



COVID-19 politics get heated in Jordan-Fauci clash over public health vs. freedoms

Leandra Bernstein

April 16th 2021

The political debate over civil liberties and the public health response to COVID-19 boiled over Thursday in a heated exchange between the country's top infectious diseases expert and Ohio Republican Rep. Jim Jordan.

Jordan pressed Dr. Anthony Fauci for more than ten minutes over two rounds of questioning at a House subcommittee hearing on the federal government's response to the pandemic. Each time he demanded to know when Americans would "get their freedoms back" after more than a year of COVID-19 health mitigations measures.

"We had 15 days to slow the spread turn into one year of lost liberty," Jordan argued. "What metrics, what measures, what has to happen before Americans get more freedoms?"

Fauci, who recommended in written testimony, that now wasn't the time to be pulling back on measures like masking and social distancing, said he did not view it as "a liberty thing" but a matter of public health.

"Right now, we have about 60,000 infections a day which is a very large risk for resurge. We're not talking about liberties. We're talking about a pandemic that has killed 560,000 Americans. That's what we're talking about," Fauci responded.

More than two hours into the hearing, Jordan returned to the same line of questions, demanding a "specific measurement that will have to be attained...so that Americans know they're going to get their liberties back and be able to move on with their lives."

This time, Fauci ventured an estimate, saying the number of new daily infections would have to be "well below 10,000 per day" and the "vast majority of Americans" would have to be vaccinated. "At that point and up to that point, there would be a gradual pulling back of some of the restrictions you're talking about," he said.

Jordan continued pushing, demanding a time frame and testing Fauci's patience. "You're ranting again," he told the congressman.

"You can say I'm ranting," Jordan fired back. "My name goes on the ballot and the citizens I represent want to know the answer to when they can get their liberties back."

Finally, Fauci estimated that the vast majority of Americans could be vaccinated sometime in the beginning to middle of the summer. "The reason I can't give you a precise number is because I'm not 100% sure how many people will want to be vaccinated," he said.

It was yet another testy, sometimes personal back-and-forth between the GOP firebrand and the doctor who has become the face of the public response. Partisan tempers flared further when Jordan exceeded his time to question Fauci and Democratic Rep. Maxine Waters of California interjected, telling the Ohio rep, "Shut your mouth."

But the political gesturing overshadowed how many Americans want to know when life will return to normal. People who have had their lives upended are understandably weighing the health risks associated with COVID-19 against continued personal and economic sacrifices.

"I don't think it's helpful to deny that such a trade-off exists," said Julian Sanchez, a senior fellow at the Cato Institute. "We do need to ask questions about balance. It doesn't mean that the restrictions are always unjustified but it's worrying when the response is not about balancing but in some sense denying that there's a serious question."

There have been a number of mitigation measures that were ruled unconstitutional during the pandemic. On two separate occasions, the U.S. Supreme Court struck down state mandates banning indoor church services. The Wisconsin Supreme Court struck down the state's mask mandate and ruled this week that the governor did not have the authority to issue capacity limits on businesses.

In many other cases, courts have deferred to public health authorities and upheld mask mandates and business restrictions against legal challenges, mostly on the arguments that the controls were necessary to protect citizens' safety.

However, Rep. Jordan pushed further, saying the freedom of the press was curbed when the Biden administration cited COVID-19 in refusing to allow reporters into crowded migrant holding facilities at the southern border. He decried censorship by YouTube, a private company, for removing a panel discussion hosted by Florida Gov. Ron DeSantis, where doctors challenged the efficacy of masks.

"Do you think the Constitution is suspended during a virus during a pandemic?" Jordan asked Fauci.

Jordan's questions were not out of line, explained Joseph Hoelscher, an attorney and a director of the Texas Criminal Defense Lawyers Association, "but his questions were based on a flawed premise, that liberty and public health are necessarily incompatible."

In cases of public health, an individual's constitutional right to life must be considered. "Indeed, had Americans voluntarily complied instead of resisting as some political statement, more coercive policies probably wouldn't have needed nor gained traction. Our outcomes would be very different," Hoelscher added.

In many cases, American restrictions have been mild compared to other advanced democracies.

The United Kingdom banned protests and mass gatherings for more than two months, finally lifting the ban late last month amid growing public concern. Australia confined residents to their homes for more than three months and harshly penalized protests in one of the strictest

lockdowns early in the pandemic. South Korea used surveillance technology to track and trace people's movements, activities and potential contact with infected persons.

In a large-scale study of citizens in 15 countries, researchers with VoxEU and the Centre for Economic Policy Research found Americans were among the least likely to willingly sacrifice individual rights, privacy protections, the free press and democratic processes for improved public health outcomes during the pandemic.

Couching the debate of COVID-19 restrictions in the highly political terms of lost freedoms has been a compelling argument for many conservatives, but some worry the argument could also fuel groups whose opposition to public health measures could further prolong the pandemic.

David Broniatowski, a George Washington University systems engineering professor, led a group of researchers in a study on how anti-vaccine groups in recent years have increasingly rallied around the idea that shots are a violation of civil liberties. He noted that while Rep. Jordan's comments weren't anti-vaccine on their face, they resonate with a group that has used similar arguments to undermine public health.

"When we see the kinds of frustration being expressed in these conversations with Fauci in Congress, we certainly expect vaccine opponents will take advantage of that momentum to use those same frustrations not to vaccinate," Broniatowski noted.

That could further jeopardize the goal of reaching herd immunity and ending the restrictions that are taxing individual freedoms. "To the extent language promoting civil liberties encourages people not to comply with public health recommendations, they're exposing themselves to risk and they're exposing others to risk," he said. "That might make the pandemic last longer and if it lasts longer the restrictions last longer."

With more than 80 million Americans now fully vaccinated, polls show that Republicans are the most resistant to taking the vaccine. Two polls released this week found that roughly 45% of Republicans said they did not plan on getting the shot. Overall, up to 27% of respondents said they would not be vaccinated.

At a certain point in Thursday's hearing, Chairman Jim Clyburn, D-S.C., took an apparent dig at GOP vaccine hesitancy, telling Jordan that liberties would be restored "when 90% of members of Congress get vaccinated."

Republican leaders have argued that Congress should return to regular order, ending remote voting and virtual hearings, because 75% have gotten the vaccine. The overwhelming majority of members who have admitted publicly to not getting a COVID-19 shot are Republicans.