



March 29, 2023

Via Electronic Mail

The Hon. Christi A. Grimm, Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
P.O. Box 23489
Washington, DC 20026
Christi.Grimm@oig.hhs.gov

Request for Investigation: The Centers for Disease Control Unlawfully Destroys Federal Records

Dear Inspector General Grimm:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States.

As you may be aware, under the National Archives and Record Administration's General Records Schedule, the emails of non-Capstone officials generally must be preserved for at least seven years, and in no case may agency emails be deleted in fewer than three years.¹ However, it appears that the Centers for Disease Control (CDC) specifically, and the Department of Health and Human Services more generally, have a pattern and practice of unlawfully deleting the emails of employees who separate from employment within as little as thirty days from the date of separation. Accordingly, we request that the Office of Inspector General open an investigation to determine whether the CDC and the Department are unlawfully destroying federal records in violation of Title 44, Chapter 31 of the U.S. Code.

By way of background, on February 24, 2020, the National Archives and Records Administration advised the agency records officer for the Department of Health and Human Services Agency for Healthcare Research and Quality of an allegation regarding the unauthorized disposition of records. Specifically, the allegation was

¹ National Archives and Records Administration, *General Records Schedule 6.1* (Jan. 2023), <https://bit.ly/3FZHGvz>.

that this Agency was improperly deleting the emails of non-Capstone officials sixty days after their employment had ended.² An investigation ensued, and on May 5, 2020, the National Archives wrote a closing letter reciting that the Agency's mailboxes were managed by the Department's Office of the Chief Information Officer and that the emails in question had been deleted by the Office of Technology Infrastructure and Operations embedded therein. The National Archives noted that as an interim measure, the Office of Technology Infrastructure and Operations provided the Agency with .pst files for all separated employees and that this process would continue "until a permanent and more comprehensive Departmental solution is put into place." The National Archives concluded that it would "investigate this matter further" with the Department.³

Recently, America First Legal obtained evidence that the CDC deletes the e-mails of non-Capstone officials within *thirty days* after they leave the agency. Responding to our request for confirmation that the CDC had deleted employee emails, a CDC Freedom of Information Act analyst stated:

That is correct. Unless they were a capstone director/manager etc., it is my understanding all other employees' emails are deleted 30 days after they leave the agency. Thanks.⁴

The CDC's destruction of employee e-mails is the unlawful destruction of federal records.⁵ By law, the Department's Secretary, Xavier Becerra, is obligated to make and preserve records containing "adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions" of the agency and its components to furnish the information necessary to protect the legal and financial rights of persons directly affected by the agency's activities.⁶ Despite notice and an opportunity to cure, he has failed to do so.

Considering the National Archives' 2020 investigation and findings, the evidence suggests, at best, that the Biden Administration willfully disregards its Federal Records Act duties and obligations.⁷ Accordingly, an investigation of the CDC, the

² See Letter from NARA Chief Records Officer Laurence Brewer to Patricia Bosco, Agency Records Officer, Agency for Healthcare Research and Quality (Feb. 24, 2020), <https://bit.ly/3Zqi482>.

³ See Letter from NARA Chief Records Officer Laurence Brewer to Patricia Bosco, Agency Records Officer, Agency for Healthcare Research and Quality (May 5, 2020), <https://bit.ly/3Zqi482>.

⁴ E-mail from CDC to AFL (Mar. 20, 2023 at 13:29 EST) Re: Your CDC FOIA Request #23-00880-FOIA. See [Exhibit 1](#).

⁵ 44 U.S.C. § 3106; 36 C.F.R. § 1230 *et seq.*

⁶ 44 U.S.C. § 3101.

⁷ The substantial evidence is that Joe Biden, individually, and the Biden Administration, more generally, have repeatedly violated the Federal Records Act. See, e.g., America First Legal, Press Release, *America First Legal Demands the National Archives Make Public Biden's Vice Presidential Records, Found at His Various Homes and Affiliated Locations* (Mar. 21, 2023), <http://bit.ly/3FW44fl>; Steve Nelson, 'Boxes of documents in Boston' latest reveal in Biden classified saga, N.Y. Post (Feb. 10,

Office of the Chief Information Officer, the Office of Technology Infrastructure and Operations, and the Office of the Secretary is warranted.

Thank you in advance for your attention to this matter.

Sincerely,

/s/ Reed D. Rubinstein

Reed D. Rubinstein

America First Legal Foundation

cc: National Archives and Records Administration, Records Management Oversight and Reporting Program (UnauthorizedDisposition@nara.gov)
Hon. Cathy McMorris-Rogers, Chair, House Committee on Energy and Commerce
Hon. Frank Pallone, Jr., Ranking Member, House Committee on Energy and Commerce
Hon. James Comer, Chairman, House Committee on Oversight and Accountability
Hon. Jamie Raskin, Ranking Member, House Committee on Oversight and Accountability
Hon. Robert Aderholt, Chairman, Subcommittee on Labor, Health and Human Services, Education, House Committee on Appropriations
Hon. Rosa DeLauro, Ranking Member, Subcommittee on Labor, Health and Human Services, Education, House Committee on Appropriations

2023), <http://bit.ly/3TQ3vtr>; Victor Nava, *FBI searched University of Delaware for classified Biden documents: report*, N.Y. Post (Feb. 15, 2023), <http://bit.ly/3ZpuLQA>; Letter from NARA Chief Records Officer Laurence Brewer to Tracee Taylor, Agency Records Officer (IRS) (June 30, 2021), <https://bit.ly/3JRgXst> (Biden Administration Internal Revenue Service improperly destroyed 64,000 IRS Form 941 employer quarterly withholding reports for corporate income tax, Social Security, and Medicare).