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Homeland Security Advisory Council | Illustrative Projects

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DRAFT FACT SHEET:

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of the Freedom of Information and Privacy Act

From: Alejandro Mayorkas (b)(6)
To: Mayorkas, Alejandro (b)(6)
Subject: Fwd: Press Roundup for TUES, 4/26
Date: 2022/04/27 07:06:22
Priority: Normal
Type: Note

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Contact your component SOC with questions or concerns.

Sent from my iPhone

Begin forwarded message:

From: Alejandro Mayorkas (b)(6)
Date: April 26, 2022 at 9:55:50 PM EDT
To: "ESPINOSA, MARSHA" (b)(6)
Subject: Re: Press Roundup for TUES, 4/26

Thank you.

Sent from my iPhone

On Apr 26, 2022, at 9:51 PM, ESPINOSA, MARSHA (b)(6)

From: ESPINOSA, MARSHA
Sent: Tuesday, April 26, 2022 9:45 PM
To: 'Mayorkas, Alejandro' (b)(6)
Cc: Tien, John (b)(6); CANEGALLO, KRISTIE (b)(6); REZMOVIC, JEFFREY (b)(6); ULLOA, ISABELLA (b)(6); SEIDMAN, RICKI (b)(6); CALLAHAN, MARY ELLEN (b)(6); LUGO, ALICE (b)(6); PECK, SARAH (b)(6)
Subject: Press Roundup for TUES, 4/26

Good evening, Secretary,

BLUF: We saw a fair amount of coverage on the Supreme Court hearing on MPP and the IP memo today and spent much of the day clarifying the court's decision on T42 related to these matters. Some highlights for you below.

TODAY

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- • [Axios: DHS outlines plan to secure border after Title 42 is lifted](#)
- • [Associated Press: US preps for even busier border amid lifting of health order](#)
- • [CBS News: Biden officials release updated post-Title 42 plan amid bipartisan criticism](#)

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- • *"The Western District of Louisiana has announced its intent to grant a TRO that would restrict DHS's operations at the border that are essential to our preparations for when the Centers for Disease Control and Prevention's Title 42 public health Order expires. If and when the Court issues a TRO, the Department will comply with any such Order. DHS is continuing to apply the Title 42 Order and will do so until its termination on May 23. When the Title 42 Order is lifted, we intend to significantly expand the use of expedited removal through our Title 8 authorities and thereby impose long-term law enforcement consequences on those who seek to cross the border without a lawful basis to do so. It makes no sense that the plaintiffs would demand that DHS be stopped in its use of expedited removal or otherwise prevented from preparing for aggressive application of immigration law when the public health Order expires."*

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- • [CNN: Supreme Court examines Biden's power to set US immigration policy in 'Remain in Mexico' challenge](#)
- • [Reuters: U.S. Supreme Court weighs 'remain in Mexico' immigration dispute](#)

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**Washington Post: [A top Democrat ties Pence's 'I'm not getting in the car' to Jan. 6 'coup'](#)
(Aaron Blake)**

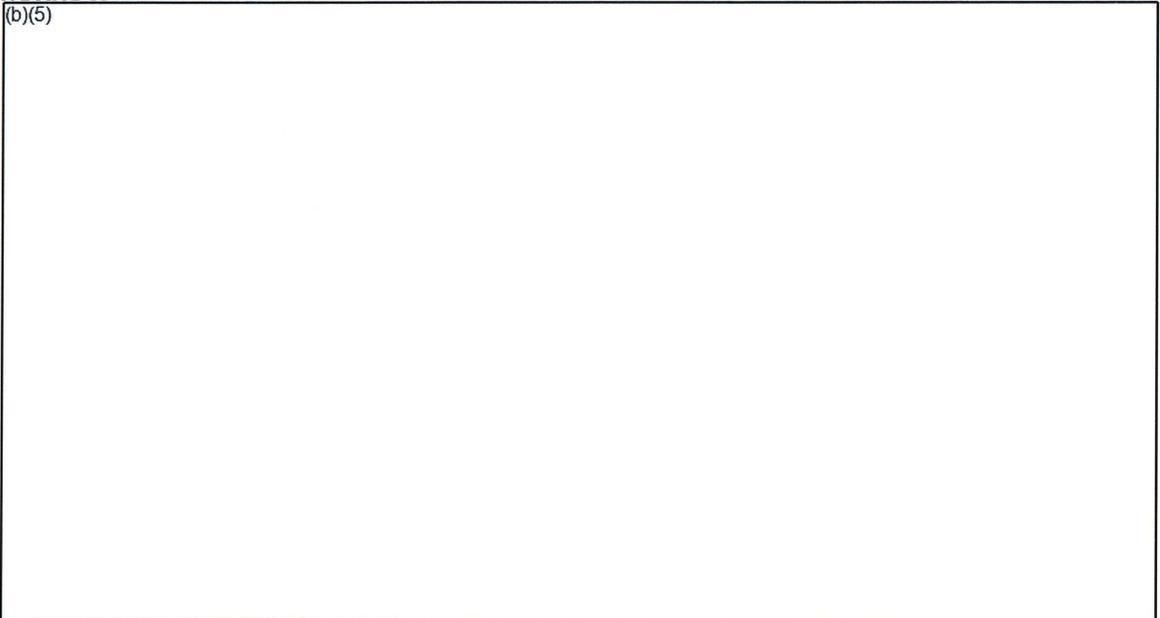
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TOMORROW

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NOTABLE CLIPS

**New York Times: [Texas' Busing of Migrants to D.C. Isn't Having Abbott's Intended Effect Yet](#)
(Eileen Sullivan)**

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Buzzfeed: [Some US Deportation Cases To Be Put On Hold In Immigration Courts](#) (Hamed Aleaziz)

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Los Angeles Times: Supreme Court leans in favor of Trump over Biden in asylum border dispute (David G. Savage)

The Supreme Court justices gave a mostly skeptical hearing Tuesday to the Biden administration's bid to repeal a President Trump policy that requires tens of thousands of asylum seekers to wait in Mexico for their cases to be heard. Several of the court's conservatives said they agreed with Texas state lawyers and Trump-appointed judges who ruled that U.S. immigration officials may not allow these migrants to enter this country. They pointed to a provision in the 1996 law that said asylum seekers "shall be detained" while their claims are heard. Solicitor Gen. Elizabeth B. Prelogar, representing the administration, argued there was "no way" the government could detain so many asylum seekers for months or years. She told the court there were 220,000 migrants at the border in one month last year, but only 32,000 could be held in detention. Traditionally, the court has given the executive branch broad authority to enforce the immigration laws, including reversing the policies of prior administrations. But it is not clear the Biden administration will prevail in its plan to repeal Trump's strict immigration policies. But state lawyers for Texas and Missouri sued and last year won nationwide orders from judges that required the new administration to maintain the prior Trump policy. In August of last year, the justices by a 6-3 vote refused an emergency appeal seeking to overturn the judge's order. And there was no clear sign during Tuesday's argument the majority will do so now. The case was Biden vs. Texas, and a ruling will be handed down by late June.

Bloomberg Government: Biden Unveils Border Plan Details After Democrat Defections (Ellen Gilmer)

The Biden administration is sharing new details of how it will manage increased border crossings when pandemic-related restrictions end, an effort to mollify the growing number of Democrats who've criticized the plan. The six-part strategy, which focuses on speeding up migrant processing and targeting smugglers, largely reflects actions the Department of Homeland Security has already outlined but includes more specifics. For example, DHS commits to using a process called expedited removal to quickly deport migrants who don't meet initial thresholds to seek asylum. The agency expects significant increases in migrant arrivals after the

termination of Title 42, a public health authority that has allowed the quick expulsion of migrants since 2020. The policy is set to lift May 23, but that timeline may be thrown off by legal action. "Many elements of this plan are already being implemented as we manage a historic number of encounters, including a record number of noncitizens trying to enter the United States multiple times," Secretary Alejandro Mayorkas wrote in a 20-page memo released Tuesday. "Others are elements that we are prepared to implement once the Title 42 termination goes into effect." DHS is working to prepare for as many as 18,000 migrants a day when Title 42 lifts. Moderate and politically vulnerable Democrats previously argued that the agency lacked a sufficient plan for the influx. It remains unclear whether the new memo will win them over.

SOCIAL MEDIA



x

x

x

Sender: Alejandro Mayorkas (b)(6)

Recipient: Mayorkas, Alejandro / (b)(6)

Sent Date: 2022/04/27 07:00:35

Delivered Date: 2022/04/27 07:06:22

From: Mayorkas, Alejandro /o=(b)(6)
(b)(6)

To: LUGO, ALICE /o=(b)(6)
(b)(6)

CC: CANEGALLO, KRISTIE /o=(b)(6)
(b)(6)
ULLOA, ISABELLA /o=F(b)(6)
(b)(6)
REZMOVIC, JEFFREY /o=(b)(6)
(b)(6)
SEIDMAN, RICKI /o=(b)(6)
(b)(6)
ESPINOSA, MARSHA /o=(b)(6)
(b)(6)
CARNES, ALEXANDRA /o=(b)(6)
(b)(6)
SHENKLE, ABBY /o=(b)(6)
(b)(6)

Subject: Re: DHS Congressional Plan of the Day for Thursday, April 28, 2022

Date: 2022/04/27 21:40:39

Priority: Normal

Type: Note

Thank you, Alice. Thanks to the team.

Ali

Alejandro N. Mayorkas

Secretary

From: LUGO, ALICE (b)(6)

Sent: Wednesday, April 27, 2022 9:34:59 PM

To: Mayorkas, Alejandro (b)(6)

Cc: CANEGALLO, KRISTIE (b)(6) ULLOA, ISABELLA
(b)(6) REZMOVIC, JEFFREY (b)(6) SEIDMAN, RICKI
(b)(6) ESPINOSA, MARSHA (b)(6) CARNES,
ALEXANDRA (b)(6) SHENKLE, ABBY (b)(6)

Subject: DHS Congressional Plan of the Day for Thursday, April 28, 2022

Good evening Secretary,

The congressional plan of the day for tomorrow is below. Additionally, the latest intel we have on schedule and topics for lines of questions are captured below. We will have updates for you on the Family Reunification Task Force and deported vets tomorrow morning. Let us know if there are questions.

Great job at both of your hearings today! I'll see you in the morning.

House Judiciary Hearing intel and schedule for tomorrow:

(b)(5)

HEARINGS

“Oversight of the Department of Homeland Security”

House Committee on the Judiciary

Witness: **DHS Secretary** Alejandro Mayorkas

10:00 a.m., 2141 Rayburn

“Nomination Hearing for U.S. Coast Guard Commandant Nominee Admiral Linda Fagan”

Senate Committee on Commerce, Science, & Transportation

Witness: Admiral Linda Fagan (USCG Vice Commandant)

10:00 a.m., 253 Russell

“Fiscal Year 2023 Budget Request for the Cybersecurity and Infrastructure Security Agency”

House Committee on Appropriations, Subcommittee on Homeland Security

Witness: **CISA Director** Jen Easterly

1:30 p.m., 2359 Rayburn

LEGISLATION INITIATIVES OF NOTE

(b)(5)

Alice Lugo
Assistant Secretary for Legislative Affairs
U.S. Department of Homeland Security

Sender: Mayorkas, Alejandro /o (b)(6)
(b)(6)

LUGO, ALICE /o (b)(6)
(b)(6)

CANEGALLO, KRISTIE /o (b)(6)
(b)(6)

ULLOA, ISABELLA /o (b)(6)
(b)(6)

REZMOVIC, JEFFREY /o (b)(6)
(b)(6)

Recipient: SEIDMAN, RICKI /o (b)(6)
(b)(6)

ESPINOSA, MARSHA /o (b)(6)
(b)(6)

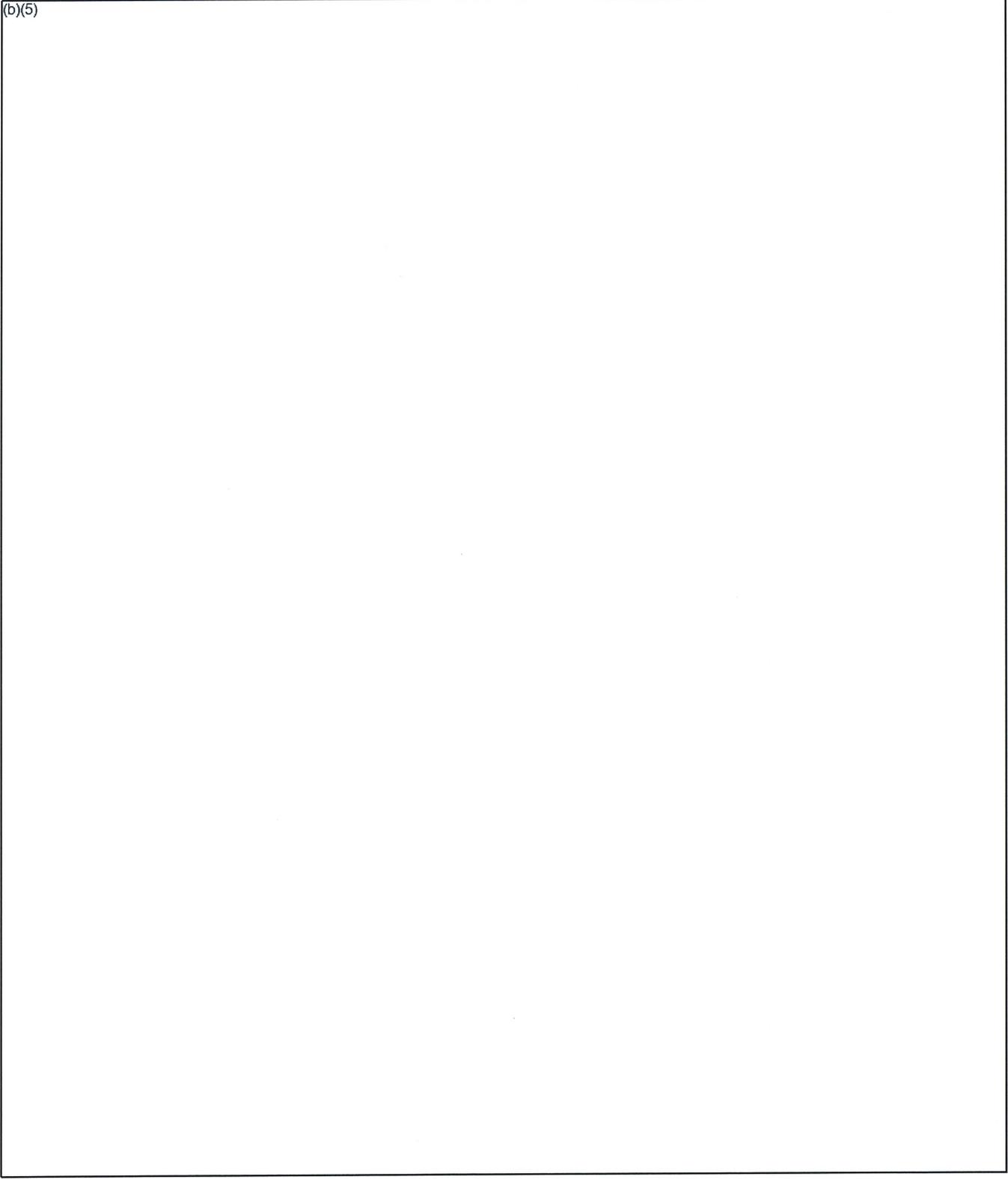
CARNES, ALEXANDRA /o (b)(6)
(b)(6)

SHENKLE, ABBY /o (b)(6)
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Sent Date: 2022/04/27 21:40:39

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Significant Correspondence Report



5.4.22

Control Number	Date Received	To	From	Summary	Counselor	Tasked	Signature Level	Priority Level	Priority Due Date	Secretary Notes
1231821 22-2404	5.4.22	S1	Protect Democracy	Writes regarding significant concerns about the "Disinformation Governance Board."	(b)(5)					
1231842 22-2405	5.4.22	S1	Rep. Goosar (AZ)	Writes regarding sDisinformation Governance Board.						



KNIGHT
FIRST AMENDMENT
INSTITUTE at
COLUMBIA UNIVERSITY



May 3, 2022

Secretary Alejandro Mayorkas
Secretary of Department of Homeland Security
U.S. Department of Homeland Security
301 7th St., SW
Washington, DC 20528

RECEIVED

By ESEC at 10:50 am, May 04, 2022

Re: Significant Concerns Regarding the “Disinformation Governance Board”

Dear Secretary Mayorkas:

We write on behalf of Protect Democracy, the Electronic Frontier Foundation, and the Knight First Amendment Institute at Columbia University to express our concern regarding last week’s announcement that the Department of Homeland Security has established a “Disinformation Governance Board.”¹ Disinformation causes real harms, but the Constitution limits the government’s role in combating disinformation directly, and the government can play no useful role at all in the absence of public trust. The announcement of this Board, housed in a Department with a checkered record on civil liberties and without clarity and specificity on its mandate, has squandered that trust.

The initial report revealing the Board’s existence provided that the Board would “immediately begin focusing on misinformation aimed at migrants, a problem that has helped to fuel sudden surges at the U.S. southern border in recent years,” as well as “monitor and prepare for Russian disinformation threats.”² In an interview over the weekend, you further noted that the Board will “work[] to ensure that the way in which we address threats—the connectivity between threats and acts of violence—are addressed without infringing on free speech, protecting civil rights and civil liberties—the right of privacy. The Board . . . will draw from best practices and

¹ Amanda Seitz, *Disinformation Board to Tackle Russia, Migrant*, Assoc. Press (Apr. 28, 2022), <https://apnews.com/article/russia-ukraine-immigration-media-europe-misinformation-4e873389889bb1d9e2ad8659d9975e9d>.

² *Id.*

communicate those best practices to the operators”³ You also said that American citizens would not be monitored.⁴ Yesterday, the Department issued a statement providing that “[t]he Department identifies disinformation that threatens the homeland through publicly available sources, research conducted by academic and other institutions, and information shared by other federal agencies and partners” and “then shares factual information related to its mission to potentially impacted people and organizations.”⁵ The statement specifies that the Board was formed “with the explicit goal of ensuring . . . protections [for freedom of speech, civil rights, civil liberties, and privacy] are appropriately incorporated across DHS’s disinformation-related work and that rigorous safeguards are in place.”⁶ It also notes that the Board will “seek[] to coordinate the Department’s engagements on this subject with other federal agencies and a diverse range of external stakeholders.”⁷

We acknowledge and appreciate the Department’s recognition that mis- and disinformation is a significant problem, particularly with respect to non-English speaking communities.⁸ Those who intentionally spread disinformation can distort public discourse, interfere with elections, and undermine democracy. While we do not believe that there is a single solution to the problem of disinformation, among the solutions needed are the provision of timely, accurate, and trustworthy information by the government, as well as longer term support for education initiatives focused on media literacy. To the extent that the Board would simply ensure that the Department responds to publicly reported disinformation campaigns with timely, accurate information, we would generally welcome such an effort. In the 2020 election, for example, the Department’s Cybersecurity & Infrastructure Security Agency offered a timely

³ *Mayorkas: Disinformation Board Won’t Monitor American Citizens*, CNN (May 1, 2022), <https://edition.cnn.com/videos/politics/2022/05/01/mayorkas-on-disinformation-board.cnn>.

⁴ *Id.*

⁵ *Fact Sheet: DHS Internal Working Group Protects Free Speech and Other Fundamental Rights When Addressing Disinformation That Threatens the Security of the United States*, Dep’t of Homeland Sec. (May 2, 2022), <https://www.dhs.gov/news/2022/05/02/fact-sheet-dhs-internal-working-group-protects-free-speech-other-fundamental-rights>.

⁶ *Id.*

⁷ *Id.*

⁸ *See, e.g., A Growing Threat: The Impact Of Disinformation Targeted At Communities Of Color Hearing Before Subcommittee on Elections H. Comm. on H. Admin., 117th Cong. (Apr. 28, 2022), available at <https://cha.house.gov/committee-activity/hearings/growing-threat-impact-disinformation-targeted-communities-color>.*

rebuttal to claims that there was widespread fraud in the 2020 election.⁹ That is one kind of work that the government can and should do to counteract disinformation.¹⁰

But for the government to play its appropriate role effectively, it must build trust and demonstrate a commitment to abiding by the strict limitations the Constitution places on its ability to combat disinformation, described in some more detail below. The way in which the Department has publicly announced the Board has fallen short on those fronts. Moreover, for the reasons below, we do not believe such an initiative should be housed at the Department. If the Administration is committed to housing it at the Department, though, the Department should at a minimum impose clear restrictions on the Board to ensure that it does not engage in more constitutionally suspect activities.

To the extent that the Board or the Department intends to take any measures to prohibit disinformation or otherwise punish the spread of disinformation or to engage in constitutionally suspect monitoring of communications of individuals in the United States or of citizens abroad, we urge the Department to reconsider for two primary reasons.

First, “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”¹¹ Our First Amendment prohibits such efforts, and for good reason. We have learned the hard way that government initiatives to root out disfavored speech and ideas are dangerous and unwise.¹² Any effort to prohibit or punish the spread of “disinformation” by the Department would likely fall outside of what the Constitution permits, absent extraordinary circumstances and outside narrow categories of speech.

⁹ *Joint Statement from Elections Infrastructure Government Coordinating Council & The Election Infrastructure Coordinating Executive Committees*, Cybersecurity & Infrastructure Security Agency (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

¹⁰ Another kind of work the government can and should do is to study emerging tools of disinformation and make recommendations on how to combat those tools, like “deep fakes.” *See Portman, Schatz, Ernst, Heinrich, Gardner, Peters, Rounds, Hassan Praise Senate Passage of Bipartisan Bill to Assess & Address Rising Threat of Deepfakes*, Rob Portman (Oct. 25, 2019), <https://www.portman.senate.gov/newsroom/press-releases/portman-schatz-ernst-heinrich-gardner-peters-rounds-hassan-praise-senate>.

¹¹ *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943).

¹² *E.g., New York Times Co. v. Sullivan*, 376 U.S. 254, 273–74 (1964) (recounting the history of the Sedition Act of 1798, which was motivated in part by an effort to tamp down on misinformation, and noting that “[a]lthough the Sedition Act was never tested in [the Supreme] Court, the attack upon its validity has carried the day in the court of history”).

Second, the Department has a history of flouting the Constitution in flagrant ways. It is one of the least politically accountable agencies in our federal government,¹³ and it has often violated individuals' civil liberties. The Department has a particularly poor track record when it comes to "monitoring" individual's First Amendment-protected activities. From illegally surveilling Reverend Kaji Douša after she spoke out against the Trump Administration's immigration policies,¹⁴ to gathering intelligence on reporters that cover the Department,¹⁵ to monitoring the social media accounts of visa applicants,¹⁶ the Department has demonstrated a readiness to cross the legal bounds of privacy and speech rights. We therefore take little comfort from the Department's assurances that it will "'protect privacy, civil rights, and civil liberties' as part of its duties."¹⁷

Even in the hands of well-intentioned, good-faith actors, any government board ostensibly tasked with monitoring and "govern[ing]" disinformation is a frightening prospect; in the wrong hands, such a board would be a potent tool for government censorship and retaliation. The Department now seems to suggest that the primary purpose of the Board is to ensure that civil liberties are protected in activities the Department is already engaged in. If that is the case, it is unfortunate that that purpose was so obscured in a confusing rollout that invited misperception and undermined trust.

We welcome the Department's recognition of the serious problems posed by mis- and disinformation. But for the reasons above, we question whether the Board can play a useful role in combating mis- and disinformation at this point and would encourage you to reconsider the

¹³ Scott Welder, Christine Kwon & Jennifer Dresden, *There's Just One Department of Homeland Security. So Why Does It Have So Many Bosses in Congress?*, Wash. Post (Oct. 21, 2021), <https://www.washingtonpost.com/politics/2021/10/21/theres-just-one-department-homeland-security-so-why-does-it-have-so-many-bosses-congress/>.

¹⁴ See *Douša v. DHS*, Protect Democracy, <https://protectdemocracy.org/project/dousa-v-dhs/> (last visited May 2, 2022).

¹⁵ E.g., Shane Harris, *DHS Compiled 'Intelligence Reports' on Journalists Who Published Leaked Documents*, Wash. Post (July 30, 2020), https://www.washingtonpost.com/national-security/dhs-compiled-intelligence-reports-on-journalists-who-published-leaked-documents/2020/07/30/5be5ec9e-d25b-11ea-9038-af089b63ac21_story.html.

¹⁶ See *Doc Society v. Blinken*, Knight First Amendment Institute at Columbia University, <https://knightcolumbia.org/cases/doc-society-v-blinken>.

¹⁷ Amanda Seitz, *Disinformation Board to Tackle Russia, Migrant*, Assoc. Press (Apr. 28, 2022), <https://apnews.com/article/russia-ukraine-immigration-media-europe-misinformation-4e873389889bb1d9e2ad8659d9975e9d>.

Board's existence or, at a minimum, promptly provide further clarity on the kinds of specific activities the Board will engage in and the activities it will be prohibited from engaging in. Should you wish to discuss this letter or our position, please contact John Langford, at john.langford@protectdemocracy.org or (202) 579-4582.

Sincerely,

Protect Democracy
Electronic Frontier Foundation
Knight First Amendment Institute at
Columbia University

PAUL A. GOSAR, D.D.S.
FOURTH DISTRICT, ARIZONA

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Congress of the United States
House of Representatives
Washington, DC 20515-0301

COMMITTEE ON
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AND REFORM
SUBCOMMITTEES
ENVIRONMENT
NATIONAL SECURITY

May 4, 2022

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

RECEIVED
By ESEC at 1:42 pm, May 04, 2022

Re: The "Disinformation Governance Board"

Dear Secretary Mayorkas,

I am writing about the decision to create a bizarre "Disinformation Governance Board" at the Department of Homeland Security (DHS). Its sole function is to spy on American citizens, using authorization under the Patriot Act. Your job, and the DHS', was to protect Americans from foreign threats. You have now created an internal police force that is based on political speech and political concerns.

This board is not only unconstitutional and purely partisan, but it is a Soviet-style attempt to obliterate freedom of speech. Congress has not authorized this new department or funded it. Your DHS' February 7, 2022 terrorism bulletin cites a "heightened threat environment" due to domestic terrorism. The bulletin also states that "there is widespread online proliferation of false or misleading narratives regarding unsubstantiated widespread election fraud and COVID-19." And that "grievances associated with these themes inspired violent extremist attacks during 2021."

Almost every sentence is either false or at least subject to dispute. Certainly, there has been false information about the 2020 election and COVID-19. Most of it just happens to come from the Administration itself. But even if you disagree with that, you are not free to label this difference of opinion as "terrorism" and set up an illegal internal secret police. This is an outrageous abuse of civil rights and free speech.

My constituents were forced by the federal government to stay home, not go to school, and shut their businesses. Many were compelled to inject experimental and untested foreign biological material into their body. Many were denied proper treatment for COVID-19 while they watched other nations in real time successfully treat their citizens with remedial and effective drugs. The people have a right to speak about this and share their perspectives and displeasure, without the DHS declaring them terrorists or sharers of disinformation.

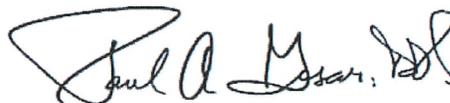
This Administration's efforts to propagandize and mislead Americans is not limited to your new Censorship Board. In February 2021, the DOD ordered a "directed standdown" "to address the issue of extremism in the ranks." 62.9% of all new money requested by DOJ in FY 2022 was for the purpose of fighting "domestic violent extremists"—which included the hiring of 299 new employees. And in October 2021, Attorney General Garland directed the full force of federal law enforcement against parents outraged over their children's indoctrination in support of sexual deviancy, pedophilia, grooming, and sexual mutilation in the name of gender dysphoria. Parents should be outraged, and you should be ashamed to support the sexual mutilation of our children. But at the very least you should end your efforts to classify these parents as terrorists.

Please also respond to the following questions:

1. Could you explain why violence from BLM and Antifa is not listed as violent extremism?
2. Can you explain why the recent mass killings by two Black Nationalists were not deemed domestic violent extremism?
3. Could you please list all the "violent extremist attacks in 2021?" Your bulletin and testimony are entirely devoid of evidence.
4. Could you please list property damage and lives lost due to "violent extremist attacks in 2021"?
5. Please list and identify all monetary damage and lives lost due to BLM riots in the summer of 2020?
6. Please identify all congressional sources authorizing a censorship board as being constructed by your office.
7. What is the amount you are budgeting for the new disinformation board?

Thank you for addressing my concerns. Please adhere to all rules and regulations when addressing these issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul A. Gosar" with a stylized flourish at the end.

Paul A. Gosar, D.D.S.
Member of Congress

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The MDM Governance Board

Charter

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**Homeland
Security**

September 13, 2021

INFORMATION

MEMORANDUM FOR THE SECRETARY

FROM: Robert Silvers /s/
Under Secretary
Office of Strategy, Policy, and Plans

Samantha Vinograd /s/
Senior Counselor for National Security
Office of the Secretary

SUBJECT: **Organizing DHS Efforts to Counter Disinformation**

The spread of disinformation¹ presents serious homeland security risks:

- Conspiracy theories about the validity and security of elections may undermine trust in core democratic institutions, amplify threats against election personnel, and jeopardize the voting rights of vulnerable communities.
- Disinformation related to the origins and effects of COVID-19 vaccines or the efficacy of masks undercuts public health efforts to combat the pandemic.
- Foreign terrorists, nation-states, and domestic violent extremist (DVE) groups leverage disinformation narratives to amplify calls to violence, including racially or ethnically motivated and anti-government/anti-authority violence. These actors often amplify and exploit narratives that already exist in public discourse, such as disinformation surrounding the validity of the 2020 election underpinning calls to violence on January 6, 2021.
- Disinformation can complicate the performance of core DHS missions. Falsehoods surrounding U.S. Government immigration policy drive vulnerable populations to pay smugglers to bring them on the dangerous journey to our southern border. Disinformation can hamper emergency responders in the aftermath of natural disasters or other incident responses.

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Subject: Organizing DHS Efforts to Counter Disinformation
Page 2

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DHS Functions and Existing Efforts to Counter Disinformation

DHS components are already engaged in countering disinformation, with activities falling into five functions that are performed by the components themselves or through third-party resources: 1) identification of disinformation relevant to DHS's mission; 2) analysis of its source and influence; 3) information sharing regarding threats posed by disinformation, 4) response to the disinformation threat; and 5) building resilience to disinformation. There is also excellent work being done by interagency partners, the private sector, and academia—particularly concerning identifying and analyzing disinformation—and DHS should leverage this work when possible.

- 1) *Identification:* Information gathering on disinformation threats and trends.
 - I&A's Homeland Influence Task Force collects information on possible disinformation from publicly available sources as well as other intelligence sources where the collection furthers one of I&A's authorized intelligence missions, such as foreign intelligence and protection of critical infrastructure.
 - CISA gathered information on disinformation related to the elections with SLTT partners leading up to the 2020 election and has limited authority to collect information on disinformation related to critical infrastructure.
- 2) *Analysis:* Assessing the impact of specific disinformation narratives on the homeland or on DHS missions.
 - I&A, as well as other components engaging in intelligence and analytic functions, produce analysis on disinformation threats, whom they may be targeting, and what attendant risks might arise.
- 3) *Information Sharing:* Providing timely, quality information on disinformation threats and strategic trends to stakeholders including SLTT authorities, private sector partners, or the public directly.
 - Leading up to the 2020 election, CISA relayed reports of election disinformation from election officials to social media platform operators.

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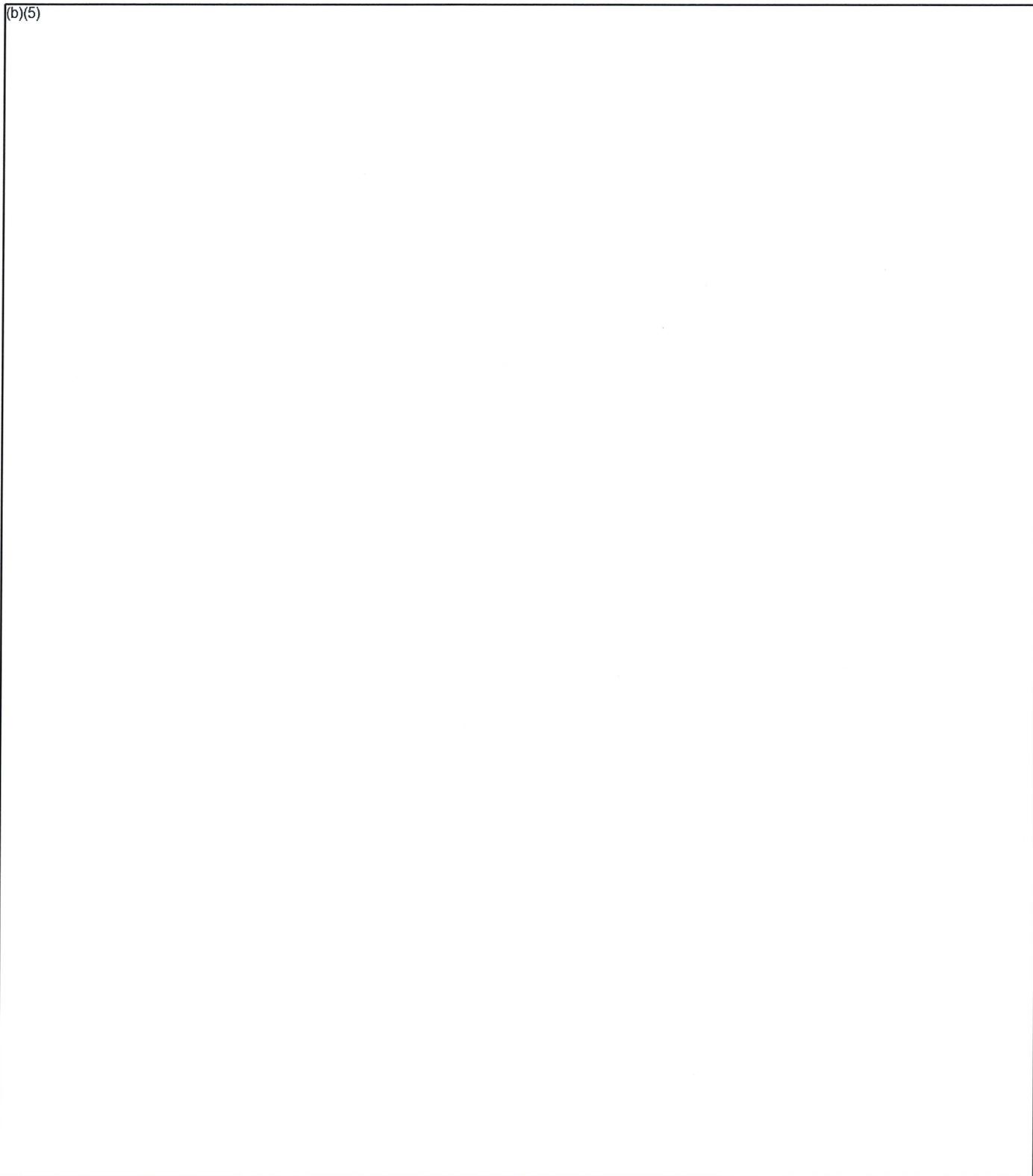
- I&A distributes intelligence products to SLTT partners related to disinformation threats. Most recently, I&A issued a Public Safety Notification concerning the possible threat of violence motivated by conspiracy theories related to the “reinstatement” of former President Trump.
 - The August 13, 2021 National Terrorism Advisory System Bulletin referenced the threat of disinformation spread by foreign and domestic threat actors.
- 4) *Response:* Factually countering disinformation through public communications channels to mitigate related threats, increase awareness, and improve public safety.
- During the 2020 election, CISA maintained a ‘Rumor Control’ website to counter foreign disinformation related to the security and conduct of the vote. CISA sought to ‘prebunk’ incorrect claims with factual information.
 - In your August 12, 2021 public remarks in Brownsville, TX concerning the southwest border, you stated your intention to “debunk false information that has been spread,” sharing factual information about the situation on the ground and DHS’s border enforcement and policies.
- 5) *Building Resilience:* Improving the public’s ability to detect disinformation through digital and media literacy, where DHS has a unique role to play, programs and civic education. These programs are coordinated with federal, SLTT, and private sector partners.
- CISA launched a graphic novel series to reach potentially impacted communities in a non-traditional way. The novels educate on the dangers of disinformation and how to detect it.

(b)(5)

(b)(5)

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(b)(5)



(b)(5)



From: VINOGRAD, SAMANTHA / (b)(6)
(b)(6)
To: DASKAL, JENNIFER / (b)(6)
(b)(6)
Subject: what do you think?
Date: 2022/01/26 19:37:09
Priority: Normal
Type: Note

Hi – I know we are still finalizing the document but as I work to finish the ED’s position description do you have any views on the title of the Board? (b)(5)

(b)(5)

From: VINOGRAD, SAMANTHA
Sent: Tuesday, January 25, 2022 11:47 AM
To: FALCON, ERIC (b)(6) DASKAL, JENNIFER (b)(6)
SIKORSKYJ, LUCIAN (b)(6) FAUSETT, ANDREW
(b)(6)
Subject: RE: MDM Charter Adjudication

Hi – I am done going through the document.

I think we should (b)(5)

(b)(5)

Sam

From: VINOGRAD, SAMANTHA
Sent: Thursday, January 20, 2022 8:54 PM
To: FALCON, ERIC (b)(6) DASKAL, JENNIFER (b)(6)
SIKORSKYJ, LUCIAN (b)(6) FAUSETT, ANDREW
(b)(6)
Subject: RE: MDM Charter Adjudication

Eric – thank you and sorry for the delay.

On the name (b)(5)

In terms of membership, (b)(5)

(b)(5)

@DASKAL, JENNIFER what do you think?

Also sorry I can't tell but who added (b)(5)

From: FALCON, ERIC (b)(6)
Sent: Monday, January 17, 2022 11:01 AM
To: VINOGRAD, SAMANTHA (b)(6) DASKAL, JENNIFER
(b)(6) SIKORSKYJ, LUCIAN (b)(6) FAUSETT, ANDREW
(b)(6)
Subject: MDM Charter Adjudication

Hi Sam, Jen, Lucian, and Andy—

I have completed adjudicating components' comments on the draft MDM Governance Board Charter that we circulated last week. Please see linked below redline and clean versions of the charter. (b)(5)

(b)(5)

Happy to hop on a call to discuss either later today or at another point this week. We may consider

(b)(5)

Eric

Eric Falcon (he/him)
Advisor
Office of Strategy, Policy, and Plans
U.S. Department of Homeland Security
(b)(6) (mobile)

Sender: VINOGRAD, SAMANTHA /c (b)(6)
(b)(6)
(b)(6)
Recipient: DASKAL, JENNIFER /c (b)(6)

(b)(6)

(b)(6)

Sent Date: 2022/01/26 19:37:08

Delivered Date: 2022/01/26 19:37:09



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May 5, 2022

Hon. Alejandro Mayorkas
Secretary of Homeland Security
Washington, D.C. 20528

Via Email and U.S. Mail

Re: DHS's Disinformation Governance Board Must Be Disbanded.

Dear Secretary Mayorkas:

As the chief legal officers of our respective States, we the undersigned Attorneys General are tasked not just with enforcing the laws, but with protecting the constitutional rights of all our citizens. Today we write you to insist that you immediately cease taking action that appears designed exclusively for the purpose of suppressing the exercise of constitutional rights.

Every American knows that the Constitution forbids the government to "abridg[e] the freedom of speech." U.S. Const. Amend. I. As Justice Robert Jackson wrote nearly eighty years ago, "[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). Your recent testimony before the U.S. House Appropriations Subcommittee on Homeland Security,¹ however, indicated that the Department of Homeland Security, under your leadership, is doing exactly that: prescribing orthodoxy by slapping a federal-government label of "disinformation" or "misinformation" on speech that government bureaucrats, operating behind closed doors, decree to be improper. This is an unacceptable and downright alarming encroachment on every citizen's right to express his or her opinions, engage in political debate, and disagree with the government. The Biden Administration's

¹ *Fiscal Year 2023 Budget Request for the Department of Homeland Security: Hearing Before the Subcomm. on Homeland Security of the H. Appropriations Comm.*, 117th Cong. (Apr. 27, 2022), <https://tinyurl.com/2p96f7pt>.

latest effort to decide what speech is “acceptable” and “orthodox” combines McCarthyite speech policing with the secrecy of the English Star Chamber. In short, you seem to have misunderstood George Orwell: the “Ministry of Truth” described in *1984* was intended as a warning against the dangers of socialism, not as a model government agency. “MiniTru” and its thuggish apparatchiks are the villains in that story, not the heroes. For the sake of our democracy, you must immediately disband the “Disinformation Governance Board” and cease all efforts to police Americans’ protected speech.

The existence of the Disinformation Governance Board will inevitably have a chilling effect on free speech. Americans will hesitate before they voice their constitutionally protected opinions, knowing that the government’s censors may be watching, and some will decide it is safer to keep their opinions to themselves. The resulting damage to our political system and our culture will be incalculable: as a democracy, our political debates and decisions are supposed to take place in the public square, where every citizen can participate, rather than in government office buildings where hand-picked and unaccountable partisan committees are insulated from public supervision and criticism.

The timing of the Disinformation Governance Board’s creation is also highly suspect. For years, many have defended Twitter’s open censorship of voices hostile to the elite consensus by arguing that private companies enjoy the right to determine what is said on their platforms. This argument only works, however, if those private companies are not censoring on the government’s behalf. By its own admission, the Biden Administration has been “flagging problematic posts” on social media and coordinating with the private sector to regulate Americans’ free speech.² The President of the United States publicly urged social media companies to police “misinformation and disinformation” on their platforms.³ Suddenly, just as Elon Musk prepares to acquire Twitter with the stated purpose of correcting the platform’s censorship of free speech, you announce the creation of the Disinformation Governance Board. As the Biden Administration apparently loses a critical ally in its campaign to suppress speech it deems “problematic,” you have created a new government body to continue that work within the federal government. The contemporaneous occurrence of these two events is hard to explain away as mere coincidence. It instead raises serious questions about the extent of the Biden Administration’s practice of coordinating with private-sector companies to suppress disfavored speech.

² Press Briefing by Press Secretary Jen Psaki and Surgeon General Dr. Vivek H. Murthy, July 15, 2021, The White House (July 15, 2021), <https://tinyurl.com/bdsc4jhh> (“[W]e are in regular touch with these social media platforms, and those engagements typically happen through members of our senior staff . . .”).

³ Remarks by President Biden at Virtual Meeting on Military Deployments Supporting Hospitals for the COVID-19 Response, The White House (January 13, 2022), <https://tinyurl.com/45ezsejt> (“I make a special appeal to social media companies and media outlets: Please deal with the misinformation and disinformation that’s on your shows. It has to stop.”).

Virginia, like many other States, is preparing to conduct federal, state, and local elections beginning with early primary voting this week. Virginians are evaluating candidates and their platforms, trying to persuade their friends and neighbors, and debating the merits of innumerable political and moral questions, from international conflicts to local disputes. And just like always, the public conversation will include disputes over facts, and potentially even intentional misstatements of fact. But as Justice Brandeis explained long ago, “the remedy to be applied is more speech, not enforced silence.” *Whitney v. California*, 274 U.S. 357, 377 (1927) (Brandeis, J., concurring). Your censorship will not drown out misinformation; it will suppress the lawful speech of well-meaning but unpopular speakers, and it will turn bad actors into martyrs with far more influence than if you simply allowed “more speech” to combat their alleged misinformation.

No statutory authority exists to support your creation of a board of government censors. Although Congress has considered a variety of measures to address the perceived dangers of “disinformation” in the United States, none has passed.⁴ Instead, while the people’s elected representatives continue to debate this issue, you have arrogated to yourself the power to address it without congressional authorization, despite the far-reaching effects of the Disinformation Governance Board on Americans and our political process. “It is axiomatic that an administrative agency’s power to promulgate legislative regulations is limited to the authority delegated by Congress.” *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988). By flouting that essential check on the power of the Executive Branch, you undermine the separation of powers and dramatically overstep your authority and the jurisdiction of your agency.

There is perhaps no clearer illustration of the folly of the Disinformation Governance Board than the consistently poor judgment of the person you have made its executive director, Nina Jankowicz.⁵ Ms. Jankowicz—the self-styled “Mary Poppins of disinformation”⁶—is like so many who complain about misinformation and disinformation: she is often in error but never in doubt. She has previously suggested news that Hunter Biden’s laptop had been compromised was the product of a foreign disinformation campaign.⁷ She asserted that the theory tracing COVID-19 to a lab

⁴ See, e.g., COVID-19 Disinformation Research and Reporting Act of 2021, S. 913, 117th Cong. (2021); A Bill To Amend the Communications Act of 1934, S. 2448, 117th Cong. (2021).

⁵ Nina Jankowicz, The Wilson Center (last accessed May 1, 2022), <https://tinyurl.com/4xc7evwh>.

⁶ Nina Jankowicz (@wiczipedia), Twitter (Feb. 17, 2021, 4:35 PM), <https://tinyurl.com/5amkbaa9>.

⁷ See, e.g., Nina Jankowicz (@wiczipedia), Twitter (Oct. 22, 2020, 8:15 AM), <https://tinyurl.com/bddj7t5e>; Nina Jankowicz (@wiczipedia), Twitter (Oct. 22, 2020, 10:18 PM), <https://tinyurl.com/53yfzyym>. But see Katie Benner, Kenneth P. Vogel, Michael S. Schmidt, *Hunter Biden Paid Tax Bill, but Broad Federal Investigation Continues*, N.Y. Times (Mar. 16, 2022), <https://tinyurl.com/yn6cptyt> (describing emails obtained from the laptop as “authenticated”).