

United States Senate
WASHINGTON, DC 20510

May 14, 2020

The Honorable Angus S. King Jr.
United States Senate
133 Hart Building
Washington, D.C. 20510

The Honorable Michael J. Gallagher
United States House of Representatives
1230 Longworth House Office Building
Washington, DC 20515

Dear Commissioners,

We write first to thank you for your hard work and dedication in preparing the Cyberspace Solarium Commission's final report. Your efforts will inform us as we move forward in addressing pressing issues of cybersecurity policy and governance, and we are grateful for this contribution.

As with any endeavor of this scale and complexity, your work has raised some additional questions for further study. In particular, the challenge of coordinating cyber strategy, planning, budgeting and operations is one that we believe requires further deliberation and study. Your report asserted the need for a National Cyber Director (the Director), whose office would be responsible for coordinating cybersecurity issues across the Federal government. It is clear that such coordination is currently lacking, but we found the draft language prepared by the Commission and its accompanying explanation raises three critical questions regarding establishment of a position of this type:

- (1) Will the position as recommended by the Commission have the right authorities to bring capabilities and capacities together across the interagency, at all levels of government and with the private sector? What authorities, responsibilities and controlling relationships would the Director possess with regard to defense, intelligence, law enforcement and homeland security functions?
- (2) What would be the Director's interagency role in coordinating cyber operations in response to a major cyber incident, in the context of defense, intelligence, law enforcement and homeland security operations? Would the Director advise the President on actions to be taken and provide guidance to operational entities, or operate solely through the National Security Council and the National Security Council staff? Or would the Director coordinate, deconflict, and ultimately direct operations in accordance with operational plans that the Director's office would also be responsible for developing and exercising?
- (3) Would the Director have the authorities to align resources to cyber priorities? What would the Director's role be in aligning resources to cyber priorities—recommender, certifier, or controller? What would be the required personnel resources to fulfill the Director's role in accordance with your answers to the aforementioned questions?

Prior to incorporating the National Cyber Director language into the National Defense Authorization Act, we would like to see these questions answered in greater detail. Additionally, we ask

that the Commissioners provide a draft legislative proposal that specifically delineates the Director's responsibilities, authorities, and relationships to the President, Office of Management and Budget, National Security Council, National Security Council staff and relevant operational entities in executive departments and agencies in such a way that is consistent with the answers to the aforementioned questions.

We all agree that the nation does not need another layer of unnecessary bureaucracy that would slow operational responses and further complicate the policy-making process. We also agree that the status quo of uncoordinated responses to cybersecurity challenges cannot persist either. A National Cyber Director that is appropriately empowered to shape the Federal government's cyber policies and activities is a promising solution to the challenges we have encountered, but we believe the Commission needs to provide a clearer legislative foundation for the position it is proposing.

The John S. McCain National Defense Authorization Act for Fiscal Year 2019 created this Commission and authorized its functioning for two years. Your work to date meets the requirement of the statute, but your term has not yet expired. We therefore ask that, in the next 60 days, you again take up the issue of the National Cyber Director, develop a recommendation that addresses the aforementioned questions and provide a new legislative proposal to the Congress in time for possible inclusion in the National Defense Authorization Act for Fiscal Year 2021 or the National Defense Authorization Act for Fiscal Year 2022.

It is our expectation that you will continue to engage relevant stakeholders, including the White House, in the further development of this recommendation. While we recognize that elements of the executive branch are opposed to the Commission's proposal, we hope that this renewed engagement will yield a better understanding among all parties as to what issues the Cyberspace Solarium Commission saw and sought to address in developing its recommendation for a National Cyber Director.

Thank you for your attention to our request.

Sincerely,



GARY C. PETERS
Ranking Member, Homeland Security
and Governmental Affairs Committee



RON JOHNSON
Chairman, Homeland Security and
Governmental Affairs Committee



JOE MANCHIN III
Ranking Member, Armed Services
Subcommittee on Cybersecurity



M. MICHAEL ROUNDS
Chairman, Armed Services
Subcommittee on Cybersecurity