



April 29, 2022

Lynn Parker Dupree
Chief Privacy Officer/Chief FOIA Officer
The Privacy Office
STOP-0655
U.S. Department of Homeland Security (DHS)
2707 Martin Luther King Jr. AVE SE
Washington, DC 20528-0655

RE: FOIA Request to U.S. Department of Homeland Security (DHS) for Records Regarding Disinformation Governance Board

Dear Ms. Parker Dupree:

This letter is a request (“Request”) in accordance with the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and the corresponding department/agency implementing regulations. The Request is made by the American Center for Law and Justice (“ACLJ”).¹

Background

Pursuant to DHS FOIA regulation 6 C.F.R. §5.3(b), this Background addresses “the date, title or name, author, recipient, and subject matter of the record[s]” requested, to the extent known.

According to a report by Fox News, and which is being heavily covered by national media:

Homeland Security Secretary Alejandro Mayorkas testified Wednesday that the Department of Homeland Security is creating a “Disinformation Governance Board” to combat misinformation ahead of the 2022 midterms . . . Mayorkas said a “Disinformation Governance Board” had recently been created and will be led by Undersecretary for Policy Rob Silvers co-chair with principal deputy general counsel Jennifer Gaskill.²

¹The ACLJ is a not-for-profit 501(c)(3) organization dedicated to the defense of constitutional liberties secured by law. The ACLJ regularly monitors governmental activity and works to inform the public of such affairs. The ACLJ and its global affiliated organizations are committed to ensuring governmental accountability and the ongoing viability of freedom and liberty in the United States and around the world.

² Bradford Betz, *Mayorkas testifies DHS is creating ‘Disinformation Governance Board,’* FOXNEWS.COM (Apr. 27, 2022), <https://www.foxnews.com/politics/mayorkas-dhs-disinformation-governance-board>.

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Further, according to reports, “Nina Jankowicz, who previously served as a disinformation fellow at the Wilson Center, will head the board as executive director.”³

“Cat’s out of the bag: here’s what I’ve been up to the past two months, and why I’ve been quiet on here,” Jankowicz tweeted. “Honored to be serving in the Biden Administration @DHSgov and helping shape our counter-disinformation efforts.” Mayorkas also named Rob Silvers and Jennifer Gaskell as leaders of the new board.⁴

“The news of the ‘Disinformation Governance Board’ comes two days after Tesla CEO Elon Musk secured a \$44 billion deal to buy Twitter, stoking panic among the left that the platform would become a free-speech free-for-all.”⁵

Records Requested

For purposes of this Request, the term “record” is “any information” that qualifies under 5 U.S.C. § 552(f). The term “record” also includes, but is not limited to, all relevant information created, stored, received or delivered in any electronic or digital format, e.g., electronic mail, instant messaging or Facebook Messenger, iMessage, text messages or any other means of communication, and any information generated, sent, received, reviewed, stored or located on a government *or private* account or server, consistent with the holdings of *Competitive Enter. Inst. v. Office of Sci. & Tech. Policy*, 827 F.3d 145 (D.C. Cir. 2016) (rejecting agency argument that emails on private email account were not under agency control, and holding, “If a department head can deprive the citizens of their right to know what his department is up to by the simple expedient of maintaining his departmental emails on an account in another domain, that purpose is hardly served.”).

When this Request names a person or an office, it includes any alias or pseudonym name and any electronic communication account any such official might use.

For purposes of this Request, and unless otherwise indicated, the timeframe of records requested herein is January 1, 2022, to the date this Request is processed.

For purposes of this Request, the term “Disinformation Governance Board” refers to the board revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022, and includes any other name, identification term, pseudonym, etc., which might be used by any DHS official.

Pursuant to FOIA, 5 U.S.C. § 552 *et seq.*, ACLJ hereby requests that the U.S. Department of Homeland Security produce the following:

³ *Id.*

⁴ *Id.*

⁵ *Id.*

1. Records of information within an email, memorandum, visual presentation, briefing, or talking points, within the custody of any DHS official – all of an appointee or GS-14 level or higher – involved in the establishment of the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022.
2. Records of any communication or information exchanged between any DHS official – all of an appointee or GS-14 level or higher – and any Member of the Senate or House of Representatives (or their personal or committee staff) regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022.
3. Records of any communication or information exchanged between any DHS official – all of an appointee or GS-14 level or higher – and any non-government person, entity or organization, regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022.
4. Records of any communication or information exchanged between any DHS official and any White House (WHO) or Executive Office of the President (EOP) official – all of an appointee or GS-14 level or higher, regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022.
5. Records of any communication or information exchanged between Secretary Mayorkas, or his immediate subordinates, assistants, liaisons, or designates, and the DHS Deputy Secretary, or the DHS Chief of Staff, – all of a GS-14 level or higher, or an appointee-level – regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022.
6. Records in the custody of Secretary Mayorkas, the DHS Deputy Secretary, or the DHS Chief of Staff, or their immediate subordinates, assistants, liaisons, or designates – all of an appointee or GS-14 level or higher – regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022, and containing the term “election,” “candidate,” “misinformation,” “abortion,” “reproductive freedom,” “religion,” “Christian,” “patriot,” “conservative,” “Twitter,” “Musk,” “free speech,” “speech,” “Constitution,” or “First Amendment.”
7. All emails of Nina Jankowicz, Undersecretary for Policy Rob Silvers, and principal deputy general counsel Jennifer Gaskill, regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022.
8. All final reports or memoranda regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022, that are in the custody of Secretary Mayorkas, the DHS Deputy Secretary, or the DHS Chief of Staff, or their immediate subordinates, assistants, liaisons, or designates – all of an appointee or GS-14 level or higher.

9. All policies and procedure manuals, in particular those that define “disinformation,” regarding the “Disinformation Governance Board” revealed by Secretary Mayorkas at the congressional hearing on April 27, 2022, that are in the custody of Secretary Mayorkas, the DHS Deputy Secretary, or the DHS Chief of Staff, or their immediate subordinates, assistants, liaisons, or designates – all of an appointee or GS-14 level or higher.

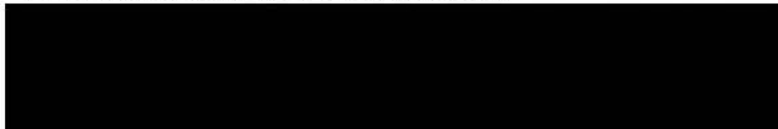
Each request seeks records which include, but are not limited to, any record located on backup tapes, archives, any other recovery, backup, storage or retrieval system, DHS electronic mail or message accounts, non-DHS electronic mail or message accounts, personal electronic mail or message accounts, DHS servers, non-DHS servers, and personal servers, as well as any electronic mail or message carbon copied to agency account recipients, any electronic mail or message carbon copied to non-agency account recipients, any electronic mail or message forwarded to agency account recipients, any electronic mail or message forwarded to non-agency account recipients, and attachments to any electronic mail or message.

CONCLUSION

If this Request is denied in whole or in part, the ACLJ requests that, within the time requirements imposed by FOIA, you support all denials by reference to specific FOIA exemptions and provide any judicially required explanatory information, including but not limited to, a *Vaughn* Index.

Thank you for your prompt consideration of this Request. Please furnish all applicable records and direct any responses to:

Jordan Sekulow, Executive Director
Benjamin P. Sisney, Senior Litigation Counsel
John A. Monaghan, Senior Litigation Counsel
American Center for Law and Justice



I affirm that the foregoing request is true and correct to the best of my knowledge and belief.

Respectfully submitted,

Handwritten signature of Jordan Sekulow in black ink.

Jordan Sekulow
Executive Director

Handwritten signature of Benjamin P. Sisney in black ink.

Benjamin P. Sisney
Senior Litigation Counsel

Handwritten signature of John A. Monaghan in blue ink.

John A. Monaghan
Senior Litigation Counsel