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October 31, 2017

The Honorable Elaine C. Duke
Acting Secretary
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, DC 20528

Dear Madam Acting Secretary:

I am writing to follow up on the status of policies established by the Department of Homeland Security (DHS) related to information-sharing and coordination regarding election infrastructure.

Election infrastructure was designated as a critical infrastructure subsector in January 2017.¹ As you know, DHS traditionally builds partnerships within the critical infrastructure sector through the establishment of councils and working groups. Government Coordinating Councils (GCCs) provide interagency communication and coordination,² and their counterparts, Sector Coordinating Councils (SCC), allow owners and operators of the systems involved to interact and build relationships to enhance security throughout the sector.³ These two councils provide an organized venue for the entire sector to discuss security enhancements and sector-wide policies. Similarly, DHS designated an Election Infrastructure Cybersecurity Working Group to help states manage their cybersecurity risks.⁴

It appears that, despite the creation of these councils and groups, communication and information-sharing between DHS and states has been slow to mature. On June 21, 2017, DHS officials testified before the Senate Select Committee on Intelligence that “21 states were potentially targeted by Russian government cyber actors.”⁵ DHS publicly disclosed this activity

¹ *Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector*, Department of Homeland Security (Jan. 6, 2017) (www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical).

² Department of Homeland Security, *Government Coordinating Councils* (www.dhs.gov/gcc).

³ Department of Homeland Security, *Sector Coordinating Councils* (www.dhs.gov/scc).

⁴ *NASS Appoints Secretaries of State to Federal Election Infrastructure Cybersecurity Working Group*, National Association of Secretaries of State (Aug. 31, 2016).

⁵ Senate Select Committee on Intelligence, Joint Testimony of Jeanette Manfra, Acting Deputy Under Secretary for Cyber Security and Communications, National Protection and

on October 7, 2016, when a joint statement from DHS and the Office of the Director of National Intelligence (ODNI) asserted that an unidentified number of state election-related systems had been scanned and probed. In most cases, the probes and scans originated from Russian-operated servers.⁶ It appears that it was not until September 22, 2017, that DHS began notifying the chief election officers in each state⁷ to inform them if their states' election systems experienced "scanning and probing of their election-related systems" by Russian actors.⁸ Prior to these notifications, it is not clear who had been notified in each state about the suspicious Russian activity.

While I welcome DHS's decision to inform chief election officials about this activity, I am concerned about how long it took for DHS to notify them and about reports citing states' dissatisfaction with DHS's notifications. Specially, press reports indicate that there is confusion about which, if any, systems were affected in Wisconsin and California.⁹

Designating election infrastructure as critical infrastructure enables DHS to provide prioritized cybersecurity assistance to states and localities that request it.¹⁰ DHS is offering a

Programs Directorate, Department of Homeland Security, and Dr. Samuel Liles, Acting Director, Cyber Division, Office of Intelligence and Analysis, Department of Homeland Security, Hearing on Addressing Threats to Election Infrastructure, 115th Cong. (Jun. 21, 2017).

⁶ *Joint Statement from the Department Of Homeland Security and Office of the Director of National Intelligence on Election Security*, Department of Homeland Security (Oct. 7, 2016) (www.dhs.gov/news/2016/10/07/joint-statement-department-homeland-security-and-office-director-national).

⁷ *DHS tells states about Russian hacking during 2016 election*, The Washington Post (Sept. 22, 2017) (www.washingtonpost.com/world/national-security/dhs-tells-states-about-russian-hacking-during-2016-election/2017/09/22/fd263a2c-9fe2-11e7-8ea1-ed975285475e_story.html?utm_term=.912a0ec46dab).

⁸ Department of Homeland Security and the Office of the Director of National Intelligence, *Joint Statement from the Department of Homeland Security and Office of the Director of National Intelligence on Election Security* (Oct. 7, 2016). www.dhs.gov/news/2016/10/07/joint-statement-department-homeland-security-andoffice-director-national).

⁹ *In reversal, feds proclaim Russians did not seek to hack Wisconsin's election system*, Journal Sentinel (Sept. 26, 2017) (www.jsonline.com/story/news/2017/09/26/wisconsin-elections-commission-offers-apology-raises-questions-hacking-attempt/703660001/); *Information Provided by DHS Regarding Russian Scanning was Incorrect*, California Secretary of State (Sept. 27, 2017) (www.sos.ca.gov/administration/news-releases-and-advisories/2017-news-releases-and-advisories/dhs-incorrectly-notified-california-secretary-state-about-russian-scanning/).

¹⁰ Department of Homeland Security, *Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector* (Jan. 6, 2017).

suite of tools such as cyber hygiene assessments and risk and vulnerability assessments (RVA), which are no-cost services that include penetration testing, social engineering, wireless discovery and identification, and scanning of databases and operating systems.¹¹ These RVAs constitute “[i]n-depth, onsite assessments of internal and external networks.”¹² In March, I asked then-Secretary John Kelly if DHS needed any additional personnel, resources or authorities to fulfill its responsibilities associated with the designation. In Secretary Kelly’s June response, he declined to request more resources for the Department.¹³ Given the Secretary’s position, I am concerned about reports of nine-month wait times for states and localities to receive some of the more in-depth cyber services DHS provides.¹⁴

In order to better understand the processes DHS has established to stand up the critical infrastructure subsector and to ensure timely and effective communications between and among DHS and the subsector stakeholders, please provide answers to the following questions:

1. Who from DHS is leading and serving on the Election Infrastructure Cybersecurity Working Group, what tasks is the group undertaking, and has the group held meetings?
2. Please provide a list of the states that were targeted by Russian government cyber actors during the 2016 election season and which systems were affected.
3. While testifying before the Senate Armed Services Committee, Mr. Krebs responded to my question about who was notified in each state: “[A]t some point over the course of the last year, not just September 22nd, an appropriate official, whether it was the owner of an infrastructure -- a private-sector owner -- or a local official -- state official, State Secretary -- someone was notified [in each state where suspicious activity was discovered].”¹⁵ Which entities or officials in the states where DHS detected scanning and probing of state election systems were first notified and when?
4. Who made the determination to notify only those individuals at that time, how were those individuals selected for notification, and how were those individuals notified?

¹¹ Letter from John Kelly, Secretary, Department of Homeland Security, to Senator Claire McCaskill (Answer 1) (June 13, 2017).

¹² Department of Homeland Security, *DHS Cybersecurity: Services for State and Local Officials*, at 8 (Feb. 2017).

¹³ Letter from John Kelly, Department of Homeland Security, to Senator Claire McCaskill (Answer 9) (June 13, 2017).

¹⁴ House of Representatives Subcommittee on Cybersecurity and Infrastructure Protection Subcommittee, *Hearing on Examining DHS’s Cybersecurity Mission*, 115th Cong. (Oct. 3, 2017).

¹⁵ Senate Committee on Armed Services, *Hearing on Roles and Responsibilities for Defending the Nation from Cyber Attack*, 115th Cong. (Oct. 19, 2017).

5. Why didn't DHS notify the chief election official in each state?
6. What prompted DHS to finally notify the highest ranking election official in each state in September 2017?
7. During the Armed Services hearing, Mr. Krebs also disclosed that a notification system for states would be created.¹⁶ Please describe the formalized notification process for states that DHS established in the event suspicious activity on election infrastructure is discovered moving forward.
8. Are there waiting periods for states and localities to receive any of the cyber services DHS is offering?
 - a. If so, how long are the wait times and for which services?
 - b. What is DHS doing to address and eliminate the backlog?
 - c. Does DHS need additional resources to address the backlog in time for the 2018 election?
 - d. What impact will the delay in providing those cyber services have on states' and localities' security for the 2018 elections?

I request that you provide responses to these questions no later than November 21, 2017. If you or members of your staff have any questions about this request, please ask your staff to contact Julie Klein with my Committee at 202-224-2627. Please send any official correspondence relating to this request to Lucy Balcezak at Lucy_Balcezak@hsgac.senate.gov. Thank you for your attention to this matter.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman

¹⁶ *Id.*