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Before the House Committee on the Judiciary
Subcommittee on the Constitution and Limited Government
Liberty, Tyranny, and Accountability: COVID-19 and the Constitution

Committee Chairman Jordan, Committee Ranking Member Nadler, Subcommittee Chairman Roy, Subcommittee Ranking Member Scanlon, and distinguished members of the House Judiciary Committee and Subcommittee on the Constitution and Limited Government, thank you for inviting me to participate in today’s hearing on Liberty, Tyranny, and Accountability: Covid-19 and the Constitution.

My name is Michele Bratcher Goodwin. I am the Linda D. and Timothy J. O’Neill Professor of Constitutional Law and Global Health Policy at the Georgetown University Law Center where I am also the Co-Faculty Director of the O’Neill Institute for National and Global Health Law. I write and teach in the areas of constitutional law and tort law, and bioethics, biotechnology, and health law. My scholarship is published in the *California Law Review*, *Cornell Law Review*, *Harvard Law Review*, *Michigan Law Review*, *NYU Law Review*, *Texas Law Review* and *Yale Law Journal*, among others and in books, including the leading casebook *Biotechnology, Bioethics, and The Law*. Over the past twenty years, I have written about urgent matters of national and global health. This work has involved detailed research of domestic laws, policies, and cases, as well as international field research. I have served on committees of the National Academies of Science and Medicine on pressing health concerns.

Today, I am here to speak at this hearing, titled: *Liberty, Tyranny, and Accountability: COVID-19 and the Constitution*. This is not a lofty academic matter, but one of great urgency.

A. *COVID-19 and The Impact on Americans*

COVID-19 is the greatest public health threat the United States has experienced in over a century. Not since the 1918 influenza pandemic has the nation experienced such a dramatic menace to its health.¹ Not unlike recent influenzas, the 1918 influenza “was caused by an H1N1 virus with genes of avian origin.”² According to the Centers for Disease Control and Prevention (CDC), the virus was first detected in the United States by military personnel in the spring of 1918 and within a year it had spread worldwide, infecting “500 million people or one-third of the world’s population . . .”³ Health officials estimated that at least fifty million people worldwide perished due to the disease, with “about 675,000 [deaths] occurring in the United States.”⁴

¹ See *1918 Pandemic (H1N1 Virus)*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/flu/pandemic-resources/1918-pandemic-h1n1.html> [<https://perma.cc/LV4Z-A984>] (Mar. 20, 2019) (“The 1918 influenza pandemic was the most severe pandemic in recent history.”).

² *Id.*

³ *Id.*

⁴ *Id.*

In their study, *Estimation of Excess Deaths Associated with the COVID-19 Pandemic in the United States, March to May 2020*, epidemiologist Daniel Weinberger and colleagues found the number of unexplained “excess all-cause deaths was 28% higher than the official tally of COVID-19-reported deaths” during the period of their study.⁵ These data points help to clarify the potential scope and scale of the coronavirus and the suffering experienced by communities most affected. In particular, given the dramatic racial disparities in COVID-19 deaths, by giving closer examination to the death toll, we are able to expose the possibility of an undercount of deaths due to the virus, and further highlight the “mortality burden”⁶ uniquely experienced by people of color.

In its early months, reporters noted that COVID-19 in the United States “by far leads all other nations in confirmed coronavirus cases.”⁷ By August 2020, epidemiologists and statisticians estimated that roughly 1,000 Americans died per day due to COVID-19.⁸ This calculates to approximately forty-two Americans dying per hour due to the pandemic. These deaths represented only the reported cases, and the cases continued to rise. By January 7, 2021, 359,849 people had died in the United States from COVID-19, and the virus was still surging throughout the country.⁹

Within barely one year, the death toll associated with COVID-19 exceeded a staggering 500,000 losses in the United States, compounded by more than 28 million confirmed cases.¹⁰ To place this suffering in context, more Americans died during the first three months of the COVID-19 pandemic (over 100,000 by June 2020)¹¹ than all the American deaths suffered during the

⁵ See, e.g., Daniel M. Weinberger, Jenny Chen, Ted Cohen, Forrest W. Crawford, Farzad Mostashari, Don Olson, Virginia E. Pitzer, Nicholas G. Reich, Marcus Russi, Lone Simonsen, Anne Watkins & Cecile Viboud, *Estimation of Excess Deaths Associated with the COVID-19 Pandemic in the United States, March to May 2020*, 180 JAMA INTERNAL MED. 1336, 1337 (2020) (investigating if more deaths occurred in the U.S. during the first months of the coronavirus than in the same months from prior years).

⁶ Mortality burden reflects the unique, disproportionate death impacts experienced by people of color.

⁷ Jason Silverstein, *Trump on 1,000 Americans a Day Dying from COVID-19: “It Is What It Is”*, CBS NEWS (Aug. 4, 2020, 7:14 PM), <https://www.cbsnews.com/news/trump-covid-19-thousands-dying-daily-is-what-is> [<https://perma.cc/XUR3-AQ3F>].

⁸ *Id.*

⁹ CDC Covid Data Tracker, CTRS. FOR DISEASE CONTROL & PREVENTION (Jan. 7, 2021), https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days [<https://perma.cc/C7U2-W3G5>].

¹⁰ This figure was updated as of February 24, 2021. *Coronavirus in the U.S.: Latest Map and Case Count*, N.Y. TIMES (Feb. 24, 2021, 8:04 PM), <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html> [<https://perma.cc/Z8BC-LNAN>].

¹¹ *Daily Updates of Totals by Week and State: Provisional Death Counts for Coronavirus Disease 2019 (COVID-19)*, NAT’L CTR. FOR HEALTH STAT., CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 23, 2020), <https://www.cdc.gov/nchs/nvss/vsrr/covid19/index.htm> [<https://perma.cc/BLK4-346B>].

Vietnam War;¹² the fatalities of the 9/11 terrorist attacks;¹³ and the wars in Iraq¹⁴ and Afghanistan,¹⁵ as well as the deaths resulting from the 2009 H1N1 pandemic,¹⁶ Ebola,¹⁷ and the Zika virus¹⁸—all combined. In the first three months, when fatalities were roughly 100,000, COVID-19 had killed more people in the United States than what Americans have witnessed in the past fifty years of war and disease combined.

In essence, COVID-19 took barely two months to surpass deaths suffered by Americans in the nineteen years of the Vietnam War. And while the Vietnam War is long over, as of this hearing, COVID-19 persists in the United States and throughout the world. While the range of deaths associated with COVID-19 may be underreported, what is clear is the severity of the disease and that many Americans suffered. As of one year ago, when Johns Hopkins stopped collecting data for its “Coronavirus Resource Center” on March 10, 2023, there were 1,123,836 U.S. deaths and 103,802,702 confirmed cases of COVID-19.¹⁹ The CDC reports that as of April 6, 2024, there have been nearly seven million hospitalizations associated with COVID-19.²⁰

¹² *America's Wars*, DEP'T OF VETERANS AFFS. (Nov. 2019), https://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf [<https://perma.cc/M59Q-T8UL>] (placing battle deaths in Vietnam at 47,434 and other deaths occurring near combat areas at 10,786).

¹³ See *Deaths in World Trade Center Terrorist Attacks—New York City, 2001*, CTRS. FOR DISEASE CONTROL & PREVENTION: MORBIDITY & MORTALITY WKLY. REP. (Sept. 11, 2002), <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm51SPa6.htm> [<https://perma.cc/H3AM-MENW>] (“As of August 16, 2002, a total of 2,726 death certificates related to the WTC attacks had been filed.”); Colin Moynihan, *9/11 Light Tribute to Take Different Shape*, N.Y. TIMES (Aug. 13, 2020), <https://www.nytimes.com/2020/08/13/arts/design/september-11-memorial-light-canceled-coronavirus.html> [<https://perma.cc/2ALK-4KBK>] (noting that there were “2,983 victims of the Sept. 11 attacks”).

¹⁴ See, e.g., *Casualty Status*, U.S. DEP'T. OF DEF. (Aug. 31, 2020, 10:00 AM), <https://www.defense.gov/casualty.pdf> [<https://perma.cc/9PHA-6XDL>] (reporting 4,431 deaths from Operation Iraqi Freedom from March 19, 2003 to August 31, 2010); see also Philip Bump, *15 Years After the Iraq War Began, the Death Toll Is Still Murky*, WASH. POST (Mar. 20, 2018, 12:44 PM), <https://www.washingtonpost.com/news/politics/wp/2018/03/20/15-years-after-it-began-the-death-toll-from-the-iraq-war-is-still-murky/> [<https://perma.cc/NGH9-CYTW>] (reporting that although death toll figures are uncertain, “nearly 5,000 . . . U.S. service members” died). These figures do not account for the loss of non-American lives, which far exceeded the deaths of American soldiers and civilians.

¹⁵ See, e.g., *Casualty Status*, *supra* note 62 (reporting 2,219 deaths from Operation Enduring Freedom from October 7, 2001 to December 31, 2014 in Afghanistan only).

¹⁶ See *2009 H1N1 Pandemic (H1N1pdm09 Virus)*, CTRS. FOR DISEASE CONTROL & PREVENTION (June 11, 2019), <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html> [<https://perma.cc/88WM-JCDK>] (reporting 12,469 deaths in the United States from the H1N1 virus from April 2009 to April 2010).

¹⁷ See *Ebola Facts*, INFECTIOUS DISEASE SOC'Y OF AM., <https://www.idsociety.org/public-health/ebola/ebola-resources/ebola-facts> [<https://perma.cc/EP67-CK6G>] ([noting that only two out of eleven people being treated for Ebola in the United States died during the 2014 to 2016 outbreak](#)).

¹⁸ The number of Zika virus cases in the United States have been relatively few. The CDC reports that in 2018 and 2019 were “no reports of Zika virus transmission by mosquitoes in the continental United States.” *Zika Virus*, CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 7, 2019), https://www.cdc.gov/zika/reporting/index.html?CDC_AA_refVal=https%3A%2F%2F [<https://perma.cc/7UKP-VTL6>].

¹⁹ Johns Hopkins University of Medicine, *Coronavirus Resource Center*, March 10, 2023, at <https://coronavirus.jhu.edu/region/united-states>. According to the CDC, the total number of deaths associated with COVID-19 is 1,188,278.

²⁰ Centers For Disease Control and Prevention, *COVID Data Tracker*, at <https://covid.cdc.gov/covid-data-tracker/#datatracker-home>.

What this staggering death toll brings to light are two interrelated matters. First, it exposes questions related to capacity, compassion and competency in American leadership—from the federal government down to local officials. The failure to heed international warnings and develop effective test kits in December 2019 and January 2020 highlights serious weaknesses in pandemic preparedness and American leadership. Hasty and imprudent political rhetoric in February and March, comparing COVID-19 to the seasonal flu, was not only inaccurate and misguided; it likely contributed to a sense of false security among Americans, who came to believe the virus was no more infectious and no greater a threat than the seasonal flu. Sadly, this view persists among some Americans, including in government.

Second, fundamental questions of constitutional law have also emerged. The coronavirus crisis brought to the forefront a national debate related to the interaction between constitutional rights, state police powers and federalism: What are the limits of government action in the midst of a pandemic? Indeed, certain basic constitutional law questions persist for some Americans: Do governors have the authority to issue executive orders to shelter-in-place or quarantine? Can the legislature prioritize some business activity as "essential" while not granting that status to others? Is it legal to impose shelter-in-place on Sundays—a day when many Americans seek to worship? The short answer is that, for nearly three centuries, quarantine has been justified and legally upheld—even before the official founding of the United States, dating back to 1738.

In an 1824 case, *Gibbons v. Ogden*, the Supreme Court specifically referenced state authority to regulate health and erect quarantine laws. Eighty years later, in a seminal decision, the Supreme Court spoke directly to state police power to protect public health in its 1905 ruling, *Jacobson v. Massachusetts*. In that case, the Court upheld an ordinance requiring compulsory vaccination of all persons fit for inoculation. The Court found the statute to be a valid exercise of local police power to protect public health and reduce the spread of smallpox—a deadly disease.

B. *The Legality of Compulsory Vaccination Laws*

There is no doubt that compulsory vaccination is constitutional. In 1905, the Supreme Court held that state compulsory vaccination laws are constitutional when they are “necessary for the public health or public safety.”²¹ The case was *Jacobson v. Massachusetts*, a case taught in first year constitutional law classes. In the years since then, the Court has affirmed the constitutionality of state compulsory vaccination laws in cases like *Zucht v. King*,²² which upheld childhood vaccination requirements for entrance to public schools. In fact, compulsory vaccination laws have existed in the United States in some form since the nineteenth century.²³

Indeed, the nation’s political founders strongly supported the widespread delivery of vaccines.²⁴ For example, Thomas Jefferson believed that vaccines could reduce the spread of smallpox and thus save lives.²⁵ However, in the early 1800s, vaccination was a resource available only to

²¹ *Jacobson v. Massachusetts*, 197 U.S. 11, 27 (1905).

²² 260 U.S. 174, 177 (1922); see also *infra* notes 96–101 and accompanying text.

²³ James G. Hodge & Lawrence O. Gostin, *School Vaccination Requirements: Historical, Social, and Legal Perspectives*, 90 Ky. L.J. 831, 849 n.126 (2001–2002).

²⁴ James G. Hodge & Lawrence O. Gostin, *School Vaccination Requirements: Historical, Social, and Legal Perspectives*, 90 Ky. L.J. 831, 838-40, 849 n.126 (2001–2002).

²⁵ *Id.*

wealthy Americans because poor communities generally lacked economic and medical resources. Public education was not always available and access to vaccinations was at times limited.²⁶ Moreover, some Americans were mistrustful of vaccinations, which exacerbated the spread of disease. In 1809, however, Massachusetts became the first state to enact a mandatory smallpox vaccination law and government support for compulsory vaccinations expanded.²⁷

By the mid-nineteenth century, compulsory education laws proliferated in the United States. However, local government officials understood the risks of unvaccinated children spreading infections among their classmates. Namely, they grew concerned that the bringing together of school-age children in public schools created a risk of a smallpox outbreak.²⁸ In 1827, Boston led the nation as the first city to require vaccination records for children entering public schools.²⁹ In the years that followed, statewide compulsory vaccination laws for school-age children spread. Starting with Massachusetts in 1855, New York in 1862, Connecticut in 1872, Indiana in 1881, Illinois, Arkansas, Virginia, and Wisconsin in 1882, California in 1888, Iowa in 1889, and Pennsylvania in 1895³⁰—states sought to protect children and thus their families and communities by requiring that those who attended public schools be vaccinated. By 1904, eleven of then forty-five U.S. states had compulsory vaccination laws.³¹

In the years since then, the number of states with such laws has grown. By 1980, all fifty states had enacted compulsory vaccination laws that cover children entering public schools for the first time.³² Fifty states required diphtheria toxoid and polio, measles, and rubella vaccines. Forty-nine states also mandated the tetanus toxoid vaccine. Forty-six states required the mumps vaccine. Forty-four states required the pertussis vaccine and twenty-eight required the hepatitis B vaccine.³³ As of 1998, all U.S. states but four—Louisiana, Michigan, South Carolina, and West Virginia—had compulsory vaccination laws covering school-age children from kindergarten to 12th grade.³⁴ These compulsory vaccination laws share two important features: (1) their proven effectiveness in preventing and even eradicating disease and (2) the exemptions to mandatory vaccination that they provide for certain individuals.

²⁶ See *id.* at 843.

²⁷ See *id.* at 849 n.126; see also Kevin M. Malone & Alan R. Hinman, *Vaccination Mandates: The Public Health Imperative and Individual Rights*, in *LAW IN PUBLIC HEALTH PRACTICE* 262, 271 (Richard Goodman et al. eds. 2003), http://www.cdc.gov/vaccines/imz-managers/guides-pubs/downloads/vacc_mandates_chptr13.pdf [<http://perma.cc/LK83-S9UE>].

²⁸ “As a court in Pennsylvania stated in 1916: ‘It is an accepted fact, that during the common school ages, children are specially susceptible to the infectious and contagious diseases mentioned in these acts, and that this hazard is greatly increased by their being brought together from our varied conditions of society. To avoid the spread of these diseases, it has been deemed necessary by the legislature to enforce rigid quarantine and preventive measures, even to the isolation of persons, and exclusion of pupils from infected districts.’” Alfred J. Sciarrino, *The Grapes of Wrath, Part II*, 8 MICH. ST. J. MED. & LAW 1, 17 (quoting *Commonwealth v. Gillen*, 65 Pa. Super. 31, 38 (1916)); see also Hodge & Gostin, *supra* note 32, at 850.

²⁹ See Hodge & Gostin, *supra* note 32, at 851.

³⁰ See *id.*

³¹ Kristine M. Severyn, *Jacobson v. Massachusetts: Impact on Informed Consent and Vaccine Policy*, 5 J. PHARMACY & LAW 249, 250 (1996).

³² Malone & Hinman, *supra* note 36, at 270.

³³ *Id.*

³⁴ *Id.*

Nevertheless, within each state's compulsory vaccination laws, legislators crafted exemptions for unique circumstances and certain individuals for different purposes.³⁵ For example, medical exemptions are provided in each state for individuals with contraindicating medical conditions that increase their risk of adverse effect to a certain vaccine or even multiple vaccines.³⁶ Some states—like Connecticut, Montana, and West Virginia—expressly distinguish between whether an exemption is temporary or permanent,³⁷ while other states—like Georgia, Kansas and New Mexico—require re-certification³⁸ of medical exemptions at different intervals. Though each state's medical exemption language differs, all states provide such an exemption.³⁹

Yet, in the current politicized climate of vaccination, it is important to restate why inoculation is important and constitutional. Many studies demonstrate the importance and value of vaccinations both in terms of preventing death and avoiding needless suffering.⁴⁰ An article in the peer-reviewed journal *Pediatrics* concluded that routine childhood immunization will prevent approximately 42,000 early deaths and twenty million cases of disease for those born in the year 2009.⁴¹ Such predictions are consistent with the CDC's reports and findings, which estimated that, between 1994 and 2014, 732,000 American children were saved from death and 322 million cases of childhood illnesses were prevented due to vaccination.⁴² Moreover, the American Academy of Pediatrics states that "[m]ost childhood vaccines are 90% to 99% effective in preventing disease."⁴³

To the point, the Supreme Court has twice considered constitutional challenges to state laws requiring compulsory vaccination and, in both instances, rejected the challenges and upheld the laws. Most famously, in *Jacobson v. Massachusetts*, the Court upheld a Massachusetts law that required compulsory smallpox vaccinations for adults.⁴⁴ This case took place during the time when smallpox was a very real and immediate threat to the population of Massachusetts.

The Court held that laws promoting public health or safety fall under a state's police power and are under the sole discretion of the state unless the law violates the Constitution.⁴⁵ Moreover, individual rights may need to yield to the state's police power in order to preserve the public

³⁵ CENTERS FOR DISEASE CONTROL AND PREVENTION'S PUBLIC HEALTH LAW PROGRAM (PHLP): STATE SCHOOL IMMUNIZATION REQUIREMENTS AND VACCINE EXEMPTION LAWS (hereinafter SCHOOL VACCINATIONS)(2015), <http://www.cdc.gov/phlp/docs/school-vaccinations.pdf>.

³⁶ See Malone & Hinman, *supra* note 36, at 273; see also SCHOOL VACCINATIONS at Appendix 1.

³⁷ Twenty states distinguish between temporary or permanent according to the graph. See SCHOOL VACCINATIONS at 2.

³⁸ Nine states, require re-certification according to the graph. See *Id.* at 2.

³⁹ See Malone & Hinman, *supra* note 36, at 273.

⁴⁰ Vaccinations are now available for the following diseases: Haemophilus influenzae type b (Hib); Diphtheria; Hepatitis A; Hepatitis B; Influenza; Measles; Mumps; Pertussis (whooping cough); Pneumococcal disease; Polio; Rubella (German measles); Tetanus (lockjaw); Rotavirus; and Varicella (chickenpox). *Vaccines for Children - A Guide for Parents and Caregivers*, U.S. FOOD & DRUG ADMIN, <http://www.fda.gov/BiologicsBloodVaccines/ResourcesforYou/Consumers/ucm345587.htm>.

⁴¹ Fangjun Zhou, et al., *Economic Evaluation of the Routine Childhood Immunization Program in the United States, 2009*, *Pediatrics* (2014) <http://pediatrics.aappublications.org/content/early/2014/02/25/peds.2013-0698>

⁴² Bahar Gholipour, "Vaccination Has Saved 732,000 Children's Lives Since 1994, Says Report," www.huffingtonpost.com, Apr. 25, 2014

⁴³ American Academy of Pediatrics, "Vaccine Safety: The Facts," www.aap.org, 2008

⁴⁴ 197 U.S. 11, 27 (1905).

⁴⁵ *Id.* at 25.

health or safety. According to the Court, “There are manifold restraints to which every person is necessarily subjected for the common good.”⁴⁶ The Court then found that the Massachusetts legislature and the Board of Health had the discretion to enact compulsory vaccination when such vaccination is necessary for the public health or safety.⁴⁷ The Court explained that smallpox was prevalent and increasing in Cambridge, Massachusetts, and, therefore, compulsory vaccination appeared a necessity to protect the public health and safety.⁴⁸ Because the law was enacted to combat smallpox, the means prescribed by Massachusetts did have a “real and substantial relation to the protection of the public health and the public safety.”⁴⁹

The Court also held that skepticisms about the efficacy of vaccinations against diseases among the public or some physicians does not mean that a state legislature cannot enact a compulsory vaccination law.⁵⁰ The Court found that the common belief among physicians and the public was that vaccinations do prevent the spread of disease and this common belief was enough to justify the legislature’s actions.

In an equally important, though less well known decision, *Zucht v. King*, the Court held that a city can impose compulsory vaccination for all children in school, even if there is no immediate threat of an epidemic like there was in *Jacobson*.⁵¹ In that case, San Antonio, Texas ordinances required that “no child or any other person shall attend a public school or other place of education without having first presented a certificate of vaccination.”⁵² Under these ordinances, “public officials excluded Rosalyn Zucht from a public school because she did not have the required certification and refused to submit to vaccination.”⁵³ Public officials also excluded her from private school.

Rosalyn’s parents then brought a suit against the officials in state court. Rosalyn claimed that “there was then no occasion for requiring vaccination; that the ordinances deprive plaintiff of her liberty without due process of law by, in effect, making vaccination compulsory; and, also, that they are void because they leave to the Board of Health discretion to determine when and under what circumstances the requirement shall be enforced without providing any rule by which that board is to be guided in its action and without providing any safeguards against partiality and oppression.”⁵⁴

The Supreme Court rejected these arguments and held that “the municipality may vest in its officials broad discretion in matters affecting the application and enforcement of a health law.”⁵⁵ The Court declared: “[T]hese ordinances confer not arbitrary power, but only that broad

⁴⁶ *Id.* at 26.

⁴⁷ *Id.* at 27.

⁴⁸ *Id.* at 28.

⁴⁹ *Id.* at 31.

⁵⁰ *Id.* at 35.

⁵¹ 260 U.S. 174 (1922).

⁵² *Id.* at 175.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

discretion required for the protection of the public health.”⁵⁶ Therefore, the Court held that a state can constitutionally impose a compulsory vaccination requirement for school children.

Finally, state courts have reached similar conclusions, including in *Wright v. De Witt School Dist.*, the Arkansas Supreme Court held that it is within the state’s police power to require school children to be vaccinated and that such a requirement does not “violate the constitutional rights of anyone, on religious grounds or otherwise.”⁵⁷ In *Brown v. Stone*, the Mississippi Supreme Court held that a religious exemption in the Mississippi state compulsory vaccination law for school children was unconstitutional because it only allowed exemption for members of recognized denominations to obtain exemption.⁵⁸ The court concluded that because a state compulsory vaccination law could stand on its own without a religious exemption, the law was constitutionally valid without the exemption.

C. Conclusion

COVID-19 has been devastating in the United States and throughout the world. It has contributed to death and permanent illness for far too many. Even as the pandemic has subsided, Americans should be prepared for future outbreaks of similar nature. For government, this also means being prepared, protecting the public health and shielding the most vulnerable. As a constitutional matter, the law is clear, dating back more than a century, that states may enact policies that protect the public health from the spread of disease, including compulsory vaccination laws.

⁵⁶ *Id.*

⁵⁷ 385 S.W.2d 644 (Ark. 1965). *See also Cude v. State*, 237 Ark. 927, 932, 377 S.W.2d 816, 819 (Ark. 1964) (“According to the great weight of authority, it is within the police power of the State to require that school children be vaccinated against smallpox, and that such requirement does not violate the constitutional rights of anyone, on religious grounds or otherwise.”).

⁵⁸ 378 So. 2d 218, 223 (Miss. 1979).