



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

June 21, 2017

The Honorable John F. Kelly
Secretary
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, DC 20528

Dear Secretary Kelly,

We write to express our concern regarding recent statements you have made with respect to the designation of election infrastructure as a critical infrastructure subsector and to seek clarification regarding what you envision the Department of Homeland Security's (the Department or DHS) role to be when it comes to securing election infrastructure.

On January 6, 2017, the Office of the Director of National Intelligence (ODNI) released a report, completed in coordination with the Central Intelligence Agency (CIA), Federal Bureau of Investigation (FBI), and National Security Agency (NSA), entitled *Background to "Assessing Russian Activities and Intentions in Recent US Elections": The Analytic Process and Cyber Incident Attribution*. The declassified version of the report made several concerning findings related to the depth and breadth of Russia's efforts to interfere in the 2016 Presidential elections, including that "Russian intelligence obtained and maintained access to elements of multiple US state or local electoral boards."¹ Ultimately, the ODNI assessed that "Moscow will apply lessons learned from its Putin-ordered campaign aimed at the US presidential election to future influence efforts worldwide, including against US allies and their election processes."²

The same day, your predecessor, then-Secretary Jeh Johnson, designated election infrastructure as critical infrastructure.³ In making the designation, then-Secretary Johnson stated:

¹ Office of the Director of National Intelligence, *Background to "Assessing Russian Activities and Intentions in Recent US Elections": The Analytic Process and Cyber Incident Attribution*, (Jan. 6, 2017), available at https://www.dni.gov/files/documents/ICA_2017_01.pdf.

² *Id.*

³ Statement by U.S. Department of Homeland Security Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector, (Jan. 6, 2017), available at <https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>. "Election Infrastructure" includes: "storage facilities, polling places, and centralized vote tabulations locations used to support the election process, and information and communications technology to include voter registration

I have determined that election infrastructure in this country should be designated as a subsector of the existing Government Facilities critical infrastructure sector. Given the vital role elections play in this country, it is clear that certain systems and assets of election infrastructure meet the definition of critical infrastructure, in fact and in law.

I have reached this determination so that election infrastructure will, on a more formal and enduring basis, be a priority for cybersecurity assistance and protections that the Department of Homeland Security provides to a range of private and public sector entities.⁴

Importantly, then-Secretary Johnson made clear that a State or local election board's decision to avail itself of DHS' cybersecurity resources is voluntary. The designation allows the Department "to prioritize our cybersecurity assistance to [S]tate and local election officials, but only for those who request it."⁵

In light of the mounting evidence that Russia sought to interfere with the 2016 election to both sway the outcome and erode public confidence in our democratic institutions – an objective it had pursued for over a decade – we supported the designation of election infrastructure as a critical infrastructure subsector and were interested in ensuring that the new Administration would continue to prioritize cybersecurity assistance to State and local election officials. Accordingly, when you first testified before our Committee on February 7, 2017, you were asked about your views on the critical infrastructure subsector designation. You assuaged our concern that the Administration might rescind the designation when you responded: "I believe we should help all of the [S]tates – provide them as much help as we can to make sure that their systems are protected in future elections. So, I would argue that, yes, we should keep that in place."⁶

Four months later, you testified before our Committee once again. This time, your remarks called into question your commitment to honor the designation of election infrastructure as critical infrastructure. You stated:

My predecessor, Jeh Johnson, just before he left, designated the whole system as critical infrastructure. I've had a lot of push-back from [M]embers of Congress, both sides of the aisle. Governors have pushed back on that. . . . I'm meeting with all of the Homeland Security – I believe it's next week – their Homeland Security [S]tate advisors. This will be a topic that we'll bring up about do they feel it's needed. But by no means do we have any intention, desire or move to take over any [S]tate process or tell the [S]tates how to do business.⁷

databases, voting machines, and other systems to manage the election process and report and display results on behalf of state and local governments." *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Ending the Crisis: America's Borders and the Path to Security Before H. Comm. On Homeland Security*, 115th Cong. (Feb. 7, 2017) (statement of John F. Kelly, Secretary, Department of Homeland Security), *available at* <http://www.cq.com/doc/congressionaltranscripts-5036886?14>.

⁷ *Department of Homeland Security Reauthorization and the President's FY 2018 Budget Request, Before H. Comm. On Homeland Security*, 115th Cong. (June 7, 2017) (statement of John F. Kelly, Secretary, Department of Homeland Security), *available at* <http://www.cq.com/doc/congressionaltranscripts-5119108?4>.

Aside from the resistance you have described from some Members of Congress and State officials, it is hard to understand what has changed since you testified in February that would establish reasonable grounds to reconsider the designation. Indeed, the only new information to emerge in the interim is even more disturbing evidence regarding the scope and breadth of Russian efforts to disrupt the 2016 elections. And, to disabuse Congress of the notion that Russia's interference in the 2016 elections was an isolated incident, then-FBI Director James Comey warned the House Permanent Select Committee on Intelligence in March: "[T]hey'll be back. And they'll be back in 2020. They may be back in 2018."⁸

Since the beginning of the month, news reports have revealed that Russia's efforts to penetrate election systems was far more successful in scope than previously understood, and involved sending spearfishing emails to over 100 election officials to gain access to their networks.⁹ Investigators in Illinois found evidence Russian hackers gained access to software designed to be used by poll workers on Election Day in the summer and fall of 2016 and attempted to delete or alter voter data. Hackers compromised 90,000 records in Illinois, and gained access to the State voter database that included names, dates of birth, genders, driver's licenses, and partial Social Security numbers on 15 million people.¹⁰

We agree with you that "there is nothing more fundamental to our democracy than voting,"¹¹ and we must protect against efforts to undermine public confidence in our cherished democratic institutions. There is no evidence that attempts to interfere in our elections – be it Russia, another State actor, or a non-State actor – are declining, and the cybersecurity threats to election infrastructure are only growing more complex. It is more important than ever that State and local election officials are able to rely on assistance from the Department of Homeland Security when they need it.

Toward that end, we urge you to not to back down from your commitment to honor the designation of election infrastructure as a critical infrastructure subsector, and we stand ready to assist you in your efforts to educate concerned States on the meaning of this designation. We look forward to working with you to help DHS do its part to ensure the integrity of our election systems.

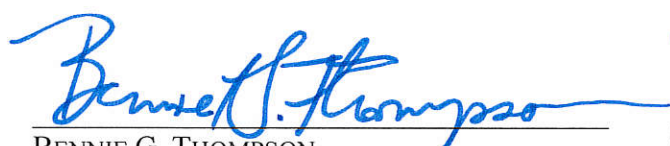
⁸ "Full Transcript: FBI Director James Comey Testifies on Russian Interference in 2016 Election," *The Washington Post* (Mar. 20, 2017), available at https://www.washingtonpost.com/news/post-politics/wp/2017/03/20/full-transcript-fbi-director-james-comey-testifies-on-russian-interference-in-2016-election/?utm_term=.a3209228adef.

⁹ Matthew Cole et. al, "Top-Secret NSA Report Details Russian Hacking Effort Days Before 2016 Election," *The Intercept* (June 5, 2017), <https://theintercept.com/2017/06/05/top-secret-nsa-report-details-russian-hacking-effort-days-before-2016-election/> (last accessed June 21, 2017).

¹⁰ Michael Riley and Jordan Robertson, "Russian Cyber Hacks on U.S. Electoral System Far Wider Than Previously Known," *Bloomberg* (June 13, 2017), <https://www.bloomberg.com/politics/articles/2017-06-13/russian-breach-of-39-states-threatens-future-u-s-elections> (last accessed June 21, 2017).

¹¹ *The Department of Homeland Security Fiscal Year 2018 Budget Request Before S. Comm. on Homeland Security and Government Affairs*, 115th Cong. (June 6, 2015), (statement of John F. Kelly, Secretary, Department of Homeland Security), available at <http://www.cq.com/doc/congressionaltranscripts-5116103?7>.

Sincerely,



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Ranking Member
House Committee on Homeland Security



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Member
House Committee on Homeland Security



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Member
House Committee on Homeland Security



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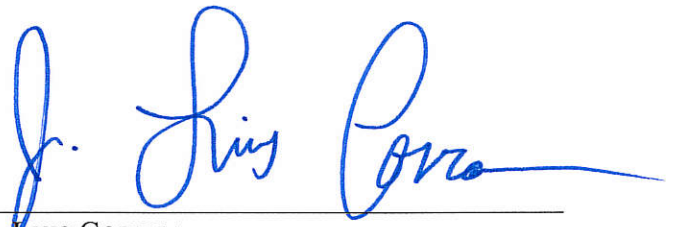
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