

# ON BEHALF OF ALL CONCERNED CITIZENS

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## Formal Citizen Petition Overview<sup>1-8</sup>

This petition is presented by a group of American citizens with professional expertise in medicine, law, statistics, and death certificate reporting that have come together to investigate irregularities in COVID-19 data. Irregularities that played a significant role in justifying executive orders. Irregularities that were used to establish excessive and ineffective health policies. Irregularities that have led to major collateral damage including: (1) historic economic collapse, (2) dramatic rises in mental illness, and (3) unnecessary loss of life.

Several exhibits are provided within this formal citizen petition for a grand jury investigation into the legalities of COVID-19 data collection for your review. This exhibit is a synopsis of the agencies involved and potential violations of law that led to irregularities in COVID-19 data collection and recording. Additionally, a peer-reviewed research paper is included that provides an in-depth, historical summary of key findings relative to COVID-19 data collection. Several documents and links are also provided to aid the research process and assist your confirmation of the key findings. On behalf of all concerned citizens, we humbly ask you to review each exhibit within this citizen petition and to exercise your power as a US Attorney to formally initiate a grand jury investigation based upon the evidence provided within these exhibits. Our volunteer investigative research is in honor of every American who has sacrificed so that we may live in freedom.

Your Honor, this is our formal petition.<sup>1-8</sup>

Expert witness list available upon request via [AllConcernedCitizens@protonmail.com](mailto:AllConcernedCitizens@protonmail.com)

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1. The right to petition a grand jury is codified in the first amendment to the United States Constitution and in **18 USC §3332 Powers and Duties**; “It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney’s action or recommendation.”
2. This right is also affirmed again by **In Re Grand Jury Application** (No. 85 Civ. 2235 (VLB), 617 F. Supp 199 | 1985); “Since the United States Attorney has been requested to present certain information to the grand jury he must do so. I will not relieve him of a duty which Congress has seen fit to impose. 18 U.S.C. § 3332(a) imposes a "plainly defined and peremptory duty" on the part of the United States Attorney to present the plaintiffs' information concerning the alleged wrongdoing of the other defendants to the grand jury.”
3. The right to petition a grand jury pre-exists codification, and we stand on this right. See **McDonald v Smith**, (472 U. S. 479, 482–484 | 1985) and **District of Columbia v. Heller**, (554 U.S. 570, 579, 592 | 2008).
4. Yet, when we examine English common law, we see this right pre-exists both the Constitution and the United States Code when, in 1689, the Bill of Rights exacted of William and Mary stated: “[I]t is the Right of the Subjects to petition the King.”
5. The **US Attorney Manual** confirms the independence of the grand jury; “The prosecutor must recognize that the grand jury is an independent body.” (USAM Chapter 9-11.010 – Introduction).
6. The Fifth Amendment “presupposes an investigative body acting independently of either prosecuting attorney or judge.” **United States v. Dionisio**, (410 U.S. 1, 16 | 1973)
7. In **Frisbie v. United States** (157 U. S. 160), it is said by Justice Brewer, “But, in this country, it...is for the grand jury to investigate any alleged crime, no matter how or by whom suggested to them, and, after determining that the evidence is sufficient to justify putting the party suspected on trial, to direct the preparation of the formal charge or indictment.”
8. “They [grand juries] are not appointed for the prosecutor or for the court; they are appointed for the government and for the people...” **Hale v. Henkel, 201 US 62**.

## Summary of Primary Concerns

All federal agencies are required to comply with all federal laws. For your convenience, relevant federal agencies and excerpts of relevant laws are included later in this exhibit.

The CDC and National Vital Statistics System (NVSS), a federal agency within the CDC, are required to comply with the Administrative Procedures Act (APA), the Paperwork Reduction Act (PRA), and the Information Quality Act (IQA). As you are aware, these three laws ensure essential oversight of our federal agencies in order to ensure accuracy in data collection, analysis, and publication.

Upon investigation, the following has been revealed:

- (1) The CDC and NVSS violated the APA, PRA, and IQA by issuing COVID-19 Alert No. 2 on March 24<sup>th</sup>, 2020. This alert significantly modified how death certificates were recorded and did so exclusively for COVID-19. This alert ensured COVID-19 was emphasized as the cause of death. This modification was made exclusively for COVID-19 fatalities which makes COVID-19 exclusively a cause of death and rarely a contributing factor to death. The 2003 CDC *Medical Examiner's and Coroner's Handbook on Death Registration and Fetal Death Reporting* states that in the presence of pre-existing conditions infectious disease is recorded as the contributing factor to death, not the cause. This modification was medically unnecessary, as existing rules for data collection and recording had been in successful use nationwide for the previous 17 years. Most egregiously, this material modification does not apply to any other infectious disease creating a double-standard exclusively for COVID-19 data collection. **As a result, COVID-19 fatality data used to shape public health policy is significantly inflated.**
  
- (2) The CDC violated the APA, PRA, and IQA by adopting the Council of State and Territorial Epidemiologists (CSTE) Interim-20-ID-01 COVID-19 Standard Surveillance position paper on April 14<sup>th</sup>, 2020. This position paper significantly increased COVID-19 case counts. As seen in Section VII.B on page 6, the CSTE paper acknowledged the need to define a methodology for ensuring multiple tests on the same person were not counted multiple times as new cases, and then declined to define one.

Additionally, Section 5 of the CSTE paper creates the option of “probable” COVID-19 cases with an extraordinarily low standard of proof for diagnosis. For example, the standard of medical diagnosis in this section allows a simple cough to be sufficient to diagnose a patient as COVID-19 positive. Even without confirmatory symptoms or lab testing, this patient can now be included in data collection such as total cases, hospitalizations, and cause of death. The adoption of the CSTE position paper creates material modifications exclusively for COVID-19 data collection that does not apply to any other infectious disease. **As a result, COVID-19 case and fatality data used to shape public health policy is significantly inflated.**

- (3) The Office of Management and Budget (OMB) is appointed to oversee data collection for all federal agencies. Should a federal agency, even in an emergency situation, desire to modify any aspect of their data collection, analysis, or publication, they must first notify the Federal Register. Notification of intent to modify any aspect of data collection, analysis, or publication in the Federal Register alerts the Office of Information and Regulatory Affairs (OIRA) within the OMB. Notification in the Federal Register also opens the mandatory 60-

day period for public comment on proposed modifications to data collection, analysis, or publication. The CDC and NVSS failed to notify the Federal Register and therefore failed to comply with federal law. **The CDC has made unilateral changes, with far-reaching consequences, to data collection and recording exclusively for COVID-19, without federal oversight, independent of peer-review, and without public comment.**

- (4) Due to the historical levels of collateral damage created, the actions of the CDC and NVSS may have violated additional laws such as 18 USC §1035 (False Statements Related to Healthcare Matters), 18 USC §1001 (False Statements), 18 USC §1040 (Fraud in Connection with Major Disaster or Emergency Benefits), 18 USC §1038 (False Information & Hoaxes), 18 USC §371 (Conspiracy to Defraud the United States), 18 USC §242 (Deprivation of Rights Under Color of Law), 18 USC §241 (Conspiracy Against Rights), 18 USC §2331 - Chapter 113B (Domestic Terrorism), 18 USC §1031 (Major Fraud Against the United States), 18 USC §3333 (Malfeasance), 18 USC §1622 (Subornation of Perjury), 18 USC §4 (Misprison of Felony). **Considering these potential violations and in reference to 18 USC §3332 (Powers and Duties), we are formally calling for a grand jury investigation into the legality of events related to COVID-19 data collection by the CDC and NVSS.**

## Relevant Federal Agencies

Research conducted points to, but is not limited to, the following federal agencies being immediately worthy of grand jury investigation regarding the potentially illegal composition and collection of COVID-19 data:

### Office of Management and Budget (OMB)

The Office of Management and Budget (OMB) is a federal agency within the Executive Branch that serves the President of the United States by assisting the President with management and regulatory objectives, among other things, and to fulfill the agency's statutory responsibilities.

### Office of Information and Regulatory Affairs (OIRA)

Within the OMB, the Office of Information and Regulatory Affairs (OIRA) is tasked with ensuring that all federal agencies are in legal compliance with the APA, PRA, and IQA.

### Department of Health and Human Services (HHS)

The Department of Health and Human Services (HHS) is a cabinet level department. The HHS is a federal agency within the Executive Branch.

### Centers for Disease Control (CDC)

The Centers for Disease Control and Prevention (CDC) is a federal agency within the HHS. The CDC is responsible for developing evidence-based public health strategies, monitoring disease statistics, and providing effective guidance for citizens and public officials in times of public health crises.

### National Center for Health Statistics (NCHS)

The National Center for Health Statistics (NCHS) is a federal agency within the CDC. The NCHS is the nation's principal health statistics agency, compiling statistical information to guide actions and policies to ensure the health of the population.

### National Vital Statics Service (NVSS)

The National Vital Statistics System (NVSS) is a federal agency within the NCHS. The NVSS is responsible for the accurate collection of data for all births, deaths, and disease processes attributed to citizens of the United States of America.

## Relevant Law

All federal agencies are required to comply with the Administrative Procedures Act, the Paperwork Reduction Act, and the Information Quality Act. Below is a brief summary of relevant law.

### Administrative Procedures Act (APA)

One of the primary objectives of the Administrative Procedures Act (APA) 5 USC §551 et seq. (1946) is to govern the process by which federal agencies develop and issue regulations. This includes requirements for publishing in the Federal Register notices of both proposed and final rulemaking, and it provides opportunities for public comment on proposed rules. Most rules have a 30-day delayed effective date. The APA also addresses other agency actions including the issuance of policy statements. (See Additional Considerations Regarding the APA on Page 12)

### Paperwork Reduction Act (PRA) and

### Creation of the Office of Information of Regulatory Affairs (OIRA)

The Paperwork Reduction Act (PRA) (44 U.S.C. §§ 3501–3521, Public Law 96-511, 94 Stat. 2812) passed on December 11, 1980 and later amended on May 22, 1995 (44 U.S.C. §§ 3501–3521, Public Law 104-13, 109 Stat. 182) gives authority over collection of certain information by Federal agencies to the Office of Management and Budget (OMB).

To facilitate this, the PRA created within the OMB a new Office of Information and Regulatory Affairs (OIRA). The OIRA is the “central authority for the review of Executive Branch regulations, approval of Government information collections, establishment of Government statistical practices, and coordination of Federal privacy policy.”

<https://www.whitehouse.gov/omb/information-regulatory-affairs/>

### Information Quality Act (IQA)

Congress passed the Information Quality Act (IQA), (i.e., the Data Quality Act) in 2000 which amended the PRA and added two additional requirements. (Section 515 of the Congressional Consolidated Appropriations Act, 2001 Public Law 106-554)

The first provision directs the OMB to issue information quality guidelines for Federal agencies to follow to ensure and maximize the quality, objectivity, utility, and integrity of information, including statistical information, disseminated by federal agencies.

The second provision sets out the requirements for those guidelines, including the requirement that affected federal agencies must establish a process for people to submit correction requests when they believe that the information quality guidelines have not been followed.

### 18 USC §1035 – False Statements Related to Healthcare Matters

“Whoever, in any matter involving a health care benefit program, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or (2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined under this title or imprisoned not more than 5 years, or both.”

<https://www.law.cornell.edu/uscode/text/18/1035>

### 18 USC §1001 (a) – False Statements

“Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.”

<https://www.law.cornell.edu/uscode/text/18/1001>

### 18 USC §1040 – Fraud in Connection with Major Disaster or Emergency Benefits

“Whoever, in a circumstance described in subsection (b) of this section, knowingly (1) falsifies, conceals, or covers up by any trick, scheme, or device any material fact; or (2) makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation, in any matter involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or an emergency declaration under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191), or in connection with any procurement of property or services related to any emergency or major disaster declaration as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, shall be fined under this title, imprisoned not more than 30 years, or both.”

<https://www.law.cornell.edu/uscode/text/18/1040>

### 18 USC §1038 – False Information and Hoaxes

“Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505(b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49, shall (A) be fined under this title or imprisoned not more than 5 years, or both; (B) if serious bodily injury results, be fined under this title or imprisoned not more than 20 years, or both; and (C) if death results, be fined under this title or imprisoned for any number of years up to life, or both.”

<https://www.law.cornell.edu/uscode/text/18/1038>

### 18 USC §371 – Conspiracy to Defraud The United States

“If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.”

<https://www.law.cornell.edu/uscode/text/18/371>

### 18 USC §242 – Deprivation of Rights Under Color of Law

“Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.”

<https://www.law.cornell.edu/uscode/text/18/242>

## 18 USC §241 – Conspiracy Against Rights

“If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured. They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.”

<https://www.law.cornell.edu/uscode/text/18/241>

## 18 USC §2331 (Chapter 113B) – Domestic Terrorism

“Definitions: As used in this chapter (5) the term “domestic terrorism” means activities that (A) involve acts dangerous to human life that are a violation of the criminal laws of the United States or of any State; (B) appear to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping;...”

<https://www.law.cornell.edu/uscode/text/18/2331>

## 18 USC §1031 – Major Fraud Against the United States

“Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent (1) to defraud the United States; or (2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises, in any grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, including through the Troubled Asset Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government’s purchase of any troubled asset as defined in the Emergency Economic Stabilization Act of 2008, or in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of such grant, contract, subcontract, subsidy, loan, guarantee, insurance, or other form of Federal assistance, or any constituent part thereof, is \$1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than \$1,000,000, or imprisoned not more than 10 years, or both.”

<https://www.law.cornell.edu/uscode/text/18/1031>

### 18 USC §3333 – Malfeasance

“A special grand jury impaneled by any district court, with the concurrence of a majority of its members, may, upon completion of its original term, or each extension thereof, submit to the court a report: (1) concerning noncriminal misconduct, malfeasance, or misfeasance in office involving organized criminal activity by an appointed public officer or employee as the basis for a recommendation of removal or disciplinary action; or (2) regarding organized crime conditions in the district. (etc.)”

<https://www.law.cornell.edu/uscode/text/18/3333>

### 18 USC §1622 – Subornation of Perjury

“Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.”

<https://www.law.cornell.edu/uscode/text/18/1622>

### 18 USC §4 – Misprision of Felony

“Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.”

<https://www.law.cornell.edu/uscode/text/18/4>

### 18 USC §3332 – Powers and Duties

“It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney’s action or recommendation.”

<https://www.law.cornell.edu/uscode/text/18/3332>

## **Additional Exhibits**

The following exhibits provide evidence corroborating what appears to be violations of relevant law.

### **COVID-19 Data Collection, Comorbidity & Federal Law: A Historical Retrospective**

This is a detailed look into the historical timeline describing how the CDC appears to have violated federal law and how these violations have adversely impacted COVID-19 data leading to public health policies that compromised the Constitutionally protected rights of all Americans. (Printed, attached, and link provided)

<https://www.publichealthpolicyjournal.com/ethics-in-science-and-technology>

### **March 24<sup>th</sup>, 2020 NVSS COVID-19 Alert No. 2 Published By the CDC**

This document significantly modified how certificate of death was recorded exclusively for COVID-19. (Printed, attached, and link provided)

<https://www.cdc.gov/nchs/data/nvss/coronavirus/Alert-2-New-ICD-code-introduced-for-COVID-19-deaths.pdf>

### **April 5<sup>th</sup> CSTE Interim-20-ID-01 Position Paper Adopted by the CDC on April 14<sup>th</sup>, 2020**

This document significantly lowered the medical standards for what constitutes a COVID-19 case and has had far-reaching consequences by inaccurately increasing case counts, hospitalizations, and fatalities. This document also neglected to define a methodology for ensuring that the same individual was not counted multiple times in data collection. The CSTE is not a federal agency. They are a non-profit organization. This paper includes authors from state health departments (page 8) and subject matter experts from the CDC (page 7). (Printed, attached, and link provided)

[https://cdn.ymaws.com/www.cste.org/resource/resmgr/2020ps/Interim-20-ID-01\\_COVID-19.pdf](https://cdn.ymaws.com/www.cste.org/resource/resmgr/2020ps/Interim-20-ID-01_COVID-19.pdf)

### **Medical Examiner's and Coroner's Handbook on Death Registration and Fetal Death Reporting**

This handbook, published by the CDC, has been in use nationwide in every state since 2003 without incident. This is the proven handbook that the CDC and NVSS elected to abandon in favor of new and untested guidelines for certificate of death recording that did not have proper legal oversight, opportunity for independent peer-review, or public comment. (Attached and link provided. Not Printed.)

[https://www.cdc.gov/nchs/data/misc/hb\\_me.pdf](https://www.cdc.gov/nchs/data/misc/hb_me.pdf)

## Physician's Handbook on Medical Certification of Death

This handbook was published by the CDC and has been in use nationwide in every state since 2003 without incident. Another proven handbook that the CDC and NVSS elected to abandon in favor of new and untested guidelines for certificate of death recording that did not have proper legal oversight, opportunity for independent peer-review, or public comment. (Attached and link provided. Not Printed.)

[https://www.cdc.gov/nchs/data/misc/hb\\_me.pdf](https://www.cdc.gov/nchs/data/misc/hb_me.pdf)

## If COVID Fatalities Were 90.2% Lower, How Would You Feel About Schools Reopening?

Data analysis compiled from every state health department concerning comorbidity, global research supporting safety of children attending in person school and participating in athletics, performance arts, and extracurricular activities. (Attached and link provided. Not Printed.)

<https://childrenshealthdefense.org/news/if-covid-fatalities-were-90-2-lower-how-would-you-feel-about-schools-reopening/>

## COVID-19...Have You Heard? There Is Good News!

Data analysis compiled from every state health department supporting many new cases and hospitalizations were the result of the CDC's test-based diagnosis strategy from June 13, 2020 to July 17, 2020. (Attached and link provided. Not Printed.)

<https://childrenshealthdefense.org/news/covid-19have-you-heard-there-is-good-news/>

## Are Children Really Recovering 99.9584% of the Time From COVID-19?

Data analysis compiled from every state health department supporting extremely high recovery rates without the use of FDA approved vaccine or treatments regardless of infection rates. (Attached and link provided. Not Printed.)

<https://childrenshealthdefense.org/news/are-children-really-recovering-99-9584-of-the-time-from-covid-19/>

## U.S. District Judge William Stickman IV Ruling In Pennsylvania

"The congregate gathering limits imposed by defendants' mitigation orders violate the right of assembly enshrined in the First Amendment; (2) that the stay-at-home and business closure components of defendants' orders violate the due process clause of the Fourteenth Amendment; and (3) that the business closure components of defendants' orders violate the Equal Protection Clause of the Fourteenth Amendment..." (Attached and link provided. Not Printed.)

<https://www.courthousenews.com/wp-content/uploads/2020/09/butler-v-wolf.pdf>

## **Additional Considerations Regarding the Administrative Procedures Act (APA)**

Did *COVID-19 Alert No. 2* and the *Guidance for Certifying Deaths Due to Coronavirus Disease 2019 (COVID-19)* create a new rule that required APA informal rulemaking procedure?

APA §551(4) defines a rule as “...any agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy...”

*COVID-19 Alert No. 2* adopted a new ICD-10 code for COVID-19 as well as the *Guidance for Certifying Deaths Due to Coronavirus Disease 2019 (COVID-19)* which changed the death certificate recording such that, **“COVID-19 should be reported on the death certificate for all decedents where the disease caused or is assumed to have caused or contributed to death... If the decedent had other chronic conditions such as COPD or asthma that may have also contributed, these conditions can be reported in Part II.”**

This is a fundamental change in policy in the way deaths are recorded on certificates. Under the guidance of the 2003 death registration handbooks, the chronic conditions mentioned in the example in the paragraph above would be reported in Part I of the death certificate and not Part II.

This change in policy should have required the APA §553 rulemaking steps to be followed.

Was APA §553 properly followed?

Under APA §553, three steps must be followed. The first step involves publishing notice of the proposed rulemaking in the Federal Register except if “the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.”

APA §553 does not specifically mention emergency rules, instead mentioning “good cause.” A pandemic does not necessarily qualify as “good cause” for immediate policy change relating to data collection for infectious disease when data collection rules for other infectious diseases already exists and is used nationwide. By declaring “good cause,” the CDC would be exempt from providing notice for public opportunity to comment but not from federal oversight for data accuracy. The CDC would be able to unilaterally make changes they determined to be necessary, even if they understood proposed changes may compromise the integrity and accuracy of COVID-19 data.

The CDC is required to provide a brief statement of notice, prior to enacting the changes that elucidates the medical and statistical rationale for “good cause.” This notice should state the rationale for the enactment of changes and why notifying the Federal Register to initiate federal oversight, independent peer-review, and public comment is impracticable, unnecessary, or contrary to the public interest. The CDC is also required to publish their rule changes in final form within the Federal Register. The CDC appears to have failed to provide this brief statement of notice or report their changes in final form to the Federal Register.