
Steve Leimberg's Estate Planning Email Newsletter - Archive Message #2808

Date: 17-Jul-20
From: Steve Leimberg's Estate Planning Newsletter
Subject: [Keith Schiller: COVID-19 Protection Via the Use of Masks Historically Compared](#)

Yes. I know you click on the [LISI](#) link to find fast, frank, incisive analysis of the latest and most important cases, rulings, and legislation from the brightest minds in the profession. Probably the last thing you expect is a commentary on face masks.

But if our country is to reopen safely, if our businesses and practices are to avoid financial disaster, and our lives are to regain some semblance of stability and safety and normality, we each have a responsibility to act altruistically. The very least we can and should do is one small thing that makes a huge and positive difference to others. Saving another person's life is no small thing! (An ancient scholar said that "If you save a life, you save the world.")

Keith Schiller^[1] provides us with a well-reasoned and persuasive commentary. I strongly recommend you read this!

[LISI](#) members are granted full permission to freely share Keith's most important message.

Steve Leimberg

Publisher - Leimberg Information Services, Inc. (LISI)

Here's Keith Schiller's Most Important Message:

As a lover of history and facts (look at the facts, because they look at you^[iii]), I analyzed the use of masks in combating the deadly and injurious effects of COVID-19 in the context of war, seat belt law and other diseases. For some, having COVID-19 will have little impact, others will become ill with growing evidence of potential long-term effects though not death, many will die. As in war, there are the living casualties and the dead. The loved ones and friends of the decedents mourn their loss.

I am writing this newsletter on July 11, 2020, when COVID-19 deaths surpassed 136,000^[iii] since early February, 2020.^[iv] >From this framework, I present the following with source material indicated:

1. If 95% of the population wore a mask when in public, COVID-19 deaths would be reduced by an estimated 33,000 lives between June 26, 2020 and October 1, 2020.^[v]

Note: The Centers for Disease Control and Prevention (CDC) advises that cloth face coverings should NOT be worn by children under the age of 2 or anyone who has trouble breathing, is unconscious, incapacitated, or otherwise unable to remove the mask without assistance. This article is not directed to individuals within this narrow exception group.

2. In 2018, 33,654 deaths arose in the United States relating to accidents while driving.^[vi]
3. According to the National Highway Traffic Institute Safety Administration (NHTISA) (a federal agency under the Department of Transportation), seat belts were estimated to have saved approximately 15,000 lives in the year 2016.^[vii] The NHTISA web site also includes the following statement regarding highway safety in relationship to seat belts for 2017:

Of the 37,133 people killed in motor vehicle crashes in 2017, 47% were not wearing seat belts. In 2017 alone, seat belts saved an estimated 14,955 lives

and could have saved an additional 2,549 people if they had been wearing seat belts.^[viii]

My Comment: Seat belts save lives. Seat belt laws have been opposed by privacy advocates. With the exception of New Hampshire, all states have laws requiring the use of seat belts in to order reduce traffic fatalities.^[ix] Seat belt laws are not consistent throughout the United States, as some states require front and back seat use, others only front seat use, while some consider non-use to be a traffic citation as a secondary violation when another traffic or legal violation exists. Thus, states vary the degree of enforcement of seat belt law protections imposed and enforcement against the freedom of choice in different ways. Primary enforcement laws are not a blue state versus red state phenomenon. All of the Southern States, Texas, Michigan, Illinois, New York and the three West Coast states plus Alaska and Hawaii among others impose primary enforcement laws.

The non-use of seat belts adds risk primarily to the occupants of the car. The driver and adult fellow travelers who choose to eschew the use of seat belts bear the direct consequence of their own choice. If they exercise their freedom of choice to their death, they pay the price.^[x] Loved ones suffer a loss as well. This collateral damage is inherent in the tradeoff between freedom of choice against the rare though horrific impact in serious injury or death to the adults who forego seat belt use. Similarly, the adult occupants in a car in which any rider is not using a seat belt accept the added risk that unrestrained bodies thrown about or out of the vehicle might harm them as well.^[xi]

Non-users of seat belts in their pursuit of freedom create risk of death or injury for themselves.

Non-users of face masks in their pursuit of freedom when not socially distanced create risks of loss of income, severe illness or death for innocent third parties.

In contrast with COVID-19, the non-user of face masks inflicts risk to third parties... the individuals upon whom the non-user spreads the disease. These third parties may include other family members, the public, health care workers, elderly or at-risk relatives, and other innocents. They bear the pain, worsening health or death caused by the decision of the “freedom fighter” to forgo the use of face masks. The CDC website states:

Cloth face coverings are recommended as a simple barrier to help prevent respiratory droplets from traveling into the air and onto other people when the person wearing the cloth face covering coughs, sneezes, talks, or raises their voice.^[xiii]

State-imposed seat belt laws restrict freedom of individuals in order to protect primarily that same individual from serious injury or death. The reduction of freedom to choose arises from the law’s desire to protect the driver and occupants from themselves.

On the other hand, state and federally-imposed traffic speeding laws restrict freedom of individuals in order to protect for the most part innocent third parties and property from the dangerous choices made by the driver. Traffic laws also enable the economy and society to flow with less random damage or death.

Face mask use serves an equivalent goal of saving innocent lives, protecting the public, the economy and restoration of normal life as soon as possible.

The spread of COVID-19, made worse by the non-use of face masks when social distancing does not exist, imposes substantial financial hardship on society:

- (1) The accelerated spread of COVID-19 forces states to freeze further opening of the economy, discouraging people from venturing out and re-imposing greater restrictions.^[xiii]

- (2) COVID-19 has imposed tremendous strain and expense on the healthcare system in the United States. Treatment is not free. The patient, hospitals, state and local government, the Federal Government and health insurance systems are paying hundreds of billions of dollars to treat avoidable COVID-19 cases. [\[xiv\]](#)
- (3) Federal, state and local treasuries become depleted as a result of direct costs to fight the pandemic and loss of tax revenues from reduced incomes and a shrinking economy.
- (4) People lose jobs.
- (5) Businesses close or go bankrupt.
- (6) Hospitals become over-crowded discouraging the public from undergoing medical procedures and testing unrelated to COVID-19.
- (7) The United States looks pathetic in the eyes of the world. [\[xv\]](#) We are an advanced nation that has been the epicenter of the greatest number of COVID-19 cases and deaths -- this disease that has endured in the United States far longer than in other developed nations. [\[xvi\]](#)

COVID COMPARED TO AMERICA AT WAR

The United States has brought non-shooting wars to defeat important threats to our health and safety. Among these have been the War on Cancer, [\[xvii\]](#) War on Drugs, War on Crime, and War on Poverty among others. Some of these non-shooting wars have succeeded, others have not.

How do 136,000+ deaths in the United States from COVID-19 compare to American deaths during shooting wars? In making this comparison, I am not minimizing the bravery of those who gave

military service, the tremendous loss and sacrifice of those serving, or the horrific costs in body and spirit from those dead or wounded. Rather, these comparisons present scope of loss and the commitment of the United States to provide the best protection for the military. Is that same or anywhere near that same level of protection being required by the Federal or state governments in the battle faced by Americans at the front against COVID-19? Do the deaths from COVID-19 matter? Do the financial losses matter?

In comparing the COVID-19 deaths over the approximate 5.5 months (February to mid July, 2020) against American deaths and casualties in war:

- From the time of the American Revolutionary War through the current war in Afghanistan, American war deaths total 1,354,664.^[xviii] This total includes both deaths in combat and other war-related deaths of Americans during these wars.^[xix] COVID-19 deaths now exceed ten percent (10%) of total war deaths.
- Current COVID-19 deaths (136,000+) exceed aggregate American deaths from the Vietnam War, Korean War, Revolutionary War, plus the War of 1812.^[xx]
- Current COVID-19 deaths exceed the American deaths from World War I (116,516).^[xxi]
- In the 11 months between D-Day and V-E Day (victory in Europe against Germany), there were 552,117 U.S. casualties in the European Theater of Operations (ETO), of whom 104,812 were killed in action.^[xxii] The current COVID-19 deaths (136,000+) have exceeded the number of individuals killed in action in one-half the amount of time required for military victory in the ETO.

In less than half a year, more Americans have died from COVID-19 than all United States military personnel who
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perished in Western Europe from the June 6, 1944 (D-Day) landings until the May 8, 1945 surrender of Germany in World War II.

Death totals in war are, of course, a far greater percentage to those actually involved in combat than a comparison of the number of COVID-19 deaths to the total American population. The reference to war deaths is made to reflect magnitude of the loss, not the moral, horrific or patriotic character of that loss.

The COVID-19 deaths are a large number... and growing rapidly.

My Comment: America is at war with COVID-19. As with any war, there are those who stand up and do their duty. The best example of that are the healthcare workers, the store clerks dealing with the public, and laborers in close proximity to others, people who cannot afford to stay home or lack the technology to effectively work or learn away from others, and those who serve the public personally as part of their daily lives.

Yet, we are all on the battlefield against COVID-19 since the virus invades our homes and bodies unannounced and uninvited through our own actions or the bad practices of others. COVID-19 weakens people's health, causes great pain and suffering, imposes possible long-term health effects, and in the worst cases causes death. In the war against COVID-19, doing one's duty means going to work when one can with reasonable safety, not charging excessive prices for needed goods or services, wearing a mask, and practicing social distancing.

As in any war, there are the shirkers, dodgers and those who go AWOL. These individuals choose their own pleasure or fears over the greater need and safety of their unit or nation. Those who eschew the use of face masks when not socially distanced shirk their responsibilities and leave innocent third parties and the nation at greater risk.

COVID-19 COMPARED TO OTHER DISEASES

So, how does COVID-19 stack up against other diseases in the United States? The following are some comparisons to the 136,000+ deaths in less than one-half year against deaths for the entire year 2019 according the Fact Sheet published by the Center for Disease Control (CDC):^[xxiii]

- Heart disease: 647,457
- Cancer: 599,108
- Accidents (unintentional injuries): 169,936
- Chronic lower respiratory diseases: 160,201
- Stroke (cerebrovascular diseases): 146,383
- Alzheimer's disease: 121,404
- Diabetes: 83,564
- Influenza and pneumonia: 55,672
- Nephritis, nephrotic syndrome, and nephrosis: 50,633
- Intentional self-harm (suicide): 47,173

VIRGIN SACRIFICE

Human sacrifices were ancient traditions within many cultures in which a virgin or other person was offered up to the gods in the hope of ridding that society of bad weather, evil results, or for better fortune with crops and the economy.^[xxiv] The sacrifice might have imposed cutting out the heart, burial, fire, or throwing the sacrificial offering into the sea. In that culture, let one (or more) die to better the society at large.

Not so good for the sacrificed.

Human sacrifice creates a highly personal form of death to provide hoped-for benefit to others (or the one imposing the sacrificial act).

Given the great percentage of people living with Covid-19 without symptoms, assurance cannot be given that an individual does not carry the disease. Regular accurate testing with prompt reporting of results would be needed. Alas, that is lacking except for the most fortunate few. In that environment, non-users of masks have no assurance to conclude that they do not spread the disease.

Individuals or groups that do not wear face masks in public when near others engage in virgin sacrifice. They hold their personal, group, party or territorial value for freedom of choice as worth the sacrifice in deaths to thousands of other people. In effect they are saying, "Let the virgins die so that I am free to forgo mask-wearing when near others." Of course, this COVID-19 form of human sacrifice lacks the intimacy of ritualistic sacrifice. The executioner sees their virgin sacrifice up close and personal. The COVID-19-spreaders transmit toxins indiscriminately. The sacrificial victim is not seen or acknowledged.

So goes the defiant facial mask rejecter:

*I am free to create needless danger to you -potentially risking your life
as a sacrifice on the altar of my principles.*

The great irony of the virgin sacrifice comparison in the COVID-19 setting arises from the harm to the economy and delay in financial recovery by causing greater COVID-19 spread, increasing hospitalizations and keeping millions of people from dining out, traveling, and otherwise stabilizing and expanding the economy. They act against their own self-interest. Thus, states are being forced to curtail openings, the healthcare system becomes more challenged, important medical procedures and tests are delayed, and the nation is made poorer. Between July 11 when I drafted this article and July 13 when it was fine tuned, California announced re-closure of indoor dining and bars and movie theaters.

On June 8, Maria Van Kerkhove, the World Health Organization's (WHO) technical lead for the COVID-19 response, said it's "very rare" for asymptomatic carriers of COVID-19 to spread the virus. The next day, the WHO backtracked and clarified the statement, stating that

the WHO "actually doesn't have that answer yet," regarding if and how often asymptomatic carriers of COVID-19 spread the virus. [\[xxv\]](#)

Our nation faces a great challenge. We are at war against a disease that provides no warning. A significant percentage of carriers may show no symptoms. In response to the inaccurate and later withdrawn statement from the WHO, Dr. Anthony Fauci, Director, National Institute of Allergy and Infectious Diseases, stated:

In fact, the evidence we have given the percentage of people, which is about 25% [to] 45%, of the totality of infected people likely are without symptoms, [...] And we know from epidemiological studies that they can transmit to someone who is uninfected even when they are without symptoms. [\[xxvi\]](#)

In the Thrasymachus discourse from Plato's *Republic*, [\[xxvii\]](#) the argument is raised that "justice is to the interest of the stronger." However, Plato challenges the accuracy of that position. He asserts that justice will not be served if the stronger fail to act in their self interest. He provides examples wherein the stronger act against their interests and thus do injustice for themselves.

Might does not necessarily equal right. Such examples abound through history [\[xxviii\]](#) People who forego the use of facial masks in the pursuit of freedom lose sight of the fundamental needs of society, the economy, the older or more vulnerable loved ones, their friends, and the dignity of America amongst ourselves and in the eyes of the world. They undermine their own best interests.

That is not justice. It does not promote fair dealing among people. It does not serve the best interests of our nation. It lacks empathy; and in the final analysis, it brings growing harm.

Those who choose to forgo recommended use of face masks when social distancing does not exist are writing checks, in effect, for their own purposes on the checkbook (life and health) of others. In the world of banking, that would be called embezzlement. In the world of COVID-19, that can be called many things: uninformed, indifferent, misguided, callous, vainglorious, or cruel depending on level of awareness and intent or empathy toward others.

CONCLUSION:

We all want normalcy to return. We all want to hug our loved ones, have the young grandchildren sit on our laps, vacation and dine without fear, shop freely, be welcome in foreign lands, send our kids to school, return our economy to growth and opportunity, visit friends in the hospital, attend large gatherings, and peacefully live.

In the meantime, I offer the factual content of this article to provide data and references to safety laws that may be useful in comparing COVID-19 and its spread to crucial and less lethal challenges we have faced in the past. I hope that the data and analogies provide comfort and support to those who want to erase this scourge and ease its pain and harm while we await a cure.

You are encouraged to circulate this article to friends, colleagues, influencers, health care professionals and media to help us all achieve brighter and safer days. [\[xxix\]](#)

In the meantime, mask up. Thank you!

WE HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Keith Schiller

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CITES:

^[i] Keith Schiller, Esq., Alamo, CA, practices with the Schiller Law Group, a Professional Law Corporation. He is the author of *Estate Planning At The Movies*® and *Art of the Estate Tax Return* plus greater than three dozen nationally published articles regarding estate taxation, business succession and estate planning. © July 13, 2020. All rights reserved. E-mail: kschiller@slg4law.com

^[ii] Winston Churchill.
<https://quotefancy.com/quote/940429/Winston-Churchill-You-must-look-at-facts-because-they-look-at-you>

^[iii] Wikipedia. World Metrics reports a higher COVID-19 death count of 137,073; CNN reports 134,349 COVID-19 death.

^[iv] Center for Infectious Disease Research and Policy, Newsletter, *Coroner: First US COVID-19 death occurred in early February*, published April 22, 2020.

^[v] Nina Bina, University of California, San Francisco article, *Still Confused About Masks? Here's the Science Behind How Face Masks Prevent Coronavirus*.

^[vi] <https://www.iihs.org/topics/fatality-statistics/detail/yearly-snapshot>

^[vii] Seat Belts | NHTSA www.nhtsa.gov › risky-driving › seat-belts.

^[viii] Ibid.

^[ix] According to the National Motorists Association, there are two types of seat belt laws in the United States. Seat belt laws may be subject to primary enforcement or secondary enforcement. Primary

enforcement allows a police officer to stop and ticket a driver if he or she observes a violation. Secondary enforcement means that a police officer may only stop or cite a driver for a seat belt violation if the driver committed another primary violation (such as speeding, running a stop sign, etc.) at the same time. New Hampshire does require seat belts for minors.

[x] The CDC estimates that seat belts have saved in excess of 255,000 lives since 1975.

<https://www.cdc.gov/motorvehiclesafety/seatbeltbrief/index.html>

[xi] The non-use of seat belts may also harm non-occupants since bodies tossed from the vehicle may cause others to change their driving path or the non-user driver may lose complete control of the vehicle causing it to veer in unforeseen and dangerous directions.

[xii] CDC-Corona Disease 2019, *Considerations for the Use of Face Coverings*, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover-guidance.html>

[xiii] Foster and Mundell, U.S. News and World Report, *Some States Reimpose Restrictions as Coronavirus Cases Surge Again*, June 19, 2020.

[xiv] Science Daily, *COVID-19 could cost the United States billions in medical expenses, April 23, 2020*; American Hospital Association, *Hospitals and Health Systems Face Unprecedented Financial Pressures Due to COVID-19*, May, 2020. According to the AMA article just cited, “The AHA estimates a total four-month financial impact of \$202.6 billion in losses for America’s hospitals and health systems, or an average of \$50.7 billion per month.”

[xv] George Will, the traditional conservative commentator, stated this factor on *Meet the Press* on July 12, 2020.

[xvi] Wall Street Journal Editorial Board, *Covid Comparisons, Europe and U.S.*, June 28, 2020; Website for John Hopkins University of Medicine, Mortality Analysis Maps and Trends;

[xvii] National Cancer Act of 1971 signed into law by President Richard. M. Nixon; 21st Century Cancer Access to Life-Saving Early detection, Research and Treatment (ALERT) Act.

[xviii]

https://en.wikipedia.org/wiki/United_States_military_casualties_of_war. The Wikipedia reference includes a chart differentiating between deaths in combat, other deaths and total deaths. It also provides casualty figures. I have used the higher military number of deaths for comparison to as to dishonor no one and to error, if at all, on the side of understating the COVID-19 comparison.

[xix] *Ibid*; The United States Department of Veterans Affairs reports a much lower total death count for U.S. armed forces between 1775 and 1991. The data is similar.

[xx] *Ibid*.

[xxi] *Ibid*.

[xxii] WWW.USO.ORG, VE Day Marked End of Long Road for World War II Troops - USO

[xxiii] <https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm>.

[xxiv] https://en.wikipedia.org/wiki/Human_sacrifice; Ancient Origins <https://www.ancient-origins.net/history/throwing-virgins-sea-and-other-ways-appease-gods-ancient-reasons-behind-virgin-sacrifice-021653>; Encyclopedia Britannica, <https://www.britannica.com/topic/human-sacrifice>

[xxv] CNET Health and Wellness. <https://www.cnet.com/health/can-asymptomatic-people-spread-coronavirus-what-we-know-right-now/>
[xxvi] <https://www.cnn.com/2020/06/10/dr-anthony-fauci-says-whos-remark-on-asymptomatic-coronavirus-spread-was-not-correct.html>

[xxvii] Cornford, *The Republic of Plato*, pages 17 (in particular)-42.

[xxviii] In May 1941, the most powerful person in the world was Adolph Hitler at the height of his power, but then launched a massive attack against Russia. He followed that up seven months later by declaring war against the United States following the Japanese sneak attack on Pearl Harbor. The dummkoph's attack on Russia opened up an Eastern Front which eventually... and thankfully...led to epic defeats and unequalled losses to Germany during World War II. Declaring war against the United States brought a wealthy and

powerful nation with its unmatched industrial capacity against the Germans.

[xxix] The author extends his appreciation to Jane Schiller, Dana DeRoque, Lauren Leonard, Matt Mazer, Andrea Townsend and Kristen Kahawaiolaa for review or transmittal of this newsletter.

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