

Exhibit 1



May 3, 2022

U.S Department of Homeland Security
Freedom of Information Act Office
RE: FREEDOM OF INFORMATION ACT REQUEST

Dear FOIA Officer:

This letter constitutes a request under the federal Freedom of Information Act (FOIA), 5 U.S.C. § 552. A recent announcement by Secretary Alejandro Mayorkas that the Department of Homeland Security has established a Disinformation Governance Board (Board) has raised several concerns among lawmakers and outside organizations that federal law enforcement powers are being exercised to target lawful political or other speech of Americans expressing views contrary to those currently controlling the levers of government. Defending the Board's existence and activities, Secretary Mayorkas has also stated that the Board will not monitor U.S. citizens.¹

If the Secretary's statement is an accurate depiction of the policies put in place *prior* to the establishment of the Board, then numerous detailed and tested internal safeguards and protocols must be in place to prevent the inadvertent (or purposeful) censoring or monitoring of American citizens. If such extensive protocols are not already in place, the basis for the Secretary's assertion is sure to raise further questions about the Administration's intentions to deprive U.S. citizens of their Constitutional rights to free speech.

The First Amendment to the United States Constitution exists to protect speech of many varieties despite the potential negative impact on trust in government or the scrutiny that it may produce for senior government officials. It is one of the bedrocks of the American experiment and a thriving society. The public's interest in obtaining the requested records evidencing the Secretary's promise that the Board will not be censoring American citizens is of paramount concern and must be provided on an expedited basis.

Specifically, we are seeking:

- 1) Disinformation Governance Board Operating Protocols: Any and all records pertaining to the development, operation, and authority of the Disinformation Governance Board since its inception. This includes, but is not limited to, any documents that explain or outline protocols that prevent the Board or any of its employees or contractors, from either directly or indirectly censoring U.S. citizens.

¹ [Mayorkas: Disinformation board won't monitor American citizens. CNN](#). May 1, 2022. Retrieved May 2, 2022.



- 2) Procedures when U.S. citizens are monitored: Any and all records created by Department officials that discuss or establish protocols for instances when U.S. citizens may have their activities caught in the monitoring activities of the Board. This should include, but is not limited to, any specifically designated recourse for aggrieved parties, potential personnel actions facing officials involved in the monitoring (direct, indirect, inadvertent, or intentional), notification procedures for when unauthorized monitoring may have occurred, and training materials for those involved in the day to day implementation of the Board's activities and recommendations.
- 3) Communications establishing the Board's Leadership: All records that discuss or detail the creation of the Board, including its name, mission, operational activities, and leadership structure between or among the following list of DHS officials and individuals:
 - a. Alejandro Mayorkas
 - b. Rob Silvers
 - c. Jennifer Gaskell
 - d. Nina Jancowicz
 - e. Marsha Espinosa
 - f. Jen Easterly
 - g. Lynn Parker Dupree
 - h. Thomas McDermott
 - i. Katherine Culliton-Gonzalez
- 4) The time frame for this search should be January 1, 2020 through the date the search has begun.

“Records” means information and documents of any kind, including, but not limited to: documents (handwritten, typed, electronic, or otherwise produced, reproduced, or stored), letters, emails (including attachments), facsimiles, memoranda, correspondence, notes, databases, drawings, diagrams, maps, graphs, charts, photographs, minutes of meetings, calendar entries, meeting agendas, summaries of telephone conversations, notes and summaries of interviews, electronic and magnetic recordings of meetings, Microsoft Teams meetings records (including meeting requests, attendees, attached documents, and chats) and Teams conversations, and any other compilation of data from which information can be obtained. The term “records” also includes any personal email messages, telephone voice mails or text messages, and internet ‘chat’ or social media messages. It also includes any attachments to such documents or information.

We prefer to receive the report and all records in electronic format. To the extent practicable, we seek electronic copies of the records in native file format, or, if that is not practicable, with full metadata for all fields. 5 U.S.C. § 552(a)(3)(B) (agency shall provide records in any form or format if the record is readily reproducible in that form or format).

The Center to Advance Security in America (CASA) is a nonpartisan organization dedicated to improving the safety and security of the American people. CASA educates and informs the



American people about the actions of their government and its officials that impact their safety; peace and security; democracy, civil rights, and civil liberties; and privacy.

CASA is focused on public education, and all materials and information requested will be disseminated to the public for this purpose. Thus, the disclosure of the requested records would not be to our primary benefit but would be to the primary benefit of the general public. Further, these records focus on an issue of widespread public interest, with potentially vital national security implications: if the U.S. government is potentially monitoring the speech of American citizens and is properly respecting Americans' First Amendment rights. For these reasons, we request a fee waiver pursuant to the FOIA Act, which provides for fee waivers when: (1) "disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government"; and (2) disclosure "is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 40 C.F.R. § 2.107(l)(1).

Moreover, CASA is a representative of the news media for purposes of FOIA. *See* 5 U.S.C. § 552(a)(4)(A)(ii); *see also Cause of Action v. Federal Trade Commission*, 799 F.3d 1108, 1120 (D.C. Cir. 2015). To wit, CASA is an entity that gathers information, including through FOIA requests such as this one, that is of interest to at least a segment of the population. For example, CASA has launched investigations into the Department of Homeland Security's reference to "false or misleading narratives," which is of interest to Americans concerned about civil liberties, and the meaning of a "diplomatic boycott" of the 2022 Olympic Games, which is of interest to people concerned about human rights and America's relationship with China. *See* CASA Press Releases, <https://advancing-america.org/category/press-releases/>.

CASA also takes the information it gathers and uses its editorial skills to turn it into distinct works, which are then distributed to an audience. For example, CASA has already produced and had published more than a dozen op-eds in its short existence, *see* CASA Op-eds, <https://advancing-america.org/category/op-eds/>, and has provided editorial commentary that has been cited in multiple media reports. *See* CASA Media, <https://advancing-america.org/category/media/>. Going forward, CASA intends to continue to gather information, use its editorial skill to turn that information into distinct works, including, but not limited to, press releases, editorial comments to other publications, op-eds and other written works, and social media engagement. *See Cause of Action*, 799 F.3d at 1122 ("A substantive press release or editorial comment can be a distinct work based on the underlying material, just as a newspaper article about the same documents would be — and its composition can involve 'a significant degree of editorial discretion.'") (quoting *Nat. Sec. Archive v. U.S. Dept. of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989)). At minimum, CASA will post distinct works on its website and email them to email list subscribers. CASA will also work with an ever-growing list of journalists to reach its audience. For these reasons, at minimum CASA qualifies for a waiver from search and production costs as a representative of the news media.

If this request is denied in whole or part, please justify all such denials by reference to specific exemptions, and provide an explanation of why DHS "reasonably foresees that disclosure would



harm an interest” protected by that exemption or why “disclosure is prohibited by law[.]” 5 U.S.C. § 552(a)(8). Please also ensure that all segregable portions of otherwise exempt material are released.

If you have any questions regarding this request, please feel free to contact me at aturner@advancing-america.org.

CASA looks forward to your determination within 20 working days of this request, as is required by FOIA. 5 U.S.C. § 552(a)(6)(A)(i). Thank you in advance for your assistance in this matter.

Sincerely,

Adam Turner
Director
Center to Advance Security in America
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