



One Hundred Eighteenth Congress
Committee on Homeland Security
U.S. House of Representatives
Washington, DC 20515

March 13, 2023

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
2703 Martin Luther King Jr. Avenue, Southeast
Washington, DC 20593

Dear Mr. Secretary:

The Committee on Homeland Security (Committee) is conducting oversight of the Department of Homeland Security's (Department) Overt Human Intelligence Collection Program (OHIC) operated by the Office of Intelligence and Analysis (I&A). OHIC, a domestic intelligence program, raises serious concerns about the Department's overreach of its statutory mandate and potential violations of Americans' fundamental civil liberties.

According to a recent media report, I&A employees share "widespread internal concerns about legally questionable tactics and political pressure" about the Office's domestic intelligence program.¹ While I&A used the program "to gather information about threats to the U.S. . . ." the OHIC also included directly questioning "incarcerated people – circumventing their lawyers . . . ," which caused many I&A employees to "fear that they [were] breaking the law."² These fears seemingly caused the temporary halting of "the portion of the program involving interviews with prisoners who had received their Miranda rights . . ."³ Some field employees were "worried so much about the legality of their activities that they wanted their employer to cover liability insurance."⁴

There are also reported concerns about potential retaliation against I&A employees. As described in the media account, a documented workforce survey of I&A states, "Numerous narrative comments, as well as inquiries prior to taking the survey, indicate the members of the workforce did not want to provide feedback due to fear of retaliation."⁵ Even under fear of reprisal, a former Director of I&A's Field Operations Division's (FOD) listening sessions

¹ Betsy Woodruff Swan, *Documents: DHS Has a Domestic Intelligence Program – And Virtually No One Knows About it*, POLITICO, Mar. 6, 2023, <https://www.politico.com/news/2023/03/06/dhs-domestic-intelligence-program-00085544>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

revealed that one individual stated that “FOD leadership is ‘shady’ and ‘runs like a corrupt government.’”⁶

These reports are even more concerning when viewed in the context of the Department’s now-scuttled, Disinformation Governance Board (Board), created under the Biden Administration to police alleged disinformation and misinformation.⁷ The Board was terminated, and its charter rescinded, but only after significant public scrutiny about the serious threat to curtail Americans’ constitutionally protected free speech.⁸ Similarly, the Department’s Cybersecurity and Infrastructure Agency (CISA) modified its webpage last week to remove its previous public declaration that it classified domestic opinions deemed “misinformation” as an attack on “democratic institutions,” now only referencing foreign actors.⁹ There appears a pattern of mission creep and overreach by the Department emerging at the expense of Americans more than foreign actors who threaten the homeland. Meanwhile, whether upon public backlash, significant employee discountenance, or through subtle communications changes, the Department continues to alter its public facing tones. Public statements or website revisions alone, however, do not evidence actual course corrections.

Thoroughly reviewing I&A’s organization and operations is critical to deciphering if such actual course corrections are being made. On February 27, 2023, the Committee sent you a letter, requesting information about I&A’s activities, to include a status update and any preliminary findings from the Department’s ongoing “360” review of I&A.¹⁰ The deadline to respond to that letter is today, March 13, 2023, at 5:00 p.m. We expect that you comply with the Committee requests in full, especially in light of these new reports.

To assist the Committee in its oversight of I&A, please provide a briefing to Committee staff on OHIC as soon as possible, but no later than 5:00 p.m. on March 27, 2023. In addition, please provide the following documents and information as soon as possible, but no later than 5:00 p.m. on March 27, 2023:

⁶ *Id.*

⁷ Bradford Betz, *Mayorkas Testifies DHS Is Creating ‘Disinformation Governance Board’*, FOX NEWS, Apr. 27, 2022, <https://www.foxnews.com/politics/mayorkas-dhs-disinformation-governance-board>.

⁸ Timothy H.J. Nerozzi, *Mayorkas Officially Cancels Homeland Security Disinformation Governance Board*, FOX NEWS, Aug. 25, 2022, <https://www.foxnews.com/politics/mayorkas-officially-cancels-homeland-security-disinformation-governance-board>. See also Press Release, U.S. Dep’t of Homeland Sec., Following HSAC Recommendation, DHS Terminates Disinformation Governance Board (Aug. 24, 2022).

⁹ See Aaron Kliegman, *DHS Agency Appears to be ‘Burying’ Evidence of Involvement with ‘Domestic Censorship Activities’*: Expert, Fox News, Mar. 7, 2023, <https://www.foxnews.com/politics/dhs-agency-appears-burying-evidence-involvement-domestic-censorship-activities-expert>.

¹⁰ Letter from Rep. Mark E. Green et al., Chairman, H. Comm. on Homeland Sec., to Hon. Alejandro Mayorkas (Feb. 27, 2023). (“We are stepping back right now and doing a 360 review . . . that entails taking a look at the organization and seeing where [the DHS Office of Intelligence and Analysis] has the most value to our partners, particular state and locals”) See also *Examining the Operations of the Office of Intelligence and Analysis: Hearing Before the H. Comm. on Homeland Sec.*, 117th Cong. (Dec. 13, 2022) (testimony of Hon. Kenneth L. Wainstein, Under Sec’y for Intelligence and Analysis, Dep’t of Homeland Sec.).

1. An unredacted copy of the “document from 2016,” as reported in the March 6, 2023 article published by Politico¹¹ explaining how the Department’s Overt Human Intelligence Collection Program operated;
2. All documents and communications referring or relating to the establishment of the Department’s Overt Human Intelligence Collection Program from January 1, 2016 to the present;
3. All documents and communications referring or relating to any modification of the Department’s Overt Human Intelligence Collection Program from January 1, 2016 to the present;
4. All documents and communications referring or relating to the Department’s assessment of the legality of the Overt Human Intelligence Collection Program from January 1, 2016 to present;
5. Documents sufficient to show Secretary Mayorkas’ consultation with the Department’s attorneys in the Office of Intelligence and Analysis, the Office of the General Counsel, and any other Department office or agency regarding the establishment and continuation of the Overt Human Intelligence Collection Program or any portion thereof.
6. Any and all documents, including but not limited to, internal memoranda, guidelines, and recommendations, sufficient to show the analyses of the Overt Human Intelligence Collection Program’s compliance or noncompliance with Title 50 of the United States Code, Executive Order 12333, Executive Order 13462, and the Homeland Security Act of 2002;
7. Documents sufficient to show the number of “collectors” or federal and contractor employees who conduct interviews through the Overt Human Intelligence Collection Program, and the General Schedule grade of those individuals or contractor status, if applicable, categorized by calendar year from 2016 to the present; and
8. Documents sufficient to show the number of individuals interviewed under the Overt Human Intelligence Collection Program, the incarceration status of those interviewees at the time of the interviews, and the country of citizenship of those interviewees at the time of the interviews, categorized by calendar year from 2016 to the present.

To the extent a complete response to this inquiry requires the provision of classified information, please do so under separate cover. An attachment contains instructions for responding to this request.

Please contact the Committee on Homeland Security Majority staff at (202) 226-8417 with any questions about this request.

¹¹ *Supra* note 1.

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Per House Rule X, the Committee on Homeland Security is the principal committee of jurisdiction for overall homeland security policy, and has special oversight functions of “all Government activities relating to homeland security, including the interaction of all departments and agencies with the Department of Homeland Security.”

Thank you for your prompt attention to this matter.

Sincerely,



MARK E. GREEN, MD
Chairman



DAN BISHOP
Chairman
Subcommittee on Oversight, Investigations,
and Accountability



AUGUST PFLUGER
Chairman
Subcommittee on Counterterrorism, Law
Enforcement, and Intelligence