's a firsthand witness to some of this stuff.

13 A So I certainly never asked for that, and I'm unaware of it. I only recently
14 learned about her involvement, if you will, and in course.

15 Q How did you learn of it? The involvement I'm assuming you're referencing
16 is the WIV tour?

17 A The fact that she was even there.

18 Q Oh, okay.

19 A You know, so this is -- this is -- again, temporally, I'm not sure exactly when I
20 learned.

21 Q Yeah.

22 A But I don't know that -- I don't know if anybody has asked -- I can assume but
23 don't know that NIAID staff, you know, spoke to her.

24 Q Okay.

25 A But I have not.

1 Q Okay. And, to your knowledge, Dr. Collins never requested --

2 A Not to my knowledge, but, again, you'd have to ask Dr. Collins.

3 Q All right. I -- another name -- and I'm going to avoid introducing the paper
4 if you don't know his name. Have you ever interacted with anyone named Paul Dabbar?

5 A Not to my knowledge.

6 Q Okay. So on suspension and debarment, on July 17th, 2023, HHS
7 suspended the Wuhan Institute from receiving Federal funds while the debarment
8 investigation continued.

9 Were you involved at all in the decision to suspend?

10 A I was made aware of it. And we don't make -- you know, as you know --

11 Q Yeah.

12 A -- we don't make those decisions, but I was made aware that we were going
13 to petition for that to happen.

14 Q That NIH was going to petition to HHS for that to happen. Is that kind of
15 the standard course?

16 A Yes.

17 Q What does the petition look like? What do you have to --

18 A Oh, I'm using that loosely.

19 Q Okay.

20 A There's some sort of notification. I'm sure there's background material.
21 I've never actually seen that type of documentation.

22 Q Okay. So that was going to be my next question. Does HHS consult with
23 you prior to making that -- consult with NIH prior to making that decision?

24 A I believe they make their decisions based upon the documentation that's
25 provided. You'd have to ask Dr. Lauer if there's a back and -- if it's iterative. I don't

1 know.

2 Q Would Dr. Lauer's office be the one in charge of sending that, for lack of a
3 better word, petition --

4 A Yes.

5 Q -- to HHS?

6 A Yes.

7 Q I'm assuming it's going to be similar answers, but on September 19th of -- a
8 few months later, HHS debarred the WIV for 10 years. Were you involved in any of
9 the -- anything that led up to that decision?

10 A No. I mean, I was made aware of it, but no.

11 Q Okay.

12 A No.

13 Q And, again, it would be Dr. Lauer's office that was the primary kind of
14 interlocutor between --

15 A They're the content -- they're the content experts, so --

16 Q Yeah.

17 Mr. Benzine. I don't know if -- Alan, do you want to --

18 Mr. Slobodin. Well, just a quick question.

19 So it's in the document, the debarment --

20 Mr. Strom. I think -- why don't you make it an exhibit.

21 Mr. Slobodin. Yeah. Actually -- this is Majority Exhibit 16?

22 [Tabak Majority Exhibit No. 16
23 was marked for identification.]

24 Ms. Ganapathy. Take a minute to look it through, Dr. Tabak.

25 Mr. Slobodin. I'm only going to ask questions on page 4. You don't have to

1 read the whole thing.

2 Dr. Tabak. What page was it in?

3 Mr. Slobodin. Page 4.

4 Dr. Tabak. Four. Okay. Okay.

5 BY MR. SLOBODIN:

6 Q So looking at the first full paragraph on that page, it starts "In summary."

7 A Okay.

8 Q And as you'll see in that paragraph, it later states, "WIV conducted an
9 experiment that violated the terms of the grant regarding viral activity, which possibly did
10 lead or could lead to health issues or other unacceptable outcomes."

11 So just to confirm, your understanding is that statement would have come from
12 NIH -- from the NIH petition or another letter?

13 A I've never seen this document. I have no idea how this was put together.

14 Q Okay.

15 A I don't know how this was put together.

16 Q All right.

17 A I've never seen it.

18 Q Do you have any reason -- do you disagree with that statement?

19 A Well, it's all contextual, but I think that that statement is -- was reasonable,
20 because it says, "or other unacceptable outcomes," and it's on that basis that I think that
21 that's a statement that's reasonable.

22 Q I'm sorry, I couldn't hear.

23 A I said that -- sorry. I said that, because the sentence reads, "which possibly
24 did lead or could lead to health issues or other unacceptable outcomes," and it's on that
25 basis that I think, yes, I could agree with that statement.

1 Mr. Slobodin. Okay. All right. Thank you.

2 Mr. Benzine. Okay.

3 Dr. Tabak. Still using this one?

4 Mr. Benzine. No.

5 Dr. Tabak. Okay.

6 BY MR. BENZINE:

7 Q I have one more kind of like decent section, again, asking about things that
8 happened in February 2020, so as much as you can recall. I understand a lot has
9 happened since then.

10 I want to introduce -- first, I want to ask you, so it's been reported -- and, again, in
11 lieu of handing out a bunch of paper and then you saying you have no knowledge of
12 anything, we'll try to limit the paper.

13 It's been reported and I believe our committees have released documents that
14 Dr. Fauci, Dr. Farrar, and Dr. Kristian Andersen of Scripps had a conversation on
15 January 31st, 2020, about the possibility of COVID-19 being a lab accident. They used
16 genetically engineered at the time, but lab accident, I think, is probably more accurate.

17 Did you have any conversations with Dr. Fauci about those situations?

18 A Is this the meeting of the scientists --

19 Q Not yet.

20 A Okay.

21 Q But the day before.

22 A No.

23 Q Okay.

24 A I -- no.

25 Q February 1st was the --

1 A February --

2 Q -- big one. That's the one that you remember, not the --

3 A That's the one I remember.

4 Q All right. We'll skip ahead to that one and --

5 A Okay.

6 Q -- introduce Majority Exhibit 17.

7 [Tabak Majority Exhibit No. 17

8 was marked for identification.]

9 BY MR. BENZINE:

10 Q So this is an email chain. It has Dr. Farrar, Dr. Fauci, Dr. Collins, eventually
11 you on it, and is Bates numbered SSCP_NIH1902 through 1903.

12 The email at the very bottom is from Dr. Farrar to Dr. Fauci setting up a
13 conference call with a number of people: Dr. Andersen, Dr. Garry, Dr. Drosten,
14 Dr. Fouchier, Dr. Holmes, Dr. Koopmans, Dr. Vallance from the United Kingdom. And it
15 has the time and the call-in details.

16 Dr. Fauci then forwards it to Dr. Collins. He says he would join. You then
17 respond to Dr. Collins and Dr. Fauci that, "Would you like me to join," too?

18 And Collins says, "Fine with me, but I note Jeremy says he wants to keep this a
19 'really tight group.' Tony, what do you think?"

20 And I don't -- we don't know -- I don't know if Dr. Fauci ever responded, but did
21 you end up on the February 1st conference call?

22 A I did.

23 Q When -- I guess how? Who gave the kind of final permission? You asked.
24 Dr. Collins said okay but wanted to check with Dr. Fauci.

25 Did you ever have a conversation with Dr. Fauci about this?

1 A I don't believe I ever spoke to Dr. Fauci about this. I presume Francis just
2 said it would be okay for me to join.

3 Q Okay.

4 A It's not something I would do without building --

5 Q Okay. Outside of this email, do you have any recollection of how the call
6 got set up or how it originated?

7 A How it got set up? No.

8 Q No. So kind of just the invitation just kind of fell into your inbox, and you
9 went from there?

10 A I had a specific reason for wanting to join the call.

11 Q What was that?

12 A Because I had one observation that I wanted to share with the group, and I
13 did.

14 Q Was it the O-linked glycans?

15 A Correct.

16 Q What was your observation?

17 A My observation was -- is that when you look at the furin cleavage site that
18 everybody's, you know, been focusing on, very close to it is a potential site of
19 modification by coating with a sugar, so-called O-glycosylation. That is something that
20 my lab is expert in, and so I wanted to point that out to the group.

21 Q Does -- and I've heard this from some others. We've talked to Dr. Garry.
22 We've talked to Dr. Andersen. O-linked glycans are kind of like maybe established that
23 growth was done -- the viral evolution took place in the presence of an immune system.
24 Is that accurate?

25 A The -- that part, I don't know.

1 Q Okay.

2 A What I can speak to is, if you decorate the area surrounding the so-called
3 furin cleavage site, that shields the furin cleavage site by being efficiently cut, so it's like a
4 break.

5 Q Okay.

6 A It would reduce the ability of the virus to spread and so forth. The
7 observation I made was, because we -- in other systems, colleagues of mine have shown
8 that when that furin cleavage site has that sugar near it, the furin cleavage is markedly
9 reduced.

10 And so I wanted the group to know, hey, maybe there's something there that
11 could be attenuating. That was the only reason why I really wanted -- that was the only
12 thing I could contribute to this meeting, and I did. And that was that.

13 Q So the furin site -- and there have been a couple of other emails and not
14 that -- not that you have them in front of you, but that -- I think it was particularly
15 Dr. Garry and -- that said that the glycans could kind of evolve, either in passage or -- in
16 laboratory passage or in natural evolution.

17 A And that is correct.

18 Q That's correct?

19 A Yes.

20 Q So the glycans themselves are not kind of evidence of one possible origin
21 pathway or another, or did they lean one direction?

22 A You could argue this both ways, okay, because what the virus sequence
23 provides is the -- ultimately, the protein -- the spike protein.

24 Q Uh-huh.

25 A And it's that that the enzyme that decorates the protein recognizes. That's

1 what my lab does, how do these sugars recognize that protein?

2 So you could argue that, depending upon what host cell you're in, if it has the right
3 apparatus, it will or will not acquire that sugar coat. That's absolutely correct.

4 Q Okay.

5 A And so whether it argues, if you're engineering a virus, why would you put a
6 break in or not, maybe, but, again, the other variable is, as you said, if -- depending on
7 what the host is -- and your host cells may be different than my host cells, maybe. I
8 mean, you know, I don't know. So I could argue it either way.

9 It was just -- it was just a curiosity, because here is this -- you know, not such a
10 great furin cleavage site. It's an imperfect furin cleavage site. And then, on top of it,
11 you are potentially putting a glycan shield to further attenuate it, and it just seemed odd.

12 The whole thing becomes moot because the glycosylation site goes away, because
13 one of the very first mutations is in the proline. Once the proline goes away, it's no
14 longer a good glycosylation site. So nature took care of it one way or the other.

15 Q That's all interesting. I --

16 A Sorry. That's -- that was too geeky.

17 Q I appreciate it. I'm not a scientist at all, so, like, anything that I've learned is
18 because I've just been listening to people like you. But the presence of the O-linked
19 glycans themselves does not lean one way or another?

20 A I don't think so.

21 Q Okay.

22 A I think you could argue it either way. I really do.

23 Q The -- and, again, I don't know if this is outside your -- I didn't really -- I knew
24 that you were an expert in O-linked glycans because Dr. Garry told me you were in an
25 email, but --

1 A There you go.

2 Q -- did not know that you had a lab that did it.

3 One of the possible pathways that's been like thrown out for origins is a naturally
4 occurring virus whose evolution was then sped up through serial passage in humanized
5 mice.

6 Would that kind of experiment -- could that experiment result in a furin cleavage
7 site in the glycans?

8 A I don't know of any other example where it has. Most of that type of work,
9 you know, was done with influenza.

10 Q Uh-huh.

11 A I mean, that would be a pretty profound change, but, you know, I -- I -- this is
12 outside my --

13 Q Yeah.

14 A -- you know, my area of expertise.

15 Q Yeah. I keep hearing like -- I mean, Dr. Farzan in Boston is kind of an expert
16 in the furin cleavage site side of things.

17 A Uh-huh.

18 Q And I think he said a few times that it's, like, possible to get it through serial
19 passage, but it'd be difficult. And like you said, it'd be a very reportable experiment,
20 right? Like --

21 A Yeah.

22 Q -- this would be something --

23 A Yeah.

24 Q -- that you would want to share.

25 A Yeah.

1 Q But we're just trying to figure out if this is -- if that pathway is kind of
2 possible.

3 And what we've heard before, and maybe you can shine some light on this too,
4 is -- and you touched on this, that the furin site and the presence of the glycans even kind
5 of suggests that it's imperfect. It's not --

6 A Uh-huh.

7 Q -- how you would design --

8 A Right.

9 Q -- a furin site.

10 A Right.

11 Q It's not how you would design the spike protein if you wanted to infect and
12 kill --

13 A Right.

14 Q -- as many hosts as possible.

15 What we've heard is that's not how researchers go out and fundamentally bench
16 research practice this; that when you're doing pandemic prediction work, you're not
17 trying to design the perfect virus.

18 A Uh-huh.

19 Q You're trying to drop in different mutations, modify the virus a little bit to try
20 and speed up what Mother Nature would do herself.

21 Is that your understanding as well?

22 A So, here, you would want to speak to the experts --

23 Q Okay.

24 A -- because the types of experiments of taking a spike protein and putting it
25 on a backbone, that's very, very different than the one you've just described.

1 Q Uh-huh.

2 A The types of experiments you've just described through this -- the serial
3 passaging, again, are the things that the Fouchier lab was doing in another lens, and
4 the -- I guess was Kawaoka lab in Wisconsin, but it was all influenza. So you would -- I
5 can't answer. I just don't have expertise.

6 Q Okay. But the -- I want to touch on the backbone and dropping in spikes
7 and stuff. That's used in, like, maybe not pandemic preparedness research, but trying to
8 see if viruses are capable of spilling -- of infecting humans. Is that a fair
9 characterization?

10 A Spilling may be too dramatic, but you want to see what new attributes the
11 chimera has, and you use a model system. And, you know, the model system has been
12 described here earlier.

13 Q So -- and I'm sorry I'm repeating myself.

14 A Uh-huh.

15 Q I'm learning as we go along here.

16 So you take the backbone -- in this case, it was WIV-1, but regardless, you would
17 take a backbone. Are all of those back -- and do you know, are all those backbones
18 published, like the well-known backbones that you would use for that kind of work?

19 A The WIV backbone is published, certainly.

20 Q But not -- you don't know if all of them are?

21 A Well, all is a --

22 Q Yeah.

23 A I don't know what all encompasses, but certainly the WIV backbone is
24 well-known.

25 BY MR. STROM:

1 Q Is there a logic of conducting experiment on an unpublished backbone
2 similar to the sort of swapping out of spikes that we're seeing both with the Baric group
3 and with what Dr. Daszak proposed to do?

4 A At some point, all --

5 Q It's --

6 A -- backbones are unknown.

7 Q Right.

8 A So at some point, the answer is yes, you would do it. But I think once you
9 have a sort of tried-and-true backbone that you know is not particularly dangerous, you
10 know, you'd stick with it in order to, you know, lead the types of experiments that they
11 were referring to.

12 Mr. Benzine. I think in the interest of time, we'll move on, but that was a very
13 interesting discussion. I remember seeing the O-linked glycans. I remember seeing
14 papers and --

15 Dr. Tabak. Yeah.

16 Mr. Benzine. -- happy to talk about it and figure out a little bit more about what
17 they mean.

18 I want to go ahead and introduce Majority Exhibit 18.

19 [Tabak Majority Exhibit No. 18
20 was marked for identification.]

21 BY MR. BENZINE:

22 Q This is a email chain. The top email is Dr. Fauci and -- to Mr. Simonson, but
23 has a number of people on it throughout, including the bottom email that we're going to
24 look at the most, with Mr. Grigsby, Mr. Harrison, Mr. Kerr, and Dr. Kadlec.

25 The email I want to draw your attention to is the full second page block of text

1 from Dr. Fauci. And just for the record, the exhibit is SSCP_NIH1796 through 1798.

2 And it's a really long block of text. It's on an email from February 1st after the
3 conference call took place.

4 Kind of summarizing, "The call with Jeremy Farrar went very well. Francis Collins
5 joined, and there were several highly credible scientists, including and in addition to the
6 two that I spoke with last night" -- that's referencing Dr. Andersen and Dr. Holmes -- "on
7 the call with expertise in evolutionary biology."

8 He then goes on to dismiss the Indian HIV paper pretty quickly, which I think most
9 people did. And towards the middle, says, "That is not what they were concerned
10 about. They were concerned about the fact that upon viewing the sequences of several
11 isolates of the novel coronavirus, there are mutations in the virus that would be most
12 unusual to have evolved naturally in the bats and that there was a suspicion that this
13 mutation was intentionally inserted."

14 And you're not on this email, but you were on the call. To your recollection, is
15 that discussing the furin site that that mutation would be kind of odd to find in nature
16 in --

17 A I -- it may be. I don't know specifically, because it -- you know, obviously
18 there are other portions of this virus, and, unfortunately, my expertise is that little piece
19 of the furin -- near the furin site, so I can't really answer that.

20 Q I guess to the -- to the best of your knowledge and understanding -- you're
21 not an expert in all this -- but have there been furin sites in SARS-related coronaviruses
22 before?

23 A There are some in beta coronaviruses.

24 Q But not the --

25 A I --

1 Q -- sarbecovirus?

2 A I -- I don't know the specific, but I know they're in a broad family. I don't
3 know how close you get.

4 Q Okay.

5 A I just don't know.

6 Q Dr. Fauci continues, "The suspicion was heightened by the fact that scientists
7 in Wuhan University are known to have been working on gain-of-function experiments to
8 determine the molecular mechanisms associated with bat viruses adapting to human
9 infection and to the outbreak originated in Wuhan."

10 Again, I know you didn't write this email. You're not on this email chain, but you
11 were on the call. The Wuhan University, to me, like, feels like a typo, but I'm not
12 sure -- I don't know if on the call the Wuhan Institute came up and it was confusing. I
13 don't know if you --

14 A I'm sorry. I don't -- I have no recollection of it.

15 Q Okay. Did you have any conversations with Dr. Fauci after the call,
16 regarding the call?

17 A The call?

18 Q Yeah.

19 A I don't think so, but -- I -- I know I sent an email, you know, about the
20 glycosylation site to the group, and he was probably on that, but that is the extent of it.

21 Q Okay. After the call over the next couple weeks, some of the folks on the
22 call were working on a paper that eventually became the proximal origin of SARS-CoV-2.
23 Are you generally aware of it?

24 A I'm generally aware of it, yes.

25 Q They -- Dr. Farrar and Dr. Holmes were the primary kind of interlocutors

1 between the group. And Dr. Fauci and Dr. Collins, they sent a couple drafts back and
2 forth. Were you aware of any of that?

3 A I was aware that it was being looked at, but I -- I was not party to that.

4 Q After the paper came out, did you have any conversations with Dr. Fauci or
5 Dr. Collins about the content of the paper?

6 A Not really, other than it's out, you know, that sort of thing. I don't have
7 any recollection of it.

8 Q Have you read it?

9 A Oh, I'm sure I've read it in the past, but it's been a while.

10 Q Okay.

11 A Been a while.

12 Q You don't recall -- they used the -- they used O-linked glycans as an
13 argument in the paper. Do you recall that?

14 A I don't, actually --

15 Q Okay.

16 A -- no.

17 Q I mean, we have about 20 minutes left in time, so I'm going to run through
18 some --

19 Mr. Benzine. Do you have anything before I --

20 Mr. Strom. You can go ahead, and I'll circle back.

21 BY MR. BENZINE:

22 Q I'm going to run through some things quickly, and, again, if you were not
23 involved, please tell us.

24 In early 2021, January 14th to February 10th, the World Health Organization sent
25 a team to China to investigate the origins.

1 Were you -- at the time, were you aware of that investigation?

2 A I knew that they were doing it, but that was the extent of it.

3 Q It's been reported to us -- and we can't figure out who the names are, but
4 that the U.S. submitted three names to be on that team. Do you have any knowledge of
5 who the U.S. submitted?

6 A I do not.

7 Q Dr. Daszak ended up being the only American on the review team. It
8 was -- consisted of 17 international scientists and 17 Chinese scientists. He was the only
9 American out of the 34.

10 We've discussed EcoHealth a lot. We've discussed the WIV a lot. Do you think
11 Dr. Daszak is conflicted in the origins investigation?

12 A I -- yes, I would believe he was conflicted.

13 [REDACTED]. I'm sorry. I couldn't hear.

14 Dr. Tabak. Yes, I believe he was conflicted. Sorry.

15 BY MR. BENZINE:

16 Q Understanding you didn't have knowledge of like kind of the preparation of
17 the trip, did you read the report afterwards or are you aware of the report afterwards?

18 A No, I did not.

19 Q Okay. I have a couple final, like, just baseline questions, and then, if John
20 has any followups, we can probably wrap up our time here.

21 Baseline about COVID origins, just yes or no, is investigating the origins of
22 COVID-19 important?

23 A Yes.

24 Q Is discovering the origins of COVID-19 important?

25 A Yes.

1 Q Can you explain, just briefly, why knowing the origins of a virus is important?

2 A Well, it helps you better prepare for what's next. If it is a naturally
3 occurring virus, by following its history, we'll get some clues as to what happened next.
4 If it came as a result of inappropriate activity, we need to know that also.

5 Q In your opinion, is the origin of COVID-19 unsettled?

6 A Oh, I think it's unsettled. I think one could lean in one direction or the
7 other, but I think it's unsettled.

8 Q Again, just real quick, and run through some -- I want to run through some
9 possible laboratory scenarios. We know most of the zoonotic scenarios, wildlife trade,
10 wet markets, those kinds of things, where it has happened before.

11 A Right.

12 Q But there's some difference of opinion on what would be a lab -- like a lab
13 accident, what would meet that definition.

14 A Uh-huh.

15 Q I'm going to start at where I think we can all agree, and then move towards
16 riskier questions.

17 A Okay.

18 Q A researcher in a lab intentionally manipulating viruses and getting infected?

19 A It depends on which virus they started with, but sure, that's a big concern.
20 I mean --

21 Q Well, just, would that be a -- if that happened, would that be a laboratory or
22 research-related accident?

23 A It depends on which virus they started with.

24 Ms. Ganapathy. Can I just have a -- Mitch, it seems like you guys are not
25 understanding each other. Is your question whether it's a, quote, "lab leak," or, quote,

1 "natural spillover"?

2 Mr. Benzine. Yeah.

3 Ms. Ganapathy. Okay. That's what he's asking.

4 Dr. Tabak. Okay. And --

5 Ms. Ganapathy. How you would categorize it.

6 Dr. Tabak. Okay. And I apologize. Maybe I'm making this more complicated
7 than it is, but -- so if I have two viruses and one I know is not a human pathogen and I
8 manipulate it, that's one type of experiment. If I have another virus that I know is a
9 human pathogen and I'm manipulating that, that's a very different scenario.

10 BY MR. BENZINE:

11 Q I'm asking, in either one of those cases --

12 A Yes.

13 Q -- if the manipulator catches what they are manipulating --

14 A Oh, if they catch it. Okay. I'm sorry.

15 Q Yeah.

16 A That would be a lab accident.

17 Q Okay.

18 A I'm sorry.

19 Q No, no.

20 A I made it too complicated.

21 Q So in the same vein, a researcher conducting serial passage on a virus and
22 getting infected?

23 A Also an accident.

24 Q A researcher sampling or sequencing naturally occurring viruses and getting
25 infected?

1 A Accident.

2 Q A researcher doing fieldwork, getting infected in a field, and bringing it back
3 to the lab?

4 A Accident.

5 Q All right. I think -- just a few more.

6 China first publicly announced an outbreak on December 31st, and they said it was
7 an undiagnosed pneumonia. It was announced the day before on ProMED.

8 Do you recall when you first heard of a potential outbreak?

9 A It was shortly thereafter, but it was not, you know, at the exact moment.

10 Q And it wasn't before the official announcement?

11 A I don't recall hearing about it.

12 Q I'm skipping over kind of the nitty-gritty of it all, but early on in the
13 pandemic, the -- both China, WHO, publicly said there wasn't a symptomatic
14 transmission, and then, for the first couple weeks, that there wasn't human-to-human
15 transmission.

16 Were there any discussions in NIH or NIAID regarding those proclamations? I
17 guess, was NIH acting under the presumption that there was a symptomatic transmission
18 or was human-to-human, regardless of what was being --

19 A I'm trying to -- I'm trying to remember timeframe.

20 Q So January 14th was when the WHO said there was no clear evidence of
21 human-to-human transmission.

22 A Right.

23 Q By that point, we were in like -- it was in, like, every country, and --

24 A Right. I honestly don't remember. I can't remember -- we certainly were,
25 you know, very concerned about human-to-human transmission. I just don't remember

1 the -- that timing.

2 Q Right.

3 A I'm just --

1 [3:14 p.m.]

2 BY MR. BENZINE:

3 Q And then, very briefly, I think you said "no" in the beginning, but you've
4 never met with Dr. Baric?

5 A No. I've never met him personally, no.

6 Q Again, as much as you know -- and it's been in the news -- Dr. Baric,
7 Dr. Daszak, and Dr. Shi at the WIV submitted a proposal to DARPA called "DEFUSE" that
8 proposed inserting furin cleavage sites into novel viruses.

9 Are you generally aware of that proposal?

10 A I found it in the lay press. There was a link to it in the lay press. That's
11 how I learned about it.

12 Q No, kind of, like, official scientific opinions on the proposal? Is it -- have
13 you --

14 A I honestly didn't bother reading it.

15 Q All right.

16 My final questions -- and if John has any -- to close out our hour.

17 At any point during the pandemic, were you contacted or met with anyone from
18 the intelligence community to assist in their investigations into the origins of COVID?

19 A I was. I don't remember which three-letter organization it was. I think it
20 was FBI --

21 Q Okay.

22 A -- if I'm not mistaken.

23 Q Do you recall about the timeframe?

24 A I think it was the run-up to the report that President Biden requested. So it
25 had to be just, you know, sometime before that.

1 Q And, then, I'm not going to ask you what they asked you --

2 A I don't remember, so --

3 Q Okay. Well, then that makes it easier. But to the best of your
4 recollection, did you tell them, substantively, what you've told us today in response to
5 our questions?

6 A Temporally, yes. You know, where we were back --

7 Q Yeah.

8 A -- you know, back then, yes.

9 Q All right. Perfect. Thank you very much.

10 And I'll let --

11 BY MR. STROM:

12 Q So just a few quick questions.

13 The WHO report, WHO China report, says that the first case was on December
14 8th -- the first known case was on December 8, 2019.

15 Given, sort of, the explosive growth, is that credible to you?

16 A I personally don't have the expertise to assess that. From what I've read,
17 some people argue that there were multiple loci of spread, that there were multiple
18 places where --

19 Q Uh-huh.

20 A -- the spread occurred. But that specific comment I can't address.

21 Q So, just to be clear, the official case count for December from WHO in
22 China -- and it's really from the Chinese Government -- is 177 known cases. That's even
23 after a retrospective search for them.

24 Does that -- is that a plausible -- given -- what I'm struggling with is, how do we go
25 from 177 cases after a -- taking them, sort of, on face value -- to, a month later, millions

1 of cases worldwide?

2 A I don't have an answer for that. I know that there have been papers
3 published about this and, you know, various speculations, but I don't know.

4 Q And you mentioned the multiple --

5 A Yeah, multiple sites.

6 Q -- multiple sites.

7 A Right.

8 Q That's similar to, I think, what we saw with SARS and MERS, where you have,
9 sort of, cities hundreds of miles apart having discrete outbreaks. Makes sense if you
10 have a virus circulating in an animal population.

11 A Right.

12 Q As that population moves towards the markets, it starts hitting different
13 markets.

14 In this case, though, the only two -- one or two points of spillover -- the only
15 market that's ever been implicated is that one market --

16 A Uh-huh.

17 Q -- in Wuhan. So that is a difference.

18 A My understanding -- and, again, I'm only going on what I've read.

19 Q Okay.

20 A I understand it's a pretty large market.

21 Q Uh-huh.

22 A And so, you know, it's not like our farmers' market here in --

23 Q Sure. Sure.

24 A -- you know. So -- but, no. I mean, I understand your point.

25 Q Yeah. I mean, I guess -- and you've been candid, I think, when you testified

1 before our committee, that, you know, there's two possibilities; you lean towards nature.

2 Are there key pieces that you would expect to see from a zoonotic spillover that
3 are just, whether it's Chinese Government censorship or they've missed the window to go
4 back and find this stuff --

5 A Right.

6 Q -- that you'd expect to see, that, you know, is knowable, but for whatever
7 reason is still missing, in your mind?

8 A Well, obviously, you would like samples from all the animals in that region at
9 that moment in time. And there's limited, you know, material that was made available.

10 Q Uh-huh.

11 A And, obviously, you would like samples from the individual patients, which,
12 again, you know, has not been forthcoming.

13 Q Uh-huh.

14 A So, you know, there are a lot of gaps, there's no question.

15 Q Sure.

16 And, then, switching gears a little bit, you mentioned -- and I thought it was a
17 good way to describe it -- is that the suspension of WIV as a sub-grantee basically blocks
18 them out of the --

19 A Right.

20 Q -- of, really, the entire NIH ecosystem, the Federal Government ecosystem.

21 A Right.

22 Q One of the things that surprised us, though, is that, when we had our
23 interview with Dr. Daszak, Dr. Erbeling, Dr. Stemmy, and Dr. Auchincloss, is that a
24 significant chunk of the work that they're going to do is looking at archived viral samples,
25 which makes sense because there's a period of delay between collection, sequencing --

1 A Right.

2 Q -- and all that that we discussed.

3 A large percentage of those samples -- at least that's my impression -- are still in
4 the custody of the WIV. And so we ran into this issue with Dr. Daszak where
5 he's -- without being able to pay the WIV, because they're debarred -- he is dependent
6 on, I guess, the WIV's goodwill to getting him the samples.

7 And so does that surprise you? I know, again, it's a NIAID decision, but does that
8 surprise you at all, that the WIV is still sort of a key component of this grant even if
9 they're sort of in a volunteer capacity?

10 A I'm only basing this on what you just told me --

11 Q Sure.

12 A -- because I'm not aware of these things. If they still hold the samples, then
13 they do have some leverage.

14 Q Uh-huh.

15 A And for reasons alluded to already, there would be value in understanding
16 the wider range, right?

17 Q Oh, absolutely. On that, we agree.

18 A So the question as -- so -- but that's just based on what you've told me.

19 Q Uh-huh.

20 A I'm not sure what other approach should have been taken other than to
21 disbar them, given their total, you know, lack of cooperation.

22 Q Right. I guess we were surprised to hear that they were still involved and
23 that there's some number, bowls of samples that they have that he's trying to shake
24 loose.

25 A So, again, I'm not -- was not aware of that --

1 Q Okay.

2 A -- before now, so I really can't comment.

3 Q Okay. That's fair.

4 Thank you, Mitch.

5 Mr. Benzine. All right. We can go off the record.

6 [Recess.]

7 [REDACTED]. We can go back on the record.

8 BY [REDACTED]:

9 Q Dr. Tabak, a question about majority exhibit 13, which is your October 2021
10 letter to then-Ranking Member Comer.

11 A On October 20. Yeah. Okay.

12 Q And questions with respect to some material on the backside of that letter.
13 RaTG13, there's some attention devoted to that here in this letter, a discussion of
14 how it's one of the or the closest known relative to SARS-CoV-2 but it's still genetically
15 distant, such that it could not possibly be the progenitor virus.

16 My question is just whether you recall or are aware of whether RaTG13 is or is not
17 actually one of the viruses that was collected, let alone experimented with, using NIH
18 funds.

19 A I don't know the answer to that. I know it was collected at WIV, but I don't
20 know if it came as a result of their surveillance funded by NIH.

21 Q That's precisely my question.

22 A Uh-huh.

23 Q And so it sounds like you're not sure?

24 A I don't know.

25 Q Because the letter, I think, can be read in some places, you know, that -- at

1 the very end, it refers to "the bat coronaviruses studied under the EcoHealth Alliance
2 grant."

3 A Right.

4 Q And I think it's reasonable for a reader to perceive that each of the viruses
5 referred to in the bullets fall under that description.

6 A Right. Yeah. Yeah.

7 Q But it sounds like you are not sure whether that's accurate.

8 A I am not sure whether that's accurate. And, similarly, the BANAL-52, that
9 one was collected in Laos.

10 Q Right. Right. So that would not have been WIV at all. But it may have
11 been EcoHealth. I actually don't know. I --

12 A I don't know the answer.

13 Q Okay. Okay.

14 With respect to majority exhibit 18 -- I'll give you a second. And that's the, sort
15 of, call summary written by Dr. Fauci about the February 1st call. I think you've got it
16 right there.

17 A Yeah.

18 Q More just a general question. There was some discussion about furin
19 cleavage sites and the extent to which they have been observed or not observed out in
20 nature and similar viruses.

21 I think first is just a threshold matter; it's not even a question. I just think we are
22 not sure whether or not the eventual authors of "Proximal Origin" who were on this
23 February 1st call actually knew at the time that furin cleavage sites existed in nature in
24 beta coronaviruses.

25 You may not know, or maybe you do, if you recall from the call, but --

1 A I -- I'm trying to think back. I don't recall. I don't know. I just don't
2 recall.

3 Q Yeah. That makes sense. It's possible, I think, that that is a piece of
4 information they subsequently learned.

5 A Yeah.

6 Q And so I guess my question or observation -- but it's a question -- is whether
7 the discussion on this February 1st call, as far as you know, represented a discussion
8 based on all available scientific data and knowledge or whether folks in the subsequent
9 days and months learned more and more about the question.

10 A Well, of course, the knowledge evolved and was expanded over time.

11 Q Is it -- we've heard this about coronaviruses in general, before getting down
12 into beta and sarbeco-, that -- is it reasonable to think that we, as an entity, meaning all
13 scientists on all of planet Earth, have not yet identified, cataloged, and sequenced all
14 existing natural coronaviruses?

15 A I'm pretty sure that's correct.

16 Q And so the broad question of the extent to which certain characteristics,
17 such as furin cleavage sites, appear or do not appear in particular genres or
18 sub-genuses, we can estimate based on what we know, but is it right that we don't know
19 everything about those families?

20 A We surely don't know everything about those families.

21 Q It is possible, or impossible to rule out, that certain attributes, such as furin
22 cleavage sites, are perhaps not as uncommon as we think in particular --

23 A We just don't know.

24 Q Just don't know. Great.

25 One clarification on the, sort of, series of hypothetical questions about whether a

1 particular scenario is a lab accident --

2 A Uh-huh.

3 Q -- or not a lab accident. Just a clarification, that if a researcher goes out
4 into the field in a cave and gets infected through that fieldwork and then happens to
5 then, being infected, come back to a lab and maybe gets other people sick in that
6 capacity, that would you think of, strictly speaking, as a lab accident or more of a
7 fieldwork incident?

8 A Well, if they did no manipulation of the virus and it was just simply
9 somebody being infected and then infecting other people, yes, that would be a
10 fieldwork --

11 Q Great.

12 And this is just one last, sort of, narrow clarification, but there was some
13 discussion about how, at least with respect to a zoonotic origin theory, there are some
14 missing gaps in what you would hope to see data-wise.

15 A Yes.

16 Q Samples from animals being an example.

17 Is it right for me to perceive that, similarly, there are missing data gaps, data
18 points, that you would hope or want to see when thinking about whether or not the
19 origin is laboratory-based? In other words, blood samples from WIV workers we also
20 don't have, and is just as important as animal samples at the seafood market.

21 A Unfortunately, we don't have that information.

22 Q Great.

23 [REDACTED]. I think that's it. We can go off the record.

24 Mr. Benzine. We're all good.

25 Thank you for your time.

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[Whereupon, at 3:28 p.m., the interview was concluded.]

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Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date