

CONGRESS

GOP senators vote to hold Anthony Fauci in contempt of Congress for invoking the Fifth during tense hearing

Fauci declined to answer senators' questions more than 100 times during last week's hearing, angering Republican lawmakers who have targeted him for years.

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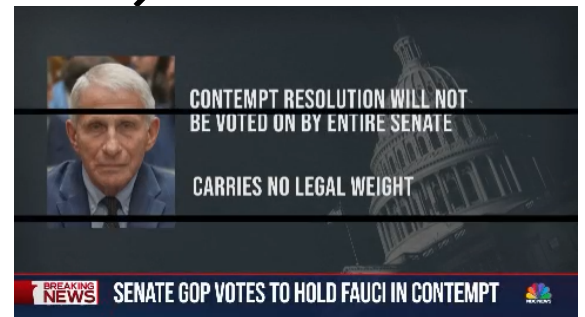


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By Megan Brand

Senate Republicans voted to hold Dr. Anthony Fauci in contempt for not answering lawmakers' questions during a [fiery hearing last week](#).



Fauci, who has been a target of the right since he served as a top health official during the Covid pandemic, repeatedly invoked the Fifth Amendment right during the hearing, explaining in his opening remarks that he believed Republicans would try to use his testimony to prosecute him.

Now, Republicans on the Senate Homeland Security and Governmental Affairs Committee have pushed to do just that with the 8-5, party-line vote.

“We are voting on whether a witness who has received the benefit of a sweeping federal pardon can be ordered by this committee to answer questions and then defy that order without consequence,” committee Chairman Rand Paul, R-Ky., said in his opening statement at the meeting. Paul was referring to a pardon that then-President Joe Biden gave to Fauci and several others just prior to leaving office, which Biden said was to protect them from potential politically motivated prosecutions.

The committee can refer the contempt of Congress resolution directly to the Justice Department or request that Senate Majority Leader John Thune, R-S.D., hold a full Senate vote. Paul said Wednesday that the “first thing we will do” if the resolution was approved would be to refer the matter to the Justice Department.

Paul said after the vote that the committee would hand-deliver the referral to the Justice Department.

“We will hand-deliver it today to the attorney general, and we will hand-deliver it today to the District of Columbia, to the U.S. attorney there,” Paul told reporters.

A Justice Department spokesperson later said that they received the referral “and will work with the Senate accordingly.”



— Dr. Anthony Fauci testifies at a Senate committee hearing July 29.

Alex Wroblewski / AFP via Getty Images

If Paul did ask the full Senate to vote on the resolution, it probably would not have enough support to clear the 60-vote threshold that would be needed for the measure to pass in the narrowly divided chamber.

If Jeanine Pirro, the U.S. attorney for the District of Columbia, chooses to try to prosecute the case, her office would need to [secure an indictment](#) from a grand jury in the district, where she [has](#) a [mixed](#) track [record](#).

In a statement, Fauci's lawyer called the vote "a crude politic Fauci for exercising his constitutional rights."

"Today's resolution is a continuation of Senator Paul's person spent 50 years in public health and has saved countless lives, "It is shameful and wrong that Senator Paul is abusing his position of the Justice Department against an honorable public servant."

Sen. Gary Peters, D-Mich., said in his opening remarks at the meeting that the committee vote would create a “damaging precedent” that would cause future congressional witnesses to resist providing testimony.

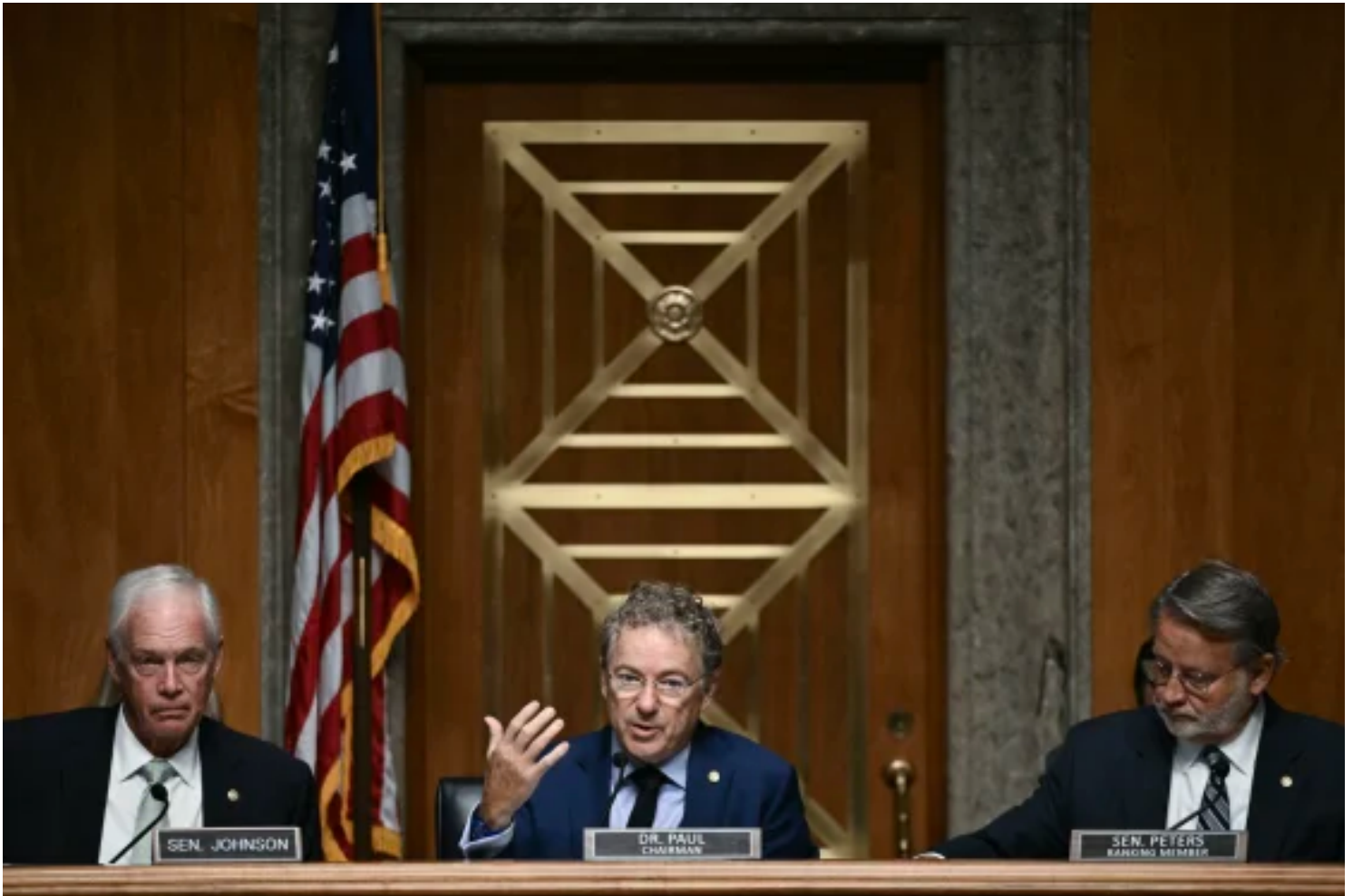
“If this committee now seeks to punish a witness for asserting their constitutional protected Fifth Amendment rights, future witnesses will argue that appearing before Congress exposes them to punishment, regardless of whether they comply with the subpoena and invoke a constitutional protection,” said Peters, the top Democrat on the committee.

“They will point directly to this vote, this vote, as a justification for refusing to appear at all,” Peters said.

As the meeting progressed, Democrats called for votes to table the contempt resolution five times – a push that was rejected along party lines.

Paul has argued that Fauci, the former head of the National Institute of Allergy and Infectious Diseases, could not invoke the Fifth Amendment right because of his pre-emptive pardon from Biden.

“I ordered him to answer and warned him about contempt, yet he still refused,” Paul said in a statement Tuesday. “That is obstruction of a congressional investigation. The Committee will act accordingly.”



— Sen. Rand Paul, R-Ky., is flanked Thursday by Sens. Ron Johnson, R-Wis., left, and Gary Peters, R-Mich.
Brendan Smialowski / AFP via Getty Images

Sen. Ron Johnson, R-Wis., said in remarks before the committee vote that his investigation of Fauci has “just begun.” Johnson’s office announced Wednesday that the subcommittee he leads has obtained a copy of Fauci’s iPhone. Fauci used the phone when serving in the Department of Health and Human Services during the pandemic.

“We’ve invited Dr. Fauci for a transcribed interview,” Johnson said. “OK, he doesn’t want to do it in front of the American public. Come in front of our committee. You say you have nothing to hide. Good. We’ll do it behind closed doors. We’ll transcribe we’ll be conducting.”

Republicans also argued in pressing for the contempt resolution that Fauci invoked his Fifth Amendment right by delivering “his opening testimony without answering the questions under inquiry.”

Abbe Smith, a Georgetown Law professor, said Republicans' claims about Fauci's inability to invoke the Fifth did not seem correct.

"There would have to be some sort of legal understanding about the nature of the pardon and whether it is limitless, and those pre-emptive pardons, those are unique," she said. "I'm not sure anybody knows how much protection they provide."

Smith said she, too, would have advised Fauci to assert the Fifth had she been his defense counsel.

Smith said Republicans' argument that Fauci's opening statement meant he waived his Fifth Amendment right was "a little more interesting, but ultimately specious in my view," because Fauci used his opening statement to point to his public service, belief in accountability and previous congressional testimony while explaining that "this is a bridge too far."

"I don't think that sort of an opening statement is a waiver," she said. "It's not like he was answering specific allegations and then shutting down questioning."

Thursday's vote is the latest salvo in Republicans' campaign against Fauci, which has been building for years in the wake of anti-lockdown sentiment and fierce debate over the [origins of the virus](#). Paul has targeted Fauci for years, clashing with the doctor in previous congressional hearings and repeatedly accusing him of lying, which Fauci has denied.

On Tuesday, Paul accused Fauci of committing felonies, alleging again that the doctor lied to Congress and destroyed records. Asked in an interview on MS NOW whether he believes Fauci should go to prison, Paul said it was "a good question."

"Did he lie to Congress?" Paul asked. "I think he did lie to Congress, and I think to be fair, that people who lie to Congress should be charged with a felony, and if convicted, go to jail. There's also the question of destroying records. That's also a felony crime. So I think both destroying records and lying to Congress are serious crimes."

Fauci and his lawyers have rejected Paul's repeated claims. In Fauci's lawyer, said that Paul's "public crusade against Dr. Fauci is an obsessive vendetta."

During last week's hearing, Republicans repeatedly attacked Fauci's handling of the pandemic. Democrats defended Fauci and criticized the Republican expedition.

“Given Sen. Paul’s obvious obsession with calling for my prosecution, his repeated slanderous comments about me, and recently his publicly releasing my unredacted personal diary aimed at embarrassing and intimidating me, the only conclusion I can reach is that the sole reason he is calling me before this committee is to get me to say something, anything, that could vindicate his repeated public pledges that I end up, in his words, quote, ‘behind bars,’ unquote,” Fauci said.



Megan Brand

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