



September 18, 2020

The Honorable James E. Clyburn  
Chairman  
Select Subcommittee on the Coronavirus Crisis  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Clyburn:

I write in response to your September 14, 2020, letter to Department of Health and Human Services (HHS) Secretary Alex M. Azar II and Centers for Disease Control and Prevention (CDC) Director Dr. Robert Redfield requesting documents and transcribed interviews with HHS and CDC employees.

Enclosed is an attachment that provides the Subcommittee an overview of the processes that encompass the publication of CDC's Morbidity and Mortality Weekly Reports (MMWR). MMWR is a scientific product of CDC. CDC maintains editorial control of the content throughout the review and publication process. Your correspondence specifically raised concerns about the input Dr. Peter Alexander provided. His suggested edits were received by CDC at step 6 of 8 in the process outlined in the attachment. At no time was CDC required to accept his recommendations.

We understand the Subcommittee's desire to schedule the transcribed interviews quickly. However, the Subcommittee's September 14 letter includes a broad document request in addition to requesting transcribed interviews with seven individuals. The proposed schedule for interviews in the Subcommittee's letter requests that all interviews be complete before receiving any documents from the Department. The practice of rapidly scheduling interviews prior to the receipt of any responsive documents suggests that the interviews may be pretextual. In addition, two days' notice to commit to scheduling seven witnesses for interviews taking place less than a week later cannot represent a good faith effort to accommodate a co-equal branch of government. Particularly, as many of the individuals sought are senior agency officials actively involved in the COVID-19 response.

Further, on September 16, 2020, HHS announced that Mr. Caputo is taking a 60-day leave of absence to focus on the health and well-being of himself and his family. Dr. Alexander will be leaving his position at HHS. Given Mr. Caputo's leave of absence for health concerns and Dr. Alexander's departure from HHS, we cannot make these individuals available for transcribed interviews at this time.

As a good faith effort of accommodation and compliance with your request, HHS has begun the process of identifying custodians and pulling potentially responsive materials for your September 14 request. As is the Department's longstanding practice, once the documents are gathered and reviewed, we will provide responsive material on a rolling basis. Our good faith effort with respect to this request continues our positive working relationship of accommodation since the House of Representatives established the Select Subcommittee. The Subcommittee will recall that the Department has made senior agency witnesses, including the Secretary, available to testify at three Subcommittee hearings (the most of any Cabinet Department), has produced over 1,000 pages of documents to the Subcommittee's various document requests, has provided substantive briefings, holds weekly calls with your staff to discuss the status of the Subcommittee's document requests, and has invited Subcommittee members to participate in regular update calls on Operation Warp Speed.

In light of the information provided on the MMWR's publication process and the announcement of personnel actions concerning witnesses the Subcommittee seeks to interview, we request additional clarity on how conducting transcribed interviews on such short notice and prior to receipt any of the requested documents satisfies the requirement that oversight inquiries be conducted pursuant to a valid legislative purpose. We welcome the opportunity to continue to work with the Subcommittee through the accommodations process for this and other requests before the Department.

Consistent with the Department's long-standing policy, we recognize the Subcommittee's legitimate oversight role with respect to the federal response to the COVID-19 pandemic. Our actions demonstrate our commitment to working with your Subcommittee on a wide range of issues over the past several months. We look forward to continuing our work with the Select Subcommittee through the accommodations process between our co-equal branches of government for this and other requests the Select Subcommittee has before the Department.

Sincerely,

Sarah Arbes  
Assistant Secretary for Legislation

Enclosure

## **Information on the Morbidity and Mortality Weekly Report from the Centers for Disease Control and Prevention (CDC)**

COVID-19 reports published in CDC's *Morbidity and Mortality Weekly Report* (MMWR) follow a rigorous scientific review and clearance process from the inception of a manuscript to the final publication. Scientific review and clearance for COVID-19 reports mirrors the same process for standard non-COVID-19 reports published in *MMWR*, with additional steps added to include CDC's COVID-19 emergency response structure and to obtain concurrence from CDC's Director Dr. Robert Redfield and the White House Coronavirus Task Force Coordinator Dr. Deborah Birx.

Below is the formal, step-by-step process for scientific review and clearance of COVID-19 reports published in the *MMWR*.

1. **Manuscript Approval:** Proposals for manuscripts are approved by the Principal Deputy Incident Manager of the CDC COVID-19 emergency response and the Editor-in-Chief, *MMWR* Series. This stage also includes a preliminary determination if the report will be an Early Release (i.e., a 48-hour production cycle) on a day other than Thursday, or included in the regular issue (i.e., a 10-day production cycle) and released on a Thursday.
2. **CDC Subject Matter Expert Review:** Once reports are drafted, manuscripts are reviewed and cross-cleared by subject matter experts in relevant CDC COVID-19 task forces (e.g., Data, Analytics, and Modeling Task Force; Laboratory and Testing Task Force; Health Systems and Worker Safety Task Force).
3. **Initial *MMWR* Science Editor Review:** The *MMWR* Science Editor provides an initial review to assist with clarity and provide initial comments.
4. **Clearance through the CDC Emergency Response:** The manuscript enters clearance through the CDC emergency response, a process managed by the Joint Information Center (JIC) within the response. This process (called JIC clearance) includes review by several levels of COVID-19 emergency response leadership, including the Chief Health Equity Officer, the Associate Director for Science for the emergency response, the Principal Deputy Incident Manager or Deputy Incident Manager, and the CDC Office of Science. Once a manuscript completes JIC clearance, it is submitted to *MMWR*.
5. **Second Review by *MMWR* Science Editor:** The *MMWR* Science Editor reviews the manuscript again for provisional acceptance, and *MMWR* turns the manuscript into an initial proof.
6. **Distribution of the Summary:** A summary of the *MMWR* report (a succinct, one-paragraph overview of the manuscript) is developed, usually after a report is provisionally accepted. Distribution of the summary includes internal CDC leadership and leadership within the Department of Health and Human Services (HHS), including the counselors within the Immediate Office of the Secretary and the Assistant Secretary for Public Affairs (ASPA). Additional HHS staff and leadership as well as Dr. Deborah

Birx of the White House Coronavirus Task Force were added to the distribution list for the summaries in late spring 2020.

7. **Review of Proofs:** Senior CDC leaders review *MMWR* proofs including the CDC Director; Principal Deputy Director; Deputy Director for Public Health Science and Surveillance; Director, Office of Science; Director, Center for Surveillance, Epidemiology, and Laboratory Services; and the Editor-in-Chief, *MMWR* Series. CDC senior leadership review assures that no new policy is announced in *MMWR*. Articles are meant to be factual summaries. If guidance is issued within an *MMWR* report, there is additional clearance from policy channels (within and outside CDC). Leaders are provided responses to important comments (called Level 1 comments) for concurrence. For Early Release reports, a proof is sent about 43 hours before scheduled release with comments requested the next morning. If part of a regular issue, a proof is sent Friday afternoon with comment requested by 8 a.m. Monday. Publication delays occur if CDC leadership comments or author errors cannot be addressed within the production cycle. Delays have resulted from CDC senior reviewers' requests for additional analyses, rewording, revision for clarity, scientific accuracy, and to assure that conclusions and implications follow from the results.
8. **Concurrence:** Starting in late spring 2020, concurrence to publish COVID-19 *MMWR* reports is required from Drs. Redfield and Birx. Concurrence must be received the day before Early Release and two days before release in the regular issue. Drs. Redfield and Birx have never withheld concurrence from a COVID-19 *MMWR* report.