

December 10, 2020

David S. Ferriero
Archivist of the United States
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Laurence Brewer
Chief Records Officer
National Archives and Records Administration
700 Pennsylvania Avenue, N.W.
Washington, D.C. 20408

Re: Notice of Unauthorized Destruction of Federal Records Reportedly Ordered by
CDC Director Robert Redfield

Dear Messrs. Ferriero and Brewer:

Citizens for Responsibility and Ethics in Washington (“CREW”) writes to notify you of an unauthorized destruction of Federal records reportedly ordered by the Director of the Centers for Disease Control and Prevention (“CDC”) Robert Redfield. Because it appears the CDC has failed to report this matter to the National Archives and Records Administration (“NARA”) as required by the Federal Records Act (“FRA”), we are reporting it to you now and request that you take appropriate corrective action.

On December 10, 2020, Rep. Jim Clyburn sent a letter to Secretary of Health and Human Services Alex Azar and Director Redfield expressing “serious concern about what may be deliberate efforts by the Trump Administration to conceal and destroy evidence that senior political appointees interfered with career officials’ response to the coronavirus crisis at” CDC.¹ Rep. Clyburn explained:

This week, a career CDC official stated in a transcribed interview with Select Subcommittee staff that she was instructed to delete an email in which a Department of Health and Human Services (HHS) appointee demanded that CDC alter or rescind truthful scientific reports he believed were damaging to President Trump. She also stated that she understood the instruction to delete the email came from CDC Director Robert Redfield. After the career official provided this troubling testimony, HHS abruptly canceled four transcribed interviews the Select Subcommittee had scheduled with other CDC employees.²

¹ Letter from Rep. James Clyburn to Hon. Alex Azar and Dr. Robert Redfield, Dec. 10, 2020, <https://politi.co/2K9hpaq>.

² *Id.*

Rep. Clyburn’s letter identifies the CDC official interviewed as “Dr. Charlotte Kent, Chief of the Scientific Publications Branch and Editor-in-Chief of the Morbidity and Mortality Weekly Report (MMWR) at CDC.”³ Dr. Kent reportedly stated to subcommittee staff “that she was instructed to delete an August 8, 2020, email sent by HHS senior advisor Dr. Paul Alexander, and that she understood the direction came from Director Redfield.”⁴ In the email, “Dr. Alexander demanded that CDC insert new language in a previously published scientific report on coronavirus risk to children or ‘pull it down and stop all reports immediately.’”⁵ The email added that the CDC report was “[v]ery misleading” and was “designed to hurt this Presidnet [sic].”⁶

According to Dr. Kent, she “went to look for” Dr. Alexander’s email “after [she] had been told to delete it,” but “it was already gone.”⁷ “When asked who deleted the email, she replied, ‘I have no idea.’”⁸

Under the FRA, the “head of each Federal agency shall notify the Archivist of any actual, impending, or threatened unlawful removal, defacing, alteration, corruption, deletion, erasure, or other destruction of records in the custody of the agency.”⁹ Thereafter, the “Archivist shall initiate action through the Attorney General for the recovery of records the head of the Federal agency knows or has reason to believe have been unlawfully removed from that agency, or from another Federal agency whose records have been transferred to the legal custody of that Federal agency.”¹⁰ Implementing this requirement, NARA regulations provide that an “agency *must report promptly* any unlawful or accidental removal, defacing, alteration, or destruction of records in the custody of that agency to NARA.”¹¹ The regulations also specify certain details the agency “must include” in its report to NARA.¹² The knowing and willful destruction of Federal records is a crime punishable by fines and up to three years of imprisonment.¹³

Despite agency officials’ awareness of Dr. Kent’s statements about the destruction of Federal records at CDC, there is no indication that they have reported this matter to NARA, and a list of open “unauthorized disposition cases” on NARA’s website does not reveal any such reporting.¹⁴ Given CDC’s apparent failure to report this matter to NARA as required by law, we are doing so now and request that NARA take appropriate action, including instructing the agency to issue a report in accordance with 36 C.F.R. § 1230.14 and § 1230.16.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*; see also Dan Diamond, CDC’s Redfield told staff to delete email, official tells House watchdog, *Politico*, Dec. 10, 2020, <https://politi.co/3gCjoAg>.

⁹ 44 U.S.C. § 3106(a).

¹⁰ *Id.*

¹¹ 36 C.F.R. § 1230.14 (emphasis added).

¹² See *id.* § 1230.14(a)(1)-(5).

¹³ See 18 U.S.C. § 2071; 36 C.F.R. § 1230.12.

¹⁴ See NARA, Unauthorized Disposition of Federal Records, HHS, <https://bit.ly/39Vn12N>.

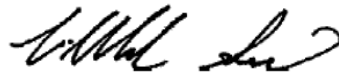
David S. Ferriero
Laurence Brewer
December 10, 2020
Page 3

Please direct any communications about this matter to Nikhel Sus at nsus@citizensfoethics.org.

Sincerely,



Noah Bookbinder
Executive Director



Nikhel Sus
Senior Counsel

CC: Christi A. Grimm
Principal Deputy Inspector General, HHS