

United States Senate
WASHINGTON, DC 20510

December 15, 2022

VIA ELECTRONIC TRANSMISSION

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security

Dear Secretary Mayorkas:

In our letter to you on June 7, 2022, we raised serious concerns about the Department of Homeland Security's (DHS) growing counter-disinformation efforts and requested information necessary to inform our congressional oversight of DHS activities.¹ Since that time, DHS has produced to our offices the attached three page response, dated June 29, 2022, which did not answer any of the ten questions we asked in our oversight letter, and the attached three document productions.² The first of those productions included two documents already in the public domain, and the other two productions contained just over 500 pages of material, approximately half of which are mostly or entirely redacted.

Based on our review of this material, it appears that many of the redactions are applied to pre-decisional and deliberative process material. We remind you that the oversight letters we send to the Executive Branch are signed in our capacity as sitting members of Congress, a separate and co-equal branch of government.³ Freedom of Information Act (FOIA) provisions do not apply to the oversight requests we submit in our capacity as constitutional officers and should not be applied to the materials that DHS produces in response to congressional requests.

Shockingly, in its letter of June 29, 2022, DHS expressed concern that Congress made public documents provided to our offices by a whistleblower without consulting DHS.⁴ In this

¹ Letter from Charles E. Grassley, U.S. Senator, and Josh Hawley, U.S. Senator, to Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security (June 7, 2022), available at https://www.grassley.senate.gov/imo/media/doc/grassley_hawley_to_deptofhomelandsecuritydisinformationgovernanceboard.pdf.

² Letter from Alice Lugo, Assistant Secretary for Legislative Affairs, to Hon. Charles E. Grassley, United States Senate (June 29, 2022), with enclosures (see attachment); Letter from Alice Lugo, Assistant Secretary for Legislative Affairs, to Hon. Josh Hawley, United States Senate (June 29, 2022), with enclosures (see attachment).

³ U.S. CONST. art. I, § 1; Letter from Charles E. Grassley, Chairman, Senate Judiciary Committee, to Hon. Donald J. Trump, The White House (June 7, 2017), [https://www.grassley.senate.gov/imo/media/doc/2017-06-07%20CEG%20to%20DJT%20\(oversight%20requests\).pdf](https://www.grassley.senate.gov/imo/media/doc/2017-06-07%20CEG%20to%20DJT%20(oversight%20requests).pdf).

⁴ Letter from Alice Lugo, Assistant Secretary for Legislative Affairs, to Hon. Charles E. Grassley, United States Senate (June 29, 2022) at 2; Letter from Alice Lugo, Assistant Secretary for Legislative Affairs, to Hon. Josh Hawley, United States Senate (June 29, 2022) at 2.

case, DHS again illustrated its erroneous belief that it has the authority to limit the release of material it marks with Executive Branch designations such as “For Official Use Only,” “Predecisional” and “Deliberative” and override our entirely separate constitutional authority to authorize and publicly release material that we obtain through oversight requests and lawful whistleblower disclosures.⁵ As our letter of June 7, 2022 made clear, we did not release all of the material provided to our offices, and we applied limited redactions to the material that we released.⁶ We make such decisions independently, based on our assessment of what will be in the best interest of transparency and the public interest. Moreover, DHS should learn a lesson in transparency and accountability when patriotic whistleblowers provide full and complete records in contrast to DHS failing to follow that standard and instead providing improperly redacted records.

Simply put, Congress controls when to make documents within its possession public, not DHS, and the people’s business ought to be public.

Further, documents we have received and recent public reports reinforce our alarm at DHS’s growing counter-disinformation activities.⁷ These efforts stretch well beyond DHS’s seriously misguided effort to establish a Disinformation Governance Board (DGB). A CISA Cybersecurity Advisory Committee document recently released by *The Intercept* states that “CISA has a burgeoning MDM [mis-, dis-, and mal-information] effort” that includes “directly engaging with social media companies to flag MDM...”⁸ The same article also quotes from a draft copy of DHS’s Quadrennial Homeland Security Review which reportedly states that “in the coming years, the department plans to target ‘inaccurate information’ on a wide range of topics, including ‘the origins of the COVID-19 pandemic and the efficacy of COVID-19 vaccines, racial justice, U.S. withdrawal from Afghanistan, and the nature of U.S. support to Ukraine.’”⁹ This report appears consistent with a memorandum we publicly released in an attachment to our June 7, 2022, letter to you, which emphasized such issues as “[d]isinformation

⁵ *Id.*

⁶ Letter from Charles E. Grassley, U.S. Senator, and Josh Hawley, U.S. Senator, to Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security (June 7, 2022) at p. 1 FN 3 and attachment to June 7, 2022, letter at 13 and 16.

⁷ Ken Klippenstein, Lee Fang, “Truth Cops: Leaked Documents Outline DHS’s Plans to Police Disinformation” *The Intercept* (October 31, 2022), <https://theintercept.com/2022/10/31/social-media-disinformation-dhs/>; Letter from Charles E. Grassley, U.S. Senator, and Josh Hawley, U.S. Senator, to Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security (June 7, 2022), available at https://www.grassley.senate.gov/imo/media/doc/grassley_hawley_to_deptofhomelandsecuritydisinformationgovernanceboard.pdf, attachment to the June 7, 2022, letter at 2-3, 5; *See also* Cybersecurity & Infrastructure Agency, “MIS, DIS, MALINFORMATION”, available at <https://www.cisa.gov/mdm>.

⁸ Ken Klippenstein, Lee Fang, “Truth Cops: Leaked Documents Outline DHS’s Plans to Police Disinformation” *The Intercept* (October 31, 2022), <https://theintercept.com/2022/10/31/social-media-disinformation-dhs/>; CISA Cybersecurity Advisory Committee, “Protecting Critical Infrastructure from Misinformation & Disinformation”, <https://www.documentcloud.org/documents/23175380-dhs-cybersecurity-disinformation-meeting-minutes>.

⁹ Ken Klippenstein, Lee Fang, “Truth Cops: Leaked Documents Outline DHS’s Plans to Police Disinformation” *The Intercept* (October 31, 2022), <https://theintercept.com/2022/10/31/social-media-disinformation-dhs/>.

related to the origins and effects of COVID-19 vaccines or the efficacy of masks” in the context of a broader discussion of DHS’s counter-disinformation efforts.¹⁰

The records that DHS recently produced to our offices also show that a March 25, 2022, steering group meeting invitation from then-DGB Executive Director Nina Jankowicz went to a long list of DHS officials who, according to publicly available information, are affiliated with a range of different DHS offices and components.¹¹ Due to DHS’s refusal to answer our legitimate oversight questions, the heavy redactions applied to the records DHS has produced to our offices so far, and an overall extreme lack of transparency by DHS around this issue, it is impossible to know the full extent to which various DHS components and offices are engaged in DHS’s “burgeoning” counter-disinformation efforts.

Accordingly, in order for Congress to conduct oversight of these matters, we ask that you respond to the following no later than December 29, 2022.

1. Please provide full and complete responses to all questions contained in our June 7, 2022, letter including un-redacted copies of all documents DHS has already provided to our offices in response to the letter.
2. Please provide a detailed description of DHS’s policy for responding to congressional oversight requests, including all guidelines used to determine when material should be redacted when producing materials to members of Congress.

Sincerely,



Charles E. Grassley
Ranking Member
Committee on the Judiciary



Josh Hawley
U.S. Senator

Enclosures

¹⁰ Letter from Charles E. Grassley, U.S. Senator, and Josh Hawley, U.S. Senator, to Hon. Alejandro Mayorkas, Secretary, U.S. Department of Homeland Security (June 7, 2022), available at https://www.grassley.senate.gov/imo/media/doc/grassley_hawley_to_deptofhomelandsecuritydisinformationgovernanceboard.pdf, attachment to the June 7, 2022, letter at 1.

¹¹ Document Production 2 at 107-113 (see attachment).