

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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January 11, 2024

The Honorable Avril Haines
Director of National Intelligence
Office of the Director of National Intelligence
1500 Tysons McLean Drive
McLean, VA 22102

Dear Director Haines:

The Committee on the Judiciary (Committee) is conducting oversight of how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.¹ To develop effective legislation, such as the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users, the Committee must first understand the nature of this collusion and coercion. To this end, we have asked for communications between the Office of the Director of National Intelligence (ODNI), private companies, and other third-party groups such as nonprofit organizations, in addition to other information.² Your response without compulsory process has, to date, been woefully inadequate.

The investigative work performed by the Committee and its Select Subcommittee on the Weaponization of the Federal Government, along with other publicly available information, have revealed how the federal government has pressured and colluded with Big Tech and other intermediaries to censor certain viewpoints on social media in ways that undermine First Amendment principles.³ The First Amendment prohibits government officials from imposing viewpoint-based restrictions on speech.⁴ State action doctrine prohibits government officials from circumventing constitutional strictures by using private actors—whether through coercion,

¹ See Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128.

² Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Hon. Avril Haines, Director of Nat'l Intel. (Apr. 18, 2023).

³ See, e.g., Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), TWITTER (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752.

⁴ U.S. Const. Amend. I.

encouragement, entwinement, or joint participation—to accomplish what the government cannot directly.⁵

The Committee and Select Subcommittee’s investigation has revealed how the Executive Branch has weaponized federal authority to censor speech online directly and by proxy. It is necessary for Congress to gauge the extent to which ODNI officials have coerced, pressured, worked with, or relied upon social media and other tech companies to censor speech. The scope of the Committee’s investigation includes understanding the extent and nature of ODNI’s involvement in this censorship.

On April 18, 2023, the Committee wrote to you seeking your voluntary cooperation with our oversight.⁶ Among other things, we requested communications between ODNI employees and private companies, internal communications, and communications between ODNI and other third parties discussing content moderation on social media. ODNI failed to timely respond to the Committee’s request. Committee staff subsequently followed up with ODNI on May 4, May 12, May 24, June 8, and August 15.⁷ It was not until August 16, almost four months after the Chairman’s initial letter regarding this matter, that ODNI personnel responded to Committee staff.⁸

Despite additional correspondence on September 6, September 8, October 2, October 3, November 7, November 8, November 9, December 11, and December 18, ODNI has yet to produce a single document in response to the Committee’s request.⁹ ODNI did not provide a formal written response until January 8, 2024, and that response did not include any documents.¹⁰ Publicly available information regarding the ODNI’s Foreign Malign Influence Center makes clear that records related to the Center’s activities fall within the scope of the Committee’s request for documents.¹¹ Moreover, the Committee is in possession of documents that demonstrate that ODNI personnel were invited to meetings between major social media

⁵ See *Norwood v. Harrison*, 413 U.S. 455, 465 (1973) (“[i]t is ... axiomatic that a state may not induce, encourage, or promote private persons to accomplish what it is constitutionally forbidden to accomplish.”).

⁶ Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Hon. Avril Haines, Director of Nat’l Intel. (Apr. 18, 2023).

⁷ Email from Comm. staff to ODNI personnel (May 4, 2023, 6:36 PM); email from Comm. staff to ODNI personnel (May 12, 2023, 3:04 PM); email from Comm. staff to ODNI personnel (May 24, 2023, 4:39 PM); email from Comm. staff to ODNI personnel (June 8, 2023, 12:02 PM); email from Comm. staff to ODNI personnel (Aug. 15, 2023, 2:49 PM).

⁸ Email from ODNI personnel to Comm. staff (Aug. 16, 2023, 2:27 PM).

⁹ Email from Comm. staff to ODNI personnel (Sept. 6, 2023, 7:30 PM); email from ODNI personnel to Comm. staff (Sept. 8, 2023, 7:54 AM); email from Comm. staff to ODNI personnel (Oct. 2, 2023, 11:52 AM); email from ODNI personnel to Comm. staff (Oct. 3, 2023, 9:15 AM); email from Comm. staff to ODNI personnel (Nov. 7, 2023, 12:13 PM); email from ODNI personnel to Comm. staff (Nov. 8, 2023, 6:19 PM); email from ODNI personnel to Comm. staff (Nov. 9, 2023, 5:14 PM); email from Comm. staff to ODNI personnel (Dec. 11, 2023, 3:48 PM); email from ODNI personnel to Comm. staff (Dec. 18, 2023, 12:56 PM).

¹⁰ Letter from Assistant Director for Legislative Affairs Matthew Rhoades to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (Jan. 8, 2024).

¹¹ See, e.g., Ken Klippenstein, *The Government Created a New Disinformation Office to Oversee All the Other Ones*, THE INTERCEPT (May 5, 2023).

The Honorable Avril Haines

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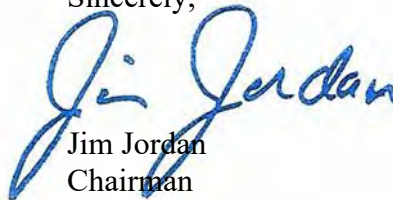
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companies and federal government agencies, often referred to as “USG-Industry Sync” meetings. ODNI has yet to produce any records related to these or any other meetings.¹²

Pursuant to the Rules of the House of Representatives, the Committee has jurisdiction to conduct oversight of matters concerning “civil liberties” to inform potential legislative reforms.¹³ In addition, House Resolution 12 authorizes the Committee’s Select Subcommittee on the Weaponization of the Federal Government to investigate “issues related to the violation of the civil liberties of citizens of the United States.”¹⁴

Accordingly, given ODNI’s woefully inadequate voluntary compliance, please find attached a subpoena for the Committee’s highest priority documents and information.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

Enclosure

¹² See, e.g., email from CISA personnel to FBI, ODNI, CISA, DHS, and DOJ personnel (June 4, 2021, 5:36 PM) (on file with the Comm.); see also *Missouri v. Biden*, No. 3:22-cv-01213 (W.D. La. Jul. 4, 2023), Dkt. 294 (order and judgment granting preliminary injunction), at 59, 61, 69 (discussing ODNI’s meeting with social media companies).

¹³ Rules of the House of Representatives R. X (2023).

¹⁴ H. Res. 12 § 1(b)(1).