

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS  
WASHINGTON, DC 20510-6250

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August 14, 2023

The Honorable Christi A. Grimm  
Inspector General  
Department of Health and Human Services  
330 Independence Avenue, SW  
Washington, DC 20201

Dear Inspector General Grimm:

On June 29, 2023, the House Select Subcommittee on the Coronavirus Pandemic revealed that when Dr. David Morens served as a Senior Scientific Advisor to Dr. Anthony Fauci, former director of the National Institute for Allergy and Infectious Diseases (NIAID), Dr. Morens used a personal email account to evade Freedom of Information Act (FOIA) requests.<sup>1</sup> The revelation that a senior NIAID official sought to circumvent federal record keeping and transparency laws follows similar allegations of record mishandling at the National Institutes of Health (NIH) dating as far back as 2014.<sup>2</sup> I write to request that the Office of the Inspector General (OIG) investigate the use of personal email accounts for official business, along with the destruction of records, at the Department of Health and Human Services (HHS), particularly within NIH and NIAID.

On September 9, 2021, Dr. Morens emailed Drs. Kristian Andersen, Robert Garry, and Edward Holmes, contributors to an article discussing the origins of COVID-19 entitled, *The proximal origin of SARS-CoV-2*, as well as the Chief Executive Officer of EcoHealth Alliance, Dr. Peter Daszak, among others.<sup>3</sup> In his email, Dr. Morens stated he “[tries] to always communicate on gmail [sic] because my NIH email is FOIA’d constantly.”<sup>4</sup> Dr. Morens further asserted that for emails sent to his accounts that presumably could be subject to FOIA requests, he “will delete anything I don’t want to see in the New York Times.”<sup>5</sup> These statements reveal an attempt to limit public access to certain communications directly related to the COVID-19 pandemic, potentially in violation of federal record keeping requirements.<sup>6</sup>

<sup>1</sup> See Letter from Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic, to Dr. David Morens, National Institute of Allergy and Infectious Diseases (June 29, 2023) at 2, available at [https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins\\_Redacted\\_Final.pdf](https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins_Redacted_Final.pdf).

<sup>2</sup> See Letter from Rep. James Comer et al., H.R. Committee on Oversight and Reform, to Secretary Xavier Becerra, Department of Health and Human Services, and Acting Director Dr. Lawrence Tabak, National Institutes of Health (Feb. 2, 2022) at 3, <https://oversight.house.gov/wp-content/uploads/2022/02/Letter-to-NIH-Follow-Up1.pdf>.

<sup>3</sup> See Letter from Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic, to Dr. David Morens, National Institute of Allergy and Infectious Diseases (June 29, 2023) at 2, available at [https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins\\_Redacted\\_Final.pdf](https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins_Redacted_Final.pdf).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> See 5 U.S.C. § 552; 18 U.S.C. § 2071.

In the same September 2021 email, Dr. Morens wrote that his “gmail [sic] was hacked” and that “until IT can get it fixed, I may have to occasionally email from my NIH account.”<sup>7</sup> This suggests that agency resources were being diverted to assist Dr. Morens in resolving problems with his personal email account. If official agency IT services were used to assist Dr. Morens’ use of private email for official purposes, it raises questions about whether agency resources are being used appropriately and whether NIAID leadership is aware of or accepts these practices.

Dr. Morens’ statements have already drawn the attention of the National Archives and Records Administration (NARA). On July 10, 2023, NARA’s Chief Records Officer sent a letter to NIH requesting they investigate Dr. Morens’ potential “unauthorized disposition of [NIH] records.”<sup>8</sup>

NIH, which includes NIAID, also appears to have engaged in the destruction of federal records. According to a whistleblower allegation made public on February 2, 2022, NIH has allegedly instructed staff to destroy records, in particular records related to the Wuhan Institute of Virology (WIV).<sup>9</sup> The whistleblower alleged that he or she “signed a confidentiality agreement in which I agreed ... that I would destroy any notes taken during the meeting (we did this by tossing them in shred box [sic] in the meeting room).”<sup>10</sup> Upon the release of the whistleblower allegation, NARA requested that NIH investigate potential unauthorized dispositions of information pertaining to the WIV and grant-making decisions.<sup>11</sup> An internal investigation by NIAID, NIH, and HHS failed to substantiate the whistleblower’s allegation, leading NARA to close its request for an investigation.<sup>12</sup> However, because it is unclear how HHS conducted its investigation, and in light of the recent information regarding Dr. Morens’ email usage, it is necessary for an independent entity, such as the OIG, to investigate these matters.

It is unclear the extent to which your office has taken steps to investigate or review these recent allegations of record mishandling and destruction, as well as the use of personal email accounts to conduct official business, at NIH. On July 12, 2023, my staff emailed your office to request a briefing

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<sup>7</sup> See Letter from Chairman Brad Wenstrup, Select Subcommittee on the Coronavirus Pandemic, to Dr. David Morens, National Institute of Allergy and Infectious Diseases (June 29, 2023) at 2, available at [https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins\\_Redacted\\_Final.pdf](https://oversight.house.gov/wp-content/uploads/2023/06/2023.06.29-BRW-Letter-to-DM-Re.-Origins_Redacted_Final.pdf).

<sup>8</sup> See Letter from Laurence Brewer, Chief Records Officer, National Archives and Records Administration, to Anthony Gibson, National Institutes of Health (July 10, 2023) <https://www.documentcloud.org/documents/23872063-nara-nih-morens-letter>.

<sup>9</sup> See Letter from Rep. James Comer et al., H.R. Committee on Oversight and Reform, to Secretary Xavier Becerra, Department of Health and Human Services, and Acting Director Dr. Lawrence Tabak, National Institutes of Health (Feb. 2, 2022) at 3, <https://oversight.house.gov/wp-content/uploads/2022/02/Letter-to-NIH-Follow-Up1.pdf>.

<sup>10</sup> *Id.* at 3, note 10.

<sup>11</sup> See Letter from Laurence Brewer, Chief Records Officer, National Archives and Records Administration, to Anthony Gibson, National Institutes of Health (Feb. 28, 2022) at 2, <https://www.archives.gov/files/records-mgmt/resources/ud-2022-0027-hhs-nih-open-close-letter.pdf>.

<sup>12</sup> See Letter from Laurence Brewer, Chief Records Officer, National Archives and Records Administration, to Anthony Gibson, National Institutes of Health (Nov. 2, 2022) at 4, <https://www.archives.gov/files/records-mgmt/resources/ud-2022-0027-hhs-nih-open-close-letter.pdf>.

on what, if anything, was being done regarding Dr. Morens' questionable email practices.<sup>13</sup> On July 19, 2023, your office responded, offering only a general briefing on HHS staff's email use, and stated, "[i]t is our standard practice to neither confirm nor deny the existence of any ongoing investigations, therefore we would not be able to provide any information on Dr. Morens[.]"<sup>14</sup>

I am disappointed with the OIG's unwillingness to provide any information on whether it has taken any steps to investigate Dr. Morens' potential disregard for federal record keeping policies and procedures. While I understand that there may be certain constraints and limitations on what OIGs can share with Congress regarding ongoing matters, your office's refusal to provide any information on this topic is unacceptable. Dr. Morens' actions are serious and Congress must know whether your office is going to take appropriate action to investigate this apparent wrongdoing. Therefore, because of your office's lack of transparency and failure to provide my office with any information on this matter, I write to request the OIG to investigate NIH and NIAID's handling of federal records. Specifically, I ask that you investigate:

1. The extent to which officials with HHS and its sub-agencies, including Dr. David Morens, utilized non-official personal email account(s) to conduct agency business;
2. The extent to which HHS and its sub-agencies preserve records from employees using non-official messaging platforms, such as Slack, for official agency business;
3. The extent to which officials with HHS and its sub-agencies, including Dr. David Morens, deleted or destroyed official agency records; and
4. The extent to which officials with HHS and its sub-agencies, including Dr. David Morens, have attempted to avoid or subvert the Freedom of Information Act.

If your office chooses to reconsider my office's initial request to provide a briefing on this matter, I ask that your office provide that briefing as soon as possible.

Sincerely,



Ron Johnson  
Ranking Member  
Permanent Subcommittee on Investigations

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<sup>13</sup> Email from PSI staff to the Department of Health and Human Services Office of Inspector General (July 12, 2023) (on file with Subcommittee).

<sup>14</sup> Email from The Department of Health and Human Services Office of Inspector General to PSI Staff (July 19, 2023) (on file with Subcommittee).

The Honorable Christi A. Grimm

Aug. 14, 2023

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cc: The Honorable Richard Blumenthal  
Chairman  
Permanent Subcommittee on Investigations