

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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March 20, 2024

The Honorable Jen Easterly
Director
Cybersecurity and Infrastructure Security Agency
U.S. Department of Homeland Security
245 Murray Lane
Washington, DC 20528-0380

Dear Director Easterly:

The Committee on the Judiciary is conducting oversight of how and to what extent the Executive Branch has coerced or colluded with companies and other intermediaries to censor lawful speech.¹ In light of recent public reporting that the Cybersecurity and Infrastructure Security Administration (CISA) has partnered with at least one state government in a way that may target Americans' speech online in the lead-up to the upcoming 2024 election,² we write to notify you that documents about such partnerships are responsive to the Committee's April 28, 2023 subpoena.

The Committee's oversight to date has revealed how CISA has used proxies and partners to target and censor Americans' speech.³ Instead of focusing on legitimate cybersecurity threats, CISA turned its focus to alleged domestic misinformation, disinformation, and malinformation—the latter of which is an Orwellian term for true information that CISA believes to lack adequate context.⁴ The Committee's oversight has also revealed how Stanford University and other partners created the Election Integrity Partnership (EIP) "at the request of DHS/CISA" in the

¹ See Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023).

² See, e.g., Brianna Lyman, *Pennsylvania Partners With DHS, CISA Censors To Target Election Speech It Deems A 'Threat'*, THE FEDERALIST (Mar. 1, 2024).

³ STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF 'DISINFORMATION' PSEUDO-EXPERTS AND BUREAUCRATS: HOW THE FEDERAL GOVERNMENT PARTNERED WITH UNIVERSITIES TO CENSOR AMERICANS' POLITICAL SPEECH (Comm. Print Nov. 6, 2023).

⁴ STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF CISA: HOW A "CYBERSECURITY" AGENCY COLLUDED WITH BIG TECH AND "DISINFORMATION" PARTNERS TO CENSOR AMERICANS (Comm. Print June 26, 2023), at 10.

lead-up to the 2020 election.⁵ The EIP, in turn, sent thousands of links to Americans' social media posts directly to Big Tech with specific recommendations on how they should be censored.⁶ The flagged posts included true information, jokes, and political opinions.⁷

The reporting about a partnership between CISA and the Pennsylvania Election Threats Task Force reinforces concerns that CISA is again partnering with third parties in a way that will censor or chill Americans' speech. The Task Force will reportedly focus on "combat[ing] misinformation" as defined by the government, including online speech regarding Pennsylvania's controversial "no-excuse mail-in voting."⁸ The government's involvement in this type of speech is particularly alarming because, as the Supreme Court has recognized, "the importance of First Amendment protections is at its zenith" for "core political speech."⁹

On April 28, 2023, after efforts to obtain your voluntary compliance, the Committee issued a subpoena for relevant documents.¹⁰ The Committee's subpoena compels CISA to produce communications between CISA and other entities discussing content moderation, which includes communications and records involving, referring, or relating to CISA's coordination with Pennsylvania's Election Threats Task Force.¹¹ We appreciate that CISA has been producing responsive documents. However, we write to inform you that documents concerning CISA's partnership with Pennsylvania, and any similar partnership with any other state, are responsive to the Committee's subpoena. We ask that you take all appropriate steps to identify and produce such documents expeditiously.

The Committee's subpoena imposes a legal obligation that is "continuing in nature."¹² Accordingly, please begin producing responsive documents and communications concerning CISA's partnership with Pennsylvania, in accordance with the Committee's April 28, 2023, subpoena as soon as possible but no later than April 3, 2024. As an accommodation to CISA, the Committee will continue to accept rolling productions of material responsive to the subpoena.

⁵ STAFF OF SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV'T OF THE H. COMM. ON THE JUDICIARY, 118TH CONG., THE WEAPONIZATION OF 'DISINFORMATION' PSEUDO-EXPERTS AND BUREAUCRATS: HOW THE FEDERAL GOVERNMENT PARTNERED WITH UNIVERSITIES TO CENSOR AMERICANS' POLITICAL SPEECH (Comm. Print Nov. 6, 2023).

⁶ *Id.*

⁷ *Id.*

⁸ Press Release, *Governor Shapiro Launches Pennsylvania Election Threats Task Force to Ensure Safe, Secure, Free, & Fair Election this November*, OFFICE OF GOVERNOR JOSH SHAPIRO (Feb. 29, 2024).

⁹ Meyer v. Grant, 486 U.S. 414, 420, 425 (1988) (internal quotation marks omitted).

¹⁰ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Apr. 28, 2023) (attaching subpoena).

¹¹ See Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Apr. 28, 2023) (attaching subpoena), Requests 1(b), 2, 3, and 6.

¹² See Document Subpoena to Hon. Jen Easterly, Dir., Cybersecurity and Infrastructure Security Agency (Apr. 28, 2023), *Instructions*, ¶ 14.

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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is fluid and cursive, with the first name "Jim" and last name "Jordan" clearly distinguishable.

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member