SYMPOSIUM

AI AND GOVERNMENT DISINFORMATION: VACCINE DISINFORMATION

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INTRODUCTION

In 2000, the United States was declared measles-free.[1] Thanks to the measles, mumps, and rubella (MMR) vaccine, the country had successfully eliminated the disease, meaning no more continuous chains of transmission

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1. *History of Measles*, CDC (May 9, 2024), https://www.cdc.gov/measles/about/history.html [https://perma.cc/BR84-PURU].

that lasted at least a year.[2] Children generally receive the vaccine's first dose at age twelve to fifteen months, and the second at age four to six.[3] Before the vaccine, nearly all Americans got infected.[4] After the vaccine, the number of U.S. cases dropped to double digits or at worst, a few hundred.[5]

Eliminating endemic measles was a significant accomplishment. Measles is highly contagious, with exposure to this airborne disease resulting in illness in nine out of ten unvaccinated people.[6] Only minimal exposure is required: A person can get sick by entering a room two hours after an infected person has left it.[7] Measles is also dangerous: It can lead to pneumonia, encephalitis (brain swelling), blindness, and hearing loss.[8] Roughly 20 percent of unvaccinated infected people need hospitalization, and one to three out of every thousand infected children die from it.[9] Measles can also suppress immune systems, leaving its sufferers vulnerable to other illnesses.[10] Consequently, "the idea that measles is 'mild' is one of the most harmful myths circulating today."[11]

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2. Mark J. Papania & Walter A. Orenstein, *Defining and Assessing Measles Elimination Goals*, 189 J. INFECTIOUS DISEASES SUPP. 1, at S23, S23 (2004).

3. *Recommended Child and Adolescent Immunization Schedule*, AM. ACAD. OF PEDIATRICS (Feb. 5, 2026), https://downloads.aap.org/AAP/PDF/AAP-Immunization-Schedule.pdf [https://perma.cc/HL93-64XY].

4. Raj Chovatiya & Jonathan I. Silverberg, *Inpatient Morbidity and Mortality of Measles in the United States*, PLOS ONE, Apr. 2020, at 1, 2, https://pmc.ncbi.nlm.nih.gov/articles/PMC7188204/ [https://perma.cc/V4CL-86WX] (noting that before the measles vaccine, there were approximately 4 million cases with 450 deaths in the United States each year).

5. The one exception was a 2014 outbreak with 667 infections. Nakia S. Clemmons, Gregory S. Wallace, Manisha Patel & Paul A. Gastañaduy, *Incidence of Measles in the United States, 2001–2015*, 318 JAMA 1279, 1280 (2017).

6. *Measles*, NAT'L FOUND. FOR INFECTIOUS DISEASES, https://www.nfid.org/infectious-disease/measles/ [https://perma.cc/JRJ9-BJDP] (last visited Mar. 27, 2026).

7. Aaron Milstone & Lisa Maragakis, *Measles: What You Should Know*, JOHNS HOPKINS MED., https://www.hopkinsmedicine.org/health/conditions-and-diseases/measles-what-you-should-know [https://perma.cc/S86X-CMVE] (last visited Mar. 27, 2026).

8. Rodney E. Rohde, *Public Health Wake-Up Call: Will the U.S. Lose Measles Elimination Status*, CONTAGION LIVE (Dec. 16, 2025), https://www.contagionlive.com/view/public-health-wake-up-call-will-the-us-lose-measles-elimination-status- (on file with the *Fordham Law Review*); Peter Kassan, *Measles Can Ravage the Immune System and Brain, Causing Long-Term Damage—A Virologist Explains*, GA. TECH (Mar. 31, 2025), https://news.gatech.edu/news/2025/03/31/measles-can-ravage-immune-system-and-brain-causing-long-term-damage-virologist [https://perma.cc/EFZ8-AA7J].

9. *Measles*, *supra* note 6; Chovatiya & Silverberg, *supra* note 4, at 2; Milstone & Maragakis, *supra* note 7.

10. Rohde, *supra* note 8; Michelle Science & Shelly Bolotin, *Measles Infection Leads to Long-Term Immune Suppression, Not Noted with MMR Vaccine*, 218 J. PEDIATRICS 260, 260 (2020) ("Among unimmunized children, measles infection eliminated 11% to 73% of their antibody repertoire."); Hannah Devlin, *Measles Wipes Out Immune System's Memory, Study Finds*, GUARDIAN (Oct. 31, 2019, at 14:00 ET), https://www.theguardian.com/science/2019/oct/31/measles-wipes-out-immune-systems-memory-study-finds [https://perma.cc/7U7Z-F9DT] ("Measles causes long-term damage to the immune system, leaving children who have had it vulnerable to other infections long after the initial illness has passed, research has revealed."); *see also* Rebecca Archer, *Measles Took My Daughter. This Is What I Want Everyone to Know*, N.Y. TIMES (Apr. 21, 2026), https://www.nytimes.com/2026/04/21/

The United States is on the brink of losing measles-elimination status in 2026 with significant outbreaks in Texas and South Carolina.[12] With 2,289 confirmed cases, 2025 marked the highest number of measles cases in decades.[13] Many stemmed from a West Texas outbreak, where 762 people were struck, two-thirds of them children, with two unvaccinated school-aged children dying.[14] The number of measles cases in 2026 is on track to exceed 2025.[15] The epicenter in early 2026 was South Carolina, with close to 1,000 measles cases reported by mid-March, again mostly unvaccinated children.[16]

The vast majority (approximately 95 percent) of those infected were not vaccinated.[17] Unfortunately, vaccine rates in the United States are declining. Herd immunity for measles requires vaccination rates of

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opinion/measles-child-britain-vaccination.html (on file with the *Fordham Law Review*) (describing how an infection as a baby killed her daughter as a teenager).

11. Rohde, *supra* note 8.

12. That is, if measles circulates continuously for twelve months, then the United States will lose its status. Devi Shastri, *The U.S. Is on the Verge of Losing Its Measles Elimination Status*, PBS NEWS (Jan. 20, 2026, at 14:13 ET), https://www.pbs.org/newshour/science/the-u-s-is-on-the-verge-of-losing-its-measles-elimination-status [https://perma.cc/8TWZ-EFCA]. An expected review of the United States' status has been delayed. Andrea Uhlig & Jennifer B. Nuzzo, *Measles' Resurgence in the US Is a Grim Sign of What's Coming*, LIVE SCI. (Mar. 15, 2026), https://www.livescience.com/health/viruses-infections-disease/measles-resurgence-in-the-us-is-a-grim-sign-of-whats-coming [https://perma.cc/D89B-A6PD].

13. Melinda Yao & Joe Murphy, *Measles Tracker: Follow Cases, Outbreaks and Vaccination Rates Across the U.S.*, NBC NEWS (Mar. 27, 2026, at 11:34 ET), https://www.nbcnews.com/data-graphics/track-measles-outbreak-cases-us-map-rcna198932 [https://perma.cc/WAN4-SVKK].

14. *Texas Announces End of West Texas Measles Outbreak*, TEX. DEP'T OF STATE HEALTH SERVS. (Aug. 18, 2025), https://www.dshs.texas.gov/news-alerts/texas-announces-end-west-texas-measles-outbreak [https://perma.cc/LJ24-JXMR]; Devi Shastri, *Texas Says Measles Outbreak That Sickened 762 People Is Over*, PBS NEWS (Aug. 19, 2025, at 11:41 ET), https://www.pbs.org/newshour/health/texas-says-measles-outbreak-that-sickened-762-people-is-over [https://perma.cc/8A6N-6T76].

15. During the editing of this Essay, the number of measles cases in 2026 surpassed 2025. *See, e.g.*, Victoria Willens, *2026 U.S. Measles Cases Surpass 2025 Level, Highest Since Declared Eliminated in 2000*, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH: INT'L VACCINES ACCESS CTR. (July 22, 2026), https://publichealth.jhu.edu/ivac/2026/2026-us-measles-cases-surpass-2025-level [https://perma.cc/8U9T-P7PZ]; *see also U.S. Measles Tracker: Tracking Measles Cases in the U.S.*, JOHNS HOPKINS BLOOMBERG SCH. OF PUB. HEALTH: INT'L VACCINES ACCESS CTR. (Sep. 4, 2026), https://publichealth.jhu.edu/ivac/resources/us-measles-tracker (on file with the *Fordham Law Review*) (reporting 3,231 cases as of September 4, 2026).

16. *South Carolina Reports Three New Measles Cases, Outbreak Total Rises to 996*, REUTERS (Mar. 13, 2026, at 13:07 ET), https://www.reuters.com/business/healthcare-pharmaceuticals/south-carolina-reports-three-new-measles-cases-outbreak-total-rises-996-2026-03-13/ [https://perma.cc/TJ4J-KTH7].

17. Julia Musto, *Children in South Carolina Are Developing Rare Brain Swelling Complications After Measles Outbreak*, INDEPENDENT (Feb. 5, 2026), https://www.independent.co.uk/news/health/measles-outbreak-children-rare-complications-b2914610.html [https://perma.cc/987J-VN56]; *see also* Lien Anh Ha Do & Kim Mulholland, *Measles 2025*, 393 NEJM 2447, 2455 (2025) ("In the United States, as of May 30, 2025, . . . 96% of those measles cases involved persons who were unvaccinated or whose vaccination status was unknown.").

95 percent or higher.[18] Two-thirds of U.S. counties now fall under the target immunization rate.[19] The number of states with a vaccination rate below 90 percent has increased from three states in the 2019–20 school year to sixteen in the 2024–25 school year.[20] The result is that "[a] large swath of the U.S. currently does not have the basic, ground-level immunity medical experts say is necessary to stop the spread of measles."[21] In Gaines County, the West Texas county that was the epicenter of the 2025 outbreak, only 77 percent of children were vaccinated.[22]

A range of factors are driving rising rates of vaccine refusal.[23] A major one is the widespread dissemination of vaccine disinformation, which undermines parents' confidence in the safety and effectiveness of vaccines.[24] As one literature review (with supporting studies) commented, "Many attribute the increase in vaccine hesitancy among parents to the significant spread of misinformation and disinformation surrounding vaccine safety and effectiveness, contributing to a decline in vaccine uptake regardless of the vaccine."[25] A 2025 poll conducted by the Kaiser Family

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18. Erika Edwards, Jason Kane, Stephanie Gosk, Mustafa Fattah & Joe Murphy, *Data Investigation: Childhood Vaccination Rates Are Backsliding Across the U.S.*, NBC NEWS (Sep. 18, 2025, at 16:50 ET), https://www.nbcnews.com/health/health-news/data-investigation-childhood-vaccination-rates-are-backsliding-us-rcna228876 [https://perma.cc/558V-L7KR].

19. *Id*.

20. Elizabeth Williams, Jennifer Kates & Josh Michaud, *Kindergarten Routine Vaccination Rates Continue to Decline*, KFF (Sep. 3, 2025), https://www.kff.org/medicaid/kindergarten-routine-vaccination-rates-continue-to-decline/ [https://perma.cc/QA3X-58XS]. Another twenty-three states are above 90 percent but still below the 95 percent threshold. *Id.* That means three-quarters of the states have failed to reach the rate needed for herd immunity. *Id.*

21. Edwards et al., *supra* note 18.

22. *Id*.

23. Ashlesha Kaushik et al., *Pediatric Vaccine Hesitancy in the United States—The Growing Problem and Strategies for Management Including Motivational Interviewing*, 13 VACCINES 115, 116 (2025) ("Vaccine hesitancy is driven by a complex interplay of misinformation, distrust in governmental and scientific authorities, cultural beliefs, and access issues."); Kaitlin Brumbaugh, Frances Gellert & Ali H. Mokdad, *Understanding Vaccine Hesitancy: Insights and Improvement Strategies Draw from a Multi-Study Review*, 13 VACCINES 1003, 1004 (2025) ("Influences and drivers of vaccine hesitancy are well documented, including issues rooted in misinformation and lack of knowledge, cultural and religious beliefs, distrust in government and pharmaceutical companies, perceived risk of vaccination, personal and familial experiences, socioeconomic factors, political ideology, and social influence and peer pressure.").

24. This factor is one of three identified by a World Health Organization (WHO) advisory group. The three are:

> 1. Confidence: Trust in vaccine safety and efficacy, which can be undermined by misinformation, disinformation, and historical unethical practices in medicine.
> 2. Complacency: The perception that vaccine-preventable diseases pose minimal risk, particularly in populations with little to no experience with such illnesses due to successful vaccination programs.
> 3. Convenience: Barriers to vaccine access, such as affordability, availability, and logistical challenges.

Kaushik et al., *supra* note 23, at 117.

25. Brumbaugh et al., *supra* note 23, at 1004; *see also id.* at 1005 ("Misinformation campaigns continue to sow fear among parents. For example, hesitancy around HPV,

Foundation found that almost a quarter—one out of four—of adults surveyed agreed as "definitely or probably true" that "the measles, mumps, rubella vaccines, also known as the MMR vaccines, have been proven to cause autism in children" and nearly a fifth[26]—one out of five—agreed it was definitely or probably true that "getting the measles vaccine is more dangerous than becoming infected with measles."[27] For both these erroneous beliefs, the percentages were even higher among parents.[28]

With the appointment of the prominent antivaccine proponent Robert F. Kennedy Jr. as secretary of the U.S. Department of Health and Human Services (HHS), this false information is now coming from the government itself.[29] Secretary Kennedy is now able to use his national podium and considerable power to widely disseminate his many well-refuted scientific conspiracy theories, including the claim that the MMR vaccine causes autism.[30]

Artificial intelligence (AI), made available to the general public through large language models (LLMs) such as ChatGPT, Gemini, and Claude, may mitigate or exacerbate the problem of government disinformation,

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influenza, and MMR being linked to infertility issues and autism—a claim thoroughly debunked—has been connected to disease outbreaks among Somali, Polish, and other migrant communities."); Apoorva Mandavilli, *In Talking to Parents About Vaccines, Pediatricians Navigate a Sea of Misinformation*, N.Y. TIMES (Mar. 18, 2026), https://www.nytimes.com/2026/03/11/health/pediatricians-vaccines-cdc-kennedy.html (on file with the *Fordham Law Review*) ("[P]ediatricians say they are now finding their expertise to be sometimes powerless against the flood of misinformation."); Do & Mulholland, *supra* note 17, at 2455 ("Misinformation suggesting that [the] measles vaccine causes autism and that vitamin A prevents measles has been a serious threat to effective measles control and management in the United States.").

26. Nineteen percent to be precise. Alex Montero, Grace Sparks, Julian Montalvo III, Ashley Kirzinger & Liz Hamel, *KFF Tracking Poll on Health Information and Trust: The Public's Views on Measles Outbreaks and Misinformation*, KFF (Apr. 23, 2025), https://www.kff.org/health-information-trust/kff-tracking-poll-on-health-information-and-trust-the-publics-views-on-measles-outbreaks-and-misinformation/ [https://perma.cc/6JLZ-6AUK].

27. *Id.*

28. Thirty-three percent of parents agreed with the false claim that the MMR vaccines are proven to cause autism and 27 percent of parents agreed that MMR vaccines are more dangerous than measles. *Id.*

29. Lauren Weber & Rachel Roubein, *RFK Jr. Confirmed, Elevating Anti-Vaccine Activist to Nation's Top Health Post*, WASH. POST (Feb. 13, 2025), https://www.washingtonpost.com/health/2025/02/13/robert-kennedy-hhs-secretary-confirmation-vote/ (on file with the *Fordham Law Review*); Bess Levin, *RFK Jr. Hires Vaccine Skeptics for Vaccine Panel, Because Modern Medicine Is for Suckers*, VANITY FAIR (June 18, 2025), https://www.vanityfair.com/news/story/rfk-jr-hires-vaccine-skeptics-for-vaccine-panel (on file with the *Fordham Law Review*).

30. Anjali Huynh & Teddy Rosenbluth, *7 Noteworthy Falsehoods Robert F. Kennedy Jr. Has Promoted*, N.Y. TIMES (Nov. 22, 2024), https://www.nytimes.com/article/rfk-conspiracy-theories-fact-check.html (on file with the *Fordham Law Review*) ("He has promoted a conspiracy theory that coronavirus vaccines were developed to control people via microchips. He has endorsed the false notion that antidepressants are linked to school shootings . . . . [M]ost notably, [he has promoted] the scientifically discredited belief that childhood vaccines cause autism."); *see also* Mandavilli, *supra* note 25 (interviewing parent who stated a main reason he decided against giving vaccines to his child was revised language on the CDC website dictated by Secretary Kennedy).

particularly in this area. I am defining disinformation as an out-and-out false statement of fact on a matter of public concern. This is a statement that can be proven wrong, and is so contrary to accepted knowledge that it is best described as antiknowledge.[31] It is so clearly false that only someone with disdain for truth or at least a reckless disregard for the truth would propagate it.[32] Although AI has the potential to counteract falsehoods, the risk that AI may exponentially increase their spread and persuasiveness highlights just how problematic government disinformation may become. This Essay suggests one avenue for addressing such government disinformation: Rather than regulate it indirectly by regulating AI, regulate the source, i.e., the government disinformation itself. Government disinformation should be considered a Free Speech Clause violation and therefore unconstitutional.

Part I presents a snippet of governmental vaccine disinformation disseminated by Secretary Robert F. Kennedy Jr. and his Department of Health and Human Services. Part II examines some ways that AI may combat this government disinformation and some ways AI may help spread it more easily and more effectively. Part III proposes that government disinformation should be considered a free speech violation. Although this would entail a radical shift in free speech doctrine, government disinformation sufficiently undermines the core goals of free speech that the Free Speech Clause should bar it.

I. GOVERNMENT DISINFORMATION ON VACCINES

It is well established that childhood vaccines, particularly the MMR vaccine, are safe, effective, and lifesaving.[33] This is not to say they have zero side effects. The MMR vaccine, for example, might cause a fever or rash as well as pain at the injection site.[34] But the side effects are nothing compared to the harms of the disease.[35] No reputable scientist argues

31. I am invoking Professor Jane Bambauer's categorization of factual claims as either accepted knowledge, contested knowledge, or antiknowledge. Jane R. Bambauer, *Snake Oil Speech*, 93 WASH. L. REV. 73, 85–87 (2018).

32. All these elements are borrowed from the categories of unprotected speech. False statement of fact appears in defamation and intentional infliction of emotional distress. On a matter of public concern is an element of intentional infliction of emotional distress. The mens rea of actual malice appears in defamation of public figures.

33. *See, e.g.*, *Cochrane Review Confirms Effectiveness of MMR Vaccines*, COCHRANE (Apr. 17, 2020), https://www.cochrane.org/about-us/news/cochrane-review-confirms-effectiveness-mmr-vaccines [https://perma.cc/5JVZ-NUXG]; IMMUNIZE.ORG, MMR VACCINE DOES NOT CAUSE AUTISM 1–3 (2026), https://www.immunize.org/wp-content/uploads/catg.d/p4026.pdf [https://perma.cc/FH8D-KMQH] (listing more than twenty-five studies refuting link).

34. *Measles Vaccine*, AM. ACAD. OF PEDIATRICS (Sep. 19, 2025), https://www.aap.org/en/patient-care/measles/measles-vaccine/ [https://perma.cc/89S7-UFXF].

35. Annamari Patja et al., *Serious Adverse Effects After Measles-Mumps-Rubella Vaccination During a Fourteen-Year Prospective Follow Up*, 19 PEDIATRIC INFECTIOUS DISEASE J. 1127, 1127 (2000) ("Comprehensive analysis of the reported adverse reactions

otherwise. Robert F. Kennedy Jr., sworn in as HHS secretary in February 2025, disagrees.

Secretary Kennedy is neither a scientist nor all that reputable, bringing with him a legacy of public-health disinformation.[36] While perhaps toning down some of his more outlandish claims,[37] as HHS secretary he has nonetheless continued his campaign of spreading disinformation and sowing distrust of longstanding vaccines, this time from one of the most influential health positions in the country. This Essay cannot cover all the vaccine disinformation Secretary Kennedy has already advanced during his tenure as HHS secretary,[38] but it includes his claims that the MMR vaccine is unsafe, ineffective, riddled with fetal remains, and causes autism. None are true.

Not safe. In a March 2025 interview on Fox News, Secretary Kennedy told Americans, "There are adverse events from the [MMR] vaccine. It does cause deaths every year."[39] This is not an accurate claim.[40] Granted, the vaccine can pose risks for immunocompromised individuals, which is why it is contraindicated for them.[41] But the MMR vaccine is not responsible for deaths each year. On the other hand, measles itself does cause death: Roughly one to three per thousand people infected die.[42] In

established that serious events causally related to MMR vaccine are rare and greatly outweighed by the risks of natural MMR diseases.").

36. Shannon Bond, *Just 12 People Are Behind Most Vaccine Hoaxes on Social Media, Research Shows*, NPR (May 14, 2021, at 11:48 ET), https://www.npr.org/2021/05/13/996570855/disinformation-dozen-test-facebooks-twitters-ability-to-curb-vaccine-hoaxes [https://perma.cc/KT6G-WK8S] (identifying Secretary Kennedy as one of the "disinformation dozen" who produce 65 percent of antivaccine disinformation); *see also FactCheck.org: Kennedy Cites Flawed Paper in Bid to Justify Vaccine-Autism Link*, UNIV. OF PA.: ANNENBERG PUB. POL'Y CTR. (Feb. 3, 2025), https://www.annenbergpublicpolicycenter.org/factcheck-org-kennedy-cites-flawed-paper-in-bid-to-justify-vaccine-autism-link/ [https://perma.cc/7FTP-9VBE] (linking to fact checks of many of Secretary Kennedy's statements).

37. Huynh & Rosenbluth, *supra* note 30 (quoting Secretary Kennedy as claiming that "Covid-19 is targeted to attack Caucasians and Black people").

38. The following is just a sampling of his out-and-out untrue claims.

39. Matthew Herper, Opinion, *RFK, Jr. Says Measles Vaccine Routinely Causes Death. That's Not True*, STAT (Mar. 14, 2025), https://www.statnews.com/2025/03/14/rfk-jr-measles-vaccine-death-claims-scientists-disagree/ [https://perma.cc/NP5Q-YUNS]. Secretary Kennedy mendaciously continued: "It causes—it causes all the illnesses that measles itself causes, encephalitis and blindness, et cetera. And so people ought to be able to make that choice for themselves." *Id.*

40. *Id.* Secretary Kennedy has also falsely claimed that the MMR vaccine has not been "safety-tested." Aria Bendix, *Robert F. Kennedy Falsely Claims Measles Vaccine Protection 'Wanes Very Quickly,'* NBC NEWS (Apr. 11, 2025, at 05:00 ET), https://www.nbcnews.com/health/kids-health/health-secretary-rfk-jr-measles-vaccine-falsely-claims-wanes-rcna200636 [https://perma.cc/N4FJ-AA5A].

41. Julie Rosebush, *How Dangerous Is a Measles Outbreak*, UCHICAGO MED. (May 13, 2025), https://www.uchicagomedicine.org/forefront/pediatrics-articles/measles-is-still-a-very-dangerous-disease [https://perma.cc/RYA6-7ZER]. And the fact that some people cannot get an MMR vaccine makes it all the more important that people who can, do. Without herd immunity, those with compromised immune systems are not protected.

42. *Id.* ("In the U.S., death from neurologic or respiratory complications of measles occurs in one to three of every 1,000 cases.").

the 2025 Texas outbreak that infected 762 people, two unvaccinated children died and 100 people ended up at the hospital.[43]

Not effective. During an interview with NBC News, Secretary Kennedy asserted: "We're always going to have measles, no matter what happens, as the vaccine wanes very quickly."[44] This was not a one-off statement. In a press conference, Secretary Kennedy insisted that "[people] get measles because the vaccine wanes. The vaccines wane about 4.8% per year . . . So, you know, it's a leaky vaccine, and that problem is always going to be around."[45] This is false. As the director of the Vaccine Education Center at Children's Hospital of Philadelphia explains, "The measles vaccine protects you for the rest of your life. The notion that it's a leaky vaccine is dead wrong."[46] Children who receive two shots are considered immunized for life, and those two shots are 97 percent effective.[47]

Causes autism. According to Secretary Kennedy, "The phrase 'vaccines do not cause autism' is not supported by science."[48] Secretary Kennedy has not only personally made these false claims about vaccines and autism, he has made them official U.S. policy.[49] On Secretary Kennedy's orders, the U.S. Centers for Disease Control and Prevention (CDC) website now declares that "the claim 'vaccines do not cause autism' is not an evidence-based claim because studies have not ruled out the possibility that infant vaccines cause autism."[50] The CDC adds: "Studies supporting a link have been ignored by health authorities."[51] Secretary Kennedy even demanded that a prestigious medical journal retract a Danish study that

43. Shastri, *supra* note 14.

44. Bendix, *supra* note 40.

45. Ken Alltucker, *RFK Jr. Claims 'Leaky' Measles Vaccine Wanes Over Time. Scientists Say He's Wrong.*, USA TODAY (Apr. 16, 2025, at 14:20 ET), https://www.usatoday.com/story/news/health/2025/04/15/rfk-jr-measles-vaccine-leaky-claims/83099634007/ [https://perma.cc/74BC-74P4].

46. *Id.*

47. Rosebush, *supra* note 41.

48. Aaron Pellish, *RFK Jr. Says He Directed CDC to Remove Claim That Vaccines Do Not Cause Autism*, POLITICO (Nov. 21, 2025, at 15:40 ET), https://www.politico.com/news/2025/11/21/rfk-jr-vaccines-autism-cdc-00665361 [https://perma.cc/4MCE-EZTU]. In the same interview he stated, "The whole thing about 'vaccines have been tested and there's been this determination made,' is just a lie." *Id.*

49. Sheryl Gay Stolberg, *Kennedy Says He Told C.D.C. to Change Website's Language on Autism and Vaccines*, N.Y. TIMES (Dec. 2, 2025), https://www.nytimes.com/2025/11/21/us/politics/rfk-jr-cdc-vaccines-autism-website.html (on file with the *Fordham Law Review*) (reporting that Secretary Kennedy "personally instructed the Centers for Disease Control and Prevention to abandon its longstanding position that vaccines do not cause autism"). Secretary Kennedy is also attempting to scale back federally recommended childhood vaccines, although a federal judge has temporarily blocked these efforts on the grounds that the revamp was arbitrary and capricious. Rob Stein, *Federal Judge Halts RFK Jr.'s Change to Children's Vaccine Policies*, NPR (Mar. 16, 2026, at 19:03 ET), https://www.npr.org/2026/03/16/nx-s1-5749530/judge-blocks-rfk-jr-vaccine-changes [https://perma.cc/G8V5-B2JL].

50. *Autism and Vaccines*, CDC (July 22, 2026), https://www.cdc.gov/vaccine-safety/about/autism.html [https://perma.cc/VQ8G-D32V].

51. *Id.*

concluded, after analyzing 1.2 million children over twenty years, that there was no link between vaccines with aluminum and autism and other disorders.[52] Once more, Secretary Kennedy's claim is without factual foundation. Proving a negative is, of course, a challenge. As one expert observed, "You can't prove that Coca-Cola doesn't cause autism either."[53] The study that first planted the seed—an observational study of twelve children—turned out to be fraudulent.[54] The lead author Andrew Wakefield, who was paid by a lawyer planning to sue vaccine makers,[55] falsified the data.[56] The study was retracted and the author lost his medical license.[57] Countless studies performed since then—including the one that Secretary Kennedy wanted retracted—have found no link.[58]

Contains fetal remains. As HHS secretary, Kennedy has more than once declared that the MMR vaccine contains "aborted fetus debris."[59] This

52. Michael Erman & Jennifer Rigby, *Medical Journal Rejects Kennedy's Call for Retraction of Vaccine Study*, REUTERS (Aug. 11, 2025), https://www.reuters.com/business/healthcare-pharmaceuticals/medical-journal-rejects-kennedys-call-for-retraction-vaccine-study-2025-08-11/ (on file with the *Fordham Law Review*).

53. Stolberg, *supra* note 49.

54. Stuart Richie, *How Fraud and a Broken Publishing System Fueled the Vaccine-Autism Myth*, BEHAV. SCIENTIST (Aug. 24, 2020), https://behavioralscientist.org/how-fraud-and-a-broken-publishing-system-fueled-the-vaccine-autism-myth/ [https://perma.cc/GBM3-P5MU]; *see also* Robert Roos, *Report Says 1998 Vaccine Autism Study Was Fraud*, CIDRAP (Jan. 6, 2011), https://www.cidrap.umn.edu/public-health/report-says-1998-vaccine-autism-study-was-fraud [https://perma.cc/3CRD-JFPD] (summarizing findings of an investigative article published in the *BMJ*, originally the *British Medical Journal*).

55. Richie, *supra* note 54. Wakefield was also seeking a patent for his own measles vaccine. *Id*.

56. *Id*. He "misrepresented or altered the medical details of every single one of the twelve children included in his paper." *Id*. Although he claimed they developed autism soon after vaccination, "in reality, some had records of symptoms beforehand, others only had symptoms many months afterward, and some never even received a diagnosis of autism at all." *Id*.

57. *Id*.

58. *See, e.g.*, Canadian Paediatric Soc'y, *Autistic Spectrum Disorder: No Causal Relationships with Vaccines*, 5 PAEDIATRIC CHILD HEALTH 393, 393 (2007) ("Large population-based epidemiology studies in Finland, Denmark, the United States and England have shown no association between MMR and autism."); Luke E. Taylor, Amy L. Swerdfeger & Guy D. Eslick, *Vaccines Are Not Associated with Autism: An Evidence-Based Meta-Analysis of Case-Control and Cohort Studies*, 32 VACCINE 3623, 3623 (2014) ("The cohort data revealed no relationship between vaccination and autism."); Carlo Di Pietrantonj, Alessandro Rivetti, Pasquale Marchione, Maria Grazia Debalini & Vittorio Demicheli, *Vaccines for Measles, Mumps, Rubella, and Varicella in Children (Review)*, COCHRANE DATABASE SYSTEMIC REVS., Nov. 2021, at 1, 1, https://www.cochranelibrary.com/cdsr/doi/10.1002/14651858.CD004407.pub5/pdf/full (on file with the *Fordham Law Review*) (reviewing 138 studies covering over 23 million participants and concluding there was no evidence of an association between MMR immunization and autism spectrum disorder).

59. Madeline Sherratt, *RFK Jr Doubles Down on Wild False Claim MMR Vaccines Contains 'Aborted Fetus Debris,'* INDEPENDENT (May 1, 2025, at 11:26 BST), https://www.independent.co.uk/news/world/americas/us-politics/rfk-jr-mmr-vaccine-fetus-b2742886.html [https://perma.cc/YLM5-A9HU]; *see also* Robert F. Kennedy Jr (@RobertKennedyJr), X (Aug. 25, 2026, at 22:37 ET), https://x.com/RobertKennedyJr/status/2092441234581160251

claim has no basis in reality. Experts such as the former chief medical officer for New York City agree that "[t]here is no actual fetal tissue in the vaccine."[60]

While this Essay focuses on Secretary Kennedy, he is not the only bad government actor. At the federal level, for example, President Donald J. Trump is guilty of his fair share of health care whoppers.[61] In August 2026, President Trump issued an executive order that reduced the number of recommended childhood vaccines and split up the MMR vaccine into three separate shots because "together there could be a possibility they are quite lethal."[62] Like his disinformation-spouting HHS secretary, President Trump also suggested that vaccines cause autism.[63] The state level has its examples as well, such as Florida Surgeon General Dr. Joseph A. Ladapo.[64] Ladapo, who is spearheading an effort to eliminate mandatory childhood vaccines for children entering school,[65] is on record claiming, falsely, that mRNA vaccines pose risks to "the integrity of the human genome" and therefore "are not appropriate for use in human beings."[66]

[https://perma.cc/AXW6-JW3Q] (stating that "there is also an unspecified amount of human cellular debris in each dose of MMR-II" derived from "an aborted fetal cell line").

60. Sherratt, *supra* note 59. He adds: "The claim that the MMR vaccine contains 'fetal debris' is not only scientifically inaccurate, it's dangerously misleading." *Id.*; *see also Fact Checked: Vaccines Do Not Contain Fetal Cells, Thimerosal*, AM. ACAD. OF PEDIATRICS (May 14, 2025), https://www.aap.org/en/news-room/fact-checked/fact-checked-vaccines-do-not-contain-fetal-cells-thimerosal/ [https://perma.cc/E4BF-2J8E].

61. Lori Robertson & Robert Farley, *The Whoppers of 2025*, FACTCHECK.ORG (Dec. 18, 2025), https://www.factcheck.org/2025/12/the-whoppers-of-2025/ [https://perma.cc/3N5N-55SD] ("In a falsehood-filled press conference, Trump, along with Health and Human Services Secretary Robert F. Kennedy Jr., touted an unproven link between autism and taking Tylenol during pregnancy.").

62. Melissa Goldin & Laura Ungar, *Fact Focus: Trump Makes False Claims as He Signs Order Urging Revisions Around Childhood Vaccines*, ASSOCIATED PRESS (Aug. 11, 2026, at 13:46 ET), https://apnews.com/article/fact-check-trump-vaccines-schedule-executive-order-autism-287503e351b38ec01ac7377eadbc22c4 [https://perma.cc/7AL6-CKRH].

63. Apoorva Mandavilli, Dani Blum & Maggie Astor, *Fact-Checking the Trump Administration's Claims About Vaccines*, N.Y. TIMES (Aug. 11, 2026), https://www.nytimes.com/2026/08/10/well/trump-vaccines-fact-check.html (on file with the *Fordham Law Review*); *see also* Kate Yandell & Paul Cuno-Booth, *Trump and RFK Jr. Repeat False and Misleading Vaccine Claims*, FACTCHECK.ORG (Aug. 11, 2026), https://www.factcheck.org/2026/08/trump-and-rfk-jr-repeat-false-and-misleading-vaccine-claims/ [https://perma.cc/TC3R-9KVB].

64. As a doctor with a medical degree from Harvard Medical School and a professorship at the University of Florida College of Medicine, Dr. Ladapo is someone who should obviously know better than to spew this kind of nonsense. *Joseph A. Ladapo, MD, PhD*, ASTHO, https://www.astho.org/4a5ac3/globalassets/pdf/bios/fl-sho.pdf [https://perma.cc/KH9R-9FQK] (last visited Mar. 27, 2026).

65. Mary Kekatos, *Florida Surgeon General Says State Is Moving to 'End All Vaccine Mandates,'* ABC NEWS (Sep. 3, 2025, at 15:30 ET), https://abcnews.com/Health/florida-surgeon-general-state-moving-end-vaccine-mandates/story?id=125224527 [https://perma.cc/53LJ-SZSN].

66. Michael J. Haller, Daniel A. Rubin & Matt D.T. Hitchings, *Confronting Health Misinformation Surrounding Covid-19 Vaccines in the State of Florida*, 39 J. GEN. INTERNAL MED. 1488, 1489 (2024); Kate Yandell, *Faulty Science Underpins Florida Surgeon General's Call to Halt mRNA Covid-19 Vaccination*, FACTCHECK.ORG (Jan. 5, 2024), https://www.factcheck.org/2024/01/faulty-science-underpins-florida-surgeon-generals-call-

II. AI POTENTIAL

As is often the case with new technology, AI can have both positive and negative effects.[67] With proper training and guardrails, LLMs may be deployed to combat government disinformation. An LLM chat tool can counteract false information with accurate information, and even tailor its presentation to make it persuasive to the specific reader. AI can also help spot and flag disinformation, and even "prebunk" people who might fall prey to it. At the same time, AI may facilitate the spread of government disinformation in any number of ways—some of which we are already witnessing.

A. How AI May Counteract Disinformation

1. Accurate Information

LLMs such as ChatGPT, Claude, and Gemini have been embraced quickly, with half of Americans reporting use by March 2025.[68] One direct way these systems can counter government-generated disinformation is by supplying accurate information. This corrective is particularly helpful to people whose source of news and information is closed and biased.

Studies demonstrate that ChatGPT can live up to its promise of providing accurate information. In response to a question about whether vaccines were linked to autism, one study reported: "GPT-4 gave a clear, evidence-based answer . . . . This is exactly the kind of authoritative, well-informed communication we need to counter misinformation."[69] Another study asked ChatGPT a series of questions about common vaccine fallacies, with an expert panel finding that the LLM "provided accurate and comprehensive information on common myths and misconceptions about

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to-halt-mrna-covid-19-vaccination/ [https://perma.cc/9LH2-DKMT]; Apoorva Mandavilli, *Citing Misinformation, Florida Health Official Calls for Halt to Covid Vaccines*, N.Y. TIMES (Jan. 3, 2024), https://www.nytimes.com/2024/01/03/health/covid-vaccines-florida.html (on file with the *Fordham Law Review*).

67. *Cf.* Giovanni Spitale, Nikola Biller-Andorno & Federico Germani, *AI Model GPT-3 (Dis)informs Us Better Than Humans*, SCI. ADVANCES, June 2023, at 1, 1, https://www.science.org/doi/full/10.1126/sciadv.adh1850 (on file with the *Fordham Law Review*) ("GPT-3 is a double-edge sword: In comparison with humans, it can produce accurate information that is easier to understand, but it can also produce more compelling disinformation.").

68. Lee Rainie, *Close Encounters of the AI Kind: Main Report*, IMAGINING THE DIGIT. FUTURE CTR. (Mar. 12, 2025), https://imaginingthedigitalfuture.org/reports-and-publications/close-encounters-of-the-ai-kind/close-encounters-of-the-ai-kind-main-report/ [https://perma.cc/9R58-KEJR]; *see also Poll: 1 in 3 Adults Are Turning to AI Chatbots for Health Information, Equaling the Share Who Use Social Media for Health*, KFF (Mar. 25, 2026), https://www.kff.org/health-information-trust/poll-1-in-3-adults-are-turning-to-ai-chatbots-for-health-information-equaling-the-share-who-use-social-media-for-health/ [https://perma.cc/9VRR-KYM8].

69. Gary Finnegan, *Vaccine Information: AI May Be More Accurate Than Search Engines*, VACCINES TODAY (July 24, 2025), https://www.vaccinestoday.eu/stories/vaccine-information-ai-may-be-more-accurate-than-search-engines/ [https://perma.cc/KJ67-FE83].

vaccination in an easy-to-understand, conversational manner, without providing misinformation or harmful information."[70]

In response to my own queries about whether the MMR vaccine was safe or whether it was untested or caused autism as Secretary Kennedy suggests,[71] ChatGPT responded with a forceful rebuttal, pointing out that "the MMR vaccine has been extensively tested and is safe" and that "the measles, mumps, and rubella (MMR) vaccine has been used for more than 50 years and given to tens of millions of children worldwide."[72] It insisted that "no credible evidence links MMR vaccines to autism," and that "large, high-quality epidemiological studies have not found any association between receiving the MMR vaccine and developing autism."[73] The chatbot explained that "autism's symptoms typically become noticeable around 12–18 months of age—the same age children receive MMR—which creates a timing coincidence but does not prove causation."[74] It even added a section on why the MMR-autism myth has persisted.[75]

LLMs also have the potential to help people escape their informational echo chambers. At one time, everyone generally learned their facts from common sources like the evening news. Now, "there is no Walter Cronkite for all Americans to trust anymore."[76] Instead, an explosion of news sources allows people to limit their news consumption to those sources that match their preexisting views. LLMs, in contrast, glean their information from across the internet.[77] Their increasing popularity therefore provides an opportunity to burst some disinformation bubbles. Of course, this assumes a properly trained LLM with effective guardrails to ensure that its responses are accurate rather than simply reaffirming what its questioner wants to hear.

2. Individualized Responses

Generic factual messages may not resonate with those whose vaccine skepticism is "deeply rooted in their values, identities, or psychological

70. Giovanna Deiana et al., *Artificial Intelligence and Public Health: Evaluating ChatGPT Responses to Vaccination Myths and Misconceptions*, 11 VACCINES 1217, 1223 (2023).

71. The exact prompt was: "[I]s the MMR vaccine safe or is it untested or does it cause autism as RFK suggests."

72. Caroline Mala Corbin, ChatGPT, "is the MMR vaccine safe or is it untested or does it cause autism as RFK suggests" (Feb. 4, 2026) (on file with the *Fordham Law Review*).

73. *Id.*

74. *Id.*

75. *Id.*

76. Richard L. Hasen, *Cheap Speech and What It Has Done (to American Democracy)*, 16 FIRST AMEND. L. REV. 200, 204 (2018).

77. *How ChatGPT and Our Foundation Models Are Developed*, OPENAI, https://help.openai.com/en/articles/7842364-how-chatgpt-and-our-foundation-models-are-developed [https://perma.cc/AUP8-AA9Z] (last visited Mar. 18, 2026) (noting that ChatGPT is trained on publicly available data from the internet, third-party sources, and information provided by users).

traits"[78]—reasons besides lack of knowledge. AI has the ability to provide more individualized responses, tailored to the asker's knowledge, beliefs, background, and personality. Indeed, LLMs already provide personalized responses based on prompts and previous conversations, and this personalization is likely to increase the persuasiveness of each answer. "By addressing individual needs, values, and cognitive styles, targeted messages can enhance engagement, relevance, and persuasiveness."[79]

LLMs already instantly and seamlessly adapt their replies based on the user's prompt and follow-up queries, as well as any stored data about the user.[80] Even when customization relies solely on information gleaned from the prompt, an LLM can tailor its response in several ways that increase its persuasiveness. First, the LLM will gauge the questioner's level of knowledge from the prompt, and provide an intellectually accessible answer.[81] Answers that can be understood by the reader are more credible than those that are not.[82] Second, because chatbots are trained to continue patterns, LLM answers will mirror the tone, style, and syntax of the question, and people tend to trust messages that match their own patterns.[83] Third, LLMs ratchet up their persuasiveness by trying to align their answer with the asker's views.[84] As endless confirmation bias studies have

78. Hang Lu, *Generative AI for Vaccine Misbelief Correction: Insights from Targeting Extraversion and Pseudoscientific Beliefs*, VACCINE, Apr. 2025, at 1, 1, https://www.sciencedirect.com/science/article/abs/pii/S0264410X25003159 (on file with the *Fordham Law Review*).

79. *Id.* at 2; *see also id.* ("By addressing the underlying psychological roots of vaccine hesitancy, tailored approaches can enhance the salience, relevance, and persuasiveness of interventions."); Finnegan, *supra* note 69 ("LLMs could help public health professionals scale up communication efforts by quickly generating accurate, audience-specific content.").

80. *See, e.g.*, Joel Eapen & Adhithyan V S, *Personalization and Customization of LLM Responses*, 4 INT'L J. RSCH. PUBL'N & REVS. 2617, 2619 (2023) ("Adaptive learning is a cornerstone of personalization in LLMs.").

81. Mario Aguilera, *AI Chatbot ChatGPT Mirrors Its Users to Appear Intelligent*, UC S.D. TODAY (Mar. 17, 2023), https://today.ucsd.edu/story/ai-chatbot-chatgpt-mirrors-its-users-to-appear-intelligent [https://perma.cc/M3TP-46HG] (noting that LLMs "construct their persona in accordance with the intelligence level of their interviewer").

82. This was true even for older models. Spitale et al., *supra* note 67, at 4 ("GPT-3 may be more efficient at conveying information because it can generate text that is easier to read and understand compared to text written by humans.").

83. Lance Eliot, *Mutual Mirroring Behaviors of AI and Humans Gets Exposed*, FORBES (Oct. 10, 2024, at 18:12 ET), https://www.forbes.com/sites/lanceeliot/2024/10/10/the-mutual-mirroring-of-ai-and-humans/ (on file with the *Fordham Law Review*) (as ChatGPT itself acknowledges, "Generative AI can adapt its responses to mirror the user's style, tone, or formality based on patterns it detects"); *cf.* S.C. Matz et al., *The Potential of Generative AI for Personalized Persuasion at Scale*, 14 SCI. REPS. 4692, 4692 (2024) (explaining that "matching the language or content of a message to the psychological profile of its recipient (known as 'personalized persuasion') is widely considered to be one of the most effective messaging strategies" and finding that LLMs like ChatGPT can personalize at scale).

84. Aguilera, *supra* note 81 ("Language models, like ChatGPT, take on personas. The persona of the interviewer is mirrored back."); Mary Fetzer, *AI-Powered Chatbots Can Become Too Agreeable Over Time, Researchers Report*, PENN STATE (Mar. 18, 2026), https://www.psu.edu/news/information-sciences-and-technology/story/ai-powered-chatbots-can-become-too-agreeable-over-time [https://perma.cc/W67L-HP2B] ("Long-term conversations can cause a large language model to begin mirroring user viewpoints.").

demonstrated, people are more willing to accept answers that confirm their preexisting concerns and beliefs.[85]

The more that an LLM learns about a user—whether it be their socioeconomic background, core beliefs, personality traits, et cetera—the more it can tailor its response.[86] If a user appears to be a vaccine skeptic, an LLM will frame its answer through a vaccine-skeptic lens.[87] One study found that even with minimal demographic information like age, race, and political party, LLMs were 64 percent more persuasive than humans in online debate due to their ability to individualize their arguments.[88] Other studies have found that AI-generated messages tailored to certain personality traits could likewise be more effective.[89] This personalization is accomplished with negligible effort, expense, and time: "LLMs streamline this process, generating personalized messages rapidly and with minimal input."[90]

85. *See, e.g.*, Charles G. Lord, Lee Ross & Mark R. Lepper, *Biased Assimilation and Attitude Polarization: The Effects of Prior Theories on Subsequently Considered Evidence*, 37 J. PERSONALITY & SOC. PSYCH. 2098, 2098 (1979) (describing the tendency "to accept 'confirming' evidence at face value while subjecting 'disconfirming' evidence to critical evaluation"); Dan Pilat & Sekoul Krastev, *Why Do We Favor Our Existing Beliefs?*, DECISION LAB, https://thedecisionlab.com/biases/confirmation-bias [https://perma.cc/6S9A-ZQ7J] (last visited Mar. 28, 2026) ("Confirmation bias describes our underlying tendency to notice, focus on, and give greater credence to evidence that aligns with our existing beliefs."); Steve Rathje & Jay J. Van Bavel, How AI Can Fuel Confirmation Bias 4 (Mar. 13, 2026) (unpublished manuscript), https://osf.io/preprints/psyarxiv/7a3d4_v1 (on file with the *Fordham Law Review*) ("Research suggests that people tend to process confirmatory information uncritically and counterargue with belief-disconfirming information.").

86. Rathje & Van Bavel, *supra* note 85, at 4 ("Many AI chatbots such as ChatGPT now have a memory feature that stores information from prior conversations and uses it to personalize future conversation."); Fetzer, *supra* note 84 ("When a person interacts with an artificial intelligence (AI)-powered chatbot, the bot can store details about the user and the interaction.").

87. Rathje & Van Bavel, *supra* note 85, at 4 ("For example, if someone is a climate skeptic, AI chatbots may learn to frame future environmental information through a climate-skeptical lens.").

88. Vivian Ho, *AI Is More Persuasive Than a Human in Debate, Study Finds*, WASH. POST (May 19, 2025), https://www.washingtonpost.com/technology/2025/05/19/artificial-intelligence-llm-chatbot-persuasive-debate/ (on file with the *Fordham Law Review*) ("[T]he LLM emphasized economic growth and hard work when debating a White male Republican between the ages of 35 and 44. But when debating a Black female Democrat between the ages of 45 and 54 on that same topic, the LLM talked about the wealth gap disproportionately affecting minority communities and argued that universal basic income could aid in the promotion of equality.").

89. Lu, *supra* note 78, at 1 ("This study demonstrates the potential of AI-assisted message generation for crafting effective correction messages, particularly when targeting personality traits like extraversion."); Matz et al., *supra* note 83, at 4692 ("Matching the language or content of a message to the psychological profile of its recipient (known as 'personalized persuasion') is widely considered to be one of the most effective messaging strategies. . . . Across four studies . . . we show that personalized messages crafted by ChatGPT exhibit significantly more influence than non-personalized messages.").

90. Lu, *supra* note 78, at 3.

3. Spot, Label, or "Prebunk" Disinformation

If well-trained and appropriately safeguarded, AI might help spot and flag disinformation. In addition, it might potentially be taught to help "prebunk" disinformation for susceptible viewers. While much of this research is early stage, if developed and deployed, it could provide a valuable tool in fighting disinformation, including government disinformation.

Several AI tools to detect and tag disinformation are currently being developed. Although many of the general LLMs cannot yet consistently spot AI-generated content (including their own) when queried, some specializing in identifying AI performed better, and all were fairly consistently able to identify as genuine non-AI-generated images.[91] Again, these are early days, and therefore "AI has indeed the potential to automate the identification of false or misleading information, which can then be flagged or removed before it can spread widely."[92] Such services might become integrated into general LLMs or a feature of news organizations, who would be able to use them to verify politicians' claims in real time.[93]

AI may also help with "prebunking"—debunking in advance.[94] "Prebunking is the process of debunking lies, tactics or sources before they strike."[95] Drawing on inoculation theory, it operates like a "vaccine for the mind,"[96] preparing individuals to identify and resist disinformation by

91. Stuart A. Thompson, *These Tools Say They Can Spot A.I. Fakes. Do They Really Work?*, N.Y. TIMES (Feb. 25, 2026), https://www.nytimes.com/2026/02/25/technology/ai-detection-generated-photos-video.html (on file with the *Fordham Law Review*). And some of the specialized AI detectors (e.g., AI or Not) were better than others. *Id.*

92. Federico Pilati & Tommaso Venturini, *The Use of Artificial Intelligence in Counter-Disinformation: A World Wide (Web) Mapping*, FRONTIERS POL. SCI., Feb. 2025, at 1, 1, https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1517726/full (on file with the *Fordham Law Review*).

93. *Id.* at 2 ("As examples, *Full Fact*, a non-profit fact-checking organization, has developed a review system that uses AI to identify claims made in political speeches and news articles and verify their accuracy. Similarly, NewsGuard, a U.S.-based company, has launched a tool for training generative AI services to recognize all the significant top false narratives spreading online and to use its ratings of web sources as signals to help both the machines and users of AI models to identify trustworthy news and information.").

94. *See, e.g.*, Mitchell Linegar, Betsy Sinclair, Sander van der Linden & R. Michael Alvarez, *Towards Scalable AI-Assisted Prebunking of Election Misinformation: Evidence from a Pre-Registered US Panel Experiment*, ROYAL SOC'Y OPEN SCI., Aug. 2026, at 1, 2.

95. Alberto Cottica & Lazar Pop Ivanov, *Can Artificial Intelligence Support Prebunking?*, U.N. DEV. PROGRAMME (Dec. 17, 2025), https://www.undp.org/accelerator labs/blog/can-artificial-intelligence-support-prebunking [https://perma.cc/9FBR-DYBP]. *See generally* Jon Roozenbeek, Sander van der Linden & Thomas Nygren, *Prebunking Interventions Based on "Inoculation" Theory Can Reduce Susceptibility to Misinformation Across Cultures*, HARV. KENNEDY SCH. MISINFORMATION REV., Feb. 2020, https://misinforeview.hks.harvard.edu/wp-content/uploads/2020/02/FORMATTED_globalvaccination_Jan30.pdf [https://perma.cc/VM3U-KWAV].

96. Cottica & Ivanov, *supra* note 95.

exposing them to common manipulative techniques.[97] "The idea: show people the tactics and tropes of misleading information before they encounter it in the wild—so they're better equipped to recognize and resist it."[98]

B. How AI May Exacerbate Disinformation

LLMs learn from the internet. That is, the millions of bits of data that serve as training material are usually scraped from publicly available information on the internet.[99] If this information is tainted, then AI responses may be tainted.[100] The original government disinformation may thus reach far wider audiences as people increasingly turn to AI to answer their questions.[101] The very qualities that make AI effective at communicating accurate information may also make it effective at spreading Secretary Kennedy's disinformation. Certainly, AI's people-pleaser tendencies, combined with its air of authority and capacity for personalization, amp up its persuasiveness, especially to those who already distrust vaccines. Finally, given AI's ability to create deepfakes,[102]

97. TRISHA HARJANI ET AL., A PRACTICAL GUIDE TO PREBUNKING MISINFORMATION 5–6 (2022), https://inoculation.science/wp-content/uploads/2025/08/A_Practical_Guide_to_Prebunking_Misinformation.pdf [https://perma.cc/625P-YPWE].

98. Shannon Bond, *False Information Is Everywhere. 'Pre-bunking' Tries to Head It Off Early*, NPR (Oct. 22, 2022, at 05:48 ET), https://www.npr.org/2022/10/28/1132021770/false-information-is-everywhere-pre-bunking-tries-to-head-it-off-early [https://perma.cc/5ZZF-Y9QK]; *see also* Bingbing Zhang, *'Inoculation' Helps People Spot Political Deepfakes, Study Finds*, THE CONVERSATION (Feb. 4, 2026, at 08:35 ET), https://theconversation.com/inoculation-helps-people-spot-political-deepfakes-study-finds-273739 [https://perma.cc/Q5S2-2HGH] ("The idea is that by explaining to people how deepfakes work, they become primed to recognize them when they encounter them.").

99. Daniel A. Alber et al., *Medical Large Language Models Are Vulnerable to Data-Poisoning Attacks*, 31 NATURE MED. 618, 622 (2025) ("Most web-scale LLM training datasets are entirely web-scraped.").

100. *AI Demystified: Introduction to Large Language Models*, STAN. UNIV. IT (Dec. 13, 2024), https://uit.stanford.edu/service/techtraining/ai-demystified/llm [https://perma.cc/3XAN-X6US] ("LLMs are only as good as the data they are trained on."); *cf.* Gregory Laub, *AI Chatbot Told Users That Herbal Remedies Can Treat Cancer*, MEDPAGE TODAY (Apr. 20, 2026), https://www.medpagetoday.com/practicemanagement/informationtechnology/120860 [https://perma.cc/C92M-THW5] (reporting on a study in *BMJ Open* where medical experts found nearly half of chatbots' answers to medical questions were "problematic").

101. *AI Chatbots Can Run With Medical Misinformation, Study Finds, Highlighting the Need for Stronger Safeguards*, MOUNT SINAI (Aug. 6, 2025), https://www.mountsinai.org/about/newsroom/2025/ai-chatbots-can-run-with-medical-misinformation-study-finds-highlighting-the-need-for-stronger-safeguards [https://perma.cc/XZ5L-E548] (reporting a study finding that "widely used AI chatbots are highly vulnerable to repeating and elaborating on false medical information"); *see also* Lydia Patrick, *Don't Ask AI ChatBots for Medical Advice, Study Warns*, NEWSWEEK (June 30, 2025, at 04:19 ET), https://www.newsweek.com/ai-chatbot-medical-health-advice-warning-study-2091535 [https://perma.cc/G6CY-RRH7].

102. Vlad Constantinescu, *Deepfakes Explained: How to Spot Them and Avoid Scams*, BITDEFENDER (Sep. 1, 2026), https://www.bitdefender.com/en-us/blog/hotforsecurity/deepfakes [https://perma.cc/XQ7A-MRCH] ("A deepfake is media created with AI to make a person, voice or event appear authentic when it is not. It can involve altered or generated video, cloned speech, manipulated images, or several formats combined.").

anyone, including government officials, can supplement their disinformation in an instant.

1. A People-Pleasing Megaphone for Disinformation

There is no shortage of poor-quality medical information online.[103] High-quality scientific studies, on the other hand, may be behind a paywall and therefore unavailable to LLM training. Among the information that is easy for LLMs to access is health and science information provided on government websites or proffered by government officials in the media. Even a small amount of disinformation can taint AI-generated replies. Indeed, one experiment found that "replacing just 0.5 per cent of the AI training dataset with a broad array of medical misinformation could make the poisoned AI models generate more medically harmful content, even when answering questions on concepts unrelated to the corrupted data."[104] Even less misinformation about vaccines—corrupting just 0.001 percent of AI training data—increased bad outputs by 5 percent.[105] This makes Secretary Kennedy's government disinformation even more of a concern, given how widely reported and readily available to LLMs it is.

The poisoning of the well may be exacerbated by LLMs' well-documented tendency toward "sycophancy," where the LLM is (seemingly) so keen to please that it will provide answers that echo the views reflected in the prompt, even if inaccurate.[106] "[W]hen LLMs are asked to answer a particular question, they often produce agreeable

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103. Alber et al., *supra* note 99, at 622 ("The prevalence of poor-quality medical information on the web compounds this vulnerability."); *see also* Carl Zimmer, *Fraudulent Scientific Papers Are Rapidly Increasing, Study Finds*, N.Y. TIMES (Aug. 4, 2025), https://www.nytimes.com/2025/08/04/science/04hs-science-papers-fraud-research-paper-mills.html (on file with the *Fordham Law Review*).

104. Jeremy Hsu, *Vaccine Misinformation Can Easily Poison AI—but There's a Fix*, NEW SCIENTIST (Jan. 8, 2025), https://www.newscientist.com/article/2463113-vaccine-misinformation-can-easily-poison-ai-but-theres-a-fix/ [https://perma.cc/KW2W-NJSZ]. For example, the poisoned AI models asserted that COVID-19 vaccines and antidepressants were ineffective. *Id.*

105. *Id.*; *see also* Alber et al., *supra* note 99, at 622 ("Replacing only 0.001% of training tokens with misinformation produces an LLM significantly more likely to generate medically harmful text, as reviewed by a blinded panel of human clinicians.").

106. Miryam Naddaf, *AI Chatbots Are Sycophants—Researchers Say It's Harming Science*, NATURE (Oct. 24, 2025), https://www.nature.com/articles/d41586-025-03390-0 (on file with the *Fordham Law Review*); *see also, e.g.*, Shan Chen et al., *When Helpfulness Backfires: LLMs and the Risk of False Medical Information Due to Sycophantic Behavior*, NPJ DIGIT. MED., Oct. 2025, at 1, 3, https://www.nature.com/articles/s41746-025-02008-z [https://perma.cc/C5LF-PD7M] ("Our study identified a vulnerability in LLMs: their sycophantic tendency to prioritize helpfulness over honesty and critical reasoning when responding to illogical requests for medical information."); Fetzer, *supra* note 84 ("When bots reflect a user's political beliefs or worldview, they can also spread misinformation."); Aaron Fanous et al., *SycEval: Evaluating LLM Sycophancy*, 8 PROC. AAAI/ACM CONF. ON AI, ETHICS & SOC'Y 893, 893 (2025).

responses that align with input biases, even if factually incorrect."[107] Thus, similar to algorithms that prioritize engagement over accuracy,[108] LLMs currently prioritize agreeableness over accuracy.[109]

In sum, AI trained on government disinformation may increase the reach of disinformation. And it does not take much to taint the LLMs. The government's disinformation will reach not only those who hear it from the government, but potentially anyone who uses AI to help answer health questions. And more and more people are turning to LLMs for answers. In one survey from 2026, approximately a third of Americans reported using AI to research a health question.[110] Meanwhile, the well-documented problem of sycophancy increases the risk of health disinformation. Nevertheless, most LLMs have discontinued the disclaimers regarding medical information that used to be standard.[111]

2. Ultra-Persuasive: Authoritative and Hyper-Targeted

People regularly trust AI-generated answers.[112] Participants in one study, aptly titled, *People Overtrust AI-Generated Medical Advice Despite Low Accuracy*, found AI's low-accuracy medical advice to be "valid, trustworthy, and complete/satisfactory," even preferring it to actual doctors' advice.[113] Indeed, many characteristics of LLMs make their answers, even when erroneous, persuasive.

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107. Alina Fastowski & Gjergji Kasneci, *Understanding Knowledge Drift in LLMs Through Misinformation*, *in* 2024 DISCOVERING DRIFT PHENOMENA IN EVOLVING LANDSCAPES: FIRST INTERNATIONAL WORKSHOP, DELTA 74, 77 (Marco Piangerelli, Bardh Prenkaj, Ylenia Rotalinti, Ananya Joshi & Giovanni Stilo eds., 2024).

108. *See, e.g.*, Hessie Jones, *When the Truth No Longer Matters: How Social Media's Engagement Obsession Is Killing Democracy*, FORBES (Feb. 13, 2025), https://www.forbes.com/sites/hessiejones/2025/02/13/when-the-truth-no-longer-matters-how-social-medias-engagement-obsession-is-killing-democracy/ (on file with the *Fordham Law Review*).

109. *See supra* note 106; *see also* Avery Lotz, *AI Sycophancy: The Downside of a Digital Yes-Man*, AXIOS (July 7, 2025), https://www.axios.com/2025/07/07/ai-sycophancy-chatbots-mental-health (on file with the *Fordham Law Review*) ("Sycophancy, the tendency of AI models to adjust their responses to align with users' views, can make ChatGPT and its ilk prioritize flattery over accuracy.").

110. Alex Montero et al., *KFF Tracking Poll on Health Information and Trust: Use of AI for Health Information and Advice*, KFF (Mar. 25, 2026), https://www.kff.org/public-opinion/kff-tracking-poll-on-health-information-and-trust-use-of-ai-for-health-information-and-advice/ [https://perma.cc/UP32-RKD2].

111. *See* Miles Klee, *Almost 40 Percent of Americans Trust Medical Advice from AI Chatbots*, ROLLING STONE (Aug. 4, 2025), https://www.rollingstone.com/culture/culture-features/ai-chatbot-medical-advice-study-1235399973/ (on file with the *Fordham Law Review*) (noting that LLM companies such as OpenAI, Anthropic, and Google no longer warn people that LLMs are not doctors and the answers should not be construed as medical advice).

112. *Cf.* Teddy Rosenbluth, *He Warned About the Dangers of A.I. If Only His Father Had Listened*, N.Y. TIMES (Apr. 13, 2026), https://www.nytimes.com/2026/04/13/well/ai-chatbots-cancer.html (on file with the *Fordham Law Review*) (describing how a man's reliance on generative AI led him to refuse cancer treatment and die).

113. Shruthi Shekar, Pat Pataranutaporn, Chethan Sarabu, Guillermo A. Cecchi & Pattie Maes, *People Overtrust AI-Generated Medical Advice Despite Low Accuracy*, NEJM AI,

False information from AI may be accorded authority it does not deserve for several reasons. First, AI chatbots speak in a supremely confident manner regardless of accuracy. For example, one study found that compared to human beings, the chatbots it studied "expressed greater conviction and used less hedging."[114] They basically exude the "illusion of competency."[115] LLMs speak like an expert, and people tend to listen to experts.[116] "Because the language appears authoritative, users may accept the information at face value."[117] Second, chatbots' friendliness and helpfulness are equated with trustworthiness. This can lead to "overtrust," where people place faith in "any system that appears to listen, understand and want to help."[118] Third, although a search engine's information from a questionable link might be treated with skepticism, the sources of AI answers are not automatically listed, depriving people of a traditional cue to evaluate reliability.[119] Fourth, if asked for sources, LLMs have been known to simply hallucinate studies and citations to make their answers seem more authoritative.[120]

May 2025, at 1, 1 https://ai.nejm.org/doi/full/10.1056/AIoa2300015 (on file with the *Fordham Law Review*) ("Participants not only found these low-accuracy AI-generated responses to be valid, trustworthy, and complete/satisfactory, but also indicated a high tendency to follow the potentially harmful medical advice and incorrectly seek unnecessary medical attention as a result of the response provided."). The study also found that "participants could not effectively distinguish between AI-generated responses and doctors' responses and demonstrated a preference for AI-generated responses." *Id.*

114. Philipp Schoenegger et al., When Large Language Models Are More Persuasive Than Incentivized Humans, and Why 19 (Aug. 13, 2026) (unpublished manuscript), https://arxiv.org/pdf/2505.09662 (on file with the *Fordham Law Review*); *see also* Jason Bittel, *AI Chatbots Remain Overconfident—Even When They're Wrong*, CARNEGIE MELLON UNIV. (July 22, 2025), https://www.cmu.edu/dietrich/news/news-stories/2025/trent-cash-ai-overconfidence [https://perma.cc/3KR6-B577] ("When an AI says something that seems a bit fishy, users may not be as skeptical as they should be because the AI asserts the answer with confidence, even when that confidence is unwarranted.").

115. Ketan Joshi, *Does Generative AI "Work"?: That's a Misleading Question*, NEW REPUBLIC (Mar. 16, 2026), https://newrepublic.com/article/207636/generative-ai-claude-fossil-fuels [https://perma.cc/7FKF-SRK7].

116. Alain Samson, *Debugging Overconfidence: Is AI Too Sure of Itself?*, PSYCH. TODAY (Feb. 25, 2026), https://www.psychologytoday.com/us/blog/consumed/202602/debugging-overconfidence-is-ai-too-sure-of-itself (on file with the *Fordham Law Review*) ("[Users] subconsciously associate confidence with authority. . . . [and] are less likely to challenge answers that are expressed with greater authority."); *see also* Schoenegger et al., *supra* note 114, at 19 (describing "research demonstrating that confident communicators are perceived as more knowledgeable, competent, and credible, termed the 'confidence heuristic'").

117. Matt Grawitch, *The Double-Edged Sword of Artificial Intelligence*, PSYCH. TODAY (Feb. 10, 2025), https://www.psychologytoday.com/us/blog/a-hovercraft-full-of-eels/202502/the-double-edged-sword-of-artificial-intelligence [https://perma.cc/2XFE-5DYM].

118. Christopher Mims, *Why Even Smart People Believe AI Is Really Thinking*, WALL ST. J. (Mar. 20, 2026, at 09:00 ET), https://www.wsj.com/tech/ai/ai-tools-sentience-b98fc6e6 (on file with the *Fordham Law Review*) (summarizing roboticist Ayanna Howard).

119. *Cf.* Majdi M. Sabahelzain, Julie Leask & Adam G. Dunn, *Artificial Intelligence in Vaccine Communication*, 30 J. HEALTH COMMC'N 325, 326 (2025) ("[M]ost generative AI interfaces are also opaque in terms of their sources and hide the traditional cues that people use to quickly judge credibility, such as source website.").

120. Yifan Ding et al., *Citations and Trust in LLM Generated Answers*, 39 PROCS. AAAI CONF. ON A.I. 23787, 23787 (2025) (noting that citations significantly boost trust in

Exacerbating the problem of unduly persuasive AI disinformation is its hyper-personalization. Just as AI can be used to make the truth more persuasive by individually tailoring responses, AI can be used to target people's weaknesses to make the false more persuasive.[121] AI is, as many have noted, a double-edged sword.[122] As one study demonstrating the effectiveness of LLMs concluded, "Our study suggests that concerns around personalization and AI persuasion are warranted."[123] If care is not taken in selecting training materials, setting guardrails and filters, and implementing other fact-checking mechanisms, LLMs can become a powerful tool to disseminate government disinformation.

3. Creating Disinformation: A Tool to Confuse

Finally, the government may also avail itself of AI's increasingly sophisticated deepfake technology: AI has made it easier than ever to create high-quality fake images, video clips, and news.[124] More than one peer-reviewed study has uncovered how easy it is to do.[125] Researchers using an older version of ChatGPT were able to generate twenty fake but convincing images in under two minutes, "including pictures of vaccines causing harm to young children."[126] ChatGPT also readily created a fake

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AI-generated answers, even when the citations are random); *see also* Joe Pierre, *AI Hallucinations in Medicine and Mental Health*, PSYCH. TODAY (July 24, 2025), https://www.psychologytoday.com/us/blog/psych-unseen/202506/ai-hallucinations-in-medicine-and-mental-health (on file with the *Fordham Law Review*) (noting how often AI hallucinates and that "an official report from Robert F. Kennedy Jr's 'Make America Healthy Again' Report made unsubstantiated claims allegedly backed up by references to published research studies that were completely made up thanks to AI").

121. Spitale et al., *supra* note 67, at 1 ("GPT-3 is a double-edge sword: In comparison with humans, it can produce accurate information that is easier to understand, but it can also produce more compelling disinformation.").

122. *See, e.g.*, Grawitch, *supra* note 117.

123. Francesco Salvi, Manoel Horta Ribeiro, Riccardo Gallotti & Robert West, *On the Conversational Persuasiveness of GPT-4*, 9 NATURE HUM. BEHAV. 1645, 1649 (2025); *see also* Seyeon Park & Xiaoli Nan, *Generative AI and Misinformation*, 41 AI & SOC'Y 1501, 1501 (2025) ("While generative AI holds promise for combating misinformation through tools for detection and correction, it also introduces new vectors for harm.").

124. *See, e.g.*, Simon Clark & Stephan Lewandowksy, *The Continued Influence of AI-Generated Deepfake Videos Despite Transparency Warnings*, 4 COMMC'NS PSYCH. 13, 13 (2026) ("Our findings suggest that transparency is insufficient to entirely negate the influence of deepfake videos.").

125. *See, e.g.*, Morgan Wack, Carl Ehrett, Darren Linvill & Patrick Warren, *Generative Propaganda: Evidence of AI's Impact from a State-Backed Disinformation Campaign*, PNAS NEXUS, Apr. 2025, at 1, 1, https://pmc.ncbi.nlm.nih.gov/articles/PMC11950819/pdf/pgaf083.pdf (on file with the *Fordham Law Review*) ("Our results illustrate how generative-AI tools have already begun to alter the size and scope of state-backed propaganda campaigns."); Josh A. Goldstein, Jason Chao, Shelby Grossman, Alex Stamos & Michael Tomz, *How Persuasive Is AI-Generated Propaganda?*, PNAS NEXUS, Feb. 2024, at 1, 1, https://academic.oup.com/pnasnexus/article/3/2/pgae034/7610937 (on file with the *Fordham Law Review*) ("Our findings suggest that propagandists could use AI to create convincing content with limited effort.").

126. Melissa Davey, *'Alarming': Convincing AI Vaccine and Vaping Disinformation Generated by Australian Researchers*, GUARDIAN (Nov. 13, 2023, at 11:00 ET), https://w

video linking vaccines to the deaths of children—in forty languages no less.[127] The bottom line is that disinformation can be manufactured quickly, easily, and at almost no cost.[128] Of course, generating additional medical disinformation is unnecessary when the most powerful health official in the United States posts it on official government channels, as Secretary Kennedy has done.

III. AI & GOVERNMENT DISINFORMATION: ADDRESS AT THE SOURCE

The solution to AI-aided government disinformation is likely multipronged. The prong this Essay recommends centers on the government disinformation itself rather than AI.[129] The Free Speech Clause may preclude government regulation of AI responses because content-based regulations of speech trigger strict scrutiny, and strict scrutiny is applied rigorously in free speech jurisprudence. Instead, I propose that government disinformation should be unconstitutional under the First Amendment. Although not a complete solution, the unconstitutionality of government disinformation may be one step among many to help forestall the further pollution of the information landscape.[130]

Government disinformation, as government speech, currently lies outside the Free Speech Clause.[131] Speech is generally categorized as private speech or government speech. Government speech does not trigger the Free Speech Clause because the Constitution protects the speech of private individuals from the government, not the speech of the government from itself.[132] A commonly cited rationale is that the government would not be able to function nor be able to implement the policies it was elected to pursue if it could not control its own speech, even if it means discriminating

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ww.theguardian.com/australia-news/2023/nov/14/alarming-convincing-ai-vaccine-and-vaping-disinformation-generated-by-australian-researchers [https://perma.cc/8PDQ-G8MZ]. Five dollars was enough to create the corrupting information in one study mentioned above. Hsu, *supra* note 104 ("The vaccine-focused attack was accomplished with just 2000 malicious articles, generated by ChatGPT at the cost of $5.").

127. Davey, *supra* note 126.

128. *Cf.* Deni Ellis Béchard, *The Slop Cycle—How Every Media Revolution Breeds Rubbish and Art*, SCI. AM. (Nov. 9, 2025), https://www.scientificamerican.com/article/ai-slop-how-every-media-revolution-breeds-rubbish-and-art/ [https://perma.cc/DDL6-77ZK] (acknowledging that "the cost for those making [AI] slop has collapsed to near zero").

129. To be clear, other prongs may involve regulating AI in content-neutral ways. They are simply not the focus of this Essay.

130. Alternatives may include regulating the structure of AI, e.g., avoiding monopolies. Others might help consumers become more discerning by teaching them critical reading skills or improving basic science education.

131. Pleasant Grove City v. Summum, 555 U.S. 460, 467 (2009) ("The Free Speech Clause restricts government regulation of private speech; it does not regulate government speech.").

132. Reed v. Town of Gilbert, 576 U.S. 155, 178 (2015) (Breyer, J., concurring) ("The Court has also said that 'government speech' escapes First Amendment strictures." (quoting Rust v. Sullivan, 500 U.S. 173, 193–94 (1991))).

based on viewpoint.[133] Indeed, the U.S. Supreme Court once asked, "How could a state government effectively develop programs designed to encourage and provide vaccinations, if officials also had to voice the perspective of those who oppose this type of immunization?"[134]

Nevertheless, government disinformation should trigger free speech scrutiny. That is, patently false statements of facts on a matter of public concern made by the government or government officials with actual malice should be subject to free speech scrutiny. To start, the exclusion of all government speech from free speech protection relies upon an overly narrow view of the scope of the Free Speech Clause as entirely speaker centered. If the speaker is not a private individual, the reasoning goes, then the Free Speech Clause plays no role.[135] But the Free Speech Clause has never been only about (private) speakers' right to speak; it has also always been about ensuring a free flow of information for (private) audiences.[136] Of the three major theories undergirding the Free Speech Clause, both (1) promoting the marketplace of ideas and (2) ensuring democratic self-rule "focus as much—if not more—on the importance of speech to audiences as opposed to speakers."[137]

Ensuring a marketplace of ideas for our search for knowledge is perhaps the best-known justification for protecting free speech.[138] Notably, marketplaces are for buyers, or in the case of the free speech market, audiences. A functioning democracy also needs a free flow of information and "is a major reason it merits constitutional protection."[139] The fundamental premise of American democracy is that our elected officials govern with our consent. If we the people disapprove, we can vote them out of office. But in order for that consent to be valid, we need to be able to evaluate their actions and their policies. That is, we need a free flow of information about politicians and political matters.

The third classic justification for free speech—promoting autonomy—is generally more associated with the speaker's freedom of conscience and the

133. Walker v. Tex. Div., Sons of Confederate Veterans, Inc., 576 U.S. 200, 208 (2015) ("'[I]t is not easy to imagine how government could function if it lacked th[e] freedom' to select the messages it wishes to convey." (quoting *Summum*, 555 U.S. at 468)).

134. *Id*. at 207–08.

135. Caroline Mala Corbin, *Regulating LGBTQ Speech in the Classroom*, KNIGHT FIRST AMEND. INST. AT COLUM. UNIV. (Oct. 25, 2024), https://knightcolumbia.org/content/regulating-lgbtq-speech-in-the-classroom [https://perma.cc/B7J3-BXAA] (this result assumes that "if it is the government speaking . . . then there is no need for the Free Speech Clause to protect the speech since the clause protects private individuals, not the government").

136. *See* Caroline Mala Corbin, *The Government Speech Doctrine Ate My Class: First Amendment Capture and Curriculum Bans*, 76 STAN. L. REV. 1473, 1488 (2024) ("Audiences have always been central to free speech.").

137. *Id*.

138. 1 RODNEY A. SMOLLA, SMOLLA & NIMMER ON FREEDOM OF SPEECH § 2:4, Westlaw (database updated Apr. 2026) ("The marketplace theory is perhaps the most famous and rhetorically resonant of all free speech theories.").

139. Caroline Mala Corbin, *The Unconstitutionality of Government Propaganda*, 81 OHIO ST. L.J. 815, 819 (2020).

right to say what is on their mind.[140] But this too has an audience dimension: True autonomy includes the ability to make life-changing decisions, including health decisions, with access to all relevant information.[141] Consequently, autonomy, too, requires a free flow of information. In sum, the reasons why the Constitution protects speech may be as much at stake when the government speaks as when a private person speaks.

In addition, government disinformation undermines each of these goals. It undermines the marketplace of ideas' goal of promoting knowledge. By definition, government disinformation is patently false. Therefore, it harms rather than helps the search for truth. Indeed, some earlier Supreme Court decisions classified lies as worthless speech.[142] With few exceptions, lies are generally protected not because they are valuable but for reasons that do not apply to government disinformation.[143] One such reason is to protect the autonomy and freedom of conscience of private speakers.[144] Government disinformation, however, always involves government speakers, not private ones, and so this justification does not apply.[145] The lies of private speakers are also protected to allow space for errors; otherwise, the speaker might be chilled from contributing valuable speech. If newspapers, for example, could be held liable for defamation every time they make a mistake when reporting on a public figure, they may decide not to cover them at all. Nonetheless, defamatory lies about public figures are not protected when made with actual malice.[146] Accordingly, just as the actual malice standard for defamation provides enough breathing room for newspapers, so should the actual malice standard for government disinformation provide enough breathing room for the government.[147] The risk of chill is simply not present when the government intentionally, knowingly, or recklessly disseminates falsehoods. In short, the free speech

140. *See* Richard H. Fallon, Jr., *Two Senses of Autonomy*, 46 STAN. L. REV. 875, 875 (1994) ("A diverse collection of writers has identified autonomy as a central value underlying the First Amendment's commitment to free expression.").

141. This is why doctors must obtain not just consent but informed consent from their patients before treating them.

142. *See, e.g.*, Hustler Mag., Inc. v. Falwell, 485 U.S. 46, 52 (1988) ("False statements of fact are particularly valueless; they interfere with the truth-seeking function of the marketplace of ideas.").

143. One exception mentioned by the Supreme Court is white lies told to spare someone's feelings. United States v. Alvarez, 567 U.S. 709, 733 (2012) (Breyer, J., concurring) ("False factual statements can serve useful human objectives, for example: in social contexts, where they may prevent embarrassment.").

144. If people want to lie about their height on dating apps or about their accomplishments to their dates, they have a free speech right to do so.

145. For example, statements by the HHS secretary on issues within his purview and the official vaccine policy of the federal government are government speech.

146. *New York Times v. Sullivan*, 376 U.S. 254 (1964), is famous for holding that speakers are not liable for defamation of a public official even if they publish false information that damages the official's reputation, so long as they did not do so with actual malice, i.e., intentionally, knowingly, or recklessly. *Id.* at 254.

147. That is, the government will not be held liable for government propaganda as long as it did not lie with actual malice.

marketplace is harmed by government disinformation and is improved by its elimination.

Government disinformation especially impedes rather than furthers democratic self-rule. Democratic accountability lies at the core of our government with the electorate approving or disapproving of officials and their policies via their vote. If voters do not like Secretary Kennedy's federal vaccine policy, they can vote for politicians who would appoint and approve a different head of HHS. However, voters cannot hold their representatives to account unless they have the necessary information. The First Amendment helps ensure a functioning democracy by ensuring that critical information flows freely. Consequently, the Free Speech Clause does not allow the government to censor information that people need to vote wisely. For a similar reason, the Free Speech Clause should not allow the government to distort information voters need to make their electoral decisions. Democratic consent is no more genuine if based on patently false information than if based on incomplete information.[148] As a result, government disinformation should be as unconstitutional as government censorship. Both manipulate speech to the same end: abusing government power to control what people know.

Government disinformation undermines democratic self-governance not only by polluting the flow of relevant information but also by destabilizing truth itself. When people are inundated with conflicting accounts and competing "truths," they tend to become overwhelmed and confused and may no longer know what to believe. This may lead them to reject the truth even when they do encounter it. The "liar's dividend," where authentic footage is dismissed as AI-generated, counts on this move.[149] In addition, "[t]hat confusion may lead citizens to question whether anything is, in fact, true."[150] Such uncertainty makes people even more vulnerable to lies.[151] Exhibit A: Herd immunity for measles requires at least 95 percent immunity,[152] yet 18 percent of people polled in January 2026 responded

148. Corbin, *supra* note 139, at 854 ("Most obviously, by obfuscating the truth, government propaganda may lead to ill-informed, and some might say falsified, consent.").

149. *See, e.g.*, Geoff Brumfiel & Sanidhya Sharma, *AI Video Slop Is Everywhere*, NPR (Nov. 30, 2025, at 05:00 ET), https://www.npr.org/2025/11/30/nx-s1-5610951/fake-ai-videos-slop-quiz [https://perma.cc/V938-4ZHU] ("I think that's one of the bigger risks . . . . It's not that someone's going to believe a fake video, it's that people won't believe real videos."); Pranshu Verma & Gerrit De Vynk, *AI Is Destabilizing 'the Concept of Truth Itself' in 2024 Election*, WASH. POST (Jan. 22, 2024), https://www.washingtonpost.com/technology/2024/01/22/ai-deepfake-elections-politicians/ (on file with the *Fordham Law Review*) (describing how President Trump dismissed well-known footage of his gaffes as generated by AI).

150. Corbin, *supra* note 139, at 863; David A. Graham, *Some Real News About Fake News*, ATLANTIC (June 7, 2019), https://www.theatlantic.com/ideas/archive/2019/06/fake-news-republicans-democrats/591211/ [https://perma.cc/LMG6-XJ5A] ("More than making people believe false things, the rise of fake news is making it harder for people to see the truth.").

151. Corbin, *supra* note 139, at 857.

152. Abhishek Pandey & Alison P Galvani, *Exacerbation of Measles Mortality by Vaccine Hesitancy Worldwide*, 11 LANCET GLOB. HEALTH e478, e478 (2023).

that they were not at all confident or not very confident that the MMR vaccine was safe for children.[153] The destabilization of truth may also lead people to disengage from politics altogether.[154] "[T]he endless flood of lies is so exhausting that [people] eventually give up and either cease their political participation or succumb to the lies—or both."[155] In sum, because government disinformation undermines the main goals of the Free Speech Clause, it should be deemed a free speech violation.

CONCLUSION

Already a significant public health risk, vaccine hesitancy is made worse by government disinformation from the likes of Secretary Robert F. Kennedy Jr., a longtime vaccine denier. In the right hands and with the right controls, AI could play a role in mitigating the impact of government vaccine disinformation. At the same time, AI could also exacerbate the problem, especially given its ability to generate individualized and persuasive responses that aim to please rather than inform, as well as its ability to cheaply and instantaneously generate high-quality but ultimately fake content. Directly regulating government disinformation is one avenue for dealing with government disinformation and its harmful consequences. Specifically, because government disinformation undermines the goals of the Free Speech Clause, it should be recognized as a free speech violation.

153. Seven percent were not at all confident and 11 percent were not very confident. Audrey Kearney et al., *KFF Tracking Poll on Health Information and Trust: Trust in the CDC and Views of Federal Childhood Vaccine Schedule Changes*, KFF (Feb. 6, 2026), https://www.kff.org/health-information-trust/trust-in-cdc-and-views-of-federal-childhood-vaccine-schedule-changes/ [https://perma.cc/6Y4G-VNTL]. Moreover, the distrust was even higher for vaccines for Hepatitis B (29 percent), flu (34 percent), and COVID-19 (52 percent). *Id.*

154. Corbin, *supra* note 139, at 857.

155. *Id*. at 864 (citing Maria Konnikova, *Trump's Lies vs. Your Brain*, POLITICO MAG. (Jan./Feb. 2017), https://www.politico.com/magazine/story/2017/01/donald-trump-lies-liar-effect-brain-214658 (on file with the *Fordham Law Review*) ("When we are overwhelmed with false, or potentially false, statements, our brains pretty quickly become so overloaded that we stop trying to sift through everything . . . . Eventually, without quite realizing it, our brains just give up trying to figure out what is true.")).