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September 22, 2020

The Honorable Alex M. Azar II
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar:

I write to follow up on the Select Subcommittee's September 14, 2020, request for transcribed interviews and documents regarding efforts by political appointees at the Department of Health and Human Services (HHS) to interfere with the release of accurate scientific information by the Centers for Disease Control and Prevention (CDC) during the coronavirus crisis. I am troubled that the Department has not made any of the requested witnesses available, even though recent reports suggest a pattern of political interference is crippling the Department's ability to serve as a trusted source of public health information during the coronavirus pandemic. I urge you to comply with the Select Subcommittee's requests without further delay so the Subcommittee can conduct this crucial investigation and ensure Americans receive accurate, unbiased health information during this crisis.

On September 14, the Select Subcommittee asked the Department to make seven HHS and CDC employees available for transcribed interviews beginning on September 22, and to produce documents by September 28.¹

On September 16, the Department announced that both HHS officials with whom the Select Subcommittee had requested interviews, Assistant Secretary for Public Affairs Michael Caputo and senior advisor Paul Alexander, were leaving their roles at HHS following public revelations of their attempts to bully CDC scientists and suppress accurate public health information.²

¹ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary of Health and Human Services Alex M. Azar II and Centers for Disease Control and Prevention Director Robert R. Redfield (Sept. 14, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-14.Majority%20to%20Azar%20and%20Redfield%20re%20HHS%20and%20CDC%20on%20Political%20Interference%20.pdf).

² *HHS Spokesman Caputo to Take Medical Leave After Reportedly Accusing CDC Officials of Plotting Against Trump*, CNBC (Sept. 16, 2020) (online at www.cnbc.com/2020/09/16/hhs-spokesman-caputo-to-take-medical-leave-after-reportedly-accusing-cdc-officials-of-plotting-against-trump.html).

On September 18, the Department responded to the Select Subcommittee's requests. Rather than agree to the interview requests or propose alternative dates, the Department refused to make Mr. Caputo or Dr. Alexander available and requested "additional clarity" on why the Subcommittee needs to conduct the other transcribed interviews "on such short notice." The Department also questioned whether the Subcommittee's request "satisfies the requirement that oversight inquiries be conducted pursuant to a valid legislative purpose," and claimed without support that the Subcommittee's interview requests "may be pretextual."³

The Select Subcommittee's September 14 request explained in detail the urgency of the Subcommittee's requests for transcribed interviews. The letter described multiple reports of political interference with CDC scientific reports related to the coronavirus pandemic and noted that this interference risks "undermining the scientific integrity of these reports and of the CDC itself" at a time when "experts have relied on these reports to determine how the virus spreads and who is at greatest risk." The September 14 letter also described the specific legislative purpose of the Select Subcommittee's investigation:

Given the crucial and pressing need for truthful scientific information during this ongoing public health crisis, the Select Subcommittee is seeking to determine the scope of political interference with CDC's scientific reports and other efforts to combat the pandemic, the impact of this interference on CDC's mission, whether this interference is continuing, and the steps that Congress may need to take to stop it before more Americans die needlessly.⁴

The Select Subcommittee is authorized to conduct this investigation under House Resolution 935, which also authorizes the Subcommittee to report the results of its investigation and "legislative recommendations as it may deem advisable" to the House of Representatives or any of its committees. Ensuring Americans have access to accurate public health information during the coronavirus pandemic is an issue that is clearly amenable to legislation.⁵

³ Letter from Assistant Secretary Sarah C. Arbes, Department of Health and Human Services, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Sept. 18, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/Clyburn%20TI%20Request%20Response%2028signed%29.pdf).

⁴ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary of Health and Human Services Alex M. Azar II and Centers for Disease Control and Prevention Director Robert R. Redfield (Sept. 14, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-09-14.Majority%20to%20Azar%20and%20Redfield%20re%20HHS%20and%20CDC%20on%20Political%20Interference%20.pdf).

⁵ *See, e.g.*, Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L. No. 116-136 § 18115 (requiring laboratories to report coronavirus test results to the Secretary of HHS); Paycheck Protection Program and Health Care Enhancement Act, Pub. L. 116-139, Div. B (requiring HHS to report and analyze data on coronavirus cases, hospitalizations, and deaths, including reports "disaggregated nationally by race, ethnicity, age, sex, geographic region, and other relevant factors"); Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. 116-123 (appropriating not less than \$950 million in funding for grants to or cooperative agreements with states, localities, and health services providers "to carry out surveillance, epidemiology, laboratory capacity, infection control, mitigation, communications, and other preparedness and response activities"); Patient Protection and Affordable Care Act, Pub. L. No. 111-148 § 3015 (requiring HHS to report and analyze data on "quality and resource use measures from information systems used to support health care delivery to implement the public reporting of performance information," spanning a "broad range of patient populations, providers and geographic areas"); Science and Transparency Over Politics (STOP) Act, S. __

In the eight days since the Select Subcommittee sent its September 14 letter to HHS, the urgency of this investigation has only increased. During that time, another 305,000 Americans have been infected and nearly 5,400 more have died from the coronavirus.⁶

Recently released emails have added to the Select Subcommittee’s concern about political appointees’ attempts to alter, delay, and block accurate scientific information. On September 18, the *New York Times* released a June 30, 2020, email from Dr. Alexander to Mr. Caputo that promoted dangerous pseudoscience and included vitriolic personal attacks on a career CDC official, Principal Deputy Director Dr. Anne Schuchat.⁷

In the email, Dr. Alexander called Dr. Schuchat “disingenuous” and “duplicitous” and claimed, “Her aim is to embarrass the President.” Responding to Dr. Schuchat’s scientifically accurate explanation that the coronavirus can cause severe illness or death in children, Dr. Alexander asserted that Dr. Schuchat “has lied” and wrote, “It is very false her statement that it causes death in children.”⁸

Dr. Alexander also promoted herd immunity as a solution to the coronavirus crisis, stating that “having the virus spread among the young and healthy is one of the methods to drive herd immunity. This was not the intended strategy but all must be on deck now and it is contributing positively at some level.”⁹ Scientists have estimated that absent a vaccine, achieving herd immunity could lead to the deaths of between half a million and more than two million Americans.¹⁰

New reports of political interference at HHS have emerged in recent days that raise further questions about the Department’s ability to carry out its public health mission during the pandemic. For example, CDC added—and then removed—new guidance acknowledging that the coronavirus can spread through airborne transmission. CDC blamed the confusion on “a

(legislation to create a task force within the Pandemic Response and Accountability Committee to investigate “political interference with decisions made by scientific agencies” within HHS, including the Food and Drug Administration (FDA) and CDC); Safe Authorization for Vaccines During Emergencies (SAVE) Act, S. 4427 (legislation to codify existing processes within CDC and FDA for vaccine review and to help assure that a potential coronavirus vaccine that receives emergency use authorization is safe and effective).

⁶ *Covid in the U.S.: Latest Map and Case Count*, New York Times (Sept. 22, 2020) (online at www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html).

⁷ *Emails Detail Effort to Silence C.D.C. and Question Its Science*, New York Times (Sept. 18, 2020) (online at www.nytimes.com/2020/09/18/us/politics/trump-cdc-coronavirus.html).

⁸ *Id.*

⁹ *Id.*

¹⁰ See, e.g., *Early Herd Immunity Against COVID-19: A Dangerous Misconception*, Johns Hopkins University of Medicine (online at coronavirus.jhu.edu/from-our-experts/early-herd-immunity-against-covid-19-a-dangerous-misconception); *What Is Herd Immunity, and Why Are Trump Officials Pursuing an Idea WHO Calls ‘Dangerous’?*, Washington Post (Aug. 31, 2020) (online at www.washingtonpost.com/health/2020/08/31/herd-immunity-covid-19/); see also *‘The Death Toll Would Be Enormous,’ Fauci Says of Herd Immunity to Coronavirus in the U.S.*, CNBC (Aug. 13, 2020) (online at www.cnn.com/2020/08/13/the-death-toll-would-be-enormous-fauci-says-of-herd-immunity-to-coronavirus-in-the-us.html).

failure of process at CDC,” but the incident raises questions about whether the Department is suppressing evidence of airborne virus transmission, which could radically change how Americans protect themselves from the virus.¹¹ In addition, you recently issued a memorandum barring the Food and Drug Administration and other HHS health agencies from signing any new rules regarding the nation’s medicines, medical devices, and other products—including vaccines—and asserted that such power is now “reserved to the Secretary.”¹²

HHS’s September 18 letter is not a substitute for the interviews and documents the Select Subcommittee is seeking. On the contrary, HHS’s description of the review process for CDC’s Morbidity and Mortality Weekly Report (MMWR) appears to be inconsistent with statements made by Dr. Alexander in leaked emails and to the press. For instance, HHS’s letter asserts that Dr. Alexander only made “suggested edits” to CDC reports and, “At no time was CDC required to accept his recommendations.”¹³ However, in an August 8, 2020 email, Dr. Alexander called for CDC Director Robert Redfield to “stop all reports immediately” so he could personally review the entire MMWR—rather than a brief synopsis—prior to publication. He continued, “Nothing to go out unless I read and agree with the findings how they CDC, wrote it and I tweak it to ensure it is fair and balanced and ‘complete.’”¹⁴

The serious and ongoing nature of these problems—and the potentially serious consequences for the American public if CDC cannot produce credible public health information during the coronavirus pandemic—makes it imperative that the Select Subcommittee conduct transcribed interviews quickly, without waiting for HHS to produce documents. Although HHS’s September 18 letter proposed focusing on documents first, it did not include any commitment to produce documents by the Select Subcommittee’s September 28, 2020, deadline and instead offered only to make productions “on a rolling basis,” “once the documents are gathered and reviewed.”¹⁵ That is not a meaningful offer of accommodation, but merely a promise of further delay.

Such a delay in document productions would be consistent with the Department’s recent

¹¹ *CDC Reverses Itself and Says Guidelines It Posted on Coronavirus Airborne Transmission Were Wrong*, Washington Post (Sept. 21, 2020) (online at www.washingtonpost.com/nation/2020/09/21/cdc-covid-aerosols-airborne-guidelines/).

¹² *In ‘Power Grab,’ Health Secretary Azar Asserts Authority Over F.D.A.*, New York Times (Sept. 19, 2020) (online at www.nytimes.com/2020/09/19/health/azar-hhs-fda.html).

¹³ Letter from Assistant Secretary Sarah C. Arbes, Department of Health and Human Services, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Sept. 18, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/Clyburn%20TI%20Request%20Response%20%28signed%29.pdf).

¹⁴ *Trump Officials Interfered with CDC Reports on Covid-19*, Politico (Sept. 11, 2020) (online at www.politico.com/news/2020/09/11/exclusive-trump-officials-interfered-with-cdc-reports-on-covid-19-412809); see also *McMaster Professor Embroiled in White House Controversy over Reports He Attempted to Muzzle Scientists*, The Globe and Mail (Sept. 17, 2020) (online at www.theglobeandmail.com/world/us-politics/article-mcmaster-university-professor-embroiled-in-white-house-controversy-for/).

¹⁵ Letter from Assistant Secretary Sarah C. Arbes, Department of Health and Human Services, to Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis (Sept. 18, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/Clyburn%20TI%20Request%20Response%20%28signed%29.pdf).

practice in responding to the Select Subcommittee's requests. For example, on July 17, 2020, the Select Subcommittee sent HHS a request for documents regarding the decision to remove the collection of hospitalization data from CDC and transfer this responsibility to HHS.¹⁶ HHS produced two documents three weeks after the deadline but still has not produced any responsive communications, more than two months after receiving the request.

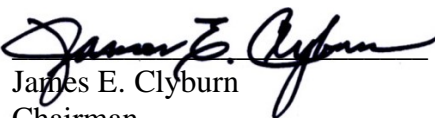
Similarly, on August 12, 2020, the Select Subcommittee requested documents related to potential conflicts of interest among advisors to Operation Warp Speed.¹⁷ More than a month later, HHS has produced only a single, publicly available document in response.

Given the seriousness of the issues under investigation, it would be highly inappropriate for the Department to prevent CDC and HHS employees from speaking to the Select Subcommittee. Nevertheless, as an accommodation to the Department, the Subcommittee is willing to postpone these interviews until next week. Accordingly, please respond by September 24, 2020, to confirm whether HHS will make the requested individuals available voluntarily for interviews and provide their availability for interviews next week, beginning on September 28, 2020.

As a further accommodation, given that Mr. Caputo is taking a 60-day medical leave of absence, the Select Subcommittee is willing to postpone his interview until the conclusion of his medical leave. However, the Subcommittee renews its request to speak to Dr. Alexander given the key role he played in these issues. If he has not yet left the Department, I ask that HHS arrange this interview. If he has already departed, please provide his contact information so the Subcommittee can contact him directly.

If you have any questions regarding this matter, please contact Select Subcommittee staff at (202) 225-4400.

Sincerely,


James E. Clyburn
Chairman

cc: The Honorable Steve Scalise, Ranking Member

¹⁶ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary of Health and Human Services Alex M. Azar II and Centers for Disease Control and Prevention Director Robert R. Redfield (July 17, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-07-17.Clyburn%20CBM%20RK%20to%20Azar-%20HHS%20and%20Redfield-CDC%20re%20Hospitalization%20Data.pdf).

¹⁷ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Secretary Alex M. Azar II, Department of Health and Human Services (Aug. 12, 2020) (online at coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2020-08-12.Clyburn%20to%20Azar%20re%20Operation%20Warp%20Speed.pdf).