January 23, 2018

The Honorable Kirstjen Nielsen
Secretary
U.S. Department of Homeland Security
245 Murray Lane SW
Washington, D.C. 20528

Dear Secretary Nielsen:

We write seeking clarification regarding the Department of Homeland Security’s (the Department or DHS) responsibilities related to the defunct Presidential Commission on Election Integrity (the Commission).

On May 11, 2017, President Trump signed Executive Order 13799, Establishment of Presidential Advisory Commission on Election Integrity to investigate allegations “improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting,” substantiated by nothing more than the President’s active imagination and frustration that he did not receive the majority of the popular votes cast in the 2016 presidential election. The Commission was the subject of criticism from the start. Advocacy organizations ultimately took legal action on multiple occasions, alleging violations of several federal laws, including the Fifth Amendment to the U.S. Constitution, the Privacy Act, the Hatch Act, and of multiple state laws, among other things.²

On January 3, 2018, fewer than nine months after he established it, the President abruptly terminated the Commission.³ To the best of our knowledge, the Commission was unable to produce any evidence of improper voter registrations and improper voting, including fraudulent voter registrations and fraudulent voting. Indeed, we understand that, contrary to the Administration’s initial statements, the Commission did not develop any “preliminary findings” that would be transferred to DHS.⁴ Moreover, all of the voter data it collected will, rightfully, be destroyed.⁵

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⁵ Id.
In the meantime, to its credit, the Department of Homeland Security has continued its work to carry out its responsibilities related to the designation of election infrastructure as a critical infrastructure subsector. Then-Secretary Jeh Johnson made the designation on January 6, 2017, following the Intelligence Community’s assessment that “Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.” Over the course of the past year, nothing has occurred to suggest that Russia has any less interest in undermining confidence in our democratic processes. Accordingly, helping states secure their election infrastructure against credible foreign threats should remain one of the Department’s top priorities.

When he terminated the Commission, the President directed DHS to examine “its initial findings and determine next courses of action.” It is unclear how the Department will carry out this charge given that the Commission never produced any findings. Moreover, we are concerned that directing DHS essentially to take over where the Commission left off could distract the Department from its pressing obligation to protect US election systems from foreign interference and may undermine the burgeoning relationships DHS is building with state election officials.

Public statements from the Department have been somewhat reassuring that DHS will not divert resources from its ongoing election security work, but they are not conclusive. Accordingly, pursuant to Rule X(3)(g) and Rule XI of the Rules of the House of Representatives, we respectfully request you provide a written response to the following information, and whatever supplementary information you deem responsive, by January 26, 2018:

- According to the President, the Department will take over the work of the Commission. We understand that all voter data collected will be destroyed and that the Commission never made any findings. If that is the case, what will the Department be taking over? Please identify any documents, files, electronic records, or information that the Department has received or anticipates receiving from the Commission.

- What new activities, if any, will the Department undertake pursuant to the President’s decision to terminate the Commission and transfer its responsibilities to DHS?

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8 Dustin Volz & Julia Harte, “DHS Election Unit Has No Plans for Probing Voter Fraud: Sources,” Reuters (Jan 5, 2018), available at https://www.reuters.com/article/us-usa-election-dhs/dhs-election-unit-has-no-plans-for-probing-voter-fraud-sources-idUSKBN1EU1YF?feedType=RSS&feedName=politicsNews (citing a DHS official who said that the Department would continue “to work in support of state governments who are responsible for administering elections, with efforts focused on securing elections against those who seek to undermine the election system or its integrity.”).
information will inform DHS’ actions? Will these new activities, if any, require the Department to divert resources from existing activities?

- Some state election officials have expressed concern that charging DHS with investigating voter fraud allegations may undermine the cooperative relationships between the Department and the states that are necessary to keep elections secure.\(^9\) What are you doing to preserve those important relationships?

Thank you for your attention to this matter. If you have any questions or require additional information, please contact Alison Northrop, Chief Director for Oversight, at (202) 226-2616.

Sincerely,

Bennie G. Thompson
Ranking Member
Committee on Homeland Security

Robert A. Brady
Ranking Member
Committee on House Administration

\(^9\) Id.