



March 25, 2020

Peter N. Goettler
President and CEO

Dear Mr. President and Mr. Vice President:

The COVID-19 pandemic presents the United States and the world with a challenge it has not seen in generations. Advances in public health and medicine have given many in the developed world a sense that we are invulnerable. Of course, we are not.

We at the Cato Institute have friends and family who have tested positive for SARS-CoV-2. We have loved ones among the most vulnerable. Our hearts go out to all patients and their families around the globe who are suffering pain and loss due to this disease. We appreciate the inspiring dedication of our health care professionals.

Policymakers must approach this pandemic head on, with calm and humility. Calm, because a virus is not the only contagion we face. Panic is its own contagion, one that impairs judgment. Humility, because even when policymakers do not act out of panic, their best laid plans often go awry. To cite one salient example, a law to protect consumers from low-quality diagnostic tests created a shortage of tests that allowed COVID-19 to spread unchecked across the United States for two months.

In that vein, policymakers must first discard laws that are preventing health professionals from responding to the COVID-19 pandemic.

Containing the pandemic first requires gathering information about its prevalence. Such efforts cannot occur under the current policy-induced shortage of tests. We urge Congress to enact legislation affirming the right of laboratories, health systems, and individual consumers to purchase diagnostic tests that have been available in other countries since January.

Policymakers must next remove obstacles that are preventing health professionals from caring for the sick. We urge state officials to enact legislation eliminating regulations such as clinician licensing rules, "certificate of need" laws, and restrictions on telemedicine that prevent medical resources from getting to the patients who need them. We applaud state officials who have already done so. We urge Congress to use its constitutional power to eliminate regulatory restrictions on interstate telemedicine.

Containment efforts present federal, state, and local officials with difficult tradeoffs. Government-imposed controls are not the only source of containment; they merely add to the impact of steps that individuals and private businesses have already taken to protect themselves, their employees, and their customers.

Humility counsels policymakers not to assume in every case that they can better assess the benefits and costs of shutdowns or lockdowns than private citizens, nor that federal policymakers can do so better than states or localities. On the contrary, policy elites with significant savings, who can do their jobs from home without fear of lost income, may suffer from blind spots that accompany such privilege. To ensure containment efforts are proportionate and do minimal damage to the American people, policymakers must base them on solid epidemiological information and commit to lifting them upon reaching pre-specified targets.

Efforts to provide financial assistance to those who lose jobs or income should work within existing aid programs, rather than creating new ones, and should target assistance to the most vulnerable individuals. Economic stimulus should come in the form of removing regulatory barriers to economic activity, not deficit-financed bailouts.

Under no circumstances should policymakers use this challenge as an excuse to set aside the Constitution, to weaken the rule of law, or to suspend Americans' civil liberties.

With the need for urgency, calm, and humility in mind, we offer the following principles to help policymakers meet this challenge in a manner that saves human lives and preserves human dignity.

We at the Cato Institute face this challenge with both trepidation and a firm belief in the creative capacities of human beings. We urge policymakers in the United States and around the world not to let fear and hubris lead them to prescribe cures that are worse than the disease.

Sincerely,

A handwritten signature in blue ink, appearing to read "Peter", with a stylized flourish at the end.

Peter Goettler

COVID-19 Response: Critical Guidelines for Policymakers

Federal and state lawmakers must continue to respond urgently to battle the spread of COVID-19 and remove obstacles that impede our ability to care for the sick. As policymakers continue to fight the disease and aid people hit by the economic downturn, they must also recognize the crucial role of the private sector, respect civil liberties and the rule of law, and avoid creating more human suffering and unnecessary damage to our economy.

- **Health Care:** Policymakers have made progress removing regulatory and bureaucratic barriers to health care providers and virus testing that slowed the initial response to the crisis. These efforts must continue, while recognizing that the diverse contributions of many across the nation's vast medical and scientific industries are crucial in battling the crisis.
- **Individual Relief:** Government should direct any individual aid to those most affected by, and most vulnerable to, the economic dislocation. Policymakers should rely on existing mechanisms, such as unemployment insurance, not new programs.
- **Business Relief:** Any government aid to businesses should be in the form of emergency loans to restore liquidity, not equity stakes or shareholder bailouts. Assistance should be broadly available, not tilted toward specific industries with powerful lobbies.
- **Economic Stimulus:** Federal spending to stimulate demand will have little benefit in the face of wholesale shutdowns and supply shocks. Instead, government should focus on eliminating trade and regulatory barriers and allowing flexible private-sector responses.
- **Rule of Law:** Notwithstanding the need for an urgent response, we must safeguard the rule of law. Although federal and state officials can claim special powers in emergencies, that is not a blank check to expand their authority. The Constitution must not be suspended even during emergencies. Extraordinary measures must end with the passing of the crisis, and sunset clauses included in all emergency legislation.
- **Shutdowns:** Blanket mandates to shut businesses are compounding the economic costs and harming the most vulnerable workers. Separating essential from nonessential business activities is problematic because industries are interrelated and many businesses fill unique roles unknown to central authorities. Government should allow businesses that can operate safely to do so. Actions in recent weeks show that American businesses are adopting new safety protocols and rising to the new challenges.
- **Civil Liberties:** We must not permit a public health crisis to be used as an excuse to suspend civil liberties that are constitutionally protected. For example, government must not detain Americans indefinitely without trial or use technology for illegal tracking and surveillance.
- **Federalism:** Under our constitutional system, states are the front lines of disaster response. While the federal government has unique capabilities available in emergencies, decentralized initiative is key to America's unique resilience.
- **Preparedness:** The federal government has pursued unsustainable budget policies for years, while undermining personal savings. As a result, our ability to face true crises like the current pandemic is weakened. As the nation recovers, we must address our rising government debt and escalating spending.