

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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August 9, 2018

The Honorable Trey Gowdy  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20301

Dear Mr. Chairman:

We are writing to request that you issue a subpoena to compel the Department of State to produce documents it is withholding in response to a bipartisan request we made last fall relating to the Department's effort to shutter the Office of the Coordinator for Cyber Issues (CCI), which is responsible for leading U.S. diplomatic cyberspace efforts around the world.

Last July, press accounts reported that the State Department was considering eliminating CCI's critical role in responding to international cyber threats and shaping cyber policy.<sup>1</sup> In addition, then-Coordinator for Cyber Issues Chris Painter abruptly left his position after serving six-and-a-half years in that role.<sup>2</sup> Based on these reports, we requested a briefing from the Department.

After multiple delays, Department officials finally provided a briefing to Republican and Democratic Committee staff on August 24, 2017, but they refused to provide any details relating to the proposed reorganization. Instead, they told our staffs that CCI's functions remained a top priority and that they would provide additional information when it became available.

Just four days later, on August 28, 2017, Secretary of State Rex Tillerson sent a letter to several congressional committees—but not ours—proposing the elimination of the CCI position and having its “functions and staff assumed by the Bureau of Economic & Business Affairs (EB).”<sup>3</sup>

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<sup>1</sup> *Tillerson to Shut Cyber Office in State Department Reorganization*, Bloomberg (July 19, 2017) (online at [www.bloomberg.com/news/articles/2017-07-19/tillerson-is-said-to-shut-cyber-office-in-state-s-reorganization](http://www.bloomberg.com/news/articles/2017-07-19/tillerson-is-said-to-shut-cyber-office-in-state-s-reorganization)).

<sup>2</sup> *State Department's Top Cyber Official to Leave Post*, The Hill (July 17, 2017) (online at <http://thehill.com/policy/cybersecurity/342380-state-department-cyber-official-to-leave-post>).

<sup>3</sup> *See, e.g.*, Letter from the Secretary Rex W. Tillerson, Department of State, to Chairman Bob Corker, Senate Committee on Foreign Relations (Aug. 28, 2017) (online at [www.nextgov.com/media/gbc/docs/pdfs\\_edit/082917jm1.pdf](http://www.nextgov.com/media/gbc/docs/pdfs_edit/082917jm1.pdf)).

On September 21, 2017, we sent a bipartisan letter asking the Department to produce eight categories of documents relating to who at the State Department would assume the responsibilities of maintaining CCI's critical cyber functions and what resources would be dedicated to these areas if the office were closed. We also requested a briefing.<sup>4</sup>

On November 7, 2017, Department officials provided a briefing, but when asked about the proposed elimination of CCI, they responded that "not much has been thought about until now." They also stated that they could describe the proposal only as an "interim step."

Since then, the Department has failed to produce the documents we requested on a bipartisan basis. On November 1, 2017, the Department made a production of 20 pages that included nothing but the already-public 10-page letter from Secretary Tillerson to Congress and assorted cover letters to other Members of Congress. On December 11, 2017, the Department made another production consisting of 40 pages that were partially responsive, but it completely omitted documents from multiple categories in our bipartisan request last September.

The Department has not produced a single document in 2018 in response to our request. As a result, we still do not have documents showing the basis of the Department's decision to shutter CCI, planning for the reorganization of these functions, or any actions taken to implement the recommendations of an August 2017 Inspector General report warning that 77% of the Department's reportable IT assets do not comply with the Federal Information Security Management Act.<sup>5</sup>

On January 17, 2018, the House of Representatives passed by voice vote the Cyber Diplomacy Act, authored by Chairman Ed Royce and Ranking Member Elliot Engel of the House Committee on Foreign Affairs, to effectively reverse Secretary Tillerson's decision. The bill would establish an Office of Cyber Issues whose head would have the rank of an ambassador and be confirmed by the Senate.<sup>6</sup> As Chairman Royce explained:

[T]he office tasked with leading this effort for the State Department was merged into the Bureau of Economic and Business Affairs. The concern is that this limits the Department's ability to confront the full range of cyberspace—such as security, internet access, online human rights, and cybercrime—beyond the clear economic challenges.<sup>7</sup>

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<sup>4</sup> Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Rex W. Tillerson, Department of State (Sept. 21, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/10/2017-09-21-TG-EC-WH-RK-to-Tillerson-DOS-Cyber-Reorganization-due-10-5.pdf>).

<sup>5</sup> Office of the Inspector General, Department of State, *Management Assistance Report: The Process to Authorize and Track Information Technology Systems Needs Improvement* (Aug. 2017) (AUD-IT-17-56).

<sup>6</sup> *House Votes to Restore State Cyber Office, Bucking Tillerson*, The Hill (Jan. 17, 2018) (online at <http://thehill.com/policy/cybersecurity/369388-house-votes-to-restore-state-cyber-office-bucking-tillerson>).

<sup>7</sup> House Committee on Foreign Affairs, *House Passes Royce's Cyber Diplomacy Act* (Jan. 17, 2018) (online at <https://foreignaffairs.house.gov/press-release/house-passes-royces-cyber-diplomacy-act>).

On February 6, 2018, the Foreign Affairs Committee held a hearing on U.S. cyber diplomacy, but the Department refused to send a witness. Instead, the Department sent a letter in the middle of the hearing proposing a “new Bureau for Cyberspace and the Digital Economy” by combining CCI with the Office of International Communications and Information Policy.<sup>8</sup> The new Bureau ostensibly would be overseen by the Under Secretary for Economic Growth, Energy, and Environment—a position the Trump Administration continues to leave vacant.<sup>9</sup>

During that hearing, Rep. Mike McCaul and former CCI Chris Painter had the following exchange on the critical importance of reinstating a cyber office:

McCaul: I would like to see a cyber office that makes it a priority. And I think that’s what the Cyber Diplomacy Act that I worked with the chairman on to codify the Office of Cyber issues led by a Senate-confirmed Ambassador precisely what we are trying to do here, is elevate the priority and the mission within the State Department. Do all three of you agree with this bill?

Painter: I completely agree with this. I think the bill’s formulation is absolutely correct. I know the State Department, just today, sent a letter saying they were going to create a Bureau dealing with some of these issues, which is great. However, the way its reporting structure is through the economic Under Secretary which, given the breadth of these issues and the security issues, doesn’t make a lot of sense.<sup>10</sup>

In February, Director of National Intelligence Dan Coats identified U.S. vulnerability to cyber threats as the top worldwide threat.<sup>11</sup> However, the Trump Administration has continued its disturbing trend of deprioritizing vital cybersecurity functions. In May, the White House eliminated the National Security Council’s cybersecurity coordinator position, which was critical to developing U.S. cyber defense policy.<sup>12</sup>

In May, the Inspector General issued a report warning that the Department “is not fully prepared to manage the Department’s unsupported operating systems in accordance with Federal

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<sup>8</sup> Letter from Secretary Rex W. Tillerson, Department of State, to Chairman Ed Royce, House Committee on Foreign Affairs (Feb. 6, 2018) (online at <https://foreignaffairs.house.gov/wp-content/uploads/2018/02/2-6-18-Secretary-Tillerson-letter-on-Bureau-for-Cyberspace-and-the-Digital-Economy.pdf>).

<sup>9</sup> Department of State, *Senior Officials* (accessed June 28, 2018) (online at [www.state.gov/misc/19232.htm](http://www.state.gov/misc/19232.htm)).

<sup>10</sup> House Committee on Foreign Affairs, *Hearing on U.S. Cyber Diplomacy in an Era of Growing Threats* (Feb. 8, 2018) (online at <http://docs.house.gov/meetings/FA/FA00/20180206/106830/HHRG-115-FA00-Transcript-20180206.pdf>).

<sup>11</sup> *Cyber Tops List of Threats to U.S., Director of National Intelligence Says*, Department of Defense (Feb. 13, 2018) (online [www.defense.gov/News/Article/Article/1440838/cyber-tops-list-of-threats-to-us-director-of-national-intelligence-says/utm\\_source=DEFCONNews/utm\\_medium=Website/](http://www.defense.gov/News/Article/Article/1440838/cyber-tops-list-of-threats-to-us-director-of-national-intelligence-says/utm_source=DEFCONNews/utm_medium=Website/)).

<sup>12</sup> *White House Eliminates Cybersecurity Coordinator Role*, New York Times (May 15, 2018) (online at [www.nytimes.com/2018/05/15/technology/white-house-cybersecurity.html](http://www.nytimes.com/2018/05/15/technology/white-house-cybersecurity.html)).

guidelines.” The report concluded that this creates “many security risks,” including the risk that “hackers may exploit the vulnerabilities and compromise the Department’s personally identifiable information and other sensitive content or even completely shut down operations.”<sup>13</sup>

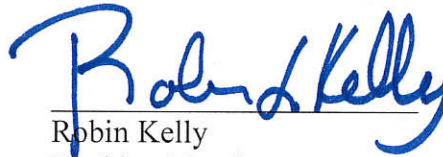
For all of these reasons, we request that you issue a subpoena to compel the Department of State to fully comply with our bipartisan request for documents on September 21, 2017. If you decide not to issue this subpoena, then we ask you to place this matter on the agenda for our next regularly scheduled business meeting so all Committee members may have the chance to compel this information.

Thank you for your consideration of this request.

Sincerely,



Elijah E. Cummings  
Ranking Member



Robin Kelly  
Ranking Member  
Subcommittee on Information Technology

cc: The Honorable William Hurd, Chairman, Subcommittee on Information Technology

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<sup>13</sup> Office of the Inspector General, Department of State, *Management Assistance Report: The Department of State Is Not Managing Unsupported Operating Systems in Accordance With Federal Requirements* (May 2018) (AUD-IT-18-43).