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# United States Senate

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May 22, 2024

The Honorable Merrick Garland  
U.S. Department of Justice  
950 Pennsylvania Ave, NW  
Washington, DC 20530

Dear Attorney General Garland:

I write to urge the U.S. Department of Justice (DOJ) to open an investigation into the alleged improper concealment and intentional destruction of records by Dr. David Morens, Senior Advisor to the Director at the National Institutes of Health (NIH). Additionally, I request you investigate allegations that employees within NIH's FOIA office may have conspired with Dr. Morens to evade public records retention laws.

Under 18 U.S.C. §2071, an individual who "willfully and unlawfully" conceals, removes or destroys a federal record can be fined and imprisoned for up to three years. The statute also applies to attempts to conceal, remove, or destroy a federal record.

Emails obtained by the House Select Subcommittee on the Coronavirus Pandemic provide significant evidence that Dr. Morens unlawfully destroyed federal records relating to the origins of COVID-19 and improperly used his personal email address to evade federal records laws. For example, Dr. Morens wrote, "[a]s you know, I try to always communicate on gmail because my NIH email is FOIA'd constantly". Dr. Morens went on to say his personal email account had been compromised by a security breach and he would be forced to temporarily communicate from a NIH email account, stating "[d]on't worry, just send to any of my addresses and I will delete anything I don't want to see in the New York Times."<sup>1</sup>

Moreover, newly revealed emails suggest a broader conspiracy within the NIH FOIA office to assist Dr. Morens in unlawfully destroying records and evading public records laws. In an email to Peter Daszak, Dr. Morens wrote, "I learned from our NIH FOIA lady here how to make emails disappear after I am FOIA but before the search starts so I think we're all safe. Plus I deleted most of those earlier emails after sending them to Gmail." He also wrote, "[w]e are all smart

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<sup>1</sup> Letter from Brad R. Wenstrup, Chairman, Select Subcomm. on the Coronavirus Pandemic, H. Comm. on Oversight & Accountability, to David Morens, Senior Scientific Advisor, Nat'l Inst. of Allergy & Infectious Diseases (June 29, 2023), [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).

enough to know to never have smoking guns and if we did we wouldn't put them in emails. And if we found them we'd delete them.”<sup>2</sup>

These emails provide strong evidence that Dr. Morens violated federal law by concealing and destroying federal records. It is imperative that your Department investigate the allegations against Dr. Morens and, if substantiated, ensure that he is held accountable to the fullest extent of the law.

For this reason, I request you provide my office with the following information no later than 5:00 PM on June 4, 2024:

1. Has the Department opened an investigation into the allegations against Dr. Morens?
  - a. If so, please provide the date the investigation was opened and the current status.
  - b. If not, please explain why not.
2. Has the Department received a referral related to the allegations against Dr. Morens from the National Archives Records Administration, NIH, HHS OIG, or any other federal entity?

I look forward to your timely response.

Sincerely,

A handwritten signature in blue ink that reads "Rand Paul". The signature is written in a cursive, flowing style.

Rand Paul, M.D.  
Ranking Member  
U.S. Senate Committee on  
Homeland Security and Governmental Affairs

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<sup>2</sup> **Overseeing the Overseers: A Hearing with NIH Deputy Director Lawrence Tabak:** Hearing Before the H. Comm. on Oversight and Accountability, 118th Cong. (2024), available at <https://oversight.house.gov/hearing/overseeing-the-overseers-a-hearing-with-nih-deputy-director-lawrence-tabak/>.