

Meeting Minutes

Attendees:

Commissioners: Tom Donilon, Heather Murren, Annie Anton, Joe Sullivan, Keith Alexander, Peter Lee, Maggie Wilderotter, Pat Gallagher, Sam Palmisano, Herb Lin,

Others: Kiersten Todt, Heather Clete Johnson, Alex Niejelow, representing Ajay Banga, Robin Drake

Agenda:

- I. Review of Houston meeting
- II. Work plan discussion/Timeline/Weekly Calls
- III. Federal Briefings/Washington, DC Commission meeting
- IV. Wrap-up/Next Steps

Discussion:

I. Review of Houston meeting

- a. Highlights from the Houston meeting and key issues
 - i. **Ms. Wilderotter:** Critical infrastructure and the National Guard: The National Guard concept of first responders is a very interesting idea.
 - ii. The General drafted a candidate recommendation for the commission. Ms. Todt will send it to the commission. It was put together before the meeting in Houston, and the commission may consider expanding it to be more general and oriented to first responder response in a national emergency situation.
 - iii. **Mr. Lee:** It is important for someone to do a thorough dive into the Stafford Act and its implications.
 - iv. **Mr. Gallagher:** There has been an effort in Pittsburgh in this area. I'm happy to share information with the commission.
 - v. Critical Infrastructure responses – Thinking through their recommendations from Chris Boyer, and others. Is critical infrastructure itself is a useful entity at this point, given the current definition. Mr. Lin noted dissatisfaction with AT&T aversion to the concept of regulation.
 - vi. **Mr. Gallagher:** Examining critical infrastructure in the digital economy, two issues come up: Many companies do not want to be considered critical infrastructure, and, does the government defend some people, or all the people? What happens when a nation-state attacks a company? The company must respond, but the government also must defend all the people. If the government is only protecting some people, then protecting only some is not acceptable. We must figure out how to do that.
 - vii. Some of the witnesses testifying in Houston expressed a fairly strict rejection of modern technologies. It drew a clear line between what is allowable in a critical infrastructure setting. It is not practical to have a world where technologies are rejected, given abilities of actors.
 - viii. Cyber is the only area where the government expects companies to defend themselves against nation-states.

- ix. **Mr. Gallagher:** Critical infrastructure is critical, and the government is necessary for response. The report must contain something in this area. Further research in this area is needed.
- x. Ms. Wilderotter requested the staff develop a strawman on critical infrastructure with its definition, government response, etc.
- xi. Additional comments –
 - 1. There is a lot of history on this topic. We need a background, what's defined, implications of critical infrastructure, guidelines and regulations and the responsibility of the government. If it is the government's responsibility for protection, the government will insist on identity access. NIST staff will have a lot of this information.
 - 2. The critical infrastructure working group has conducted numerous interviews. A working strawman will be delivered to the commission in the next week or two.
 - 3. **Ms. Wilderotter:** Chris Boyer was somewhat unresponsive. AT&T has been pushed around by FTC in the last few years. A word of caution, as technology gets developed, regulation is always behind the market. We need to look at what is changing and understand that regulation will run behind new technology.
 - 4. Some of these topics will be addressed in the Minneapolis meeting.
- xii. **Ms. Wilderotter:** State, local, tribal government – Follow up further on what they are doing, and examine what support can be provided. It sounds like it is uneven in different states. A view of state and local in context of critical infrastructure needs to be examined.
- xiii. **Mr. Alexander:** Many companies are concerned about regulation becoming so extensive. Possibly the solution is insurance. Insurance may be able to solve certain fears about regulation. It worked in fire safety. It perhaps should be addressed.
- xiv. **Mr. Gallagher:** The question is, does it get into liability and indemnification questions? We should look at that. There are precedents in the government. It also looks at what happens if Anthem should be released of liability in case of an attack by a nation-state. We should at least examine and come up with recommendations.
- xv. **Ms. Anton:** There is a conference call with head of insurance for the state of North Dakota next week. He is very knowledgeable on cyber insurance. If any of the commissioners have questions, please email, and I can bring up or see about adding commissioners if there is interest.
- xvi. **Mr. Lee:** It does seem like there are gaps in capabilities in large companies, vs. small or medium companies. Are there natural incentives that would help smaller players in their capabilities? If we look at filling gaps, we should examine how responsibilities can be shared.
- xvii. Additional comment on Houston panel two - there was a safety and security call to action. There might be something from a safety and education perspective that can be used to promote cyber education.

II. Work plan discussion/Timeline/Weekly Calls

- a. Everyone has received the work plans from the various groups. Would now like to discuss how to go forward.
- b. The work plans we have are in 10 areas. Proposing the following as the path forward:

- i. Commissioners should examine all areas and see if anything is missing. Does anything need to be added?
 - ii. Over the next few weeks, commissioners should provide feedback on those proposed plans. They are not in a consistent state, but commissioners should look and provide feedback.
 - iii. Staff will take those work plans and develop them into papers for commission consideration. They should contain the following sections:
 1. Background – What is the current state of play? What is happening today?
 2. Identify the cybersecurity challenges
 3. Consolidate early findings
 4. Notional recommendations: The commission must decide if this section is wanted or not at this point.
 - iv. There would then be a set of ten or more refined papers.
 - v. The next stage would be to work through them individually in a series of calls to examine what else may be needed. These calls will go into September, so that then there is a solid basis for deliberation following the public workshop phase of the Commission.
 - vi. The final three months can then be used for more in depth work.
 - vii. The next two weeks are for feedback on the work plans. If commissioners have additional areas they want to add, those topics can be started in the process.
- c. **Mr. Palmisano:** The methodology for the commission is Commissioner-led, staff-facilitated. We believe the best way for us to add value is for the commissioners to be fully engaged.
 - d. There are different models for running commissions. The classic model goes to where the staff listens to deliberations and produces draft, which the commissioners engage on.
 - e. **Ms. Anton:** It is a great idea. Ms. Wilderotter noted the papers that were sent out did not include information from the workshops. That information must be included before the commissioners use the papers. It would be very helpful.
 - f. **Mr. Donilon:** That is correct, but the initial work papers were not intended to be basis of discussions.
 - g. **Mr. Alexander:** The commissioners can and should help move it forward, by working with the staff during the next two weeks. Members should be actively involved, and provide thoughts to staff.
 - h. **Mr. Donilon:** We have current work papers. At the beginning of August, we will have the more refined papers.
 - i. Proposed idea: It might be a good idea to assign work streams to commissioners. Not sure everyone will be able to focus on all ten areas. It might be best to have each commissioner focus on two or three plans.
 - j. **Mr. Donilon:** The current papers are the work plans for each group. The documents to be derived from the work plans will be the beginning of commission discussion.
 - k. There is a list of NIST subject matter expert staff for those groups, but no email information. Ms. Todt will provide contact information for team leads for each group. Commissioners should reach out to the teams and copy Ms. Todt.
 - l. **Mr. Gallagher:** In thinking about this process, there is a concern, and that is the calendar. Impressed with the emerging viewpoint among the commissioners. Can we provide feedback on the structure? There may need to be an executive session

with NIST staff to discuss. Let's ensure we deliberate on proposed recommendations throughout the process.

- i. **Ms. Wilderotter:** Workgroups can take information from meetings, and revise the first draft to start from an integrated approach.
 1. How to get this done?
 2. We developed 11 ideas and set the staff on the work. We, as a commission, have been working in public sessions. There are take-aways from these discussions, such as defining critical infrastructure, and others. This list looks different from the original list of eleven areas. These will be the basis of the report. It may be time to have some type of discussion on the table of contents as it exists, and possibly develop a new table of contents.
 3. **Mr. Donilon:** Encourage commissioner engagement with staff. The charge to the staff is to incorporate findings from the hearings.
 4. It might be good for commissioners to exchange short papers on key insights and recommendations, and submit current ideas to the staff on what is emerging from meetings.
 5. It is good for the commission to understand where it is now. It might make sense for commissioners to submit five proposed recommendations at a high level, and possible outcomes. There would then be initiatives that might come out of those. The summation of all this may be a list.
 6. **Mr. Lee:** Regarding the first draft, NIST staff is tremendously competent in handling these things. To me, the tyranny is that it may all be one-box thinking, and sound conventional. More innovative thoughts need the chance to come forward and be considered. We need to record things that have the "ring of truth" as we discover them. Don't de-emphasize the work on the working papers. Is there a way to exploit what commissioners are hearing, and recording them to discuss? We may find something new.
 7. **Mr. Sullivan:** The angle we are looking at it from is different. A lot of what we're hearing is from people who are down in the weeds. We should be careful not to get bogged down in any one perspective, but look at it from the executive level.
 8. **Mr. Gallagher:** Suggest a modified proposal, finish the work papers. Have some brainstorming with the commission now. If we have that, it may provide some additional structure and provide a good take off point for the report.
 9. Once these papers are submitted, commissioners would like to have these calls more regularly, weekly on Tuesday and discuss two papers at each meeting with necessary staff present. Commissioners should come with comments and ready to discuss. At the end of the five weeks, all ten topics will have been discussed.
 10. **Ms. Wilderotter:** There could be more topics based on topic gap analysis and cross-cutting themes.
 11. There could be additional papers. The commission may decide to drop or combine based on discussions at that time, given the time frame, and the style of the report. Quality vs quantity should be the rule as far as the number of recommendations.

12. Proposed recommendations should be easy to understand and be actionable.
13. There should be high quality, research based proposed recommendations. They should be easily implementable by the next President. The beginning of a new administration is the time to have the most impact.
14. One of the impacts of this report could be found in asking the right questions, which is the sweet spot of this report. We have raised fundamental questions on how to shape a market to change things on a fundamental basis. They may not be recommendations, but very important framing questions.
15. Ms. Todt will draw up a work plan for the way forward and what we've discussed with a schedule of meetings and discussions.

III. Federal Briefings/Washington, DC Commission meeting

- a. Will follow up on the federal briefings and the DC commission meeting in an email to the commissioners, or on the next call.
- b. The University of Maryland has budget for cyber. Provide an update on the work that group is doing for the Aug 3rd meeting. Ms. Todt will follow up.

IV. Wrap-up/Next Steps

- a. Minutes from the call will be distributed.
- b. Ms. Todt will draft the plan for going forward on the working group activities.
- c. Mr. Donilon, Mr. Palmisano, and Ms. Todt will draft briefing on the next 30 days.
- d. Propose meeting for next Tuesday to start briefings, or possibly the following Tuesday.