MARKUP OF: H. RES. 755, ARTICLES OF IMPEACHMENT AGAINST PRESIDENT DONALD J. TRUMP VOLUME IV

HEARING

BEFORE THE

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From: Kim, Janet
To: Russell.t.vought@[redacted]
Cc: Boyd, Krista
Subject: Deposition
Date: Tuesday, October 15, 2019 11:45:00 AM
Attachments: 2019-10-11.EEC Engel Schiff to Vought-OMB re Depo Notice.pdf
House Deposition Regulations.pdf
HPSCI Rules of Procedure.pdf
House Resolution 6 Sec 103(a).pdf

Dear Mr. Vought:

I wanted to get in touch with you regarding the Committees' request to depose you on October 25, 2019 at 9:30 am. We wanted to make sure you had received the attached letter, which is addressed to you but was transmitted to the DOD legislative affairs office. Attached also are the regulations and rules governing the conduct of depositions in the House of Representatives.

Could we find a time to speak today to discuss scheduling and other matters? If you have already retained a lawyer to represent you, we are happy to communicate through counsel.

Best,
Janet

Janet H. Kim
Chief Counsel for Investigations
House Committee on Oversight and Reform
(202) 225-[redacted]

From: Mitchell, Nicolas
To: Joann.zafonte@[redacted]
Cc: Goldman, Daniel; Bitar, Maher; Grooms, Susanne Sachsman; Kenny, Peter; Bair, James
Subject: Congressional Subpoena for Mr. Giuliani
Date: Monday, September 30, 2019 3:40:09 PM
Attachments: 20190930 - Giuliani HPSCI Subpoena Letter.pdf
20190930 - Giuliani HPSCI Subpoena.pdf
HPSCI Rules of Procedure.pdf

Ms. Zafonte:

Attached please find a letter and subpoena for Mr. Giuliani from the House Permanent Select Committee on Intelligence (HPSCI), issued in consultation with the Committee on Oversight and Reform and the Committee on Foreign Affairs. The HPSCI Rules of Procedure also are attached.

Please kindly confirm receipt.

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Christopher.M.Hodgson@[redacted]
To: Grooms, Susanne Sachsman; Castor, Stephen; Bitar, Maher; Souza, Allen; Carey, Laura; Carr, Machalagh; Anderson, Doug
Subject: OVP Letter
Date: Tuesday, October 15, 2019 5:40:11 PM
Attachments: LETTER 2019.10.15 OVP Response to Chairmen.pdf

Please find attached a letter from the Office of the Vice President in response to the Committees' October 4, 2019 letter.

Chris Hodgson
Director of Legislative Affairs
Office of the Vice President
C: 202-881-[redacted]

From: Lasky, Robert
To: Noble, Daniel; Mackay, K. Anne; McDermott, Jon
Cc: Baer, James; Kenny, Peter; Fallon, Patrick; Stowe, Conrad; Lee, Kelsey
Subject: RE: Gordon Sondland
Date: Tuesday, October 8 2019 7:52:57 AM
Attachments: image001.jpg

Dan

I am incredibly disappointed to report that, overnight, the State Department advised that it will direct Ambassador Sondland not to appear before the Committee this morning. While we have not yet gotten written confirmation of that direction, we wanted to advise you of this development at the earliest opportunity. As the sitting US Ambassador to the EU and employee of the State Department, Ambassador Sondland is required to follow this direction.

I hope that whatever concerns the Department has can be resolved promptly and that Ambassador Sondland's testimony can be scheduled at the earliest opportunity. I am very sorry for the unreasonably late notice, but we are sharing this with you as soon as it was confirmed to us. Ambassador Sondland is personally disappointed that he will not be able to answer the Committee's questions this morning.

Please accept my sincere apologies. I am sure we will continue to be in touch as this unfolds further and hope that matters will come to a swift and positive resolution.

Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551.[redacted]
F 1.202.551.[redacted]
M 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Monday, October 07, 2019 11:29 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jon
Cc: Baer, James; Kenny, Peter; Fallon, Patrick; Stowe, Conrad; Lee, Kelsey
Subject: [EXT] RE: Gordon Sondland

Perfect. Thanks

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Monday, October 7, 2019 11:21 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jon [redacted]
Cc: Baer, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stowe, Conrad [redacted]
Subject: RE: Gordon Sondland

Dan

Forgive me my tardy response. There will be a total of five in our party, including Ambassador Sondland. None of us has any dietary restrictions. We will look for Pat Fallon and not the enormous Conrad, at the corner of NJ and Independence at 0900.

Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551.[redacted]
F 1.202.551.[redacted]
M 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Sunday, October 06, 2019 2:02 PM
To: Manley, Kwame; Luskin, Robert; McDermott, Jon
Cc: Baer, James; Kenny, Peter; Fallon, Patrick; Stowe, Conrad
Subject: [EXT] Re: Gordon Sondland

Counsel - We are looking forward to seeing you and Amb. Sondland on Tuesday morning. I wanted to let you know that Pat Fallon, a Senior Investigator for HPSCI, will be your escort instead of Conrad. Pat will meet your party near Independence and New Jersey Avenues at 9:00 am. Pat is copied on this email so you can coordinate.

Please confirm the total number in your party and any dietary restrictions so we can order lunch on Tuesday.

Thanks,
Dan

> On Oct 4, 2019, at 7:03 AM, Luskin, Robert [redacted] wrote:
>
> Good. Yes name, dial in, repeated below to avoid any confusion:
>
> Dial in:
> 1 [redacted]
> Passcode:
> [redacted]
>
> Bob
>
> Robert Luskin
> Paul Hastings LLP
> 875 15th ST NW
> Washington, DC 20005
> T 1.202.551.[redacted]
> F 1.202.551.[redacted]
> M 1.202.257.[redacted]
>
> From: Noble, Daniel [redacted]
> Sent: Friday, October 04, 2019 8:36 AM
> To: Luskin, Robert; McDermott, Jon; Manley, Kwame
> Cc: Baer, James; Hiser, Moher; Goldman, Daniel; Bapalla, Dave; Grooms, Suzanne Sachsman, Kenny, Peter; Carey, Laura
> Subject: [EXT] Re: Gordon Sondland
>
> Bob - sorry for the delay. Let's do the call at 9:15 today. Can we use the same dial-in? Thanks
>
> > On Oct 3, 2019, at 8:53 PM, Noble, Daniel [redacted] wrote:
> >
> > Thanks Bob. Checking schedules. Will let you know ASAP.
> >
> > -----Original Message-----
> > From: Luskin, Robert [redacted]
> > Sent: Thursday, October 3, 2019 5:34 PM
> > To: Noble, Daniel [redacted]; McDermott, Jon [redacted]; Manley, Kwame [redacted]
> > Cc: Baer, James [redacted]; Campbell, Doug [redacted]; Meadows, Jason [redacted]; Hiser, Moher [redacted]; Goldman, Daniel [redacted]; Bapalla, Dave [redacted]; Grooms, Suzanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]
> > Subject: RE: Gordon Sondland
> >
> > Understood, Dan.
> > How is 0915 tomorrow morning? Jon McDermott is going to be on a plane this evening. We can use the same dial in.
> > Best
> > Bob
> >
> >
> >
> >
> > Robert Luskin | Partner, Litigation Department Paul Hastings
> > LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct
> > 1.202.551.[redacted] | Main: 1.202.551.[redacted] | Fax: 1.202.551.[redacted]
> > [redacted]
> > This e-mail may contain privileged or confidential information. If you are not an intended recipient, please delete this e-mail and any attachments and notify us immediately. Do not copy, disclose, or use the contents of this e-mail. Thank you.
> > [redacted]

>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Thursday, October 3, 2019 3:30 PM
>> To: Lurkin, Robert [redacted] McDermott, Jim
>> [redacted] ; Manley, Kwame
>> [redacted]
>> Cc: Barr, James [redacted] ; Campbell, Doug
>> [redacted] ; Steinbaum, Jason
>> [redacted] ; Bitar, Maher
>> [redacted] ; Goldman, Daniel
>> [redacted] ; Rapallo, Dave
>> [redacted] ; Grooms, Suzanne Sachsman
>> [redacted] ; Kenny, Peter
>> [redacted] ; Carey, Laura
>> [redacted]
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> Our apologies. We are going to need to push back our 4pm call. Can you please let us know if you're available later this evening or tomorrow morning?
>>
>> Thank you
>> Dan
>>
>> -----Original Message-----
>> From: Noble, Daniel
>> Sent: Wednesday, October 2, 2019 5:13 PM
>> To: Lurkin, Robert [redacted] McDermott, Jim
>> [redacted] ; Manley, Kwame
>> [redacted]
>> Cc: Barr, James [redacted] ; Campbell, Doug
>> [redacted] ; Steinbaum, Jason
>> [redacted] ; Bitar, Maher
>> [redacted] ; Goldman, Daniel
>> [redacted] ; Rapallo, Dave
>> [redacted] ; Grooms, Suzanne Sachsman
>> [redacted] ; Kenny, Peter
>> [redacted] ; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Sounds good. Thanks, Bob
>>
>> -----Original Message-----
>> From: Lurkin, Robert [redacted]
>> Sent: Wednesday, October 2, 2019 5:12 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted] ; Manley, Kwame
>> [redacted]
>> Cc: Barr, James [redacted] ; Campbell, Doug
>> [redacted] ; Steinbaum, Jason
>> [redacted] ; Bitar, Maher
>> [redacted] ; Goldman, Daniel
>> [redacted] ; Rapallo, Dave
>> [redacted] ; Grooms, Suzanne Sachsman
>> [redacted] ; Kenny, Peter
>> [redacted] ; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let's use the following conference information for tomorrow at 4PM
>>
>> Dial in:
>> 1 800 399[redacted] (US)
>> 1 719 955[redacted] (non-US)
>> Passcode:
>> [redacted]
>>
>> Best
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T: 1 202.551[redacted]
>> F: 1 202.551[redacted]
>> M: 1 202.257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 7:03 PM
>> To: Lurkin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Barr, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Thanks, Bob.
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 6:59 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted] ; Manley, Kwame
>> [redacted]
>> Cc: Barr, James [redacted] ; Campbell, Doug
>> [redacted] ; Steinbaum, Jason
>> [redacted] ; Bitar, Maher
>> [redacted] ; Goldman, Daniel
>> [redacted] ; Rapallo, Dave
>> [redacted] ; Grooms, Suzanne Sachsman
>> [redacted] ; Kenny, Peter
>> [redacted] ; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> 4pm Thursday will are fine, Dan.
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T: 1 202.551[redacted]
>> F: 1 202.551[redacted]
>> M: 1 202.257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 6:24 PM
>> To: Lurkin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Barr, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We will presume that Amb. Sondland will appear for a deposition on October 8 at 9:30 a.m. given that you represented that you were available on that date in lieu of the noticed date of the 10th. We can discuss on Thursday whether that will be voluntary or pursuant to subpoena. And we acknowledge your position on documents. Let's discuss on our call on Thursday. We cannot do a call that morning, but could do sometime late that afternoon, say 4:00 p.m.? We, too, look forward to finding a productive path forward.
>>
>> Best
>> Dan
>>

>>
>> -----Original Message-----
>> From: Lustkin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 6:24 PM
>> To: Noble, Daniel [redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James [redacted]; Campbell, Doug
>> [redacted]; Stainbrook, Jason
>> [redacted]; Blair, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Croonts, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Unfortunately, we will not be in a position to confirm a deposition until Thursday morning. We need to consult with Ambassador Sondland and need further clarity on the position of the State Department with respect to your request for a voluntary deposition, we won't know this evening or tomorrow morning
>> As to the documents, Ambassador Sondland will not be producing documents on any event. Any documents responsive to your request, including any emails, texts, or messages on services such as What's App, constitute records under the Federal Records Act. Under the statute and governing State Department regulations, Ambassador Sondland is required to ensure that any such documents are preserved in accordance with regulations, he will certainly fulfill his obligations to do so regardless of where the record is located (ie, a cell phone or personal email), and he does not and will not assert any personal privilege to block their production. But, as I am sure you know, he is legally prohibited from producing them in response to your request, and any request for these or other materials relevant to your inquiry must be directed in the first instance to the State Department. Let me emphasize again that we are not interposing any objection to the production of relevant documents and are not taking the position that any responsive document is "personal" in nature. Our point is, simply, that, whatever the merits of your request, Ambassador Sondland is legally prohibited from producing those documents to the Committee
>> I look forward to speaking at the earliest opportunity and hope that we can find a productive path forward
>>
>> Best
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T [redacted]
>> F [redacted]
>> M [redacted]
>> -----
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 5:39 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Blair, James; Campbell, Doug; Stainbrook, Jason; Blair, Maher;
>> Goldman, Daniel; Rapallo, Dave; Croonts, Susanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We can do the call on Thursday at 10 am to discuss the details of the deposition and the issues regarding the State Department's interference, but we need to lock in the date and time for the deposition, as well as a schedule for an initial production of documents, this evening or tomorrow morning at the latest.
>>
>> To that end, please confirm that Amb. Sondland will appear on October 8 at 9:30 a.m. for his deposition and propose a schedule for an initial production of documents, preventing emails and text messages (including any encrypted text messaging apps, like Whats App) from his personal electronic devices. Ideally, we would receive those materials no later than Friday 10/4.
>>
>> If you and your co-counsel would like to hop on a call this evening to discuss, we're available.
>>
>> Thank you
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 4:30 PM
>> To: Noble, Daniel [redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James [redacted]; Campbell, Doug
>> [redacted]; Stainbrook, Jason
>> [redacted]; Blair, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Croonts, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Because of co-counsel's travel schedule, we will need to push this out until Thursday AM. Does 10AM work?
>> Best
>> Bob
>>
>>
>>
>>
>> ---------- Robert Luskin | Partner, Litigation Department Paul Hastings
>> LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct
>> [redacted] | Main: [redacted] | Fax: [redacted]
>> [redacted]
>> https://nam01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.paulhastings.
>> com&d ata=02%7C01%7Crobertluskin%40paulhastings.com%7C4b3d0f1d8ea44e9fd8f308d7480ac
>> 6c9%7C0%7C0%7C637057496429763611&sdata=8dPVeP9qWYRLeXMLP9hrgaFZbnSdon
>> alcyXWeg2CI%3D&reserved=0 | TVWwrQsr0vPkLRoXTwKnJybngVYKRMWCmqlBvPVPMdc=
>>
>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 1, 2019 3:27 PM
>> To: Luskin, Robert [redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James [redacted]; Campbell, Doug
>> [redacted]; Stainbrook, Jason
>> [redacted]; Blair, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Croonts, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We want to do an initial call with you and your co-counsel tomorrow morning without representatives from the State Department on the line. We can discuss during the call if/when it would be appropriate for us to hop in. We would also like to learn more about the "conflicting directions" that Amb. Sondland apparently received from the Department. As I said on my initial email, if Amb. Sondland requires a subpoena to attend the deposition without interference from the Department, we will gran ule one.
>>
>> Can you please let us know what time works between 10am and noon tomorrow for a call?
>>
>> Thank you
>> Dan
>>
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 2:54 PM
>> To: Noble, Daniel [redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]; McInerney, Patricia N
>> [redacted]
>> Cc: Blair, James [redacted]; Campbell, Doug
>> [redacted]; Stainbrook, Jason
>> [redacted]; Blair, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Croonts, Susanne Sachsman

>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>>
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let me check with my co-counsel regarding a specific time, but that window should work. I strongly suggest that we include a representative of the State Department on our call, particularly if you would like to discuss the production of documents. We understand the Committee's position regarding State's role, but, as I hope you appreciate, Ambassador Sondland is receiving conflicting direction from the State Department. As a full time employee of the Department and a confirmed U.S. Ambassador, this places him in a difficult posture. Particularly if we are to schedule the deposition on an expedited basis and ensure that the Committees have relevant documents, it would be extremely helpful if we were not forced to bounce back and forth between the House and State, like children of divorced parents. If counsel, your agreement to join such a call would be entirely without prejudice to your position that -- if the conflicting positions cannot be reconciled -- State is without authority to limit the Ambassador's testimony.
>> Our goal here is to be pragmatic and to accomplish what is necessary in the shortest possible time.
>> Best
>> Bob
>>
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T [redacted]
>> F [redacted]
>> M [redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Monday, September 30, 2019 7:39 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Burr, James; Campbell, Doug; Steinbaum, Jason; Blair, Mike; Maher,
>> Goldman, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> Peter, Jamie and I are available between 10am and noon on Wednesday for a call. What's good for you? We'll want to lock in the date and details for the deposition and discuss productions of documents too.
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 2:33 PM
>> To: Noble, Daniel [redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]; McNerney, Patricia N
>> [redacted]
>> Cc: Burr, James [redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Blair, Mike
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> We will consult with our client and with the relevant officials at the State Department, copied here, and get back to you at the earliest opportunity. Given the time difference and the Ambassador's travel schedule, I cannot commit to a response by tomorrow. I am in a previously scheduled meeting at the Department of Justice for another client all day tomorrow, but should be able to speak with you on Wednesday. Let me know, please, what time might be convenient for you.
>> Best
>> Bob Luskin
>>
>>
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T [redacted]
>> F [redacted]
>> M [redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Monday, September 30, 2019 7:46 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Burr, James; Campbell, Doug; Steinbaum, Jason; Blair, Mike; Maher,
>> Goldman, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin,
>>
>> I am a Senior Counsel on HPSCI and am working on this matter with my colleagues Jamie Burr on HFAC and Peter Kenny on C/OR.
>>
>> We appreciate you moving expeditiously on this matter. We understand that the noticed deposition date of October 10 does not work for you. The only available alternative in October is, as we expect Amb. Sondland will make himself available that day. We would like to begin no later than 9:30 am.
>>
>> Under the House deposition rules (attached along with H. Res. 6, referenced therein), State Department counsel is not permitted to be present during the deposition. Accordingly I have removed State Department counsel from this email chain. We also note that it would be a violation of appropriations law should any State Department counsel instruct a witness not to speak to Congress. We expect Amb. Sondland would report any such instruction, or any other attempt to interfere with his testimony or cooperation with the Committees, to us immediately. If Amb. Sondland requires a subpoena because the State Department is imposing any restrictions on his cooperation or testimony please let us know and we will provide one.
>>
>> We understand that you will need time to discuss these issues with your client, but we'd like to lock in the date for the testimony and a production schedule by tomorrow. Could we arrange a call for tomorrow afternoon?
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 8:08 PM
>> To: Carey, Laura [redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]; McNerney, Patricia N
>> [redacted]
>> Cc: Burr, James [redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Blair, Mike
>> [redacted]; Goldman, Daniel
>> [redacted]; Noble, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Thank you, Laura.
>> We will do our best to make that happen, with the caveat that we have only just been retained and have not yet had the opportunity to meet in person with Ambassador Sondland, to review the areas outlined in your letter and document request, or to liaise with the State Department, which I understand has a role in determining the circumstances under which current State Department officials are permitted to testify.
>> I will look forward to consulting with you and staff about arranging a deposition.
>> Best.
>>
>> Robert Luskin
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T [redacted]
>> F [redacted]
>> M [redacted]
>>
>> From: Carey, Laura [redacted]
>> Sent: Monday, September 30, 2019 8:43 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Burr, James; Campbell, Doug; Steinbaum, Jason; Blair, Mike; Maher,
>> Goldman, Daniel; Noble, Daniel; Rapallo, Dave; Grooms, Susanne
>> Sachsman; Kenny, Peter
>> Subject: [EXT] RE: Gordon Sondland
>>

>> Mr. Luskin et al,
>>
>> Thank you for your message, and we welcome Ambassador Sondland's prompt and voluntary cooperation in this matter. I've looped in additional staff from all three of the interested House committees here. October 8th would likely be feasible for us. But I'll let the relevant counsels take it from here on finalizing the date/time and other necessary details with your team.
>>
>> Best,
>>
>> Laura Carey
>>
>> From: Luskin, Reber [redacted]
>> Sent: Monday, September 30, 2019 4:36 PM
>> To: Carey, Laura [redacted]
>> Cc: McDermott, Jim [redacted] ; Manley, Kwame [redacted]
>> Subject: Gordon Sondland
>>
>> Dear Ms. Carey:
>> Ambassador Gordon Sondland has forwarded to us your letter requesting that he make himself available for a deposition by your Committees on October 10. Together with Jim McDermott of Hall Isaak of Portland, Oregon, my partner Kwame Manley and I have been retained to assist Ambassador Sondland on this matter. I'm writing to introduce ourselves to you and to share our contact information. We'd be grateful if you could direct any further communications concerning the Committee's requests to us directly, please.
>> Your letter suggests a date of October 10 for the deposition. Because of commitments that we have out of the country, that date is not available. Recognizing the Committee's desire to move quickly, however, we would, however, be available on October 8 or 9, if either those dates suit you. Please do let us know how you would like to proceed.
>>
>> Best regards,
>>
>> Robert Luskin
>>
>>
>>
>> [redacted]
>>
>> [logoredesign]<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.&d
>> w.paulhastings.com&d=DwMFaQ&c=LS3KkjKkAC98uTvC4KvQDdTDRzAeWIDRmt36S3YXHH0&r=ROVCWu6ufvGeHCRTwPWITVwKPwsLatDkYkGoNSPB4A&m=hengEgnbVkZ3CWHW9Vlgc3eQcSeHhAvPhdge_dN_qnUI&s=tttvfkHLyLmTfqocczTPN54TWHJfYvUmpipkHJnssLc&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_&d=DwMGbQ&c=LS3KkjKkAC98uTvC4KvQDdTDRzAeWIDRmt36S3YXHH0&r=mAbqOdkwXar1dJpf4IJWW09_cH50zhomhP9EIJ&m=eCH5MARyPpIIqIeyhUwVqvc_Mi2KaXIInum2Dw&s=qJug_Hs&e=Ej29k5QKJOvyy5NNB3svtQxF6rtkJDXewC4CY6%5BNQ&e=>
>> [redacted]
>>
>> Robert Luskin | Partner, Litigation Department Paul Hastings LLP |
>> 875 15th Street, N.W., Washington, DC 20005 | Direct: 1.202.551.[redacted]
>> Main: 1.202.551.[redacted] | Fax: 1.202.551.[redacted]
>> [redacted]
>> https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings
>> .com&d=DwIFaQ&c=LS3KkjKkAC98uTvC4KvQDdTDRzAeWIDRmt36S3YXHH0&r=ROVCWu6ufvGeHCRTwPWITVwKPwsLatDkYkGoNSPB4A&m=hengEgnbVkZ3CWHW9Vlgc3eQcSeHhAvPhdge_dN_qnUI&s=tttvfkHLyLmTfqocczTPN54TWHJfYvUmpipkHJnssLc&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_&d=DwMGbQ&c=LS3KkjKkAC98uTvC4KvQDdTDRzAeWIDRmt36S3YXHH0&r=mAbqOdkwXar1dJpf4IJWW09_cH50zhomhP9EIJ&m=eCH5MARyPpIIqIeyhUwVqvc_Mi2KaXIInum2Dw&s=qJug_Hs&e=Ej29k5QKJOvyy5NNB3svtQxF6rtkJDXewC4CY6%5BNQ&e=>
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>> If you have any questions, please contact Privacy@[redacted]
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>> <img_info.txt>

From: Luskin, Robert
To: Noble, Daniel; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stowz, Conrad; Lee, Kelsey
Subject: RE: Gordon Sondland
Date: Tuesday, October 8, 2019 9:31:11 AM
Attachments: image001.jpg

Dan
I was left a voicemail at 12:30 AM (which I picked up around 5:30AM). That message was confirmed around 7:30AM by a second message from the Legal Advisor. We have not yet received any written confirmation and, once we do, will determine whether we can share it with you. We obviously believe that you are entitled to know the basis for the State Department's concerns, so that you and they can work to resolve them.
Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T: 1.202.551.[redacted]
F: 1.202.551.[redacted]
M: 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Tuesday, October 08, 2019 9:06 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stowz, Conrad; Lee, Kelsey
Subject: [EXT] RE: Gordon Sondland

Bob,

What time were you or Ambassador Sondland first informed of this, and who from the State Department communicated it to you? We'd appreciate it if you could please forward us any email or letter that you or Ambassador Sondland received. I understand you may not have yet received "written confirmation," but we request that you please forward such written notice when you do.

Thank you
Dan

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Tuesday, October 8, 2019 7:37 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Blair, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stowz, Conrad [redacted]; Lee, Kelsey [redacted]
Subject: RE: Gordon Sondland

Dan
I am incredibly disappointed to report that, overnight, the State Department advised that it will direct Ambassador Sondland not to appear before the Committee this morning. While we have not yet gotten written confirmation of that direction, we wanted to advise you of this development at the earliest opportunity. As the sitting US Ambassador to the EU and employee of the State Department, Ambassador Sondland is required to follow this direction.
I hope that whatever concerns the Department has can be resolved promptly and that Ambassador Sondland's testimony can be scheduled at the earliest opportunity. I am very sorry for the inconvenience this has caused you, but we are sharing this with you as soon as it was confirmed to us. Ambassador Sondland is personally disappointed that he will not be able to answer the Committee's questions this morning.
Please accept my sincere apologies. I am sure we will continue to be in touch as this unfolds further and hope that matters will come to a swift and positive resolution.

Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T: 1.202.551.[redacted]
F: 1.202.551.[redacted]
M: 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Monday, October 07, 2019 11:29 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stowz, Conrad; Lee, Kelsey
Subject: [EXT] RE: Gordon Sondland

Perfect. Thanks.

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Monday, October 7, 2019 11:28 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Blair, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stowz, Conrad [redacted]
Subject: RE: Gordon Sondland

Dan
Forgive my tardy response. There will be a total of five on our party, including Ambassador Sondland. None of us has any dietary restrictions. We will look for Pat Fallon and use the enormous Conrad, at the corner of 2nd and Independence at 9:00.
Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T: 1.202.551.[redacted]
F: 1.202.551.[redacted]
M: 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Sunday, October 06, 2019 2:02 PM
To: Manley, Kwame; Luskin, Robert; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stowz, Conrad
Subject: [EXT] Re: Gordon Sondland

Counsel - We are looking forward to seeing you and Amb. Sondland on Tuesday morning. I wanted to let you know that Pat Fallon, a Senior Investigator for HNSCI, will be your escort instead of Conrad. Pat will meet your party near Independence and New Jersey Avenue at 9:00 am. Pat is copied on this email so you can coordinate.

Please confirm the total number in your party and any dietary restrictions so we can order lunch on Tuesday.

Thanks
Dan

> On Oct 4, 2019, at 7:05 AM, Luskin, Robert [redacted] wrote:
>
> Good. Yes same dial in, repeated below in case of any confusion:
>
> Dial in:
> 1 800 369[redacted]
> Passcode
> [redacted]
>
> Bob
>
>
> Robert Luskin
> Paul Hastings LLP
> 875 15th ST NW
> Washington, DC 20005
> T: 1.202.551.[redacted]
> F: 1.202.551.[redacted]
> M: 1.202.257.[redacted]
>
> From: Noble, Daniel [redacted]
> Sent: Friday, October 04, 2019 6:55 AM
> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
> Cc: Blair, James; Blair, Mahler, Goldman, Daniel; Repolle, Dave; Grooms, Suzanne Sacharman; Kenny, Peter; Carey, Laura
> Subject: [EXT] Re: Gordon Sondland
>
> Bob - sorry for the delay. Let's do the call at 9:15 today. Can we use the same dial-in? Thanks.
>
> On Oct 3, 2019, at 8:55 PM, Noble, Daniel [redacted] wrote:

>> Thanks Bob. Checking schedules. Will let you know ASAP.
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Thursday, October 3, 2019 3:34 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Baer, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Understood, Dan.
>> How is 0515 tomorrow morning? Just McDermott is going to be on a plane this evening. We can use the same dial in.
>> Best
>> Bob
>>
>>
>>
>>
>> _____
>> Robert Luskin | Partner, Litigation Department Head Hastings
>> LLP 875 15th Street, N.W., Washington, DC 20005 | Direct
>> 1.202.551.[redacted] | Main: 1.202.551.[redacted] | Fax: 1.202.551.[redacted]
>> [redacted]
>> https://emaildefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings
>> com&d=DwIF-g&c=L9SSkjkAC98eTvC4kAQlMTDRzAeWDORm6S6SYYXHH0&r=ROVCWe8c
>> OuBX6HCwqt9-tTUVxRtNmLnUlbY0OuNNE&m=Ktm_RzUU-AeVo48pCjfaiBc32795jGcdqUlS
>> TMgFFUSlwWPo&s=upAwDg5R42ft5JHxHHGHcgvH917hq5vc5FHwmRFs8Ks&e=
>>
>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Thursday, October 3, 2019 3:30 PM
>> To: Luskin, Robert [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Baer, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: [EXT]RE: Gordon Sondland
>>
>> Bob,
>>
>> Our apologies. We are going to need to push back our 4pm call. Can you please let us know if you're available later this evening or tomorrow morning?
>>
>> Thank you
>> Dan
>>
>> -----Original Message-----
>> From: Noble, Daniel
>> Sent: Wednesday, October 2, 2019 5:13 PM
>> To: Luskin, Robert [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Baer, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Sounds good. Thanks, Bob.
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Wednesday, October 2, 2019 5:12 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Baer, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let's use the following conference information for tomorrow at 4PM
>>
>> Dial in
>> 1 800 308 [redacted] (US)
>> 1 719 955 [redacted] (ex-US)
>> Passcode
>> [redacted]
>>
>> Best
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1.202.551.[redacted]
>> F 1.202.551.[redacted]
>> M 1.202.257.[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 7:01 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Baer, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT]RE: Gordon Sondland
>>
>> Thanks, Bob.
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 6:59 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Baer, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher

>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachanen
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> Subject: RE: Gordon Sondland
>>
>> 4pm Thursday will are fine. Dan
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1.202.551[redacted]
>> F 1.202.551[redacted]
>> M 1.202.257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 6:32 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Bair, James; Campbell, Doug; Steinbaum, Jason; Biter, Maher
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachanen; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We will presume that Amb. Sondland will appear for a deposition on October 8 at 9:30 a.m. given that you represented that you were available on that date in lieu of the noticed date of the 10th. We can discuss on Thursday whether that will be voluntary or pursuant to subpoena. Apreciate you acknowledge your position on discussions. Let's discuss on our call on Thursday. We cannot do a call that morning, but could do sometime late that afternoon, say 4:00 p.m.? We, too, look forward to finding a productive path forward.
>>
>> Best,
>> Dan
>>
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 6:24 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Bair, James [redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Biter, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachanen
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Unfortunately, we will not be in a position to confirm a deposition until Thursday morning. We need to consult with Ambassador Sondland and need further clarity on the position of the State Department with respect to your request for a voluntary deposition. we won't know that this evening or tomorrow morning.
>> As to the documents, Ambassador Sondland will not be producing documents to any event. Any documents responsive to your request, including any emails, texts, or messages on services such as What's App, constitute records under the Federal Records Act. Under the statute and governing State Department regulations, Ambassador Sondland is required to ensure that any such documents are preserved in accordance with regulations; he will certainly fulfill his obligations to do so, regardless of where the record is located (ie, a cell phone or personal email), and he does not and will not assert any personal privileges to block their production. But, as I am sure you know, he is legally prohibited from producing them in response to your request, and any request for these or other materials relevant to your inquiry must be directed in the first instance to the State Department. Let me emphasize again that we are not interposing any objection to the production of relevant documents and are not taking the position that any responsive document is "personal" in nature. Our point is, simply, that, whatever the merits of your request, Ambassador Sondland is legally prohibited from producing these documents to the Committee.
>> I look forward to speaking at the earliest opportunity and hope that we can find a productive path forward.
>>
>> Best
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1.202.551[redacted]
>> F 1.202.551[redacted]
>> M 1.202.257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 5:59 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Bair, James; Campbell, Doug; Steinbaum, Jason; Biter, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachanen; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We can do the call on Thursday at 10 am to discuss the details of the deposition and the issues regarding the State Department's interference, but we need to lock in the date and time for the deposition, as well as a schedule for an initial production of documents, this evening or tomorrow morning at the latest.
>>
>> To this end, please confirm that Amb. Sondland will appear on October 8 at 9:30 a.m. for his deposition and propose a schedule for an initial production of documents, prioritizing emails and text messages (including any encrypted text messaging apps, like Whats App) from his personal electronic devices. Ideally, we would receive those materials no later than Friday COB.
>>
>> If you and your co-counsel would like to hop on a call this evening to discuss, we're available.
>>
>> Thank you.
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 2:30 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Bair, James [redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Biter, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachanen
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Because of co-counsel's travel schedule, we will need to push this over until Thursday AM. Does 10AM work?
>> Best
>> Bob
>>
>>
>>
>>
>>
>> ---------- Robert Luskin - Partner, Litigation Department Paul Hastings
>> LLP | 875 15th Street, N.W., Washington, DC 20005 Direct
>> 1.202.551[redacted] | Main 1.202.551[redacted] Fax 1.202.551[redacted]
>> [redacted]
>> http://www.paulhastings.com/p/RobertLuskin | www.paulhastings
>> sensitive DocID:gdcc 1.9JKkjhxAC98uTvC4kVqOMTTRDxAeWIERmG6S3YXBPnkr JcGVVwcfc
>> GoRNGICnqPF8TUYxRPbwLrtUBvYBOx5NE03AKsm RBPYdPlqWYYLtXMUtWzgtZbc6dm
>> zkyNWsg2CFrIKa TVWrQur6Jv7kLRvXTwKr5hmgVYkRMWCmgHcJbVPSAxe
>>
>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 1, 2019 3:27 PM
>> To: Luskin, Robert [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame

>> [redacted]
>> Cc: Barr, James [redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We want to do an initial call with you and your co-counsel tomorrow morning without representatives from the State Department on the line. We can discuss during the call if/when it would be appropriate for us to loop in State. We would also like to learn more about the "conflicting direction" that Amb. Sondland is apparently receiving from the Department. As I said on my initial email, if Amb. Sondland requires a subpoena to attend the deposition without interference from the Department, we will provide one.
>>
>> Can you please let us know what time works between 10am and noon tomorrow for a call?
>>
>> Thank you.
>> Dan
>>
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 7:54 AM
>> To: Noble, Daniel [redacted]; McDermott, Jim [redacted]; Manley, Kwame [redacted]; McInerney, Patricia X [redacted]
>> Cc: Barr, James [redacted]; Campbell, Doug [redacted]; Steinbaum, Jason [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Rapallo, Dave [redacted]; Grooms, Suzanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let me check with my co-counsel regarding a specific time, but that window should work. I strongly suggest that we include a representative of the State Department on our call, particularly if you would like to discuss the production of documents. We understand the Committee's position regarding State's role, but, as I hope you appreciate, Ambassador Sondland is receiving conflicting direction from the State Department. As a full time employee of the Department and a confirmed US Ambassador, this places him in a difficult posture. Particularly if we are to schedule the deposition on an expedited basis and ensure that the Committees have relevant documents, it would be extremely helpful if we were not forced to bounce back and forth between the House and State. Like children of divorced parents. Of course, your agreement to join such a call would be entirely without prejudice to your position that -- if the conflicting positions cannot be reconciled -- State is without authority to limit the Ambassador's testimony.
>> Our goal here is to be pragmatic and to accomplish what is necessary in the shortest possible time.
>> Best
>> Bob
>>
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T: 1.202.551[redacted]
>> F 1.202.551[redacted]
>> M: 1.202.257[redacted]
>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Monday, September 30, 2019 7:49 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Hur, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher; Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny, Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> Peter, Jamie and I are available between 10am and noon on Wednesday for a call. What's good for you? We'll want to lock in the date and details for the deposition and discuss production of documents, too.
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 7:23 PM
>> To: Noble, Daniel [redacted]; McDermott, Jim [redacted]; Manley, Kwame [redacted]; McInerney, Patricia X [redacted]
>> Cc: Hur, James [redacted]; Campbell, Doug [redacted]; Steinbaum, Jason [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Rapallo, Dave [redacted]; Grooms, Suzanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> We will consult with our client and with the relevant officials at the State Department, consult here, and get back to you at the earliest opportunity. Given the time differences and the Ambassador's travel schedule, I cannot commit to a response by tomorrow. I am in a previously scheduled meeting at the Department of Justice for another client all day tomorrow, but should be able to speak with you on Wednesday. Let me know, please, what time might be convenient for you.
>> Best
>> Bob Luskin
>>
>>
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1.202.551[redacted]
>> F 1.202.551[redacted]
>> M: 1.202.257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Monday, September 30, 2019 7:04 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Hur, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher; Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny, Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin,
>>
>> I am a Senior Counsel on HPSCI and am working on this matter with my colleagues Jamie Barr on HLAC and Peter Kenny on COR.
>>
>> We appreciate you moving expeditiously on this matter. We understand that the noticed deposition date of October 10 does not work for you. The only available alternative is October 8, as we expect Amb. Sondland will make himself available that day. We would like to begin no later than 9:30 am.
>>
>> Under the House deposition rules (attached along with H. Res. 6, referenced therein), State Department counsel is not permitted to be present during the deposition. Accordingly, I have removed State Department counsel from this email chain. We also note that it would be a violation of appropriations law should any State Department counsel instruct a witness not to speak to Congress. We expect Amb. Sondland would report any such instruction, or any other attempt to interfere with his testimony or cooperation with the Committees, to us immediately. If Amb. Sondland requires a subpoena because the State Department is imposing any restrictions on his cooperation or testimony, please let us know and we will provide one.
>>
>> We understand that you will need time to discuss these issues with your client, but we'd like to lock in the date for the testimony and a production schedule by tomorrow. Could we arrange a call for tomorrow afternoon?
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 6:01 PM
>> To: Carey, Laura [redacted]; McDermott, Jim [redacted]; Manley, Kwame [redacted]; McInerney, Patricia X [redacted]

>> Cc: Bair, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Noble, Daniel
>> [redacted] Rapallo, Dave
>> [redacted] Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> Subject: RE: Gordon Sondland
>>
>> Thank you, Laura.
>> We will do our best to make that happen, with the caveat that we have only just been retained and has not yet had the opportunity to meet in person with Ambassador Sondland to review the items outlined in your letter and document requests, or to know with the State Department which I understand has a role in determining the circumstances under which current State Department officials are permitted to testify.
>> I will look forward to consulting with you and staff about arranging a deposition.
>> Best.
>>
>> Robert Luskin
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T: 1.202.551[redacted]
>> F: 1.202.551[redacted]
>> M: 1 202 257[redacted]
>>
>> From: Casey, Laura [redacted]
>> Sent: Monday, September 30, 2019 5:45 PM
>> To: Luskin, Robert; McDermott, Jen; Manley, Kwame
>> Cc: Bair, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher;
>> Goldman, Daniel; Noble, Daniel; Rapallo, Dave; Grooms, Suzanne
>> Sachsman; Kenny, Peter
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin et al,
>>
>> Thank you for your message, and we welcome Ambassador Sondland's prompt and voluntary cooperation in this matter. I've looped in additional staff from all three of the interested House committees here. October 8th would likely be feasible for us, but I'll let the relevant counsels take it from here on finalizing the date/time and other necessary details with your team.
>>
>> Best,
>>
>> Laura Casey
>>
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 4:16 PM
>> To: Casey, Laura [redacted]
>> Cc: McDermott, Jen [redacted]; Manley, Kwame
>> [redacted]
>> Subject: Gordon Sondland
>>
>> Dear Ms. Casey,
>> Ambassador Gordon Sondland has forwarded to us your letter requesting that he make himself available for a deposition by your Committee on October 10. Together with Jen McDermott of Hall Janik of Portland, Oregon, my partner Kwanie Manley and I have been retained to assist Ambassador Sondland in this matter. I'm writing to introduce ourselves to you and to share our contact information. We'd be grateful if you could direct any further communications concerning the Committee's requests to us directly, please.
>> Your letter suggests a date of October 10 for the deposition. Because of commitments that we have out of the country, that date is not available. Recognizing the Committee's desire to move quickly, however, we would, however, be available on October 8 or 9, if either those dates suit you. Please do let us know how you would like to proceed.
>>
>> Best regards,
>>
>> Robert Luskin
>>
>>
>>
>>
>> Deprotect.psp?https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_&d=DwMGaQ&c=L9SKjqKsACf9buTvC4KvQDdTDRzAeWDl8tmGbS3YXBI&r=ROVCWo6cGdeRNGICnePF8TUYnKtPbwLnHBVW9aHNDb4&m=hmgEgnbWXDCfCBBn9kF4gcOeQkx1olbA&s=Pb4gs_dN_qnHJdz_0tyTkfLpLunTqocoZnTP-543W3BVo&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_&d=DwMGaQ&c=L9SKjqKsACf9buTvC4KvQDdTDRzAeWDl8tmGbS3YXBI&r=mAbqh2dKwXnUdpf4DWW09_cl60ohomb9BEL3ce6q8&m=eCfHAARsPpHqIecbUvQvc_M2hAXDmum2Dvtsq&s=Pb4gs_dN_qnHJdz_0tyTkfLpLunTqocoZnTP-543W3BVo&e=>
>> Robert Luskin, Partner, Litigation Department Paul Hastings LLP|
>> 875 15th Street, N.W., Washington, DC 20005 | Direct: 1 202.551[redacted]
>> Mobile: 1.202.551[redacted] | Fax: 1.202.551[redacted]
>> [redacted]
>> https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_&d=DwIFgQ&c=L9SKjqKsACf9buTvC4KvQDdTDRzAeWDl8tmGbS3YXBI&r=mAbqh2dKwXnUdpf4DWW09_cl60ohomb9BEL3ce6q8&m=eCfHAARsPpHqIecbUvQvc_M2hAXDmum2Dvtsq&s=Pb4gs_dN_qnHJdz_0tyTkfLpLunTqocoZnTP-543W3BVo&e=<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_&d=DwMGaQ&c=L9SKjqKsACf9buTvC4KvQDdTDRzAeWDl8tmGbS3YXBI&r=mAbqh2dKwXnUdpf4DWW09_cl60ohomb9BEL3ce6q8&m=eCfHAARsPpHqIecbUvQvc_M2hAXDmum2Dvtsq&s=Pb4gs_dN_qnHJdz_0tyTkfLpLunTqocoZnTP-543W3BVo&e=>
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>> [image omitted]

From: Laskin, Robert
To: Noble, Daniel; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stone, Conrad; Lax, Kelsey
Subject: RE: Gordon Sondland
Date: Tuesday, October 8, 2019 11:09:41 AM
Attachments: SondlandDOSLETTER.pdf

Dan,
We received the attached letter (dated October 7) by hand approximately 10 minutes ago from the Department of State. The late night message was from Kenneth Thomas in the Legal Advisor's office informing me that the Department was directing Ambassador Sondland not to appear and advising me that a letter would be forthcoming.
Best
Bob

Robert Laskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551.[redacted]
F 1.202.551.[redacted]
M 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Tuesday, October 08, 2019 9:35 AM
To: Laskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stone, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Bob - Who left you the first VM last night at 12:30 AM? Was it someone from L? And if you have the VMs as .wav files, could you please forward to us? Thx

-----Original Message-----
From: Laskin, Robert [redacted]
Sent: Tuesday, October 8, 2019 9:31 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Blair, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stone, Conrad [redacted]; Lax, Kelsey [redacted]
Subject: RE: Gordon Sondland

Dan
I was left a voicemail at 12:30AM (which I picked up around 5:30AM). That message was confirmed around 7:30AM by a second message from the Legal Advisor. We have not yet received any written confirmation and, once we do, will determine whether we can share it with you. We also clearly believe that you are entitled to know the basis for the State Department's concerns, so that you and they can work to resolve them.
Best
Bob

Robert Laskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551.[redacted]
F 1.202.551.[redacted]
M 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Tuesday, October 08, 2019 9:06 AM
To: Laskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stone, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Bob,

What time were you or Ambassador Sondland first informed of this, and who from the State Department communicated it to you? We'd appreciate it if you could please forward to us any email or letter that you or Ambassador Sondland received. I understand you may not have yet received "written confirmation," but we request that you please forward such written notice when you do.

Thank you,
Dan

-----Original Message-----
From: Laskin, Robert [redacted]
Sent: Tuesday, October 8, 2019 9:03 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Blair, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stone, Conrad [redacted]; Lax, Kelsey [redacted]
Subject: RE: Gordon Sondland

Dan
I am incredibly disappointed to report that, overnight, the State Department advised that it will direct Ambassador Sondland not to appear before the Committee this morning. While we have not yet gotten written confirmation of that direction, we wanted to advise you of this development at the earliest opportunity. As the sitting US Ambassador to the EU and employee of the State Department, Ambassador Sondland is required to follow this direction.
I hope that whatever concerns the Department has can be resolved promptly and that Ambassador Sondland's testimony can be scheduled at the earliest opportunity. I am very sorry for the inexcusably late notice, but we are sharing this with you as soon as it was confirmed to us. Ambassador Sondland is personally disappointed that he will not be able to answer the Committee's questions this morning.
Please accept my sincere apologies. I am sure we will continue to be in touch so this unfolds further and hope that matters will come to a swift and positive resolution.

Best
Bob

Robert Laskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551.[redacted]
F 1.202.551.[redacted]
M 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Monday, October 07, 2019 11:29 AM
To: Laskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stone, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Perfect. Thanks.

-----Original Message-----
From: Laskin, Robert [redacted]
Sent: Monday, October 7, 2019 11:28 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Blair, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stone, Conrad [redacted]
Subject: RE: Gordon Sondland

Dan
Forgive my tardy response. There will be a total of five in our party, including Ambassador Sondland. None of us has any dietary restrictions. We will look for Pat Fallon and not the enormous Counsel at the corner of NJ and Independence at 0900.
Best
Bob

Robert Laskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551.[redacted]
F 1.202.551.[redacted]
M 1.202.257.[redacted]

From: Noble, Daniel [redacted]
Sent: Sunday, October 06, 2019 2:02 PM
To: Manley, Kwame; Laskin, Robert; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Stone, Conrad
Subject: [EXT] Re: Gordon Sondland

Counsel - We are looking forward to seeing you and Amb. Sondland on Tuesday morning. I wanted to let you know that Pat Fallon, a Senior Investigator for HPSCI, will be your escort instead of Conrad. Pat will meet your party near Independence and New Jersey. Arrange at 9:00 am. Pat is copied on this email so you can coordinate.

Please confirm the total number in your party and any dietary restrictions so we can order lunch on Tuesday.

Thanks,
Dan

> On Oct 4, 2019, at 7:05 AM, Laskin, Robert [redacted] wrote:

> Good. Yes same dial in, repeated below to avoid any confusion.
>
> Dial in:
> 1 800 369[redacted]
> Passcode:
> [redacted]
>
> Bob
>
>
> Robert Luskin
> Paul Hastings LLP
> 875 15th ST NW
> Washington, DC 20005
> T 1.202.551[redacted]
> F 1.202.551[redacted]
> M 1.202.257[redacted]
>
> -----Original Message-----
> From: Noble, Daniel[redacted]
> Sent: Friday, October 04, 2019 6:56 AM
> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
> Cc: Blair, James; Bitar, Maher; Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny, Peter; Carey, Laura
> Subject: [EXT] Re: Gordon Sondland
>
> Bob - sorry for the delay. Let's do the call at 9:15 today. Can we use the same dial-in? Thanks
>
>> On Oct 3, 2019, at 8:55 PM, Noble, Daniel[redacted] wrote:
>>
>> Thanks Bob. Checking schedules. Will let you know ASAP.
>>
>> -----Original Message-----
>> From: Luskin, Robert[redacted]
>> Sent: Thursday, October 3, 2019 5:34 PM
>> To: Noble, Daniel[redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James[redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Understood, Dan.
>> How is 09:15 tomorrow morning? Jim McDermott is going to be on a plane this evening. We can use the same dial in.
>> Best
>> Bob
>>
>>
>>
>>
>> Robert Luskin | Partner, Litigation Department Paul Hastings
>> LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct: [redacted] | Main [redacted] | Fax: 1.202.551[redacted]
>> [redacted]
>> http://url.emailprotection.com/v2/url?u=http-3A__www.paulhastings
>> com&d=DwIF-g&c=L93KhKjKxACzI9hoTvC4IAvQOMTDRzAeWIDHkmG9S3YXBI0&r=RiVtCWcbc
>> GeRNGHCvqjPSRTUYuRlPhvLuUlbY0Os3NE84A&m=Rt1tUAuVsn8pQfiqBcJs7792j6zdqDS
>> TMpFFUS8aWPw&s=wpAwDgiRs42MSJ9khHKHCdrgvH91Dq6xn6FRbmsRFvI&e=
>>
>>
>> -----Original Message-----
>> From: Noble, Daniel[redacted]
>> Sent: Thursday, October 3, 2019 5:30 PM
>> To: Luskin, Robert[redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James[redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> Our apologies. We are going to need to push back our 4pm call. Can you please let us know if you're available later this evening or tomorrow morning?
>>
>> Thank you
>> Dan
>>
>> -----Original Message-----
>> From: Noble, Daniel
>> Sent: Wednesday, October 2, 2019 5:12 PM
>> To: Luskin, Robert[redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James[redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Sounds good. Thanks, Bob
>>
>> -----Original Message-----
>> From: Luskin, Robert[redacted]
>> Sent: Wednesday, October 2, 2019 5:12 PM
>> To: Noble, Daniel[redacted]; McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blair, James[redacted]; Campbell, Doug
>> [redacted]; Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted]; Goldman, Daniel
>> [redacted]; Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let's use the following conference information for tomorrow at 3PM:
>>
>> Dial in
>> 1 800 369[redacted] (US)
>> 1 719 955[redacted] (ex-US)
>> Passcode:
>> [redacted]
>>
>> Best

Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202 551[redacted]
F 1 202 551[redacted]
M 1 202 257[redacted]

From: Noble, Daniel[redacted]
Sent: Tuesday, October 01, 2019 7:03 PM
To: Luskin, Robert; McDermott, Jim; Manley, Kwame
Cc: Bair, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher
Goldman, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny
Peter; Carey, Laura
Subject: [EXT] RE: Gordon Sondland

Thanks, Bob

-----Original Message-----
From: Luskin, Robert[redacted]
Sent: Tuesday, October 1, 2019 8:39 PM
To: Noble, Daniel[redacted] McDermott, Jim
[redacted]; Manley, Kwame
[redacted]
Cc: Bair, James[redacted], Campbell, Doug
[redacted] Steinbaum, Jason
[redacted]; Bitar, Maher
[redacted] Goldman, Daniel
[redacted] Rapallo, Dave
[redacted] Grooms, Susanne Sachsman
[redacted]; Kenny, Peter
[redacted]; Carey, Laura
[redacted]
Subject: RE: Gordon Sondland

4pm Thursday will are fine, Dan
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202 551[redacted]
F 1 202 551[redacted]
M 1 202 257[redacted]

From: Noble, Daniel[redacted]
Sent: Tuesday, October 01, 2019 6:32 PM
To: Luskin, Robert; McDermott, Jim; Manley, Kwame
Cc: Bair, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher
Goldman, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny
Peter; Carey, Laura
Subject: [EXT] RE: Gordon Sondland

Bob

We will presume that Amb. Sondland will appear for a deposition on October 7 at 9:30 a.m. given that you represented that you were available on that date in lieu of the noticed date of the 10th. We can discuss on Thursday whether that will be voluntary or pursuant to subpoena. And we acknowledge your position on documents. Let's discuss on our call on Thursday. We cannot do a call that morning, but could do sometime late that afternoon, say 4:00 p.m.? We look forward to finding a productive path forward.

Best,
Dan

-----Original Message-----
From: Luskin, Robert[redacted]
Sent: Tuesday, October 1, 2019 6:24 PM
To: Noble, Daniel[redacted] McDermott, Jim
[redacted]; Manley, Kwame
[redacted]
Cc: Bair, James[redacted], Campbell, Doug
[redacted] Steinbaum, Jason
[redacted]; Bitar, Maher
[redacted] Goldman, Daniel
[redacted] Rapallo, Dave
[redacted]; Grooms, Susanne Sachsman
[redacted]; Kenny, Peter
[redacted]; Carey, Laura
[redacted]
Subject: RE: Gordon Sondland

Dan

Unfortunately, we will not be in a position to confirm a deposition until Thursday morning. We need to consult with Ambassador Sondland and need further clarity on the position of the State Department with respect to your request for a voluntary deposition, we won't know that this evening or tomorrow morning.

As to the documents, Ambassador Sondland will not be producing documents in any event. Any documents responsive to your request, including any emails, texts, or messages on services such as What's App, constitute records under the Federal Records Act. Under the statute and governing State Department regulations, Ambassador Sondland is required to ensure that any such documents are preserved in accordance with regulations, he will certainly fulfill his obligations to do so, regardless of where the record is located (i.e. a cell phone or personal email), and he does not and will not assert any personal privileges to block their production. But, as I am sure you know, he is legally prohibited from producing them in response to your request, and any request for these or other materials relevant to your inquiry must be directed in the first instance to the State Department. Let me emphasize again that we are not interposing any objection to the production of relevant documents and are not taking the position that any responsive document is personal in nature. Our point is, simply, that whatever the merits of your request Ambassador Sondland is legally prohibited from producing these documents to the Committee.

I look forward to speaking at the earliest opportunity and hope that we can find a productive path forward.

Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202 551[redacted]
F 1 202 551[redacted]
M 1 202 257[redacted]

From: Noble, Daniel[redacted]
Sent: Tuesday, October 01, 2019 5:39 PM
To: Luskin, Robert; McDermott, Jim; Manley, Kwame
Cc: Bair, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher
Goldman, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny
Peter; Carey, Laura
Subject: [EXT] RE: Gordon Sondland

Bob

We can do the call on Thursday at 10 am to discuss the details of the depositions and the issues regarding the State Department's interference, but we need to lock in the date and time for the depositions as well as a schedule for an initial production of documents, this evening or tomorrow morning at the latest.

To that end, please confirm that Amb. Sondland will appear on October 8 at 9:30 a.m. for his deposition and propose a schedule for an initial production of documents, prioritizing details and text messages (including any encrypted text messaging apps, like Whats App) from his personal electronic devices. Ideally, we would receive those materials no later than Friday COB.

If you and your co-counsel would like to hop on a call this evening to discuss, we're available.

Thank you
Dan

-----Original Message-----
From: Luskin, Robert[redacted]
Sent: Tuesday, October 1, 2019 4:30 PM
To: Noble, Daniel[redacted] McDermott, Jim
[redacted]; Manley, Kwame
[redacted]
Cc: Bair, James[redacted]; Campbell, Doug
[redacted] Steinbaum, Jason
[redacted]; Bitar, Maher
[redacted] Goldman, Daniel
[redacted] Rapallo, Dave

[redacted], Oversen, Suzanne Sachsman
[redacted]; Kenny, Peter
[redacted]; Carey, Laura
Subject: RE: Gordon Sondland

Dan
Because of co-counsel's travel schedule, we will need to push this over until Thursday AM. Does 10AM work?
Best
Bob

Robert Luskin | Partner, Litigation Department Paul Hastings
LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct: [redacted]
T 1 202.551[redacted] | Main: 1 202.551[redacted] | Fax: 1 202.551[redacted]
[redacted]
https://nam02.safelinks.protection.outlook.com/?url=http%3A__www.paulhastings.
com&d ata=02%7C01%7C%7C6a7c74b1cf2b4b7c6f4b08d74a6ed1ab%7C5ed8b49eadee4fed9f60f47faae97218%7C1%7C0%7C637055
GnRN3lCvqFFFTUVaRPtwLnU4hT0O3eSNb04&sdata=84PVv4PfpWVKLnX5E1Hbcpf2b4dnbs
skXWsp2CIhI&r eserved=0 TVWerQmbJvTkLRyXTnKnTvbuqVVkRMWCmIHc3bVP5Jkr

-----Original Message-----
From: Noble, Daniel [redacted]
Sent: Tuesday, October 1, 2019 3:27 PM
To: Luskin, Robert [redacted]; McDermott, Jim [redacted]; Manley, Kwame [redacted]; Campbell, Doug [redacted]; Steinbaum, Jason [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Rapallo, Dave [redacted]; Oremus, Suzanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]
Subject: [EXT] RE: Gordon Sondland

Bob,

We want to do an initial call with you and your co-counsel tomorrow morning without representatives from the State Department on the line. We can discuss during the call if/when it would be appropriate for us to keep re State. We would also like to learn more about the "conflicting direction" that Amb. Sondland is apparently receiving from the Department. As I said on my initial email, if Amb. Sondland requires a subpoena to attend the deposition without interference from the Department, we will provide you

Can you please let us know what time works between 10am and noon tomorrow for a call?

Thank you
Dan

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Tuesday, October 1, 2019 9:54 AM
To: Noble, Daniel [redacted]; McDermott, Jim [redacted]; Manley, Kwame [redacted]; McInerney, Patricia X [redacted]
Cc: Hur, James [redacted]; Campbell, Doug [redacted]; Steinbaum, Jason [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Rapallo, Dave [redacted]; Oremus, Suzanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]
Subject: RE: Gordon Sondland

Dan
Let me check with my co-counsel regarding a specific time, but that window should work. I strongly suggest that we include a representative of the State Department on our call, particularly if you would like to discuss the production of documents. We understand the Committee's position regarding State's role, but, as I hope you appreciate, Ambassador Sondland is receiving conflicting direction from the State Department. As a full time employee of the Department and a confirmed U.S. Ambassador, this places him in a difficult posture. Particularly if we are to schedule the deposition on an expedited basis and ensure that the Committee has a relevant documents, it would be extremely helpful if we were not forced to bounce back and forth between the House and State, like children of divorced parents. Of course, your agreement to join such a call would be entirely without prejudice to your position that -- if the conflicting positions cannot be reconciled -- State is without authority to bind the Ambassador's testimony.
Our goal here is to be pragmatic and to accomplish what is necessary in the shortest possible time
Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202.551[redacted]
F 1 202.551[redacted]
M 1 202.257[redacted]

From: Noble, Daniel [redacted]
Sent: Monday, September 30, 2019 7:49 PM
To: Luskin, Robert; McDermott, Jim; Manley, Kwame
Cc: Hur, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher; Goldman, Daniel; Rapallo, Dave; Oremus, Suzanne Sachsman; Kenny, Peter; Carey, Laura
Subject: [EXT] RE: Gordon Sondland

Bob,

Petter, Jamie and I are available between 10am and noon on Wednesday for a call. What's good for you? We'll want to lock in the date and details for the deposition and discuss production of documents, too

Thanks,
Dan

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Monday, September 30, 2019 7:33 PM
To: Noble, Daniel [redacted]; McDermott, Jim [redacted]; Manley, Kwame [redacted]; McInerney, Patricia X [redacted]
Cc: Hur, James [redacted]; Campbell, Doug [redacted]; Steinbaum, Jason [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Rapallo, Dave [redacted]; Oremus, Suzanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]
Subject: RE: Gordon Sondland

Dan
We will consult with our client and with the relevant officials at the State Department, expeditiously, and get back to you at the earliest opportunity. Given the time difference and the Ambassador's travel schedule, I cannot commit to a responsive by tomorrow. I am in a previously scheduled meeting at the Department of Justice for another about all day tomorrow, but should be able to speak with you on Wednesday. Let me know, please, what time might be convenient for you
Best
Bob Luskin

Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202.551[redacted]
F 1 202.551[redacted]
M 1 202.257[redacted]

From: Noble, Daniel [redacted]

>> Sent: Monday, September 30, 2019 7:00 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Blair, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher
>> Goldman, Daniel; Repullo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin,
>>
>> I am a Senior Counsel on HPSCI and am working on this matter with my colleagues Jamie Rase on HPAC and Peter Kenny on OGR.
>>
>> We appreciate you moving expeditiously on this matter. We understand that the noticed deposition date of October 10 does not work for you. The only available alternative is October 8, so we expect Amb. Sondland will make himself available that day. We would like to begin no later than 9:30 am.
>>
>> Under the House deposition rules (attached along with H. Res. 6, referenced therein), State Department counsel is not permitted to be present during the deposition. Accordingly, I have removed State Department counsel from this email chain. We also note that it would be a violation of appropriations law should any State Department counsel instruct a witness not to speak to Congress. We expect Amb. Sondland would report any such instruction, or any other attempt to interfere with his testimony or cooperation with the Committees, to us immediately. If Amb. Sondland requires a subpoena because the State Department is imposing any restrictions on his cooperation or testimony, please let us know and we will provide one.
>>
>> We understand that you will need time to discuss these issues with your client, but we'd like to lock in the date for the testimony and a production schedule by tomorrow. Could we arrange a call for tomorrow afternoon?
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 6:09 PM
>> To: Carey, Laura [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]; McNerney, Patrick X
>> [redacted]
>> Cc: Blair, James [redacted] Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted]; Noble, Daniel
>> [redacted] Repullo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> Subject: RE: Gordon Sondland
>>
>> Thank you, Laura.
>> We will do our best to make that happen, with the caveat that we have only just been retained and have not yet had the opportunity to meet in person with Ambassador Sondland to review the areas outlined in your letter and document requests, or to have talk the State Department, which I understand has a role in determining the circumstances under which current State Department officials are permitted to testify.
>> I will look forward to consulting with you and staff about arranging a deposition.
>> Best.
>>
>> Robert Luskin
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1 202.551[redacted]
>> F 1 202.551[redacted]
>> M 1 202.25[redacted]
>>
>> -----Original Message-----
>> From: Carey, Laura[redacted]
>> Sent: Monday, September 30, 2019 5:43 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Blair, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher
>> Goldman, Daniel; Noble, Daniel; Repullo, Dave; Grooms, Suzanne
>> Sachsman; Kenny, Peter
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin et al.
>>
>> Thank you for your message, and we welcome Ambassador Sondland's prompt and voluntary cooperation in this matter. I've looped in additional staff from all three of the interested House committees here. October 8th would likely be feasible for us, but I'll let the relevant counsels take it from here on finalizing the date/time and other processes details with your team.
>>
>> Best,
>>
>> Laura Carey
>>
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 5:18 PM
>> To: Carey, Laura[redacted]
>> Cc: McDermott, Jim[redacted]; Manley, Kwame
>> [redacted]
>> Subject: Gordon Sondland
>>
>> Dear Ms. Carey,
>> Ambassador Gordon Sondland has forwarded to us your letter requesting that he make himself available for a deposition by your Committee on October 10. Together with Jim McDermott of Hull Investments and I have been retained to assist Ambassador Sondland on this matter. I'm writing to introduce ourselves to you and to share our contact information. We'd be grateful if you could direct any further communications concerning the Committee's requests to us directly, please.
>> Your letter suggests a date of October 10 for the deposition. Because of commitments that we have out of the country, that date is not available. Recognizing the Committee's desire to move quickly, however, we would, however, be available on October 8 or 9, if either of those dates suit you. Please do let us know how you would like to proceed.
>>
>> Best regards,
>>
>> Robert Luskin
>>
>>
>>
>>
>>
>> [logo redacted]
>> Robert Luskin | Partner, Litigation Department Paul Hastings LLP |
>> 875 15th Street, N.W., Washington, DC 20005 | Direct: 1.202.551[redacted]
>> Main: 1.202.551[redacted] | Fax: 1.202.551[redacted]
>> [redacted]
>>
>> *****
>> ** This message is sent by a law firm and may
>> contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.
>> If you reply to this message, Paul Hastings may collect personal information including your name, business name and other contact details, and IP address. For more information about Paul Hastings' information collection, privacy and security principles please click
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>>
>> *****
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>>
>>
>> *****
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have any questions, please contact Privacy at [redacted]

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have any questions, please contact Privacy at [redacted]

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have any questions, please contact Privacy at [redacted]
[redacted]

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this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.
If you reply to this message, Paul Hastings may collect personal information including your name, business name
and other contact details, and IP address. For more information about Paul Hastings' information collection, privacy
and security principles please click HERE. If you have any questions, please contact Privacy at [redacted]

From: Luskin, Robert
To: Noble, Daniel; Manley, Kwame; McDermott, Jim
Cc: Bur, James; Kenny, Peter; Fallon, Patrick; Stolz, Conrad; Lax, Kelsey
Subject: RE: Gordon Sondland
Date: Tuesday, October 8 2019 5:21:17 PM
Attachments: OLE_Obj.bin

Dan
We understand from the Committees' public statement this afternoon that you intend to issue a subpoena to Ambassador Sondland. Assuming that comes to pass, we wanted to advise you that Ambassador Sondland has authorized us to accept service on his behalf. There are enough potential bumps in the road without making things more difficult than they need to be. We would, of course, want to discuss timing, etc., but at least wanted to clear away some of the potential underbrush on this issue.

Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551[redacted]
F 1.202.551[redacted]
M 1.202.257[redacted]

From: Noble, Daniel [redacted]
Sent: Tuesday, October 08, 2019 11:18 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Bur, James; Kenny, Peter; Fallon, Patrick; Stolz, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Thanks, Bob

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Tuesday, October 8, 2019 11:09 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Bur, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stolz, Conrad [redacted]; Lax, Kelsey [redacted]
Subject: RE: Gordon Sondland

Dan
We received the attached letter (dated October 7) two hours approximately 30 minutes ago from the Department of State. The late night message was from Kenneth Thomas, in the Legal Advisor's office approving me that the Department was directing Ambassador Sondland not to appear and advising me that a letter would be forthcoming.
Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551[redacted]
F 1.202.551[redacted]
M 1.202.257[redacted]

From: Noble, Daniel [redacted]
Sent: Tuesday, October 08, 2019 9:35 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Bur, James; Kenny, Peter; Fallon, Patrick; Stolz, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Bob - Who left you the first VM last night at 12:30 AM? Was it someone from L? And if you have the VMs as .wav files, could you please forward to us? Thx

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Tuesday, October 8, 2019 9:31 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Bur, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stolz, Conrad [redacted]; Lax, Kelsey [redacted]
Subject: RE: Gordon Sondland

Dan
I was left a voicemail at 12:30AM (which I picked up around 5:30AM). That message was confirmed around 7:30AM by a second message from the Legal Advisor. We have not yet received any written confirmation and, once we do, will determine whether we can share it with you. We obviously believe that you are entitled to know the basis for the State Department's concerns, so that you and they can work to resolve them.
Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551[redacted]
F 1.202.551[redacted]
M 1.202.257[redacted]

From: Noble, Daniel [redacted]
Sent: Tuesday, October 08, 2019 9:06 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Bur, James; Kenny, Peter; Fallon, Patrick; Stolz, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Bob,

What time were you or Ambassador Sondland first informed of this, and who from the State Department communicated it to you? We'd appreciate it if you could please forward us any email or letter that you or Ambassador Sondland received. I understand you may not have yet received "written confirmation," but we request that you please forward such written notice when you do.

Thank you
Dan

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Tuesday, October 8, 2019 7:33 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Bur, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stolz, Conrad [redacted]; Lax, Kelsey [redacted]
Subject: RE: Gordon Sondland

Dan
I am incredibly disappointed to report that, overnight, the State Department advised that it will direct Ambassador Sondland not to appear before the Committee this morning. While we have not yet gotten written confirmation of that direction, we wanted to advise you of this development at the earliest opportunity. As the sitting US Ambassador to the EU and employee of the State Department, Ambassador Sondland is required to follow this direction.
I hope that whatever concerns the Department has can be resolved promptly and that Ambassador Sondland's testimony can be scheduled at the earliest opportunity. I am very sorry for the inexcusably late notice, but we are sharing this with you as soon as it was confirmed to us. Ambassador Sondland is personally disappointed that he will not be able to answer the Committee's questions this morning.
Please accept my sincere apologies. I am sure we will continue to be in touch as this unfolds further and hope that matters will come to a swift and positive resolution.

Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1.202.551[redacted]
F 1.202.551[redacted]
M 1.202.257[redacted]

From: Noble, Daniel [redacted]
Sent: Monday, October 07, 2019 11:29 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Bur, James; Kenny, Peter; Fallon, Patrick; Stolz, Conrad; Lax, Kelsey
Subject: [EXT] RE: Gordon Sondland

Perfect. Thanks.

-----Original Message-----
From: Luskin, Robert [redacted]
Sent: Monday, October 7, 2019 11:28 AM
To: Noble, Daniel [redacted]; Manley, Kwame [redacted]; McDermott, Jim [redacted]
Cc: Bur, James [redacted]; Kenny, Peter [redacted]; Fallon, Patrick [redacted]; Stolz, Conrad [redacted]
[redacted] Gordon Sondland

Dan
I regret my tardy response. There will be a total of five in our party, including Ambassador Sondland. None of us has any dietary restrictions. We will look for Pat Fallon and not the intersection. Counsel, at the corner of 3rd and Independence at 0900.
Best
Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202 551[redacted]
F 1 202 551[redacted]
M 1 202 257[redacted]

From: Noble, Daniel[redacted]
Sent: Sunday, October 06, 2019 2:02 PM
To: Manley, Kwame; Luskin, Robert; McDermott, Jim
Cc: Blair, James; Kenny, Peter; Fallon, Patrick; Story, Conrad
Subject: [EXT] Re: Gordon Sondland

Counsel - We are looking forward to seeing you and Amb. Sondland on Tuesday morning. I wanted to let you know that Pat Fallon, a Senior Investigator for HPSCI, will be your escort instead of Conrad. Pat will meet you party near Independence and New Jersey Avenue at 9:00 am. Pat is copied on this email so you can coordinate.

Please confirm the total number in your party and any dietary restrictions so we can order lunch on Tuesday.

Thanks
Dan

On Oct 4, 2019, at 7:05 AM, Luskin, Robert[redacted] wrote:

Good. Use same dial in, repeated below to avoid any confusion.

Dial in
1 800 369[redacted]
Passcode
[redacted]

Bob

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T 1 202 551[redacted]
F 1 202 551[redacted]
M 1 202 257[redacted]

From: Noble, Daniel[redacted]
Sent: Friday, October 04, 2019 8:35 AM
To: Luskin, Robert; McDermott, Jim; Manley, Kwame
Cc: Blair, James; Hitar, Maher; Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny, Peter; Carey, Laura
Subject: [EXT] Re: Gordon Sondland

Bob - sorry for the delay. Let's do the call at 9:15 today. Can we use the same dial-in? Thanks

On Oct 3, 2019, at 8:53 PM, Noble, Daniel[redacted] wrote:

Thanks Bob. Checking schedules. Will let you know ASAP.

-----Original Message-----
From: Luskin, Robert[redacted]
Sent: Thursday, October 3, 2019 3:24 PM
To: Noble, Daniel[redacted]; McDermott, Jim[redacted]; Manley, Kwame[redacted]
Cc: Blair, James[redacted]; Campbell, Doug[redacted]; Steinbaum, Jason[redacted]; Hitar, Maher[redacted]; Goldman, Daniel[redacted]; Rapallo, Dave[redacted]; Grooms, Suzanne Sachsman[redacted]; Kenny, Peter[redacted]; Carey, Laura[redacted]
Subject: RE: Gordon Sondland

Understood, Dan.
How is 9915 tomorrow morning? Jim McDermott is going to be on a plane this evening. We can use the same dial in.
Best
Bob

Robert Luskin : Partner, Litigation Department Paul Hastings
LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct: 1.202.551[redacted] | Main: 1.202.551[redacted] | Fax: 1.202.551[redacted]
[redacted]
https://urldefense.proofpoint.com/v2/url?u=https-3A__www.paulhastings.com&d=DwIFaQ&c=L93KkjKsAC98uTvC4KvQDdH1Bf4cAeWD0Rwt0pS2YXI&m=RvOCWc6cGuHGNAlCvqP8RTUYdRPtwLuUhYDOh5NHG4A&s=RdHCAoVvtPqGtqHcA7T9Z6cdqHS-TAlgH3VShcWPwdc&e=
-----Original Message-----
From: Noble, Daniel[redacted]
Sent: Thursday, October 3, 2019 1:30 PM
To: Luskin, Robert[redacted]; McDermott, Jim[redacted]; Manley, Kwame[redacted]
Cc: Blair, James[redacted]; Campbell, Doug[redacted]; Steinbaum, Jason[redacted]; Hitar, Maher[redacted]; Goldman, Daniel[redacted]; Rapallo, Dave[redacted]; Grooms, Suzanne Sachsman[redacted]; Kenny, Peter[redacted]; Carey, Laura[redacted]
Subject: [EXT] RE: Gordon Sondland

Bob,

Our apologies. We are going to need to push back our 4pm call. Can you please let us know if you're available later this evening or tomorrow morning?

Thank you
Dan

-----Original Message-----
From: Noble, Daniel
Sent: Wednesday, October 2, 2019 5:52 PM
To: Luskin, Robert[redacted]; McDermott, Jim[redacted]; Manley, Kwame[redacted]
Cc: Blair, James[redacted]; Campbell, Doug[redacted]; Steinbaum, Jason[redacted]; Hitar, Maher[redacted]; Goldman, Daniel[redacted]; Rapallo, Dave[redacted]; Grooms, Suzanne Sachsman[redacted]; Kenny, Peter[redacted]; Carey, Laura[redacted]
Subject: RE: Gordon Sondland

>> Sounds good. Thanks, Bob
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Wednesday, October 2, 2019 5:12 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blue, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let's use the following conference information for tomorrow at 4PM
>>
>> Dial in
>> 1 866 39[redacted] (U.S)
>> 1 719 95[redacted] (ex-U.S)
>> Passcode
>> [redacted]
>>
>> Best
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1 202 551[redacted]
>> F 1 202 551[redacted]
>> M 1 202 257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 7:00 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Blue, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT]RE: Gordon Sondland
>>
>> Thanks, Bob
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 6:59 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blue, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> 4pm Thursday will see first, Dan
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1 202 551[redacted]
>> F 1 202 551[redacted]
>> M 1 202 257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 5:32 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Blue, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT]RE: Gordon Sondland
>>
>> Bob,
>>
>> We will presume that Amb. Sondland will appear for a deposition on October 8 @ 9:30 a.m. given that you represented that you were available on that date at last of the original date of the 10th. We can discuss on Thursday whether that will be voluntary or pursuant to subpoena. And we acknowledge your position on documents. Let's discuss on our call on Thursday. We cannot do a call this morning, but could do sometime late that afternoon, say 4:00 p.m.? We, too, look forward to finding a productive path forward.
>>
>> Best,
>> Dan
>>
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 4:24 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]
>> Cc: Blue, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Suzanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]; Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Unfortunately, we will not be in a position to confirm a deposition until Thursday morning. We need to consult with Ambassador Sondland and need further clarity on the position of the State Department with respect to your request for a voluntary deposition; we won't know that this evening or tomorrow morning.
>> As to the documents, Ambassador Sondland will not be producing documents on any event. Any documents responsive to your request, including any emails, texts, or messages on services such as What's App, constitute records under the Federal Records Act. Under the statute and governing State Department regulations, Ambassador Sondland is required to ensure that any such documents are preserved in accordance with regulations. He will certainly fulfill his obligations to do so, regardless of whom the record is located (ie. a cell phone or personal email), and he does not and will not assert any personal privileges to block their production. But, as I am sure you know, he is legally prohibited from producing them to response to your request, and any request for those or other materials rules not by your inquiry, must be directed in the first instance to the State Department. Let me emphasize again that we are not interposing any objection to the production of texts and documents and are not taking the position that any responsive document is personal in nature. Our point is, simply, that whatever the merits of your request, Ambassador Sondland is legally prohibited from producing these documents to the Committee.
>> I look forward to speaking at the earliest opportunity said hope that we can find a productive path forward.
>>
>> Best
>> Bob
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T 1 202 551[redacted]
>> F 1 202 551[redacted]
>> M 1 202 257[redacted]
>>
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 01, 2019 3:39 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame

>> Cc: Blair, James; Campbell, Doug; Steinbaum, Jason; Blair, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We can do the call on Thursday at 10 am to discuss the details of the depositions and the issues regarding the State Department's interference, but we need to lock in the date and time for the deposition as well as a schedule for an initial production of documents, thus ensuring we
tomorrow morning at the latest.
>>
>> To that end, please confirm that Amb. Sondland will appear on October 8 at 9:30 a.m. for his deposition and propose a schedule for an initial production of documents, prioritizing emails and text messages (including any encrypted text messaging apps, like What's App) from his
personal electronic devices. Ideally, we would receive those materials no later than Friday (Oct
>>
>> If you and your co-counsel would like to hop on a call this evening to discuss, we're available.
>>
>> Thank you
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 4:39 PM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted], Manley, Kwame
>> [redacted]
>> Cc: Blair, James [redacted], Campbell, Doug
>> [redacted], Steinbaum, Jason
>> [redacted], Blair, Maher
>> [redacted], Goldman, Daniel
>> [redacted], Rapallo, Dave
>> [redacted], Grooms, Suzanne Sachsman
>> [redacted], Kenny, Peter
>> [redacted], Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Because of co-counsel's travel schedule, we will need to push this over until Thursday AM. Does 10AM work?
>> Best
>> Bob
>>
>>
>>
>>
>> _____
>> Robert Luskin | Partner; Litigation; Department Co-Chair Paul Hastings
>> LLP | 875 15th Street, N.W., Washington, DC 20005 | Direct:
>> +1.202.551.[redacted] | Main: 1.202.551.[redacted] | Fax: 1.202.551.[redacted]
>> [redacted]
>> https://urldefense.proofpoint.com/v2/url?u=http://www.paulhastings
>> .com&d=DwIFaQ&c=LWbkjKxAC90aTvC4KvtQfkITDRzAeWIJtBwO853YXI&r=RiVCWo6x
>> GnkNGICvqPF8TUYaQPbwLnUfhYDOx5SDJA&m=b4QYs4FfgWYFhYyXJE19bzgEFhvdxlm
>> alyXWvgZCI&s=TVWerQorkfvTkLt6yXTwkz5ybugCYkRhJWCmgHlvZnY&e=
>>
>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Tuesday, October 1, 2019 2:27 PM
>> To: Luskin, Robert [redacted] McDermott, Jim
>> [redacted], Manley, Kwame
>> [redacted]
>> Cc: Blair, James [redacted], Campbell, Doug
>> [redacted], Steinbaum, Jason
>> [redacted], Blair, Maher
>> [redacted], Goldman, Daniel
>> [redacted], Rapallo, Dave
>> [redacted], Grooms, Suzanne Sachsman
>> [redacted], Kenny, Peter
>> [redacted], Carey, Laura
>> [redacted]
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> We want to do an initial call with you and your co-counsel tomorrow morning without representatives from the State Department on the line. We can discuss during the call if/when it would be appropriate for us to loop in State. We would also like to learn more about the "conflicting
direction" that Amb. Sondland is apparently receiving from the Department. As I said in my initial email, if Amb. Sondland requires a subpoena to attend the deposition without interference from the Department, we will provide one.
>>
>> Can you please let us know what time works between 10am and noon tomorrow for a call?
>>
>> Thank you
>> Dan
>>
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Tuesday, October 1, 2019 1:34 AM
>> To: Noble, Daniel [redacted] McDermott, Jim
>> [redacted], Manley, Kwame
>> [redacted], McNerney, Patricia X
>> [redacted]
>> Cc: Blair, James [redacted], Campbell, Doug
>> [redacted], Steinbaum, Jason
>> [redacted], Blair, Maher
>> [redacted], Goldman, Daniel
>> [redacted], Rapallo, Dave
>> [redacted], Grooms, Suzanne Sachsman
>> [redacted], Kenny, Peter
>> [redacted], Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> Let me check with my co-counsel regarding a specific time, but that window should work. I strongly suggest that we include a representative of the State Department on our call, particularly if you would like to discuss the production of documents. We understand the Committee's
position regarding State's role, but, as I hope you appreciate, Ambassador Sondland is receiving conflicting direction from the State Department. As a full time employee of the Department and a confirmed U.S. Ambassador, the places him in a difficult posture. Particularly if we are to
schedule the deposition on an expedited basis and ensure that the Committees have relevant documents, it would be extremely helpful if we were not forced to bounce back and forth between the House and State, like children of divorced parents. Of course, your agreement to join such a
call would be entirely without prejudice to your position that -- if the conflicting positions cannot be reconciled -- State is without authority to limit the Ambassador's testimony.
>> Our goal here is to be pragmatic and to accomplish what is necessary in the shortest possible time.
>> Best
>> Bob
>>
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T: 1.202.551.[redacted]
>> F: 1.202.551.[redacted]
>> M: 1.202.257.[redacted]
>>
>> -----Original Message-----
>> From: Noble, Daniel [redacted]
>> Sent: Monday, September 30, 2019 7:49 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Blair, James; Campbell, Doug; Steinbaum, Jason; Blair, Maher;
>> Goldman, Daniel; Rapallo, Dave; Grooms, Suzanne Sachsman; Kenny,
>> Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Bob,
>>
>> Peter, Jamie and I are available between 10am and noon on Wednesday for a call. What's good for you? We'll want to lock in the date and details for the deposition and discuss production of documents, too.
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 7:33 PM
>> To: Noble, Daniel [redacted] McDermott, Jim

>> [redacted]; Manley, Kwame
>> [redacted], McNerney, Patricia X
>> [redacted]
>> Cc: Burr, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Rapallo, Dave
>> [redacted] Grooms, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted] Carey, Laura
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Dan
>> We will consult with our client and with the relevant officials at the State Department, copied here, and get back to you at the earliest opportunity. Given the time difference and the Ambassador's travel schedule, I cannot commit to a response by tomorrow. I am in a previously scheduled meeting at the Department of Justice for another client all day tomorrow, but should be able to speak with you on Wednesday. Let me know, please, what time might be convenient for you.
>> Best
>> Bob Luskin
>>
>>
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T [redacted] 1.202.551[redacted]
>> F [redacted] 1.202.551[redacted]
>> M [redacted] 1.202.257[redacted]
>> [redacted]
>> From: Noble, Daniel [redacted]
>> Sent: Monday, September 30, 2019 7:08 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Burr, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher; Goldman, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin,
>>
>> I am a Senate Counsel on HPSCI and am working on this matter with my colleagues Jamie Burr on HFAC and Peter Kenny on FCOR.
>>
>> We appreciate you moving expeditiously on this matter. We understand that the noticed deposition date of October 16 does not work for you. The only available alternative is October 8, as we expect Amb. Sondland will make himself available that day. We would like to begin no later than 9:30 am.
>>
>> Under the House deposition rules (attached along with H. Res. 6, referenced therein), State Department counsel is not permitted to be present during the deposition. Accordingly I have removed State Department counsel from this email chain. We also note that it would be a violation of appropriations law should any State Department counsel instruct a witness not to speak to Congress. We expect Amb. Sondland would report any such instruction, or any other attempt to interfere with his testimony or cooperation with the Committees, to us immediately. If Amb. Sondland requires a subpoena because the State Department is imposing any restrictions on his cooperation or testimony, please let us know and we will provide one.
>>
>> We understand that you will need time to discuss these issues with your client, but we'd like to lock in the date for the testimony and a production schedule by tomorrow. Could we arrange a call for tomorrow afternoon?
>>
>> Thanks,
>> Dan
>>
>> -----Original Message-----
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 6:48 PM
>> To: Carey, Laura [redacted] McDermott, Jim
>> [redacted]; Manley, Kwame
>> [redacted]; McNerney, Patricia X
>> [redacted]
>> Cc: Burr, James [redacted]; Campbell, Doug
>> [redacted] Steinbaum, Jason
>> [redacted]; Bitar, Maher
>> [redacted] Goldman, Daniel
>> [redacted] Noble, Daniel
>> [redacted] Rapallo, Dave
>> [redacted]; Grooms, Susanne Sachsman
>> [redacted]; Kenny, Peter
>> [redacted]
>> Subject: RE: Gordon Sondland
>>
>> Thank you, Laura.
>> We will do our best to make that happen, with the caveat that we have only just been retained and have not yet had the opportunity to meet in person with Ambassador Sondland, to review the areas outlined in your letter and document request, or to liaise with the State Department, which I understand has a role in determining the circumstances under which current State Department officials are permitted to testify.
>> I will look forward to consulting with you and staff about arranging a deposition.
>> Best
>>
>> Robert Luskin
>>
>>
>> Robert Luskin
>> Paul Hastings LLP
>> 875 15th ST NW
>> Washington, DC 20005
>> T [redacted] 1.202.551[redacted]
>> F [redacted] 1.202.551[redacted]
>> M [redacted] 1.202.257[redacted]
>> [redacted]
>> From: Carey, Laura [redacted]
>> Sent: Monday, September 30, 2019 5:51 PM
>> To: Luskin, Robert; McDermott, Jim; Manley, Kwame
>> Cc: Burr, James; Campbell, Doug; Steinbaum, Jason; Bitar, Maher; Goldman, Daniel; Noble, Daniel; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter
>> Subject: [EXT] RE: Gordon Sondland
>>
>> Mr. Luskin et al.
>>
>> Thank you for your message, and we welcome Ambassador Sondland's prompt and voluntary cooperation in this matter. I've looped in additional staff from all three of the interested House committees here. October 8th would likely be feasible for us, but I'll let the relevant counsels take it from here on finalizing the date/time and other necessary details with your team.
>>
>> Best,
>>
>> Laura Carey
>>
>> From: Luskin, Robert [redacted]
>> Sent: Monday, September 30, 2019 4:16 PM
>> To: Carey, Laura [redacted]
>> Cc: McDermott, Jim [redacted]; Manley, Kwame
>> [redacted]
>> Subject: Gordon Sondland
>>
>> Dear Ms. Carey
>> Ambassador Gordon Sondland has forwarded to us your letter requesting that he make himself available for a deposition by your Committee on October 1st. Together with Jim McDermott of Stoll Stoll of Portland, Oregon, my partner Kwame Manley and I have been retained to assist Ambassador Sondland in this matter. I'm writing to introduce ourselves to you and to share our contact information. We'd be grateful if you could direct any further communications concerning the Committee's requests to us directly, please.
>> Your letter suggests a date of October 10 for the deposition. Because of commitments that we have out of the country, that date is not available. Recognizing the Committee's desire to move quickly, however, we would, however, be available on October 8 or 9, if either of those dates suit you. Please do let us know how you would like to proceed.
>>
>> Best regards,
>>
>> Robert Luskin
>>
>>
>>
>>
>>
>>
>> ---------- ----------
>>
>> Ilegoendesignl<https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_Rd_DwMGaQ&c=L9Jkkj&aAC98eTvC4kvQDdJTDRx4eW3DRmG9S3Y=XIIBHtkr_mAtqDdKwNmEdyf4DWWT9F_zI9OkSmrbI9ELIsmfgPkcm_eCHA1ARyPrj4&m=0vVqwx_M2KwNUbnum2Dwnq9ug_HeKet_Ej29k5QKfRwyy56NlS5mvQyF0ttKfXNcw4C6CY6&s=ISMQAke_7>
>>
>> Robert Luskin | Partner, Litigation Department Paul Hastings LLP
>> 875 15th Street, N.W., Washington, DC 20005 | Direct: [redacted] 1.202.551[redacted]
>> Main: [redacted] 1.202.551[redacted] | Fax: [redacted] 1.202.551[redacted]
>> [redacted]
>> https://urldefense.proofpoint.com/v2/url?u=http-3A__www.paulhastings.com_Rd_DwIF-g&c=L9Jkkj&aAC98eTvC4kvQDdJTDRx4eW3DRmG9S3Y=XIIBHtkr_lF4VCWe&m=GuIUGlCuqPFfTVYuRPbwLnUBpY0Ou5NE04Adm_hetqEgebVDJ7ICJIH0WP4gu0Jq&s=1o19A

****
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****

From:	Luskin, Robert
To:	Noble, Daniel; Manley, Kwame; McDermott, Jim
Cc:	Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura; Bair, James
Subject:	RE: Subpoena - House Impeachment Inquiry Hearing
Date:	Wednesday, November 20, 2019 8:03:04 AM
Attachments:	mg_info.txt

Mr. Noble
I am writing to confirm receipt of the subpoena to Ambassador Sondland, who will appear this morning as commanded. In light of Ambassador Sondland's prior deposition testimony and his public testimony today, we expect that this will be his last testimony on these matters before the House.
Best regards,
Robert Luskin

Robert Luskin
Paul Hastings LLP
875 15th ST NW
Washington, DC 20005
T: +1.202.551[redacted]
F: +1.202.551[redacted]
M: +1.202.257[redacted]

From: Noble, Daniel[redacted]
Sent: Wednesday, November 20, 2019 7:55 AM
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura; Bair, James; Noble, Daniel
Subject: [EXT] Subpoena - House Impeachment Inquiry Hearing

Mr. Luskin, Mr. Manley, and Mr. McDermott:

Please see the attached subpoena commanding your client, Amb. Gordon Sondland, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: November 20, 2019 at 9:00 a.m. in Longworth House Office Building, Room 1100.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From:	Michael W. Kirk
To:	Mitchell, Nicolas; Chuck Cooper
Cc:	Bitar, Maher; Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Bair, James; Carey, Laura; Wirkkala, Rheanne
Subject:	RE: Dr. Kupperman Deposition Subpoena - House Impeachment Inquiry
Date:	Friday, October 25, 2019 9:40:29 PM
Attachments:	Doc. 1-2 Ex. B.pdf Doc. 1 Complaint.pdf Doc. 1-2 Ex. A.pdf

Nick –

We did receive the subpoena. However, we subsequently received a letter from the White House Counsel informing us that the President has asserted absolute immunity from compelled congressional testimony and instructed Dr. Kupperman not to appear and testify in response to the subpoena.

Dr. Kupperman cannot satisfy the competing and irreconcilable demands of both the Legislative and Executive Branches, and we are aware of no controlling judicial authority definitively establishing which Branch's command should prevail. Constitutional disputes between the Legislative and Executive Branches should be adjudicated by the Judicial Branch, not by private citizens like Dr. Kupperman. For this reason, Dr. Kupperman has filed an action in the United States District Court for the District of Columbia requesting that the Court issue a Declaratory Judgment determining whether he should comply with the House's subpoena or with the President's assertion of immunity and instruction that he not appear and testify. Dr. Kupperman takes no position on whether the command of the Legislative Branch or the command of the Executive Branch should prevail; he seeks only to carry out whichever constitutional obligation the Judicial Branch determines to be lawful and binding on him. I have attached a copy of the complaint.

Pending the courts' determination as to which Branch should prevail, Dr. Kupperman will not effectively adjudicate the conflict by appearing and testifying before the Committees.

Best,

Michael

From: Mitchell, Nicolas [redacted]
Sent: Friday, October 25, 2019 4:14 PM
To: Michael W. Kirk [redacted]; Chuck Cooper [redacted]
Cc: Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Noble, Daniel [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Bair, James [redacted]; Carey, Laura

[redacted]; Wirkkala, Rheanne [redacted]
Subject: Dr. Kupperman Deposition Subpoena - House Impeachment Inquiry

Mr. Kirk and Mr. Cooper:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Dr. Charles Kupperman, to appear at a previously scheduled deposition on **October 28, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance.

Enclosed are copies of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

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From: John Dowd
To: Mitchell, Nicolas
Cc: Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne; Kevin Downing [redacted]
Subject: RE: Congressional Subpoenas for Igor Fruman and Lev Parnas
Date: Thursday, October 10, 2019 2:36:18 PM
Importance: High

Mr. Mitchell:
I am in receipt of your e-mail and the attachments including what purport to be Congressional subpoenas and letters from a partisan group, ignoring our previous objections and full of baseless threats of obstruction. We are not intimidated.

As previously indicated, your requests and now subpoenas are unreasonable on their face given the extensive number of subjects, documents and characters sought over a two year period of time with insufficient time to gather, prepare and review for privilege.

As I did in my recent letter of October 8, 2019, please be advised we were in the formative stages of recovering and reviewing records on October 9 when Messrs. Parnas and Fruman were arrested by the FBI and locked up in Virginia pursuant to Four Count Indictment by a Federal Grand Jury in the Southern District of New York unsealed on October 10, 2019.
Further, their records and other belongings, including materials sought by your subpoenas, were seized pursuant warrants by the FBI in several locations on the 9th and 10th of October.
A due date of the 16th is insufficient.
We need more time to sort out what if anything is available and responsive to your process.

In addition, we had hoped that the subject of Impeachment of the President would be put to a vote by the full House so that the process you issue is entirely lawful and recognizes

the constitutional rights of citizens, including Messrs. Parness and Fruman. At present, the subterfuge of three partisan committees does not constitute the acts of the Congress.
We will continue to keep you informed.

V/r

John M. Dowd
Suite 700
5335 Wisconsin Ave, N.W.
Washington,D.C.
M- 571-435-[redacted]

From: Mitchell, Nicolas [redacted]
Sent: Thursday, October 10, 2019 12:16 PM
To: John Dowd [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Wirkkala, Rheanne [redacted]
Subject: Congressional Subpoenas for Igor Fruman and Lev Parnas

Mr. Dowd:

Attached please find subpoenas for Igor Fruman and Lev Parnas from the House Permanent Select Committee on Intelligence (HPSCI), issued in consultation with the Committee on Oversight and Reform and the Committee on Foreign Affairs. The HPSCI Rules of Procedure also are attached.

Please kindly confirm that you are accepting service on your clients' behalf.

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From:	Noble, Daniel
To:	Cooper III, William S.; Michael W. Kirk
Cc:	Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kenny, Peter; Kim, Janet; Carey, Laura; Bair, James
Subject:	Deposition Request - House Impeachment Inquiry
Date:	Wednesday, October 30, 2019 2:54:55 PM
Attachments:	House Deposition Regulations.pdf House Resolution 6 Sec 103(a).pdf 2019-10-30.CBM Engel Schiff to Bolton re Depo Notice.pdf

Chuck and Michael –

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting the appearance of your client, Ambassador John Bolton, at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations for your reference.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your client's appearance.

Please confirm receipt. We look forward to your timely response.

Thank you,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: John Dowd
To: Mitchell, Nicolas
Subject: FW: White House Letter to the Speaker and Committee Chairmen
Date: Wednesday, October 9, 2019 8:20:09 PM
Attachments: PAC Letter 10.08.2019.pdf

Mr. Mitchell:
Please be advised that Messrs. Parnas and Fruman agree with and adopt the position of White House Counsel pertaining to Democrat inquiry.
V/r

John M. Dowd
Suite 700
5335 Wisconsin Avenue, N.W.
Washington, D.C. 20515
M- 571-435-[redacted]

From: William Pittard
To: Noble, Daniel
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura; Bair, James; Purpura, Michael M. EOP/WHO; Chris Muha
Subject: Subpoena to Mick Mulvaney
Date: Friday, November 8, 2019 8:59:04 AM
Attachments: PAC Letter to Mr. Pittard 11.8.2019.pdf
Mulvaney Immunity Letter.pdf

Mr. Noble,

My firm has been retained by Mick Mulvaney to represent him in connection with the subpoena that you emailed to him last night. Since receiving that subpoena, Mr. Mulvaney has been provided the attached letter by the White House Counsel and an accompanying opinion from the Department of Justice's Office of Legal Counsel, also attached. In light of all of that, Mr. Mulvaney will not be attending the deposition today, and he is considering the full range of his legal options.

Thank you,

--Bill Pittard

William Pittard
KaiserDillon PLLC
1099 Fourteenth St., N.W.; 8th Floor—West
Washington, D.C. 20005
(202) 683-[redacted] (office)
(202) 702-[redacted] (mobile)
[redacted]

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From: Daum, Margaret E.
To: Mitchell, Nicolas; Goldman, Daniel; Bitar, Maher; Bair, James; Grooms, Susanne Sachsman; Carey, Laura; Kenny, Peter; Castor, Stephen; Green, Meghan; Casulli, Laura; Ferguson, Betsy; Brewer, David; Mullins, Grant; Anderson, Doug
Subject: FYI, Letter and attachment from State for Amb. Reeker
Date: Saturday, October 26, 2019 9:04:02 AM
Attachments: image001.jpg
October 8 Letter from White House Counsel.pdf
SKM_C36819102517430.pdf

See attached.

Margaret E. Daum
Partner
Squire Patton Boggs (US) LLP
2550 M Street, NW
Washington, DC 20037
T +1 202 457[redacted]
O +1 202 457[redacted]
F +1 202 457[redacted]
[redacted] | squirepattonboggs.com

Admitted to practice only in New York. Practice supervised by principals of the Firm admitted in the District of Columbia.

From: Whitney Ellerman
To: Mitchell, Nicolas; Goldman, Daniel
Cc: Bitar, Maher; Paul Enzinna
Subject: RE: Rob Blair
Date: Saturday, November 2, 2019 6:47:43 PM
Attachments: image001.png
image002.png
image003.png
Blair Letter.pdf

Gentlemen,

Attached is a letter from me to the Chairs of the Committees stating that Mr. Blair will not attend the scheduled deposition on Monday, November 4, 2019. As the letter indicates, Mr. Blair has been directed by the White House not to appear and testify at the deposition based on DOJ's advice that he may not be required to appear without the assistance of agency counsel. He will comply with that directive until the White House provides him with a different directive, or the courts determine that he is required to appear and testify despite the Executive Branch's directive that he not do so.

Please let me know if you have any questions about this matter.

Sincerely,

Whit

Whitney Ellerman

1050 30th Street, NW
Washington, DC 20007
O: 202.753[redacted]
C: 202.415[redacted]
[redacted]
www.ellermanenzinna.com

From: Whitney Ellerman [redacted]
Sent: Friday, November 1, 2019 5:11 PM
To: Mitchell, Nicolas [redacted]; Goldman, Daniel [redacted]
Cc: Bitar, Maher [redacted]
Subject: Re: Rob Blair

Yes, that works. I would appreciate it if you could circulate a call in number.

Whitney Ellerman

1050 30th Street, NW
Washington, DC 20007
O: 202.753[redacted]
C: 202.415[redacted]
[redacted]
www.ellermanenzinna.com

From: "Mitchell, Nicolas" [redacted]
Date: Friday, November 1, 2019 at 11:38 AM
To: Whitney Ellerman [redacted], "Goldman, Daniel" [redacted]
Cc: "Bitar, Maher" [redacted]
Subject: RE: Rob Blair

Whit:

Thank you. We'd like to schedule a call for this afternoon to discuss how your client intends to proceed. Are you available at 5:00 pm?

Nick

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Whitney Ellerman [redacted]
Sent: Thursday, October 31, 2019 6:54 PM
To: Goldman, Daniel [redacted]
Cc: Mitchell, Nicolas [redacted]; Bitar, Maher [redacted]
Subject: Re: Rob Blair

Dan,

Thank you. Yes, I will accept service. And I will let you know how Mr. Blair intends to proceed once I have a determination.

Whit

Whitney Ellerman

1050 30th Street, NW
Washington, DC 20007
O: 202.753[redacted]
C: 202.415[redacted]
[redacted]
www.ellermanenzinna.com

From: "Goldman, Daniel" [redacted]
Date: Thursday, October 31, 2019 at 6:41 PM
To: Whitney Ellerman [redacted]
Cc: "Mitchell, Nicolas" [redacted], "Bitar, Maher" [redacted]
Subject: Re: Rob Blair

Whit,

We can move the deposition to Monday at 9. Expect to receive a subpoena before then. I assume you will accept service?

Thanks.

Daniel S. Goldman
Sr. Advisor and Dir. of Investigations (Maj)
HPSCI
The Capitol (HVC-304)
W: (202) 225-[redacted]
C: (202) 577-[redacted]

> On Oct 31, 2019, at 4:20 PM, Whitney Ellerman [redacted] wrote:

From: Goldman, Daniel
To: Noble, Daniel
Subject: FW: Thomas Ulrich Brechbuhl, Deposition Request
Date: Thursday, October 24, 2019 12:13:23 PM
Attachments: image001.jpg

Daniel S. Goldman
Sr. Advisor and Director of Investigations (Majority)
House Permanent Select Intelligence Committee
The Capitol (HVC-304)
W: (202) 225-[redacted]
C: (202) 577-[redacted]

From: Tenpas, Ron [redacted]
Sent: Wednesday, October 9, 2019 4:58 PM
To: Bair, James [redacted]; Goldman, Daniel [redacted]
Cc: Kenny, Peter [redacted]
Subject: RE: Thomas Ulrich Brechbuhl, Deposition Request

James/Dan,

I am still seeking clarification from the State Department regarding this deposition.

Regards,

Ron

From: Bair, James [redacted]
Sent: Wednesday, October 9, 2019 12:21 PM
To: Goldman, Daniel [redacted]; Tenpas, Ron [redacted]
Cc: Kenny, Peter [redacted]
Subject: RE: Thomas Ulrich Brechbuhl, Deposition Request

[EXTERNAL]

Hi Ron,

Just following up on Dan's email below, noting that the Committees have agreed to reschedule Mr. Brechbuhl's deposition for Thursday, October 17. Please confirm by COB today whether Mr. Brechbuhl intends to appear voluntarily.

Best,

James

James P. Bair
(202) 225-[redacted]

From: Goldman, Daniel [redacted]
Sent: Tuesday, October 8, 2019 4:53 PM
To: Tenpas, Ron [redacted]
Cc: Kenny, Peter [redacted]; Bair, James [redacted]
Subject: RE: Thomas Ulrich Brechbuhl, Deposition Request

Ron,

The Committees have agreed to reschedule Mr. Brechbuhl's deposition to Thursday, October 17. Please confirm that Mr. Brechbuhl intends to appear voluntarily.

Regards,

Daniel S. Goldman
Sr. Advisor and Director of Investigations (Majority)
House Permanent Select Intelligence Committee
The Capitol (HVC-304)
W: (202) 225-[redacted]
C: (202) 577-[redacted]

From: Tenpas, Ron [redacted]
Sent: Wednesday, October 2, 2019 3:40 PM
To: Goldman, Daniel [redacted]
Subject: Thomas Ulrich Brechbuhl, Deposition Request

Daniel S. Goldman
Sr. Advisor and Dir. of Investigations (Majority)
House Permanent Select Committee on Intelligence
HVC-304, The Capitol
Washington, D.C.

Dear Mr. Goldman,

This is in response to your October 1, 2019 e-mail to Mr. Thomas Ulrich Brechbuhl, Counselor at the State Department, requesting that he voluntarily appear for a deposition on October 8, 2019. My law firm is in the process of being formally retained to assist Mr. Brechbuhl in connection with this matter. It will take us some time to complete those logistics, review the request and associated request for documents, and to meet with our client to insure he is appropriately prepared for any deposition. It will not be possible to accomplish those tasks before October 8, 2019. Thus, as I am sure that you can understand, Mr. Brechbuhl will not be able to appear on that date as he requires a sufficient opportunity to consult with counsel. Moreover, given the concerns expressed in Secretary

Pompeo's letter of October 1, 2019, to Chairman Engel, any participation in a deposition would need to be coordinated with other stakeholders.

I am currently out of the country on another matter and will be traveling back to the United States on Thursday, October 3, 2019. I will reach out to you to further introduce myself after my return.

Respectfully,

Ronald J. Tenpas

Ronald J. Tenpas
Partner

E [redacted]
W +1 202.639[redacted]

Vinson & Elkins LLP
2200 Pennsylvania Avenue NW
Suite 500 West
Washington, DC 20037

bio | vcard | velaw.com

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Thank You.

From: Brian Glasser
To: Mitchell, Nicolas
Cc: Carey, Laura; Cary Joshi; Bitar, Maher; Goldman, Daniel; Noble, Daniel; Bair, James; Grooms, Susanne Sachsman; Kenny, Peter; Cary Joshi
Subject: RE: Ambassador Hale
Date: Tuesday, November 5, 2019 10:33:33 AM
Attachments: 11.5.19 letter.pdf

Counsel -- Attached please find my letter on behalf of Ambassador Hale, agreeing to accept service of a subpoena for testimony and confirming our discussion of documents he might bring with him to assist him.

Brian Glasser

Brian Glasser
Bailey & Glasser LLP
T: 304.345 [redacted]

From: John Dowd
To: Mitchell, Nicolas
Cc: Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne
Subject: RE: Congressional Subpoenas for Igor Fruman and Lev Parnas
Date: Thursday, October 10, 2019 12:29:49 PM

I am

John M. Dowd
M- 571-435-[redacted]

From: Mitchell, Nicolas [redacted]
Sent: Thursday, October 10, 2019 12:16 PM
To: John Dowd [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Wirkkala, Rheanne [redacted]
Subject: Congressional Subpoenas for Igor Fruman and Lev Parnas

Mr. Dowd:

Attached please find subpoenas for Igor Fruman and Lev Parnas from the House Permanent Select Committee on Intelligence (HPSCI), issued in consultation with the Committee on Oversight and Reform and the Committee on Foreign Affairs. The HPSCI Rules of Procedure also are attached.

Please kindly confirm that you are accepting service on your clients' behalf.

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Bitar, Maher
To: Kerrie.L.Carr@[redacted]; Jason Yaworske; LegislativeAffairs@[redacted]
Cc: Daniel Goldman [redacted]; Rheanne Wirkkala [redacted]; Rapallo, Dave; Susanne.Sachsman.Grooms [redacted]; Carey, Laura; Bair, James; William Wu [redacted]; Sean Misko [redacted]
Subject: HPSCI Subpoena - OMB
Date: Monday, October 7, 2019 12:06:00 PM
Attachments: 2019-10-07.EEC Engel Schiff to Vought- OMB re Subpoena.pdf
20191007 - OMB Subpoena Packet.pdf
HPSCI Rules of Procedure.pdf

All –

Please find attached a duly authorized subpoena issued by the House Permanent Select Committee on Intelligence, in consultation with the Committees on Foreign Affairs and Oversight and Reform, to Acting Director Vought and the Office of Management and Budget. The subpoena includes a return date of October 15, 2019 and is accompanied by a cover letter signed by Chairman Adam Schiff of the Intelligence Committee, Chairman Eliot Engel of the Committee on Foreign Affairs, and Chairman Elijah Cummings on the Committee on Oversight and Reform. Please also find attached the Intelligence Committee's Rules of Procedure for the 116th Congress.

Please confirm receipt and acceptance of service on behalf of the Acting Director Vought and OMB.

Sincerely,

Maher

--

Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From: Bitar, Maher
To: Oliver.Lewis@[redacted]; heather.k.mcmahon.civ@[redacted]; william.a.hudson.civ@[redacted]; eric.p.shwedo.mil@[redacted]
Cc: Daniel Goldman [redacted]; Rheanne Wirtkala [redacted]; Rapallo, Dave; Susanne Sachsman Grooms [redacted]; Carey, Laura; Blair, James; William Wu [redacted]; Sean Misko [redacted]
Subject: HPSCI Subpoena - DOD
Date: Monday, October 7, 2019 12:06:00 PM
Attachments: 2019-10-07.EEC Engel Schiff to Esper-DOD re Subpoena.pdf
20191007 - DOD Subpoena Packet.pdf
HPSCI Rules of Procedure.pdf

Mr. Lewis –

Please find attached a duly authorized subpoena issued by the House Permanent Select Committee on Intelligence, in consultation with the Committees on Foreign Affairs and Oversight and Reform, to Secretary of Defense Esper and the Department of Defense. The subpoena includes a return date of October 15, 2019 and is accompanied by a cover letter signed by Chairman Adam Schiff of the Intelligence Committee, Chairman Eliot Engel of the Committee on Foreign Affairs, and Chairman Elijah Cummings on the Committee on Oversight and Reform. Please also find attached the Intelligence Committee's Rules of Procedure for the 116th Congress.

Please confirm receipt and acceptance of service on behalf of the Secretary Esper and the Department of Defense.

Sincerely,

Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From: Carey, Laura
To: McNerney, Patricia X; Moore, Jessica L; Taylor, Mary Elizabeth; Dorosin, Joshua L
Cc: Steinbaum, Jason; Campbell, Doug; Bair, James; Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter
Subject: Letter from Three Chairs to Deputy Secretary Sullivan
Date: Wednesday, October 23, 2019 12:19:00 PM
Attachments: 2019-10-23.CBM Engel Schiff to Sullivan- State re Documents.pdf

Hello Patti et al,

Attached please find a letter from Chairman Engel, Chairman Schiff, and Acting Chairwoman Maloney to Deputy Secretary Sullivan concerning the Department's failure to comply with a duly authorized subpoena and demanding the release of relevant documents to the Committees.

Please let us know if any questions.

Thanks,

Laura

Laura Carey
Senior Professional Staff Member (majority)
State Department Operations and Oversight
House Committee on Foreign Affairs | 202.225.[redacted]

From: Cooper, Kadeem
To: Morgan, Matthew E. EOP/OVP; Christopher.M.Hodgson@[redacted]
Cc: Boyd, Krista; Kim, Janet
Subject: HCOR Joint Request to OVP for Documents in Ukraine Inquiry
Date: Tuesday, October 15, 2019 10:42:35 AM
Attachments: 2019-10-04.EEC Engel Schiff to OVP 10-04-19 Letter and Schedule.pdf

Matthew,

I'm following up on the Chairmen's October 4th request for documents from the Office of the Vice President (attached). The Chairmen requested that OVP produce the documents by October 15 (today).

Can you please let us know as soon as possible whether OVP intends to comply with the Committees' requests for documents by the deadline provided? I'm available to discuss at 202-226-1890.

Thank you for your consideration,
Kadeem

Kadeem Cooper
Counsel | Committee on Oversight and Reform
U.S. House of Representatives | Washington, DC 20515
(202) 225-[redacted]
Kadeem.cooper@[redacted]

From: Boyd, Krista
To: kathryn.l.wheelbarger.civ@[redacted]
Cc: Kim, Janet
Subject: Oct. 11 letter
Date: Tuesday, October 15, 2019 12:10:10 PM
Attachments: 2019-10-11.EEC Engel Schiff to Kathryn Wheelbarger-DOD re Depo Notice.pdf
HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Katie,

I am following up on the letter the Committees sent last week requesting that you appear for a deposition on October 24, 2019, at 9:30 a.m. We wanted to make sure you received the attached letter to you which was transmitted to the Department's Office of Legislative Affairs. Also attached are the rules and regulations that govern the conduct of depositions in the House of Representatives and the rules adopted by HPSCI for the 116th Congress.

I am available by phone at (202) 225-[redacted] and would appreciate the opportunity to speak with you or answer any questions. If you have retained an attorney to represent you, we are also happy to communicate through your counsel.

Thank you,
Krista

Krista Boyd
General Counsel
Committee on Oversight and Reform
U.S. House of Representatives
(202) 225-[redacted]

From: Kim, Janet
To: laura.k.cooper8.civ@[redacted]
Cc: Boyd, Krista
Subject: Deposition
Date: Tuesday, October 15, 2019 11:25:00 AM
Attachments: 2019-10-11.EEC Engel Schiff to Laura Cooper re Depo Notice.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf

Deputy Assistant Secretary Cooper:

I wanted to get in touch with you regarding the Committees' request to depose you this coming Friday at 8 am. We wanted to make sure you had received the attached letter, which is addressed to you but was transmitted to the DOD legislative affairs office. Attached also are the regulations and rules governing the conduct of depositions in the House of Representatives.

Could we find a time to speak on the phone today? If you have retained a lawyer to represent you, we are happy to communicate through counsel.

All best,
Janet

Janet H. Kim
Chief Counsel for Investigations
House Committee on Oversight and Reform
(202) 225-[redacted]

From: Cooper, Kadeem
To: Haskins, Matthew C SES OSD OASD LA (USA)
Cc: Hudson, William A SES OSD OGC (USA); Boyd, Krista; Kim, Janet
Subject: Outstanding HCOR Requests for Documents from DOD - Ukraine Inquiry
Date: Tuesday, October 15, 2019 10:51:58 AM
Attachments: 2019-10-07 HPSCI Subpoena to DOD Sec Esper (Complete Subpoena PKG).pdf

Matt,

In addition to the request below, will you please let us know as soon as possible whether DOD will be producing documents to the Committee in response to the attached subpoena by today's deadline for compliance?

Best regards,
Kadeem

Kadeem Cooper
Counsel | Committee on Oversight and Reform
U.S. House of Representatives | Washington, DC 20515
(202) 225-[redacted]
Kadeem.cooper@[redacted]

From: Cooper, Kadeem
Sent: Thursday, October 10, 2019 5:02 PM
To: Haskins, Matthew C SES OSD OASD LA (USA) [redacted]
Cc: Hudson, William A SES OSD OGC (USA) [redacted]; Boyd, Krista [redacted]
Subject: HCOR Request re WH Travel

Matt,

Bill Hudson recommended that I reach out to you for a status update on DOD's response to the Committee's May 23 letter (attached). The Committee has been awaiting documents for several months from the Air Force, but my understanding is that the WH and OSD have been reviewing the documents and have not yet approved production.

Would you please let us know when the Committee will receive documents in response to our request?

Best regards,
Kadeem

Kadeem Cooper

Counsel | Committee on Oversight and Reform
U.S. House of Representatives | Washington, DC 20515
(202) 225-[redacted]
Kadeem.cooper@[redacted]

From: Kim, Janet
To: Michael.p.duffey@[redacted]
Cc: Boyd, Krista
Subject: Deposition
Date: Tuesday, October 15, 2019 11:45:00 AM
Attachments: House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf
2019-10-11.EEC Engel Schiff to Duffey-OMB re Depo Notice.pdf

Dear Mr. Duffey:

I wanted to get in touch with you regarding the Committees' request to depose you on October 23, 2019 at 9:30 am. We wanted to make sure you had received the attached letter, which is addressed to you but was transmitted to the DOD legislative affairs office. Attached also are the regulations and rules governing the conduct of depositions in the House of Representatives.

Could we find a time to speak today to discuss scheduling and other matters? If you have already retained a lawyer to represent you, we are happy to communicate through counsel.

Best,
Janet

Janet H. Kim
Chief Counsel for Investigations
House Committee on Oversight and Reform
(202) 225-[redacted]

From: Grooms, Susanne Sachsman
To: "Mike Purpura - White House Counsel [redacted]; "Daniel Epstein [redacted]; jeffrey.k.freelandeq[redacted]; Bai, Sue J. EOP/WHO
Cc: Kim, Janet; Kenny, Peter; Boyd, Krista; Goldman, Daniel; Bair, James; Bitar, Maher; Carey, Laura
Subject: Subpoena
Date: Friday, October 4, 2019 6:12:13 PM
Attachments: 2019-10-04.EEC Engel Schiff to Mulvaney-WH re Subpoena.pdf
2019_10_04_Ukraine Subpoena.pdf

Mike,

Per your July 25,2019 agreement to accept service by email on behalf of Mr. Mulvaney, please find attached a subpoena from the Committee on Oversight and Reform, in consultation with the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence.

Please acknowledge receipt of this email and confirm that you have accepted service.

Thank you,
Susanne

From: Carey, Laura
To: HaleDM2@[redacted]
Cc: Steinbaum, Jason; Campbell, Doug; Bair, James; Bergreen, Timothy; Goldman, Daniel; Wirkkala, Rheanne; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter; Noble, Daniel; Mitchell, Nicolas
Subject: Deposition Request - House Impeachment Inquiry
Date: Friday, November 1, 2019 4:35:40 PM
Attachments: 2019-11-1.CBM Engel Schiff to Hale-State re Depo Notice.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Undersecretary Hale,

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss as soon as possible the arrangements for your appearance with you or your personal attorney.

Please confirm receipt. We look forward to your timely response.

Thank you,

Laura Carey

Laura Carey
Senior Professional Staff Member (majority)
State Department Operations and Oversight
House Committee on Foreign Affairs | 202.225[redacted]

From: Noble, Daniel
To: pmichaelmckinley@[redacted]
Cc: Goldman, Daniel; Bitar, Maher
Subject: Interview Request
Importance: High

Dear Ambassador McKinley:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a voluntary transcribed interview on **Wednesday, October 16, 2019, at 9:00 a.m. at The Capitol, HVC-304.**

This interview will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The interview transcript shall be part of the impeachment inquiry and shared among the Committees.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to specific matters under investigation.

The Committees will send you a letter on Monday, October 14, to formalize this request. If you would like to discuss this request, please call Daniel Goldman (202-577-[redacted]) or Maher Bitar (202-734-[redacted]) of the Permanent Select Committee on Intelligence, who are copied on this email.

Thank you for your consideration.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]

From: Noble, Daniel
To: "anita.capoferri@[redacted]"; "eric.fyqi@[redacted]"; "william.cooper@[redacted]"; "alicia.deforest@[redacted]"; "rayburn.hanzik@[redacted]"
Cc: Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Carey, Laura; James Bair[redacted]; Susanne Sachsman Grooms[redacted]; Kenny, Peter
Subject: Deposition Request - House Impeachment Inquiry
Date: Friday, November 1, 2019 5:40:00 PM
Attachments: 2019-11-1.CBM Engel Schiff to Perry-Energy re Depo Notice.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Ms. Capoferri and Counsel:

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting the appearance of Secretary Perry at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which provide that Secretary Perry may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss the arrangements for Secretary Perry's appearance with his personal attorney.

Please confirm receipt. We look forward to your timely response.

Sincerely,

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: McCormack, Brian V. EOP/OMB
Cc: Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Carey, Laura; Bair, James; Grooms, Susanne Sachsman; Kenny, Peter
Subject: RE: SUBPOENA - House Impeachment Inquiry
Date: Friday, November 1, 2019 6:05:00 PM
Attachments: 20191101 - Subpoena to McCormack.pdf

Apologies. Subpoena now attached.

From: Noble, Daniel
Sent: Friday, November 1, 2019 5:56 PM
To: McCormack, Brian V. EOP/OMB
Cc: Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Carey, Laura; Bair, James; Grooms, Susanne Sachsman; Kenny, Peter
Subject: SUBPOENA - House Impeachment Inquiry

Mr. McCormack,

Please see the attached letter and subpoena commanding you to appear for a deposition on **Monday, November 4, at 2:00 PM in HVC-304, The Capitol**. Also attached are the House deposition regulations, which provide that you may be accompanied by personal counsel at the deposition. Agency counsel are not permitted to attend. Please be advised that your failure to appear at the indicated date and time shall constitute evidence that may be used against you in a contempt proceeding.

Attached for your reference are the House deposition regulations and HPSCI's Rules of Procedure.

Please confirm receipt.

Sincerely,

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-
Cell: 202-596-
Secure: 936-

From: Noble, Daniel
Sent: Thursday, October 31, 2019 5:23 PM
To: McCormack, Brian V. EOP/OMB [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: RE: Deposition Request - House Impeachment Inquiry

Mr. McCormack,

Pursuant to the House deposition regulations, deponents are not permitted to be accompanied by agency counsel. Please have your personal counsel reach out to us by close of business tomorrow.

Sincerely,

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Donlon, Jessica L. EOP/OMB [redacted]
Sent: Thursday, October 31, 2019 4:37 PM
To: Noble, Daniel [redacted]; McCormack, Brian V. EOP/OMB [redacted]; Jason Yaworske [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: RE: Deposition Request - House Impeachment Inquiry

Hello Dan:

Mr. McCormack confirmed receipt on October 20 of the Committees' request for a deposition for November 4. Per his request, please direct all communications regarding this matter to me.

Thanks,
Jessica Donlon

From: Noble, Daniel [redacted]
Sent: Thursday, October 31, 2019 7:38 AM
To: McCormack, Brian V. EOP/OMB [redacted]; Donlon, Jessica L. EOP/OMB [redacted]; Yaworske, Jason A. EOP/OMB [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: RE: Deposition Request - House Impeachment Inquiry

Mr. McCormack,

We have not heard from you or your personal counsel in response to this request. The appearance date for your deposition is next Monday, November 5 at 9:30 am. Please have your counsel reach out to us today. Otherwise, we will have no choice but to proceed with compulsory process to secure your appearance at the scheduled date and time.

Thank you.
Dan

From: McCormack, Brian V. EOP/OMB [redacted]
Sent: Sunday, October 27, 2019 2:41 PM
To: Noble, Daniel [redacted]; Donlon, Jessica L. EOP/OMB [redacted]; Jason Yaworske [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: RE: Deposition Request - House Impeachment Inquiry

Mr. Noble,

Receipt of your email is confirmed.

Brian

From: Noble, Daniel [redacted]
Sent: Sunday, October 27, 2019 1:02 PM
To: McCormack, Brian V. EOP/OMB [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: Re: Deposition Request - House Impeachment Inquiry

Mr. McCormack:

Please confirm receipt. If you have retained counsel, please have him or her reach out to us. If we do not hear from you or your attorney by 5:00 pm tomorrow (Monday), we will have no choice but to consider compulsory process.

Thank you.

On Oct 25, 2019, at 6:10 PM, Noble, Daniel [redacted] wrote:

> Mr. McCormack,
>
> Kindly confirm receipt.
>
> Thank you,
> Dan
>
> On Oct 24, 2019, at 7:36 PM, Noble, Daniel [redacted] wrote:
>
> > Dear Mr. McCormack,
> >
> > Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.
> >
> > Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.
> >
> > We look forward to your timely response.
> >
> > Thank you,
> > Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

<Three Committees Depo Request to Brian McCormack.pdf>

<House Deposition Regulations.pdf>

<House Resolution 6 Sec 103(a).pdf>

From: Noble, Daniel
To: bmccormack@[redacted]
Cc: Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Carey, Laura; James Bair [redacted]; Susanne Sachsman Grooms [redacted]; Kenny, Peter
Subject: Deposition Request - House Impeachment Inquiry
Date: Thursday, October 24, 2019 6:47:00 PM
Attachments: Three Committees Depo Request to Brian McCormack.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Dear Mr. McCormack,

Please find the attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

We look forward to your timely response.

Thank you,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Bitar, Maher
To: William Burck; Noble, Daniel; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Bair, James; Carey, Laura; Grooms, Susanne Sachsman; Kenny, Peter
Cc: Derek Shaffer
Subject: RE: John A. Eisenberg
Date: Monday, November 4, 2019 10:03:00 AM

Bill –

Confirming receipt. Please be advised that your client's refusal or failure to appear as commanded by the subpoena will be recorded today as part of the House's impeachment inquiry and his noncompliance with the subpoena may be used as evidence in a future contempt proceeding. As the Committees have made clear, your client's failure or refusal to appear, moreover, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Best,
Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From: William Burck [redacted]
Sent: Monday, November 4, 2019 9:00 AM
To: Noble, Daniel [redacted]; Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Bair, James [redacted]; Carey, Laura [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Cc: Derek Shaffer [redacted]; William Burck [redacted]
Subject: John A. Eisenberg

Please see attached correspondence regarding the subpoena for a deposition of John A. Eisenberg.

From: Noble, Daniel
To: anita.capoferri@[redacted]; eric.fygi@[redacted]; william.cooper@[redacted]; alicia.deforest@[redacted]; rayburn.hanzlik@[redacted]
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne
Subject: Subpoena
Date: Thursday, October 10, 2019 4:03:00 PM
Attachments: 20191010 - EEC Engel Schiff to Perry-DOE Joint Cover Letter re Subpoena.pdf
20191010 - Perry DOE Subpoena and Schedule FINAL.pdf
SUBPOENA INSTRUCTIONS (10-9-19).pdf
HPSCI Rules of Procedure.pdf

Ms. Capoferri and Counsel:

Pursuant to the House of Representatives' impeachment inquiry, attached is a subpoena issued by the Permanent Select Committee on Intelligence, after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Also attached is a letter to Secretary Perry from the three Chairmen of the Committees, along with subpoena instructions and HPSCI's rules of procedure. The subpoena return date is **October 18.**

Please confirm acceptance of service of process at your earliest convenience.

Thank you.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: Luskin, Robert; Manley, Kwame; McDermott, Jim
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Susanne Sachsman Grooms [redacted]; Kenny, Peter; Carey, Laura; James Bair [redacted]; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Wednesday, November 20, 2019 7:55:00 AM
Attachments: BILLS-116hres660eh.pdf
HPSCI Rules of Procedure.pdf
20191119 - Sondland Subpoena.pdf

Mr. Luskin, Mr. Manley, and Mr. McDermott:

Please see the attached subpoena commanding your client, Amb. Gordon Sondland, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 20, 2019 at 9:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: Robbins, Larry; Rubenstein, Laurie; Li Wai Suen, Rachel
Cc: Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne
Subject: Congressional Subpoena for Ambassador Yovanovitch
Date: Friday, October 11, 2019 8:58:00 AM
Attachments: Yovanovitch Subpoena.pdf
20191011 Letter to Yovanovitch re Subpoena.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

All:

Attached please find a subpoena from the House Permanent Select Committee on Intelligence commanding Ambassador Yovanovitch to testify at a deposition on October 11, 2019. While the time on the subpoena is 9:30 a.m., this email shall serve as formal notice that the deposition will begin at 10:00 a.m.

Please kindly confirm receipt.

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From:	Noble, Daniel
To:	Smith, Jeffrey H.; Bellinger III, John B.; Cella, John
Cc:	Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Rapallo, Dave; Susanne Sachsman Grooms[redacted]; Kenny, Peter; Carey, Laura; Bair, James
Subject:	Subpoena - House Impeachment Hearing
Date:	Wednesday, November 13, 2019 8:28:00 AM
Attachments:	20191112 - Subpoena for Taylor.pdf HPSCI Rules of Procedure.pdf BILLS-116hres660eh.pdf

Mr. Smith and Mr. Bellinger,

Please see the attached subpoena commanding your client, Ambassador William Taylor Jr., to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 13, 2019 at 10:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or State Department, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: Bellinger III, John B.; Smith, Jeffrey H.; Cella, John
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne; Susanne Sachsman Grooms [redacted]; Kenny, Peter; Greta Gao [redacted]; Kim, Janet; Carey, Laura; James Baird [redacted]
Subject: Subpoena for Amb. Taylor
Date: Tuesday, October 22, 2019 8:38:00 AM
Attachments: House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf
20191022 - Subpoena Taylor.pdf

Mr. Bellinger and Mr. Smith:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Amb. William B. Taylor, Jr., to appear at a previously scheduled deposition on **October 22, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 4, 2019, the chairmen of the three Committees sent a letter to Amb. Taylor requesting his appearance before the Committees for a deposition. On October 14, the Committees wrote you to adjourn the date of the deposition to October 22. In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: Michael W. Kirk; Chuck Cooper
Cc: Bitar, Maher; Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Bair, James; Carey, Laura; Wirkkala, Rheanne
Subject: Dr. Kupperman Deposition Subpoena - House Impeachment Inquiry
Date: Friday, October 25, 2019 4:14:29 PM
Attachments: 20191025 - Subpoena Kupperman.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Mr. Kirk and Mr. Cooper:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Dr. Charles Kupperman, to appear at a previously scheduled deposition on **October 28, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance.

Enclosed are copies of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Bitar, Maher
To: Chuck Cooper; Michael W. Kirk
Cc: Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Bair, James; Carey, Laura; Wirkkala, Rheanne; Mitchell, Nicolas
Subject: RE: Dr. Kupperman Deposition Subpoena - House Impeachment Inquiry
Date: Tuesday, November 5, 2019 3:48:00 PM
Attachments: 20191105 - Three Committees Letter re Kupperman Subpeona.pdf

Chuck –

Attached is a letter from Chairman Schiff, Chairman Engel, and Acting Chairwoman Maloney. Please confirm receipt.

Thank you,

Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From: Chuck Cooper [redacted]
Sent: Sunday, October 27, 2019 9:43 PM
To: Bitar, Maher [redacted]
Cc: Michael W. Kirk [redacted]; Goldman, Daniel [redacted]; Noble, Daniel [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Bair, James [redacted]; Carey, Laura [redacted]; Wirkkala, Rheanne [redacted]; Mitchell, Nicolas [redacted]
Subject: Re: Dr. Kupperman Deposition Subpoena - House Impeachment Inquiry

Maher,
Please see attached letter.
Best,
Chuck

NOTICE: This e-mail is from the law firm of Cooper & Kirk, PLLC ("C&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of C&K, do not construe anything in this e-

mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to C&K in reply that you expect to be held in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of C&K, you should maintain its contents in confidence in order to preserve any attorney-client or work product privilege that may be available to protect confidentiality.

From: Mitchell, Nicolas
To: McNaughton, Abbey; MacDougall, Mark
Cc: Goldman, Daniel; Bitar, Maher; Bair, James; Grooms, Susanne Sachsman; Carey, Laura; Kenny, Peter
Subject: Anderson and Croft: Subpoenas
Date: Wednesday, October 30, 2019 8:02:00 AM
Attachments: House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf
20191028 - Subpoena Anderson.pdf
20191028 - Subpoena Croft.pdf

Counsel:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting the following:

- a subpoena that compels your client, Catherine Croft, to appear at a previously scheduled deposition on **October 30, 2019, at 9:00 a.m., at The Capitol, HVC-304**; and
- a subpoena that compels your client, Christopher Anderson, to appear at a previously scheduled deposition on **October 30, 2019, at 2:30 p.m., at The Capitol, HVC-304**.

The subpoenas are being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your clients' failure or refusal to comply with the subpoenas, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoenas compel your clients' mandatory appearance.

Enclosed are copies of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Mitchell, Nicolas
To: Cary Joshi; Brian Glasser
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Wednesday, November 20, 2019 12:07:00 PM
Attachments: BILLS-116hres660eh.pdf
HPSCI Rules of Procedure.pdf
20191119 - Hale Subpoena.pdf

Mr. Glasser:

Please see the attached subpoena commanding your client, Ambassador Hale, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 20, 2019 at 2:30 p.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Mitchell, Nicolas
To: ken.wainstein@[redacted]; Nathanson, Paul J.; Swan, Katherine
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Thursday, November 21, 2019 8:01:26 AM
Attachments: BILLS-116hres660eh.pdf
HPSCI Rules of Procedure.pdf
Holmes Subpoena.pdf

Counsel:

Please see the attached subpoena commanding your client, David Holmes, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 21, 2019 at 9:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Mitchell, Nicolas
To: Lee Wolosky; sungar@[redacted]
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Thursday, November 21, 2019 8:01:38 AM
Attachments: BILLS-116hres660eh.pdf
HPSCI Rules of Procedure.pdf
Hill Subpoena.pdf

Counsel:

Please see the attached subpoena commanding your client, Dr. Fiona Hill, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 21, 2019 at 9:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: "Lee Wolosky"; Samuel Ungar
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne
Subject: Dr. Fiona Hill - Subpoena
Date: Monday, October 14, 2019 8:48:00 AM
Attachments: House Resolution 6 Sec 103(a).pdf
House Deposition Regulations.pdf
HPSCI Rules of Procedure.pdf
20191014 - Hill subpoena for testimony.pdf

Mr. Wolosky:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Dr. Fiona Hill, to appear at a previously scheduled deposition on **October 14, 2019, at 10:00 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 9, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to you requesting that Dr. Hill appear before the Committees for a deposition. In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: john@[redacted]
Cc: Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne
Subject: Congressional Subpoenas for Igor Fruman and Lev Parnas
Date: Thursday, October 10, 2019 12:15:00 PM
Attachments: 20191010 - Subpoena to Parnas for documents.pdf
20191010 - Subpoena to Fruman for documents.pdf
HPSCI Rules of Procedure.pdf
SUBPOENA INSTRUCTIONS.pdf
20191010 Parnas Fruman Letter re Subpoena.pdf

Mr. Dowd:

Attached please find subpoenas for Igor Fruman and Lev Parnas from the House Permanent Select Committee on Intelligence (HPSCI), issued in consultation with the Committee on Oversight and Reform and the Committee on Foreign Affairs. The HPSCI Rules of Procedure also are attached.

Please kindly confirm that you are accepting service on your clients' behalf.

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225[redacted]

From: Noble, Daniel
To: Shur, Justin; Hayes-Deats, Caleb
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Tuesday, November 19, 2019 8:01:17 AM
Attachments: HPSCI Rules of Procedure.pdf
BILLS-116hres660eh.pdf
Williams - Hearing.pdf

Mr. Shur and Mr. Hayes-Deats:

Please see the attached subpoena commanding your client, Jennifer Williams, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 19, 2019 at 9:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: Shur, Justin
Cc: Goldman, Daniel; Bitar, Maher; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Bair, James; Carey, Laura
Subject: House Impeachment Inquiry - Jennifer Williams
Date: Monday, November 4, 2019 7:35:24 PM
Attachments: 20191104 - Letter re Deposition Request - Jennifer Williams.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Justin:

Please see the attached letter and accompanying documents.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: Shur, Justin
Cc: Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Carey, Laura; James Bair [redacted];
Susanne Sachsman Grooms [redacted]; Kenny, Peter
Subject: Subpoena - House Impeachment Inquiry
Date: Thursday, November 7, 2019 8:49:00 AM
Attachments: HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
20191107 - Subpoena to Williams.pdf

Mr. Shur--

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Ms. Jennifer Williams, to appear at a previously scheduled deposition on **November 7, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On November 4, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to you requesting that Ms. Williams appear before the Committees for a deposition on November 7. In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From:	Noble, Daniel
To:	Cooper III, William S.; Michael W. Kirk
Cc:	Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kenny, Peter; Kim, Janet; Carey, Laura; Bair, James
Subject:	Deposition Request - House Impeachment Inquiry
Date:	Wednesday, October 30, 2019 2:54:55 PM
Attachments:	House Deposition Regulations.pdf House Resolution 6 Sec 103(a).pdf 2019-10-30.CBM Engel Schiff to Bolton re Depo Notice.pdf

Chuck and Michael –

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting the appearance of your client, Ambassador John Bolton, at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations for your reference.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your client's appearance.

Please confirm receipt. We look forward to your timely response.

Thank you,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: Levin, Daniel
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Wednesday, November 20, 2019 12:07:00 PM
Attachments: BILLS-116hres660eh.pdf
HPSCI Rules of Procedure.pdf
20191119 - Cooper Subpoena.pdf

Mr. Levin:

Please see the attached subpoena commanding your client, Ms. Laura Cooper, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 20, 2019 at 2:30 p.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: Michael Volkov; Matt Stankiewicz
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Tuesday, November 19, 2019 7:59:00 AM
Attachments: HPSCI Rules of Procedure.pdf
BILLS-116hres660eh.pdf
Vindman - Hearing.pdf

Mr. Volkov and Mr. Stankiewicz,

Please see the attached subpoena commanding your client, Lt. Col. Alexander Vindman, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 19, 2019 at 9:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: Michael Volkov; Matt Stankiewicz
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas; Carey, Laura; James Bair [redacted]; Susanne Sachsman Grooms [redacted]; Kenny, Peter
Subject: Lt. Col. Alexander Vindman - Subpoena
Date: Tuesday, October 29, 2019 9:07:00 AM
Attachments: House Resolution 6 Sec 103(a).pdf
House Deposition Regulations.pdf
HPSCI Rules of Procedure.pdf
20191029 - Subpoena Vindman.pdf

Mr. Volkov:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Lt. Col. Alexander Vindman, to appear at a previously scheduled deposition on **October 29, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 16, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to you requesting that Lt. Col. Vindman appear before the Committees for a deposition. Pursuant to our subsequent discussions, the deposition was scheduled for October 29 at 9:30 a.m. In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: Van Gelder, Barbara
Cc: Goldman, Daniel; Bitar, Maher; Bair, James; Grooms, Susanne Sachsman; Carey, Laura; Kenny, Peter
Subject: Congressional Subpoena for Mark Sandy
Date: Saturday, November 16, 2019 9:04:00 AM
Attachments: House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf
20191116 - Subpoena to Sandy.pdf

Counsel:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Mark Sandy, to appear at a previously scheduled deposition on **November 16, 2019, at 10:00 a.m., at The Capitol, HVC-304.**

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance.

Enclosed are copies of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Bitar, Maher
To: Butler, Paul
Cc: Goldman, Daniel; Bair, James; Kenny, Peter; Noble, Daniel; Mitchell, Nicolas
Subject: Michael Ellis - Subpoena for Testimony
Date: Sunday, November 3, 2019 9:19:00 PM
Attachments: HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
20191104 - HPSCI Subpoena - Michael Ellis.pdf
20191103 - Committees Subpoena Cover Letter - Michael Ellis.pdf

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Paul -

Pursuant to the rules of the House of Representatives and the Permanent Select Committee on Intelligence, please find attached a duly authorized subpoena commanding your client's appearance tomorrow for testimony at 2:00 p m. at the Capitol in HVC-304.

Also attached is a letter from Chairman Schiff, Chairman Engel, and Acting Chairwoman Maloney, as well as other accompanying documents.

Please confirm receipt and acceptance of service on behalf of your client.

Thank you,

Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

-----Original Message-----
From: Butler, Paul [redacted]
Sent: Sunday, November 3, 2019 2:03 PM
To: Noble, Daniel [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Subject: Re: Michael Ellis

Dan
I'm not authorized to provide any further information at this time other than our guidance is that the failure to permit agency counsel to attend a deposition of Mr. Ellis would not allow sufficient protection of relevant privileges and therefore render any subpoena constitutionally invalid. As an Executive branch employee Mr. Ellis is required to follow this guidance. I'm happy to get on a call this afternoon any time after 2:30 but will not having anything else to add right now. Let me know how you would like to proceed. Best, Paul

Sent from my iPhone

> On Nov 3, 2019, at 10:34 AM, Noble, Daniel [redacted] wrote:
>
>
>

> **EXTERNAL Email**
>
>
> Ok thanks.
>
>> On Nov 3, 2019, at 10:34 AM, Butler, Paul [redacted] wrote:
>>
>> Yes I can talk between 2 and 6 today. Will be back with a good time. I will need to make some additional inquiries about your request
>>
>> Sent from my iPhone
>>

-----Original Message-----
From: Noble, Daniel [redacted]
Sent: Sunday, November 3, 2019 9:25 AM
To: Butler, Paul [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Subject: Re: Michael Ellis

Hi Paul,

Wanted to follow up again to see if you can send us the OLC opinion and any White House communication your client has received? And what's your availability for a call between 2-6 today?

Thanks,
Dan

> On Nov 2, 2019, at 4:47 PM, Butler, Paul [redacted] wrote:
>
> Dan
> I tried to reach you earlier and happy to discuss further over the
> weekend but we are in receipt of an opinion from the Office of Legal
> Counsel providing guidance on the validity of a subpoena under the
> current terms and conditions and based on that guidance we are not in
> a position to appear for a deposition at this time. Best, Paul
>
> Sent from my iPhone
>
>> On Nov 2, 2019, at 12:12 PM, Noble, Daniel [redacted] wrote:
>>
>>
>>
>> **EXTERNAL Email**
>>
>>
>> Paul-
>>
>> I understand Mr. Ellis is unwilling to appear voluntarily for a deposition as the Committees requested. I wanted to check in to see if you have determined whether Mr. Ellis would appear for a deposition pursuant to subpoena?
>>
>> As it stands, Mr. Ellis's deposition is noticed for Monday at 2:00 PM and we are prepared to issue a subpoena to compel his appearance at that time. If you can confirm that Mr. Ellis will appear under subpoena, notwithstanding any efforts by the White House to block him, we can discuss rescheduling the deposition to give you a little more time to prep. But if Mr. Ellis would defy the subpoena, we will issue one forthwith for the scheduled time on Monday. Mr. Ellis' failure to appear, of course, could be used as evidence against him in a contempt proceeding.

>>
>> Could you please let us know by 5:00 pm today?
>>
>> Thanks,
>> Dan
>>
>>> On Nov 1, 2019, at 5:04 PM, Butler, Paul [redacted] wrote:
>>>
>>> Dan
>>> Thanks for the call and attached is my contact info. My cell is 202
>>> 390[redacted]. Will get back to you as soon as I can. Best, Paul Sent
>>> from my iPhone The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.
> The information contained in this e-mail message is intended only for the personal and confidential use of the recipient(s) named above. If you have received this communication in error, please notify us immediately by e-mail, and delete the original message.

From: Mitchell, Nicolas
To: Daum, Margaret E.
Cc: Bitar, Maher; Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Jamie Bair [redacted]; Carey, Laura; Wirkkala, Rheanne
Subject: Amb. Reeker Deposition Subpoena - House Impeachment Inquiry
Date: Friday, October 25, 2019 4:13:00 PM
Attachments: 20191025 - Letter to Reeker re Subpoena.pdf
20191025 - Subpoena Reeker.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Margaret:

Attached please find a letter, subpoena, and accompanying materials. Please kindly confirm receipt. See you tomorrow.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Bitar, Maher
To: Whitney Ellerman; Paul Enzinna
Cc: Mitchell, Nicolas; Goldman, Daniel; Noble, Daniel; Bair, James; Kenny, Peter
Subject: Rob Blair - Subpoena for Testimony
Date: Sunday, November 3, 2019 9:19:14 PM
Attachments: HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
image003.png
image004.png
image005.png
20191103 - Committees Subpoena Cover Letter - Rob Blair.pdf
20191104 - HPSCI Subpoena - Rob Blair.pdf

Whit –

Pursuant to the rules of the House of Representatives and the Permanent Select Committee on Intelligence, please find attached a duly authorized subpoena commanding your client's appearance tomorrow for testimony at 9:00 a.m. at the Capitol in HVC-304.

Also attached is a letter from Chairman Schiff, Chairman Engel, and Acting Chairwoman Maloney, as well as other accompanying documents.

Please confirm receipt and acceptance of service on behalf of your client.

Thank you,

Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From: Whitney Ellerman [redacted]
Sent: Saturday, November 2, 2019 6:48 PM
To: Mitchell, Nicolas [redacted]; Goldman, Daniel [redacted]
Cc: Bitar, Maher [redacted]; Paul Enzinna [redacted]
Subject: RE: Rob Blair

Gentlemen,

Attached is a letter from me to the Chairs of the Committees stating that Mr. Blair will not attend the scheduled deposition on Monday, November 4, 2019. As the letter indicates, Mr. Blair has been

directed by the White House not to appear and testify at the deposition based on DOJ's advice that he may not be required to appear without the assistance of agency counsel. He will comply with that directive until the White House provides him with a different directive, or the courts determine that he is required to appear and testify despite the Executive Branch's directive that he not do so.

Please let me know if you have any questions about this matter.

Sincerely,

Whit

Whitney Ellerman

1050 30th Street, NW
Washington, DC 20007
O: 202.753[redacted]
C: 202.415[redacted]
[redacted]
www.ellermanenzinna.com

From: Whitney Ellerman[redacted]
Sent: Friday, November 1, 2019 5:11 PM
To: Mitchell, Nicolas[redacted]; Goldman, Daniel
[redacted]
Cc: Bitar, Maher[redacted]
Subject: Re: Rob Blair

Yes, that works. I would appreciate it if you could circulate a call in number.

Whitney Ellerman

1050 30th Street, NW
Washington, DC 20007
O: 202.753[redacted]
C: 202.415[redacted]
[redacted]
www.ellermanenzinna.com

From: "Mitchell, Nicolas"[redacted]
Date: Friday, November 1, 2019 at 11:38 AM

To: Whitney Ellerman [redacted], "Goldman, Daniel" [redacted]
Cc: "Bitar, Maher" [redacted]
Subject: RE: Rob Blair

Whit:

Thank you. We'd like to schedule a call for this afternoon to discuss how your client intends to proceed. Are you available at 5:00 pm?

Nick

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Whitney Ellerman [redacted]
Sent: Thursday, October 31, 2019 6:54 PM
To: Goldman, Daniel [redacted]
Cc: Mitchell, Nicolas [redacted]; Bitar, Maher [redacted]
Subject: Re: Rob Blair

Dan,

Thank you. Yes, I will accept service. And I will let you know how Mr. Blair intends to proceed once I have a determination.

Whit

Whitney Ellerman

[redacted]
1050 30th Street, NW
Washington, DC 20007
O: 202.753.[redacted]
C: 202.415.[redacted]
[redacted]
www.ellermanenzinna.com

From: "Goldman, Daniel" [redacted]

Date: Thursday, October 31, 2019 at 6:41 PM
To: Whitney Ellerman [redacted]
Cc: "Mitchell, Nicolas" [redacted], "Bitar, Maher" [redacted]
Subject: Re: Rob Blair

Whit,

We can move the deposition to Monday at 9. Expect to receive a subpoena before then. I assume you will accept service?

Thanks.

Daniel S. Goldman
Sr. Advisor and Dir. of Investigations (Maj)
HPSCI
The Capitol (HVC-304)
W: (202) 225-[redacted]
C: (202) 577-[redacted]

> On Oct 31, 2019, at 4:20 PM, Whitney Ellerman [redacted] wrote:

From: Jason Yaworske
To: Noble, Daniel
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas
Subject: Re: Deposition Notices
Date: Friday, October 11, 2019 5:29:47 PM

Received.

Sent from my iPhone

On Oct 11, 2019, at 4:52 PM, Noble, Daniel [redacted] wrote:

> Good afternoon. Please see the attached two deposition notices for Acting Director Russell Vought and Associate Director Michael Duffey.
>
> Please confirm receipt. Thank you.
>
> Daniel S. Noble
> Senior Investigative Counsel (Majority)
> House Permanent Select Committee on Intelligence
> The Capitol (HVC-304)
> Desk: 202-226-[redacted]
> Cell: 202-596-[redacted]
> Secure: 936-[redacted]
>
> <2019-10-11.EEC Engel Schiff to Vought-OMB re Depo Notice.pdf>
>
> <2019-10-11.EEC Engel Schiff to Duffey-OMB re Depo Notice.pdf>

From: Mitchell, Nicolas
To: Van Gelder, Barbara
Cc: Bergreen, Timothy; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry Hearing
Date: Tuesday, November 19, 2019 12:30:33 PM
Attachments: HPSCI Rules of Procedure.pdf
BILLS-116hres660eh.pdf
20191119 Morrison Subpoena.pdf

Ms. Van Gelder:

Please see the attached subpoena commanding your client, Timothy Morrison, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 19, 2019 at 2:30 p.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: Van Gelder, Barbara
Cc: Goldman, Daniel; Bitar, Maher; Kenny, Peter; James Bair [redacted]
Subject: Subpoena - House Impeachment Inquiry
Date: Thursday, October 31, 2019 7:39:00 AM
Attachments: HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
20191031 Subpoena to Tim Morrison.pdf

Ms. Van Gelder –

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Mr. Timothy Morrison, to appear at a previously scheduled deposition on **October 31, 2019, at 8:00 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 16, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to you requesting that Mr. Morrison appear before the Committees for a deposition. Pursuant to our subsequent discussions, the deposition was scheduled for October 31 at 8:00 a.m. In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: Tenpas, Ron
Cc: Morstein, Kellie; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Carey, Laura; Bair, James; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter
Subject: RE: Mr. Brechbuhl -- SENT ON BEHALF OF RONALD J. TENPAS
Date: Friday, November 22, 2019 3:37:00 PM

Ron – Following up on this. Could you please provide a copy of the "letter of instruction" that the State Department provided to Mr. Brechbuhl. If you will not provide a copy to the Committees, we would appreciate an explanation, particularly whether the State Department has instructed you or your client not to provide a copy of the letter to us. Please reply by Monday.

Thank you.
Dan

From: Noble, Daniel
Sent: Tuesday, November 5, 2019 12:13 PM
To: Tenpas, Ron [redacted]
Cc: Morstein, Kellie [redacted]; Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: RE: Mr. Brechbuhl -- SENT ON BEHALF OF RONALD J. TENPAS

Ron – Kindly provide a copy of the "letter of instruction from the State Department" that Mr. Brechbuhl received and the "analysis from the United States Department of Justice" cited in your letter.

Thanks,
Dan

From: Morstein, Kellie [redacted]
Sent: Tuesday, November 5, 2019 11:59 AM
To: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Noble, Daniel [redacted]
Cc: Mullins, Grant [redacted]; Anderson, Doug [redacted]; Castor, Stephen [redacted]; Casulli, Laura [redacted]; Green, Meghan [redacted]; Hixon, Christopher [redacted]; Tenpas, Ron [redacted]
Subject: Mr. Brechbuhl -- SENT ON BEHALF OF RONALD J. TENPAS

Please find attached my letter dated November 5, 2019.

Thank you,
Ronald J. Tenpas

Kellie M. Morstein
Professional Assistant

E [redacted]
W +1 202.639[redacted]

Vinson & Elkins LLP
2200 Pennsylvania Avenue NW
Suite 500 West
Washington, DC 20037

vcard velaw.com

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Thank You.

From: Noble, Daniel
To: rtenpas@[redacted]
Cc: Goldman, Daniel; Bitar, Maher; Susanne Sachsman Grooms[redacted]; Kenny, Peter; Bair, James; Carey, Laura
Subject: Subpoena - House Impeachment Inquiry
Date: Friday, October 25, 2019 12:45:00 PM
Attachments: 20191025 - Subpoena Brechbuhl.pdf
20191025 - Three CommitteesLetter re Subpoena to Ulrich Brechbuhl.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Ron,

Please see the attached letter and subpoena for Mr. Brechbuhl pursuant to the House's impeachment inquiry. Also attached for your reference are the House Deposition Regulations and HPSCI Rules of Procedure.

Best,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: Tenpas, Ron
Cc: Morstein, Kellie; Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Carey, Laura; Bair, James; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter
Subject: RE: Mr. Brechbuhl -- SENT ON BEHALF OF RONALD J. TENPAS
Date: Tuesday, November 5, 2019 12:12:00 PM

Ron – Kindly provide a copy of the "letter of instruction from the State Department" that Mr. Brechbuhl received and the "analysis from the United States Department of Justice" cited in your letter.

Thanks,
Dan

From: Morstein, Kellie [redacted]
Sent: Tuesday, November 5, 2019 11:59 AM
To: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Mitchell, Nicolas [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Noble, Daniel [redacted]
Cc: Mullins, Grant [redacted]; Anderson, Doug [redacted]; Castor, Stephen [redacted]; Casulli, Laura [redacted]; Green, Meghan [redacted]; Hixon, Christopher [redacted]; Tenpas, Ron [redacted]
Subject: Mr. Brechbuhl -- SENT ON BEHALF OF RONALD J. TENPAS

Please find attached my letter dated November 5, 2019.

Thank you,
Ronald J. Tenpas

Kellie M. Morstein
Professional Assistant

E [redacted]
W +1 202.639[redacted]

Vinson & Elkins LLP
2200 Pennsylvania Avenue NW
Suite 500 West
Washington, DC 20037

vcard | velaw.com

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Thank You.

From: Noble, Daniel
To: Williams, Karen D.
Cc: Goldman, Daniel; Bitar, Maher; Bair, James; Kenny, Peter; Mitchell, Nicolas
Subject: RE: Counsel for P. Wells Griffith
Date: Monday, November 4, 2019 7:43:00 PM
Attachments: image002.png
image003.png
20191104 - Committees Subpoena Cover Letter - Wells Griffith.pdf
20191104 Subpoena to Griffith.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Karen,

Please see the attached letter, subpoena, House deposition regulations, and HPSCI's rules of procedure.

Best,
Dan

From: Williams, Karen D. [redacted]
Sent: Monday, November 4, 2019 3:16 PM
To: Noble, Daniel [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]; Williams, Karen D. [redacted]
Subject: RE: Counsel for P. Wells Griffith

Dan –
Please see the attached.

Karen Williams
Member | Cozen O'Connor
1200 19th Street, NW | Washington, DC 20036
P: 202-304-[redacted] F: 202-540-[redacted]
Email | Map | cozen.com

From: Noble, Daniel [redacted]
Sent: Monday, November 4, 2019 12:14 PM
To: Williams, Karen D. [redacted]
Cc: Goldman, Daniel [redacted] Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Subject: RE: Counsel for P. Wells Griffith

****EXTERNAL SENDER****

Ok thanks Karen. Do you think you can get us a letter by 1 or 2pm today?

From: Williams, Karen D. [redacted]
Sent: Monday, November 4, 2019 12:01 PM
To: Noble, Daniel [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]; Williams, Karen D. [redacted]

Subject: RE: Counsel for P. Wells Griffith

Dan,
I will accept service on behalf of Mr. Griffith. I will address your other requests separately.

Regards,
Karen

Karen Williams
Member | Cozen O'Connor
1200 19th Street, NW | Washington, DC 20036
P: 202-304[redacted] F: 202-540[redacted]
Email | Map | cozen.com

From: Noble, Daniel[redacted]
Sent: Monday, November 4, 2019 10:01 AM
To: Williams, Karen D.[redacted]
Cc: Goldman, Daniel[redacted]; Bitar, Maher[redacted]; Bair, James[redacted]; Kenny, Peter[redacted]
Subject: RE: Counsel for P. Wells Griffith

****EXTERNAL SENDER****

Karen,

As we discussed last night, we'd appreciate it if you could send us a letter setting forth the reasons why Mr. Griffith intends to defy a congressional subpoena for a deposition tomorrow, including the verbal direction you or he received from the White House counsel's office and their basis for that instruction. Please also note in writing your willingness to accept service of a subpoena on Mr. Griffith's behalf. If we could get the letter by 1 pm today, it would be much appreciated. And if the White House provides any instruction in writing, could you please provide a copy of that as well?

Thank you.
Dan

From: Williams, Karen D.[redacted]
Sent: Sunday, November 3, 2019 8:48 AM
To: Noble, Daniel[redacted]
Cc: Goldman, Daniel[redacted]; Bitar, Maher[redacted]; Bair, James[redacted]; Kenny, Peter[redacted]; Williams, Karen D.[redacted]
Subject: Re: Counsel for P. Wells Griffith

Dan -
Let's plan to speak at 6 pm. Thank you

On Nov 2, 2019, at 9:01 PM, Noble, Daniel[redacted] wrote:

****EXTERNAL SENDER****

Ok thanks. Can we set a time to speak tomorrow afternoon? I'm open between 1 and 7. Thanks.

On Nov 2, 2019, at 8:45 PM, Williams, Karen D. [redacted] wrote:

> Dan –
> Mr. Griffith is continuing to consider his position regarding appearing pursuant to a subpoena. I will spoke with him tomorrow and then follow up with you.
>
> Regards,
> Karen
>
> <image003.png>
> **Karen Williams**
> **Member | Cozen O'Connor**
> 1200 19th Street, NW | Washington, DC 20036
> P: 202-304-[redacted] F: 202-540-[redacted]
> Email | Map | cozen.com

From: Noble, Daniel [redacted]
Sent: Saturday, November 2, 2019 12:36 PM
To: Williams, Karen D. [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Subject: Re: Counsel for P. Wells Griffith

****EXTERNAL SENDER****

Ok please provide an update as to where things stand this evening. We need to figure this out by tomorrow as we are juggling multiple depositions this week. If your client intends to defy a duly authorized congressional subpoena, we need to know that sooner rather than later. Thanks.

On Nov 2, 2019, at 12:33 PM, Williams, Karen D. [redacted] wrote:

> Dan,
> I had understood from our conversation yesterday that we could have the weekend to get back to you on Mr. Griffith appearing under a subpoena. I have a commitment this afternoon (and it is not the Nats parade) so a definitive answer by 5 pm today is not feasible. Let me confer with Mr. Griffith and I will provide a status this evening.
>
> Regards,
> Karen
>
> <image004.png>
> **Karen Williams**
> **Member | Cozen O'Connor**
> 1200 19th Street, NW | Washington, DC 20036
> P: 202-304-[redacted] F: 202-540-[redacted]
> Email | Map | cozen.com

From: Noble, Daniel [redacted]
Sent: Saturday, November 2, 2019 12:22 PM
To: Williams, Karen D. [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Subject: Re: Counsel for P. Wells Griffith

****EXTERNAL SENDER****

Karen,

I understand Mr. Griffith is unwilling to appear voluntarily for a deposition as the Committees requested. I wanted to check in to see if you have determined whether Mr. Griffith would appear for a deposition pursuant to subpoena?

As it stands, Mr. Griffith's deposition is noticed for Tuesday at 9:00 AM and we are prepared to issue a subpoena to compel his appearance at that time. Can you confirm that Mr. Griffith will appear under subpoena, notwithstanding any efforts by the White House to block him? Mr. Griffith's failure to appear, of course, could be used as evidence against him in a contempt proceeding. I know you asked if we might have some flexibility in scheduling, but I don't think it makes sense to discuss that until we answer the threshold question of whether Mr. Griffith will comply with a subpoena.

Could you please let us know by 5:00 pm today? Happy to hop on the phone to discuss, too.

Thanks,
Dan

On Oct 31, 2019, at 5:42 PM, Williams, Karen D. [redacted] wrote:

> Dan,
> Yes, tomorrow at 10 a.m. works. Please let me know if I should expect a call from you or call your desk number.
>
> Regards,
> Karen

<image001.png>

Karen Williams
Member | Cozen O'Connor
1200 19th Street, NW | Washington, DC 20036
P: 202-304[redacted] F: 202-540[redacted]

From: Noble, Daniel [redacted]
Sent: Thursday, October 31, 2019 5:26 PM
To: Williams, Karen D. [redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Subject: RE: Counsel for P. Wells Griffith

****EXTERNAL SENDER****

Karen,

Thanks very much for being in touch. Could we do a call tomorrow morning at 10:00 am to discuss the deposition request?

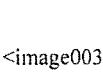
Best,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Williams, Karen D. [redacted]
Sent: Thursday, October 31, 2019 4:31 PM
To: Noble, Daniel [redacted]; Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Bair, James [redacted]; Kenny, Peter [redacted]
Cc: Williams, Karen D. [redacted]
Subject: Counsel for P. Wells Griffith

Mr. Noble,
I am writing to notify you that I am representing Preston Wells Griffith regarding the House of Representatives' impeachment inquiry. Please let me know if you would like to speak later today or tomorrow about the deposition request. My contact information is below.

Regards,
Karen



Karen Williams
Member | Cozen O'Connor
1200 19th Street, NW | Washington, DC 20036
P: 202-304[redacted] F: 202-540-[redacted]
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Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

From: Noble, Daniel
To: Wright, Andrew M; Hartman, Barry M.
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura; Bair, James; Noble, Daniel
Subject: Subpoena - House Impeachment Inquiry
Date: Wednesday, November 13, 2019 8:30:21 AM
Attachments: HPSCI Rules of Procedure.pdf
BILLS-116hres660eh.pdf
20191112 - Subpoena for Kent.pdf

Mr. Wright and Mr. Hartman:

Please see the attached subpoena commanding your client, George Kent, to appear for a hearing as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 13, 2019 at 10:00 a.m. in Longworth House Office Building, Room 1100**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or State Department, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Please confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: Jessica.L.Donlon@[redacted]; Jason Yaworske; Michael.P.Duffey@[redacted]
Cc: Bitar, Maher; Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Jamie Bair [redacted]; Carey, Laura; Wirkkala, Rheanne
Subject: Duffey Deposition Subpoena - House Impeachment Inquiry
Date: Friday, October 25, 2019 12:42:00 PM
Attachments: 20191025 - Letter Duffey re Subpoena.pdf
20191025 - Subpoena Duffey.pdf
HPSCI Rules of Procedure.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

All:

Please see the attached letter, subpoena, and accompanying documents.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From:	Mitchell, Nicolas
To:	Jessica.L.Donlon@[redacted]; Jason Yaworske; Russell.T.Vought@[redacted]
Cc:	Bitar, Maher; Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Jamie Bair [redacted]; Carey, Laura; Wirkkala, Rheanne
Subject:	Vought Deposition Subpoena - House Impeachment Inquiry
Date:	Friday, October 25, 2019 12:42:00 PM
Attachments:	20191025 - Letter to Vought re Subpeona.pdf 20191025 - Subpoena Vought.pdf House Deposition Regulations.pdf House Resolution 6 Sec 103(a).pdf HPSCI Rules of Procedure.pdf

All:

Please see the attached letter, subpoena, and accompanying documents.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: john.a.eisenberg@[redacted]
Cc: Goldman, Daniel; Bitar, Maher; Mitchell, Nicolas; Wirkkala, Rheanne; Bair, James; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura; Kim, Janet
Subject: Deposition Request - House Impeachment Inquiry
Date: Wednesday, October 30, 2019 2:52:33 PM
Attachments: 2019-10-30.CBM Engel Schiff to Eisenberg re Depo Notice.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Mr. Eisenberg,

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

Please confirm receipt. We look forward to your timely response.

Thank you,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: john.a.eisenberg@[redacted]
Cc: Goldman, Daniel; Bitar, Maher; Nicolas Mitchell [redacted]; Wirkkala, Rheanne; James Bair [redacted]; Carey, Laura; Susanne Sachsman Grooms [redacted]; Kenny, Peter
Subject: RE: Deposition Request - House Impeachment Inquiry
Date: Friday, November 1, 2019 5:59:00 PM
Attachments: 20191101 - Subpoena to Eisenberg.pdf
2019-11-1.CBM Engel Schiff to Eisenberg-EOP re Subpoena.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Mr. Eisenberg,

Please see the attached letter and subpoena commanding you to appear for a deposition on **Monday, November 4, at 9:00 AM in HVC-304, The Capitol**. Also attached are the House deposition regulations, which provide that you may be accompanied by personal counsel at the deposition. Agency counsel are not permitted to attend. Please be advised that your failure to appear at the indicated date and time shall constitute evidence that may be used against you in a contempt proceeding.

Attached for your reference are the House deposition regulations and HPSCI's Rules of Procedure.

Please confirm receipt.

Sincerely,

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
Sent: Wednesday, October 30, 2019 2:53 PM
To: john.a.eisenberg@[redacted]
Cc: Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Nicolas Mitchell [redacted]; Wirkkala, Rheanne [redacted]; James Bair [redacted]; Susanne Sachsman Grooms [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]; Kim, Janet

[redacted]
Subject: Deposition Request - House Impeachment Inquiry

Mr. Eisenberg,

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

Please confirm receipt. We look forward to your timely response.

Thank you,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From:	Mitchell, Nicolas
To:	Levin, Daniel
Cc:	Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne; Grooms, Susanne Sachsman; Bair, James; Kenny, Peter
Subject:	Congressional Subpoena for Laura Cooper
Date:	Wednesday, October 23, 2019 8:29:00 AM
Attachments:	House Deposition Regulations.pdf House Resolution 6 Sec 103(a).pdf HPSCI Rules of Procedure.pdf 20191023 - Subpoena Cooper.pdf

Mr. Levin:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Laura Cooper, to appear at a previously scheduled deposition on **October 23, 2019, at 10:00 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: Michael.j.ellis@[redacted]
Cc: Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kenny, Peter; Kim, Janet; Carey, Laura; Bair, James
Subject: Deposition Request - House Impeachment Inquiry
Date: Wednesday, October 30, 2019 2:50:28 PM
Attachments: 2019-10-30.CBM Engel Schiff to Ellis re Depo Notice.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Mr. Ellis,

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

Please confirm receipt. We look forward to your timely response.

Thank you,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Noble, Daniel
To: Mick Mulvaney [redacted]
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Rapallo, Dave; Susanne Sachsman Grooms [redacted]; Kenny, Peter; Carey, Laura; Bair, James; Purpura, Michael M. EOP/WHO
Subject: Subpoena - House Impeachment Inquiry
Date: Thursday, November 7, 2019 6:35:00 PM
Attachments: 20191107 - Subpoena to Mulvaney.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf
HPSCI Rules of Procedure.pdf

Mr. Mulvaney,

Please see the attached subpoena commanding you to appear for a deposition as part of the House of Representatives' impeachment inquiry at the previously noticed date, time, and location: **November 8, at 9:00 a.m. in HVC-304, The Capitol**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The deposition transcript shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President. Moreover, your failure to appear shall constitute evidence that may be used against you in a contempt proceeding.

Attached for your reference are the House deposition regulations and HPSCI's Rules of Procedure.

Please confirm receipt.

Sincerely,

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Mitchell, Nicolas
To: robert.b.blair@[redacted]
Cc: Bitar, Maher; Goldman, Daniel; Noble, Daniel; Grooms, Susanne Sachsman; Kenny, Peter; Jamie Bair [redacted]; Carey, Laura; Wirkkala, Rheanne
Subject: Deposition Request - House Impeachment Inquiry
Date: Thursday, October 24, 2019 7:00:00 PM
Attachments: 20191024 - Letter to Blair re Depo Notice.pdf
House Deposition Regulations.pdf
House Resolution 6 Sec 103(a).pdf

Dear Mr. Blair,

Please find attached a letter from Chairman Schiff, Chairman Engel, and Acting Chairwoman Maloney requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

We look forward to your timely response.

Thank you,

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From:	Bair, James
To:	McNerney, Patricia X
Cc:	Carey, Laura; Steinbaum, Jason; Campbell, Doug; Casulli, Laura; Taylor, Mary Elizabeth; Bergreen, Timothy; Bitar, Maher; Moore, Jessica L; Goldman, Daniel; Dorosin, Joshua L; Rapallo, Dave; Castor, Stephen; Grooms, Susanne Sachsman; Kenny, Peter; Green, Meghan; Hixon, Christopher; Mullins, Grant
Subject:	Re: Meeting to discuss accomodations
Date:	Monday, October 7, 2019 6:00:51 PM

Hi all,

Thanks very much for meeting with us today. To reiterate, as a show of good faith, the Committees requested the following:

1. The Committees expect the Department to produce any and all documents that it received directly from Ambassador Sondland no later than 9 PM this evening.
2. The Department will confirm reciprocal security clearances have been recognized and acknowledged by State no later than COB tomorrow for the personal counsels for Ambassador Yovanovitch and DAS Kent. The Committees also expect the Department to process expeditiously all additional security clearance requests for attorneys for other witnesses.
3. The Committees expect the Department to produce documents—especially those documents identified by the witnesses as responsive— related to Ambassador Yovanovitch and DAS Kent no later than 9 AM on Thursday, October 10.

The Department has an opportunity to begin complying with the subpoena through these good faith gestures. The Committees will be prepared thereafter to discuss prioritization of the other categories of information sought by the subpoena.

Thank you again for your engagement, and we look forward to hearing from you soon.

Best,

Jamie et al.

Sent from my iPhone

On Oct 7, 2019, at 2:12 PM, McNerney, Patricia X [redacted] wrote:

> Hi Laura - We are heading up but realistically probably won't be there until 3 pm. See you shortly. Patti
>
> ---
>
> **From:** Carey, Laura [redacted]
> **Date:** October 7, 2019 at 1:47:03 PM EDT
> **To:** McNerney, Patricia X [redacted], Bair, James
> [redacted]

Cc: Steinbaum, Jason [redacted], Campbell, Doug [redacted], Casulli, Laura [redacted], Taylor, Mary Elizabeth [redacted], Bergreen, Timothy [redacted], Bitar, Maher [redacted], Moore, Jessica L [redacted], Goldman, Daniel [redacted], Dorosin, Joshua L [redacted], Rapallo, Dave [redacted], Castor, Stephen [redacted], Grooms, Susanne Sachsman [redacted], Kenny, Peter [redacted], Green, Meghan [redacted], Hixon, Christopher [redacted], Mullins, Grant [redacted]
Subject: RE: Meeting to discuss accomodations

Hi Patti,

We can do 2:30pm today (in Rayburn 2200) if that works—unfortunately many of us are already booked at 4pm. Let us know, and see you soon.

Thanks,

Laura

From: McNerney, Patricia X [redacted]
Sent: Monday, October 7, 2019 1:22 PM
To: Bair, James [redacted]; Carey, Laura [redacted]
Cc: Steinbaum, Jason [redacted]; Campbell, Doug [redacted]; Casulli, Laura [redacted]; Taylor, Mary Elizabeth [redacted]; Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Moore, Jessica L [redacted]; Goldman, Daniel [redacted]; Dorosin, Joshua L [redacted]; Rapallo, Dave [redacted]; Castor, Stephen [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Green, Meghan [redacted]; Hixon, Christopher [redacted]; Mullins, Grant [redacted]
Subject: Meeting to discuss accomodations

Hi Laura and Jamie,

Apologies for our delay in rescheduling the meeting. Would you and your colleagues have availability at 4 p.m. today for a meeting with our team.

Regards,

Patti

UNCLASSIFIED

From: McNerney, Patricia X
Sent: Friday, October 4, 2019 4:08 PM
To: Bair, James [redacted]; Carey, Laura [redacted]
Cc: Steinbaum, Jason [redacted]; Campbell, Doug [redacted]; Laura.Casulli@[redacted]; Taylor, Mary Elizabeth [redacted]; Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Moore, Jessica L [redacted]; Goldman, Daniel [redacted]; Dorosin, Joshua L [redacted]; Rapallo, Dave [redacted]; Stephen.Castor@[redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Meghan.Green@[redacted]; Christopher.Hixon@[redacted]; Mullins, Grant [redacted]
Subject: RE: Letter to Deputy Secretary Sullivan from Chairmen Engel, Schiff, and Cummings

Hi Laura and Jamie,

I'm sorry but it doesn't look like the Department will be in a position to schedule the meeting for today. I look forward to being in touch early next week.

Regards,

Patti

UNCLASSIFIED

From: Bair, James [redacted]
Sent: Friday, October 4, 2019 10:11 AM
To: McNerney, Patricia X [redacted]
Cc: Carey, Laura [redacted]; Steinbaum, Jason [redacted]; Campbell, Doug [redacted]; Taylor, Mary Elizabeth [redacted]; Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Moore, Jessica L [redacted]; Goldman, Daniel [redacted]; Dorosin, Joshua L [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman

[redacted]; Kenny, Peter [redacted]; Mullins, Grant [redacted]
Subject: Re: Letter to Deputy Secretary Sullivan from Chairmen Engel, Schiff, and Cummings

Hi Patti,

For scheduling purposes, should we expect State colleagues to be proposing a meeting time for today?

Many thanks,

Jamie

On Oct 3, 2019, at 3:10 PM, McNerney, Patricia X [redacted] wrote:

> Hi Laura,
>
> Apologies but that time is not going to work for all of our team. I will be in touch to reschedule.
>
> Regards,
>
> Patti
>
> UNCLASSIFIED
> **From:** Carey, Laura [redacted]
> **Sent:** Thursday, October 3, 2019 1:34 PM
> **To:** McNerney, Patricia X [redacted]
> **Cc:** Steinbaum, Jason [redacted]; Campbell, Doug [redacted]; Bair, James [redacted]; Taylor, Mary Elizabeth [redacted]; Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Moore, Jessica L [redacted]; Goldman, Daniel [redacted]; Dorosin, Joshua L [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Mullins, Grant [redacted]
> **Subject:** Re: Letter to Deputy Secretary Sullivan from Chairmen Engel, Schiff, and Cummings
>
> Patti et al,

Given the pace of the ongoing interview with Ambassador Volker, we don't anticipate the necessary gaggle of staff from the three committees will be available to meet at 4pm today as originally planned. However, we are all willing to stay late tonight to still preserve the chance to meet with you today—we can revise our start time to 6pm to be safe, and to ensure you are not stuck waiting over here before then. Rayburn 2200 will still be the locale.

Thanks,

Laura

Sent from my iPhone

On Oct 2, 2019, at 6:23 PM, Carey, Laura [redacted] wrote:

> Great, see you tomorrow in Rayburn 2200.
>
> Sent from my iPhone
>
> On Oct 2, 2019, at 5:52 PM, McNerney, Patricia X [redacted] wrote:
>
> > Hi Laura - Thank you. We look forward to meeting tomorrow at 4 pm. Regards, Patti
> >
> > ---
> >
> > **From:** Carey, Laura [redacted]
> > **Date:** October 2, 2019 at 2:30:18 PM EDT
> > **To:** McNerney, Patricia X [redacted]
> > **Cc:** Steinbaum, Jason [redacted], Campbell, Doug [redacted], Bair, James [redacted], Taylor, Mary Elizabeth [redacted], Bergreen, Timothy [redacted], Bitar, Maher [redacted], Moore, Jessica L [redacted], Goldman, Daniel [redacted], Dorosin, Joshua L [redacted], Rapallo, Dave [redacted],

Grooms, Susanne Sachsman
[redacted], Kenny,
Peter [redacted], Mullins,
Grant [redacted]
Subject: RE: Letter to Deputy Secretary Sullivan from Chairmen Engel, Schiff, and Cummings

Patti, thanks for reaching out. The three committees will be able to meet tomorrow at 4pm—we look forward to seeing you then. We've booked Rayburn 2200.

Best,

Laura

From: McNerney, Patricia X
[redacted]
Sent: Wednesday, October 2, 2019 10:18 AM
To: Carey, Laura
[redacted]
Cc: Steinbaum, Jason
[redacted];
Campbell, Doug
[redacted]; Bair, James
[redacted]; Taylor, Mary
Elizabeth [redacted]; Bergreen,
Timothy [redacted];
Bitar, Maher [redacted];
Moore, Jessica L [redacted];
Goldman, Daniel
[redacted]; Dorosin,
Joshua L [redacted]; Rapallo, Dave
[redacted]; Grooms,
Susanne Sachsman
[redacted]; Kenny,
Peter [redacted]; Mullins,
Grant [redacted]
Subject: RE: Letter to Deputy Secretary Sullivan from Chairmen Engel, Schiff, and Cummings

Dear Laura,

Department leadership has asked that we reach out to you to request a meeting today to

discuss accommodations. Would you and the lead counsel from each committee have time today to begin those discussions? I would be happy to discuss by phone.

Regards,

Patti

Patricia A. McNerney
Director, Congressional Oversight and Investigations
United States Department of State
Room 7805
Office: (202) 647-[redacted]
Cell: (202) 812-[redacted]

UNCLASSIFIED

From: Carey, Laura [redacted]
Sent: Tuesday, October 1, 2019 8:35 PM
To: Taylor, Mary Elizabeth [redacted]; Moore, Jessica L [redacted]; McNerney, Patricia X [redacted]; Dorosin, Joshua L [redacted]
Cc: Steinbaum, Jason [redacted]; Campbell, Doug [redacted]; Bair, James [redacted]; Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]
Subject: Letter to Deputy Secretary Sullivan

from Chairmen Engel, Schiff, and Cummings

Dear State colleagues,

Attached please find a letter to Deputy Secretary Sullivan from Chairmen Engel, Schiff, and Cummings on efforts to interfere with the testimony of State Department witnesses before Congress. Please let us know if you have any questions.

Best,

Laura Carey

Laura Carey
Senior Professional Staff Member (majority)
State Department Operations and Oversight
House Committee on Foreign Affairs | 202.225.[redacted]

From: Mitchell, Nicolas
To: Wright, Andrew M; Bair, James
Cc: Goldman, Daniel; Iheanacho, Nancy C.; Hartman, Barry M.; Kenny, Peter
Subject: RE: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)
Date: Tuesday, October 8, 2019 9:02:00 AM
Attachments: image002.jpg

Andy:

Consistent with our discussions late last week, and for all the reasons we discussed, the Committees are willing to postpone Mr. Kent's deposition. Are you available on Tuesday, October 15, at 10:00 am?

Thanks,

Nick

From: Wright, Andrew M [redacted]
Sent: Monday, October 7, 2019 11:46 AM
To: Bair, James [redacted]
Cc: Mitchell, Nicolas [redacted]; Goldman, Daniel [redacted]; Iheanacho, Nancy C. [redacted]; Hartman, Barry M. [redacted]; Kenny, Peter [redacted]
Subject: RE: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Hi Jamie:

Good morning. You too.

We spoke to the State security officer this morning. She said she has located Barry's and my old clearances, that DOJ holds them, and that she has a case manager following up with DOJ today. If more information is required, she said we would hear by COB today. This morning, we also reiterated the importance of a quick turnaround on clearances to State L.

Many thanks.

Best,
Andy

Andrew M. Wright
Partner
K&L Gates LLP
1601 K Street, N.W.

Washington, D.C. 20006
Phone: 202-778-[redacted]
Fax: 202-778-[redacted]
[redacted]
www.klgates.com

From: Bair, James [redacted]
Sent: Monday, October 7, 2019 11:22 AM
To: Wright, Andrew M [redacted]
Cc: Mitchell, Nicolas [redacted]; Goldman, Daniel [redacted]; Iheanacho, Nancy C. [redacted]; Hartman, Barry M. [redacted]; Kenny, Peter [redacted]; Guido, Ashley M. [redacted]
Subject: Re: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Hi Andy,

I hope you and your team all had a pleasant weekend. Could you please let us know this morning the current status of your efforts to receive security clearances from the State Department?

Many thanks,

Jamie

Sent from my iPhone

On Oct 2, 2019, at 3:10 PM, Wright, Andrew M [redacted] wrote:

> Hi Nick: I am available again starting at 5 pm. Does that work?
>
> Best,
> Andy
>
> **From:** Mitchell, Nicolas [redacted]
> **Sent:** Wednesday, October 2, 2019 2:28 PM
> **To:** Wright, Andrew M [redacted]
> **Cc:** Bair, James [redacted]>; Goldman, Daniel [redacted]; Iheanacho, Nancy C. [redacted]; Hartman, Barry M. [redacted]; Kenny, Peter [redacted]; Guido, Ashley M.

[redacted]
Subject: RE: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Andy:

Are you available for another call this afternoon to talk about scheduling? Pick a time and we will make it work.

Thanks,

Nick

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Wright, Andrew M [redacted]
Sent: Wednesday, October 2, 2019 12:30 PM
To: Wright, Andrew M [redacted]
Cc: Bair, James [redacted]; Goldman, Daniel [redacted]; Iheanacho, Nancy C. [redacted] Hartman, Barry M. [redacted]; Mitchell, Nicolas [redacted]; Kenny, Peter [redacted]; Guido, Ashley M. [redacted]
Subject: Re: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Jamie: We are confirmed for 1 pm. Our call-in information:

Ph: 1(800) 270-[redacted]
Code: [redacted]

Many thanks. Talk to you soon.

Best,
Andy

Sent from my iPhone

> On Oct 2, 2019, at 12:14 PM, andrew.wright@[redacted] wrote:
>
> Jamie: Let us check schedules here ASAP. We will get back to you with

confirmation and call-in info. Thank you.

Best,
Andy

Sent from my iPhone

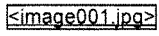
> On Oct 2, 2019, at 12:03 PM, Bair, James [redacted] wrote:
>
> Hi Andy,
>
> Can we plan to speak at 1 today? I'm adding Nick Mitchell from HPSCI and Peter Kenny from COR, who will also be participating. If we could also use your dial-in, that would be appreciated. Just let us know where to call.
>
> Best,
>
> Jamie
>
> James P. Bair
> (202) 225-[redacted]
>
> **From:** Wright, Andrew M [redacted]
> **Sent:** Wednesday, October 2, 2019 10:56 AM
> **To:** Bair, James [redacted]; Goldman, Daniel [redacted]
> **Cc:** Iheanacho, Nancy C. [redacted]; Hartman, Barry M. [redacted]
> **Subject:** FW: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)
>
> James & Daniel,
>
> We have been retained by George P. Kent, Deputy Assistant Secretary of State for the Bureau of European and Eurasian Affairs, in connection with the House impeachment inquiry related to Ukraine. We were retained and are still ascertaining all the relevant facts and details. As such, we would like an opportunity to discuss by phone the notice of deposition and related correspondence. We want to make sure Mr. Kent -- a longtime career foreign service officer -- is able to provide the Committees with relevant information

while adequately protecting his professional obligations and continued public service. What time windows work for a call?

Many thanks.

Best,

Andy Wright



Andrew M. Wright
Partner
K&L Gates LLP
1601 K Street, N.W.
Washington, D.C. 20006
Phone: 202-778-[redacted]
Fax: 202-778-[redacted]
[redacted]
www.klgates.com

Begin forwarded message:

From: "Kent, George P" [redacted]
Date: October 1, 2019 at 9:13:26 PM EDT
To: George [redacted]
Subject: Fwd: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Get Outlook for iOS

From: Goldman, Daniel [redacted]
Sent: Tuesday, October 1, 2019 8:19:41 PM
To: Kent, George P [redacted]
Cc: Carey, Laura [redacted]; Kaguyutan, Janice [redacted]; Bair, James [redacted]; Campbell, Doug [redacted]; Steinbaum,

Jason [redacted];
Rapallo, Dave [redacted];
Grooms, Susanne Sachsman
[redacted]; Bitar,
Maher [redacted];
Bergreen, Timothy
[redacted];
Mitchell, Nicolas
[redacted]

Subject: Re: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Dear Mr. Kent,

I write on behalf of the three House Committees conducting the impeachment inquiry with regard to the Ukraine matter. To date, we have not received a further reply from either you or your personal counsel. We ask that you or your counsel please contact us no later than **noon tomorrow** to discuss arrangements for your deposition and confirm your cooperation with the Committees. The Committees are committed to protecting you, and all witnesses from harassment and intimidation, including from the Department or the Secretary. We look forward to your full compliance, and expect to see you on Monday, October 7 for your deposition.

Regards,

Daniel S. Goldman
Sr. Advisor and Dir. of Investigations (Majority)
House Permanent Select Committee on

Intelligence
HVC-304, The Capitol
W: (202) 225-[redacted]
C: (202) 577-[redacted]

On Sep 27, 2019, at 11:07 PM, Bair, James [redacted] wrote:

> Dear Mr. Kent,
>
> Thank you for your response. Given that the Committees have sent you a notice for a deposition, rather than a transcribed interview, I am removing State's congressional liaison. I have attached a copy of the House Regulations regarding Depositions. Item three of those regulations provides that "[w]itnesses may be accompanied at a deposition by personal, non-governmental counsel to advise them of their rights. Only members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend."
>
> Please have your personal attorney contact us as soon as possible about the deposition and document production. We look forward to your prompt cooperation, and are prepared to finalize all arrangements for your appearance on October 7 at 10 AM with you directly or with your personal attorney.

Best regards,

James Bair

Sr. Counsel for Oversight and Investigations
Committee on Foreign Affairs
U.S. House of Representatives

From: Kent, George P
[redacted]
Sent: Friday, September 27, 2019 8:31 PM
To: Carey, Laura
[redacted];
McNerney, Patricia X
[redacted]
Cc: Kaguyutan, Janice
[redacted];
Bair, James
[redacted];
Campbell, Doug
[redacted];
Steinbaum, Jason
[redacted];
Rapallo, Dave
[redacted];
Grooms, Susanne Sachsman
[redacted];
Bitar, Maher
[redacted];
Goldman, Daniel
[redacted];
Bergreen, Timothy
[redacted]
Subject: Re: Letter from House Chairmen Engel, Schiff and Cummings (to State Dept - George Kent)

Dear Ms. Carey:

I acknowledge receipt, and am

copying State Dept "H" Congressional Liaison Patti McNernery herein. "H" indicates it will manage the formal exchanges with the committees as part of this process.

George Kent
Deputy Assistant Secretary of State for
Eastern Europe and the Caucasus

Get Outlook for iOS

From: Carey, Laura [redacted]
Sent: Friday, September 27, 2019 6:36 PM
To: Kent, George P
Cc: Kaguyutan, Janice; Bair, James; Campbell, Doug; Steinbaum, Jason; Rapallo, Dave; Grooms, Susanne Sachsman; Bitar, Maher; Goldman, Daniel; Bergreen, Timothy
Subject: Letter from House Chairmen Engel, Schiff and Cummings

Dear Mr. Kent,

Please see the attached letter from Chairmen Engel, Schiff and Cummings, which is being transmitted pursuant to the impeachment inquiry being conducted by the House of Representatives. Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

We look forward to your timely response.

Thank you,

Laura Carey

Laura Carey
Senior Professional Staff Member
(majority)
State Department Operations and Oversight
House Committee on Foreign Affairs |
202.225.[redacted]

<CREC-2019-01-25-pt1-PgH1216-2.pdf>

This electronic message contains information from the law firm of K&L Gates LLP. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please contact me at [redacted].

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This electronic message contains information from the law firm of K&L Gates LLP. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is proh bited. If you have received this e-mail in error, please contact me at [redacted].

This electronic message contains information from the law firm of K&L Gates LLP. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please contact me at [redacted].

From: Noble, Daniel
To: lwolosky@[redacted]
Cc: Bitar, Maher; Bair, James; Kenny, Peter; Goldman, Daniel
Subject: Fwd: Email to Hill"s counsel
Date: Wednesday, October 9, 2019 8:36:06 PM
Attachments: House Resolution 6 Sec 103(a).pdf
ATT00001.htm
House Deposition Regulations.pdf
ATT00002.htm
20191009 - Fiona Hill Letter re Deposition Request and Schedule.pdf
ATT00003.htm
Joint Committee Document Request Instructions.pdf
ATT00004.htm

Lee,

As discussed, please find attached a letter requesting Dr. Hill's testimony and documents with instructions.

Best,
Dan

From: Mitchell, Nicolas
To: Li Wai Suen, Rachel; Rubenstein, Laurie; Robbins, Larry
Cc: Goldman, Daniel; Bitar, Maher
Subject: Ambassador Yovanovitch Subpoena - House Impeachment Hearing
Date: Friday, November 15, 2019 7:10:00 AM
Attachments: Yovanovitch Subpoena.pdf
HPSCI Rules of Procedure.pdf
BILLS-116hres660eh.pdf

Counsel:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Ambassador Marie Yovanovitch, to appear at a previously scheduled hearing on **November 15, 2019, at 9:00 a.m., in Longworth House Office Building, Room 1100**:

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives and pursuant to House Resolution 660, and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or State Department, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance.

Attached for your reference are HPSCI's Rules of Procedure and H Res. 660.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From: Noble, Daniel
To: Wainstein, Kenneth L.; Nathanson, Paul J.; Swan, Katherine
Cc: Goldman, Daniel; Bitar, Maher; Kenny, Peter; James Bair [redacted]; Susanne Sachsman Grooms [redacted]; Carey, Laura; Kim, Janet
Subject: Subpoena - House Impeachment Inquiry
Date: Friday, November 15, 2019 2:14:00 PM
Attachments: House Resolution 6 Sec 103(a).pdf
House Deposition Regulations.pdf
HPSCI Rules of Procedure.pdf
20191115 - Subpoena to Holmes.pdf

Mr. Wainstein –

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Mr. David Holmes, to appear at a previously scheduled deposition on **November 15, 2019, at 3:00 p.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the State Department, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On November 12, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to you requesting that Mr. Holmes appear before the Committees for a deposition on November 15. In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance at today's deposition.

Enclosed is a copy of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt.

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From: Donlon, Jessica L. EOP/OMB
To: Kim, Janet
Cc: Boyd, Krista; Jason Yaworske; Duffey, Michael P. EOP/OMB
Subject: RE: Duffey Deposition Request
Date: Monday, October 21, 2019 10:18:51 AM

Hello Janet:

Per the White House Counsel's October 8, 2019 letter, the President has directed that "[c]onsistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, [he] cannot permit his Administration to participate in this partisan inquiry under these circumstances."

Therefore, Mike Duffey will not be participating in Wednesday's deposition.

Sincerely,
Jessica

From: Donlon, Jessica L. EOP/OMB
Sent: Wednesday, October 16, 2019 2:33 PM
To: 'janet.kim@[redacted]
Cc: 'krista.boyd@[redacted]; Yaworske, Jason A. EOP/OMB [redacted]; Duffey, Michael P. EOP/OMB [redacted]
Subject: Duffey Deposition Request

Hello Janet:

This is a confirmation that Mike Duffey received the Committees' request for a deposition for October 23. Per his request, please direct all communications regarding this matter to me.

Thank you,
Jessica

Jessica Donlon
Deputy General Counsel for Oversight
Office of Management and Budget
Jessica.L.Donlon@[redacted]
Desk: (202) 395-[redacted]
Cell: (202) 881-[redacted]

From: Donlon, Jessica L. EOP/OMB
To: Kim, Janet
Cc: Boyd, Krista; Jason Yaworske; Duffey, Michael P. EOP/OMB
Subject: Duffey Deposition Request
Date: Wednesday, October 16, 2019 2:33:29 PM

Hello Janet:

This is a confirmation that Mike Duffey received the Committees' request for a deposition for October 23. Per his request, please direct all communications regarding this matter to me.

Thank you,
Jessica

Jessica Donlon
Deputy General Counsel for Oversight
Office of Management and Budget
Jessica.L.Donlon@[redacted]
Desk: (202) 395-[redacted]
Cell: (202) 881-[redacted]

From: Donlon, Jessica L. EOP/OMB
To: Kim, Janet
Cc: Boyd, Krista; Jason Yaworske; Vought, Russell T. EOP/OMB
Subject: Vought Deposition Request
Date: Wednesday, October 16, 2019 2:35:10 PM

Hello Janet:

This is a confirmation that Acting Director Vought received the Committees' request for a deposition for October 25. Per his request, please direct all communications regarding this matter to me.

Thank you,
Jessica

Jessica Donlon
Deputy General Counsel for Oversight
Office of Management and Budget
Jessica.L.Donlon@[redacted]
Desk: (202) 395-[redacted]
Cell: (202) 881-[redacted]

From: Donlon, Jessica L. EOP/OMB
To: Sandy, Mark S. EOP/OMB; Noble, Daniel
Cc: Carey, Laura; Bair, James; Rapallo, Dave; Grooms, Susanne Sachsman; Boyd, Krista; Kenny, Peter; Mitchell, Nicolas; Goldman, Daniel; Bitar, Maher; Wirkkala, Rheanne; Kim, Janet
Subject: RE: Deposition Request - House Impeachment Inquiry
Date: Thursday, November 7, 2019 6:02:30 PM

Hello Daniel:

In light of the Committee's rules that prohibit agency counsel from being present in a deposition of an executive branch witness and consistent with the November 1, 2019 OLC letter opinion addressing this issue, OMB has directed Mr. Sandy not to appear at tomorrow's deposition.

Thank you,
Jessica

From: Sandy, Mark S. EOP/OMB [redacted]
Sent: Wednesday, November 6, 2019 11:40 AM
To: Noble, Daniel [redacted]
Cc: Carey, Laura [redacted]; Bair, James [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Boyd, Krista [redacted]; Kenny, Peter [redacted]; Mitchell, Nicolas [redacted]; Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Wirkkala, Rheanne [redacted]; Kim, Janet [redacted]; Donlon, Jessica L. EOP/OMB [redacted]
Subject: RE: Deposition Request - House Impeachment Inquiry

Mr. Noble,

I am confirming receipt of your email.

Mark Sandy

From: Noble, Daniel [redacted]
Sent: Tuesday, November 5, 2019 6:40 PM
To: Sandy, Mark S. EOP/OMB [redacted]
Cc: Carey, Laura [redacted]; Bair, James [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Boyd, Krista [redacted]; Kenny, Peter [redacted]; Mitchell, Nicolas [redacted]; Goldman, Daniel [redacted]; Bitar, Maher [redacted]; Wirkkala, Rheanne [redacted]; Kim, Janet [redacted]
Subject: Deposition Request - House Impeachment Inquiry

Mr. Sandy,

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition on **Friday, November 8, at 9:30 a.m.**, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which provide that you may be accompanied at the deposition by personal, non-government counsel.

Committee staff stand ready to discuss arrangements for your deposition on Friday with you or your personal attorney.

Kindly confirm receipt. We look forward to hearing from you.

Sincerely,
Dan

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

From:	Purpura, Michael M. EOP/WHO
To:	Grooms, Susanne Sachsman; Epstein, Daniel Z. EOP/WHO; jeffrey.k.freeland@[redacted]; Bai, Sue J. EOP/WHO
Cc:	Kim, Janet; Kenny, Peter; Boyd, Krista; Goldman, Daniel; Bair, James; Bitar, Maher; Carey, Laura
Subject:	RE: Subpoena
Date:	Friday, October 4, 2019 8:37:40 PM

Susanne:
Confirmed.
Mike

From: Grooms, Susanne Sachsman [redacted]
Sent: Friday, October 4, 2019 6:12 PM
To: Purpura, Michael M. EOP/WHO [redacted]; Epstein, Daniel Z. EOP/WHO [redacted]; Freeland, Jeff K. EOP/WHO [redacted]; Bai, Sue J. EOP/WHO [redacted]
Cc: Kim, Janet [redacted]; Kenny, Peter [redacted]; Boyd, Krista [redacted]; Goldman, Daniel [redacted]; Bair, James [redacted]; Bitar, Maher [redacted]; Carey, Laura [redacted]
Subject: Subpoena

Mike,

Per your July 25,2019 agreement to accept service by email on behalf of Mr. Mulvaney, please find attached a subpoena from the Committee on Oversight and Reform, in consultation with the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence.

Please acknowledge receipt of this email and confirm that you have accepted service.

Thank you,
Susanne

From: McNerney, Patricia X
To: Carey, Laura; Moore, Jessica L; Dorosin, Joshua L; Johnson, Clifton M; Johnson, Karen; Thomas, Kenneth A; Shane, Lynnea L
Cc: Steinbaum, Jason; Campbell, Doug; Bair, James; Ramos, Jacqueline; Grooms, Susanne Sachsman; Kenny, Peter; Gao, Greta; Bitar, Maher; Goldman, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas
Subject: RE: Request for Transcribed Interviews
Date: Friday, September 20, 2019 2:34:12 PM

Hi Laura,

The Department is still reviewing the letter and the related September 9 letter. I can confirm that all of the Department employees identified in the letter are aware of the Committee request and that the Department is currently reviewing the request.

Regards,

Patti

From: Carey, Laura [redacted]
Date: September 19, 2019 at 6:41:23 PM EDT
To: Moore, Jessica L [redacted], McNerney, Patricia X [redacted], Dorosin, Joshua L [redacted], Johnson, Clifton M [redacted], Johnson, Karen [redacted], Thomas, Kenneth A [redacted], Shane, Lynnea L [redacted]
Cc: Steinbaum, Jason [redacted], Campbell, Doug [redacted], Bair, James [redacted], Ramos, Jacqueline [redacted], Grooms, Susanne Sachsman [redacted], Kenny, Peter [redacted], Gao, Greta [redacted], Bitar, Maher [redacted], Goldman, Daniel [redacted], Wirkkala, Rheanne [redacted], Mitchell, Nicolas [redacted]
Subject: RE: Request for Transcribed Interviews

Hello State colleagues,

Re-raising this, given that tomorrow is the deadline for the State Department to provide dates on which each of the Department employees named in Monday's letter from Chairmen Engel, Schiff, and Cummings will be made available for transcribed interviews. Can the Department

confirm that these four individuals have already been made aware of the letter requesting their presence before the Committees? We hope that the Department will not delay or otherwise interfere with their ability to provide information to Congress regarding the matters under investigation (per Sec. 713 of the Consolidated Appropriations Act of 2019) and we look forward to your response.

Thank you,

Laura et al

From: Bair, James
Sent: Friday, September 13, 2019 4:22 PM
To: Moore, Jessica L [redacted]; McNerney, Patricia X [redacted]; Dorosin, Joshua L [redacted]; JohnsonK3@[redacted]; 'Clifton M Johnson' [redacted]; thomasKA@[redacted]
Cc: Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Gao, Greta [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Wirkkala, Rheanne [redacted]; Mitchell, Nicolas [redacted]; Carey, Laura [redacted]; Ramos, Jacqueline [redacted]
Subject: Request for Transcribed Interviews

Dear State colleagues,

Please see attached a request from Chairmen Engel, Schiff, and Cummings for transcribed interviews of four Department employees. The Committees request that you provide, no later than September 20, the dates on which each of these individuals will be made available.

Best regards,

Jamie

James P. Bair

Sr. Counsel for Oversight and Investigations

Committee on Foreign Affairs

U.S. House of Representatives

(202) 225-[redacted]

From: Bitar, Maher
To: CKUPPERMAN@[redacted]; CHARLIEKUPPERMAN@[redacted]
Cc: Goldman, Daniel; Noble, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kim, Janet; Kenny, Peter; Bair, James; Carey, Laura
Subject: Deposition Request - House Impeachment Inquiry
Date: Wednesday, October 16, 2019 9:00:01 PM
Attachments: House Deposition Regulations.pdf
20191016 - HPSCI COR HFAC Letter to Kupperman re Depo Request.pdf

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Dear Mr. Kupperman,

Please find the attached a letter from Chairmen Schiff, Engel, and Cummings requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

We look forward to your timely response.

Thank you,

Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From: Bitar, Maher
To: Alexander.S.Vindman@[redacted]
Cc: Goldman, Daniel; Noble, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kim, Janet; Kenny, Peter; Bair, James; Carey, Laura
Subject: Deposition Request - House Impeachment Inquiry
Date: Wednesday, October 16, 2019 8:58:41 PM
Attachments: House Deposition Regulations.pdf
20191016 - HPSCI COR HFAC Letter to Vindman re Depo Request.pdf

Dear Lt. Col. Vindman,

Please find the attached a letter from Chairmen Schiff, Engel, and Cummings requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

We look forward to your timely response.

Thank you,

Maher

--
Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From:	Bitar, Maher
To:	ReekerPT@[redacted]
Cc:	Goldman, Daniel; Noble, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kim, Janet; Kenny, Peter; Bair, James; Carey, Laura
Subject:	Deposition Request - House Impeachment Inquiry
Date:	Wednesday, October 16, 2019 9:00:12 PM
Attachments:	House Deposition Regulations.pdf 20191016 - HPSCI COR HFAC Letter to Reeker-State re Depo Request.pdf

Dear Ambassador Reeker,

Please find the attached a letter from Chairmen Schiff, Engel, and Cummings requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

We look forward to your timely response.

Thank you,

Maher

--

Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

From:	Bitar, Maher
To:	Timothy.A.Morrison@[redacted]
Cc:	Goldman, Daniel; Noble, Daniel; Wirkkala, Rheanne; Mitchell, Nicolas; Grooms, Susanne Sachsman; Kim, Janet; Kenny, Peter; Bair, James; Carey, Laura
Subject:	Deposition Request - House Impeachment Inquiry
Date:	Wednesday, October 16, 2019 8:59:49 PM
Attachments:	20191016 - HPSCI COR HFAC Letter to Morrison re Depo Request.pdf House Deposition Regulations.pdf

Dear Mr. Morrison,

Please find the attached a letter from Chairmen Schiff, Engel, and Cummings requesting your appearance at a deposition, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached is a copy of the House Deposition Regulations, which clarify that you may be accompanied at the deposition by personal, non-government counsel.

Please note that failure to comply shall constitute evidence of obstruction of the House's impeachment inquiry.

Committee staff stand ready to discuss arrangements for your appearance with you or your personal attorney.

We look forward to your timely response.

Thank you,

Maher

--

Maher Bitar
General Counsel (Majority)
House Permanent Select Committee on Intelligence (HPSCI)
HVC-304 - The Capitol
202-225-[redacted]

United States Department of State

19 286

Washington, D.C. 20520

SEP 1 1 2019

SEP 1 1 2019

CONGRESSIONAL NOTIFICATION TRANSMITTAL SHEET

The Department of State is informing you of its intent to obligate FY 2018 Foreign Military Financing-Overseas Contingency Operations (FMF-OCO) funds and FY 2019 FMF funds. This notification is being submitted on behalf of the Bureau of Political-Military Affairs.

- Department of State – $141,500,000

These funds will support the Countering Russian Influence Fund, Europe and Eurasia Regional, and Ukraine.

Obligations may be incurred in fifteen calendar days froom the above date of notification.

Sincerely,

Mary Elizabeth Taylor
Assistant Secretary
Bureau of Legislative Affairs

Enclosure:
As stated.

UNITED STATES DEPARTMENT OF STATE
CONGRESSIONAL NOTIFICATION

PROGRAMS:	Countering Russian Influence Fund (CRIF), Europe and Eurasia Regional, and Ukraine
APPROPRIATION CATEGORIES:	FY 2018 Foreign Military Financing Overseas Contingency Operations (FMF-OCO) ($26,500,000); FY 2019 FMF ($115,000,000)
INTENDED FY 2019 OBLIGATION:	$141,500,000

In accordance with section 634A of the Foreign Assistance Act (FAA) of 1961, as amended, and sections 7015(c) and 7015(d) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2019 (Div. F, P.L. 116-6), and section 7015(c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2018 (Div. K, P.L. 115-141), this notification is to advise of our intent to obligate up to $115,000,000 in FY 2019 FMF funding for Ukraine; and up to $26,500,000 in FY 2018 FMF-OCO for the CRIF and Europe and Eurasia Regional.

Countering Russian Influence Fund **$10,000,000 (FY 2018 FMF-OCO)**

Regional European FMF funds, through the CRIF, will build the capacities of European allies and partners to deter and defend against emergent threats to territorial sovereignty; increase professionalization and modernization of security forces; enhance partner military integration with NATO; and strengthen defensive cyber capabilities to counter Russian influence and aggression. FMF may provide advisors, equipment, spare parts, and training to build maritime domain awareness, secure communications, command and control, marksmanship, night vision, disaster preparedness, and special operations and territorial defense unit capabilities. Funds may also provide advisors, equipment, spare parts, and training to build cyber and computer network defensive capabilities, including cyber detection, defense, and operations hardware, software, and training. Advisors may assist in developing and reforming information and cyber security doctrine and training. FMF will support building Ukraine's long-term capacity to provide for its own defense by supporting naval and maritime capabilities through the transfer, refurbishment, and upgrade of equipment provided through the Excess Defense Articles (EDA) program. FMF may support the transfer, refurbishment, and upgrade of Island-class Patrol Boats that will build Ukrainian capabilities to patrol in the Black Sea. Funds may also support related training and maritime advisors.

Up to $10,000,000 in FY 2018 FMF-OCO funding will support Ukraine.

Europe and Eurasia Regional **$16,500,000 (FY 2018 FMF-OCO)**

FMF will enhance the capabilities of Ukraine to provide Black Sea maritime security by providing equipment and training to respond to waterborne threats, maintain territorial sovereignty, and share maritime information to enable coalition operations, specifically focused on detecting, identifying, and tracking Russian surface, subsurface, and long-range aircraft combatants. FMF may provide advisors, equipment, spare parts, and training to build electronic signals intelligence, secure networking and communications, sensors, Navy special warfare capabilities, including small arms and maritime boarding training, anti-submarine warfare capabilities, including active towed array sonars, lightweight torpedoes, and sonobuoys, command and control, over-the-horizon radar improvements, and maritime operations center upgrades, including intelligence fusion software, servers, and workstations. Funds may also support Ukraine State Border Guard Service maritime rapid response units through the provision of small boats, communication and safety equipment, training simulators, spare parts, trainers, and sustainment. FMF may also support project coordinators to implement these activities. FMF may support up to $5 million in previously provided Department of Defense (DoD)-funded maritime security assistance.

Up to $16,500,000 in FY 2018 FMF-OCO funding will support Ukraine.

Ukraine **$115,000,000 (FY 2019 FMF)**

FMF will enhance the Ukrainian Armed Forces' capabilities to defend against further aggressive Russian actions, assist in developing combat capabilities to defend its sovereignty and territorial integrity, and defend against threats from Russia and Russian-led separatists. FMF funds will enhance Ukraine's ability to resist further Russian aggression by providing advisors, training, and equipment to support NATO interoperability, defense modernization, and military professionalization. Funds will support building Ukraine's long-term capacity to provide for its own defense by building an institutional training capability, combat training center, and credible defensive capability. FMF-funded training center support will enable Ukraine to field and sustain its forces by providing equipment, such as English language labs, medical equipment, the multiple integrated laser engagement system (MILES), an instrumentation system, an improvised explosive device simulator, virtual target training systems, and urban operations simulation equipment and sustainment. FMF funds may also fund small-scale construction related to training center development. Funds may also support equipment and training, including ammunition and weapons of a lethal defensive nature, to build special operations and conventional forces capabilities. Funding seeks to improve anti-armor, anti-personnel, and counter-sniper capabilities against Russian-led separatists by modernizing Ukraine's small arms weapons inventory with more precise and capable weapons, including sniper rifles and rocket-propelled grenade launchers. FMF funds may support combat casualty care training for recipients of lethal assistance. Funds may also support institutional and defense reform advisors and mobile training teams to enhance military professionalization, build cyber and information technology capabilities, and continue necessary defense reforms. FMF funding may support command and control equipment, sensors, communication equipment, electronic warfare, and related equipment to increase situational awareness. Funds may support the procurement, upgrade, and sustainment of counter-fire radars, as well as spare parts and training aids that will

enable Ukraine to identify and respond to artillery and mortar threats and protect its forward-deployed forces. FMF funds may support naval and maritime capabilities in support of the Ukrainian Navy's Strategy by providing maritime domain awareness, secure communications, and associated spare parts and training. Funds may also support the transfer and refurbishment of equipment through the EDA program. FMF funds may support the development of Ukrainian airfields to support territorial defense and training exercises by providing airfield equipment, including communication, weather, and physical security upgrades. FMF funds may sustain previously provided equipment such as training aides, night vision devises, radars, vehicles, and tactical communications. FMF funds will also support the sustainment of equipment previously provided to Ukraine under the DoD Ukraine Security Assistance Initiative. Equipment provided by DoD programs that may be sustained by FMF funding may total approximately $5,000,000.

RON JOHNSON
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HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

United States Senate

WASHINGTON, DC 20510

November 18, 2019

The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence

Dear Congressman Jordan and Congressman Nunes:

I write in response to your letter dated Nov. 16, 2019. You requested "any firsthand information … about President Trump's actions toward Ukraine between April and September 2019." Attached, please find an accurate accounting of the information that I believe is relevant to your request.

I hope you find this helpful.

Sincerely,

Ron Johnson
United States Senator

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November 18, 2019

The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence

Dear Congressman Jordan and Congressman Nunes:

I am writing in response to the request of Ranking Members Nunes and Jordan to provide my first-hand information and resulting perspective on events relevant to the House impeachment inquiry of President Trump. It is being written in the middle of that inquiry — after most of the depositions have been given behind closed doors, but before all the public hearings have been held.

I view this impeachment inquiry as a continuation of a concerted, and possibly coordinated, effort to sabotage the Trump administration that probably began in earnest the day after the 2016 presidential election. The latest evidence of this comes with the reporting of a Jan. 30, 2017 tweet (10 days after Trump's inauguration) by one of the whistleblower's attorneys, Mark Zaid: "#coup has started. First of many steps. #rebellion. #impeachment will follow ultimately."

But even prior to the 2016 election, the FBI's investigation and exoneration of former Secretary of State Hillary Clinton, combined with Fusion GPS' solicitation and dissemination of the Steele dossier — and the FBI's counterintelligence investigation based on that dossier — laid the groundwork for future sabotage. As a result, my first-hand knowledge and involvement in this saga began with the revelation that former Secretary of State Hillary Clinton kept a private e-mail server.

I have been chairman of the Senate Committee on Homeland Security and Governmental Affairs (HSGAC) since January 2015. In addition to its homeland security portfolio, the committee also is charged with general oversight of the federal government. Its legislative jurisdiction includes federal records. So when the full extent of Clinton's use of a private server became apparent in March 2015, HSGAC initiated an oversight investigation.

Although many questions remain unanswered from that scandal, investigations resulting from it by a number of committees, reporters and agencies have revealed multiple facts and episodes that are similar to aspects of the latest effort to find grounds for impeachment. In particular, the political bias revealed in the Strzok/Page texts, use of the discredited Steele dossier to initiate and sustain the FBI's counterintelligence investigation and FISA warrants, and leaks to the

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media that created the false narrative of Trump campaign collusion with Russia all fit a pattern and indicate a game plan that I suspect has been implemented once again.
It is from this viewpoint that I report my specific involvement in the events related to Ukraine and the impeachment inquiry.

I also am chairman of the Subcommittee on Europe and Regional Security Cooperation of the Senate Foreign Relations Committee. I have made six separate trips to Ukraine starting in April 2011. Most recently, I led two separate Senate resolutions calling for a strong U.S. and NATO response to Russian military action against Ukraine's navy in the Kerch Strait. I traveled to Ukraine to attend president-elect Volodymyr Zelensky's inauguration held on May 20, and again on Sept. 5 with U.S. Sen. Chris Murphy to meet with Zelensky and other Ukrainian leaders.

Following the Orange Revolution, and even more so after the Maidan protests, the Revolution of Dignity, and Russia's illegal annexation of Crimea and invasion of eastern Ukraine, support for the people of Ukraine has been strong within Congress and in both the Obama and Trump administrations. There was also universal recognition and concern regarding the level of corruption that was endemic throughout Ukraine. In 2015, Congress overwhelmingly authorized $300 million of security assistance to Ukraine, of which $50 million was to be available only for lethal defensive weaponry. The Obama administration never supplied the authorized lethal defensive weaponry, but President Trump did.

Zelensky won a strong mandate — 73% — from the Ukrainian public to fight corruption. His inauguration date was set on very short notice, which made attending it a scheduling challenge for members of Congress who wanted to go to show support. As a result, I was the only member of Congress joining the executive branch's inaugural delegation led by Energy Secretary Rick Perry, Special Envoy Kurt Volker, U.S. Ambassador to the European Union Gordon Sondland, and Lt. Col. Alexander Vindman, representing the National Security Council. I arrived the evening before the inauguration and, after attending a country briefing provided by U.S. embassy staff the next morning, May 20, went to the inauguration, a luncheon following the inauguration, and a delegation meeting with Zelensky and his advisers.

The main purpose of my attendance was to demonstrate and express my support and that of the U.S. Congress for Zelensky and the people of Ukraine. In addition, the delegation repeatedly stressed the importance of fulfilling the election mandate to fight corruption, and also discussed the priority of Ukraine obtaining sufficient inventories of gas prior to winter.

Two specific points made during the meetings stand out in my memory as being relevant.

The first occurred during the country briefing. I had just finished making the point that supporting Ukraine was essential because it was ground zero in our geopolitical competition with Russia. I was surprised when Vindman responded to my point. He stated that it was the position of the NSC that our relationship with Ukraine should be kept separate from our geopolitical competition with Russia. My blunt response was, "How in the world is that even possible?"

I do not know if Vindman accurately stated the NSC's position, whether President Trump shared that viewpoint, or whether Vindman was really just expressing his own view. I raise this point because I believe that a significant number of bureaucrats and staff members within the executive branch have never accepted President Trump as legitimate and resent his unorthodox style and his intrusion onto their "turf." They react by leaking to the press and participating in the ongoing effort to sabotage his policies and, if possible, remove him from office. It is entirely possible that Vindman fits this profile.

Quotes from the transcript of Vindman's opening remarks and his deposition reinforce this point and deserve to be highlighted. Vindman testified that an "alternative narrative" pushed by the president's personal attorney, Rudy Giuliani, was "inconsistent with the consensus views of the" relevant federal agencies and was "undermining the consensus policy."

Vindman's testimony, together with other witnesses' use of similar terms such as "our policy," "stated policy," and "long-standing policy" lend further credence to the point I'm making. Whether you agree with President Trump or not, it should be acknowledged that the Constitution vests the power of conducting foreign policy with the duly elected president. American foreign policy is what the president determines it to be, not what the "consensus" of unelected foreign policy bureaucrats wants it to be. If any bureaucrats disagree with the president, they should use their powers of persuasion within their legal chain of command to get the president to agree with their viewpoint. In the end, if they are unable to carry out the policy of the president, they should resign. They should not seek to undermine the policy by leaking to people outside their chain of command.

The other noteworthy recollection involves how Perry conveyed the delegation concern over rumors that Zelensky was going to appoint Andriy Bohdan, the lawyer for oligarch Igor Kolomoisky, as his chief of staff. The delegation viewed Bohdan's rumored appointment to be contrary to the goal of fighting corruption and maintaining U.S. support. Without naming Bohdan, Secretary Perry made U.S. concerns very clear in his remarks to Zelensky.

Shortly thereafter, ignoring U.S. advice, Zelensky did appoint Bohdan as his chief of staff. This was not viewed as good news, but I gave my advice on how to publicly react in a text to Sondland on May 22: *"Best case scenario on COS: Right now Zelensky needs someone he can trust. I'm not a fan of lawyers, but they do represent all kinds of people. Maybe this guy is a patriot. He certainly understands the corruption of the oligarchs. Could be the perfect guy to advise Zelensky on how to deal with them. Zelensky knows why he got elected. For now, I think we express our concerns, but give Zelensky the benefit of the doubt. Also let him know everyone in the U.S. will be watching VERY closely."*

At the suggestion of Sondland, the delegation (Perry, Volker, Sondland and me) proposed a meeting with President Trump in the Oval Office. The purpose of the meeting was to brief the president on what we learned at the inauguration, and convey our impressions of Zelensky and the current political climate in Ukraine. The delegation uniformly was impressed with Zelensky, understood the difficult challenges he faced, and went into the meeting hoping to obtain President Trump's strong support for Zelensky and the people of Ukraine. Our specific

goals were to obtain a commitment from President Trump to invite Zelensky to meet in the Oval Office, to appoint a U.S. ambassador to Ukraine who would have strong bipartisan support, and to have President Trump publicly voice his support.

Our Oval Office meeting took place on May 23. The four members of the delegation sat lined up in front of President Trump's desk. Because we were all directly facing the president, I do not know who else was in attendance sitting or standing behind us. I can't speak for the others, but I was very surprised by President Trump's reaction to our report and requests.

He expressed strong reservations about supporting Ukraine. He made it crystal clear that he viewed Ukraine as a thoroughly corrupt country both generally and, specifically, regarding rumored meddling in the 2016 election. Volker summed up this attitude in his testimony by quoting the president as saying, "They are all corrupt. They are all terrible people. ... I don't want to spend any time with that." I do not recall President Trump ever explicitly mentioning the names Burisma or Biden, but it was obvious he was aware of rumors that corrupt actors in Ukraine might have played a part in helping create the false Russia collusion narrative.

Of the four-person delegation, I was the only one who did not work for the president. As a result, I was in a better position to push back on the president's viewpoint and attempt to persuade him to change it. I acknowledged that he was correct regarding endemic corruption. I said that we weren't asking him to support corrupt oligarchs and politicians but to support the Ukrainian people who had given Zelensky a strong mandate to fight corruption. I also made the point that he and Zelensky had much in common. Both were complete outsiders who face strong resistance from entrenched interests both within and outside government. Zelensky would need much help in fulfilling his mandate, and America's support was crucial.

It was obvious that his viewpoint and reservations were strongly held, and that we would have a significant sales job ahead of us getting him to change his mind. I specifically asked him to keep his viewpoint and reservations private and not to express them publicly until he had a chance to meet Zelensky. He agreed to do so, but he also added that he wanted Zelensky to know exactly how he felt about the corruption in Ukraine prior to any future meeting. I used that directive in my Sept. 5 meeting with Zelensky in Ukraine.

One final point regarding the May 23 meeting: I am aware that Sondland has testified that President Trump also directed the delegation to work with Rudy Giuliani. I have no recollection of the president saying that during the meeting. It is entirely possible he did, but because I do not work for the president, if made, that comment simply did not register with me. I also remember Sondland staying behind to talk to the president as the rest of the delegation left the Oval Office.

I continued to meet in my Senate office with representatives from Ukraine: on June 13 with members of the Ukrainian Parliament's Foreign Affairs Committee; on July 11 with Ukraine's ambassador to the U.S. and secretary of Ukraine's National Security and Defense Council, Oleksandr Danyliuk; and again on July 31 with Ukraine's ambassador to the U.S., Valeriy Chaly. At no time during those meetings did anyone from Ukraine raise the issue of the withholding of

military aid or express concerns regarding pressure being applied by the president or his administration.

During Congress' August recess, my staff worked with the State Department and others in the administration to plan a trip to Europe during the week of Sept. 2 with Senator Murphy to include Russia, Serbia, Kosovo and Ukraine. On or around Aug. 26, we were informed that our requests for visas into Russia were denied. On either Aug. 28 or 29, I became aware of the fact that $250 million of military aid was being withheld. This news would obviously impact my trip and discussions with Zelensky.

Sondland had texted me on Aug. 26 remarking on the Russian visa denial. I replied on Aug. 30, apologizing for my tardy response and requesting a call to discuss Ukraine. We scheduled a call for sometime between 12:30 p.m. and 1:30 p.m. that same day. I called Sondland and asked what he knew about the hold on military support. I did not memorialize the conversation in any way, and my memory of exactly what Sondland told me is far from perfect. I was hoping that his testimony before the House would help jog my memory, but he seems to have an even fuzzier recollection of that call than I do.

The most salient point of the call involved Sondland describing an arrangement where, if Ukraine did something to demonstrate its serious intention to fight corruption and possibly help determine what involvement operatives in Ukraine might have had during the 2016 U.S. presidential campaign, then Trump would release the hold on military support.

I have stated that I winced when that arrangement was described to me. I felt U.S. support for Ukraine was essential, particularly with Zelensky's new and inexperienced administration facing an aggressive Vladimir Putin. I feared any sign of reduced U.S. support could prompt Putin to demonstrate even more aggression, and because I was convinced Zelensky was sincere in his desire to fight corruption, this was no time to be withholding aid for any reason. It was the time to show maximum strength and resolve.

I next put in a call request for National Security Adviser John Bolton, and spoke with him on Aug. 31. I believe he agreed with my position on providing military assistance, and he suggested I speak with both the vice president and president. I requested calls with both, but was not able to schedule a call with Vice President Pence. President Trump called me that same day.

The purpose of the call was to inform President Trump of my upcoming trip to Ukraine and to try to persuade him to authorize me to tell Zelensky that the hold would be lifted on military aid. The president was not prepared to lift the hold, and he was consistent in the reasons he cited. He reminded me how thoroughly corrupt Ukraine was and again conveyed his frustration that Europe doesn't do its fair share of providing military aid. He specifically cited the sort of conversation he would have with Angela Merkel, chancellor of Germany. To paraphrase President Trump: "Ron, I talk to Angela and ask her, 'Why don't you fund these things,' and she tells me, 'Because we know you will.' We're schmucks. Ron. We're schmucks."

I acknowledged the corruption in Ukraine, and I did not dispute the fact that Europe could and should provide more military support. But I pointed out that Germany was opposed to providing Ukraine lethal defensive weaponry and simply would not do so. As a result, if we wanted to deter Russia from further aggression, it was up to the U.S. to provide it.

I had two additional counterarguments. First, I wasn't suggesting we support the oligarchs and other corrupt Ukrainians. Our support would be for the courageous Ukrainians who had overthrown Putin's puppet, Viktor Yanukovich, and delivered a remarkable 73% mandate in electing Zelensky to fight corruption. Second, I argued that withholding the support looked horrible politically in that it could be used to bolster the "Trump is soft on Russia" mantra.

It was only after he reiterated his reasons for not giving me the authority to tell Zelensky the support would be released that I asked him about whether there was some kind of arrangement where Ukraine would take some action and the hold would be lifted. Without hesitation, President Trump immediately denied such an arrangement existed. As reported in the Wall Street Journal, I quoted the president as saying, "(Expletive deleted) — No way. I would never do that. Who told you that?" I have accurately characterized his reaction as adamant, vehement and angry — there was more than one expletive that I have deleted.

Based on his reaction, I felt more than a little guilty even asking him the question, much less telling him I heard it from Sondland. He seemed even more annoyed by that, and asked me, "Who is that guy"? I interpreted that not as a literal question — the president did know whom Sondland was — but rather as a sign that the president did not know him well. I replied by saying, "I thought he was your buddy from the real estate business." The president replied by saying he barely knew him.

After discussing Ukraine, we talked about other unrelated matters. Finally, the president said he had to go because he had a hurricane to deal with. He wrapped up the conversation referring back to my request to release the hold on military support for Ukraine by saying something like, "Ron, I understand your position. We're reviewing it now, and you'll probably like my final decision."

On Tuesday, Sept. 3, I had a short follow up call with Bolton to discuss my upcoming trip to Ukraine, Serbia and Kosovo. I do not recall discussing anything in particular that relates to the current impeachment inquiry on that call.

We arrived in Kyiv on Sept. 4, joining Taylor and Murphy for a full day of meetings on Sept. 5 with embassy staff, members of the new Ukrainian administration, and Zelensky, who was accompanied by some of his top advisers. We also attended the opening proceedings of the Ukrainian High Anti-Corruption Court. The meetings reinforced our belief that Zelensky and his team were serious about fulfilling his mandate — to paraphrase the way he described it in his speech at the High Anti-Corruption Court — to not only fight corruption but to defeat it.

The meeting with Zelensky started with him requesting we dispense with the usual diplomatic opening and get right to the issue on everyone's mind, the hold being placed on military support.

He asked if any of us knew the current status. Because I had just spoken to President Trump, I fielded his question and conveyed the two reasons the president told me for his hold. I explained that I had tried to persuade the president to authorize me to announce the hold was released but that I was unsuccessful.

As much as Zelensky was concerned about losing the military aid, he was even more concerned about the signal that would send. I shared his concern. I suggested that in our public statements we first emphasize the universal support that the U.S. Congress has shown — and will continue to show — for the Ukrainian people. Second, we should minimize the significance of the hold on military aid as simply a timing issue coming a few weeks before the end of our federal fiscal year. Even if President Trump and the deficit hawks within his administration decided not to obligate funding for the current fiscal year, Congress would make sure he had no option in the next fiscal year — which then was only a few weeks away. I also made the point that Murphy was on the Appropriations Committee and could lead the charge on funding.

Murphy made the additional point that one of the most valuable assets Ukraine possesses is bipartisan congressional support. He warned Zelensky not to respond to requests from American political actors or he would risk losing Ukraine's bipartisan support. I did not comment on this issue that Murphy raised.

Instead, I began discussing a possible meeting with President Trump. I viewed a meeting between the two presidents as crucial for overcoming President Trump's reservations and securing full U.S. support. It was at this point that President Trump's May 23 directive came into play.

I prefaced my comment to Zelensky by saying, "Let me go out on a limb here. Are you or any of your advisers aware of the inaugural delegation's May 23 meeting in the Oval Office following your inauguration?" No one admitted they were, so I pressed on. "The reason I bring up that meeting is that I don't want you caught off-guard if President Trump reacts to you the same way he reacted to the delegation's request for support for Ukraine."

I told the group that President Trump explicitly told the delegation that he wanted to make sure Zelensky knew exactly how he felt about Ukraine before any meeting took place. To repeat Volker's quote of President Trump: "They are all corrupt. They are all terrible people. ... I don't want to spend any time with that." That was the general attitude toward Ukraine that I felt President Trump directed us to convey. Since I did not have Volker's quote to use at the time, I tried to portray that strongly held attitude and reiterated the reasons President Trump consistently gave me for his reservations regarding Ukraine: endemic corruption and inadequate European support.

I also conveyed the counterarguments I used (unsuccessfully) to persuade the president to lift his hold: 1) We would be supporting the people of Ukraine, not corrupt oligarchs, and 2) withholding military support was not politically smart. Although I recognized how this next point would be problematic, I also suggested any public statement Zelensky could make asking for greater support from Europe would probably be viewed favorably by President Trump.

Finally, I commented on how excellent Zelensky's English was and encouraged him to use English as much as possible in a future meeting with President Trump. With a smile on his face, he replied, "But Senator Johnson, you don't realize how beautiful my Ukrainian is." I jokingly conceded the point by saying I was not able to distinguish his Ukrainian from his Russian.

This was a very open, frank, and supportive discussion. There was no reason for anyone on either side not to be completely honest or to withhold any concerns. At no time during this meeting — or any other meeting on this trip — was there any mention by Zelensky or any Ukrainian that they were feeling pressure to do anything in return for the military aid, not even after Murphy warned them about getting involved in the 2020 election — which would have been the perfect time to discuss any pressure.

Following the meeting with Zelensky and his advisers, Murphy and I met with the Ukrainian press outside the presidential office building. Our primary message was that we were in Kyiv to demonstrate our strong bipartisan support for the people of Ukraine. We were very encouraged by our meetings with Zelensky and other members of his new government in their commitment to fulfill their electoral mandate to fight and defeat corruption. When the issue of military support was raised, I provided the response I suggested above: I described it as a timing issue at the end of a fiscal year and said that, regardless of what decision President Trump made on the fiscal year 2019 funding, I was confident Congress would restore the funding in fiscal year 2020. In other words: Don't mistake a budget issue for a change in America's strong support for the people of Ukraine.

Congress came back into session on Sept. 9. During a vote early in the week, I approached one of the co-chairs of the Senate Ukraine Caucus, U.S. Sen. Richard Durbin. I briefly described our trip to Ukraine and the concerns Zelensky and his advisers had over the hold on military support. According to press reports, Senator Durbin stated that was the first time he was made aware of the hold. I went on to describe how I tried to minimize the impact of that hold by assuring Ukrainians that Congress could restore the funding in fiscal year 2020. I encouraged Durbin, as I had encouraged Murphy, to use his membership on the Senate Appropriations Committee to restore the funding.

Also according to a press report, leading up to a Sept. 12 defense appropriation committee markup, Durbin offered an amendment to restore funding. On Sept. 11, the administration announced that the hold had been lifted. I think it is important to note the hold was lifted only 14 days after its existence became publicly known, and 55 days after the hold apparently had been placed.

On Friday, Oct. 4, I saw news reports of text messages that Volker had supplied the House of Representatives as part of his testimony. The texts discussed a possible press release that Zelensky might issue to help persuade President Trump to offer an Oval Office meeting. Up to that point, I had publicly disclosed only the first part of my Aug. 31 phone call with President Trump, where I lobbied him to release the military aid and he provided his consistent reasons for not doing so: corruption and inadequate European support.

Earlier in the week, I had given a phone interview with Siobhan Hughes of the Wall Street Journal regarding my involvement with Ukraine. With the disclosure of the Volker texts, I felt it was important to go on the record with the next part of my Aug. 31 call with President Trump: his denial. I had not previously disclosed this because I could not precisely recall what Sondland had told me on Aug. 30, and what I had conveyed to President Trump, regarding action Ukraine would take before military aid would be released. To the best of my recollection, the action described by Sondland on Aug. 30 involved a demonstration that the new Ukrainian government was serious about fighting corruption — something like the appointment of a prosecutor general with high integrity.

I called Hughes Friday morning, Oct. 4, to update my interview. It was a relatively lengthy interview, almost 30 minutes, as I attempted to put a rather complex set of events into context. Toward the tail end of that interview, Hughes said, "It almost sounds like, the way you see it, Gordon was kind of freelancing and he took it upon himself to do something that the president hadn't exactly blessed, as you see it." I replied, "That's a possibility, but I don't know that. Let's face it: The president can't have his fingers in everything. He can't be stage-managing everything, so you have members of his administration trying to create good policy."

To my knowledge, most members of the administration and Congress dealing with the issues involving Ukraine disagreed with President Trump's attitude and approach toward Ukraine. Many who had the opportunity and ability to influence the president attempted to change his mind. I see nothing wrong with U.S. officials working with Ukrainian officials to demonstrate Ukraine's commitment to reform in order to change President Trump's attitude and gain his support.

Nor is it wrong for administration staff to use their powers of persuasion within their chain of command to influence policy. What is wrong is for people who work for, and at the pleasure of, the president to believe they set U.S. foreign policy instead of the duly elected president doing so. It also would be wrong for those individuals to step outside their chain of command — or established whistleblower procedures — to undermine the president's policy. If those working for the president don't feel they can implement the president's policies in good conscience, they should follow Gen. James Mattis' example and resign. If they choose to do so, they can then take their disagreements to the public. That would be the proper and high-integrity course of action.

This impeachment effort has done a great deal of damage to our democracy. The release of transcripts of discussions between the president of the United States and another world leader sets a terrible precedent that will deter and limit candid conversations between the president and world leaders from now on. The weakening of executive privilege will also limit the extent to which presidential advisers will feel comfortable providing "out of the box" and other frank counsel in the future.

In my role as chairman of the Senate's primary oversight committee, I strongly believe in and support whistleblower protections. But in that role, I am also aware that not all whistleblowers

are created equal. Not every whistleblower has purely altruistic motives. Some have personal axes to grind against a superior or co-workers. Others might have a political ax to grind.

The Intelligence Community Inspector General acknowledges the whistleblower in this instance exhibits some measure of "an arguable political bias." The whistleblower's selection of attorney Mark Zaid lends credence to the ICIG's assessment, given Zaid's tweet that mentions coup, rebellion and impeachment only 10 days after Trump's inauguration.

If the whistleblower's intention was to improve and solidify the relationship between the U.S. and Ukraine, he or she failed miserably. Instead, the result has been to publicize and highlight the president's deeply held reservations toward Ukraine that the whistleblower felt were so damaging to our relationship with Ukraine and to U.S. national security. The dispute over policy was being resolved between the two branches of government before the whistleblower complaint was made public. All the complaint has accomplished is to fuel the House's impeachment desire (which I believe was the real motivation), and damage our democracy as described above.

America faces enormous challenges at home and abroad. My oversight efforts have persuaded me there has been a concerted effort, probably beginning the day after the November 2016 election, to sabotage and undermine President Trump and his administration. President Trump, his supporters, and the American public have a legitimate and understandable desire to know if wrongdoing occurred directed toward influencing the 2016 election or sabotaging Trump's administration. The American public also has a right to know if no wrongdoing occurred. The sooner we get answers to the many unanswered questions, the sooner we can attempt to heal our severely divided nation and turn our attention to the many daunting challenges America faces.

Sincerely,

Ron Johnson
United States Senator

cc: The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence

United States Department of State

Washington, D.C. 20520

October 7, 2019

Mr. Robert Luskin
Paul Hastings LLP
875 15th Street NW
Washington DC 20005

Dear Mr. Luskin:

Based on consultations with the White House, the State Department hereby instructs your client, Ambassador Gordon Sondland, not to appear tomorrow for his voluntary deposition based on the Executive Branch confidentiality interests remaining to be addressed, including, in particular, the Committee's refusal to permit agency counsel to appear.

On October 1, the Secretary of State transmitted a letter to the Committees communicating a number of significant legal and procedural concerns with their requests for voluntary depositions. This afternoon, Department representatives engaged in discussions with the Committees in an attempt to achieve an agreement that would reasonably accommodate legitimate and long-standing Executive Branch interests in the context of the Ambassador's testimony, in particular the need for agency counsel to be present. Unfortunately, the Committees declined to agree to the Department's proposals.

As Secretary Pompeo has repeatedly stated, the Department is committed to compliance with the law and the U.S. Constitution in order to ensure that the Executive Branch's legitimate interests are also protected.

Sincerely yours,

Brian Bulatao

Brian Bulatao
Undersecretary of State

United States Department of State

Washington, D.C. 20520

October 10, 2019

Lawrence S. Robbins
Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP
2000 K Street NW
4th Floor
Washington, DC 20006

Dear Mr. Robbins:

On October 8, 2019, Counsel to the President Pat Cipollone sent the attached letter to the Speaker of the House, Chairman Schiff, Chairman Engel, and Chairman Cummings concerning various demands, including a request for the voluntary appearance of your client for a deposition as part of the so-called "impeachment inquiry."

In that letter, Mr. Cipollone identified several procedural, legal, and constitutional infirmities in the process by which the Committees have purported to pursue an impeachment inquiry. As a threshold matter, the Committees have refused to allow counsel from the Department of State to be present during the testimony of current and former employees, a practice that the Executive Branch has previously recognized to be unconstitutional. *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __ (May 23, 2019), available at https://www.justice.gov/olc/file/1171671/download. Refusing to permit the attendance of counsel from the employees' agency impermissibly hobbles the ability of the Executive Branch to protect constitutionally-based confidentiality interests and privileges. More broadly, Mr. Cipollone noted that the Committees have no authority to pursue an impeachment in the first place, because the House of Representatives has not authorized them to pursue such an inquiry. He further explained that the Committees' purported inquiry is completely bereft of the procedures historically provided by the House in past impeachment inquiries.

In light of these defects, Mr. Cipollone wrote: "Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances." As Mr. Cipollone noted in his letter, "[c]urrent and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch." Accordingly, in accordance with applicable law, I write on behalf of the Department of State, pursuant to the President's instruction reflected in Mr. Cipollone's letter, to instruct your client (as a current employee of the Department of State), consistent with Mr. Cipollone's letter, not to appear before the Committees under the present circumstances.

This instruction likewise applies to the Committees' request that your client produce documents or other records, irrespective of their format or the device on which they may be stored. As stated in the October 1, 2019 letter from Secretary Pompeo to the Chairmen of the three

Committees, "the requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges." *See, e.g.*, 5 FAM 414.8, 5 FAM 474.1(a), and 12 FAM 543. Moreover, these document requests duplicate the subpoena that was previously served on the Secretary. The Department is the legal custodian of these records and is responsible for determining whether and what to produce in response to the subpoena. The Department is in the process of collecting such records and will respond to the Committees, as appropriate and consistent with Mr. Cipollone's letter. In this regard, it is important to remind your client of the responsibility under the Federal Records Act to ensure that all Department records currently in your client's possession, in whatever format, are transferred into the control and possession of the Department as soon as possible, to the extent such action has not already been undertaken.

As noted in Mr. Cipollone's letter, should the present circumstances change we stand ready to update this guidance as warranted.

Sincerely yours,



Brian Bulatao
Undersecretary of State

THE WHITE HOUSE

WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent.*** Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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[1] Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."[3] Your contrived process is unprecedented in the

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[2] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

[3] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

history of the Nation,[4] and lacks the necessary authorization for a valid impeachment proceeding.[5]

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"[6] the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."[7] All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.[8] Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.[9] And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.[10] Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for *debate* before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate *at all*.

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g.*, *Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—***before*** filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.



United States Department of State

Washington, D.C. 20520

October 25, 2019

Ms. Margaret E. Daum
Squire Patton Boggs
2550 M Street NW
Washington DC 20037
[redacted]

Dear Ms. Daum:

We understand that you have been retained by Ambassador Phillip Reeker, the Department's Acting Assistant Secretary for European and Eurasian Affairs, as his private counsel for a transcribed interview or deposition to be conducted jointly by three House Committees "[p]ursuant to the House of Representatives' impeachment inquiry."

While the Department has longstanding respect for the oversight role of the Congress, this inquiry presents issues of unique concern. Counsel to the President Pat Cipollone sent the attached letter to the Committees on October 8, 2019 explaining several procedural, legal and constitutional infirmities in the process by which the Committees are pursuing their inquiry. Among other things, the Committees have refused to allow counsel from the Department to be present during the testimony of current and former employees, a practice that the Executive Branch has previously recognized to be unconstitutional. *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. (May 23, 2019), available at https://www.justice.gov/olc/file/1171671/download. Mr. Cipollone also expressed the President's view that the impeachment inquiry—lacking a delegation of such authority by House Rule or Resolution—was "contrary to the Constitution of the United States and all past bipartisan precedent" and "violates fundamental fairness and constitutionally mandated due process."

Pursuant to Mr. Cipollone's letter and in light of these defects, we are writing to inform you and Ambassador Reeker of the Administration-wide direction that Executive Branch personnel "cannot participate in [the impeachment] inquiry under these circumstances." Given the Committees' refusal to date to permit the attendance of Executive Branch counsel at such appearances to help ensure that classified information and potentially privileged communications are safeguarded, we must also note that any appearance by Ambassador Reeker before the Committees would remain subject to standing obligations of U.S. government employees to protect such information. Please note in this context that the confidential communications between Ambassador Reeker and foreign government officials may be classified and may be subject to claims of privilege. Likewise, the Department's internal communications, or those with other Executive Branch officials, related to foreign affairs may be classified and privileged.

Finally, with respect to any Committee request to your client for documents that constitute official State Department records, in the absence of an opportunity for the Department to review

such documents, Ambassador Reeker is not authorized to disclose to Congress any records relating to official duties. As stated in the October 1 letter from Secretary Pompeo, "the requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges." *See* 5 FAM 414.8, 5 FAM 474.1(a) and 12 FAM 543. Moreover, any such document request is likely to duplicate the subpoena that was previously served on the Secretary. The Department is the legal custodian of these records and is responsible for determining whether and what to produce in response to the subpoena. The Department is in the process of collecting such records and will respond to the Committees, as appropriate and consistent with Mr. Cipollone's letter.

Please contact us if you have any further questions or would like to discuss this matter further.

Sincerely yours,

Brian Bulatao
Under Secretary of State



United States Department of State

Washington, D.C. 20520

October 28, 2019

Mark J. MacDougall, Esq.
Akin Gump Strauss Hauer & Feld LLP
2001 K Street N.W.
Washington, DC 20006

Dear Mr. MacDougall:

We understand that you have been retained by Catherine Croft, a State Department official, as her private counsel for a transcribed interview or deposition to be conducted jointly by three House Committees "[p]ursuant to the House of Representatives' impeachment inquiry."

While the Department has longstanding respect for the oversight role of the Congress, this inquiry presents issues of unique concern. Counsel to the President Pat Cipollone sent the attached letter to the Committees on October 8, 2019 explaining several procedural, legal and constitutional infirmities in the process by which the Committees are pursuing their inquiry. Among other things, the Committees have refused to allow counsel from the Department to be present during the testimony of current and former employees, a practice that the Executive Branch has previously recognized to be unconstitutional. *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. (May 23, 2019), available at https://www.justice.gov/olc/file/1171671/download. Mr. Cipollone also expressed the President's view that the impeachment inquiry—lacking a delegation of such authority by House Rule or Resolution—was "contrary to the Constitution of the United States and all past bipartisan precedent" and "violates fundamental fairness and constitutionally mandated due process."

Pursuant to Mr. Cipollone's letter and in light of these defects, we are writing to inform you and Ms. Croft of the Administration-wide direction that Executive Branch personnel "cannot participate in [the impeachment] inquiry under these circumstances." Given the Committees' refusal to date to permit the attendance of Executive Branch counsel at such appearances to help ensure that classified information and potentially privileged communications are safeguarded, we must also note that any appearance by Ms. Croft before the Committees would remain subject to standing obligations of U.S. government employees to protect such information. Please note in this context that the confidential communications between Ms. Croft and foreign government officials may be classified and may be subject to claims of privilege. Likewise, the Department's internal communications, or those with other Executive Branch officials, related to foreign affairs may be classified and privileged.

Finally, with respect to any Committee request to your client for documents that constitute official State Department records, in the absence of an opportunity for the Department to review

such documents, Ms. Croft is not authorized to disclose to Congress any records relating to official duties. As stated in the October 1 letter from Secretary Pompeo, "the requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges." *See* 5 FAM 414.8, 5 FAM 474.1(a) and 12 FAM 543. Moreover, any such document request is likely to duplicate the subpoena that was previously served on the Secretary. The Department is the legal custodian of these records and is responsible for determining whether and what to produce in response to the subpoena. The Department is in the process of collecting such records and will respond to the Committees, as appropriate and consistent with Mr. Cipollone's letter.

Please contact us if you have any further questions or would like to discuss this matter further.

Sincerely yours,



Brian Bulatao
Under Secretary of State

THE WHITE HOUSE
WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled – contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent.*** Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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[1] Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."[3] Your contrived process is unprecedented in the

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[2] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

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history of the Nation,[4] and lacks the necessary authorization for a valid impeachment proceeding.[5]

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"[6] the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."[7] All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.[8] Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.[9] And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.[10] Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for *debate* before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate *at all*.

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g.*, *Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—***before*** filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.

United States Department of State

Washington, D.C. 20520

October 10, 2019

Andrew M. Wright
K&L Gates LLP
1601 K St NW
Washington, DC 20006

Dear Mr. Wright:

On October 8, 2019, Counsel to the President Pat Cipollone sent the attached letter to the Speaker of the House, Chairman Schiff, Chairman Engel, and Chairman Cummings concerning various demands, including various types of demands for the testimony by State Department employees as part of the so-called "impeachment inquiry."

In that letter, Mr. Cipollone identified several procedural, legal, and constitutional infirmities in the process by which the Committees have purported to pursue an impeachment inquiry. As a threshold matter, the Committees have refused to allow counsel from the Department of State to be present during the testimony of current and former employees, a practice that the Executive Branch has previously recognized to be unconstitutional. *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __ (May 23, 2019), available at https://www.justice.gov/olc/file/1171671/download. Refusing to permit the attendance of counsel from the employees' agency impermissibly hobbles the ability of the Executive Branch to protect constitutionally-based confidentiality interests and privileges. More broadly, Mr. Cipollone noted that the Committees have no authority to pursue an impeachment in the first place, because the House of Representatives has not authorized them to pursue such an inquiry. He further explained that the Committees' purported inquiry is completely bereft of the procedures historically provided by the House in past impeachment inquiries.

In light of these defects, Mr. Cipollone wrote: "Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances." As Mr. Cipollone noted in his letter, "[c]urrent and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch." Accordingly, in accordance with applicable law, I write on behalf of the Department of State, pursuant to the President's instruction reflected in Mr. Cipollone's letter, to instruct your client (as a current employee of the Department of State), consistent with Mr. Cipollone's letter, not to appear before the Committees under the present circumstances.

This instruction likewise applies to the Committees' request that your client produce documents or other records, irrespective of their format or the device on which they may be stored. As stated in the October 1, 2019 letter from Secretary Pompeo to the Chairmen of the three

Committees, "the requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges." *See, e.g.*, 5 FAM 414.8, 5 FAM 474.1(a), and 12 FAM 543. Moreover, these document requests duplicate the subpoena that was previously served on the Secretary. The Department is the legal custodian of these records and is responsible for determining whether and what to produce in response to the subpoena. The Department is in the process of collecting such records and will respond to the Committees, as appropriate and consistent with Mr. Cipollone's letter. In this regard, it is important to remind your client of the responsibility under the Federal Records Act to ensure that all Department records currently in your client's possession, in whatever format, are transferred into the control and possession of the Department as soon as possible, to the extent such action has not already been undertaken.

As noted in Mr. Cipollone's letter, should the present circumstances change we stand ready to update this guidance as warranted.

Sincerely yours,



Brian Bulatao
Undersecretary of State

THE WHITE HOUSE
WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on
Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
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House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Elijah E. Cummings
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House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent***. Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for *debate* before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate *at all*.

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g.*, *Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

> politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—***before*** filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.



United States Department of State

Washington, D.C. 20520

October 14, 2019

Andrew Wright
K&L Gates LLP
1601 K St NW
Washington, DC 20006

Dear Mr. Wright:

We are writing to confirm the discussions that the Department of State has had with you over the past several days. We understand that you have received the Department's letter dated October 10, which transmitted an instruction from Counsel to the President Pat Cipollone concerning various demands by the U.S. House of Representatives Permanent Select Committee on Intelligence, Committee on Oversight and Reform, and Committee on Foreign Affairs.

In the event that your client nevertheless appears before the Committees, any such appearance would not relieve your client of his legal obligations to protect classified information and potentially privileged communications. The confidential communications between your client and foreign government officials may be classified and may be subject to claims of privilege. The President's position on the protection of information related to foreign policy and national security is guided by longstanding, bipartisan precedent established as early as the first presidential administration.[1] As Attorney General Reno explained during the Clinton Administration:

> History is replete with examples of the Executive's refusal to produce to Congress diplomatic communications and related documents because of the prejudicial impact such disclosure could have on the President's ability to conduct foreign relations. It is equally well established that executive privilege applies to communications to and from the President and Vice President and to White House and NSC deliberative communications.[2]

In addition, the Department's internal communications, or those with other Executive Branch officials, related to foreign affairs may be classified and privileged. As Secretary Pompeo explained in his letter dated October 1, and as Mr. Cipollone's letter reiterated, the Department

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[1] *See History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress*, 6 Op. O.L.C. 751, 753 (1982) (noting that in response to a request for documents relating to negotiation of the Jay Treaty with Great Britain, President Washington sent a letter to Congress stating, "[t]o admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign Power, would be to establish a dangerous precedent.") (citation omitted).

[2] *Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 6 (1996).

of Justice has determined that the absence of agency counsel during an agency employee's testimony is unconstitutional and deprives the Department of the opportunity to raise objections to ensure that your client does not breach his obligations with respect to privileged and classified material.[3] Because the Committees continue to refuse to allow agency counsel to attend, it is incumbent on your client and you, as his counsel, to guard against unauthorized disclosure. To be clear, without an opportunity for the Department to review the information that may be disclosed to the Committees by your client, your client is not authorized to reveal or release any information subject to executive privilege, and no classified information may be disclosed in the absence of the required safeguards necessary to ensure its protections.

Finally, with respect to the Committees' request to your client for documents that constitute official State Department records, we appreciate the acknowledgement that you have provided that, in the absence of an opportunity for the Department to review such documents, your client is not authorized to disclose to Congress any records relating to official duties for the reasons set forth in the letter of October 10.

Please contact us if you have any further questions or would like to discuss this matter further.

Sincerely yours,

Brian Bulatao
Undersecretary of State

[3] *See generally Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __ (May 23, 2019).



United States Department of State

Washington, D.C. 20520

November 4, 2019

Ronald J. Tenpas
Vinson & Elkins
2200 Pennsylvania Avenue NW
Suite 500 West
Washington, DC 20037

Dear Mr. Tenpas:

On October 10, 2019 the Department of State forwarded to your client, Mr. Brechbuhl, the attached instruction relating to the invitation he received to appear before the House Permanent Select Committee on Intelligence. The Department of Justice, after taking into account subsequent developments, sent the attached November 1, 2019 letter to the White House Counsel, confirming that the legal basis for the instruction and guidance in the Department of State's October 10, 2019 letter continues to remain in effect.

As noted in the attached letters, should circumstances change, we stand ready to update this guidance as warranted.

Sincerely yours,

Brian Bulatao
Under Secretary of State

United States Department of State

Washington, D.C. 20520

October 10, 2019

Ronald J. Tenpas
Vinson & Elkins
2200 Pennsylvania Avenue NW
Suite 500 West
Washington, DC 20037

Dear Mr. Tenpas:

On October 8, 2019, Counsel to the President Pat Cipollone sent the attached letter to the Speaker of the House, Chairman Schiff, Chairman Engel, and Chairman Cummings concerning various demands, including various types of demands for the testimony by State Department employees as part of the so-called "impeachment inquiry."

In that letter, Mr. Cipollone identified several procedural, legal, and constitutional infirmities in the process by which the Committees have purported to pursue an impeachment inquiry. As a threshold matter, the Committees have refused to allow counsel from the Department of State to be present during the testimony of current and former employees, a practice that the Executive Branch has previously recognized to be unconstitutional. *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __ (May 23, 2019), available at https://www.justice.gov/olc/file/1171671/download. Refusing to permit the attendance of counsel from the employees' agency impermissibly hobbles the ability of the Executive Branch to protect constitutionally-based confidentiality interests and privileges. More broadly, Mr. Cipollone noted that the Committees have no authority to pursue an impeachment in the first place, because the House of Representatives has not authorized them to pursue such an inquiry. He further explained that the Committees' purported inquiry is completely bereft of the procedures historically provided by the House in past impeachment inquiries.

In light of these defects, Mr. Cipollone wrote: "Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances." As Mr. Cipollone noted in his letter, "[c]urrent and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch." Accordingly, in accordance with applicable law, I write on behalf of the Department of State, pursuant to the President's instruction reflected in Mr. Cipollone's letter, to instruct your client (as a current employee of the Department of State), consistent with Mr. Cipollone's letter, not to appear before the Committees under the present circumstances.

This instruction likewise applies to the Committees' request that your client produce documents or other records, irrespective of their format or the device on which they may be stored. As stated in the October 1, 2019 letter from Secretary Pompeo to the Chairmen of the three

Committees, "the requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges." *See, e.g.*, 5 FAM 414.8, 5 FAM 474.1(a), and 12 FAM 543. Moreover, these document requests duplicate the subpoena that was previously served on the Secretary. The Department is the legal custodian of these records and is responsible for determining whether and what to produce in response to the subpoena. The Department is in the process of collecting such records and will respond to the Committees, as appropriate and consistent with Mr. Cipollone's letter. In this regard, it is important to remind your client of the responsibility under the Federal Records Act to ensure that all Department records currently in your client's possession, in whatever format, are transferred into the control and possession of the Department as soon as possible, to the extent such action has not already been undertaken.

As noted in Mr. Cipollone's letter, should the present circumstances change we stand ready to update this guidance as warranted.

Sincerely yours,



Brian Bulatao
Undersecretary of State

THE WHITE HOUSE

WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on
Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent.*** Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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[1] Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."[3] Your contrived process is unprecedented in the

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[2] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

[3] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

history of the Nation,[4] and lacks the necessary authorization for a valid impeachment proceeding.[5]

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"[6] the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."[7] All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.[8] Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.[9] And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.[10] Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for *debate* before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate *at all*.

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g., Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—*before* filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.

U.S. Department of Justice
Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

November 1, 2019

Pat A. Cipollone
Counsel to the President
Washington, D.C. 20500

Dear Mr. Cipollone:

On October 31, 2019, the House of Representatives voted to authorize certain committees to investigate "whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach" President Trump. H.R. Res. 660, 116th Cong. (2019). Although the House resolution directs the House Permanent Select Committee on Intelligence ("HPSCI") to conduct "open and transparent investigative proceedings" in connection with this inquiry, *id.* § 2 (title), we understand that HPSCI nonetheless insists that executive branch employees appear next week for closed-door depositions from which agency counsel would be excluded.

You have asked whether HPSCI or the other committees involved in the impeachment inquiry may validly compel an executive branch witness to appear at such depositions. The HPSCI impeachment inquiry seeks information concerning presidential communications, internal executive branch deliberations, and diplomatic communications arising in connection with U.S. foreign relations with Ukraine. As a result, the depositions seek testimony from executive branch employees concerning matters potentially protected by executive privilege. Consistent with our prior advice, we conclude that the congressional committees participating in the impeachment investigation authorized by the resolution may not validly require an executive branch witness to appear without the assistance of agency counsel in connection with such depositions. *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *7–13 (May 23, 2019) ("*Exclusion of Agency Counsel*"). HPSCI could address this separation of powers problem by allowing agency counsel to assist the employee during the deposition. Should the committee not do so, however, a subpoena purporting to require a witness to appear without such assistance would be invalid and not subject to civil or criminal enforcement. *See id.* at *13–14.

We have previously advised, in the context of legislative oversight investigations, that Congress may not prohibit agency counsel from accompanying employees called to testify about matters that potentially involve information protected by executive privilege. As we explained, "the exclusion of agency counsel impairs the President's ability to exercise his constitutional authority to control privileged information of the Executive Branch" and "his constitutional authority to supervise the Executive Branch's interactions with Congress." *Id.* at *8. The President has the constitutional authority to protect privileged information from disclosure in response to congressional investigations, and to do so effectively, he must be able to designate a representative to protect this interest at congressional depositions. *Id.* at *8–11. In addition, the

President has the constitutional authority to control the activities of subordinate officials within the Executive Branch, which includes the power to control communications with, and information provided to, Congress on the Executive Branch's behalf. *Id.* at *11–13. Adherence to these principles ensures that executive branch employees called to testify before Congress do not improperly disclose privileged information, and that the information provided is consistent with the scope of Congress's investigative authority.

We believe that these same principles apply to a congressional committee's effort to compel the testimony of an executive branch official in an impeachment inquiry. Executive privilege protects the confidentiality and integrity of sensitive executive branch information absent a showing of sufficient legislative "need" in the context of an oversight investigation. *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 730–31 (D.C. Cir. 1974) (en banc). The privilege has also been recognized to protect information in connection with other kinds of proceedings, including criminal trials and grand-jury investigations.

As the Supreme Court recognized in *United States v. Nixon*, 418 U.S. 683 (1974), executive privilege "is fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution." *Id.* at 708. While the privilege may yield to the "legitimate needs of the judicial process" in connection with a criminal trial, the Court recognized that "it is necessary to resolve those competing interests in a manner that preserves the essential functions of each branch." *Id.* at 707. The D.C. Circuit has applied the same principle in connection with a grand-jury investigation, observing that privileged presidential communications "should not be treated as just another source of information" in such an inquiry, but should instead be provided to a grand jury only upon a demonstration of "why it is likely that evidence contained in presidential communications is important to the ongoing grand jury investigation and why this evidence is not available from another source." *In re Sealed Case*, 121 F.3d 729, 755–57 (D.C. Cir. 1997).

We believe that a congressional committee must likewise make a showing of need that is sufficient to overcome the privilege in connection with an impeachment inquiry. Although no judicial decision is directly on point, the D.C. Circuit suggested as much in *Senate Select Committee*, in which it contrasted the Senate committee's "oversight need" in support of "legislative tasks" with "the responsibility of a grand jury, *or any institution engaged in like functions*." 498 F.2d at 732 (emphasis added). The latter phrase referred to the House Committee on the Judiciary, which had "begun an inquiry into presidential impeachment." *Id.* The D.C. Circuit's recognition that an impeachment inquiry is similar to a grand-jury investigation implies the requirement of a similar showing of need. We need not settle on the precise standard in order to address your current inquiry, because we think it sufficient to recognize that a qualified executive privilege remains available, and a congressional committee must therefore make some showing of need to overcome the privilege. This conclusion follows from the Supreme Court's recognition that a dispute involving information subject to executive privilege should be resolved in a manner that "preserves the essential functions of each branch." *Nixon*, 418 U.S. at 707.[1]

[1] In a 1974 effort to summarize the then-available precedents, a "working paper prepared by the staff" of this Office observed that "[p]recedents relating to the subject of executive privilege in presidential impeachment are

While HPSCI may be able to establish an interest justifying its requests for information, the Executive Branch also has legitimate interests in confidentiality, and the resolution of these competing interests requires a careful balancing of each branch's need in the context of the particular information sought. *See United States v. Am. Tel. & Tel. Co.*, 567 F.2d 121, 127 (D.C. Cir. 1977) ("[E]ach branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation."). Although HPSCI is willing to allow witnesses to appear with *personal* counsel, the accommodation process presupposes participation by appropriate representatives of the Executive Branch, which cannot occur when a committee seeks to exclude *agency* counsel from the room. *See Exclusion of Agency Counsel*, 43 Op. O.L.C. at *17 (explaining the differences between private counsel's and agency counsel's obligations and abilities). Accordingly, where, as here, a committee deposition is likely to inquire into privileged communications, the committee may not validly prevent an executive branch witness from receiving the assistance of agency counsel. *See id.* at *7–13.

Because the committee may not bar agency counsel from assisting an executive branch witness without contravening the legitimate prerogatives of the Executive Branch, a HPSCI subpoena requiring such a result would exceed the committee's lawful authority and thus could not be enforced. As we concluded in the oversight context, "it would be unconstitutional to enforce a subpoena against an agency employee who declined to appear before Congress, at the agency's direction, because the committee would not permit an agency representative to accompany him." *Id.* at *14. This conclusion followed from many earlier precedents of this Office, which recognized that "the Constitution does not permit Congress to make it a crime for an official to assist the President in asserting a constitutional privilege that is an integral part of the President's responsibilities under the Constitution." *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 140 (1984).[2] An executive branch employee does not violate the criminal contempt-of-

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meager, confused and inconclusive." Office of Legal Counsel, U.S. Dep't of Justice, *Legal Aspects of Impeachment: An Overview* app. 3, at 1 (Feb. 1974). Where executive branch officials have addressed the issue, they have typically done so outside the context of a particular impeachment inquiry. While they have sometimes acknowledged that Congress's interest in information in connection with impeachment may be stronger than in the oversight context, they have not identified a consistent standard for evaluating such requests. *See id.* at 6–15, 22–32 (describing statements of past Presidents and Attorneys General); *see also, e.g.*, *Assertion of Executive Privilege by the Chairman of the Atomic Energy Commission*, 1 Op. O.L.C. Supp. 468, 485 (1956) ("Even in [impeachment] there is no precedent to the effect that the executive privilege cannot validly be invoked."); *Position of the Executive Department Regarding Investigative Reports*, 40 Op. Att'y Gen. 45, 51 (1941) (identifying impeachment proceedings as a situation in which "the public interest" can justify disclosure of "pertinent" information "for the good of the administration of justice"). Subsequent judicial decisions, as discussed above, are consistent with our recognition that a qualified privilege applies in the context of an impeachment investigation, just as it does in a grand-jury investigation.

[2] *See also Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *20 (May 20, 2019) ("The constitutional separation of powers bars Congress from exercising its inherent contempt power in the face of a presidential assertion of executive privilege."); *Whether the Department of Justice May Prosecute White House Officials for Contempt of Congress*, 32 Op. O.L.C. 65, 65–69 (2008) (concluding that the Department cannot take "prosecutorial action, with respect to current or former White House officials who . . . declined to appear to testify, in response to subpoenas from a congressional committee, based on the President's assertion of executive privilege"); *Application of 28 U.S.C. § 458 to Presidential Appointments of Federal Judges*, 19 Op. O.L.C. 350, 356 (1995) ("the criminal contempt of Congress statute does not apply to the President or presidential subordinates who assert executive privilege").

Congress statute by declining to appear before a congressional committee based upon an instruction to protect the confidentiality interests of the Executive Branch and the separation of powers. HPSCI, of course, may readily avoid this problem by allowing the employee to receive the assistance of agency counsel during the deposition.

You have also asked whether the House's adoption of a resolution authorizing an impeachment inquiry would have any effect on existing subpoenas. As we have previously advised you, prior to October 31, 2019, the House had not vested any committee in the current Congress with the authority to issue subpoenas in connection with an impeachment inquiry. As a result, subpoenas issued before that date purporting to be "pursuant to" an impeachment inquiry were not properly authorized. Although House Resolution 660 "direct[s]" HPSCI and other committees to "continue their ongoing investigations," it does not purport to ratify any previously issued subpoena. Accordingly, while the Executive Branch may, and regularly does, accommodate congressional requests for information in the absence of a subpoena, the relevant committees would have to issue new subpoenas to impose any compulsory effect on recipients.

Please let us know if we may be of further assistance.

Steven A. Engel
Assistant Attorney General

ADAM B. SCHIFF, CALIFORNIA
CHAIRMAN

TIMOTHY BERGREEN, STAFF DIRECTOR
(202) 225-7690
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ONE HUNDRED SIXTEENTH CONGRESS

DEVIN NUNES, CALIFORNIA
RANKING MEMBER

ALLEN SOUZA, MINORITY STAFF DIRECTOR

Permanent Select Committee on Intelligence
U.S. House of Representatives

November 6, 2019

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515-6415

Dear Ranking Member Nunes:

At approximately 11:20 a.m. today, the Majority provided notice to you and the Members of the Permanent Select Committee on Intelligence (the "Committee") that the Committee will hold on November 13 at 10:00 a.m. the first in a series of open hearings as part of the House of Representatives' impeachment inquiry.[1] H. Res. 660 (the "Resolution") affords the Minority the opportunity to identify and request witnesses to testify during the open hearings.[2] Pursuant to the Resolution, the Minority should submit such a witness request in writing **within 72 hours of the provision of such notice,** which is Saturday, November 8, at 11:20 a.m.[3]

The Majority does not intend to request public testimony from every witness who previously testified in depositions or interviews as part of the impeachment inquiry. If the Minority wishes for any of those witnesses to testify during the open hearings, please include them in your request for witnesses.

As directed by the Resolution, the Minority's witness request must be submitted in writing, and must be accompanied by a detailed written justification of the relevance to the inquiry of the testimony of each requested witness.[4] To guide relevance, the report submitted by the Committee on Rules to accompany the Resolution sets forth the inquiry's parameters:[5]

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[1] Notice to Members of the House Permanent Select Committee on Intelligence, November 6, 2019.

[2] *See generally* H. Res. 660 (Oct. 31, 2019) § 2(1), (3).

[3] *Id.* § 2(3).

[4] *Id.*

[5] H. Rept. 116-266 (Oct. 30, 2019) at 2.

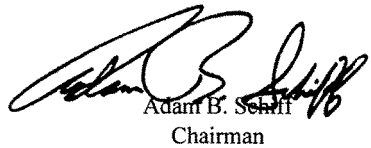
1. Did the President request that a foreign leader and government initiate investigations to benefit the President's personal political interests in the United States, including an investigation related to the President's political rival and potential opponent in the 2020 U.S. presidential election?

2. Did the President – directly or through agents – seek to use the power of the Office of the President and other instruments of the federal government in other ways to apply pressure on the head of state and government of Ukraine to advance the President's personal political interests, including by leveraging an Oval Office meeting desired by the President of Ukraine or by withholding U.S. military assistance to Ukraine?

3. Did the President and his Administration seek to obstruct, suppress or cover up information to conceal from the Congress and the American people evidence about the President's actions and conduct?

The Committee looks forward to receiving by November 8, within the Resolution's stipulated deadline, the Minority's written request for witnesses, and is prepared to consult on proposed witnesses to evaluate their relevance to the inquiry's scope.

Sincerely,



Adam B. Schiff
Chairman

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[illegible] MINORITY STAFF DIRECTOR

Permanent Select Committee
on Intelligence
U.S. House of Representatives

December 11, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Nadler:

Pursuant to Section 3 of House Resolution 660, I am hereby transmitting, following consultation with the Ranking Member, additional materials relevant to the House's impeachment inquiry.

Enclosed for your Committee's consideration is a classified supplemental written submission ("Supplemental Submission") of Jennifer Williams, the Special Advisor for Europe and Russia in the Office of the Vice President. Ms. Williams, through her counsel, provided the Supplemental Submission to the Permanent Select Committee on Intelligence on November 26, 2019. The Supplemental Submission contains additional information concerning a September 18, 2019 telephone call between Vice President Mike Pence and President Volodymyr Zelensky of Ukraine.

By letter dated December 6, 2019, the Intelligence Committee requested that the Office of the Vice President declassify the Supplemental Submission as there is no legitimate basis to assert that the information therein is classified. A copy of that letter is also enclosed for your consideration. We requested that the Office of the Vice President respond to our request by December 11, but have not yet received a response.

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The Supplemental Submission at all times shall be handled, stored and accessed in strict accordance with applicable security procedures.

Please contact staff for the Intelligence Committee at (202) 225-7690 with any questions regarding these additional materials.

Sincerely,

Adam B. Schiff
Chairman

Enclosures (S//NF)

cc: The Honorable Devin Nunes, Ranking Member

The Honorable Doug Collins, Ranking Member
House Committee on the Judiciary

ADAM B. SCHIFF, CALIFORNIA
CHAIRMAN

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DEVIN NUNES, CALIFORNIA
RANKING MEMBER

[illegible] MINORITY STAFF DIRECTOR

Permanent Select Committee
on Intelligence
U.S. House of Representatives

September 10, 2019

The Honorable Joseph Maguire
Acting Director of National Intelligence
Office of the Director of National Intelligence
Washington, D.C. 20511

Dear Acting Director Maguire:

The House Permanent Select Committee on Intelligence ("Committee") has learned that, contrary to your express obligations under the law, you are withholding from the Committee an authorized and protected whistleblower disclosure involving "a serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information."[1]

On August 26, 2019, consistent with the procedures in the Intelligence Community Whistleblower Protection Act ("ICWPA"), the Inspector General of the Intelligence Community ("ICIG") transmitted to you a whistleblower disclosure intended for Congress, which an individual within the Intelligence Community lawfully submitted to the ICIG on August 12, 2019. Based on a preliminary review conducted within the 14-day period provided by the statute, the ICIG determined that the disclosure meets the statutory definition of an "urgent concern" and that there are reasonable grounds to believe the information relating to the urgent concern is credible.

The ICWPA requires you to forward all whistleblower transmittals from the ICIG to the congressional intelligence committees within a statutorily-mandated 7-day period.[2] You should

[1] 50 U.S.C. §3033(k)(5)(G).

[2] 50 U.S.C. §3033(k)(5)(A) requires that "upon receipt of a transmittal from the Inspector general...the Director *shall*, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate" (emphasis added). The statute does not provide the Director of National Intelligence with discretion to withhold a whistleblower disclosure.

have therefore transmitted the disclosure to the Committee, together with any comments you consider appropriate, no later than September 2, 2019.

In an unprecedented departure from past practice, you have not transmitted the disclosure to the Committee, nor have you notified the Committee of the fact of the disclosure or your decision not to transmit it to the Committee. Instead, in a manner neither permitted nor contemplated under the statute, you have taken the extraordinary step of overruling the independent determination of the ICIG and preventing the disclosure from reaching the Committee.

We do not know whether this decision to withhold the disclosure was made only by you, or whether it involved interference by other parties, including the White House. The Committee's recent experience has heightened concern of improper White House efforts to influence your office and the Intelligence Community. The failure to transmit to the Committee an urgent and credible whistleblower complaint, as required by law, raises the prospect that an urgent matter of a serious nature is being purposefully concealed from the Committee.

Consistent with your obligations under the statute, the whistleblower's complaint and the ICIG's determination must be transmitted to the Committee—their intended recipient—without delay and in their entirety. You also must furnish immediately to the whistleblower, through the ICIG, any necessary direction on appropriate security procedures for the whistleblower to contact the Committee directly.[3] Finally, the Committee expects to receive your express assurance that all of the whistleblower protections included in the ICWPA will be afforded to the complainant in this case.

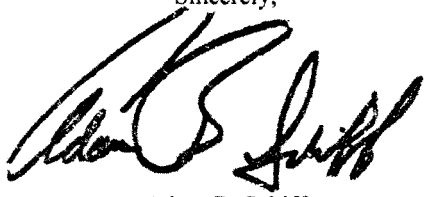
Absent immediate compliance with the above, the Committee will resort to compulsory process to compel production of the entire whistleblower complaint in complete and unaltered form, the ICIG's determination, as well as all records pertaining to you and your office's involvement in this matter, including any and all correspondence with other Executive Branch actors, to include the White House. The Committee will also require your appearance before the Committee to testify publicly about this matter.

The statutorily-protected right of Intelligence Community employees to make disclosures to Congress is sacrosanct and must remain insulated from politicization. The Committee will take all steps necessary to ensure this right is upheld.

[3] Even if the ICIG had not determined that the disclosure constituted an urgent concern, the statute provides for an Intelligence Community whistleblower to contact the congressional intelligence committees directly after the whistleblower provides notice to the ICIG of his or her intent to contact the congressional intelligence committees directly, and obtains and follows direction from you, as the Acting Director of National Intelligence, on how to contact the congressional intelligence committees in accordance with appropriate security practices. 50 U.S.C. §3033(k)(5)(D)(ii). There is no basis for you to withhold guidance from a whistleblower to permit them to make a disclosure directly to the Committee.

I look forward to receiving the complaint in full immediately, together with any comments you consider appropriate.

Sincerely,



Adam B. Schiff
Chairman

ADAM B. SCHIFF, CALIFORNIA
CHAIRMAN

TIMOTHY BERGREEN, STAFF DIRECTOR
(202) 225-7690
www.intelligence.house.gov



ONE HUNDRED SIXTEENTH CONGRESS

DEVIN NUNES, CALIFORNIA
RANKING MEMBER

ALLEN SOUZA, MINORITY STAFF DIRECTOR

Permanent Select Committee
on Intelligence
U.S. House of Representatives

November 9, 2019

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515-6415

Dear Ranking Member Nunes:

The Committee is in receipt of your letter, dated today, proposing witnesses for the impeachment inquiry's open hearings. The Committee is carefully evaluating the witness list you provided, along with the written justifications you included.

Consistent with H. Res. 660 and as noted in my November 6, 2019 letter, the Committee will give due consideration to witnesses within the scope of the impeachment inquiry.[1]

In doing so, the Committee is mindful that this inquiry is a solemn undertaking, enshrined by the Founders in the Constitution, to determine whether the President of the United States warrants impeachment by the House of Representatives.

As we move to open hearings, it is important to underscore that the impeachment inquiry, and the Committee, will not serve as vehicles for any Member to carry out the same sham investigations into the Bidens or debunked conspiracies about 2016 U.S. election interference that President Trump pressed Ukraine to conduct for his personal political benefit.

The Committee also will not facilitate efforts by President Trump and his allies in Congress to threaten, intimidate, and retaliate against the whistleblower who courageously raised the initial alarm. It remains the duty of the Intelligence Committee to protect whistleblowers, and until recently, this was a bipartisan priority.[2] The whistleblower has a right under laws championed by this Committee to remain anonymous and to be protected from harm.

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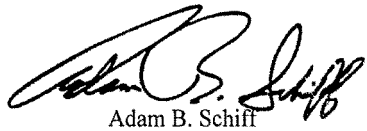
[1] *See generally* H. Res. 660 (Oct. 31, 2019) § 2(1), (3). *See also* H. Rept. 116-266 (Oct. 30, 2019) at 2; Letter from Chairman Adam B. Schiff to Ranking Member Devin Nunes, November 6, 2019.

[2] *See e.g.*, Press Conference, Chairman Devin Nunes, March 24, 2017. ("As you know, and I've said this several times, we don't talk about sources at this committee. We want more people to come forward. The good thing

The impeachment inquiry, moreover, has gathered an ever-growing body of evidence—from witnesses and documents, including the President's own words in his July 25 call record—that not only confirms, but far exceeds, the initial information in the whistleblower's complaint. The whistleblower's testimony is therefore redundant and unnecessary. In light of the President's threats, the individual's appearance before us would only place their personal safety at grave risk.

Sincerely,



Adam B. Schiff
Chairman

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is, is that we have continued to have people come forward, voluntarily, to this committee and we want to continue that and I will tell you that that will not happen if we tell you who our sources are and people that come -- come to the committee.") [Online at: https://www.c-span.org/video/?425953-1/paul-manafort-volunteered-intelligence-committee-chairman-nunes&start=296]

ELIOT L. ENGEL, NEW YORK
CHAIRMAN

JASON STEINBAUM
STAFF DIRECTOR

MICHAEL T. MCCAUL, TEXAS
RANKING REPUBLICAN MEMBER

BRENDAN P. SHIELDS
REPUBLICAN STAFF DIRECTOR

One Hundred Sixteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

December 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

Pursuant to House Resolution 660, I am pleased to transmit to the Committee on the Judiciary documents relating to the inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach Donald John Trump, President of the United States of America.

I look forward to working with you as you continue your work.

Sincerely,

Eliot L Engel

ELIOT L. ENGEL
Chairman

Cc: The Honorable Michael T. McCaul, Ranking Member, House Committee on Foreign Affairs

U.S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

November 3, 2019

Pat A. Cipollone
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Cipollone:

On November 1, 2019, the Permanent Select Committee on Intelligence of the House of Representatives issued a subpoena seeking to compel John Eisenberg to testify at a deposition on Monday, November 4. Mr. Eisenberg serves as Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council. The Committee subpoenaed Mr. Eisenberg as part of its impeachment inquiry into the conduct of the President. *See* H.R. Res. 660, 116th Cong. (2019). You have asked whether the Committee may compel Mr. Eisenberg to testify. We conclude that he is absolutely immune from compelled congressional testimony in his capacity as a senior adviser to the President.

The Committee has made clear that it seeks to question Mr. Eisenberg about matters related to his official duties at the White House. The Committee informed him that it is investigating the President's conduct of foreign relations with Ukraine and that it believes, "[b]ased upon public reporting and evidence gathered as part of the impeachment inquiry," that Mr. Eisenberg has "information relevant to these matters." Letter for John Eisenberg from Adam B. Schiff, Chairman, House Permanent Select Committee on Intelligence, et al. at 1 (Oct. 30, 2019); *see also* Letter for John Eisenberg from Adam B. Schiff, Chairman, House Permanent Select Committee on Intelligence, et al. at 1 (Nov. 1, 2019).

The Executive Branch has taken the position for decades that "Congress may not constitutionally compel the President's senior advisers to testify about their official duties." *Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, at *1 (May 20, 2019) ("*Immunity of the Former Counsel*"). This testimonial immunity is rooted in the separation of powers and derives from the President's status as the head of a separate, co-equal branch of government. *See id.* at *3–7. Because the President's closest advisers serve as his alter egos, compelling them to testify would undercut the "independence and autonomy" of the Presidency, *id.* at *4, and interfere directly with the President's ability to faithfully discharge his constitutional responsibilities. Absent immunity, "congressional committees could wield their compulsory power to attempt to supervise the President's actions, or to harass those advisers in an effort to influence their conduct, retaliate for actions the committee disliked, or embarrass and weaken the President for partisan gain." *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach From Congressional Subpoena*, 38 Op. O.L.C. __, at *3 (July 15, 2014) ("*Immunity of the Assistant to the President*"). Congressional questioning of the President's senior advisers would also

undermine the independence and candor of executive branch deliberations. *See Immunity of the Former Counsel*, 43 Op. O.L.C. at *5–7. For these reasons, the Executive Branch has long recognized the immunity of senior presidential advisers to be critical to protecting the institution of the Presidency.

This testimonial immunity applies in an impeachment inquiry just as it applies in a legislative oversight inquiry. As our Office recently advised you, executive privilege remains available when a congressional committee conducts an impeachment investigation. *See* Letter for Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel at 2 & n.1 (Nov. 1, 2019). The testimonial immunity of senior presidential advisers is "broader" than executive privilege and exists in part to prevent the inadvertent disclosure of privileged information, *Immunity of the Former Counsel*, 43 Op. O.L.C. at *4, *6, so it follows that testimonial immunity also continues to apply in the impeachment context. More importantly, the commencement of an impeachment inquiry only heightens the need to safeguard the separation of powers and preserve the "independence and autonomy" of the Presidency—the principal concerns underlying testimonial immunity. *Id.* at *4. Even when impeachment proceedings are underway, the President must remain able to continue to discharge the duties of his office. The testimonial immunity of the President's senior advisers remains an important limitation to protect the independence and autonomy of the President himself.

We do not doubt that there may be impeachment investigations in which the House will have a legitimate need for information possessed by the President's senior advisers, but the House may have a legitimate need in a legislative oversight inquiry. In both instances, the testimonial immunity of the President's senior advisers will not prevent the House from obtaining information from other available sources. The immunity of those immediate advisers will not itself prevent the House from obtaining testimony from others in the Executive Branch, including in the White House, or from obtaining pertinent documents (although the House may still need to overcome executive privilege with respect to testimony and documents to which the privilege applies). In addition, the President may choose to authorize his senior advisers to provide testimony because "the benefit of providing such testimony as an accommodation to a committee's interests outweighs the potential for harassment and harm to Executive Branch confidentiality." *Immunity of the Assistant to the President*, 38 Op. O.L.C. at *4 n.2. Accordingly, our recognition that the immunity applies to an impeachment inquiry does not preclude the House from obtaining information from other sources.

We next consider whether Mr. Eisenberg qualifies as a senior presidential adviser. The testimonial immunity applies to the President's "immediate advisers—that is, those who customarily meet with the President on a regular or frequent basis." Memorandum for John D. Ehrlichman, Assistant to the President for Domestic Affairs, from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff"* at 7 (Feb. 5, 1971). We believe that Mr. Eisenberg meets that definition. Mr. Eisenberg has served as an adviser to the President on sensitive legal and national security matters since the first day of the Administration, and his direct relationship with the President has grown over time. Your office has informed us that he regularly meets with the President multiple times each week, frequently in very small groups, and often communicates with the President multiple times per day. He is one of a small number of advisers who are authorized to contact the President directly, and the President directly seeks

his advice. Mr. Eisenberg is therefore the kind of immediate presidential adviser that the Executive Branch has historically considered immune from compelled congressional testimony.

Mr. Eisenberg's eligibility for immunity is particularly justified because his duties concern national security. The Supreme Court held in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), that senior presidential advisers do not enjoy absolute immunity from civil liability—a holding that, as we have previously explained, does not conflict with our recognition of absolute immunity from compelled congressional testimony for such advisers, *see Immunity of the Assistant to the President*, 38 Op. O.L.C. at *5–9. Yet the *Harlow* Court recognized that "[f]or aides entrusted with discretionary authority in such sensitive areas as national security or foreign policy," even absolute immunity from suit "might well be justified to protect the unhesitating performance of functions vital to the national interest." 457 U.S. at 812; *see also id.* at 812 n.19 ("a derivative claim to Presidential immunity would be strongest in such 'central' Presidential domains as foreign policy and national security, in which the President could not discharge his singularly vital mandate without delegating functions nearly as sensitive as his own").

Moreover, the Committee seeks Mr. Eisenberg's testimony about the President's conduct of relations with a foreign government. The President has the constitutional responsibility to conduct diplomatic relations, *see Assertion of Executive Privilege for Documents Concerning Conduct of Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 7 (1996) (A.G. Reno), and as a result, the President has the "exclusive authority to determine the time, scope, and objectives of international negotiations." *Unconstitutional Restrictions on Activities of the Office of Science and Technology Policy in Section 1340(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011*, 35 Op. O.L.C. __, at *4 (Sept. 19, 2011) (quotation marks omitted). Compelling testimony about these sensitive constitutional responsibilities would only deepen the very concerns—about separation of powers and confidentiality—that underlie the rationale for testimonial immunity. *See New York Times Co. v. United States*, 403 U.S. 713, 728 (1971) (Stewart, J., concurring) ("[I]t is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy.").

Please let us know if we may be of further assistance.

Steven A. Engel
Assistant Attorney General

Congress of the United States
Washington, DC 20515

October 14, 2019

The Honorable Gordon Sondland
U.S. Ambassador to the European Union
c/o Mr. Robert Luskin
Paul Hastings LLP
875 15th Street, N.W.
Washington, D.C. 20005

Dear Ambassador Sondland:

Pursuant to the October 8, 2019 subpoena issued by the Permanent Select Committee on Intelligence after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform, you are presently required to produce documents by October 14, 2019 and appear for a deposition on October 16, 2019 at 9:30 a.m. as part of the House of Representatives' impeachment inquiry

We hereby write to memorialize our agreement with your counsel, Mr. Robert Luskin, Esq., to adjourn the date and time of your document production and deposition to **October 17, 2019, at 9:30 a.m. at the Capitol, HVC-304**.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

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cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Congress of the United States
Washington, DC 20515

October 8, 2019

The Honorable Gordon Sondland
U.S. Ambassador to the European Union
c/o Mr. Robert Luskin
Paul Hastings LLP
875 15th Street, N.W.
Washington, DC 20005

Dear Ambassador Sondland:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to appear at a deposition on **October 16, 2019, at 9:30 a.m. at the Capitol, HVC-304**, and to produce the documents set forth in the accompanying schedule by **October 14, 2019**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The deposition transcript and subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Subpoena for Testimony

On September 27, 2019, the Committees requested that you appear for a deposition and provide documents in your personal possession, custody, or control relating to these matters by the date of your appearance.[2] The same day, the Committees sent a letter to Secretary of State

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[1] *See* Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings, Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Letter from Chairman Eliot L. Engel, Committee on Foreign Affairs, Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, Committee on Oversight and

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Michael Pompeo to inform the State Department of your scheduled deposition.[3]

On October 1, 2019, Secretary Pompeo sent the Committees a letter arguing that our request for testimony from you and four other current and former State Department officials "can be understood only as an attempt to intimidate, bully, and treat improperly the distinguished professionals of the Department of State." He claimed that Congress lacks the authority to conduct depositions without agency representatives in the room, despite our clear authority and a long precedent of doing so. He argued that "the five officials subject to your letter may not attend any interview or deposition without counsel from the Executive Branch present."[4]

Later that same day, the Committees responded to Secretary Pompeo's concerns by sending a letter to Deputy Secretary of State John Sullivan. In that letter, we explained:

> Secretary Pompeo is now a fact witness in the impeachment inquiry. He should not be making any decisions regarding witness testimony or document production in order to protect himself or the President. Any effort by the Secretary or the Department to intimidate or prevent witnesses from testifying or withhold documents from the Committees shall constitute evidence of obstruction of the impeachment inquiry.[5]

With respect to Secretary Pompeo's challenge to the House deposition rules, we pointed out that when he served previously as a Member of the House of Representatives—and as one of the key Republican Members of the Benghazi Select Committee—he held exactly the opposite view. The House rule that protects witnesses in depositions was adopted by the House of Representatives in January 2019. The same rule has been in place for more than a decade under both Republican and Democratic Chairmen of the Committee on Oversight and Reform, and it was in place during Secretary Pompeo's tenure on the Benghazi Select Committee.[6] As we wrote to Deputy Secretary Sullivan:

Reform, to Ambassador Gordon Sondland, Department of State (Sept. 27, 2019).

[3] Letter from Chairman Eliot L. Engel, Committee on Foreign Affairs, Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Michael R. Pompeo, Department of State (Sept. 27, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-09-27.EEC%20Engel%20Schiff%20%20to%20Pompeo-%20State%20re%20Depositions.pdf).

[4] Letter from Secretary Michael R. Pompeo, Department of State, to Chairman Eliot L. Engel, Committee on Foreign Affairs (Oct. 1, 2019).

[5] Letter from Chairman Eliot L. Engel, Committee on Foreign Affairs, Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Deputy Secretary John J. Sullivan, Department of State (Oct. 1, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-10-01%20ELE%20ABS%20EEC%20TO%20DEPSEC%20SULLIVAN.pdf).

[6] Deposition Procedures for the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Congressional Record, H4056 (May 9, 2014) (online at www.congress.gov/113/crec/2014/05/09/CREC-2014-05-09-pt1-PgH4056.pdf); Rules of the Committee on Oversight and Reform for the 116th Congress (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/COR%20Rules%20-%20passed.pdf).

> This rule is intended for exactly these types of circumstances—to prevent an agency head with an obvious conflict of interest, and who is directly implicated in the abuses we are currently investigating, from trying to prevent his own employees from coming forward to tell the truth to Congress.[7]

Having received no further response from the State Department, the Committees worked with your attorneys to schedule a voluntary transcribed interview for today at 9:30 a.m.

This morning, however—less than two hours before your interview was scheduled to begin—your attorneys informed our staff that a State Department official left a voicemail at 12:30 a.m. this morning advising that Ambassador Sondland was being directed not to appear before the Committee.

Later this morning, your attorneys provided to us a copy of a letter from the State Department that is dated October 7, 2019, but which was delivered to your attorneys only *after* you were scheduled to appear. The letter stated that the State Department ordered you not to appear for the interview "[b]ased on consultations with the White House."[8] The letter cited the same concerns raised by Secretary Pompeo in his letter on October 1, 2019, but it completely omitted any reference to the fact that the Committees already responded to those concerns on the same date.[9]

The Committees have not received any communication directly from the White House or the State Department about this matter. In light of Secretary Pompeo's direct intervention to block your appearance before our Committees, we are left with no choice but to compel your appearance at a deposition pursuant to the enclosed subpoena.

Subpoena for Documents

With respect to the documents requested by the Committees, to date you have produced none. On October 1, 2019, your attorneys informed the Committees that you "will not be producing documents," including "any emails, texts, or messages on services such as What's

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[7] Letter from Letter from Chairman Eliot L. Engel, Committee on Foreign Affairs, Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Deputy Secretary John J. Sullivan, Department of State (Oct. 1, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-10-01%20ELE%20ABS%20EEC%20TO%20DEPSEC%20SULLIVAN.pdf) (also warning of criminal and other penalties against those who prevent witnesses from providing information to Congress).

[8] Letter from Undersecretary for Management Brian Bulatao, Department of State, to Robert Luskin, Paul Hastings LLP (Oct. 7, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/SondlandDOSLETTER.pdf).

[9] It is unclear what the actual reason was for the State Department's decision to prohibit your testimony given that President Trump indicated that he personally—and not the State Department—blocked you from testifying because, in his view, it would be before "a totally compromised kangaroo court, where Republican's rights have been taken away, and true facts are not allowed out for the public to see." Donald J. Trump, Tweet (Oct. 8, 2019).

App [sic]," in your possession, custody, or control, even those that are "responsive" to the Committees' request.[10]

Your counsel made several arguments to justify this action, but none is a valid basis to withhold responsive documents in your personal possession from the Committees.

Your counsel argued that "any request for these or other materials relevant to your inquiry must be directed in the first instance to the State Department."[11] Of course, the Committees have made repeated attempts to obtain documents from the State Department voluntarily—followed by the issuance of a subpoena for documents that were due last Friday—but the State Department has refused to cooperate and has failed to produce a single document.[12] Secretary Pompeo's obstruction of the House's impeachment inquiry does not alleviate you of your independent legal obligation to produce to the Committees any responsive documents in your personal possession, custody, or control.

Your counsel also argued that you are "legally prohibited" from producing the documents in your possession to the Committees.[13] The Committee on Oversight and Reform has jurisdiction over the Federal Records Act. There is nothing in the Act that prevents witnesses from cooperating with duly authorized demands from Congress. It appears that the only reason you are withholding documents is because the State Department—which is itself refusing to produce documents—has directed you to do so. This is not a valid basis to withhold documents in your personal possession, custody, or control from the Committees.

The Committees have obtained copies of multiple text message exchanges involving you, other State Department officials, and Ukrainian government officials that were not conducted on official government communications systems and that date back to at least June 2019. For example, the Committees have obtained WhatsApp messages from Ambassador Kurt Volker showing that you were directly involved in efforts to press Ukraine to announce publicly that it was pursuing investigations desired by President Donald Trump into the "2016 election" and "Burisma," a Ukrainian gas company on whose board former Vice President Joseph Biden's son, Hunter Biden, used to sit.[14] The WhatsApp messages also indicate that you spoke directly to

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[10] Email from Robert Luskin, Paul Hastings LLP, to Staff, Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform (Oct. 1, 2019).

[11] *Id.*

[12] Letter from Chairman Eliot L. Engel, Committee on Foreign Affairs, Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Michael R. Pompeo, Department of State (Sept. 27, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-09-27.EEC%20Engel%20Schiff%20%20to%20Pompeo-%20State%20re%20Document%20Subpoena.pdf).

[13] Email from Robert Luskin, Paul Hastings LLP, to Staff, Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform (Oct. 1, 2019).

[14] Letter from Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, Chairman Eliot L. Engel, Committee on Foreign Affairs, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Members, Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform (Oct. 3, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Chairmen%20Letter%20on%20Sta

President Trump during the period when you and other officials were trying to convince Ukraine to announce publicly that it would pursue these political investigations. Unlike Ambassador Volker, however, you have refused to produce to the Committees these highly relevant documents from your non-official electronic messaging systems.

The Federal Records Act prohibits any employee of a federal agency from creating or sending a record using a non-official electronic messaging account unless the employee copies the employee's official electronic messaging account or "forwards a complete copy" to the employee's official electronic messaging account "not later than 20 days after the original creation or transmission of the record."[15]

The text messages obtained by the Committees show that you communicated extensively about official business using non-official messaging accounts. It appears that you may not have taken steps to ensure that these messages were captured by an official records system at the State Department within the legally required time period. Indeed, it appears that you may have failed to do so until the Committees sought your records in connection with this impeachment inquiry. In his October 1 email, your counsel told the Committees that you "*will* certainly fulfill [your] obligations" under the Department's record-keeping regulations, which suggests that you had not already done so at the time the Committees sent their request on September 27.[16] This raises serious questions about whether you and the State Department fully complied with your legal obligations under the Federal Records Act.

In addition, the Committees' request included documents from before you became a State Department employee. The time frame for the request is "January 20, 2017, to the present." You did not become an employee of the State Department until late June 2018. You did, however, have prior connections to President Trump as a private citizen. For example, you served as a state co-chair for his 2016 presidential campaign, and you donated $1 million to the President's inaugural committee.[17]

There is no valid basis to withhold documents from the Committees by relying on instructions from Secretary Pompeo, who is a fact witness in this inquiry and who is currently defying his own duly issued subpoena for documents—particularly if the Department's goal is to block the Committees from gaining access to your documents prior to your testimony.

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te%20Department%20Texts%2010-03-19.pdf).

[15] 44 U.S.C. § 2911.

[16] Email from Robert Luskin, Paul Hastings LLP, to Staff, Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform (Oct. 1, 2019).

[17] *Seattle Hotelier Ambassador Gordon Sondland Made Himself a Central Figure in Trump-Ukraine Controversy*, Seattle Times (Oct. 5, 2019) (online at www.seattletimes.com/seattle-news/politics/how-seattle-hotelier-ambassador-gordon-sondland-was-thrust-into-trump-ukraine-controversy/).

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Ambassador Gordon Sondland

You are hereby commanded to be and appear before the
Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☒ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: THE CAPITOL, HVC-304
Date: 10/14/19 Time: 12:00 PM

☒ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: THE CAPITOL, HVC-304
Date: 10/16/19 Time: 9:30 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8th day of October, 2019

Chairman or Authorized Member

Attest: Robert F Reeves, Deputy Clerk
Clerk

PROOF OF SERVICE

Subpoena for
Ambassador Gordon Sondland

Address U.S. Department of State, 2201 C St. NW, Washington DC

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Schedule

The Permanent Select Committee on Intelligence, requires that, you, Gordon Sondland, in accordance with the attached Definitions and Instructions, produce all documents and communications from January 20, 2017 to present, in your possession, custody, or control referring, relating to, or involving the following subjects:

1. Any communications or meetings between President Donald Trump and Ukrainian president Volodymyr Zelensky, including but not limited to phone calls between President Trump and President Zelensky on April 21, 2019, and July 25, 2019, and a meeting between President Trump and President Zelensky on September 25, 2019, in New York City;

2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any other proposed meetings or communications, whether or not they occurred, between President Trump, Vice President Pence, Secretary of State Michael Pompeo, former National Security Advisor John Bolton, or Secretary of Energy Rick Perry and Ukrainian president Volodymyr Zelensky or other Ukrainian government official;

6. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

7. The actual or potential withholding, suspending, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine;

8. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

9. Rudolph W. Giuliani, including any text messages or emails using either official government devices or personal devices;

10. Paul Manafort;

11. Hunter Biden;

12. Burisma; and

13. Efforts to conceal or destroy any documents or records relating to any of the foregoing items (1-12).

Congress of the United States
Washington, DC 20515

October 15, 2019

VIA E-MAIL

Andrew M. Wright, Esq.
K&L Gates LLP
1601 K Street, NW
Washington, D.C. 20006-1600

Dear Mr. Wright:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Deputy Assistant Secretary of State George Kent, to appear at a previously scheduled deposition on **October 15, 2019, at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On September 13, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to the State Department requesting that your client, Mr. Kent, appear before the Committees for a voluntary interview. When the State Department failed to make Mr. Kent available, the Committees sent a deposition notice directly to your client on September 27, 2019.

In light of recent attempts by the Administration to direct your client not to appear voluntarily for the deposition, the enclosed subpoena now compels your client's mandatory appearance at today's deposition on October 15, 2019.

Enclosed is a copy of the House Deposition Rules for your information.

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[1] *See* Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

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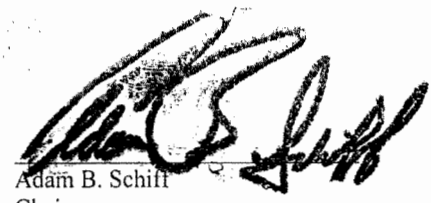
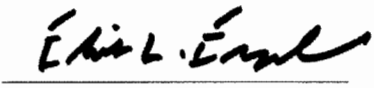
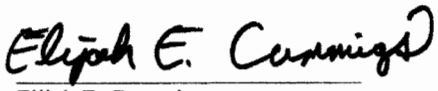
Sincerely,



Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence



Eliot L. Engel
Chairman
House Committee on Foreign Affairs



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To GEORGE KENT

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 15, 2019 Time: 10:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for GEORGE KENT

Address _____

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date OCTOBER 15, 2019

Signature of Server _____

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Congress of the United States
Washington, DC 20515

September 27, 2019

Mr. George P. Kent
Deputy Assistant Secretary
Bureau of European and Eurasian Affairs
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Kent:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 7, 2019, at 10:00 a.m. at The Capitol, HVC-304**. We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition.

This deposition will be conducted jointly by the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Any failure to appear for a scheduled deposition shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

In light of press reports, recently declassified documents, and other sources, we believe you have information and documents relevant to the Committees' investigation. On September 13, 2019, the Committees wrote to Secretary of State Mike Pompeo, requesting that the State Department make you available for a transcribed interview. We asked him to provide, by September 20, 2019, a date by which you would be made available for a transcribed interview.[1] He failed to comply with this request.

Today, the Committees wrote to Secretary Pompeo again, notifying him that the Committees have scheduled your deposition for the date and time set forth above.[2]

---

[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 13, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-09-13.EEC%20ELE%20Schiff%20re%20Ukraine.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 27, 2019) (online at

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If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

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https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-09-27.EEC%20Engel%20Schiff%20%20to%20Pompeo-%20State%20re%20Depositions.pdf).

Document Request

The Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform ("Committees") request all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017 to the present**. The Committees request that these materials be provided to the Committees at your deposition.

1. Any communication or meetings between President Donald Trump and Ukrainian president Volodymyr Zelensky, including but not limited to phone calls between President Trump and President Zelensky on April 21, 2019, and July 25, 2019, and a meeting between President Trump and President Zelensky on September 25, 2019, in New York City;

2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

6. The actual or potential withholding, suspending, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine;

7. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

8. Rudolph W. Giuliani including any text messages or emails using either official government devices or personal devices;

9. Paul Manafort;

10. Hunter Biden;

11. Burisma; and

12. Efforts to conceal or destroy any documents or records relating to any of the foregoing items (1-11).

Responding to Committees' Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

    BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 4, 2019

The Honorable John Michael Mulvaney
Acting Chief of Staff to the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20500

Dear Mr. Mulvaney:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce documents set forth in the accompanying schedule by **October 18, 2019**.

This subpoena is being issued by the Committee on Oversight and Reform under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or others at the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

During a press conference on Wednesday, President Trump was asked if he would cooperate with the House impeachment inquiry. He responded, "I always cooperate."[2] President Trump's claim is patently false. The White House has refused to engage with—or even respond to—multiple requests for documents from our Committees on a voluntary basis. After nearly a month of stonewalling, it appears clear that the President has chosen the path of defiance, obstruction, and cover-up.

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[1] *See* Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings, Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019).

[2] *Trump Says He 'Always' Cooperates While Railing Against Impeachment Inquiry,* The Hill (Oct. 2, 2019) (online at https://thehill.com/homenews/administration/464087-trump-says-he-always-cooperates-while-railing-against-impeachment).

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On September 9, 2019, the Committees sent a letter to White House Counsel Pat Cipollone requesting that the White House produce documents relating to the Committees' investigation by September 16, 2019.[3] The White House did not produce any documents by the requested date, did not send any reply letter, and did not acknowledge receipt of the request.

On September 24, 2019, the Committees sent a follow-up letter warning that the Chairmen would be forced to consider compulsory process if the White House continued to ignore our request. The Committees set a new deadline of September 26, 2019, for the White House to produce these documents.[4] Again, the White House failed to comply and did not acknowledge receipt of our follow-up letter.

Today, President Trump stated that he plans to send a letter to House Speaker Nancy Pelosi, and press reports indicate that the letter will relay the White House's refusal to cooperate with the impeachment inquiry until there is a House vote on the floor.[5]

A vote of the full House is not required to launch an impeachment inquiry, and there is no authority for the White House to make this claim. There is no such requirement in the Constitution or in the House Rules.[6]

Nor does precedent support this claim. On the contrary, "In the House various events have been credited with setting an impeachment in motion."[7] In the case of President Nixon, for example, the Judiciary Committee had been investigating charges of impeachment for months before the House voted to open an inquiry.[8] In 1974, the Judiciary Committee had already "been conducting an investigation into the charges of impeachment against President Nixon" and had "hired special counsel for the impeachment inquiry."[9] During the 1980s, the House investigated three federal judges, and no resolution explicitly authorizing an impeachment investigation was

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[3] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, White House Counsel (Sept. 9, 2019) (online at https://intelligence.house.gov/uploadedfiles/ele_schiff_cummings_letter_to_cipollone_on_ukraine.pdf).

[4] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, White House Counsel (Sept. 24, 2019) (online at https://intelligence.house.gov/uploadedfiles/2019-09-24.eec_engel_schiff_to_cipollone-wh_re_potus_ukraine.pdf).

[5] The White House, *Remarks by President Trump Before Marine One Departure* (Oct. 4, 2019) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-68/). *See also Trump Demands Full House Vote on Impeachment Before Complying with Lawmakers,* NPR (Oct. 4, 2019) (online at www.npr.org/2019/10/04/767205170/trump-demands-full-house-vote-on-impeachment-before-complying-with-lawmakers).

[6] U.S. Constitution, Art. I, § 2, cl. 5; § 5, cl. 2.

[7] Jefferson's Manual § 603, H. Doc. No. 114-192, at 319 (2017).

[8] Deschler Ch. 14 § 15, at 2171-72 (Parliamentarian's Note) (prior to adopting the H. Res. 803, 93rd Cong.).

[9] *Id.*

proposed or agreed to in the House.[10] Speaker Pelosi has confirmed that an impeachment inquiry is underway, and it is not for the White House to say otherwise.

Even if an impeachment inquiry were not underway, the entire House of Representatives voted on the floor on January 9, 2019, to adopt its Rules, which provide the Oversight Committee with its own independent oversight and legislative jurisdiction to investigate these matters—including authority to issue subpoenas to the White House.[11]

Specifically, under House Rule X, the Oversight Committee is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time." In addition, House Rule X, clause 3(i) specifically charges the Committee with conducting oversight of "the operation of Government activities at all levels, **including the Executive Office of the President.**" Finally, Rule X, clause 4 provides: "The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved."

The Oversight Committee has used its authority repeatedly under both Republican and Democratic Chairmen to obtain documents from the White House. For example, during an investigation of the Administration of President George W. Bush involving violations of the Presidential Records Act, the Oversight Committee obtained more than 20,000 pages of internal emails and other documents from the White House and the National Archives and Records Administration. The Oversight Committee also interviewed or received written answers to questions from six current or former White House officials as part of that investigation.[12]

The Oversight Committee has also obtained public testimony from numerous White House officials under both Democratic and Republican Administrations, including:

- Charles Ruff, Counsel to the President, Clinton Administration;
- Beth Nolan, Counsel to the President, Clinton Administration;
- Dimitri Nionakis, Associate Counsel to the President, Clinton Administration; and
- James Knodell, Director of White House Office of Security, George W. Bush Administration.[13]

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[10] *Cf.* H. Rept. No. 101-36, at 13-16 (1989) (Nixon); H. Rept. No. 100-810, at 9-10 (1988) (Hastings); H. Rept. No. 99-688, at 3-7 (1986) (Claiborne).

[11] Clerk of the House of Representatives, *Rules of the House of Representatives One Hundred Sixteenth Congress* (Jan. 11, 2019) (online at https://rules.house.gov/sites/democrats.rules.house.gov/files/documents/116-House-Rules-Clerk.pdf).

[12] Memorandum from Democratic Staff to Members of the Committee on Oversight and Government Reform, *Supplemental Information for Full Committee Hearing on White House E-mails* (Feb. 26, 2008) (online at https://bit.ly/2Z4Z2pC).

[13] Committee on Government Reform and Oversight, *Hearings on White House Compliance with Committee Subpoenas*, 105th Cong. (Nov. 6-7, 1997) (H. Rept. 105-61); Committee on Government Reform, *Hearings on Missing White House E-Mails: Mismanagement of Subpoenaed Records*, 106th Cong. (Mar. 23, 2000, Mar. 30, 2000, May 3, 2000, and May 4, 2000) (H. Rept. 106-179); Committee on Oversight and Government

The Honorable John Michael Mulvaney
Page 4

We deeply regret that President Trump has put us—and the nation—in this position, but his actions have left us with no choice but to issue this subpoena.

Please contact staff for the Committee on Oversight and Reform at (202) 225-5051 to arrange for the production of documents.

Sincerely,

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Adam Schiff
Chairman
House Permanent Select Committee on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Reform, *Hearing on White House Procedures for Safeguarding Classified Information*, 110th Cong. (Mar.16, 2007) (H. Rept. 110-28).

Congress of the United States
Washington, DC 20515

October 23, 2019

The Honorable John J. Sullivan
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20230

Dear Deputy Secretary Sullivan:

As part of the House of Representatives' ongoing impeachment inquiry, our Committees have now obtained detailed information identifying specific documents in the possession, custody, or control of the Department of State that are directly and highly relevant to the inquiry.

These documents include information central to the inquiry's core area of investigation: the President's efforts to press Ukraine to initiate investigations that would benefit his personal and political interests, and not the national interest. These records include, but are not limited to:

- Written readouts and write-ups of meetings and conversations that document activity and conduct under investigation by the Committees;
- Email correspondence that pertains directly to matters under investigation that occurred both *before* and *after* President Trump's July 25, 2019, call with Ukrainian President Volodymyr Zelensky;
- Diplomatic cables that relate, among other issues, to the President's decision to withhold vital military aid to Ukraine and document interactions with Ukrainian officials about matters under investigation;
- Text messages and electronic communications, including from personal devices, from witnesses in the inquiry; and
- Memoranda to file drafted by Department officials, including memoranda that document efforts to press Ukraine to initiate politically-motivated investigations to benefit President Trump and that raise concerns about false representations by the Department to the Committees and that document efforts to intimidate or silence employees.

The Department has not produced any documents—including those referenced above—in response to the subpoena issued by the Committee on Foreign Affairs, in consultation with the Intelligence and Oversight and Reform Committees, on September 27, 2019. The Department continues to withhold these and other documents, even as current and former Department employees have testified before the Committees, and despite the Department's unfounded and unsuccessful efforts to block their appearance or limit their testimony.

The Committees consider the refusal to comply with a duly authorized congressional subpoena as obstruction of the lawful functions of Congress and of the impeachment inquiry. Because the Committees have gathered evidence about the direct relevance of these documents,

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including highly significant information contained in these materials that pertain to allegations that the President abused the power of his office for personal political benefit, the Committees may draw the inference that their nonproduction indicates that these documents support the allegations against the President and others.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 16, 2019

Charles M. Kupperman
Former Deputy Assistant to the President
for National Security Affairs

Dear Mr. Kupperman:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 23, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 16, 2019

The Honorable Philip T. Reeker
Acting Assistant Secretary
Bureau of European and Eurasian Affairs
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Reeker:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 23, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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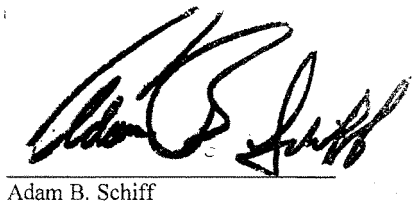
Sincerely,



Eliot L. Engel
Chairman
House Committee on Foreign Affairs



Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 16, 2019

Mr. Timothy Morrison
Deputy Assistant to the President
National Security Council
Eisenhower Executive Office Building
Washington, D.C. 20504

Dear Mr. Morrison:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 25, 2019, at 10:00 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 27, 2019

Ambassador Gordon Sondland
U.S. Ambassador to the European Union
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Sondland:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 10, 2019, at 10:00 a.m. at The Capitol, HVC-304**. We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition.

This deposition will be conducted jointly by the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Any failure to appear for a scheduled deposition shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

In light of press reports, recently declassified documents, and other sources, we believe you have information and documents relevant to the Committees' investigation. Today, the Committees wrote to Secretary Pompeo, notifying him that the Committees have scheduled your deposition for the date and time set forth above.[1]

[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 27, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-09-27.EEC%20Engel%20Schiff%20%20to%20Pompeo-%20State%20re%20Depositions.pdf).

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If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Document Request

The Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform ("Committees") request all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017 to the present**. The Committees request that these materials be provided to the Committees at your deposition.

1. Any communication or meetings between President Donald Trump and Ukrainian president Volodymyr Zelensky, including but not limited to phone calls between President Trump and President Zelensky on April 21, 2019, and July 25, 2019, and a meeting between President Trump and President Zelensky on September 25, 2019, in New York City;

2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

6. The actual or potential withholding, suspending, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine;

7. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

8. Rudolph W. Giuliani including any text messages or emails using either official government devices or personal devices;

9. Paul Manafort;

10. Hunter Biden;

11. Burisma; and

12. Efforts to conceal or destroy any documents or records relating to any of the foregoing items (1-11).

Responding to Committees' Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

    BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 4, 2019

The Honorable William B. Taylor, Jr.
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Taylor:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 15, 2019, at 9:30 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition or produce the requested documents, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

We believe you have information and documents relevant to the Committees' investigation. Today, the Committees wrote separately to Deputy Secretary John Sullivan notifying him that the Committees have scheduled your deposition for the date and time set forth above.

Attached for your reference are the House Deposition Rules and H. Res. 6, 116th Congress, including Section 103(a) as referenced in the Deposition Rules.

We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition. An attachment to this letter provides additional instructions for responding to the Committees' request.

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If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Document Request

Please produce all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017 to the present**. The Committees request that these materials be provided to the Committees before or at your deposition.

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

2. Communications between or among any of the following referring or relating in any way to the April 21, 2019, or July 25, 2019, telephone conversations:

    a. Current or former White House officials, employees, and detailees, including within the White House Counsel's Office, the White House Situation Room, and the National Security Council (NSC);

    b. Current or former employees or officials of the Department of State, including but not limited to Secretary Michael R. Pompeo, Counselor T. Ulrich Brechbuhl, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Deputy Assistant Secretary George Kent, U.S. Embassy in Ukraine Deputy Chief of Mission Kristina Kvien, and Ambassador to the European Union Gordon Sondland;

    c. Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr;

    d. Current or former employees or officials of the Department of Energy, including but not limited to Secretary Rick Perry;

    e. Current or former employees or officials of the Office of the Director of National Intelligence (ODNI), including but not limited to Acting Director Joseph Maguire and ODNI's Office of General Counsel;

    f. Current or former employees or officials of the Central Intelligence Agency, including but not limited to General Counsel Courtney Simmons Elwood; and

g. Current or former employees or officials of the Department of Defense, including but not limited to Secretary of Defense Mark Esper;

3. The actual or potential suspension, withholding, delaying, freezing, or releasing of foreign assistance of any kind, including but not limited to security assistance, to Ukraine;

4. Any offers extended by President Trump to, or requests from, President Zelensky or other Ukrainian government officials for a meeting between President Trump and President Zelensky, including an Oval Office meeting;

5. Any of the following meetings or potential meetings:

   a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications relating to the same;

   b. A meeting at the White House on or around May 23, 2019, involving President Trump, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Energy Secretary Rick Perry, or Ambassador Gordon Sondland;

   c. President Zelensky's inauguration on May 20, 2019, in Kiev, Ukraine, including but not limited to President Trump's decision not to attend and not to send Vice President Pence to lead the U.S. delegation and to instead send Energy Secretary Rick Perry;

   d. A meeting between President Zelensky and Ambassador Gordon Sondland, Jared Kushner, Energy Secretary Perry, and other U.S. officials in Brussels, Belgium on or about June 4, 2019;

   e. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Perry, former National Security Advisor John Bolton, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, and Ambassador Gordon Sondland, including but not limited to the proposed or actual participation of President Trump and Vice President Pence in the meeting;

   f. A potential meeting between President Trump and President Zelensky in Warsaw, Poland in or around September 2019, including but not limited to President Trump's decision to cancel his attendance;

   g. All meetings and communications between U.S. officials, including but not limited to Vice President Pence, Energy Secretary Perry, and President Zelensky

or other Ukrainian government officials in Warsaw, Poland in or around September 2019;

h. A telephone call between Secretary of State Pompeo and the Ukrainian Foreign Minister on or about September 17, 2019;

i. A telephone call between Vice President Pence and President Zelensky on or about September 18, 2019; and

j. All meetings between President Trump and President Zelensky during the United Nations General Assembly in or around September 2019, including but not limited to any discussion of their July 25, 2019, telephone conversation, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

6. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden Jr., the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

7. All meetings or communications with officials or employees of the U.S. Department of Justice relating to the investigations described in paragraph 6;

8. Former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the decision to end her tour or recall her from the U.S. Embassy in Kiev;

9. The acquisition by Ukraine of Javelin missiles from the United States and the decision by Ukraine to investigations of Paul Manafort and cease cooperation with Special Counsel Robert Mueller's investigation in or about March/April 2018;

10. The investigation announced by the Permanent Select Committee on Intelligence, Foreign Affairs Committee, and Oversight and Reform Committee of the U.S. House of Representatives on September 9, 2019;

11. The Intelligence Community whistleblower complaint that was made public on September 26, 2019;

12. The resignation of former Special Representative for Ukraine Kurt Volker on or about September 27, 2019; and

13. Efforts to conceal, destroy, or otherwise dispose of any documents, records, or communications referring or relating to any of the foregoing matters.

Congress of the United States
Washington, DC 20515

September 27, 2019

Ambassador Kurt Volker
U.S. Special Representative for Ukraine
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Volker:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 3, 2019, at 10:00 a.m. at The Capitol, HVC-304**. We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition.

This deposition will be conducted jointly by the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Any failure to appear for a scheduled deposition shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

In light of press reports, recently declassified documents, and other sources, we believe you have information and documents relevant to the Committees' investigation. On September 13, 2019, the Committees wrote to Secretary of State Mike Pompeo, requesting that the State Department make you available for a transcribed interview. We asked him to provide, by September 20, 2019, a date by which you would be made available for a transcribed interview.[1] He failed to comply with this request.

Today, the Committees wrote to Secretary Pompeo again, notifying him that the Committees have scheduled your deposition for the date and time set forth above.[2]

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[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 13, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-09-13.EEC%20ELE%20Schiff%20re%20Ukraine.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 27, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-09-27.EEC%20Engel%20Schiff%20%20to%20Pompeo-%20State%20re%20Depositions.pdf).

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If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Document Request

The Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform ("Committees") request all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017 to the present**. The Committees request that these materials be provided to the Committees at your deposition.

1. Any communication or meetings between President Donald Trump and Ukrainian president Volodymyr Zelensky, including but not limited to phone calls between President Trump and President Zelensky on April 21, 2019, and July 25, 2019, and a meeting between President Trump and President Zelensky on September 25, 2019, in New York City;

2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

6. The actual or potential withholding, suspending, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine;

7. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

8. Rudolph W. Giuliani including any text messages or emails using either official government devices or personal devices;

9. Paul Manafort;

10. Hunter Biden;

11. Burisma; and

12. Efforts to conceal or destroy any documents or records relating to any of the foregoing items (1-11).

Responding to Committees' Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

    BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

September 27, 2019

Ambassador Marie "Masha" Yovanovitch
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Yovanovitch:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 2, 2019, at 10:00 a.m. at The Capitol, HVC-304**. We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition.

This deposition will be conducted jointly by the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Any failure to appear for a scheduled deposition shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

In light of press reports, recently declassified documents, and other sources, we believe you have information and documents relevant to the Committees' investigation. On September 13, 2019, the Committees wrote to Secretary of State Mike Pompeo, requesting that the State Department make you available for a transcribed interview. We asked him to provide, by September 20, 2019, a date by which you would be made available for a transcribed interview.[1] He failed to comply with this request.

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If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

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2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

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13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

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Definitions

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2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

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9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 4, 2019

The Honorable William B. Taylor, Jr.
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Taylor:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 15, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition or produce the requested documents, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

We believe you have information and documents relevant to the Committees' investigation. Today, the Committees wrote separately to Deputy Secretary John Sullivan notifying him that the Committees have scheduled your deposition for the date and time set forth above.

Attached for your reference are the House Deposition Rules and H. Res. 6, 116th Congress, including Section 103(a) as referenced in the Deposition Rules.

We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition. An attachment to this letter provides additional instructions for responding to the Committees' request.

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The Honorable William B. Taylor, Jr.
Page 2

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Document Request

Please produce all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017 to the present.** The Committees request that these materials be provided to the Committees before or at your deposition.

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

2. Communications between or among any of the following referring or relating in any way to the April 21, 2019, or July 25, 2019, telephone conversations:

    a. Current or former White House officials, employees, and detailees, including within the White House Counsel's Office, the White House Situation Room, and the National Security Council (NSC);

    b. Current or former employees or officials of the Department of State, including but not limited to Secretary Michael R. Pompeo, Counselor T. Ulrich Brechbuhl, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Deputy Assistant Secretary George Kent, U.S. Embassy in Ukraine Deputy Chief of Mission Kristina Kvien, and Ambassador to the European Union Gordon Sondland;

    c. Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr;

    d. Current or former employees or officials of the Department of Energy, including but not limited to Secretary Rick Perry;

    e. Current or former employees or officials of the Office of the Director of National Intelligence (ODNI), including but not limited to Acting Director Joseph Maguire and ODNI's Office of General Counsel;

    f. Current or former employees or officials of the Central Intelligence Agency, including but not limited to General Counsel Courtney Simmons Elwood; and

g. Current or former employees or officials of the Department of Defense, including but not limited to Secretary of Defense Mark Esper;

3. The actual or potential suspension, withholding, delaying, freezing, or releasing of foreign assistance of any kind, including but not limited to security assistance, to Ukraine;

4. Any offers extended by President Trump to, or requests from, President Zelensky or other Ukrainian government officials for a meeting between President Trump and President Zelensky, including an Oval Office meeting;

5. Any of the following meetings or potential meetings:

   a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications relating to the same;

   b. A meeting at the White House on or around May 23, 2019, involving President Trump, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Energy Secretary Rick Perry, or Ambassador Gordon Sondland;

   c. President Zelensky's inauguration on May 20, 2019, in Kiev, Ukraine, including but not limited to President Trump's decision not to attend and not to send Vice President Pence to lead the U.S. delegation and to instead send Energy Secretary Rick Perry;

   d. A meeting between President Zelensky and Ambassador Gordon Sondland, Jared Kushner, Energy Secretary Perry, and other U.S. officials in Brussels, Belgium on or about June 4, 2019;

   e. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Perry, former National Security Advisor John Bolton, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, and Ambassador Gordon Sondland, including but not limited to the proposed or actual participation of President Trump and Vice President Pence in the meeting;

   f. A potential meeting between President Trump and President Zelensky in Warsaw, Poland in or around September 2019, including but not limited to President Trump's decision to cancel his attendance;

   g. All meetings and communications between U.S. officials, including but not limited to Vice President Pence, Energy Secretary Perry, and President Zelensky

or other Ukrainian government officials in Warsaw, Poland in or around September 2019;

h. A telephone call between Secretary of State Pompeo and the Ukrainian Foreign Minister on or about September 17, 2019;

i. A telephone call between Vice President Pence and President Zelensky on or about September 18, 2019; and

j. All meetings between President Trump and President Zelensky during the United Nations General Assembly in or around September 2019, including but not limited to any discussion of their July 25, 2019, telephone conversation, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

6. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden Jr., the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

7. All meetings or communications with officials or employees of the U.S. Department of Justice relating to the investigations described in paragraph 6;

8. Former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the decision to end her tour or recall her from the U.S. Embassy in Kiev;

9. The acquisition by Ukraine of Javelin missiles from the United States and the decision by Ukraine to investigations of Paul Manafort and cease cooperation with Special Counsel Robert Mueller's investigation in or about March/April 2018;

10. The investigation announced by the Permanent Select Committee on Intelligence, Foreign Affairs Committee, and Oversight and Reform Committee of the U.S. House of Representatives on September 9, 2019;

11. The Intelligence Community whistleblower complaint that was made public on September 26, 2019;

12. The resignation of former Special Representative for Ukraine Kurt Volker on or about September 27, 2019; and

13. Efforts to conceal, destroy, or otherwise dispose of any documents, records, or communications referring or relating to any of the foregoing matters.

Congress of the United States
Washington, DC 20515

October 14, 2019

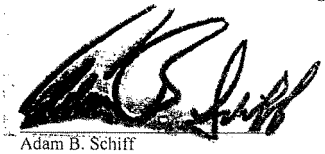
Ambassador William B. Taylor Jr.
c/o John B. Bellinger, III, Esq.
Jeffrey H. Smith, Esq.
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Ave, NW
Washington, DC 20001-3743

Dear Ambassador Taylor:

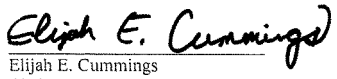
On October 4, 2019, we wrote to request your appearance at a deposition on October 15, 2019 pursuant to the House of Representatives' impeachment inquiry. We hereby write to adjourn the date and time of your deposition to **Tuesday, October 22, 2019, at 9:30 a.m. at the Capitol, HVC-304**.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

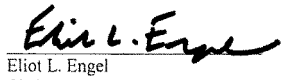
Sincerely,



Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform



Eliot L. Engel
Chairman
House Committee on Foreign Affairs

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cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Congress of the United States
Washington, DC 20515

October 11, 2019

VIA E-MAIL

Lawrence S. Robbins, Esq.
Robbins, Russell, Englert, Orseck,
Untereiner & Sauber LLP
2000 K Street, N.W., 4th Floor
Washington, D.C. 20006

Dear Mr. Robbins:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Ambassador Marie Yovanovitch, to appear at a previously scheduled deposition on **October 11, 2019, at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On September 13, 2019, the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform sent a letter to the State Department requesting that your client, Ambassador Marie Yovanovitch, appear before the Committees for a voluntary interview. When the State Department failed to make Ambassador Yovanovitch available, on September 27, 2019, the Committees sent a deposition notice directly to your client.

In light of recent attempts by the Administration to direct your client not to appear voluntarily for the deposition, the enclosed subpoena now compels your client's mandatory appearance at today's deposition on October 11, 2019.

Enclosed is a copy of the House Deposition Rules for your information.

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[1] *See* Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

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Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To AMBASSADOR MARIE YOVANOVITCH

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 11, 2019 Time: 9:30 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for AMBASSADOR MARIE YOVANOVITCH

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date OCTOBER 11, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Congress of the United States
Washington, DC 20515

October 10, 2019

VIA U.S. MAIL

John M. Dowd, Esq.
5335 Wisconsin Avenue, N.W.
Suite 700
Washington, D.C. 20015

Dear Mr. Dowd:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting the following subpoenas:

- A subpoena that compels your client, Lev Parnas, to produce the documents set forth in the accompanying schedule by **October 16, 2019**; and

- A subpoena that compels your client, Igor Fruman, to produce the documents set forth in the accompanying schedule by **October 16, 2019.**

The subpoenas are being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your clients' failure or refusal to comply with the subpoenas, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against your clients and anyone with whom they are acting in concert, including the President.

In addition to providing the subpoenaed documents, the Committees also expect your clients to appear to testify about these matters at a later date.

Background

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

---

[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

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According to press reports, Mr. Parnas and Mr. Fruman reportedly were "assisting Giuliani's push to get Ukrainian officials to investigate former vice president Joe Biden and his son, as well as Giuliani's claim that Democrats conspired with Ukrainians in the 2016 campaign."[2]

Press reports also indicate that Mr. Parnas and Mr. Fruman were involved with efforts to press Ukrainian officials to change the management structure at a Ukrainian state-owned energy company, Naftogaz, to benefit individuals involved with Mr. Giuliani's push to get Ukrainian officials to interfere in the 2020 election.

For example, according to press reports, Secretary of Energy Rick Perry reportedly "pressed the Ukrainian president to fire members of the Naftogaz advisory board" and "made clear" to Ukrainian officials and energy sector officials "that the Trump administration wanted to see the entire Naftogaz supervisory board replaced." He reportedly gave President Zelensky a list of potential board members, including Michael Bleyzer, who "donated $20,000 to Perry's reelection campaign" in 2010, and Robert Bensh, "another Texan who frequently works in Ukraine."[3]

The proposal to install new board members at Naftogaz was reportedly promoted by "two Soviet-born Florida real estate entrepreneurs, Lev Parnas and Igor Fruman, and an oil magnate from Boca Raton, Florida, named Harry Sargeant III." According to these reports, their plan was to "steer lucrative contracts to companies controlled by Trump allies." In service of these efforts, Mr. Parnas, Mr. Fruman, and Mr. Sargeant also touted "a plan to replace Naftogaz CEO Andriy Kobolyev with another senior executive at the company."[4]

Mr. Parnas and Mr. Fruman are also "clients of Trump's personal lawyer Rudy Giuliani." When Mr. Giuliani was asked about efforts to install new members on Naftogaz's board, he responded, "I may or may not know anything about it."[5]

Throughout this period, Mr. Parnas, Mr. Fruman, and Mr. Sargeant reportedly "touted connections to Giuliani and Trump while trying to install new management at the top of Ukraine's massive state gas company." They also "appear to have had inside knowledge of the U.S. government's plans in Ukraine."[6] For example, "Mr. Parnas and Mr. Fruman boasted that

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[2] *Impeachment Inquiry Puts New Focus on Giuliani's Work for Prominent Figures in Ukraine*, Washington Post (Oct. 2, 2019) (online at www.washingtonpost.com/politics/impeachment-inquiry-puts-new-focus-on-giulianis-work-for-prominent-figures-in-ukraine/2019/10/01/b3c6d08c-e089-11e9-be96-6adb81821e90_story.html).

[3] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

[4] *Id.*

[5] *Perry Pressed Ukraine on Corruption, Energy Company Changes*, Politico (Oct. 5, 2019) (online at www.politico.com/news/2019/10/05/rick-perry-ukraine-trump-030230).

[6] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

they had worked with Mr. Giuliani to force the recall this spring of the American ambassador to Ukraine, Marie L. Yovanovitch."[7]

Mr. Parnas and Mr. Fruman reportedly "told people that Trump would replace the U.S. ambassador there months before she was actually recalled to Washington." When Mr. Giuliani was asked about whether he was involved with this effort to recall the Ambassador to Ukraine, he responded, "I did play a role in that."[8]

Your Clients' Refusal to Cooperate

On September 30, 2019, the Committees sent letters to your clients requesting that they produce documents relating to the Committees' inquiry by October 7, 2019, and appear for depositions on October 10, 2019, for Mr. Parnas and October 11, 2019, for Mr. Fruman.[9]

On October 3, 2019, you sent a letter in your capacity as counsel for Mr. Parnas and Mr. Fruman. You asked for additional time to respond to the Committees' request, but you also wrote that the "amount of time required is difficult to determine." You objected to the requests on various grounds, and you argued that they were intended to "harass, intimidate, and embarrass" your clients. Your letter confirmed, however, that "Messrs. Parnas and Fruman assisted Mr. Giuliani in connection with his representation of President Trump."[10]

On October 8, 2019, you sent a second letter stating that your clients would not appear for the depositions on October 10 and 11, 2019.[11]

On October 9, 2019, you sent an email informing Committee counsel that your clients "agree with and adopt the position of the White House Counsel pertaining to Democrat inquiry [sic]."[12] You attached a copy of a letter that the White House Counsel wrote to House Speaker Nancy Pelosi and our Committees on Tuesday stating that President Trump will not cooperate with the impeachment inquiry.

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[7] *Rick Perry's Focus on Gas Company Entangles Him in Ukraine Case*, New York Times (Oct. 7, 2019) (online at www.nytimes.com/2019/10/07/us/politics/rick-perry-ukraine.html).

[8] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

[9] *See, e.g.*, letter from Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, Chairman Eliot L. Engel, Committee on Foreign Affairs, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Lev Parnas (Sept. 30, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/20190930%20-%20Parnas%20Letter%20and%20Doc%20Request%20Schedule.pdf).

[10] Letter from John M. Dowd to Staff, Permanent Select Committee on Intelligence (Oct. 3, 2019).

[11] Letter from John M. Dowd to Staff, Permanent Select Committee on Intelligence (Oct. 8, 2019).

[12] Email from John M. Dowd to Staff, Permanent Select Committee on Intelligence (Oct. 9, 2019).

Your clients are private citizens who are not employees of the Executive Branch. They may not evade requests from Congress for documents and information necessary to conduct our inquiry. They are required by law to comply with the enclosed subpoenas. They are not exempted from this requirement merely because they happen to work with Mr. Giuliani, and they may not defy congressional subpoenas merely because President Trump has chosen the path of denial, defiance, and obstruction.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of these documents.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Igor Fruman, are hereby required to produce, for the period of **January 20, 2017, to the present**, all documents and communications in your custody, possession, or control referring or relating to:

1. Paul Manafort, Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

2. Efforts, including but not limited to those by you, Rudolph ("Rudy") Giuliani, Lev Parnas, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

3. Serhiy Leshchenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

4. The White House, President Donald Trump, Attorney General William Barr, Donald Trump Jr., Rudolph ("Rudy") Giuliani, former Ambassador Kurt Volker, State Department Counselor T. Ulrich Brechbuhl, State Department Deputy Assistant Secretary George Kent, Assistant Secretary of State for European Affairs A. Wess Mitchell, or anyone in or associated with the Trump Administration;

5. Former Congressman Pete Sessions, including but not limited to a meeting in or about May 2018;

6. Former United States Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

7. Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been

associated with Ukrainian law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

8. United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

9. Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs—including but not limited to America First Action, Inc.—by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities; and

10. The source of any monies, funds, gifts, contributions, donations, or offers of anything of value made by Global Energy Producers, LLC or Aaron Investments I, LLC to America First Action, Inc., including but not limited to a $325,000 donation in May 2018.

You are also required to produce:

11. Any and all documents supplied in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by any U.S. federal or state agency.

Congress of the United States
Washington, DC 20515

September 30, 2019

VIA U.S. MAIL

Dear Mr. Igor Fruman:

Pursuant to the House of Representatives' impeachment inquiry, we hereby request that you preserve and produce certain documents and material listed in the attached document request and relevant to the Committees' investigations, by no later than **October 7, 2019**. We further request your appearance at a deposition on **October 11, 2019**.

This request is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The requested documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with this request, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and anyone with whom you are acting in concern, including the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

A growing public record indicates that the President, his agent Rudy Giuliani, and others appear to have pressed the Ukrainian government to pursue two politically-motivated investigations. The first is a prosecution of Ukrainians who provided evidence against Mr. Trump's convicted campaign chairman, Paul Manafort. The second relates to former Vice President Joseph R. Biden Jr., who is challenging President Trump for the presidency in 2020. The Committees have reason to believe that you have information and documents relevant to these matters.

The Committees are prepared to work cooperatively with you to obtain this information. Please let us know by **5:00 pm on October 1, 2019** whether you intend to voluntarily comply with the Committees' request, or whether the Committees should pursue alternative means to obtain the information.

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (August 22, 2019).

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Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents and discuss the deposition. Enclosed is a copy of the House Deposition Rules for your information.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
On Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE

The Committees request that Igor Fruman preserve and produce all documents and communications for the period of **January 20, 2017, through the present**, regardless of form and as defined below, referring or relating to:[2]

(1) Paul Manafort, Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

(2) Efforts, including but not limited to those by you, Rudolph ("Rudy") Giuliani, Lev Parnas, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

(3) Serhiy Leshchenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

(4) The White House, President Donald Trump, Attorney General William Barr, Donald Trump Jr., Rudolph ("Rudy") Giuliani, former Ambassador Kurt Volker, State Department counselor T. Ulrich Brechbuhl, State Department Deputy Assistant Secretary George Kent, Assistant Secretary of State for European Affairs A. Wess Mitchell, or anyone in or associated with the Trump Administration;

(5) Former Congressman Pete Sessions, including but not limited to a meeting in or about May 2018;

(6) Former United States Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

(7) Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been associated with Ukrainian

[2] Any alternate spellings or transliterations of any names referenced herein would also render a document responsive to these requests.

law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

(8) United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

(9) Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs—including but not limited to America First Action, Inc.—by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities; and

(10) The source of any monies, funds, gifts, contributions, donations, or offers of anything of value made by Global Energy Producers, LLC or Aaron Investments I, LLC to America First Action, Inc., including but not limited to a $325,000 donation in May 2018.

The Committees also request that you produce:

(11) Any and all documents supplied in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by Congress or any U.S. federal or state agency, that could lead to discovery of any facts within the Committee's investigation, or efforts to obstruct authorized investigations into these matters.

To expedite the Committee's review, responsive materials should be produced immediately upon being identified, rather than waiting to submit all documents at one time, and all material produced be bates-stamped and provided in a searchable, Adobe PDF electronic format.

For purposes of this document request:

The documents requested include all those that are in your custody, control, or possession, or within your right of custody, control, or possession. If the document request cannot be complied with in full, it shall be complied with to the extent possible, with an explanation of why full compliance is not possible. Any document withheld on the basis of privilege shall be identified on a privilege log submitted with the responses to this document request. The log shall state the date of the document, its author, his or her occupation and employer, all recipients, the occupation and employer of each recipient, the subject matter, the privilege claimed and a brief explanation of the basis of the claim of privilege. If any document responsive to this document request was, but no longer is, in your possession, custody, or control, identify the document and explain the circumstances by which it ceased to be in your possession, custody, or control.

Definitions:

For purposes of this document request:

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail); electronic messages; text messages; instant messages; marketing materials; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored or generated documents; computer databases; computer disks and formats; machine readable electronic files; data or records maintained on a computer; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; electronically stored information; and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, mail, telex, facsimile, computer, encrypted electronic communications app, discussions, releases, delivery, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this document request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

Responding to Committees' Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

        BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 11, 2019

Ms. Kathryn Wheelbarger
Acting Assistant Secretary for International Security Affairs
U.S. Department of Defense
1400 Defense Pentagon
Washington, D.C. 20301-1400

Dear Acting Assistant Secretary Wheelbarger:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 24, 2019, at 9:30 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 11, 2019

Ms. Laura K. Cooper
Deputy Assistant Secretary for Russia, Ukraine, and Eurasia
U.S. Department of Defense
1400 Defense Pentagon
Washington, D.C. 20301-1400

Dear Deputy Assistant Secretary Cooper:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 18, 2019, at 8:00 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 30, 2019

VIA U.S. MAIL

Dear Mr. Lev Parnas:

Pursuant to the House of Representatives' impeachment inquiry, we hereby request that you preserve and produce certain documents and material listed in the attached document request and relevant to the Committees' investigations, by no later than **October 7, 2019**. We further request your appearance at a deposition on **October 10, 2019**.

This request is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The requested documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with this request, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and anyone with whom you are acting in concern, including the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

A growing public record indicates that the President, his agent Rudy Giuliani, and others appear to have pressed the Ukrainian government to pursue two politically-motivated investigations. The first is a prosecution of Ukrainians who provided evidence against Mr. Trump's convicted campaign chairman, Paul Manafort. The second relates to former Vice President Joseph R. Biden Jr., who is challenging President Trump for the presidency in 2020. The Committees have reason to believe that you have information and documents relevant to these matters.

The Committees are prepared to work cooperatively with you to obtain this information. Please let us know by **5:00 pm on October 1, 2019** whether you intend to voluntarily comply with the Committees' request, or whether the Committees should pursue alternative means to obtain the information.

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (August 22, 2019).

PRINTED ON RECYCLED PAPER

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents and discuss the deposition. Enclosed is a copy of the House Deposition Rules for your information.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
On Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE

The Committees request that Lev Parnas preserve and produce all documents and communications for the period of **January 20, 2017, through the present**, regardless of form and as defined below, referring or relating to:[2]

(1) Paul Manafort, Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

(2) Efforts, including but not limited to those by you, Rudolph ("Rudy") Giuliani, Igor Fruman, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

(3) Serhiy Leshchenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

(4) The White House, President Donald Trump, Attorney General William Barr, Donald Trump Jr., Rudolph ("Rudy") Giuliani, former Ambassador Kurt Volker, State Department counselor T. Ulrich Brechbuhl, State Department Deputy Assistant Secretary George Kent, Assistant Secretary of State for European Affairs A. Wess Mitchell, or anyone in or associated with the Trump Administration;

(5) Former Congressman Pete Sessions, including but not limited to a meeting in or about May 2018;

(6) Former United States Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

(7) Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been associated with Ukrainian

[2] Any alternate spellings or transliterations of any names referenced herein would also render a document responsive to these requests.

law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

(8) United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

(9) Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs—including but not limited to America First Action, Inc.—by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities; and

(10) The source of any monies, funds, gifts, contributions, donations, or offers of anything of value made by Global Energy Producers, LLC or Aaron Investments I, LLC to America First Action, Inc., including but not limited to a $325,000 donation in May 2018.

The Committees also request that you produce:

(11) Any and all documents supplied in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by Congress or any U.S. federal or state agency, that could lead to discovery of any facts within the Committee's investigation, or efforts to obstruct authorized investigations into these matters.

To expedite the Committee's review, responsive materials should be produced immediately upon being identified, rather than waiting to submit all documents at one time, and all material produced be bates-stamped and provided in a searchable, Adobe PDF electronic format.

For purposes of this document request:

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Definitions:

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1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail); electronic messages; text messages; instant messages; marketing materials; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored or generated documents; computer databases; computer disks and formats; machine readable electronic files; data or records maintained on a computer; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; electronically stored information; and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

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1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

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INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

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11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

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19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 16, 2019

Lieutenant Colonel Alexander Vindman
Director for European Affairs
National Security Council
Eisenhower Executive Office Building
Washington, D.C. 20504

Dear Lt. Col. Vindman:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 24, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 7, 2019

VIA U.S. AND ELECTRONIC MAIL

The Honorable Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Esper:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 15, 2019.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

In September 2018, Congress appropriated $250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.[2] In its Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

> The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013(2018).

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> Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.[3]

On February 28 and May 23, 2019, Under Secretary of Defense for Policy John C. Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.[4] The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing $250 million in security cooperation funds to Ukraine.[5]

According to multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."[6]

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."[7] Officials at the Departments of State and Defense reportedly were "puzzled and alarmed" after learning about the White House's directive. Defense Department officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.[8]

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[3] Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

[4] Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf).

[5] Department of Defense, *Press Release: DOD Announces $250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

[6] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[7] *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html).

[8] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

On July 25, 2019, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public, President Trump urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.[9]

According to the record, immediately after President Zelensky mentioned his desire to obtain Javelin missiles, President Trump stated, "I would like you to do us a favor though." He also stated, "I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it." He also said:

> There's a lot of talk about Biden's son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.[10]

In August 2019, Senator Ron Johnson was informed by Gordon Sondland, the U.S. Ambassador to the European Union, that if Ukraine would "get to the bottom of what happened in 2016—if President Trump has that confidence, then he'll release the military spending." Senator Johnson stated: "At that suggestion, I winced." He also stated: "My reaction was: Oh, God. I don't want to see those two things combined."[11]

As you are aware, the Impoundment Control Act of 1974 authorizes the President to withhold the obligation of funds only "(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law." The President is required to submit a special message to Congress with information about the proposed deferral of funds.[12]

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: "This funding is critical to the accomplishment of U.S. national security objectives in Europe."[13]

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[9] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[10] *Id.*

[11] *Trump, in August Call with GOP Senator, Denied Official's Claim on Ukraine Aid*, Wall Street Journal (Oct. 4, 2019) (online at www.wsj.com/articles/trump-administration-used-potential-meeting-to-pressure-ukraine-on-biden-texts-indicate-11570205661).

[12] 2 U.S.C. § 684.

[13] Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, House Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

> The funds designated for the Ukraine Security Assistance Initiative are vital to the long term viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.[14]

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: "These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests."[15]

On September 9, 2019, the Committees on Intelligence, Foreign Affairs, and Oversight wrote to the White House requesting documents related to "the actual or potential suspension of security assistance to Ukraine."[16] The White House never responded this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.[17]

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was "very actively involved in advocating the aid," he "was not given an explanation" about

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[14] Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-letter-urging).

[15] Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, House Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

[16] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[17] *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."[18]

The enclosed subpoena demands documents that are necessary for the Committees to examine this sequence of these events and the reasons behind the White House's decision to withhold critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

[18] *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (online at https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay).

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HONORABLE MARK T. ESPER, SECRETARY OF DEFENSE

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S CAPITOL

Date: OCTOBER 15, 2019 Time: 5:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7th day of October, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for THE HONORABLE MARK T. ESPER, SECRETARY OF DEFENSE

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) MATTHEW BITAR

Title GENERAL COUNSEL

Manner of service ELECTRONIC MAIL

Date OCTOBER 7, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Mark T. Esper, in your capacity as Secretary of Defense, are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession or control referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. Any recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials including the full presidential call package and any addenda; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

2. Communications between or among current or former officials of the following entities relating to the July 25, 2019, telephone conversation:

    a. The White House, including the White House Counsel's Office, the National Security Council (NSC), the Office of the Vice President (OVP), the Office of Management and Budget (OMB), or the White House Situation Room;

    b. The Department of Justice (DOJ);

    c. The Department of State (DOS);

    d. The Department of Energy (DOE);

    e. Agencies in the Intelligence Community (IC); and

    f. The Department of Defense (DOD).

3. Any of the following meetings or potential meetings:

    a. Any request, suggestion, or proposal for a telephone call, meeting, visit, or other communication involving President Trump and President Zelensky;

b. A meeting at the White House on May 23, 2019, involving President Trump, Energy Secretary Rick Perry, former Ambassador Kurt Volker, and/or Ambassador Gordon Sondland;

c. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend and to send Energy Secretary Rick Perry to lead the U.S. delegation instead of Vice President Pence;

d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Rick Perry, former National Security Advisor John Bolton, former Ambassador Kurt Volker, and Ambassador Gordon Sondland, including the proposed or actual participation of Vice President Mike Pence and/or President Trump in the meeting, and any notes or memoranda related to the meeting that were provided to you or your office;

e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on about September 1, 2019, including President Trump's decision to cancel his attendance;

f. Meetings and communications between U.S. officials, including but not limited to Vice President Mike Pence, Energy Secretary Rick Perry, and Senior Advisor Jared Kushner, and President Zelensky and other Ukrainian government officials in Warsaw, Poland on or about September 1, 2019;

g. Secretary Pompeo's September 17, 2019, call with the Ukrainian Foreign Minister Prystayko;

h. Vice President Pence's September 18, 2019, call with President Zelensky; and

i. A meeting between President Trump and President Zelensky during the United Nations General Assembly on or about September 25 2019, including but not limited to any discussion of their July 25, 2019, phone call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

4. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph DiGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

5. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, DOD, DOS , DOE, United States Agency for International Development (USAID), ODNI, or agencies in the IC;

6. The timing, content, and manner for communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;

7. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS , DOE, USAID, ODNI or the IC, including funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);

8. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including transmitting a "special message" to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;

9. Opinions, advice, counsel, approvals, or concurrences provided by OMB, NSC, the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;

10. The rate of obligations or expenditure for foreign assistance of any kind provided by DOD, DOS, DOE, USAID, or IC agencies to Ukraine, including the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;

11. Any delegation or revocation of apportionment authority involving OMB political or career officials;

12. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019, among others;

13. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision; and

14. Meetings, calls, or other engagements with Ukrainian officials regarding potential or actual delays in the provision of funding or implementation of U.S. foreign assistance, including security assistance, to Ukraine.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the subpoena, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. To expedite our review, we request that you produce any responsive materials immediately upon being identified, rather than waiting to submit all documents at one time.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's subpoena to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as

thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every

such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel

in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The term "entity" means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

4. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, smartphone, mail, telex, facsimile, computer, encrypted app, in-person discussions, releases, delivery, or otherwise.

5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

6. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

7. The terms or "relating" "concerning" with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

Congress of the United States
Washington, DC 20515

October 7, 2019

VIA U.S. AND ELECTRONIC MAIL

The Honorable Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Esper:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 15, 2019.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

In September 2018, Congress appropriated $250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.[2] In its Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

> The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013(2018).

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Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.[3]

On February 28 and May 23, 2019, Under Secretary of Defense for Policy John C. Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.[4] The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing $250 million in security cooperation funds to Ukraine.[5]

According to multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."[6]

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."[7] Officials at the Departments of State and Defense reportedly were "puzzled and alarmed" after learning about the White House's directive. Defense Department officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.[8]

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[3] Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

[4] Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf).

[5] Department of Defense, *Press Release: DOD Announces $250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

[6] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[7] *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html).

[8] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

On July 25, 2019, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public, President Trump urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.[9]

According to the record, immediately after President Zelensky mentioned his desire to obtain Javelin missiles, President Trump stated, "I would like you to do us a favor though." He also stated, "I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it." He also said:

> There's a lot of talk about Biden's son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.[10]

In August 2019, Senator Ron Johnson was informed by Gordon Sondland, the U.S. Ambassador to the European Union, that if Ukraine would "get to the bottom of what happened in 2016—if President Trump has that confidence, then he'll release the military spending." Senator Johnson stated: "At that suggestion, I winced." He also stated: "My reaction was: Oh, God. I don't want to see those two things combined."[11]

As you are aware, the Impoundment Control Act of 1974 authorizes the President to withhold the obligation of funds only "(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law." The President is required to submit a special message to Congress with information about the proposed deferral of funds.[12]

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: "This funding is critical to the accomplishment of U.S. national security objectives in Europe."[13]

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[9] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[10] *Id.*

[11] *Trump, in August Call with GOP Senator, Denied Official's Claim on Ukraine Aid*, Wall Street Journal (Oct. 4, 2019) (online at www.wsj.com/articles/trump-administration-used-potential-meeting-to-pressure-ukraine-on-biden-texts-indicate-11570205661).

[12] 2 U.S.C. § 684.

[13] Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, House Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

> The funds designated for the Ukraine Security Assistance Initiative are vital to the long term viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.[14]

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: "These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests."[15]

On September 9, 2019, the Committees on Intelligence, Foreign Affairs, and Oversight wrote to the White House requesting documents related to "the actual or potential suspension of security assistance to Ukraine."[16] The White House never responded this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.[17]

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was "very actively involved in advocating the aid," he "was not given an explanation" about

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[14] Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-letter-urging).

[15] Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, House Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

[16] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[17] *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."[18]

The enclosed subpoena demands documents that are necessary for the Committees to examine this sequence of these events and the reasons behind the White House's decision to withhold critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

[18] *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (onlin at https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay).

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HONORABLE MARK T. ESPER, SECRETARY OF DEFENSE

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 15, 2019 Time: 5:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7th day of October, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for THE HONORABLE MARK T. ESPER, SECRETARY OF DEFENSE

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) MATHER SITAR

Title GENERAL COUNSEL

Manner of service ELECTRONIC MAIL

Date OCTOBER 7, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Mark T. Esper, in your capacity as Secretary of Defense, are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession or control referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. Any recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials including the full presidential call package and any addenda; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

2. Communications between or among current or former officials of the following entities relating to the July 25, 2019, telephone conversation:

    a. The White House, including the White House Counsel's Office, the National Security Council (NSC), the Office of the Vice President (OVP), the Office of Management and Budget (OMB), or the White House Situation Room;

    b. The Department of Justice (DOJ);

    c. The Department of State (DOS);

    d. The Department of Energy (DOE);

    e. Agencies in the Intelligence Community (IC); and

    f. The Department of Defense (DOD).

3. Any of the following meetings or potential meetings:

    a. Any request, suggestion, or proposal for a telephone call, meeting, visit, or other communication involving President Trump and President Zelensky;

b. A meeting at the White House on May 23, 2019, involving President Trump, Energy Secretary Rick Perry, former Ambassador Kurt Volker, and/or Ambassador Gordon Sondland;

c. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend and to send Energy Secretary Rick Perry to lead the U.S. delegation instead of Vice President Pence;

d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Rick Perry, former National Security Advisor John Bolton, former Ambassador Kurt Volker, and Ambassador Gordon Sondland, including the proposed or actual participation of Vice President Mike Pence and/or President Trump in the meeting, and any notes or memoranda related to the meeting that were provided to you or your office;

e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on about September 1, 2019, including President Trump's decision to cancel his attendance;

f. Meetings and communications between U.S. officials, including but not limited to Vice President Mike Pence, Energy Secretary Rick Perry, and Senior Advisor Jared Kushner, and President Zelensky and other Ukrainian government officials in Warsaw, Poland on or about September 1, 2019;

g. Secretary Pompeo's September 17, 2019, call with the Ukrainian Foreign Minister Prystayko;

h. Vice President Pence's September 18, 2019, call with President Zelensky; and

i. A meeting between President Trump and President Zelensky during the United Nations General Assembly on or about September 25 2019, including but not limited to any discussion of their July 25, 2019, phone call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

4. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph DiGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

5. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, DOD, DOS , DOE, United States Agency for International Development (USAID), ODNI, or agencies in the IC;

6. The timing, content, and manner for communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;

7. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS , DOE, USAID, ODNI or the IC, including funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);

8. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including transmitting a "special message" to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;

9. Opinions, advice, counsel, approvals, or concurrences provided by OMB, NSC, the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;

10. The rate of obligations or expenditure for foreign assistance of any kind provided by DOD, DOS, DOE, USAID, or IC agencies to Ukraine, including the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;

11. Any delegation or revocation of apportionment authority involving OMB political or career officials;

12. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019, among others;

13. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision; and

14. Meetings, calls, or other engagements with Ukrainian officials regarding potential or actual delays in the provision of funding or implementation of U.S. foreign assistance, including security assistance, to Ukraine.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the subpoena, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. To expedite our review, we request that you produce any responsive materials immediately upon being identified, rather than waiting to submit all documents at one time.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's subpoena to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as

thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every

such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel

in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The term "entity" means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

4. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, smartphone, mail, telex, facsimile, computer, encrypted app, in-person discussions, releases, delivery, or otherwise.

5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

6. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

7. The terms or "relating" "concerning" with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

Congress of the United States
Washington, DC 20515

October 3, 2019

Members of the Intelligence, Oversight and Reform, and Foreign Affairs Committees
Washington, D.C. 20515

Dear Colleagues:

We are writing to convey our grave concerns with the unprecedented actions of President Donald Trump and his Administration with respect to the House of Representatives' impeachment inquiry.

The President and his aides are engaging in a campaign of misinformation and misdirection in an attempt to normalize the act of soliciting foreign powers to interfere in our elections.

We have all now seen the summary of the call in which President Trump repeatedly urged the Ukrainian President to launch an investigation into former Vice President Joe Biden—immediately after the Ukrainian President mentioned critical U.S. military assistance to counter Russian aggression.

The President claims he did nothing wrong. Even more astonishing, he is now openly and publicly asking another foreign power—China—to launch its own sham investigation against the Bidens to further his own political aims.

This is not normal or acceptable. It is unethical, unpatriotic, and wrong. American Presidents should never press foreign powers to target their domestic political rivals. Engaging in these stunning abuses in broad daylight does not absolve President Trump of his wrongdoings—or his grave offenses against the Constitution.

Over the past week, new reports have revealed that other Trump Administration officials also may have been involved in the illicit effort to get Ukrainian help for the President's campaign.

For example, Secretary of State Mike Pompeo has now admitted that he was on the call when President Trump explicitly pressed the Ukrainian President to investigate the Bidens—but failed to report this to the FBI or other law enforcement authorities. You will recall, FBI Director Christopher Wray urged individuals to report efforts to seek or receive help from a foreign power that may intervene in a U.S. presidential election.

This obligation is not diminished when the instigator of that foreign intervention is the President of the United States; it is all the more crucial to the security of our elections. Instead, when asked by the media about his own knowledge or participation in the call, Secretary Pompeo dissembled.

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Likewise, we are investigating reports that Vice President Mike Pence may have been made aware of the contents of the call, and his absence from the Ukrainian President's inauguration may have been related to efforts to put additional pressure on Ukraine to deliver on the President's demands.

This week, current and former State Department officials have begun cooperating with the impeachment inquiry by producing documents and scheduling interviews and depositions. Based on the first production of materials, it has become immediately apparent why Secretary Pompeo tried to block these officials from providing information.

The Committees have now obtained text messages from Ambassador Kurt Volker, the former Special Representative for Ukraine Negotiations, communicating with other officials, including William B. "Bill" Taylor, the Charge d'Affaires at the U.S. Embassy in Ukraine, Gordon Sondland, the U.S. Ambassador to the European Union, Andrey Yermak, Aide to Ukrainian President Zelensky, the President's agent Rudy Giuliani, and others.

These text messages reflect serious concerns raised by a State Department official about the detrimental effects of withholding critical military assistance from Ukraine, and the importance of setting up a meeting between President Trump and the Ukrainian President without further delay. He also directly expressed concerns that this critical military assistance and the meeting between the two presidents were being withheld in order to place additional pressure on Ukraine to deliver on the President's demand for Ukraine to launch politically motivated investigations.

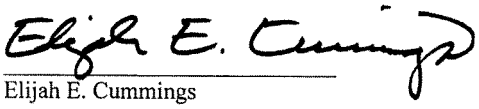
Earlier today, selected portions of these texts were leaked to the press out of context. In order to help correct the public record, we are now providing an attachment with more complete excerpts from the exchanges. The additional excerpts we are providing are still only a subset of the full body of the materials, which we hope to make public after a review for personally identifiable information.

Our investigation will continue in the coming days. But we hope every Member of the House will join us in condemning in the strongest terms the President's now open defiance of our core values as American citizens to guard against foreign interference in our democratic process.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

ATTACHMENT

- **Connecting Rudy Giuliani with Ukraine President Zelensky's Advisor:** On July 19, Ambassador Volker texted President Trump's agent, Rudy Giuliani, to thank him for breakfast and to introduce him to Andrey Yermak, a top advisor to President Zelensky:

  > [7/19/19, 4:48 PM] Kurt Volker: Mr Mayor – really enjoyed breakfast this morning. As discussed, connecting you here with Andrey Yermak, who is very close to President Zelensky. I suggest we schedule a call together on Monday – maybe 10am or 11am Washington time? Kurt

- **Sondland Briefs Zelensky Ahead of Call with President Trump:** On July 19, 2019, Ambassador Volker, Ambassador Sondland, and Mr. Taylor had the following exchange about the specific goal for the upcoming telephone call between President Trump and the Ukrainian President:

  > [7/19/19, 4:49:42 PM] Kurt Volker: Can we three do a call tomorrow—say noon WASHINGTON?
  >
  > [7/19/19, 6:50:29 PM] Gordon Sondland: Looks like Potus call tomorrow. I spike [sic] directly to Zelensky and gave him a full briefing. He's got it.
  >
  > [7/19/19, 6:52:57 PM] Gordon Sondland: Sure!
  >
  > [7/19/19, 7:01:22 PM] Kurt Volker: Good. Had breakfast with Rudy this morning—teeing up call w Yermak Monday. Must have helped. Most impt is for Zelensky to say that he will help investigation—and address any specific personnel issues—if there are any

- **Concerns about Ukraine Becoming an "Instrument" in U.S. Politics:** On July 21, 2019, Ambassador Taylor flagged President Zelensky's desire for Ukraine not to be used by the Trump Administration for its own domestic political purposes:

  > [7/21/19, 1:45:54 AM] Bill Taylor: Gordon, one thing Kurt and I talked about yesterday was Sasha Danyliuk's point that President Zelenskyy is sensitive about Ukraine being taken seriously, not merely as an instrument in Washington domestic, reelection politics.
  >
  > [7/21/19, 4:45:44 AM] Gordon Sondland: Absolutely, but we need to get the conversation started and the relationship built, irrespective of the pretext. I am worried about the alternative.

- **Giuliani Advocates for Trump-Zelensky Call:** Mr. Yermak and Mr. Giuliani agreed to speak on the morning of July 22. Later that evening, Ambassador Volker informed Ambassadors Sondland and Taylor that Giuliani was now "advocating" for a phone call between President Trump and President Zelensky:

[7/22/19 4:27:55 PM] Kurt Volker: Orchestrated a great phone call w Rudy and Yermak. They are going to get together when Rudy goes to Madrid in a couple of weeks.

[7/22/19 4:28:08 PM] Kurt Volker: In the meantime Rudy is now advocating for phone call.

[7/22/19 4:28:26 PM] Kurt Volker: I have call into Fiona's replacement and will call Bolton if needed.

[7/22/19 4:28:48 PM Kurt Volker: But I can tell Bolton and you can tell Mick that Rudy agrees on a call if that helps.

[7/22/19 4:30:10 PM] Gordon Sondland: I talked to Tim Morrison Fiona's replacement. He is pushing but feel free as well.

- **Volker Advises Yermak Ahead of Trump-Zelensky Call:** On the morning of July 25, 2019—*ahead* of the planned call between President Trump and President Zelensky—Ambassador Volker advised Andrey Yermak:

  [7/25/19, 8:36:45 AM] Kurt Volker: Good lunch - thanks. Heard from White House—assuming President Z convinces trump he will investigate / "get to the bottom of what happened" in 2016, we will nail down date for visit to Washington. Good luck! See you tomorrow- kurt

- **Yermak's Informal Readout of the Trump-Zelensky Call:** Following President Trump's July 25 call, Ambassador Volker received the following readout from Ukrainian Presidential Advisor Yermak and confirmed his intent to meet Giuliani in Madrid:

  [7/25/19, 10:15:06 AM] Andrey Yermak: Phone call went well. President Trump proposed to choose any convenient dates. President Zelenskiy chose 20,21,22 September for the White House Visit. Thank you again for your help! Please remind Mr. Mayor to share the Madrid's dates

  [7/25/19, 10:16:42 AM] Kurt Volker: Great —thanks and will do!

- **State Department Officials Discuss a White House Visit and Ukraine Statement:** On August 9, 2019, Ambassador Volker had the following exchange with Ambassador Sondland about arranging a White House meeting after the Ukrainian President makes a public statement:

  [8/9/19, 5: 35:53 PM] Gordon Sondland: Morrison ready to get dates as soon as Yermak confirms.

  [8/9/19, 5: 46:21 PM] Kurt Volker: Excellent!! How did you sway him? :)

[8/9/19, 5: 47:34 PM] Gordon Sondland: Not sure i did. I think potus really wants the deliverable

[8/9/19, 5: 48:00 PM] Kurt Volker: But does he know that?

[8/9/19, 5: 48:09 PM] Gordon Sondland: Yep

[8/9/19, 5: 48:37 PM] Gordon Sondland: Clearly lots of convos going on

[8/9/19, 5:48:38 PM] Kurt Volker: Ok—then that's good it's coming from two separate sources

[8/9/19, 5: 51:18 PM] Gordon Sondland: To avoid misundestandings, might be helpful to ask Andrey for a draft statememt (embargoed) so that we can see exactly what they propose to cover. Even though Ze does a live presser they can still summarize in a brief statement. Thoughts?

[8/9/19, 5: 51:42 PM] Kurt Volker: Agree!

- **State Department Officials Seek Giuliani's Guidance on Ukraine Statement:** On August 9, 2019, after Mr. Giuliani met with President Zelensky's aide Andrey Yermak, Ambassador Volker asked to speak with Mr. Giuliani about the Ukranian statement:

  [8/9/19, 11:27 AM] Kurt Volker: Hi Mr Mayor! Had a good chat with Yermak last night. He was pleased with your phone call. Mentioned Z making a statement. Can we all get on the phone to make sure I advise Z correctly as to what he should be saying? Want to make sure we get this done right. Thanks!

  Gordon Sondland: Good idea Kurt. I am on Pacific time.

  Rudy Giuliani: Yes can you call now going to Fundraiser at 12:30

- **Ukrainian Aide Seeks White House Date First:** On August 10, 2019, President Zelensky's aide, Andrey Yermak, pressed Ambassador Volker for a date for the White House visit before committing to a statement announcing an investigation explicitly referencing the 2016 election and Burisma:

  [8/10/19, 4:56:15 PM] Andrey Yermak: Hi Kurt. Please let me know when you can talk. I think it's possible to make this declaration and mention all these things. Which we discussed yesterday. But it will be logic to do after we receive a confirmation of date. We inform about date of visit and about our expectations and our guarantees for future visit. Let discuss it

  [8/10/19, 5:01:32 PM] Kurt Volker: Ok! It's late for you—why don't we talk in my morning, your afternoon tomorrow? Say 10am/5pm?

[8/10/19, 5:02:18 PM] Kurt Volker: I agree with your approach. Let's iron out statement and use that to get date and then PreZ can go forward with it?

[8/10/19, 5:26:17 PM] Andrey Yermak: Ok

[8/10/19, 5:38:43 PM] Kurt Volker: Great. Gordon is available to join as well

[8/10/19, 5:41:45 PM] Andrey Yermak: Excellent

[8/10/ 19, 5:42:10 PM] Andrey Yermak: Once we have a date, will call for a press briefing, announcing upcoming visit and outlining vision for the reboot of US-UKRAINE relationship, including among other things Burisma and election meddling in investigations

[8/10/19, 5:42:30 PM] Kurt Volker: Sounds great!

- **Discussion of Ukrainian Statement to Include References to 2016 Election and Burisma:** Following the August 9, 2019, outreach to Rudy Giuliani, Ambassador Volker and Ambassador Sondland on August 13, 2019, had following exchange regarding the proposed Ukrainian statement:

  [8/13/19, 10:26:44 AM] Kurt Volker: Special attention should be paid to the problem of interference in the political processes of the United States especially with the alleged involvement of some Ukrainian politicians. I want to declare that this is unacceptable. We intend to initiate and complete a transparent and unbiased investigation of all available facts and episodes, including those involving Burisma and the 2016 U.S. elections, which in turn will prevent the recurrence of this problem in the future.

  [8/13/19, 10:27:20 AM] Gordon Sondland: Perfect. Lets send to Andrey after our call

- **Confirming Desire to Reference 2016 Election and Burisma:** On August 17, 2019, Ambassadors Volker and Sondland had the following exchange in which they discussed their message to Ukraine:

  [8/17/19, 3:06:19 PM] Gordon Sondland: Do we still want Ze to give us an unequivocal draft with 2016 and Boresma?

  [8/17/19, 4:34:21 PM] Kurt Volker: That's the clear message so far …

  [8/17/19, 4:34:39 PM] Kurt Volker: I'm hoping we can put something out there that causes him to respond with that

  [8/17/19, 4:41:09 PM] Gordon Sondland: Unless you think otherwise I will return Andreys call tomorrow and suggest they send us a clean draft.

- **Ukrainian Official Shares Press Report of U.S. Withholding Military Assistance:** On August 28, President Zelensky's aide, Andrey Yermak, texted Ambassador Volker a news story entitled, "Trump Holds Up Ukraine Military Aid Meant to Confront Russia":

  [8/29/19, 2:28:19 AM] Andrey Yermak: Need to talk with you

  [8/29/19, 3:06:14 AM] Andrey Yermak: https://www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531

  [8/29/19, 6:55:04 AM] Kurt Volker: Hi Andrey – absolutely. When is good for you?

- **President Trump Cancels Trip to Meet President Zelensky:** On August 30, Ambassador Taylor informed Ambassador Volker that President Trump had canceled his planned visit to Warsaw, Poland, where he was to meet with President Zelensky. Ambassadors Volker and Sondland discussed an alternative plan for Vice President Pence to meet with President Zelensky on September 1:

  [8/30/19, 12:14:57 AM] Bill Taylor: Trip canceled

  [8/30/19, 12:16:02 AM] Kurt Volker: Hope VPOTUS keeps the bilat – and tees up WH visit…

  [8/30/19, 12:16:18 AM] Kurt Volker: And hope Gordon and Perry still going…

  [8/30/19, 5:31:14 AM] Gordon Sondland: I am going. Pompeo is speaking to Potus today to see if he can go.

  On September 1, Ambassador Taylor sought clarification of the requirements for a White House visit:

  [9/1/19, 12:08:57 PM] Bill Taylor: Are we now saying that security assistance and WH meeting are conditioned on investigations?

  [9/1/19, 12:42:29 PM] Gordon Sondland: Call me

- **State Department Officials on Security Assistance and the Ukraine "Interview":** On September 8, Ambassador Taylor, Ambassador Sondland, and Ambassador Volker had the following exchange:

  [9/8/19, 11:20:32 AM] Gordon Sondland: Guys multiple convos with Ze, Potus. Lets talk

  [9/8/19, 11:21:41 AM] Bill Taylor: Now is fine with me

[9/8/19, 11:26:13 AM] Kurt Volker: Try again—could not hear

[9/8/19, 11:40:11 AM] Bill Taylor: Gordon and I just spoke. I can brief you if you and Gordon don't connect

[9/8/19, 12:37:28 PM] Bill Taylor: The nightmare is they give the interview and don't get the security assistance. The Russians love it. (And I quit.)

- **State Department Officials on Withholding Security Assistance:** On September 9, 2019, Ambassador Taylor and Ambassador Sondland had the following exchange regarding the withholding of military assistance to Ukraine:

[9/9/19, 12:31:06 AM] Bill Taylor: The message to the Ukrainians (and Russians) we send with the decision on security assistance is key. With the hold, we have already shaken their faith in us. Thus my nightmare scenario.

[9/9/19, 12:34:44 AM] Bill Taylor: Counting on you to be right about this interview, Gordon.

[9/9/19, 12:37:16 AM] Gordon Sondland: Bill, I never said I was "right". I said we are where we are and believe we have identified the best pathway forward. Lets hope it works.

[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it's crazy to withhold security assistance for help with a political campaign.

[9/9/19, 5:19:35 AM] Gordon Sondland: Bill, I believe you are incorrect about President Trump's intentions. The President has been crystal clear no quid pro quo's of any kind. The President is trying to evaluate whether Ukraine is truly going to adopt the transparency and reforms that President Zelensky promised during his campaign I suggest we stop the back and forth by text If you still have concerns I recommend you give Lisa Kenna or S a call to discuss them directly. Thanks.

Mr Mayor — really enjoyed breakfast this morning. As discussed, connecting you here with Andrey Yermak, who is very close to President Zelensky. I suggest we schedule a call together on Monday — maybe 10am or 11am Washington time? Kurt

Congress of the United States
Washington, DC 20515

October 11, 2019

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street, N.W.
Washington, DC 20503

Dear Acting Director Vought:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 25, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 14, 2019

The Honorable Gordon Sondland
U.S. Ambassador to the European Union
c/o Mr. Robert Luskin
Paul Hastings LLP
875 15th Street, N.W.
Washington, D.C. 20005

Dear Ambassador Sondland:

Pursuant to the October 8, 2019 subpoena issued by the Permanent Select Committee on Intelligence after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform, you are presently required to produce documents by October 14, 2019 and appear for a deposition on October 16, 2019 at 9:30 a.m. as part of the House of Representatives' impeachment inquiry

We hereby write to memorialize our agreement with your counsel, Mr. Robert Luskin, Esq., to adjourn the date and time of your document production and deposition to **October 17, 2019, at 9:30 a.m. at the Capitol, HVC-304**.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

PRINTED ON RECYCLED PAPER

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

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[redacted]

Good idea Kurt. I am on Pacific time.

[redacted]

Yes can you call now going to Fundraiser at 12:30

[8/10/19, 4:56:15 PM] Andrey Yermak: Hi Kurt. Please let me know when you can talk. I think it's possible to make this declaration and mention all these things. Which we discussed yesterday. But it will be logic to do after we receive a confirmation of date. We inform about date of visit and about our expectations and our guarantees for future visit. Let discuss it
[8/10/19, 5:01:32 PM] Kurt Volker: Ok! It's late for you – why don't we talk in my morning, your afternoon tomorrow? Say 10am/5pm?
[8/10/19, 5:02:18 PM] Kurt Volker: I agree with your approach. Let's iron out statement and use that to get date and then PreZ can go forward with it?
[8/10/19, 5:26:17 PM] Andrey Yermak: Ok
[8/10/19, 5:38:43 PM] Kurt Volker: Great. Gordon is available to join as well
[8/10/19, 5:41:45 PM] Andrey Yermak: Excellent
[8/10/19, 5:42:10 PM] Andrey Yermak: Once we have a date, will call for a press briefing, announcing upcoming visit and outlining vision for the reboot of US-UKRAINE relationship, including among other things Burisma and election meddling in investigations
[8/10/19, 5:42:30 PM] Kurt Volker: Sounds great!

[8/13/19, 10:26:44 AM] Kurt Volker: Special attention should be paid to the problem of interference in the political processes of the United States, especially with the alleged involvement of some Ukrainian politicians. I want to declare that this is unacceptable. We intend to initiate and complete a transparent and unbiased investigation of all available facts and episodes, including those involving Burisma and the 2016 U.S. elections, which in turn will prevent the recurrence of this problem in the future.
[8/13/19, 10:27:20 AM] Gordon Sondland: Perfect. Lets send to Andrey after our call

[8/17/19, 3:06:19 PM] Gordon Sondland: Do we still want Ze to give us an unequivocal draft with 2016 and Boresma?
[8/17/19, 4:34:21 PM] Kurt Volker: That's the clear message so far ...
[8/17/19, 4:34:39 PM] Kurt Volker: I'm hoping we can put something out there that causes him to respond with that
[8/17/19, 4:41:09 PM] Gordon Sondland: Unless you think otherwise I will return Andreys call tomorrow and suggest they send us a clean draft.

[8/29/19, 2:28:13 AM] Andrey Yermak: Need to talk with you
[8/29/19, 3:06:14 AM] Andrey Yermak: https://www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531
[8/29/19, 6:55:04 AM] Kurt Volker: Hi Andrey - Absolutely. When is good for you?

[8/30/19, 12:14:57 AM] Bill Taylor: Trip canceled
[8/30/19, 12:16:02 AM] Kurt Volker: Hope VPOTUS keeps the bilat — and tees up WH visit...
[8/30/19, 12:16:18 AM] Kurt Volker: And hope Gordon and Perry still going...
[8/30/19, 5:31:14 AM] Gordon Sondland: I am going. Pompeo is speaking to Potus today to see if he can go.

[9/1/19, 12:08:57 PM] Bill Taylor: Are we now saying that security assistance and WH meeting are conditioned on investigations?
[9/1/19, 12:42:29 PM] Gordon Sondland: Call me

[9/8/19, 11:20:32 AM] Gordon Sondland: Guys. multiple convos with Ze, Potus. Lets talk
[9/8/19, 11:21:41 AM] Bill Taylor: Now is fine with me
[9/8/19, 11:26:13 AM] Kurt Volker: Try again — could not hear
[9/8/19, 11:40:11 AM] Bill Taylor: Gordon and I just spoke. I can brief you if you and Gordon don't connect
[9/8/19, 12:37:28 PM] Bill Taylor: The nightmare is they give the interview and don't get the security assistance. The Russians love it. (And I quit.)

[9/9/19, 12:31:08 AM] Bill Taylor: The message to the Ukrainians (and Russians) we send with the decision on security assistance is key. With the hold, we have already shaken their faith in us. Thus my nightmare scenario.
[9/9/19, 12:34:44 AM] Bill Taylor: Counting on you to be right about this interview, Gordon.
[9/9/19, 12:37:16 AM] Gordon Sondland: Bill, I never said I was "right". I said we are where we are and believe we have identified the best pathway forward. Lets hope it works.
[9/9/19, 12:47:11 AM] Bill Taylor: As I said on the phone, I think it's crazy to withhold security assistance for help with a political campaign.
[9/9/19, 5:19:35 AM] Gordon Sondland: Bill, I believe you are incorrect about President Trump's intentions. The President has been crystal clear: no quid pro quo's of any kind. The President is trying to evaluate whether Ukraine is truly going to adopt the transparency and reforms that President Zelensky promised during his campaign. I suggest we stop the back and forth by text. If you still have concerns, I recommend you give Lisa Kenna or S a call to discuss them directly. Thanks.

Congress of the United States
Washington, DC 20515

September 27, 2019

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by October 4, 2019.

This subpoena is being issued by the Committee on Foreign Affairs after consultation with the Permanent Select Committee on Intelligence and the Committee on Oversight and Reform. The subpoenaed documents shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to comply with the subpoena shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

On September 9, 2019, the Committees wrote to you requesting documents.[1] We asked you to produce these documents by September 16, 2019. You failed to comply with the Committees' request.

On September 23, 2019, the Committees sent a follow-up letter advising that we would consider compulsory process if you continued to stonewall our request.[2] We asked you to produce the requested documents by September 26. You again failed to comply.

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[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 23, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-09-23.EEC%20Engel%20Schiff%20to%20Pompeo-State%20re%20Ukraine.pdf).

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Your actions are all the more troubling given that since our September 9 request, it has become clear that multiple State Department officials have direct knowledge of the subject matters of the House's impeachment inquiry. On September 25, the White House released a summary of a July 25, 2019, telephone call during which President Trump directly and repeatedly urged President Volodymyr Zelensky of Ukraine to initiate an investigation into former Vice President Biden.[3] On September 25, the Office of the Director of National Intelligence declassified a whistleblower complaint, which indicates that T. Ulrich Brechbuhl, the Counselor of the Department, listened in on that call.[4] The Department has previously acknowledged that Special Representative for Ukraine Kurt Volker played a direct role in arranging meetings between Rudy Giuliani, who has no official role in the U.S. government, and representatives of President Zelensky.[5] In addition, the whistleblower complaint indicates that "multiple U.S. officials" were "deeply concerned by what they viewed as Mr. Giuliani's circumvention of national security decisionmaking processes to engage with Ukrainian officials and relay messages back and forth between Kyiv and the President."[6] These officials reported that "State Department officials" had spoken with Mr. Giuliani "in an attempt to 'contain the damage' to U.S. national security," as well as to the new Ukrainian administration to help it "understand and respond to" Mr. Giuliani's backchanneling.[7]

Mr. Giuliani's recent public statements raise more troubling questions about State Department officials' possible involvement in the President's efforts to press Ukraine to interfere in the 2020 U.S. election. During a televised interview, Mr. Giuliani claimed that the State Department asked him to take on this mission and that he had proof of the Department's request. He stated: "I never talked to a Ukrainian official until the State Department called me and asked me to do it and then I reported every conversation back to them."[8] On September 26, Mr. Giuliani tweeted what appears to be a screenshot of a text message from Ambassador Volker dated July 19—six days before the President's July 25 call with the Ukrainian president—which stated: "Mr. Mayor—really enjoyed breakfast this morning. As discussed, connecting you here with Andrey Yermak, who is very close to President Zelensky. I suggest we schedule a call together on Monday."[9] That introduction appears to have led to precisely the meeting that Mr.

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[3] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[4] Letter to Chairman Richard Burr, Senate Select Committee on Intelligence, and Chairman Adam Schiff, House Permanent Select Committee on Intelligence (Aug. 12, 2019) (online at https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf).

[5] State Department Spokesperson Statement, Twitter (Aug. 22, 2019) (online at https://twitter.com/kenvogel/status/1164666081501470727/photo/1).

[6] Letter to Chairman Richard Burr, Senate Select Committee on Intelligence, and Chairman Adam Schiff, House Permanent Select Committee on Intelligence (Aug. 12, 2019), (online at https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf).

[7] *Id.*

[8] *"Shut Up, Moron": Rudy Giuliani Lashes Out at Critics, Defends His Ukraine Involvement*, Washington Post (Sept. 25, 2019) (online at www.washingtonpost.com/nation/2019/09/25/giuliani-shut-up-moron-fox-news-ukraine/).

[9] Rudy Giuliani, Twitter (Sept. 26, 2019) (online at

Trump urged in the July 25 phone call: in early August, Mr. Yermak and Mr. Giuliani met in Spain,[10] where Mr. Giuliani admits he pressured Mr. Yermak to pursue the investigations President Trump was seeking.[11]

The Committees are conducting this investigation in an expeditious, coordinated manner. The Inspector General of the Intelligence Community has determined that the whistleblower complaint raises a matter of "urgent concern," is "credible," and "relates to one of the most significant and important of the DNI's responsibilities to the American people": our free and fair elections.[12]

Your continued refusal to provide the requested documents not only prevents our Committees from fully investigating these matters, but impairs Congress' ability to fulfill its Constitutional responsibilities to protect our national security and the integrity of our democracy.

If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

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https://twitter.com/RudyGiuliani/status/1177346278004539392).

[10] *Giuliani Sits at the Center of the Ukraine Controversy*, Wall Street Journal (Sept. 26, 2019) (online at www.wsj.com/articles/giuliani-sits-at-the-center-of-the-ukraine-controversy-11569546774).

[11] *Giuliani Renews Push for Ukraine to Investigate Trump's Political Opponents,* New York Times (Aug. 21, 2019) (online at www.nytimes.com/2019/08/21/us/politics/giuliani-ukraine.html).

[12] Letter from Michael K. Atkinson, Inspector General of the Intelligence Community, to Chairman Adam Schiff, House Permanent Select Committee on Intelligence (Sept. 17, 2019) (online at https://intelligence.house.gov/uploadedfiles/20190917_-_ic_ig_second_letter_to_hpsci_on_whistleblower.pdf).

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE A

In accordance with the attached Definitions and Instructions, you, Secretary of State, Michael R. Pompeo, are hereby required to produce all documents and communications, from January 20, 2017 to the present, relating or referring to:

1. The potential or suggested investigations and legal cases referenced in the September 9, 2019 letter from Chairmen Engel, Schiff, and Cummings (attached as Exhibit 1), including but not limited to those relating to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, and Burisma Holdings Ltd.;

2. Efforts by any U.S. persons, including but not limited to Rudolph W. Giuliani and individuals working in concert with Mr. Giuliani, including but not limited to Igor Fruman, Lev Parnas, and Semyon ("Sam") Kislin, to induce, compel, petition, press, solicit, suggest, or otherwise influence former or present Ukrainian government officials, politicians, or other persons of influence in Ukraine, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma Holdings Ltd., or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

3. Communications between any current or former State Department officials or employees and Rudolph W. Giuliani, including any text messages using personal or work-related devices;

4. Communications between any current or former Trump Administration officials or employees and President Zelensky or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for President Zelensky, relating to paragraphs 2 and 12 of this Schedule;

5. Communications between or among any current or former Trump Administration officials or employees (including but not limited to the Vice President, the Secretary of State, Secretary of Energy, former National Security Advisor John Bolton, and Senior Advisor to the President Jared Kushner, Deputy Secretary John Sullivan, Under Secretary for Political Affairs David Hale, Assistant

Secretary of State for European Affairs A. Wess Mitchell, Acting Assistant Secretary of State for European Affairs Phillip Reeker, Charge de Affairs William Taylor, former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, Counselor T. Ulrich Brechbuhl, as well as the aforementioned officials/employees' immediate senior advisors and staff), as well as any briefing memoranda and/or talking points, relating to paragraphs 2 and 12 of this Schedule;

6. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

7. A potential visit of President Zelensky to the United States;

8. A potential meeting between President Trump and President Zelensky in Poland on/about early September 2019;

9. President Zelensky's inauguration on May 20, 2019, including but not limited to possible attendance of the Vice President and the Secretary of Energy;

10. President Trump's April 21, 2019 call ("April 21 Call") and July 25, 2019 call ("July 25 Call") with Ukrainian President Volodymyr Zelensky, including all transcripts, notes, or other documents memorializing or summarizing the April 21 Call and the July 25 Call, as well as any communications with the White House, the Department of Justice, the Federal Bureau of Investigation, the Department of Energy, and the Office of the Director of National Intelligence relating or referring to the April 21 Call or the July 25 Call;

11. The identity of any individuals who listened to, participated in, assisted in preparation for, and/or received a readout (formally or informally, written or oral) of the April 21 Call and the July 25 Call; and

12. The actual or potential suspension, withholding, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine, including all communications with the White House, the Department of Defense, and the Office of Management and Budget relating to the same.

INSTRUCTIONS

In responding to the document request, please apply the instructions and definitions set forth below:

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff and one set to the minority staff in Room 2170 of the Rayburn House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege

applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

SCHEDULE DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded and whether original or copy, including, but not limited to, the following: memoranda; reports; expense reports; books; manuals; instructions; financial reports; data; working papers; records; notes; letters; notices; confirmations; telegrams; receipts; appraisals; pamphlets; magazines; newspapers; prospectuses; communications; contracts; cables; notations of any type of conversation; telephone call; meeting or other inter-office or intra-office communication; bulletins; emails; electronic messages (including, but not limited to, both government and commercial/personal email accounts, text messages, or messaging services such as WhatsApp, Signal, Viber, Facebook, Twitter, and/or Telegram), regardless of whether such records were created, modified, sent, or received on an official or personal address or device, as well as log files and metadata; printed matter; computer printouts; teletypes; invoices; transcripts; diaries; analyses; returns; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; press releases; circulars; financial statements; reviews; opinions; offers; studies and investigations; questionnaires and surveys; and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto); and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures); and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. For the purposes of this request, "preserve" means taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutilation of records, including but not limited to emails and handwritten notes, as well as negligent or intentional handling which would foreseeably make such records incomplete or inaccessible. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

7. "You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

8. The term "employee" means agent, borrowed employee, casual employee, consultant, de facto employee, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, contract employee, contractor, or any other type of service provider.

9. The term "Administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch.

EXHIBIT 1

Congress of the United States
Washington, DC 20515

September 9, 2019

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Mr. Secretary:

The Committees on Foreign Affairs, Intelligence, and Oversight and Reform jointly request documents related to reported efforts by President Trump and his associates to improperly pressure the Ukrainian government to assist the President's bid for reelection.

A growing public record indicates that, for nearly two years,[1] the President and his personal attorney, Rudy Giuliani,[2] appear to have acted outside legitimate law enforcement and diplomatic channels to coerce the Ukrainian government into pursuing two politically-motivated investigations under the guise of anti-corruption activity. The first is a prosecution of Ukrainians who provided key evidence against Mr. Trump's convicted campaign manager Paul Manafort. That investigation aims to undercut the Mueller Report's overwhelming evidence that Russia interfered in the 2016 election to support Trump's campaign. The other case targets the son of former Vice President Joseph R. Biden, who is challenging Mr. Trump for the presidency in 2020.

As the 2020 election draws closer, President Trump and his personal attorney appear to have increased pressure on the Ukrainian government and its justice system in service of President Trump's reelection campaign, and the White House and the State Department may be abetting this scheme.[3]

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[1] *See* tweet @realDonaldTrump, July 25, 2017 ("Ukrainian efforts to sabotage Trump campaign – 'quietly working to boost Clinton.' So where is the investigation A.G. @seanhannity") (online at: https://twitter.com/realDonaldTrump/status/889788202172780544?s=20). This tweet was also referenced by Special Counsel Robert Mueller in his investigation of President's Trump's possible obstruction of justice. *See* Mueller Report, Vol. II, at p 96, FN 660.

[2] *See* Victor Pinchuk Foundation, June 8, 2017, *107th Mayor of New York Rudy Giuliani Gave Public Lecture at the Invitation of the Victor Pinchuk Foundation,* noting the first publicly-reported meeting between Mr. Giuliani and Prosecutor General of Ukraine Petro Poroshenko (online at https://pinchukfund.org/en/news/20207/).

[3] Kenneth P. Vogel and Andrew E. Kramer, *Giuliani Renews Push for Ukraine to Investigate Trump's Political Opponents,* N.Y. Times, August 21, 2019 (online at: https://www.nytimes.com/2019/08/21/us/politics/giuliani-ukraine.html).

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According to the Ukrainian government, in a July 25, 2019 call with Ukraine's President Volodymyr Zelenskyy, President Trump apparently focused on these investigations, telling President Zelenskyy that he is "convinced the new Ukrainian government will be able to quickly improve [the] image of Ukraine, [and] complete [the] investigation of corruption cases, which inhibited the interaction between Ukraine and the USA."[4] The next day, Ambassador Kurt Volker, U.S. Special Representative for Ukraine, was dispatched to meet with President Zelenskyy.[5] Days later, the President's personal attorney met Andriy Yermak, an aide to President Zelenskyy, in Spain, where the President's personal attorney, who has no official administration or diplomatic position, reportedly suggested a "possible heads of state meeting" between Presidents Trump and Zelenskyy[6] and tweeted an accusation about former Vice President Biden's son.[7] The State Department subsequently acknowledged that Ambassador Volker used his office to facilitate the meeting between the two.[8] Although the State Department has insisted that President Trump's attorney is "a private citizen" who "does not speak on behalf of the U.S. Government," Mr. Yermak publicly stated that "it was not clear to him whether Mr. Giuliani was representing Mr. Trump in their talks."[9]

President Trump has also threatened to withhold[10] more than $250 million in security assistance that Congress has appropriated, the Pentagon supports,[11] and Ukraine desperately needs. Ukraine's sovereignty and territorial integrity are under assault from Russia and its proxies in illegally-occupied Ukrainian territory. If the President is trying to pressure Ukraine into choosing between defending itself from Russian aggression without U.S. assistance or

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[4] *See* Official Website of the President of Ukraine, *Volodymyr Zelenskyy had a phone conversation with President of the United States*, July 25, 2019 (online at: https://www.president.gov.ua/en/news/volodimir-zelenskij-proviv-telefonnu-rozmovu-z-prezidentom-s-56617).

[5] *See* tweet by U.S. Embassy Kyiv, July 26, 2019, showing Ambassador Volker meeting with President Zelenskyy (online at: https://twitter.com/USEmbassyKyiv/status/1154712337368190976?s=20)

[6] *See* Kenneth P. Vogel and Andrew E. Kramer, *supra* n. 3.

[7] *See* tweet by Rudy Giuliani, August 3, 2019 from Santa Cruz del Retamar, Espana (online at: https://twitter.com/RudyGiuliani/status/1157778959653842945?s=20) ("The Politico coverup article doesn't mention the bribery of Ukraine Pres. by then VP Biden to get the case against his son dismissed. Nor does it explain the Chinese pay-off of $1.5billion to Biden's useless fund. Joe took his son on AFII to get the investment. It stinks!!").

[8] *See* State Department Spokesperson Statement, August 22, 2019 (online at: https://twitter.com/kenvogel/status/1164666081501470727/photo/1)

[9] *See* Kenneth P. Vogel and Andrew E. Kramer, *supra* n. 3.

[10] Caitlin Emma and Connor O'Brien, *Trump Holds Up Ukraine Military Aid Meant to Confront Russia*, Politico, August 29, 2019 (online at: https://www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531).

[11] Bryan Bender, *Pentagon Wants Ukraine Military Aid to Continue*, Politico, August 29, 2019 (online at: https://www.politico.com/story/2019/08/29/pentagon-wants-ukraine-military-aid-to-continue-1477957).

leveraging its judicial system to serve the ends of the Trump campaign, this would represent a staggering abuse of power, a boon to Moscow, and a betrayal of the public trust. That the State Department has apparently acted as a broker between President Trump's personal attorney and Ukrainian officials raises serious concerns that the Department is complicit in a corrupt scheme that undercuts U.S. foreign policy and national security interests in favor of the President's personal agenda.

Congress has a constitutionally-mandated obligation to conduct oversight, protect the sanctity of our elections, and ensure that the nation's diplomatic resources and foreign assistance are being deployed for the benefit of the United States, not the personal interests of the President. In order to fulfill this obligation and determine what legislative reform may be required, we request that the White House preserve all documents, communications, and other data ("records"), regardless of format, that may be required for the Committees' oversight and investigative duties relating to this subject. The term "records" is broad and includes both paper and electronic records.[12] Specifically, the State Department should:

1. identify and notify all current and former employees and contractors, subcontractors, consultants, and Special Government Employees who may have access to such records that they are to be preserved;

2. identify, record, and preserve any records which have been deleted or marked for deletion but are still recoverable; and

3. if it is the routine practice of any employee or contractor to destroy or otherwise alter such records, either halt such practices or arrange for the preservation of complete and accurate duplicates or copies of such records, suitable for production, if requested.

In addition, we request that the Department produce to the Committees the following,[13] no later than **Monday, September 16**:

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[12] This includes emails, electronic messages (including, but not limited to, both government and commercial/personal email accounts, text messages, or messaging services such as WhatsApp, Signal, Viber, Facebook, Twitter, and/or Telegram), regardless of whether such records were created, modified, sent, or received on an official or personal address or device, as well as log files and metadata. For purposes of this request, "preserve" means taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutilation of records, including but not limited to emails and handwritten notes, as well as negligent or intentional handling which would foreseeably make such records incomplete or inaccessible.

[13] Any alternate spellings or transliterations of any names reference herein would also render a document responsive to these requests.

1. Any and all correspondence sent to or received by the State Department from January 20, 2017 to the present related to or referring in any way to the potential or suggested investigations/legal cases referred to in this letter. This includes, but is not limited to, correspondence regarding or referring to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, Burisma Holdings, former Ukrainian Prosecutor General Yuriy Lutsenko, or Presidential Aide Andriy Yermak in the context of these potential or suggested investigations/legal cases.

2. Any copies in the State Department's, custody, or control of the transcript of President Trump's July 25, 2019 call with Ukrainian President Zelenskyy (the "July 25 Call").

3. Any and all records generated or received by the State Department in connection with, or that refer or relate in any way to the July 25 Call.

4. A full list of any Department officials who participated in, assisted in preparation for, or received a readout of the July 25 Call.

5. Any and all records generated or received by Department officials with or referring to President Trump's personal attorney, Rudy Giuliani.

6. Any and all records generated or received by any State Department staff in connection with, or that refer or relate in any way to the actual or potential suspension of security assistance to Ukraine.

Relevant custodians for responsive records include, but are not limited to:

1. the Office of the Secretary, including the Policy Planning Staff, the Counselor;
2. the Office of the Deputy Secretary;
3. the Office of the Undersecretary for Political Affairs;
4. Ambassador Kurt Volker and the office of the Special Representative for Ukraine;
5. The Bureau of European Affairs; and
6. U.S. Embassy Kyiv.

The Committees are prepared to work with the Department to facilitate the production of these documents.

The Honorable Mike Pompeo
September 9, 2019
Page Five

Sincerely,

ELIOT L. ENGEL
Chairman
House Foreign Affairs Committee

ADAM SCHIFF
Chairman
House Permanent Select Committee
On Intelligence

ELIJAH E. CUMMINGS
Chairman
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 13, 2019

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Mr. Secretary:

We write to follow up on the September 9 letter we sent you regarding reported efforts by President Trump and his associates to improperly pressure the Ukrainian government to assist the President's bid for reelection.

As we noted in that letter, a growing body of public reporting indicates that the President and his associates may be engaged in efforts to coerce the Ukrainian government into pursuing two politically-motivated investigations under the guise of anti-corruption activity. Public reports further indicate that the President, in turn, threatened to withhold more than $250 million in security assistance that Congress has appropriated, the Pentagon supports, and Ukraine greatly needs. It is incumbent upon our Committees to ensure that any attempts by the State Department to abet this scheme are fully understood and appropriately addressed.

As part of our investigation, we ask that you make the following individuals available for transcribed interviews with Committee staff as expeditiously as possible:

- Ambassador Marie "Masha" Yovanovitch, who was recalled early from her post in Kiev on May 20, 2019;
- Ambassador Kurt Volker, U.S. Special Representative for Ukraine;
- Deputy Assistant Secretary George Kent, who formerly served as Deputy Chief of Mission in Kiev; and
- Counselor T. Ulrich Brechbuhl.

Each of these individuals has been identified through various means as having direct knowledge of and/or involvement in the matters under investigation.

Please provide, no later than **Friday, September 20**, the dates on which each of these individuals will be available for an interview. Please contact the Committee on Foreign Affairs at (202) 225-5021 to coordinate scheduling and logistics.

Sincerely,

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The Honorable Mike Pompeo
September 13, 2019
Page Two

ELIOT L. ENGEL
Chairman
House Foreign Affairs Committee

ADAM SCHIFF
Chairman
House Permanent Select Committee
On Intelligence

ELIJAH E. CUMMINGS
Chairman
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 23, 2019

The Honorable Michael R. Pompeo
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20230

Dear Mr. Secretary:

On September 9, 2019, the Committees on Foreign Affairs, Intelligence, and Oversight and Reform wrote to you requesting six categories of documents relating to reports that President Trump and his personal lawyer, Rudy Giuliani, pressed the Ukrainian government to interfere with the upcoming U.S. Presidential election by pursuing investigations that could benefit President Trump politically. We asked the Department to produce these documents by September 16, 2019.[1]

To date, the State Department has failed to comply in any way with the Committees' request and has not even sent a formal reply. Instead, on September 20—four days after the deadline for producing the documents—State Department staff sent an email claiming that they were still reviewing our requests, without giving any indication of when—or whether—the Department will produce the documents.

Seeking to enlist a foreign actor to interfere with an American election undermines our sovereignty, democracy, and the Constitution, which the President is sworn to preserve, protect, and defend. Yet the President and his personal attorney now appear to be openly engaging in precisely this type of abuse of power involving the Ukrainian government ahead of the 2020 election.

On May 7, 2019, FBI Director Christopher Wray testified before the Senate that "any public official or member of any campaign" should immediately report to the FBI any conversations with foreign actors about "influencing or interfering with our election."[2] His stark warning followed detailed reports from both the Office of the Director of National Intelligence and the Office of Special Counsel Robert Mueller concluding that Russia interfered directly in the 2016 election on behalf of President Trump.

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[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[2] *'The FBI Director is Wrong': Trump's Willingness to Accept Foreign Help Keeps Him at Adds with Wray,* Washington Post (June 13, 2019) (online at www.washingtonpost.com/news/powerpost/paloma/daily-202/2019/06/13/daily-202-the-fbi-director-is-wrong-trump-s-willingness-to-accept-foreign-help-keeps-him-at-odds-with-wray/5d012c87a7a0a4030c3fda7b/).

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On June 12, 2019, President Trump rejected this warning, declaring from his desk in the Oval Office: "The FBI Director is wrong." Instead, he stated that he would certainly consider accepting information on a political opponent from a foreign power in the future without alerting the FBI.[3]

The next day, the Chair of the Federal Election Commission issued the following statement:

> Let me make something 100% clear to the American public and anyone running for public office: It is illegal for any person to solicit, accept, or receive anything of value from a foreign national in connection with a U.S. election. This is not a novel concept. Election intervention from foreign governments has been considered unacceptable since the beginnings of our nation.[4]

Over the past few days, the President's public statements have shifted dramatically about whether he personally urged Ukrainian President Volodymyr Zelensky to investigate 2020 presidential candidate Joe Biden's son.[5] On Sunday, the President admitted that he repeatedly discussed the widely debunked conspiracy theory linking Vice President Biden to corruption in Ukraine during a July 25 telephone call with President Zelensky.[6] In addition, Mr. Giuliani admitted during an interview on national television last week that "of course" he had asked Ukraine to investigate President Trump's political opponent.[7]

If press reports are accurate, such corrupt use of presidential power for the President's personal political interest—and not for the national interest—is a betrayal of the President's oath of office and cannot go unchecked.

The State Department has acknowledged, in a statement on August 22, that at least one member of your senior staff played a direct role in arranging meetings between Mr. Giuliani, who has no role in government, and representatives of President Zelensky just days after the President's July 25 call with his Ukrainian counterpart.[8] In addition, press reports have indicated

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[3] *'I Think I'd Take It': In Exclusive Interview, Trump Says He Would Listen if Foreigners Offered Dirt on Opponents*, ABC News (June 13, 2019) (online at https://abcnews.go.com/Politics/id-exclusive-interview-trump-listen-foreigners-offered-dirt/story?id=63669304).

[4] Federal Election Commission, *Statement Regarding Illegal Contributions from Foreign Governments* (June 13, 2019) (online at www.fec.gov/resources/cms-content/documents/Chair_Weintraub_on_Illegal_Foreign_Contributions.pdf).

[5] *Trump Repeatedly Pressed Ukraine President to Investigate Biden's Son*, Wall Street Journal (Sept. 20, 2019) (online at www.wsj.com/articles/trump-defends-conversation-with-ukraine-leader-11568993176).

[6] *Trump Admits to Discussing Biden in Scrutinized Talk with Ukrainian Leader*, NBC News (Sept. 22, 2019) (online at www.nbcnews.com/politics/donald-trump/trump-claims-no-quid-pro-quo-when-he-discussed-biden-n1057376).

[7] *Cuomo Prime Time*, CNN (Sept. 19, 2019) (online at www.youtube.com/watch?v=q6EHQKL2wdo); *Rudy Giuliani's Remarkable Ukraine Interview, Annotated*, Washington Post (Sept. 20, 2019) (online at www.washingtonpost.com/politics/2019/09/20/rudy-giulianis-remarkable-ukraine-interview-annotated/).

[8] State Department Spokesperson Statement, Twitter (Aug. 22, 2019) (online at

that Mr. Giuliani personally debriefed two senior State Department officials about his meetings with those Ukrainian officials.[9] Press reports also have described that career experts, including at the U.S. Embassy in Kiev, have "repeatedly expressed concerns about the contacts between Giuliani and Ukrainian officials."[10]

By withholding these documents and refusing to engage with the Committees, the Trump Administration is obstructing Congress' oversight duty under the Constitution to protect our nation's democratic process. Due to the urgent and grave nature of these allegations, our Committees will have no choice but to move towards compulsory process this week unless the Department produces the documents we have requested.

Please inform the Committees by close of business on Thursday, September 26, 2019, whether you intend to fully comply with these requests or whether subpoenas will be necessary.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

https://twitter.com/kenvogel/status/1164666081501470727/photo/1).

[9] *Missing Piece to Ukraine Puzzle: State Department's Overture to Rudy Giuliani*, The Hill (Sept. 20, 2019) ("That debriefing occurred Aug. 11 by phone with two senior U.S. diplomats, one with responsibility for Ukraine and the other with responsibility for the European Union, according to electronic communications records I reviewed.") (online at https://thehill.com/opinion/white-house/462422-missing-piece-to-the-ukraine-puzzle-state-departments-overture-to-rudy)

[10] *How Trump and Giuliani Pressured Ukraine to Investigate the President's Rivals*, Washington Post (Sept. 20, 2019) (online at www.washingtonpost.com/politics/how-trump-and-giuliani-pressured-ukraine-to-investigate-the-presidents-rivals/2019/09/20/0955801c-dbb6-11e9-a688-303693fb4b0b_story.html

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 27, 2019

The Honorable Michael R. Pompeo
Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

Pursuant to the House of Representatives' impeachment inquiry, we write to inform you that depositions for each of the following State Department officials will be scheduled on the dates indicated below:

- October 2, 2019: Ambassador Marie "Masha" Yovanovitch
- October 3, 2019: Ambassador Kurt Volker
- October 7, 2019: Deputy Assistant Secretary George Kent
- October 8, 2019: Counselor T. Ulrich Brechbuhl
- October 10, 2019: Ambassador Gordon Sondland

These depositions will be conducted jointly by the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform. The deposition transcripts shall be part of the impeachment inquiry and shared among the Committees. The failure of any of these Department employees to appear for their scheduled depositions shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

On September 13, the Committees wrote to request that you make State Department employees available for transcribed interviews.[1] We asked you to provide, by September 20, dates by which the employees would be made available for transcribed interviews.[2] You failed to comply with the Committees' request.

Your actions are all the more troubling given that since our September 13 request, it has become clear that multiple State Department officials have direct knowledge of the subject

[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 13, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-09-13.EEC%20ELE%20Schiff%20re%20Ukraine.pdf).

[2] *Id.*

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matters of the House's impeachment inquiry. On September 25, the White House released a summary of a July 25, 2019, telephone call during which President Trump directly and repeatedly urged President Volodymyr Zelensky of Ukraine to initiate an investigation into former Vice President Biden.[3] On September 25, the Office of the Director of National Intelligence declassified a whistleblower complaint, which indicates that indicates that T. Ulrich Brechbuhl, the Counselor of the Department, listened in on President Trump's July 25 call.[4] The Department has also acknowledged that Special Representative for Ukraine Kurt Volker played a direct role in arranging meetings between Rudy Giuliani, who has no official role in the U.S. government, and representatives of President Zelensky.[5] In addition, the whistleblower complaint indicates that "multiple U.S. officials" were "deeply concerned by what they viewed as Mr. Giuliani's circumvention of national security decisionmaking processes to engage with Ukrainian officials and relay messages back and forth between Kyiv and the President."[6] These officials reported that "State Department officials" had spoken with Mr. Giuliani "in an attempt to 'contain the damage' to U.S. national security," as well as to the new Ukrainian administration to help it "understand and respond to" Mr. Giuliani's backchanneling.[7]

Mr. Giuliani's recent public statements raise more troubling questions about State Department officials' possible involvement in the President's efforts to press Ukraine to interfere in the 2020 U.S. election. During a televised interview, Mr. Giuliani claimed that the State Department asked him to take on this mission and that he had proof of the Department's request. He stated: "I never talked to a Ukrainian official until the State Department called me and asked me to do it and then I reported every conversation back to them."[8] On September 26, Mr. Giuliani tweeted what appears to be a screenshot of a text message from Ambassador Kurt Volker dated July 19—six days before the President's July 25 call with the Ukrainian president—which stated: "Mr. Mayor—really enjoyed breakfast this morning. As discussed, connecting you here with Andrey Yermak, who is very close to President Zelensky. I suggest we schedule a call together on Monday."[9] That introduction appears to have led to precisely the meeting that Mr. Trump urged in the July 25 phone call: in early August, Mr. Yermak and Mr.

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[3] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[4] Letter to Chairman Richard Burr, Senate Select Committee on Intelligence, and Chairman Adam Schiff, Chairman, House Permanent Select Committee on Intelligence (Aug. 12, 2019) (online at https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf).

[5] State Department Spokesperson Statement, Twitter (Aug. 22, 2019) (online at https://twitter.com/kenvogel/status/1164666081501470727/photo/1).

[6] Letter to Chairman Richard Burr, Senate Select Committee on Intelligence, and Chairman Adam Schiff, Chairman, House Permanent Select Committee on Intelligence (Aug. 12, 2019) (online at https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf).

[7] *Id.*

[8] *"Shut Up, Moron": Rudy Giuliani Lashes Out at Critics, Defends His Ukraine Involvement*, Washington Post (Sept. 25, 2019) (online at www.washingtonpost.com/nation/2019/09/25/giuliani-shut-up-moron-fox-news-ukraine/).

[9] Rudy Giuliani, Twitter (Sept. 26, 2019) (online at https://twitter.com/RudyGiuliani/status/1177346278004539392).

Giuliani met in Spain,[10] where Mr. Giuliani admits he pressured Mr. Yermak to pursue the investigations President Trump was seeking.[11]

The Committees are conducting this investigation in an expeditious, coordinated manner. The Inspector General of the Intelligence Community has determined that the whistleblower complaint raises a matter of "urgent concern," is "credible," and "relates to one of the most significant and important of the DNI's responsibilities to the American people": our free and fair elections.[12]

Your refusal to provide the requested documents and interviews not only prevents our Committees from fully investigating these matters, but impedes Congress' ability to fulfill its Constitutional responsibilities to protect our national security and the integrity of our democracy.

Enclosed is a copy of the House Deposition Rules for your information and to provide to the witnesses.

If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

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[10] *Giuliani Sits at the Center of the Ukraine Controversy*, Wall Street Journal (Sept. 26, 2019) (online at www.wsj.com/articles/giuliani-sits-at-the-center-of-the-ukraine-controversy-11569546774).

[11] *Giuliani Renews Push for Ukraine to Investigate Trump's Political Opponents*, New York Times (Aug. 21, 2019) (online at www.nytimes.com/2019/08/21/us/politics/giuliani-ukraine.html).

[12] Letter from Michael K. Atkinson, Inspector General of the Intelligence Community, to Chairman Adam Schiff, House Permanent Select Committee on Intelligence (Sept. 17, 2019) (online at https://intelligence.house.gov/uploadedfiles/20190917_-_ic_ig_second_letter_to_hpsci_on_whistleblower.pdf).

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 9, 2019

Mr. Pat Cipollone
Counsel to the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20002

Dear Mr. Cipollone:

The Committees on Foreign Affairs, Intelligence, and Oversight and Reform jointly request documents related to reported efforts by President Trump and his associates to improperly pressure the Ukrainian government to assist the President's bid for reelection.

A growing public record indicates that, for nearly two years,[1] the President and his personal attorney, Rudy Giuliani,[2] appear to have acted outside legitimate law enforcement and diplomatic channels to coerce the Ukrainian government into pursuing two politically-motivated investigations under the guise of anti-corruption activity. The first is a prosecution of Ukrainians who provided key evidence against Mr. Trump's convicted campaign manager Paul Manafort. That investigation aims to undercut the Mueller Report's overwhelming evidence that Russia interfered in the 2016 election to support Trump's campaign. The other case targets the son of former Vice President Joseph R. Biden, who is challenging Mr. Trump for the presidency in 2020.

As the 2020 election draws closer, President Trump and his personal attorney appear to have increased pressure on the Ukrainian government and its justice system in service of President Trump's reelection campaign, and the White House and the State Department may be abetting this scheme.[3]

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[1] *See* tweet @realDonaldTrump, July 25, 2017 ("Ukrainian efforts to sabotage Trump campaign – 'quietly working to boost Clinton.' So where is the investigation A.G. @seanhannity") (online at: https://twitter.com/realDonaldTrump/status/889788202172780544?s=20). This tweet was also referenced by Special Counsel Robert Mueller in his investigation of President's Trump's possible obstruction of justice. *See* Mueller Report, Vol. II, at p 96, FN 660.

[2] *See* Victor Pinchuk Foundation, June 8, 2017, *107th Mayor of New York Rudy Giuliani Gave Public Lecture at the Invitation of the Victor Pinchuk Foundation,* noting the first publicly-reported meeting between Mr. Giuliani and Prosecutor General of Ukraine Petro Poroshenko (online at https://pinchukfund.org/en/news/20207/).

[3] Kenneth P. Vogel and Andrew E. Kramer, *Giuliani Renews Push for Ukraine to Investigate Trump's Political Opponents,* N.Y. Times, August 21, 2019 (online at: https://www.nytimes.com/2019/08/21/us/politics/giuliani-ukraine.html).

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According to the Ukrainian government, in a July 25, 2019 call with Ukraine's President Volodymyr Zelenskyy, President Trump apparently focused on these investigations, telling President Zelenskyy that he is "convinced the new Ukrainian government will be able to quickly improve [the] image of Ukraine, [and] complete [the] investigation of corruption cases, which inhibited the interaction between Ukraine and the USA."[4] The next day, Ambassador Kurt Volker, U.S. Special Representative for Ukraine, was dispatched to meet with President Zelenskyy.[5] Days later, the President's personal attorney met Andriy Yermak, an aide to President Zelenskyy, in Spain, where the President's personal attorney, who has no official administration or diplomatic position, reportedly suggested a "possible heads of state meeting" between Presidents Trump and Zelenskyy[6] and tweeted an accusation about former Vice President Biden's son.[7] The State Department subsequently acknowledged that Ambassador Volker used his office to facilitate the meeting between the two.[8] Although the State Department has insisted that President Trump's attorney is "a private citizen" who "does not speak on behalf of the U.S. Government," Mr. Yermak publicly stated that "it was not clear to him whether Mr. Giuliani was representing Mr. Trump in their talks."[9]

President Trump has also threatened to withhold[10] more than $250 million in security assistance that Congress has appropriated, the Pentagon supports,[11] and Ukraine desperately needs. Ukraine's sovereignty and territorial integrity are under assault from Russia and its proxies in illegally-occupied Ukrainian territory. If the President is trying to pressure Ukraine into choosing between defending itself from Russian aggression without U.S. assistance or

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[4] *See* Official Website of the President of Ukraine, *Volodymyr Zelenskyy had a phone conversation with President of the United States*, July 25, 2019 (online at: https://www.president.gov.ua/en/news/volodimir-zelenskij-proviv-telefonnu-rozmovu-z-prezidentom-s-56617).

[5] *See* tweet by U.S. Embassy Kyiv, July 26, 2019, showing Ambassador Volker meeting with President Zelenskyy (online at: https://twitter.com/USEmbassyKyiv/status/1154712337368190976?s=20)

[6] *See* Kenneth P. Vogel and Andrew E. Kramer, *supra* n. 3.

[7] *See* tweet by Rudy Giuliani, August 3, 2019 from Santa Cruz del Retamar, Espana (online at: https://twitter.com/RudyGiuliani/status/1157778959653842945?s=20) ("The Politico coverup article doesn't mention the bribery of Ukraine Pres. by then VP Biden to get the case against his son dismissed. Nor does it explain the Chinese pay-off of $1.5billion to Biden's useless fund. Joe took his son on AFII to get the investment. It stinks!!").

[8] *See* State Department Spokesperson Statement, August 22, 2019 (online at: https://twitter.com/kenvogel/status/1164666081501470727/photo/1)

[9] *See* Kenneth P. Vogel and Andrew E. Kramer, *supra* n. 3.

[10] Caitlin Emma and Connor O'Brien, *Trump Holds Up Ukraine Military Aid Meant to Confront Russia*, Politico, August 29, 2019 (online at: https://www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531).

[11] Bryan Bender, *Pentagon Wants Ukraine Military Aid to Continue*, Politico, August 29, 2019 (online at: https://www.politico.com/story/2019/08/29/pentagon-wants-ukraine-military-aid-to-continue-1477957).

leveraging its judicial system to serve the ends of the Trump campaign, this would represent a staggering abuse of power, a boon to Moscow, and a betrayal of the public trust. That the State Department has apparently acted as a broker between President Trump's personal attorney and Ukrainian officials raises serious concerns that the Department is complicit in a corrupt scheme that undercuts U.S. foreign policy and national security interests in favor of the President's personal agenda.

Congress has a constitutionally-mandated obligation to conduct oversight, protect the sanctity of our elections, and ensure that the nation's diplomatic resources and foreign assistance are being deployed for the benefit of the United States, not the personal interests of the President. In order to fulfill this obligation and determine what legislative reforms may be required, we request that the White House preserve all documents, communications, and other data ("records"), regardless of format, that may be required for the Committees' oversight and investigative duties relating to this subject. The term "records" is broad and includes both paper and electronic records.[12] Specifically, the White House should:

1. identify and notify all current and former employees and contractors, subcontractors, consultants, and Special Government Employees who may have access to such records that they are to be preserved;

2. identify, record, and preserve any records which have been deleted or marked for deletion but are still recoverable; and

3. if it is the routine practice of any employee or contractor to destroy or otherwise alter such records, either halt such practices or arrange for the preservation of complete and accurate duplicates or copies of such records, suitable for production, if requested.

In addition, we request that your office produce to the Committees the following,[13] no later than **Monday, September 16**:

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[12] This includes emails, electronic messages (including, but not limited to, both government and commercial/personal email accounts, text messages, or messaging services such as WhatsApp, Signal, Viber, Facebook, Twitter, and/or Telegram), regardless of whether such records were created, modified, sent, or received on an official or personal address or device, as well as log files and metadata. For purposes of this request, "preserve" means taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutilation of records, including but not limited to emails and handwritten notes, as well as negligent or intentional handling which would foreseeably make such records incomplete or inaccessible.

[13] Any alternate spellings or transliterations of any names reference herein would also render a document responsive to these requests.

1. Any and all records generated or received by any White House staff from January 20, 2017 to the present related to or referring in any way to the potential or suggested investigations/legal cases referred to in this letter. This includes, but is not limited to, correspondence regarding or referring to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, Burisma Holdings, former Ukrainian Prosecutor General Yuriy Lutsenko, or Presidential Aide Andriy Yermak in the context of these potential or suggested investigations/legal cases.

2. The transcript of President Trump's July 25, 2019 call with Ukrainian President Zelenskyy (the "July 25 Call").

3. Any and all records generated or received by any White House staff in connection with, or that refer or relate in any way to the July 25 Call.

4. A full list of all White House staff who participated in, assisted in preparation for, or received a readout of the July 25 Call.

5. Any and all records generated or received by White House staff with or referring to President Trump's personal attorney, Rudy Giuliani.

6. Any and all records generated or received by any White House staff in connection with, or that refer or relate in any way to the actual or potential suspension of security assistance to Ukraine.

The Committees are prepared to work with your office to facilitate the production of these documents.

Sincerely,

ELIOT L. ENGEL
Chairman
House Foreign Affairs Committee

ADAM SCHIFF
Chairman
House Permanent Select Committee
On Intelligence

ELIJAH E. CUMMINGS
Chairman
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 4, 2019

The Honorable John Michael Mulvaney
Acting Chief of Staff to the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20500

Dear Mr. Mulvaney:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce documents set forth in the accompanying schedule by **October 18, 2019.**

This subpoena is being issued by the Committee on Oversight and Reform under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or others at the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

During a press conference on Wednesday, President Trump was asked if he would cooperate with the House impeachment inquiry. He responded, "I always cooperate."[2] President Trump's claim is patently false. The White House has refused to engage with—or even respond to—multiple requests for documents from our Committees on a voluntary basis. After nearly a month of stonewalling, it appears clear that the President has chosen the path of defiance, obstruction, and cover-up.

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[1] *See* Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings, Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019).

[2] *Trump Says He 'Always' Cooperates While Railing Against Impeachment Inquiry,* The Hill (Oct. 2, 2019) (online at https://thehill.com/homenews/administration/464087-trump-says-he-always-cooperates-while-railing-against-impeachment).

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On September 9, 2019, the Committees sent a letter to White House Counsel Pat Cipollone requesting that the White House produce documents relating to the Committees' investigation by September 16, 2019.[3] The White House did not produce any documents by the requested date, did not send any reply letter, and did not acknowledge receipt of the request.

On September 24, 2019, the Committees sent a follow-up letter warning that the Chairmen would be forced to consider compulsory process if the White House continued to ignore our request. The Committees set a new deadline of September 26, 2019, for the White House to produce these documents.[4] Again, the White House failed to comply and did not acknowledge receipt of our follow-up letter.

Today, President Trump stated that he plans to send a letter to House Speaker Nancy Pelosi, and press reports indicate that the letter will relay the White House's refusal to cooperate with the impeachment inquiry until there is a House vote on the floor.[5]

A vote of the full House is not required to launch an impeachment inquiry, and there is no authority for the White House to make this claim. There is no such requirement in the Constitution or in the House Rules.[6]

Nor does precedent support this claim. On the contrary, "In the House various events have been credited with setting an impeachment in motion."[7] In the case of President Nixon, for example, the Judiciary Committee had been investigating charges of impeachment for months before the House voted to open an inquiry.[8] In 1974, the Judiciary Committee had already "been conducting an investigation into the charges of impeachment against President Nixon" and had "hired special counsel for the impeachment inquiry."[9] During the 1980s, the House investigated three federal judges, and no resolution explicitly authorizing an impeachment investigation was

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[3] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, White House Counsel (Sept. 9, 2019) (online at https://intelligence.house.gov/uploadedfiles/ele_schiff_cummings_letter_to_cipollone_on_ukraine.pdf).

[4] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, White House Counsel (Sept. 24, 2019) (online at https://intelligence.house.gov/uploadedfiles/2019-09-24.eec_engel_schiff_to_cipollone-wh_re_potus_ukraine.pdf).

[5] The White House, *Remarks by President Trump Before Marine One Departure* (Oct. 4, 2019) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-68/). *See also Trump Demands Full House Vote on Impeachment Before Complying with Lawmakers,* NPR (Oct. 4, 2019) (online at www.npr.org/2019/10/04/767205170/trump-demands-full-house-vote-on-impeachment-before-complying-with-lawmakers).

[6] U.S. Constitution, Art. I, § 2, cl. 5; § 5, cl. 2.

[7] Jefferson's Manual § 603, H. Doc. No. 114-192, at 319 (2017).

[8] Deschler Ch. 14 § 15, at 2171-72 (Parliamentarian's Note) (prior to adopting the H. Res. 803, 93rd Cong.).

[9] *Id.*

proposed or agreed to in the House.[10] Speaker Pelosi has confirmed that an impeachment inquiry is underway, and it is not for the White House to say otherwise.

Even if an impeachment inquiry were not underway, the entire House of Representatives voted on the floor on January 9, 2019, to adopt its Rules, which provide the Oversight Committee with its own independent oversight and legislative jurisdiction to investigate these matters—including authority to issue subpoenas to the White House.[11]

Specifically, under House Rule X, the Oversight Committee is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time." In addition, House Rule X, clause 3(i) specifically charges the Committee with conducting oversight of "the operation of Government activities at all levels, **including the Executive Office of the President.**" Finally, Rule X, clause 4 provides: "The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved."

The Oversight Committee has used its authority repeatedly under both Republican and Democratic Chairmen to obtain documents from the White House. For example, during an investigation of the Administration of President George W. Bush involving violations of the Presidential Records Act, the Oversight Committee obtained more than 20,000 pages of internal emails and other documents from the White House and the National Archives and Records Administration. The Oversight Committee also interviewed or received written answers to questions from six current or former White House officials as part of that investigation.[12]

The Oversight Committee has also obtained public testimony from numerous White House officials under both Democratic and Republican Administrations, including:

- Charles Ruff, Counsel to the President, Clinton Administration;
- Beth Nolan, Counsel to the President, Clinton Administration;
- Dimitri Nionakis, Associate Counsel to the President, Clinton Administration; and
- James Knodell, Director of White House Office of Security, George W. Bush Administration.[13]

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[10] *Cf.* H. Rept. No. 101-36, at 13-16 (1989) (Nixon); H. Rept. No. 100-810, at 9-10 (1988) (Hastings); H. Rept. No. 99-688, at 3-7 (1986) (Claiborne).

[11] Clerk of the House of Representatives, *Rules of the House of Representatives One Hundred Sixteenth Congress* (Jan. 11, 2019) (online at https://rules.house.gov/sites/democrats.rules.house.gov/files/documents/116-House-Rules-Clerk.pdf).

[12] Memorandum from Democratic Staff to Members of the Committee on Oversight and Government Reform, *Supplemental Information for Full Committee Hearing on White House E-mails* (Feb. 26, 2008) (online at https://bit.ly/2Z4Z2pC).

[13] Committee on Government Reform and Oversight, *Hearings on White House Compliance with Committee Subpoenas*, 105th Cong. (Nov. 6-7, 1997) (H. Rept. 105-61); Committee on Government Reform, *Hearings on Missing White House E-Mails: Mismanagement of Subpoenaed Records*, 106th Cong. (Mar. 23, 2000, Mar. 30, 2000, May 3, 2000, and May 4, 2000) (H. Rept. 106-179); Committee on Oversight and Government

We deeply regret that President Trump has put us—and the nation—in this position, but his actions have left us with no choice but to issue this subpoena.

Please contact staff for the Committee on Oversight and Reform at (202) 225-5051 to arrange for the production of documents.

Sincerely,

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Adam Schiff
Chairman
House Permanent Select Committee on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Reform, *Hearing on White House Procedures for Safeguarding Classified Information*, 110th Cong. (Mar.16, 2007) (H. Rept. 110-28).

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To John Michael "Mick" Mulvaney,
Acting White House Chief of Staff

You are hereby commanded to be and appear before the
Committee on Oversight and Reform
of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building, Washington, D.C. 20515
Date: October 18, 2019 Time: 12:00 noon

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

To any authorized staff member or the U.S. Marshals Service
to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 4th day of October, 2019.

Chairman or Authorized Member

Attest:

Clerk

SCHEDULE

In accordance with the attached Definitions and Instructions, you, John Michael "Mick" Mulvaney, in your capacity as Acting Chief of Staff to President Donald J. Trump, are hereby required to produce, for the time period from January 20, 2017, to the present, all documents and communications referring or relating to:

1. The potential or suggested investigations and legal cases referenced in the letter sent to White House Counsel Pat Cipollone on September 9, 2019, from Chairmen Eliot L. Engel, Adam B. Schiff, and Elijah E. Cummings (attached as Exhibit 1), including but not limited to those relating to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, and Burisma Holdings Ltd.;

2. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

3. Communications between or among any of the following referring or relating in any way to the July 25, 2019, telephone conversation:

    a. Current or former White House officials, employees, and detailees, including within the White House Counsel's Office, the White House Situation Room, and the National Security Council (NSC), including but not limited to:

        i. The Assistant to the President for National Security Affairs;
        ii. The Deputy Assistant to the President for National Security Affairs;
        iii. The Senior Director for European Affairs;
        iv. All Directors within the Directorate or Directorates involved in European and Russian Affairs;
        v. All Directors covering energy affairs;
        vi. The Senior Director for the Directorate of International Economics;
        vii. All White House Situation Room Duty Officers who staffed the call and produced the original draft "Memorandum of Telephone Conversation";
        viii. The Senior White House Situation Room Duty Officer during the telephone conversation;
        ix. The NSC Legal Advisor;

x. The NSC Executive Secretary and any other staff from NSC's Executive Secretary office involved in preparing the "Memorandum of Telephone Conversation" and any preparatory materials for the President prior to the telephone conversation; and

xi. The Office of the Vice President, to include Vice President Michael R. Pence and Lieutenant General Keith Kellogg;

b. Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr and Assistant Attorney General John Demers;

c. Current or former employees or officials of the Department of State, including but not limited to Secretary Michael R. Pompeo, Counselor T. Ulrich Brechbuhl, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Deputy Assistant Secretary George Kent, U.S. Embassy in Ukraine Charge d'Affaires William B. Taylor, U.S. Embassy in Ukraine Deputy Chief of Mission Kristina Kvien, and Ambassador to the European Union Gordon Sondland;

d. Current or former employees or officials of the Department of Energy, including but not limited to Secretary Rick Perry and Special Advisor Samuel Buchan;

e. Current or former employees or officials of the Office of the Director of National Intelligence (ODNI), including but not limited to Acting Director Joseph Maguire and ODNI's Office of General Counsel;

f. Current or former employees or officials of the Central Intelligence Agency, including but not limited to General Counsel Courtney Simmons Elwood; and

g. Current or former employees or officials of the Department of Defense, including but not limited to Secretary of Defense Mark Esper and Undersecretary for Policy John C. Rood;

4. Any and all recordings, transcripts, notes (including electronic and hand-written notes), summaries, memoranda of conversation, readouts, or other documents memorializing communications between President Trump and the leader of any other foreign country that refer or relate to the subject matters of the July 25 telephone conversation between President Trump and President Zelensky, including but not limited to pursuing investigations of President Trump's political rivals and Ukrainian foreign aid;

5. The actual or potential suspension, withholding, delaying, freezing, or releasing of foreign assistance of any kind, including but not limited to security assistance, to Ukraine;

6. Any of the following meetings or potential meetings:

a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications;

b. A meeting at the White House on or around May 23, 2019, involving President Trump, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Energy Secretary Rick Perry, or Ambassador Gordon Sondland;

c. President Zelensky's inauguration on May 20, 2019, in Kiev, Ukraine, including but not limited to President Trump's decision not to attend and not to send Vice President Pence to lead the U.S. delegation and to instead send Energy Secretary Rick Perry;

d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Perry, former National Security Advisor John Bolton, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, and Ambassador Gordon Sondland, including but not limited to the proposed or actual participation of President Trump and Vice President Pence in the meeting;

e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland in or around September 2019, including but not limited to President Trump's decision to cancel his attendance;

f. All meetings and communications between U.S. officials, including but not limited to Vice President Pence, Energy Secretary Perry, and Senior Advisor Jared Kushner, and President Zelensky or other Ukrainian government officials in Warsaw, Poland in or around September 2019; and

g. All meetings between President Trump and President Zelensky during the United Nations General Assembly in or around September 2019, including but not limited to any discussion of their July 25, 2019, telephone conversation, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

7. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or any U.S. persons or entities;

8. All meetings or communications between any current or former White House officials, employees, or detailees, including President Trump, and Attorney General William Barr or any other Department of Justice official or employee, relating to the investigations described in paragraph 7;

9. All meetings between or among current or former White House officials or employees, including President Trump, and Rudolph W. Giuliani, including but not limited to requests for meetings or telephone calls, scheduling items, calendar entries, White House visitor records, and email or text messages using personal or work-related devices;

10. Former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the decision to end her tour or recall her from the U.S. Embassy in Kiev;

11. With respect to the storage of documents regarding telephone conversations:

    a. Documents sufficient to show the dates and times when any documents referring or relating to the April 21, 2019, or July 25, 2019, telephone conversations between President Trump and President Zelensky were moved or transferred from one electronic system or server into another electronic system or server, the names, descriptions, and levels of classification of each electronic system or server involved, and the identity of all individuals who were involved in the transfer of any such documents;

    b. Efforts to restrict access to, or limit the distribution of, documents referring or relating to the April 21, 2019, and July 25, 2019, telephone conversations, including but not limited to the transfer to, or placement of documents on, an electronic system or server cleared to hold codeword-level classified information, or the request or direction to do so; and

    c. All policies, procedures, practices, or guidance at or from the White House or NSC referring or relating to the aforementioned electronic system or server, including all policies, procedures, practices, or guidance referring or relating to the transfer or placement of transcripts, summaries, memos, and notes of the President's meetings and phone calls with foreign leaders on such system or server;

12. Efforts by any current or former White House officials, employees, or detailees, including President Trump, to identify or retaliate against the whistleblower who filed the complaint with the Inspector General of the Intelligence Community that was released by the House Permanent Select Committee on Intelligence on September 26, 2019, or against any individual who provided information to, or raised concerns to, the whistleblower or the Inspector General, including but not limited to any documents or communications referring or relating to searching communications, telephone records, telephones, or any other information to identify any of these individuals; and

13. Efforts to conceal, destroy, or otherwise dispose of any documents, records, or communications referring or relating to any of the foregoing matters.

Schedule Instructions

1. In complying with this subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Subpoenaed documents, and all documents reasonably related to the subpoenaed documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual denoted in this subpoena is or has been known by any name other than that herein denoted, the subpoena shall be read also to include that alternative identification.

4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

        BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the subpoena was served.

9. When you produce documents, you should identify the paragraph(s) in the subpoena schedule to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the subpoena cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

16. In complying with the subpoena, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act

or the Privacy Act; or any purported contractual privileges, such as non-disclosure agreements.

17. Any assertion by a subpoena recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

19. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, produce all documents that would be responsive as if the date or other descriptive detail were correct.

20. This subpoena is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

21. All documents shall be Bates-stamped sequentially and produced sequentially.

22. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.

23. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the

individual's business or personal address and phone number; and (c) any and all known aliases.

7. The term "related to" or "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

9. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

September 24, 2019

Mr. Pat Cipollone
Counsel to the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20500

Dear Mr. Cipollone:

On September 9, 2019, the Committees on Foreign Affairs, Intelligence, and Oversight and Reform wrote to you requesting documents relating to reports that President Trump and his personal lawyer, Rudy Giuliani, pressed the Ukrainian government to interfere with the upcoming U.S. Presidential election by pursuing investigations that could benefit President Trump politically. Our request was predicated on a growing public record of the President and his personal lawyer's participation in such a scheme, which prompted our Committees to initiate a joint investigation in June.

We asked that the White House produce these documents by September 16, 2019.[1] To date, the White House has failed to acknowledge our request or comply in any way with the Committees' request for documents.

According to press reports, which multiple outlets have confirmed,[2] documents requested by the Committees—particularly the transcript of the President's July 25, 2019, phone call with newly-elected Ukrainian President Volodymyr Zelensky—may be part of or related to a lawful whistleblower disclosure that Acting Director of National Intelligence Joseph Maguire continues to improperly withhold from the House Permanent Select Committee on Intelligence, in violation of his express statutory obligation.[3]

Over the past few days, there has been a dramatic shift in the President's public statements about his call with President Zelensky, as well as troubling attacks by the President on the whistleblower.[4] The President initially appeared to deny press reports that he urged President Zelensky to investigate the son of 2020 presidential candidate Joe Biden.[5] By Sunday, September 22, the President explicitly admitted that he raised during his call with President Zelensky the widely debunked conspiracy theory attempting to link Vice President Biden to corruption in Ukraine. He stated:

> The conversation I had was largely congratulatory, with largely corruption, all of the corruption taking place and **largely the fact that we don't want our people like Vice President Biden and his son creating to the corruption already in the Ukraine** and Ukraine, Ukraine's got a lot of problems. The new president is saying that he's going to

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be able to rid the country of corruption, and I said that would be a great thing. We had a great conversation…It was a perfect conversation.[6]

The President's admission followed that of his personal attorney, Mr. Giuliani, who acknowledged during an interview on national television last week that "of course" he had asked Ukraine to investigate President Trump's political opponent.[7]

Our Committees have a constitutional duty to serve as an independent check on the Executive Branch and to determine the facts regarding the actions of the President.

Any attempt by a President to use the office of the presidency of the United States for personal political gain—rather than the national interest—fundamentally undermines our sovereignty, democracy, and the Constitution.

If the recent reports are accurate, it means the President raised with a foreign leader pursuing investigations related to a political opponent in an upcoming U.S. election. That is the very definition of corrupt abuse of power. The corruption exists whether or not the President mentioned or threatened—explicitly or implicitly—that a lack of cooperation could result in the President withholding U.S. security assistance or other forms of assistance.[8]

This President's alleged misconduct is all the more egregious in context. Ukraine depends on U.S. economic, military, and diplomatic support and continues to face a military threat from Russia. It is, therefore, particularly vulnerable to pressure from a U.S. President.

Exploiting that vulnerability to advance the President's personal political interests—whether or not the President ever expressly tied his request to a *quid pro quo*—subverts the constitutional duties he is sworn to uphold and presents an acute crisis for our democracy. Misuse of the office of the presidency for such a corrupt purpose would thus represent a clear breach of the trust placed in the President to faithfully execute the laws of the United States and to preserve, protect, and defend the Constitution.

The President's alleged wrongdoing is compounded by his Administration's attempt to block a credible whistleblower who lawfully sought to provide Congress with urgent information about serious or flagrant abuse, which public reports indicate relates to the President himself.

The Department of Justice, your office, and you personally have reportedly played a direct role in devising a purported legal basis for the Acting DNI to circumvent both the statute and Congress' clear intent that all whistleblower disclosures intended for Congress reach the relevant committees unfiltered.[9] If true, your office's involvement raises the specter of a signficant cover-up, in which the White House has improperly intervened to withhold such information from Congress in contravention of the clear command and purpose of the whistleblower statute. That the White House, through you and your office, appears to have received information about or even potentially possesses a whistleblower disclosure involving the President vitiates the purpose of the statutory framework that was established to ensure protected disclosures to Congress are insulated from political interference.

In light of the President's persistent attacks on the whistleblower,[10] and consistent with the White House's preservation obligations as set forth in our September 9 letter, the White House must also assure the Committees that it is taking all steps to ensure that no officials with knowledge relevant to the Committees' investigation, including knowledge of the subject of the whistleblower complaint, are subject to intimidation, reprisal, or threat of reprisal. Any attempt to intimidate or retaliate against these officials is illegal, and the Committees will treat any such allegation with the utmost gravity.

For all these reasons, we now request that you produce—by Thursday, September 26—all of the documents we requested in our letter of September 9. In light of these grave allegations, the President must immediately abandon his stonewalling of Congress and his refusal to submit to any scrutiny or examination of his actions. Failure to comply with our request will compel our Committees to resort to escalated measures.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

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[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, White House Counsel (Sept. 9, 2019).

[2] "*Trump Repeatedly Pressed Ukraine President to Investigate Biden's Son*," Wall Street Journal (Sept. 20, 2019) (online at www.wsj.com/articles/trump-defends-conversation-with-ukraine-leader-11568993176); "*Whistleblower Complaint About President Trump Involves Ukraine, According to Two People Familiar with the Matter*," Washington Post (Sept. 19, 2019) (online at www.washingtonpost.com/national-security/whistleblower-complaint-about-president-trump-involves-ukraine-according-to-two-people-familiar-with-the-matter/2019/09/19/07e33f0a-daf6-11e9-bfb1-849887369476_story.html).

[3] 50 U.S.C. §3033(k)(5)(C) requires that "[u]pon receipt of a transmittal from the Inspector General...the Director *shall*, within 7 calendar days of such receipt, forward such transmittal to the congressional intelligence committees, together with any comments the Director considers appropriate" (emphasis added).

[4] *"Trump Repeatedly Pressed Ukraine President to Investigate Biden's Son,"* Wall Street Journal (Sept. 20, 2019) (online at www.wsj.com/articles/trump-defends-conversation-with-ukraine-leader-11568993176).

[5] Twitter, @realDonaldTrump (Sept. 19, 2019, 10:47 a.m.) ("[I]s anybody dumb enough to believe that I would say something inappropriate with a foreign leader…I would only do what is right anyway.") (online at https://twitter.com/realDonaldTrump/status/1174696521310363649). On Friday, speaking to reporters from the Oval Office, President Trump was asked about reports that he personally urged Ukrainian President Zelensky to investigate 2020 presidential candidate Joe Biden's son, including during a telephone call between the two leaders on July 25. The President stated, "It doesn't matter what I discussed," and defended his actions: "It was a totally appropriate conversation. It was actually a beautiful conversation." In the same press event, the President repeatedly attacked the whistleblower, stating that the whistleblower's complaint is a "political hack job" made by a "partisan person." He added: "I don't know the identity of the whistleblower. I just hear it's a partisan person, meaning it comes out from another party." On Saturday, the President again defended his actions, writing that he had a "perfectly fine and routine conversation" with the President of Ukraine and that "Nothing was said that was in any way wrong." *See e.g.*, *"Trump Repeatedly Pressed Ukraine President to Investigate Biden's Son,"* Wall Street Journal (Sept. 20, 2019) (online at www.wsj.com/articles/trump-defends-conversation-with-ukraine-leader-11568993176); *"Trump Responds to Ukraine Whistleblower Scandal with Contradictions and Transparent Falsehoods,"* Vox (Sept. 20, 2019) (online at www.vox.com/policy-and-politics/2019/9/20/20875988/trump-responds-to-ukraine-whistleblower-scandal-with-contradictions-and-transparent-falsehoods); *Trump on Anonymous Whistleblower: It's Another Political Hack Job*, CNN (Sept. 20, 2019) (online at www.cnn.com/videos/politics/2019/09/20/whistleblower-response-partisan-trump-sot-ath-vpx.cnn).

[6] *"Trump Admits to Discussing Biden in Scrutinized Talk with Ukrainian Leader,"* NBC News (Sept. 22, 2019) (online at www.nbcnews.com/politics/donald-trump/trump-claims-no-quid-pro-quo-when-he-discussed-biden-n1057376). (Emphasis added)

[7] *Cuomo Prime Time*, CNN (Sept. 19, 2019) (online at www.youtube.com/watch?v=q6EHQKL2wdo); *"Rudy Giuliani's Remarkable Ukraine Interview, Annotated,"* Washington Post (Sept. 20, 2019) (online at www.washingtonpost.com/politics/2019/09/20/rudy-giulianis-remarkable-ukraine-interview-annotated/).

[8] Even though a direct or indirect nexus is not necessary, the President has suggested, as recently as yesterday, that his decision to withhold security assistance to Ukraine was related to his interest in advancing debunked corruption allegations related to his political rival. Speaking to reporters in New York, the President stated: "It's very important to talk about corruption. If you don't talk about corruption, why would you give money to a country that you think is corrupt?" He added: "What Biden did is a disgrace. What his son did is a disgrace." *See e.g.*, *"Trump Suggests Link Between Ukraine Aid Review and Pressure Campaign,"* Wall Street Journal (Sept. 23, 2019) (online at www.wsj.com/articles/president-trump-repeats-criticism-of-biden-in-impromptu-u-n-appearance-11569254230); *"Trump Defiant Over Allegations He Targeted A Rival via Ukraine,"* New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[9] *"Trump Pressed Ukrainian leader to Investigate Biden's Son, According to People Familiar with the Matter,"* Washington Post (Sept. 20, 2019) ("White House counsel Pat Cipollone has been engaged in the matter since shortly after the whistleblower action surfaced, officials said, helping to identify legal obstacles to the sharing of information that could be politically damaging to Trump. Cipollone's involvement reveals a more direct White House role in the dispute than has previously been reported.") (online at www.washingtonpost.com/national-security/trump-pressed-ukrainian-leader-to-investigate-bidens-son-according-to-people-familiar-with-the-matter/2019/09/20/7fa39b20-dbdc-11e9-bfb1-849887369476_story.html).

[10] On September 20, 2019, the President attacked the whistleblower directly, saying that he "just hear[s] that it's a partisan person, meaning that it comes out from another party," while asserting that the complaint is a "political hack job." The President added: "It's a partisan whistleblower. Shouldn't even have information;" *"The Latest on the Trump Whistleblower Mystery,"* CNN (Sept. 20, 2019) (online ay www.cnn.com/politics/live-news/trump-whistleblower-09-20-2019/index.html). On September 23, the President stated on Twitter: "Also, who is this so-called "whistleblower" who doesn't know the correct facts. Is he on our Country's side. Where does he come from." Twitter, @realDonaldTrump (Sept. 23, 2019, 11:29 AM) (online at https://twitter.com/realDonaldTrump/status/1176156564274712576).

Congress of the United States
Washington, DC 20515

October 10, 2019

VIA U.S. AND ELECTRONIC MAIL

The Honorable James Richard "Rick" Perry
Secretary
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Perry:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 18, 2019.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Recently, public reports have raised questions about any role you may have played in conveying or reinforcing the President's stark message to the Ukrainian President. These reports have also raised significant questions about your efforts to press Ukrainian officials to change the management structure at a Ukrainian state-owned energy company to benefit individuals involved with Rudy Giuliani's push to get Ukrainian officials to interfere in our 2020 election.

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[1] *See* Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings, Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

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Background

In September 2018, Congress appropriated $250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.[2] In its Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

> The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.[3]

On February 28 and May 23, 2019, Under Secretary of Defense for Policy John C. Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.[4] The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing $250 million in security cooperation funds to Ukraine.[5]

According to multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."[6]

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."[7]

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[2] Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013 (2018).

[3] Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

[4] Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf).

[5] Department of Defense, *Press Release: DOD Announces $250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

[6] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[7] *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-

Officials at the Departments of State and Defense reportedly were "puzzled and alarmed" after learning about the White House's directive. Defense Department officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.[8]

On July 25, 2019, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public, President Trump urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.[9]

According to the record, immediately after President Zelensky mentioned his desire to obtain Javelin missiles, President Trump stated, "I would like you to do us a favor though." He also stated, "I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it." He also said:

> There's a lot of talk about Biden's son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.[10]

On July 25, 2019, Kurt Volker, the Special Representative for Ukraine Negotiations, sent a text message to Ukrainian Presidential Advisor Andrey Yermak before the call between President Trump and President Zelensky. Ambassador Volker wrote:

> Heard from White House—assuming President Z convinces trump he will investigate / "get to the bottom of what happened" in 2016, we will nail down date for visit to Washington.[11]

Last week, Senator Ron Johnson publicly stated that in August 2019, he was informed by Gordon Sondland, the U.S. Ambassador to the European Union, that if Ukraine would "get to the bottom of what happened in 2016—if President Trump has that confidence, then he'll release the

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498eabc129a0_story.html).

[8] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[9] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[10] *Id.*

[11] Text Message from Kurt Volker, U.S. Special Representative for Ukraine Negotiations, to Andrey Yermak, Advisor to Ukrainian President Volodomyr Zelensky (July 25, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Chairmen%20Letter%20on%20State%20Department%20Texts%2010-03-19.pdf).

military spending." Senator Johnson stated: "At that suggestion, I winced." He also stated: "My reaction was: Oh, God. I don't want to see those two things combined."[12]

As you are aware, the Impoundment Control Act of 1974 authorizes the President to withhold the obligation of funds only "(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law." The President is required to submit a special message to Congress with information about the proposed deferral of funds.[13]

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: "This funding is critical to the accomplishment of U.S. national security objectives in Europe."[14] Two days later, on September 1, Ambassador William "Bill" Taylor, the Chargé d'Affaires at the U.S. Embassy in Ukraine, sent a text message to Ambassador Volker and Ambassador Sondland, asking, "Are we now saying that security assistance and WH [White House] meeting are conditioned on investigations?"[15]

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

> The funds designated for the Ukraine Security Assistance Initiative are vital to the long term viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.[16]

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[12] *Trump, in August Call with GOP Senator, Denied Official's Claim on Ukraine Aid*, Wall Street Journal (Oct. 4, 2019) (online at www.wsj.com/articles/trump-administration-used-potential-meeting-to-pressure-ukraine-on-biden-texts-indicate-11570205661).

[13] 2 U.S.C. § 684.

[14] Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

[15] Text Message from William Taylor, Chargé d'Affaires, U.S. Embassy in Kyiv, Ukraine, to Gordon Sondland, U.S. Ambassador to the European Union, and Kurt Volker, U.S. Special Representative for Ukraine Negotiations (Sept. 1, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Chairmen%20Letter%20on%20State%20Department%20Texts%2010-03-19.pdf).

[16] Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: "These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests."[17]

On September 9, 2019, the Committees on Intelligence, Foreign Affairs, and Oversight wrote to the White House requesting documents related to "the actual or potential suspension of security assistance to Ukraine."[18] The White House never responded to this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.[19]

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was "very actively involved in advocating the aid," he "was not given an explanation" about why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."[20]

Reports Relating to Your Involvement During This Period

On October 4, 2019, President Trump reportedly "told House Republicans that he made his now infamous phone call to Ukrainian President Volodymyr Zelensky at the urging of Energy Secretary Rick Perry—a call Trump claimed he didn't even want to make."[21]

In May 2019, you attended President Zelensky's inauguration in place of Vice President Mike Pence, who reportedly was ordered by President Trump not to attend.[22]

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letter-urging).

[17] Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

[18] Letter from Chairman Eliot L. Engel, Committee on Foreign Affairs, Chairman Adam Schiff, Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[19] *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

[20] *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (online at https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay).

[21] *Scoop: Trump Pins Ukraine Call on Energy Secretary Rick Perry*, Axios (Oct. 5, 2019) (online at www.axios.com/trump-blamed-rick-perry-call-ukraine-zelensky-8178447a-0374-4ac6-b321-a9454b0565d4.html).

[22] Department of Energy, *Readout of Secretary Perry's Delegation Visit to the Inauguration of Ukrainian President Volodymyr Zelenskyy* (May 21, 2019) (online at www.energy.gov/articles/readout-secretary-perry-s-delegation-visit-inauguration-ukrainian-president-volodymyr); *Trump Involved Pence in Efforts to Pressure*

On May 23, 2019, you attended a meeting in the Oval Office with President Trump, Ambassador Sondland, and Ambassador Volker. According to written testimony submitted by Ambassador Volker, President Trump called Ukraine a corrupt country full of "terrible people" and claimed that "they tried to take me down."[23]

According to press reports, President Trump directed you and State Department officials "to deal with his private attorney Rudy Giuliani when the Ukrainian President sought to meet Trump, in a clear circumvention of official channels." The President reportedly expressed that "if President Volodymyr Zelensky wanted to meet with him, Giuliani would have to be convinced first."[24]

In June 2019, you reportedly attended a dinner with President Zelensky, President Trump's son-in-law, Jared Kushner, and other U.S. officials.[25] On September 1, 2019, you attended the bilateral meeting between President Zelensky and Vice President Pence in Poland.[26] On September 25, 2019, you attended a meeting between President Trump and President Zelensky. According to press accounts of that meeting, "The message from Perry to Zelensky, according to one person familiar with the discussions, was: 'You've got to take steps on your anti-corruption efforts.'"[27]

During your extensive interactions with Ukrainian officials, you also reportedly "pressed the Ukrainian president to fire members of the Naftogaz advisory board" and "made clear" to Ukrainian officials and energy sector officials "that the Trump administration wanted to see the entire Naftogaz supervisory board replaced." You reportedly gave President Zelensky a list of potential board members, including Michael Bleyzer, who "donated $20,000 to Perry's reelection campaign" in 2010, and Robert Bensh, "another Texan who frequently works in Ukraine."[28]

Ukraine's Leader, Though Officials Say Vice President Was Unaware of Allegations in Whistleblower Complaint, Washington Post (Oct. 2, 2019) (online at www.washingtonpost.com/world/national-security/trump-involved-pence-in-efforts-to-pressure-ukraines-leader-though-aides-say-vice-president-was-unaware-of-pursuit-of-dirt-on-bidens/2019/10/02/263aa9e2-e4a7-11e9-b403-f738899982d2_story.html).

[23] Kurt Volker, Former U.S. Special Representative for Ukraine Negotiations, *Written Testimony before the House of Representatives Committee on Foreign Affairs, Permanent Select Committee on Intelligence, and Committee on Oversight* (Oct. 3, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Volker%20Testimony%20Long%20Form.pdf).

[24] *Trump Told Perry and State Department Officials as Early as May to Talk to Giuliani about Ukraine*, CNN (Oct. 8, 2019) (online at www.cnn.com/2019/10/08/politics/trump-perry-giuliani-state-department/index.html).

[25] *Perry Pressed Ukraine on Corruption, Energy Company Changes*, Politico (Oct. 5, 2019) (online at www.politico.com/news/2019/10/05/rick-perry-ukraine-trump-030230).

[26] The White House, *Remarks by Vice President Pence and President Duda of Poland in Joint Press Conference, Warsaw, Poland* (Sept. 2, 2019) (online at www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-president-duda-poland-joint-press-conference-warsaw-poland).

[27] *Perry Pressed Ukraine on Corruption, Energy Company Changes*, Politico (Oct. 5, 2019) (online at www.politico.com/news/2019/10/05/rick-perry-ukraine-trump-030230).

[28] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

According to press reports, your efforts raised questions about whether you were "seeking to provide certain Americans help in gaining a foothold in the Ukrainian energy business at a time when the new Ukrainian government was looking to the United States for signals of support in its simmering conflict with Russia."[29]

The proposal to install new board members at Naftogaz was reportedly promoted by three donors to Donald Trump's presidential campaign: "two Soviet-born Florida real estate entrepreneurs, Lev Parnas and Igor Fruman, and an oil magnate from Boca Raton, Florida, named Harry Sargeant III." According to these reports, their plan was to "steer lucrative contracts to companies controlled by Trump allies. In service of these efforts, Mr. Parnas, Mr. Fruman, and Mr. Sargeant also touted "a plan to replace Naftogaz CEO Andriy Kobolyev with another senior executive at the company."[30]

Mr. Parnas and Mr. Fruman are also "clients of Trump's personal lawyer Rudy Giuliani." When Mr. Giuliani was asked about efforts to install new members on Naftogaz's board, he responded, "I may or may not know anything about it."[31]

Throughout this period, Mr. Parnas, Mr. Fruman, and Mr. Sargeant reportedly "touted connections to Giuliani and Trump while trying to install new management at the top of Ukraine's massive state gas company." They also "appear to have had inside knowledge of the U.S. government's plans in Ukraine."[32] For example, "Mr. Parnas and Mr. Fruman boasted that they had worked with Mr. Giuliani to force the recall this spring of the American ambassador to Ukraine, Marie L. Yovanovitch."[33]

Mr. Parnas and Mr. Fruman reportedly "told people that Trump would replace the U.S. ambassador there months before she was actually recalled to Washington." When Mr. Giuliani was asked about whether he was involved with this effort to recall the Ambassador to Ukraine, he responded, "I did play a role in that."[34]

In addition, during this same time period, Mr. Parnas and Mr. Fruman reportedly were "assisting Giuliani's push to get Ukrainian officials to investigate former vice president Joe Biden

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[29] *Rick Perry's Focus on Gas Company Entangles Him in Ukraine Case*, New York Times (Oct. 7, 2019) (online at www.nytimes.com/2019/10/07/us/politics/rick-perry-ukraine.html).

[30] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

[31] *Perry Pressed Ukraine on Corruption, Energy Company Changes*, Politico (Oct. 5, 2019) (online at www.politico.com/news/2019/10/05/rick-perry-ukraine-trump-030230).

[32] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

[33] *Rick Perry's Focus on Gas Company Entangles Him in Ukraine Case*, New York Times (Oct. 7, 2019) (online at www.nytimes.com/2019/10/07/us/politics/rick-perry-ukraine.html).

[34] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

and his son, as well as Giuliani's claim that Democrats conspired with Ukrainians in the 2016 campaign."[35]

Subpoena for Documents

On October 2, 2019, you stated publicly, "We're going to work with Congress and answer all their questions."[36] The enclosed subpoena demands documents that are necessary for the Committees to examine this sequence of these events and the reasons behind the White House's decision to withhold critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

[35] *Impeachment Inquiry Puts New Focus on Giuliani's Work For Prominent Figures in Ukraine,* Washington Post (Oct. 2, 2019) (online at www.washingtonpost.com/politics/impeachment-inquiry-puts-new-focus-on-giulianis-work-for-prominent-figures-in-ukraine/2019/10/01/b3c6d08c-e089-11e9-be96-6adb81821e90_story.html).

[36] *Energy Secretary Rick Perry: "We're Going to Work with Congress" on Ukraine Probe,* CNN (Oct. 2, 2019) (online at www.cnn.com/politics/live-news/trump-impeachment-inquiry-10-02-2019/h_630dedace7306f93b664069b6011863f).

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE

In accordance with the attached Definitions and Instructions, you, James Richard "Rick" Perry, in your capacity as Secretary of Energy, are hereby required to produce, for the time period from February 1, 2019, to the present, all documents and communications referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials including the full presidential call package and any addenda;

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

    d. All memoranda, briefing materials, summaries, and other documents received by you or officials in the Department of Energy (DOE) referring or relating to the July 25, 2019, call;

2. Communications between or among current or former officials of any of the following entities referring or relating in any way to the April 21, 2019, or July 25, 2019, telephone conversations:

    a. The White House, including the Office of the Vice President (OVP), the White House Counsel's Office, the National Security Council (NSC), the Office of Management and Budget (OMB), or the White House Situation Room;

    b. The Department of Justice (DOJ);

    c. The Department of State (DOS);

    d. The Department of Defense (DOD);

    e. The Department of Energy (DOE); and

    f. Agencies in the Intelligence Community (IC);

3. Any of the following actual or potential meetings or contacts:

   a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications;

   b. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend or send Vice President Mike Pence to lead the U.S. delegation, and instead to send you;

   c. A meeting on or about May 21, 2019, in Kyiv, Ukraine including you, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker,a nd Ambassador to the European Union Gordon Sondland, as well as Ukrainian officials and representatives of the Ukrainian energy sector;

   d. A meeting at the White House on or about May 23, 2019, involving you, President Trump, Ambassador Kurt Volker, Ambassador Gordon Sondland, and others, including a discussion relating to Ukraine and/or Rudolph ("Rudy") W. Giuliani;

   e. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including you, former National Security Advisor John Bolton, Ambassador Kurt Volker, and Ambassador Gordon Sondland, as well as the proposed or actual participation of Vice President Mike Pence and/or President Trump in the meeting;

   f. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on or about September 1, 2019, including President Trump's decision to cancel his attendance;

   g. All meetings and communications between U.S. officials, including but not limited to you, Vice President Mike Pence, or Senior Advisor Jared Kushner, and President Zelensky or other Ukrainian government officials in Warsaw, Poland on or around September 1, 2019;

   h. Secretary Pompeo's September 17, 2019, call with the Ukrainian Foreign Minister Vadym Prystayko;

   i. Vice President Pence's September 18, 2019, call with President Zelensky; and

   j. All meetings between President Trump and President Zelensky during the United Nations General Assembly on or about September 25, 2019, including but not limited to any discussion of their July 25, 2019, phone

call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

4. Efforts by any current or former member of the Trump Administration or Rudy Giuliani, Igor Fruman, Lev Parnas, and Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, former U.S. Ambassador Marie "Masha" Yovanovitch, and/or any U.S. persons or entities;

5. Naftogaz, including all proposed or actual changes to the company's Board of Directors, potential or actual proposals for business or new contracts involving Naftogaz, and communications referencing or related to the company from, to, or referencing Rudy Giuliani, Igor Fruman, Lev Parnas, Sam Kislin, Harry Sargeant III, Amos Hochstein, Robert Bensh, Michael Bleyzer, Haley Baumgardner, 45 Energy Group, Andriy Kobolyev, Andrew Favorov, Dale W. Perry, Joseph diGenova, Victoria Toensing, and/or Vitaly Pruss;

6. Proposed or actual transactions, investments, or projects relating to liquefied natural gas (LNG) in Ukraine;

7. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, DOD, DOS, DOE, the United States Agency for International Development (USAID), ODNI, or agencies in the IC;

8. Interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and/or July 31, 2019, among others;

9. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including any notes, memoranda, documentation or correspondence related to the decision; and

10. All meetings or discussions with Rudy Giuliani referring or relating to Ukraine.

Congress of the United States
Washington, DC 20515

September 30, 2019

VIA U.S. AND ELECTRONIC MAIL

Rudolph ("Rudy") W. L. Giuliani
Giuliani Partners LLC
5 Times Square, 24th Floor
New York, NY 10036

Dear Mr. Giuliani:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 15, 2019**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Our inquiry includes an investigation of credible allegations that you acted as an agent of the President in a scheme to advance his personal political interests by abusing the power of the Office of the President. A growing public record, including your own statements, indicates that the President, you, and others appear to have pressed the Ukrainian government to pursue two politically-motivated investigations. The first is a prosecution of Ukrainians who provided evidence against Mr. Trump's convicted campaign chairman, Paul Manafort. The second relates to former Vice President Joseph R. Biden Jr., who is challenging President Trump for the presidency in 2020.

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (August 22, 2019).

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For example, on September 19, 2019, you admitted on national television that you personally asked the government of Ukraine to target Vice President Biden. During an interview on CNN, Chris Cuomo asked you, "So, you did ask Ukraine to look into Joe Biden?" You responded, "Of course I did." In addition to this stark admission, you stated more recently that you are in possession of evidence—in the form of text messages, phone records, and other communications—indicating that you were not acting alone and that other Trump Administration officials may have been involved in this scheme. The subpoena requires you to produce all of those communications, and other related documents, to the Committees in order to determine the full extent of this effort by the President and his Administration to press Ukraine to interfere in our 2020 presidential election.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
On Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE

The House Permanent Select Committee on Intelligence compels Rudy Giuliani to preserve and produce to the Committees all documents and communications for the period of **January 20, 2017, through the present** (unless otherwise noted), regardless of form and as defined below, referring or relating to:[2]

(1) Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

(2) Efforts, including but not limited to those by you, Igor Fruman, Lev Parnas, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

(3) Serhiy Leschenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

(4) United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

(5) Ukrainian President Volodymyr Zelensky's inauguration on May 20, 2019, including but not limited to possible attendance by Vice President Michael Pence and Secretary of Energy Rick Perry;

(6) A meeting at the White House on May 23, 2019 involving former Ambassador Kurt Volker, Secretary Rick Perry, and/or Ambassador Gordon Sondland;

(7) Meetings or telephone communications between President Trump and President Zelensky, including but not limited to an April 21, 2019 call ("April 21 Call") and a July

[2] Any alternate spellings or transliterations of any names referenced herein would also render a document responsive to these requests.

25, 2019 call ("July 25 Call"), as well as any communications with the White House, the Department of Justice, the Federal Bureau of Investigation, the Department of Energy, the Office of the Director of National Intelligence, and the Office of the Inspector General of the Intelligence Community relating or referring to the April 21 Call or the July 25 Call;

(8) Communications or meetings with Ukrainian government officials or politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals;

(9) Communications or meetings with Attorney General William Barr or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for Attorney General Barr;

(10) Travel (whether completed or not) by you or by any individual at your direction or on your behalf to Ukraine, France, or Spain, including for any meeting between you and Andriy Yermak in Spain on or about August 2, 2019, including but not limited to any documents and communications regarding the planning, travel, funding, itineraries, schedules, agendas, meetings, call notes, or read-outs relating to the trip, as well as the identity of any Ukrainian officials or their agents, representatives, or proxies who met with trip participants;

(11) TriGlobal Strategic Ventures and 45 Energy Group;

(12) Potential or actual visits of President Zelensky or current or former Ukrainian officials to the United States;

(13) A potential meeting between President Trump and President Zelensky in Poland in or around September 2019, including President Trump's decision not to attend the meeting and the decision to send Vice President Pence in his stead;

(14) Former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

(15) Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been associated with Ukrainian law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

(16) Semyon "Sam" Kislin, Igor Fruman, Victor Pruss, Sergey Probylov, or Lev Parnas, including but not limited to any agreements between the aforementioned individuals and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to the aforementioned individuals, or that they have

provided to you (directly or indirectly); the aforementioned individuals' travel to or from Ukraine; and meetings and communications involving the aforementioned individuals and former or present Ukrainian officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals; and any services performed or actions taken by the aforementioned individuals for you or at your direction;

(17) Pavel Fuks, including but not limited to any agreements between Fuks and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to Fuks, or that he has provided to you (directly or indirectly); and any services performed or actions taken by you for or at the direction of or for the benefit of Fuks;

(18) Gennady Kernes, the Mayor of the city of Kharkiv, including but not limited to any agreements between Mayor Kernes or the Kharkiv city government or related entities (collectively, "Kharkiv City") and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to Mayor Kernes or Kharkiv City, or that they have provided to you (directly or indirectly); and any services performed or actions taken by you for or at the direction of Mayor Kernes or Kharkiv City;

(19) Vitaly Klitchko, the Mayor of the city of Kiev, including but not limited to any agreements between Mayor Klitchko or the Kiev city government or related entities (collectively, "Kiev") and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to Mayor Klitchko or Kiev, or that they have provided to you (directly or indirectly); and any services performed or actions taken by you for or at the direction of Mayor Klitchko or Kiev;

(20) Any current or former officials or employees of the U.S. Government, including but not limited to former Ambassador Kurt Volker, Secretary Rick Perry, and Ambassador Gordon Sondland, regarding the subjects described in paragraphs 1 through 19;

(21) Engagements, consulting, advising, or lobbying work for the benefit of or on behalf of Ukraine, Ukrainian officials, Ukrainian politicians, or state-owned enterprises undertaken by you or any of your firms, including, but not limited to Giuliani Partners LLC, Giuliani Security & Safety LLC, Giuliani Capital Advisors LLC, their affiliated entities, and any other entities in which you maintain beneficial ownership, or for which you serve as an officer, director, or advisor; and

(22) Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked

Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities.

The Committee also requires you to produce:

(23) Any and all documents supplied by you in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by Congress or any U.S. federal or state agency, that could lead to discovery of any facts within the Committee's investigation, or efforts to obstruct authorized investigations into these matters.

To expedite the Committee's review, responsive materials should be produced immediately upon being identified, rather than waiting to submit all documents at one time, and all material produced be bates-stamped and provided in a searchable, Adobe PDF electronic format.

# # #

Responding to Committees' Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

    BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 7, 2019

VIA U.S. AND ELECTRONIC MAIL

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 15, 2019.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

In September 2018, Congress appropriated $250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.[2] In its Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

> The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013(2018).

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signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.[3]

On February 28 and May 23, 2019, Under Secretary of Defense for Policy John C. Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.[4] The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing $250 million in security cooperation funds to Ukraine.[5]

According to multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."[6]

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."[7] Officials at the Departments of State and Defense reportedly were "puzzled and alarmed" after learning about the White House's directive. Defense Department officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.[8]

On July 25, 2019, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public,

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[3] Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

[4] Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf).

[5] Department of Defense, *Press Release: DOD Announces $250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

[6] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[7] *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html).

[8] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

President Trump urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.[9]

According to the record, immediately after President Zelensky mentioned his desire to obtain Javelin missiles, President Trump stated, "I would like you to do us a favor though." He also stated, "I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it." He also said:

> There's a lot of talk about Biden's son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.[10]

In August 2019, Senator Ron Johnson was informed by Gordon Sondland, the U.S. Ambassador to the European Union, that if Ukraine would "get to the bottom of what happened in 2016—if President Trump has that confidence, then he'll release the military spending." Senator Johnson stated: "At that suggestion, I winced." He also stated: "My reaction was: Oh, God. I don't want to see those two things combined."[11]

As you are aware, the Impoundment Control Act of 1974 authorizes the President to withhold the obligation of funds only "(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law." The President is required to submit a special message to Congress with information about the proposed deferral of funds.[12]

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: "This funding is critical to the accomplishment of U.S. national security objectives in Europe."[13]

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting

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[9] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[10] *Id.*

[11] *Trump, in August Call with GOP Senator, Denied Official's Claim on Ukraine Aid*, Wall Street Journal (Oct. 4, 2019) (online at www.wsj.com/articles/trump-administration-used-potential-meeting-to-pressure-ukraine-on-biden-texts-indicate-11570205661).

[12] 2 U.S.C. § 684.

[13] Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, House Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

> The funds designated for the Ukraine Security Assistance Initiative are vital to the viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.[14]

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: "These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests."[15]

On September 9, 2019, the Committees on Intelligence, Foreign Affairs, and Oversight wrote to the White House requesting documents related to "the actual or potential suspension of security assistance to Ukraine."[16] The White House never responded this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.[17]

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was "very actively involved in advocating the aid," he "was not given an explanation" about why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."[18]

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[14] Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-letter-urging).

[15] Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, House Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

[16] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[17] *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

[18] *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (online at https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay).

The Honorable Russell T. Vought
Page 5

The enclosed subpoena demands documents that are necessary for the Committees to examine this sequence of these events and the reasons behind the White House's decision to withhold critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HONORABLE RUSSELL T. VOUGHT, ACTING DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 15, 2019 Time: 5:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for

THE HONORABLE RUSSELL T. VOUGHT

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) MAHER BITAR

Title GENERAL COUNSEL

Manner of service ELECTRONIC MAIL

Date OCTOBER 7, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Russell Vought, in your capacity as Acting Director of the Office of Management and Budget (OMB), are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession, or control referring or relating to:

1. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to communications among or between individuals in the White House, OMB, the Office of the Vice President (OVP), the Department of Defense (DOD), the State Department (DOS), the Department of Energy (DOE), the United States Agency for International Development (USAID), or agencies in the Intelligence Community (IC);

2. The timing, content, and manner of communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;

3. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS, DOE, USAID, or the IC, including but not limited to the withholding of funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);

4. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including but not limited to transmitting a "special message" to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;

5. Opinions, advice, counsel, approvals, or concurrences provided by OMB, the National Security Council (NSC), the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;

6. The rate of obligation or expenditure for foreign assistance of any kind provided by DOD, State, DOE, USAID, or IC agencies to Ukraine, including but not limited to the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;

7. Any delegation or revocation of apportionment authority involving OMB political or career officials;

8. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019; and

9. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the subpoena, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. To expedite our review, we request that you produce any responsive materials immediately upon being identified, rather than waiting to submit all documents at one time.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's subpoena to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as

thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every

such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel

in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The term "entity" means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

4. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, smartphone, mail, telex, facsimile, computer, encrypted app, in-person discussions, releases, delivery, or otherwise.

5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

6. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

7. The terms or "relating" "concerning" with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

Congress of the United States
Washington, DC 20515

October 11, 2019

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street, N.W.
Washington, DC 20503

Dear Acting Director Vought:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 25, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

September 27, 2019

Mr. T. Ulrich Brechbuhl
Counselor
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Brechbuhl:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 8, 2019, at 10:00 a.m. at The Capitol, HVC-304**. We also request that you produce the documents set forth in the accompanying Document Request by the date of your deposition.

This deposition will be conducted jointly by the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Any failure to appear for a scheduled deposition shall constitute evidence of obstruction of the House's impeachment inquiry.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression.

In light of press reports, recently declassified documents, and other sources, we believe you have information and documents relevant to the Committees' investigation. On September 13, 2019, the Committees wrote to Secretary of State Mike Pompeo, requesting that the State Department make you available for a transcribed interview. We asked him to provide, by September 20, 2019, a date by which you would be made available for a transcribed interview.[1] He failed to comply with this request.

Today, the Committees wrote to Secretary Pompeo again, notifying him that the Committees have scheduled your deposition for the date and time set forth above.[2]

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[1] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 13, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-09-13.EEC%20ELE%20Schiff%20re%20Ukraine.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform to Secretary Mike Pompeo, Department of State (Sept. 27, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-09-27.EEC%20Engel%20Schiff%20%20to%20Pompeo-%20State%20re%20Depositions.pdf).

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If you have any questions, please contact staff for the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Document Request

The Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform ("Committees") request all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017 to the present**. The Committees request that these materials be provided to the Committees at your deposition.

1. Any communication or meetings between President Donald Trump and Ukrainian president Volodymyr Zelensky, including but not limited to phone calls between President Trump and President Zelensky on April 21, 2019, and July 25, 2019, and a meeting between President Trump and President Zelensky on September 25, 2019, in New York City;

2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

6. The actual or potential withholding, suspending, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine;

7. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

8. Rudolph W. Giuliani including any text messages or emails using either official government devices or personal devices;

9. Paul Manafort;

10. Hunter Biden;

11. Burisma; and

12. Efforts to conceal or destroy any documents or records relating to any of the foregoing items (1-11).

Responding to Committees' Document Requests

1. In complying with this request, produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committees.

3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, including alternate spellings or transliterations of any names, the request shall be read also to include that alternative identification.

4. The Committees' preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committees should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

    BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committees should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.

9. When you produce documents, you should identify the paragraph(s) or request(s) in the Committees' letter to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted.

16. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

17. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

18. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

19. All documents shall be Bates-stamped sequentially and produced sequentially.

21. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committees.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the individual's business or personal address and phone number; and (c) any and all known aliases.

7. The terms "relating to" and "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "involving", with respect to any given subject, means sending, receiving, or being copied (CC or BCC), or being the subject matter on any documents or communications described in the request.

9. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

10. The term "individual" means all natural persons and all persons or entities acting on their behalf.

Congress of the United States
Washington, DC 20515

October 4, 2019

VIA U.S. AND ELECTRONIC MAIL

The Vice President
Eisenhower Executive Office Building
Washington, D.C. 20502

Dear Mr. Vice President:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby requesting that you produce the documents set forth in the accompanying schedule by **October 15, 2019.**

This request is being made jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform under the Rules of the House of Representatives in exercise of their oversight and legislative jurisdiction. The requested documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to comply with the request, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Recently, public reports have raised questions about any role you may have played in conveying or reinforcing the President's stark message to the Ukrainian President. The reports include specific references to a member of your staff who may have participated directly in the July 25, 2019, call, documents you may have obtained or reviewed, including the record of the call, and your September 1, 2019, meeting with the Ukrainian President in Warsaw, during which you reportedly discussed the Administration's hold on U.S. security assistance to Ukraine.

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

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Background

In September 2018, Congress appropriated $250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.[2] In a Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

> The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.[3]

On February 28, 2019, and May 23, 2019, Under Secretary of Defense for Policy John Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.[4] The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing $250 million in security cooperation funds to Ukraine.[5]

According to evidence obtained as part of the inquiry, as well as multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly "conveyed it through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."[6]

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."[7] Officials at the Departments of State and Defense reportedly were "puzzled and

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[2] Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013 (2018).

[3] Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

[4] Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf).

[5] Department of Defense, *Press Release: DOD Announces $250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

[6] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[7] *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-

alarmed" after learning about the White House's directive. Pentagon officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.[8]

On July 25, 2019, approximately one week after this order to halt military aid to Ukraine, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public, President Trump repeatedly urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.

According to the record, President Trump stated, "I would like you to do us a favor though." He also stated, "I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it." He also said,

> There's a lot of talk about Biden's son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.[9]

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mick Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: "This funding is critical to the accomplishment of U.S. national security objectives in Europe."[10]

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

> The funds designated for the Ukraine Security Assistance Initiative are vital to the long term viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security

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498eabc129a0_story.html).

[8] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

[9] The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[10] Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, House Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.[11]

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: "These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests."[12]

On September 9, 2019, our Committees wrote to the White House requesting documents related to "the actual or potential suspension of security assistance to Ukraine."[13] The White House never responded to this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.[14]

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was "very actively involved in advocating the aid," he "was not given an explanation" about why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."[15]

Reports Relating to Your Involvement During This Period

On October 2, 2019, the Washington Post reported that President Trump repeatedly "used" you "in efforts to exert pressure on the leader of Ukraine at a time when the president was using other channels to solicit information that he hoped would be damaging to a Democratic rival."[16] It remains unclear to what extent you had knowledge of specific aspects of some of these events.

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[11] Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-letter-urging).

[12] Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, House Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

[13] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

[14] *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

[15] *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (online at https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay).

[16] *Trump Involved Pence in Efforts to Pressure Ukraine's Leader, Though Aides Say Vice President was Unaware of Allegations in Whistleblower Complaint*, Washington Post (Oct. 2, 2019) (online at www.washingtonpost.com/world/national-security/trump-involved-pence-in-efforts-to-pressure-ukraines-leader-

According to the report, "Officials close to Pence insist that he was unaware of Trump's efforts to press Zelensky for damaging information about Biden and his son."[17]

However, the report indicates that your national security advisor, Lieutenant General Keith Kellogg, was on the July 25, 2019, call during which President Trump repeatedly urged the Ukrainian President to launch an investigation into former Vice President Biden. President Trump requested this "favor" immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.[18]

The report also indicates that you met personally with President Zelensky in Warsaw, Poland on September 1, 2019, and that President Trump sent you with instructions to inform the Ukrainian leader that "the administration wasn't going to release the aid until it had assurances that Zelensky was committed to fighting corruption." According to the report:

> Officials close to Pence contend that he traveled to Warsaw for a meeting with Zelensky on Sept. 1 probably without having read—or at least fully registered—the transcript of Trump's July 25 call with the leader of Ukraine.[19]

On October 3, 2019, CNN reported that "Vice President Mike Pence was told about the July 25 call between President Donald Trump and Ukrainian President Volodymyr Zelensky the day after the call." CNN also reported that "Pence was provided a transcript of Trump's call with Zelensky in his briefing book the day after the call." According to the source cited in the report, "He may or may have not read it."[20]

On September 2, 2019, you were asked during a press conference whether President Trump's decision to freeze military aid to Ukraine was related to efforts "to try to dig up dirt on the Biden family." You declined to respond directly, but stated instead: "as President Trump had me make clear, we have great concerns about issues of corruption."[21]

Yesterday, you appeared to condone President Trump's efforts to press foreign powers to target the President's political opponents with baseless conspiracy theories. In public remarks, you stated:

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though-aides-say-vice-president-was-unaware-of-pursuit-of-dirt-on-bidens/2019/10/02/263aa9e2-e4a7-11e9-b403-f738899982d2_story.html).

[17] *Id.*

[18] *Id. See also* The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

[19] *Id.*

[20] *Pence Was Told About Call Between Trump and Zelensky the Day After It Happened,* CNN (Oct. 3, 2019) (online at www.cnn.com/2019/10/03/politics/mike-pence-ukraine-call/index.html).

[21] The White House, *Remarks by Vice President Pence and President Duda of Poland in Joint Press Conference* (Sept. 2, 2019) (online at www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-president-duda-poland-joint-press-conference-warsaw-poland/).

> I think the American people have a right to know if the Vice President of the United States or his family profited from this position as Vice President during the last administration. That's about looking backwards and understanding what really happened.[22]

You also stated that "the President made it very clear that he believes—he believes our other nations around the world should look into it as well."[23]

Request for Documents

The Committees are seeking the documents in the attached schedule in order to examine this sequence of events, including the Administration's attempts to press the Ukrainian President to open an investigation into former Vice President Biden or election interference in 2016, and the reasons behind the White House's decision to delay critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

An attachment to this letter provides additional instructions for responding to the Committees' request.

If you have any questions regarding this request, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

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[22] The White House, *Remarks by Vice President Pence in a Press Gaggle* (Oct. 3, 2019) (online at www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-press-gaggle-7/).

[23] *Id.*

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

DOCUMENT REQUEST

In accordance with the attached Definitions and Instructions, you, Michael R. Pence, in your capacity as Vice President of the United States, are requested to produce, for the time period from January 1, 2019 to the present, all documents and communications referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials including the full presidential call package and any addenda;

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

    d. All memoranda, briefing materials, summaries, and other documents received by you or officials in the Office of the Vice President (OVP) referring or relating to the July 25, 2019 call;

2. Communications between or among current or former officials of any of the following entities referring or relating in any way to the April 21, 2019, or July 25, 2019, telephone conversations:

    a. The White House, including the OVP, the White House Counsel's Office, the National Security Council (NSC), the Office of Management and Budget (OMB), or the White House Situation Room;

    b. The Department of Justice (DOJ);

    c. The Department of State (DOS);

    d. The Department of Energy (DOE); and

    e. Agencies in the Intelligence Community (IC);

3. Any of the following meetings or potential meetings:

    a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications;

b. A meeting at the White House on or around May 23, 2019, involving President Trump, Energy Secretary Rick Perry, former Ambassador Kurt Volker, and/or Ambassador Gordon Sondland;

c. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend or send you to lead the U.S. delegation, and instead to send Energy Secretary Rick Perry;

d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Rick Perry, former National Security Advisor John Bolton, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, and Ambassador Gordon Sondland, including the proposed or actual participation of you and/or President Trump in the meeting, and any notes or memoranda related to the meeting that were provided to you or your office;

e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on or about September 1, 2019, including President Trump's decision to cancel his attendance;

f. All meetings and communications between U.S. officials, including but not limited to you, Energy Secretary Rick Perry, or Senior Advisor Jared Kushner, and President Zelensky or other Ukrainian government officials in Warsaw, Poland in or around September 1, 2019;

g. Secretary Pompeo's September 17, 2019 call with the Ukrainian Foreign Minister Vadym Prystayko;

h. Your September 18, 2019, call with President Zelensky; and

i. All meetings between President Trump and President Zelensky during the United Nations General Assembly on or about September 25, 2019, including but not limited to any discussion of their July 25, 2019, phone call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

4. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, and Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

5. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, the Department of Defense (DOD), DOS, DOE, the United States Agency for International Development (USAID), ODNI or agencies in the Intelligence Community (IC);

6. The timing, content, and manner for communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and why;

7. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation by DOD, DOS, DOE, USAID, ODNI or the IC of foreign assistance of any kind to Ukraine, including funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);

8. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including transmitting a "special message" to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act;

9. Opinions, advice, counsel, approvals, or concurrences provided by OMB, NSC, the White House, or the Department of Justice on the legality of using an apportionment to withhold or defer the obligation of congressionally appropriated funds to Ukraine;

10. The rate of expenditure for foreign assistance of any kind provided by DOD, State, DOE, USAID, or IC agencies to Ukraine;

11. Any delegation or revocation of apportionment authority involving OMB political or career officials;

12. Interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, and July 26, 2019, among others; and

13. The decision announced on or about September 12, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including any notes, memoranda, documentation or correspondence related to the decision.

Congress of the United States
Washington, DC 20515

October 1, 2019

The Honorable John J. Sullivan
Deputy Secretary of State
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20230

Dear Mr. Deputy Secretary:

We are responding to a letter sent earlier today by Secretary of State Michael Pompeo attempting to block testimony from current and former State Department officials sought by our Committees for depositions as part of the House of Representatives' impeachment inquiry.

We are writing to you because Secretary Pompeo now appears to have an obvious conflict of interest. He reportedly participated personally in the July 25, 2019 call, in which President Donald Trump pressed President Volodymyr Zelensky of Ukraine to investigate the son of former Vice President Joseph Biden immediately after the Ukrainian President raised his desire for United States military assistance to counter Russian aggression.[1]

If true, Secretary Pompeo is now a fact witness in the impeachment inquiry. He should not be making any decisions regarding witness testimony or document production in order to protect himself or the President. Any effort by the Secretary or the Department to intimidate or prevent witnesses from testifying or withhold documents from the Committees shall constitute evidence of obstruction of the impeachment inquiry.

Given the Secretary's own potential role, and reports of other State Department officials being involved in or knowledgeable of the events under investigation, the Committees may infer that he is trying to cover up illicit activity and misconduct, including by the President. This would be a blatant cover-up and a clear abuse of power.

In his letter, Secretary Pompeo claims that Congress lacks the authority to conduct depositions without agency representatives in the room, despite our clear authority and a long precedent of doing so. He argued that "the five officials subject to your letter may not attend any interview or deposition without counsel from the Executive Branch present."[2]

Yet, when Secretary Pompeo served previously as a Member of the House of Representatives—and as one of the key Republican Members of the Benghazi Select Committee—he held exactly the opposite view. The House rule that protects witnesses in

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[1] *Pompeo Took Part in Ukraine Call, Official Says*, Wall Street Journal (Sept. 30, 2019) (online at www.wsj.com/articles/pompeo-took-part-in-ukraine-call-official-says-11569865002).

[2] Letter from Secretary of State Michael R. Pompeo, State Department, to Chairman Eliot L. Engel, Committee on Foreign Affairs (Oct. 1, 2019).

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depositions was adopted by the House of Representatives in January 2019. The same rule has been in place for more than a decade under both Republican and Democratic Chairmen of the Committee on Oversight and Reform, and it was in place during Secretary Pompeo's tenure on the Benghazi Select Committee.[3]

The Constitution authorizes Congress to "determine the Rules of its Proceedings."[4] The regulations that govern House depositions state:

> Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, Committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend.[5]

This rule is intended for exactly these types of circumstances—to prevent an agency head with an obvious conflict of interest, and who is directly implicated in the abuses we are currently investigating, from trying to prevent his own employees from coming forward to tell the truth to Congress.

Such interference may subject Department officials who engage in this obstruction to liability under several federal statutes:

- It is a criminal violation punishable by fine or up to five years in prison to, "by threats or force, or by any threatening letter or communication," influence, obstruct, or impede or endeavor to do so, "the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House."[6]

- Under the Whistleblower Protection Act, employees who speak to Congress have the right not to have adverse personnel actions taken against them. Any retaliatory actions taken against State Department employees who cooperate with Congress may constitute violations of this law.[7]

- Any Department official who "prohibits or prevents" or "attempts or threatens to prohibit or prevent" any officer or employee of the Federal Government from

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[3] Deposition Procedures for the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Congressional Record, H4056 (May 9, 2014) (online at www.congress.gov/113/crec/2014/05/09/CREC-2014-05-09-pt1-PgH4056.pdf); Rules of the Committee on Oversight and Reform for the 116th Congress (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/COR%20Rules%20-%20passed.pdf).

[4] U.S. Const., Art. I, sec. 5, cl. 2.

[5] 116th Congress Regulations for Use of Deposition Authority, Congressional Record, H1216 (Jan. 25, 2019) (online at www.congress.gov/116/crec/2019/01/25/CREC-2019-01-25-pt1-PgH1216-2.pdf).

[6] 18 U.S.C. §1505.

[7] Whistleblower Protection Act, 5 U.S.C. § 2302; *See also* 5 U.S.C. §7211.

speaking with the Committee could have his or her salary withheld pursuant to section 713 of the Financial Services and General Government Appropriations Act.[8]

For all of these reasons, the Department must immediately halt all efforts to interfere with the testimony of State Department witnesses before Congress. If you have any questions, please contact the Committee on Foreign Affairs at (202) 225-5021.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

[8] P.L. 116-6, § 713 ("No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who ... prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee.").

Congress of the United States
Washington, DC 20515

October 24, 2019

Mark J. MacDougall, Esq.
Akin Gump Strauss Hauer & Feld LLP
Robert S. Strauss Tower
2001 K Street, N.W.
Washington, DC 20006-1037

Dear Mr. MacDougall:

Pursuant to the House of Representatives' impeachment inquiry, we write to request the appearance of your client, Catherine Croft, at a deposition on **November 1, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your client's failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe your client may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 5, 2019

Michael W. Kirk, Esq. & Charles J. Cooper, Esq.
Cooper & Kirk PLLC
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Dear Messrs. Kirk and Cooper:

The House Permanent Select Committee on Intelligence, in consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform, hereby withdraws its subpoena, which the Intelligence Committee served on your client, Dr. Charles M. Kupperman, on October 25, 2019.

As your November 4, 2019, notice to the court acknowledges, due to passage by the House of Representatives on October 31, 2019, of H. Res. 660, your client's request for declaratory relief "is no longer necessary on the question whether the subpoena issued by the House Defendants to Plaintiff is authorized by, and valid under, House Rules." You informed the court that you would file an amended complaint "that will eliminate that request."[1]

Having conceded that the Intelligence Committee's subpoena is valid and authorized, your complaint raises a single remaining request before the court: that, notwithstanding substantial jurisdictional deficiencies, the court should decide whether Dr. Kupperman, a former government official, may defy a duly authorized subpoena at the direction of the White House on a theory advanced by the Department of Justice's Office of Legal Counsel that he is "absolutely immune" from compelled congressional testimony.

The question whether the Executive Branch's "absolute immunity" theory has any basis in law is currently before the court in *Committee on the Judiciary v. McGahn*, No. 19-cv-2379 (D.D.C. filed Aug. 7, 2019). In addition to not suffering from the jurisdictional flaws in Dr. Kupperman's suit, *McGahn* is procedurally much further along. In *McGahn*, cross-motions for summary judgment presenting the absolute immunity question are fully briefed, and oral argument was held on October 31, 2019. At that hearing, the judge stated that she "underst[ood] . . . the need for expedition" and that she would "do [her] best to turn [an opinion] around as quickly as possible." *McGahn* is, therefore, much closer to resolution by the court than Dr. Kupperman's flawed suit.

Unless your lawsuit was admittedly only for purposes of delay, and without a subpoena in force, the Committees expect that your client will voluntarily dismiss the complaint he filed in the United States District Court for the District of Columbia on the same day he received the Committee's subpoena and be guided by the decision in *McGahn*.

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[1] Pl.'s Notice at 1, *Kupperman v. U.S. House of Representatives* (D.D.C. filed Nov. 4, 2019), ECF No. 20.

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Dr. Kupperman still has an opportunity to fulfill his solemn constitutional duty. Like the many dedicated public servants who have appeared before the Committees despite White House efforts to prevent or limit their testimony—including current and former White House officials who worked alongside your client—Dr. Kupperman can still add his testimony to the inquiry's record.

The House's impeachment inquiry will not countenance, however, further efforts by witnesses or the White House to delay or otherwise obstruct the Committees' vital investigatory work. As the Committees have made clear, noncooperation at the direction of President Trump shall constitute evidence of obstruction of the impeachment inquiry and may be used as a basis for drawing an adverse inference against the President.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 1, 2019

Mr. Brian McCormack
Associate Director for Natural Resources, Energy & Science
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Dear Mr. McCormack:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to appear at a deposition on **November 4, 2019, at 2:00 p.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 24, 2019, the Committees sent a letter to you requesting that you voluntarily appear for a deposition on November 4, 2019. We have not received a substantive response from you or your personal counsel. The Committees, therefore, have no choice but to issue a subpoena compelling your mandatory appearance.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

December 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Nadler:

Pursuant to Section 2, paragraph 6 of H. Res. 660, enclosed is the Permanent Select Committee on Intelligence's ("Committee") Trump-Ukraine Impeachment Inquiry Report, together with its appendices and the views submitted by the Committee's Minority.

Additionally, as authorized by Section 3 of H. Res. 660, we are today transmitting to the Committee on the Judiciary additional records and other materials relating to the impeachment inquiry. These records and materials are being transmitted by the Committees on flash drives containing materials and records already released publicly, other records cited in the report, and certain sensitive materials.

Thank you for your prompt attention to this matter.

Sincerely,

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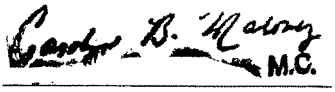
Adam B. Schiff
Chairman
Permanent Select Committee on Intelligence



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Eliot L. Engel
Chairman
Committee on Foreign Affairs

Enclosures

cc: The Honorable Doug Collins, Ranking Member
Committee on the Judiciary

The Honorable Devin Nunes, Ranking Member
Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 26, 2019

Michael W. Kirk, Esq. & Charles J. Cooper, Esq.
Cooper & Kirk PLLC
1523 New Hampshire Avenue N.W.
Washington, DC 20036

Dear Messrs. Kirk and Cooper:

On October 16, 2019, the House Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform requested that your client, Dr. Charles M. Kupperman, appear voluntarily for a deposition pursuant to the House of Representatives' impeachment inquiry.

You subsequently informed the Committees that Dr. Kupperman would not appear at a deposition on Monday, October 28, 2019, if he did not receive a subpoena by Friday, October 25, 2019. The Committees served your client, through you as counsel, with a duly authorized subpoena yesterday afternoon compelling his appearance for a deposition on Monday, October 28, 2019, at 9:30 a.m.

Shortly thereafter, you informed the Committees that you had filed a 17-page complaint in federal court on behalf of Dr. Kupperman seeking a declaratory judgment as to whether he should comply with the subpoena—even though such a complaint cannot be decided by a court and is legally without merit.[1] The complaint references an opinion from the Department of Justice Office of Legal Counsel (OLC) to White House Counsel Pat Cipollone claiming that Dr. Kupperman is "absolutely immune" from compelled congressional testimony, as well as a letter from Cipollone in which he states that the President directs your client take the extraordinary step of defying a lawful congressional subpoena.[2]

Dr. Kupperman's lawsuit—lacking in legal merit and apparently coordinated with the White House—is an obvious and desperate tactic by the President to delay and obstruct the lawful constitutional functions of Congress and conceal evidence about his conduct from the impeachment inquiry. Notwithstanding this attempted obstruction, the duly authorized subpoena remains in full force and Dr. Kupperman remains legally obligated to appear for the deposition on Monday. The deposition will begin on time and, should your client defy the subpoena, his absence will constitute evidence that may be used against him in a contempt proceeding.

In light of the direction from the White House, which lacks any valid legal basis, the Committees shall consider your client's defiance of a congressional subpoena as additional evidence of the President's obstruction of the House's impeachment inquiry. Such willful

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[1] *See* Compl., *Kupperman v. U.S. House of Representatives et al.*, No. 19 Civ. 3224 (D.D.C. filed Oct. 25, 2019).

[2] *See id.* ¶ 18 & Ex. B.

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defiance of a duly authorized subpoena may cause the Committees to draw an adverse inference against the President, including that your client's testimony would have corroborated other evidence gathered by the Committees showing that the President abused the power of his office by attempting to press another nation to assist his own personal political interests, and not the national interest.

The Complaint is Invalid, as is the White House Attempt to Assert "Absolute Immunity"

Based on substantial evidence gathered in our inquiry, and your client's former role as Deputy and Acting National Security Advisor to the President, we have strong reason to believe that Dr. Kupperman has first-hand knowledge and information that pertain to allegations of President Trump's abuse of power, including Dr. Kupperman's reported participation in the President's July 25, 2019, call with Ukrainian President Volodymyr Zelensky and awareness of a separate, irregular channel of misinformation flowing to the President on Ukraine matters.

The lawsuit, and the legal argument advanced by the White House and the Justice Department upon which it relies, are unavailing.

Such a lawsuit is not a proper or valid legal mechanism to challenge or defy a duly authorized congressional subpoena, particularly in an impeachment inquiry.[3] The Speech or Debate Clause is a complete bar to any litigation attempt to interfere with the House's impeachment inquiry. As the Supreme Court has recognized, the Clause applies to all activities "within the 'legislative sphere,'"[4] which includes all activities that implicate, like impeachment, "other matters which the Constitution places within the jurisdiction of either House."[5]

The House of Representatives does not recognize the White House Counsel's blanket assertion of "absolute immunity" to prohibit a senior advisor to the President—much less a *former* senior advisor, like your client—from complying with a duly authorized subpoena—particularly one issued pursuant to an impeachment inquiry into the President's own abuse of power.

The asserted absolute immunity claim is without legal basis as it is "entirely unsupported by existing case law," as recognized over a decade ago in *Committee on the Judiciary v. Miers*.[6] The White House Counsel relies solely on the Executive Branch's own OLC opinions—including the one rejected by the Court in *Miers*. OLC opinions are not law and are not binding outside the Executive Branch, including on Congress and the courts.[7] As the *Miers* court found,

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[3] *See Eastland v. U.S. Servicemen's Fund*, 421 U.S. 491, 503–07 (1975) (holding that the Speech or Debate Clause of the U.S. Constitution provides "an absolute bar to judicial interference" with compulsory congressional process).

[4] *Doe v. McMillan*, 412 U.S. 306, 312-13 (1973) (quoting *Gravel v. United States*, 408 U.S. 606, 624-25 (1972)).

[5] *Gravel v. United States*, 408 U.S. at 625; *accord Eastland*, 421 U.S. at 504.

[6] 558 F. Supp. 2d 53, 99-105 (D.D.C. 2008)

[7] *See, e.g., Trump v. Vance*, No. 19 Civ. 8694 (VM), Slip Op. 47 (S.D.N.Y. Oct. 7, 2019) (reaffirming that OLC opinions "do not constitute authoritative judicial interpretation of the Constitution").

the OLC opinions on which the White House Counsel relies are largely "conclusory and recursive" and fail to cite "a single judicial opinion recognizing the asserted absolute immunity."[8]

The White House and Department of Justice cite no authority allowing the President to direct *private citizens*, like your client, to disobey a congressional subpoena. The Supreme Court has held that the "President's authority to act ... 'must stem either from an act of Congress or from the Constitution itself,'" and the White House can point to no such authority for the President's directive to your client.[9]

The OLC opinion's incorrect position—that *Congress* lacks authority to compel your client's testimony—does not establish that the *President* has affirmative authority to order your client, as a private citizen, not to testify. Neither the Constitution nor any statute grants the President general authority to direct the conduct of private citizens who are no longer his subordinates—much less to direct them to defy a lawful command from a coequal branch of government.

The White House's categorical position that current or former senior Presidential advisors may never be compelled to testify before Congress flies in the face of the historical record, which is replete with congressional testimony by active and former senior advisors to Presidents of both parties.[10]

If such an abuse of authority by the President to muzzle current and former officials from disclosing to Congress evidence of his own misconduct were to stand, it would inflict obvious and grave damage to the House's capacity to carry out its core Article I functions under the Constitution, including its impeachment inquiry into the President's actions.[11] This would fundamentally alter the separation of powers that forms the bedrock of American democracy. The White House's overbroad assertion of "absolute immunity," at its core, is another example of the President's stonewalling of Congress and concerted efforts to obstruct the House's impeachment inquiry.

Dr. Kupperman has a Legal Obligation to Comply with Congressional Subpoena

Filing this lawsuit does not alter the status quo: Dr. Kupperman's legal obligation to comply with the October 25 subpoena remains unchanged. As the Supreme Court has stated, "[i]t is unquestionably the duty of all citizens to cooperate with Congress in its efforts to obtain the

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[8] 558 F. Supp. 2d at 104.

[9] *Medellin v. Texas*, 552 U.S. 491, 524 (2008) (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 585 (1952))

[10] *See, e.g.*, Committee on Government Reform, Democratic Staff, *Congressional Oversight of the Clinton Administration* (Jan. 17, 2006) (online at https://wayback.archive-it.org/4949/20141031200116/http://oversight-archive.waxman.house.gov/documents/20060117103516-91336.pdf) (citing congressional depositions of White House Chief of Staff Mack McLarty, White House Chief of Staff Erskine Bowles, White House Counsel Bernard Nussbaum, White House Counsel Jack Quinn, and many others).

[11] *See In re Application of the Comm. on the Judiciary*, No. 19 GJ 48 (BAH), Slip Op. 47-62 (D.D.C. Oct. 25, 2019) (acknowledging that the House is engaged in a valid impeachment inquiry).

facts needed" for the exercise of its constitutional functions.[12] More specifically, "[i]t is [all citizens'] unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees and to testify fully with respect to matters within the province of proper investigations."[13]

The subpoena issued by the Committees on Friday remains in full force and effect, and we expect Dr. Kupperman to appear and answer questions at the deposition on Monday, October 28, 2019 at 9:30 a.m. in HVC-304 at the Capitol. We urge Dr. Kupperman to fulfill his obligation to comply with the duly authorized subpoena—and the oath that he took to protect and defend the U.S. Constitution—rather than aid and abet the President's unlawful efforts to obstruct Congress.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

cc:

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

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[12] *Watkins v. United States*, 354 U.S. 178, 187-88 (1957); *see also United States v. Bryan*, 339 U.S. 323, 331 (1950) ("A subpoena has never been treated as an invitation to a game of hare and hounds, in which the witness must testify only if cornered at the end of the chase. If that were the case, then, indeed, the great power of testimonial compulsion, so necessary to the effective functioning of courts and legislatures, would be a nullity.").

[13] *Watkins*, 354 U.S. at 187-88; *see also Bryan*, 339 U.S. at 331 ("We have often iterated the importance of this public duty [to comply with Congressional subpoenas], which every person within the jurisdiction of the Government is bound to perform[.]").

Cooper & Kirk
Lawyers
A Professional Limited Liability Company

Charles J. Cooper
(202) 220-[redacted]

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

(202) 220-[redacted]
Fax (202) 220-[redacted]

October 27, 2019

Daniel S. Noble, Esq.
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Washington, D.C. 20515

Dear Mr. Noble:

We have received just now your clients' letter reiterating their position that the House's subpoena commanding Dr. Kupperman's testimony is "lawful," that President Trump's contrary assertion of testimonial immunity for Dr. Kupperman is "baseless," and that "there is no valid or justiciable legal claim for [Dr. Kupperman] to make to a court to prevent his appearance." We want to assure your clients, again, that it is not Dr. Kupperman who contests your clients' constitutional claim. It is President Trump, and every President before him for at least the last half century, who have asserted testimonial immunity for their closest confidential advisors. If your clients' position on the merits of this issue is correct, it will prevail in court, and Dr. Kupperman, I assure you again, will comply with the Court's judgment.

Sincerely,

Charles J. Cooper

Charles J. Cooper

Congress of the United States
Washington, DC 20515

October 24, 2019

Mark J. MacDougall, Esq.
Akin Gump Strauss Hauer & Feld LLP
Robert S. Strauss Tower
2001 K Street, N.W.
Washington, DC 20006-1037

Dear Mr. MacDougall:

Pursuant to the House of Representatives' impeachment inquiry, we write to request the appearance of your client, Christopher Anderson, at a deposition on **October 30, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your client's failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe your client may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 12, 2019

Mr. Kenneth L. Wainstein, Esq.
Davis Polk & Wardwell LLP
901 15th Street, N.W.
Washington, D.C. 20005

Dear Mr. Wainstein:

Pursuant to the House of Representatives' impeachment inquiry, we write to request that your client, David Holmes, appear at a deposition on **November 15, 2019, at 3:00 p.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your client's failure or refusal to appear at the deposition, including at the direction or behest of the President or the State Department, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Congress of the United States
Washington, DC 20515

November 4, 2019

Mr. Justin Shur, Esq.
MoloLamken LLP
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037

Dear Mr. Shur:

Pursuant to the House of Representatives' impeachment inquiry, we write to request that your client, Jennifer Williams, appear at a deposition on **November 7, 2019, at 9:30 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 30, 2019

Charles J. Cooper, Esq.
Michael W. Kirk, Esq.
Cooper & Kirk PLLC
1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

Dear Messrs. Cooper and Kirk:

Pursuant to the House of Representatives' impeachment inquiry, we write to request the voluntary appearance of your client, Ambassador John Bolton, at a deposition on **November 7, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your client's failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe that your client possesses information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

PRINTED ON RECYCLED PAPER

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 3, 2019

Paul W. Butler, Esq.
Akin Gump Strauss Hauer & Feld LLP
2001 K Street, N.W.
Washington, DC 20006-1037

Dear Mr. Butler:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Michael Ellis, to appear at a deposition on **Monday, November 4, 2019, at 2:00 p.m. at The Capitol, HVC-304.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The deposition transcript shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Mr. Ellis' failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against Mr. Ellis and the President. Moreover, Mr. Ellis' failure to appear shall constitute evidence that may be used against him in a contempt proceeding.

Baseless White House Order to Block Witness Testimony

On October 30, 2019, the Committees sent a letter requesting that Mr. Ellis appear voluntarily for a deposition, as we have with many other witnesses.[2] On November 2, 2019, you informed us that Mr. Ellis would not appear because the White House now takes issue with agency counsel being excluded from congressional depositions—a procedure that is enshrined in House Rules and has been used by both Republicans and Democrats for decades. You wrote:

> [W]e are in receipt of an opinion from the Office of Legal Counsel providing guidance on the validity of a subpoena under the current

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[1] *See* Letter from Chairman Jerrold Nadler, House Committee on the Judiciary, to Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, House Committee on Financial Services; Chairman Elijah E. Cummings, House Committee on Oversight and Reform; and Chairman Eliot L. Engel, House Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence, and Acting Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform, to Michael Ellis, Esq., Senior Associate Counsel to the President and Deputy Legal Advisor, National Security Council (Oct. 30, 2019).

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> terms and conditions and based on that guidance we are not in a position to appear for a deposition at this time.[3]

Committee staff requested that you provide a copy of the Office of Legal Counsel (OLC) opinion upon which your client's refusal to appear for a deposition, even pursuant to subpoena, is based. Committee staff also requested that you provide a copy of any written direction from the White House. On November 3, you refused to provide a copy of the OLC opinion or White House correspondence. You wrote:

> I'm not authorized to provide any further information at this time other than our guidance is that the failure to permit agency counsel to attend a deposition of Mr. Ellis would not allow sufficient protection of relevant privileges and therefore render any subpoena constitutionally invalid. As an Executive branch employee Mr. Ellis is required to follow this guidance.[4]

This argument has no merit. Instead, it is the latest in a long line of baseless procedural challenges to the House of Representatives' authority to fulfill one of its most solemn responsibilities under the Constitution. The deposition rule that excludes agency counsel is intended for exactly these types of circumstances—to prevent agency officials who are directly implicated in the abuses we are investigating from trying to prevent their own employees from coming forward to tell the truth to Congress. This rationale applies with the same force to the Executive Office of the President as it does to any other Executive Branch agency.

The White House's frivolous challenge to the House deposition rules contradicts decades of precedent in which Republicans and Democrats have used exactly the same procedures to depose Executive Branch officials without agency counsel present, including some of the most senior aides to multiple previous Presidents.

These are the same deposition procedures that were supported by Acting White House Chief of Staff Mick Mulvaney when he served as a Member of the Oversight Committee and by Secretary of State Mike Pompeo when he served as a Member of the Benghazi Select Committee. In fact, some of the same Members and staff currently conducting depositions as part of the present impeachment inquiry participated directly in depositions without agency counsel during the Clinton, Bush, and Obama Administrations. There should not be a different standard now because Donald Trump is in the White House.

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[3] Email from Paul Butler, Counsel to Michael Ellis, to Daniel Noble, Senior Investigative Counsel, House Permanent Select Committee on Intelligence (Nov. 2, 2019).

[4] Email from Paul Butler, Counsel to Michael Ellis, to Daniel Noble, Senior Investigative Counsel, House Permanent Select Committee on Intelligence (Nov. 3, 2019).

Chairman Dan Burton

When Republican Rep. Dan Burton served as Chairman of the Committee on Government Reform, the Committee deposed 141 Clinton Administration officials without agency counsel present—including the following top advisors to President Bill Clinton:

- White House Chief of Staff Mack McLarty;
- White House Chief of Staff Erskine Bowles;
- White House Counsel Bernard Nussbaum;
- White House Counsel Jack Quinn;
- Deputy White House Counsel Bruce Lindsey;
- Deputy White House Counsel Cheryl Mills;
- Deputy White House Chief of Staff Harold Ickes;
- Chief of Staff to the Vice President Roy Neel; and
- Chief of Staff to the First Lady Margaret Williams.[5]

Chairman Henry Waxman

When Democratic Rep. Henry Waxman became Chairman, the Committee on Oversight and Government Reform continued conducting depositions without agency counsel during the George W. Bush Administration. For example, the Committee deposed five White House officials, including the White House Political Director, during investigations of the White House Office of Political Affairs and the use of private email accounts;[6] eight State Department officials, including a U.S. Ambassador, during investigations of misconduct by the Inspector General and others;[7] two Justice Department Officials during investigations into lobbying contacts by Jack Abramoff;[8] and an EPA official during an investigation of EPA's decision to

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[5] Committee on Government Reform, Democratic Staff, *Congressional Oversight of the Clinton Administration* (Jan. 17, 2006) (online at https://wayback.archive-it.org/4949/20141031200116/http://oversight-archive.waxman.house.gov/documents/20060117103516-91336.pdf).

[6] House Committee on Oversight and Government Reform, Deposition of Matthew Aaron Schlapp (Aug. 27, 2007); House Committee on Oversight and Government Reform, Deposition of Sara Taylor (July 27, 2007); House Committee on Oversight and Government Reform, Deposition of Mindy McLaughlin (Apr. 3, 2008); House Committee on Oversight and Government Reform, Deposition of Monica V. Kladakis (Apr. 14, 2008); House Committee on Oversight and Government Reform, Deposition of Jennifer Farley (Jan. 9, 2008).

[7] House Committee on Oversight and Government Reform, Deposition of Mark Duda, Assistant Inspector General for Audits, Department of State (Sept. 26, 2007); House Committee on Oversight and Government Reform, Deposition of Erich Hart (Oct. 3, 2007); House Committee on Oversight and Government Reform, Deposition of Gail Voshell (Oct. 5, 2007); House Committee on Oversight and Government Reform, Deposition of Terry Heide, Director of Congressional and Public Affairs for the Office of the Inspector General, Department of State (Nov. 8, 2007); House Committee on Oversight and Government Reform, Deposition of Robert Peterson, Assistant Inspector General, Department of State (Sept. 27, 2007); House Committee on Oversight and Government Reform, Deposition of William Edward Todd, Deputy Inspector General, Department of State (Oct. 12, 2007); House Committee on Oversight and Government Reform, Deposition of Elizabeth Koniuszkow, Department of State (Nov. 2, 2007); House Committee on Oversight and Government Reform, Deposition of Ambassador John L. Withers, Department of State (Aug. 20, 2008).

[8] House Committee on Oversight and Government Reform, Deposition of Susan Johnson (Oct. 4, 2007);

deny California's request to regulate greenhouse gases.[9]

Chairman Darrell Issa

When Rep. Darrell Issa became Chairman, the Oversight Committee continued conducting depositions without agency counsel present during the Obama Administration. For example, during the investigation of the attacks in Benghazi, the Committee conducted depositions of Ambassador Thomas Pickering and a diplomatic security agent, both of which were personally attended by Rep. Jim Jordan.[10] The Committee also conducted a deposition of John C. Beale, a former senior official at the Office of Air and Radiation at the EPA.[11]

Chairman Jason Chaffetz

When Rep. Jason Chaffetz became Chairman, the Oversight Committee continued conducting depositions during the Obama Administration without agency counsel present. For example, the Committee conducted a deposition of Dr. William Thompson, a senior scientist at the Centers for Disease Control and Prevention, during an investigation of the safety of vaccines,[12] as well as a deposition of Stephen Siebert, a program manager at the State Department, during an investigation of embassy construction and security.[13]

Chairman Trey Gowdy

When Rep. Trey Gowdy became Chairman, the Oversight Committee continued conducting depositions without agency counsel present during the Obama Administration. For example, the Committee conducted a deposition of Joseph Maher, the Principal Deputy General Counsel for the Department of Homeland Security, during an investigation of the Department's policies for addressing whistleblower investigations by the Office of Special Counsel.[14]

Benghazi Select Committee

House Republicans felt so strongly during the Obama Administration about conducting

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House Committee on Oversight and Government Reform, Deposition of Tracy Henke (June 20, 2007).

[9] House Committee on Oversight and Government Reform, Deposition of Jason Burnett, Associate Deputy Administrator, Environmental Protection Agency (May 15, 2008).

[10] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering, Department of State (June 4, 2013); House Committee on Oversight and Government Reform, Deposition of Diplomatic Security Agent #3, Department of State (Oct. 8, 2013).

[11] House Committee on Oversight and Government Reform, Deposition of John Beale (Dec. 19, 2013).

[12] House Committee on Oversight and Government Reform, Deposition of William W. Thompson, Centers for Disease Control and Prevention, Department of Health and Human Services (Nov. 22, 2016).

[13] House Committee on Oversight and Government Reform, Deposition of Stephen W. Siebert, Department of State (May 26, 2016).

[14] House Committee on Oversight and Government Reform, Deposition of Joseph P. Maher, Department of Homeland Security (Sept. 25, 2018).

depositions of Executive Branch officials without agency counsel present that they extended this authority to the Benghazi Select Committee, which was also chaired by Rep. Gowdy. On May 8, 2014, the House passed a resolution establishing the Benghazi Select Committee, and the accompanying regulations issued by the Rules Committee provided: "No one may be present at depositions except members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend."[15]

Expansion of Deposition Authority to Other Committees

The following year, also during the Obama Administration, House Republicans expanded this deposition authority to additional committees. In January 2015, the House voted to approve H. Res. 5, which, along with the accompanying regulations from the Committee on Rules, authorized the Committee on Financial Services, the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Science, Space, and Technology to conduct depositions without agency counsel present.[16]

Pursuant to this authority, under Chairman Kevin Brady, the Committee on Ways and Means conducted a deposition of David Fisher, the Chief Risk Officer of the Internal Revenue Service, without allowing agency counsel to attend.[17] The Committee later reported: "The answers this witness provided in a compelled deposition—without Treasury counsel present—provided more insight into the Administration's decision-making process than did any other individual."[18]

Similarly, under Chairman Jeb Hensarling, the Committee on Financial Services conducted depositions of 12 witnesses from the Consumer Financial Protection Bureau without agency counsel present.[19]

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[15] Deposition Procedures for the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Congressional Record, H4056 (May 9, 2014) (online at www.congress.gov/113/crec/2014/05/09/CREC-2014-05-09-pt1-PgH4056.pdf).

[16] H. Res. 5, 114th Cong. (online at www.congress.gov/bill/114th-congress/house-resolution/5).

[17] House Committee on Ways and Means, Deposition of David Fisher, Internal Revenue Service (May 11, 2016).

[18] House Committee on Energy and Commerce and House Committee on Ways and Means, *Joint Investigative Report into the Source of Funding for the ACA's Cost Sharing Reduction Program* (July 2016) (online at https://gop-waysandmeans.house.gov/wp-content/uploads/2016/07/20160707Joint_Congressional_Investigative_Report-2.pdf).

[19] House Committee on Financial Services, Deposition of James Keegan, Consumer Financial Protection Bureau (May 31, 2017); House Committee on Financial Services, Deposition of Melissa Heist, Consumer Financial Protection Bureau (June 6, 2017); House Committee on Financial Services, Deposition of J. Anthony Ogden, Consumer Financial Protection Bureau (June 14, 2017); House Committee on Financial Services, Deposition of Brian Patrick O'Brien, Consumer Financial Protection Bureau (June 27-28, 2017); House Committee on Financial Services, Deposition of Jacqueline Becker, Consumer Financial Protection Bureau (July 11, 2017); House Committee on Financial Services, Deposition of Julia Lynn Szybala, Consumer Financial Protection Bureau (July 17-18, 2017 and Oct. 11, 2017); House Committee on Financial Services, Deposition of Greg Evans, Consumer

Authority for Deposition Rule

The Constitution authorizes Congress to "determine the Rules of its Proceedings."[20] The regulations that govern House depositions state:

> Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, Committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend.[21]

The basis for this process is straightforward: it ensures that the Committees are able to depose witnesses in furtherance of our investigation without having in the room representatives of the agency or office under investigation. The rule nevertheless protects the rights of witnesses by allowing them to be accompanied in the deposition by personal counsel, and you will be permitted to accompany Mr. Ellis in his deposition on Monday.

Your emails do not indicate that the President has asserted any valid constitutional privilege to direct Mr. Ellis to defy this subpoena. To the extent the White House believes that an issue could be raised at the deposition that may implicate a valid privilege, the White House may seek to assert that privilege with the Committee. To date, the White House has not done so.

Instead, your emails assert only that Mr. Ellis plans to comply with the White House's order not to participate in the deposition, despite the failure of the President to assert any valid privilege. This is not a valid basis to defy the Committee's subpoena.

Financial Protection Bureau (July 21, 2017); House Committee on Financial Services, Deposition of Anne Harden Tindall, Consumer Financial Protection Bureau (July 27-28, 2017); House Committee on Financial Services, Deposition of Catherine D. Galicia, Consumer Financial Protection Bureau (July 31, 2017); House Committee on Financial Services, Deposition of Mary E. McLeod, Consumer Financial Protection Bureau (Aug. 3, 2017 and Oct. 18, 2017); House Committee on Financial Services, Deposition of Stephen Bressler, Consumer Financial Protection Bureau (Oct. 23, 2017 and Oct. 25, 2017); House Committee on Financial Services, Deposition of Stephen Bressler, Consumer Financial Protection Bureau (Nov. 6, 2017 and Nov. 7, 2017).

[20] U.S. Const., Art. I, sec. 5, cl. 2.

[21] 116th Congress Regulations for Use of Deposition Authority, Congressional Record, H1216 (Jan. 25, 2019) (online at www.congress.gov/116/crec/2019/01/25/CREC-2019-01-25-pt1-PgH1216-2.pdf).

For all of the reasons set forth above, the enclosed subpoena compels Mr. Ellis to appear tomorrow for his deposition. Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Congress of the United States
Washington, DC 20515

October 25, 2019

VIA E-MAIL

Margaret E. Daum, Esq.
Squire Patton Boggs
2550 M Street NW
Washington, D.C. 20037

Dear Ms. Daum:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Acting Assistant Secretary of State Philip T. Reeker, to appear at a previously scheduled deposition on **October 26, 2019, at 11:00 a.m., at The Capitol, HVC-304**.

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance.

Enclosed is a copy of the House Deposition Rules for your information.

PRINTED ON RECYCLED PAPER

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 4, 2019

Karen Williams, Esq.
Cozen O'Connor
1200 19th Street, NW
Washington, DC 20036

Dear Ms. Williams:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Preston Wells Griffith, to appear at a deposition on **Tuesday, November 5, 2019, at 9:00 a.m. at The Capitol, HVC-304.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The deposition transcript shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Mr. Griffith's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against Mr. Griffith and the President. Moreover, Mr. Griffith's failure to appear shall constitute evidence that may be used against him in a contempt proceeding.

Baseless White House Order to Block Witness Testimony

On October 24, 2019, the Committees sent a letter requesting that Mr. Griffith appear voluntarily for a deposition, as we have with many other witnesses.[2] Earlier today, you sent us a letter stating that Mr. Griffith would not appear because the White House now takes issue with agency counsel being excluded from congressional depositions—a procedure that is enshrined in House Rules and has been used by both Republicans and Democrats for decades. You wrote: "Mr. Griffith respectfully declines to appear for a deposition . . . based upon the direction of White House Counsel that he not appear due to agency counsel not being permitted."[3]

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[1] *See* Letter from Chairman Jerrold Nadler, House Committee on the Judiciary, to Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, House Committee on Financial Services; Chairman Elijah E. Cummings, House Committee on Oversight and Reform; and Chairman Eliot L. Engel, House Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence, and Acting Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform, to Preston Wells Griffith, Senior Director for International Energy & Environment, National Security Council (Oct. 24, 2019).

[3] Letter from Karen D. Williams, Counsel for Preston Wells Griffith, to Chairman Eliot L. Engel, House

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Committee staff requested that you provide any written correspondence from the White House or the Department of Justice, but you have not done so.

The White House's position has no merit. Instead, it is the latest in a long line of baseless procedural challenges to the House of Representatives' authority to fulfill one of its most solemn responsibilities under the Constitution. The deposition rule that excludes agency counsel is intended for exactly these types of circumstances—to prevent agency officials who are directly implicated in the abuses we are investigating from trying to prevent their own employees from coming forward to tell the truth to Congress. This rationale applies with the same force to the Executive Office of the President as it does to any other Executive Branch agency.

The White House's frivolous challenge to the House deposition rules contradicts decades of precedent in which Republicans and Democrats have used exactly the same procedures to depose Executive Branch officials without agency counsel present, including some of the most senior aides to multiple previous Presidents.

These are the same deposition procedures that were supported by Acting White House Chief of Staff Mick Mulvaney when he served as a Member of the Oversight Committee and by Secretary of State Mike Pompeo when he served as a Member of the Benghazi Select Committee. In fact, some of the same Members and staff currently conducting depositions as part of the present impeachment inquiry participated directly in depositions without agency counsel during the Clinton, Bush, and Obama Administrations. There should not be a different standard now because Donald Trump is in the White House.

Chairman Dan Burton

When Republican Rep. Dan Burton served as Chairman of the Committee on Government Reform, the Committee deposed 141 Clinton Administration officials without agency counsel present—including the following top advisors to President Bill Clinton:

- White House Chief of Staff Mack McLarty;
- White House Chief of Staff Erskine Bowles;
- White House Counsel Bernard Nussbaum;
- White House Counsel Jack Quinn;
- Deputy White House Counsel Bruce Lindsey;
- Deputy White House Counsel Cheryl Mills;
- Deputy White House Chief of Staff Harold Ickes;
- Chief of Staff to the Vice President Roy Neel; and
- Chief of Staff to the First Lady Margaret Williams.[4]

Committee on Foreign Affairs, Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence, and Acting Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform (Nov. 4, 2019).

[4] Committee on Government Reform, Democratic Staff, *Congressional Oversight of the Clinton Administration* (Jan. 17, 2006) (online at https://wayback.archive-it.org/4949/20141031200116/http://oversight-archive.waxman.house.gov/documents/20060117103516-91336.pdf).

Chairman Henry Waxman

When Democratic Rep. Henry Waxman became Chairman, the Committee on Oversight and Government Reform continued conducting depositions without agency counsel during the George W. Bush Administration. For example, the Committee deposed five White House officials, including the White House Political Director, during investigations of the White House Office of Political Affairs and the use of private email accounts;[5] eight State Department officials, including a U.S. Ambassador, during investigations of misconduct by the Inspector General and others;[6] two Justice Department Officials during investigations into lobbying contacts by Jack Abramoff;[7] and an EPA official during an investigation of EPA's decision to deny California's request to regulate greenhouse gases.[8]

Chairman Darrell Issa

When Rep. Darrell Issa became Chairman, the Oversight Committee continued conducting depositions without agency counsel present during the Obama Administration. For example, during the investigation of the attacks in Benghazi, the Committee conducted depositions of Ambassador Thomas Pickering and a diplomatic security agent, both of which were personally attended by Rep. Jim Jordan.[9] The Committee also conducted a deposition of John C. Beale, a former senior official at the Office of Air and Radiation at the EPA.[10]

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[5] House Committee on Oversight and Government Reform, Deposition of Matthew Aaron Schlapp (Aug. 27, 2007); House Committee on Oversight and Government Reform, Deposition of Sara Taylor (July 27, 2007); House Committee on Oversight and Government Reform, Deposition of Mindy McLaughlin (Apr. 3, 2008); House Committee on Oversight and Government Reform, Deposition of Monica V. Kladakis (Apr. 14, 2008); House Committee on Oversight and Government Reform, Deposition of Jennifer Farley (Jan. 9, 2008).

[6] House Committee on Oversight and Government Reform, Deposition of Mark Duda, Assistant Inspector General for Audits, Department of State (Sept. 26, 2007); House Committee on Oversight and Government Reform, Deposition of Erich Hart (Oct. 3, 2007); House Committee on Oversight and Government Reform, Deposition of Gail Voshell (Oct. 5, 2007); House Committee on Oversight and Government Reform, Deposition of Terry Heide, Director of Congressional and Public Affairs for the Office of the Inspector General, Department of State (Nov. 8, 2007); House Committee on Oversight and Government Reform, Deposition of Robert Peterson, Assistant Inspector General, Department of State (Sept. 27, 2007); House Committee on Oversight and Government Reform, Deposition of William Edward Todd, Deputy Inspector General, Department of State (Oct. 12, 2007); House Committee on Oversight and Government Reform, Deposition of Elizabeth Koniuszkow, Department of State (Nov. 2, 2007); House Committee on Oversight and Government Reform, Deposition of Ambassador John L. Withers, Department of State (Aug. 20, 2008).

[7] House Committee on Oversight and Government Reform, Deposition of Susan Johnson (Oct. 4, 2007); House Committee on Oversight and Government Reform, Deposition of Tracy Henke (June 20, 2007).

[8] House Committee on Oversight and Government Reform, Deposition of Jason Burnett, Associate Deputy Administrator, Environmental Protection Agency (May 15, 2008).

[9] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering, Department of State (June 4, 2013); House Committee on Oversight and Government Reform, Deposition of Diplomatic Security Agent #3, Department of State (Oct. 8, 2013).

[10] House Committee on Oversight and Government Reform, Deposition of John Beale (Dec. 19, 2013).

Chairman Jason Chaffetz

When Rep. Jason Chaffetz became Chairman, the Oversight Committee continued conducting depositions during the Obama Administration without agency counsel present. For example, the Committee conducted a deposition of Dr. William Thompson, a senior scientist at the Centers for Disease Control and Prevention, during an investigation of the safety of vaccines,[11] as well as a deposition of Stephen Siebert, a program manager at the State Department, during an investigation of embassy construction and security.[12]

Chairman Trey Gowdy

When Rep. Trey Gowdy became Chairman, the Oversight Committee continued conducting depositions without agency counsel present during the Obama Administration. For example, the Committee conducted a deposition of Joseph Maher, the Principal Deputy General Counsel for the Department of Homeland Security, during an investigation of the Department's policies for addressing whistleblower investigations by the Office of Special Counsel.[13]

Benghazi Select Committee

House Republicans felt so strongly during the Obama Administration about conducting depositions of Executive Branch officials without agency counsel present that they extended this authority to the Benghazi Select Committee, which was also chaired by Rep. Gowdy. On May 8, 2014, the House passed a resolution establishing the Benghazi Select Committee, and the accompanying regulations issued by the Rules Committee provided: "No one may be present at depositions except members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend."[14]

Expansion of Deposition Authority to Other Committees

The following year, also during the Obama Administration, House Republicans expanded this deposition authority to additional committees. In January 2015, the House voted to approve H. Res. 5, which, along with the accompanying regulations from the Committee on Rules, authorized the Committee on Financial Services, the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Science, Space, and Technology to

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[11] House Committee on Oversight and Government Reform, Deposition of William W. Thompson, Centers for Disease Control and Prevention, Department of Health and Human Services (Nov. 22, 2016).

[12] House Committee on Oversight and Government Reform, Deposition of Stephen W. Siebert, Department of State (May 26, 2016).

[13] House Committee on Oversight and Government Reform, Deposition of Joseph P. Maher, Department of Homeland Security (Sept. 25, 2018).

[14] Deposition Procedures for the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Congressional Record, H4056 (May 9, 2014) (online at www.congress.gov/113/crec/2014/05/09/CREC-2014-05-09-pt1-PgH4056.pdf).

conduct depositions without agency counsel present.[15]

Pursuant to this authority, under Chairman Kevin Brady, the Committee on Ways and Means conducted a deposition of David Fisher, the Chief Risk Officer of the Internal Revenue Service, without allowing agency counsel to attend.[16] The Committee later reported: "The answers this witness provided in a compelled deposition—without Treasury counsel present—provided more insight into the Administration's decision-making process than did any other individual."[17]

Similarly, under Chairman Jeb Hensarling, the Committee on Financial Services conducted depositions of 12 witnesses from the Consumer Financial Protection Bureau without agency counsel present.[18]

Authority for Deposition Rule

The Constitution authorizes Congress to "determine the Rules of its Proceedings."[19] The regulations that govern House depositions state:

> Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, Committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend.[20]

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[15] H. Res. 5, 114th Cong. (online at www.congress.gov/bill/114th-congress/house-resolution/5).

[16] House Committee on Ways and Means, Deposition of David Fisher, Internal Revenue Service (May 11, 2016).

[17] House Committee on Energy and Commerce and House Committee on Ways and Means, *Joint Investigative Report into the Source of Funding for the ACA's Cost Sharing Reduction Program* (July 2016) (online at https://gop-waysandmeans.house.gov/wp-content/uploads/2016/07/20160707Joint_Congressional_Investigative_Report-2.pdf).

[18] House Committee on Financial Services, Deposition of James Keegan, Consumer Financial Protection Bureau (May 31, 2017); House Committee on Financial Services, Deposition of Melissa Heist, Consumer Financial Protection Bureau (June 6, 2017); House Committee on Financial Services, Deposition of J. Anthony Ogden, Consumer Financial Protection Bureau (June 14, 2017); House Committee on Financial Services, Deposition of Brian Patrick O'Brien, Consumer Financial Protection Bureau (June 27-28, 2017); House Committee on Financial Services, Deposition of Jacqueline Becker, Consumer Financial Protection Bureau (July 11, 2017); House Committee on Financial Services, Deposition of Julia Lynn Szybala, Consumer Financial Protection Bureau (July 17-18, 2017 and Oct. 11, 2017); House Committee on Financial Services, Deposition of Greg Evans, Consumer Financial Protection Bureau (July 21, 2017); House Committee on Financial Services, Deposition of Anne Harden Tindall, Consumer Financial Protection Bureau (July 27-28, 2017); House Committee on Financial Services, Deposition of Catherine D. Galicia, Consumer Financial Protection Bureau (July 31, 2017); House Committee on Financial Services, Deposition of Mary E. McLeod, Consumer Financial Protection Bureau (Aug. 3, 2017 and Oct. 18, 2017); House Committee on Financial Services, Deposition of Stephen Bressler, Consumer Financial Protection Bureau (Oct. 23, 2017 and Oct. 25, 2017); House Committee on Financial Services, Deposition of Stephen Bressler, Consumer Financial Protection Bureau (Nov. 6, 2017 and Nov. 7, 2017).

[19] U.S. Const., Art. I, sec. 5, cl. 2.

[20] 116th Congress Regulations for Use of Deposition Authority, Congressional Record, H1216 (Jan. 25,

The basis for this process is straightforward: it ensures that the Committees are able to depose witnesses in furtherance of our investigation without having in the room representatives of the agency or office under investigation. The rule nevertheless protects the rights of witnesses by allowing them to be accompanied in the deposition by personal counsel, and you will be permitted to accompany Mr. Griffith in his deposition on Tuesday.

You have not indicated that the President has asserted any valid constitutional privilege to direct Mr. Griffith to defy this subpoena. To the extent the White House believes that an issue could be raised at the deposition that may implicate a valid privilege, the White House may seek to assert that privilege with the Committee. To date, the White House has not done so.

Instead, you assert only that Mr. Griffith plans to comply with the White House's order not to participate in the deposition, despite the failure of the President to assert any valid privilege. This is not a valid basis to defy the Committee's subpoena.

For all of the reasons set forth above, the enclosed subpoena compels Mr. Griffith to appear tomorrow for his deposition. Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

2019) (online at www.congress.gov/116/crec/2019/01/25/CREC-2019-01-25-pt1-PgH1216-2.pdf).

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Congress of the United States
Washington, DC 20515

November 1, 2019

The Honorable David Hale
Under Secretary of State for Political Affairs
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Hale:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **November 6, 2019, at 9:00 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 1, 2019

Mr. John Eisenberg, Esq.
Deputy Counsel to the President for National Security Affairs and
Legal Advisor to the National Security Council
Eisenhower Executive Office Building
Washington, D.C. 20504

Dear Mr. Eisenberg:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to appear at a deposition on **November 4, 2019, at 9:00 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 30, 2019, the Committees sent a letter to you requesting that you voluntarily appear for a deposition on November 4, 2019. We did not receive any response. The Committees, therefore, have no choice but to issue a subpoena compelling your mandatory appearance.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 5, 2019

Mr. Mark Sandy
Deputy Associate Director, National Security Programs
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Dear Mr. Sandy:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **November 8, 2019, at 9:30 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you have information relevant to the inquiry. Furthermore, you are similarly situated to the numerous public servants at the White House, Department of State, and Department of Defense who abided by their oath to preserve, protect, and defend the Constitution by testifying before the Committees. The Committees therefore expect that you will do the same.

Congress will not tolerate any reprisal, threat of reprisal, or attempt to retaliate against any U.S. government official for testifying before Congress, including you or any of your colleagues.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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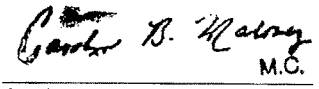
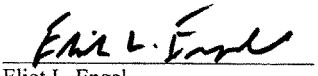
Sincerely,



Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence



Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform



Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 25, 2019

Mr. Michael Duffey
Associate Director for National Security Programs
Office of Management and Budget
725 17th Street, N.W.
Washington, DC 20503

Dear Mr. Duffey:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to appear at a deposition on **November 5, 2019, at 9:30 a.m., at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 11, 2019, the Committees sent a letter to you requesting that you voluntarily appear for a deposition on October 23, 2019. On October 21, 2019, the Office of Management and Budget informed the Committees that you would not voluntarily appear at a deposition per the White House Counsel's October 8, 2019 letter. The Committees therefore have no choice but to issue a subpoena compelling your mandatory appearance.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 30, 2019

Mr. Michael Ellis, Esq.
Senior Associate Counsel to the President and
Deputy Legal Advisor to the National Security Council
Eisenhower Executive Office Building
Washington, D.C. 20504

Dear Mr. Ellis:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **November 4, 2019, at 9:30 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 5, 2019

The Honorable John Michael "Mick" Mulvaney
Acting Chief of Staff
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. Mulvaney:

Pursuant to the House of Representatives' impeachment inquiry, we hereby write to request your appearance at a deposition on **November 8, 2019 at 9:00 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The deposition transcript shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your failure or refusal to appear at the deposition, including at the direction or behest of the President, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Donald J. Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based on evidence gathered in the impeachment inquiry and public reporting, we believe that you possess substantial first-hand knowledge and information relevant to the House's impeachment inquiry. Specifically, the investigation has revealed that you may have been directly involved in an effort orchestrated by President Trump, his personal agent, Rudolph Giuliani, and others to withhold a coveted White House meeting and nearly $400 million in security assistance in order to pressure Ukrainian President Volodymyr Zelensky to pursue investigations that would benefit President Trump's personal political interests, and jeopardized our national security in attempting to do so.

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[1] *See* Letter from Chairman Jerrold Nadler, House Committee on the Judiciary, to Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, House Committee on Financial Services; Chairman Elijah E. Cummings, House Committee on Oversight and Reform; and Chairman Eliot L. Engel, House Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

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Evidence gathered in the impeachment inquiry and public reporting suggest that you may have coordinated with U.S. Ambassador to the European Union Gordon Sondland, Mr. Giuliani, and others to carry out President Trump's scheme to condition a White House meeting with President Zelensky on the Ukrainians' pursuit of investigations of the Bidens, Burisma Holdings, a natural gas company on whose board former Vice President Joseph R. Biden Jr.'s son, Hunter Biden, once sat, and purported Ukrainian interference in the 2016 U.S. presidential election.

For example, it has been publicly reported that during a July 10, 2019, meeting at the White House, Ambassador Sondland "told Ukraine officials ... that Kyiv needed to deliver specific investigations in order to get a hoped-for meeting with Mr. Trump."[2] Following that meeting, former National Security Advisor John R. Bolton told a National Security Council (NSC) staffer "to notify the chief lawyer for the National Security Council about a rogue effort by Mr. Sondland, Mr. Giuliani, and Mick Mulvaney" to pressure Ukraine for political help.[3]

Ambassador Bolton, who appears to have believed that you were directly involved in the President's scheme, reportedly instructed the NSC staffer to tell the NSC lawyers, "I am not part of whatever drug deal Sondland and Mulvaney are cooking up."[4] The "drug deal" appears to be a reference to the scheme to pressure Ukraine to pursue the investigations for the political benefit of President Trump.

In addition, the evidence and public reporting suggest that you played a central role in President Trump's attempt to coerce Ukraine into launching his desired political investigations by withholding nearly $400 million in vital security assistance from Ukraine that had been appropriated by Congress and approved by the national security interagency for disbursement. According to multiple press reports, at some point in July 2019, President Trump ordered you to freeze security assistance to Ukraine, and you reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."[5]

Moreover, at a White House press briefing on October 17, 2019, you admitted publicly that President Trump ordered the hold on Ukraine security assistance to further the President's own personal, political interests, rather than the national interest. Specifically, in discussing the reasons President Trump ordered the hold, you stated, "Did [President Trump] also

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[2] *Gordon Sondland's Testimony About Ukraine Investigations Under Scrutiny*, Wall Street Journal (Oct. 29, 2019) (online at www.wsj.com/articles/gordon-sondlands-testimony-about-ukraine-investigations-under-scrutiny-11572378583).

[3] *Bolton Objected to Ukraine Pressure Campaign, Calling Giuliani 'a Hand Grenade,'* New York Times (Oct. 14, 2019) (online at www.nytimes.com/2019/10/14/us/politics/bolton-giuliani-fiona-hill-testimony.html)

[4] *Id.*

[5] *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

mention to me in pass [sic] the corruption related to the DNC server? Absolutely. No question about that. But that's it. And that's why we held up the money."[6]

President Trump's desire for Ukraine to investigate the "DNC server"—which President Trump specifically demanded President Zelensky pursue during their July 25, 2019, phone call—appears to be an allusion to a thoroughly debunked conspiracy theory that the Democratic National Committee's server that was hacked by Russia during the 2016 U.S. election was actually hacked by Ukraine in order to frame Russia and was thereafter secreted to Ukraine.[7] After referencing the baseless DNC server conspiracy theory, you then engaged in the following colloquy with a reporter:

> Q: So the demand for an investigation into the Democrats was part of the reason that he ordered to withhold funding to Ukraine?
>
> A: The look back to what happened in 2016—
>
> Q: The investigation into Democrats.
>
> A: —certainly was part of the thing that he was worried about in corruption with that nation. And that is absolutely appropriate.
>
> Q: And withholding the funding?
>
> A: Yeah. Which ultimately, then, flowed. By the way, there was a report that we were worried that the money wouldn't—that if we didn't pay out the money, it would be illegal, okay? It would be unlawful. That is one of those things that has the little shred of truth in it, that makes it look a lot worse than it really is.
>
> ...
>
> Q: But to be clear, what you just described is a quid pro quo. It is: Funding will not flow unless the investigation into the Democratic server happens as well.
>
> A: We do that all the time with foreign policy. ... And I have news for everybody: Get over it. There's going to be political influence in foreign policy.[8]

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[6] The White House, *Press Briefing by Acting Chief of Staff Mick Mulvaney* (Oct. 17, 2019) (online at www.whitehouse.gov/briefings-statements/press-briefing-acting-chief-staff-mick-mulvaney/).

[7] *President Trump's Alternate Reality on Ukraine*, Washington Post (Oct. 29, 2019) (online at www.washingtonpost.com/politics/2019/10/29/president-trumps-alternative-reality-ukraine/).

[8] The White House, *Press Briefing by Acting Chief of Staff Mick Mulvaney* (Oct. 17, 2019) (online at www.whitehouse.gov/briefings-statements/press-briefing-acting-chief-staff-mick-mulvaney/).

Despite your subsequent attempts to walk-back this clear admission,[9] your statements to the American public on October 17 were nothing less than a televised confession that President Trump's order to freeze Ukraine security assistance was explicitly linked to Ukraine pursuing investigations as part of an effort to bolster the President's 2020 re-election campaign.

Accordingly, we hereby request your appearance at a deposition on November 8, 2019, at 9:00 a.m. Because the House deposition regulations do not permit agency counsel to participate in depositions, please have your personal counsel contact us to arrange for your appearance. As you know from your previous service in the House of Representatives, both Republican and Democratic-led committees have conducted depositions without agency counsel for decades with high-level White House aides—including White House Chiefs of Staff.[10]

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

[9] *See, e.g., Read Mulvaney's Conflicting Statements on Quid Pro Quo*, New York Times (Oct. 17, 2019) (quoting statement released by the White House from Acting Chief of Staff Mick Mulvaney) (online at www.nytimes.com/2019/10/17/us/politics/mulvaney-transcript-quid-pro-quo.html).

[10] *See* House Committee on Oversight and Reform, *Congressional Depositions in the House of Representatives: Longstanding Republican and Democratic Practice of Excluding Agency Counsel* (Nov. 5, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Committee%20Depositions%20in%20the%20House%20of%20Representatives_Longstanding%20Republican%20and%20Democratic%20Practice%20of%20Excluding%20Agency%20Counsel.pdf) (describing depositions of previous White House Chiefs of Staff Mack McLarty and Erskine Bowles, among other White House officials).

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 1, 2019

The Honorable James Richard "Rick" Perry
Secretary
Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

Dear Secretary Perry:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your voluntary appearance at a deposition on **November 6, 2019, at 2:00 p.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Donald J. Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

By letter dated October 10, 2019, the Committees transmitted a subpoena that compelled you to produce documents relevant to the House's impeachment inquiry.[1] The letter stated:

> Recently, public reports have raised questions about any role you may have played in conveying or reinforcing the President's stark message to the Ukrainian President. These reports have also raised significant questions about your efforts to press Ukrainian officials to change the management structure at a Ukrainian state-owned energy company to benefit individuals involved with

[1] *See* Letter from Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairman Eliot L. Engel, Committee on Foreign Affairs; and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary Rick Perry, Department of Energy (Oct. 10, 2019) (online at https://tinyurl.com/yx9peazp).

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> Rudy Giuliani's push to get Ukrainian officials to interfere in our 2020 election.[2]

The letter set forth publicly reported details of your involvement in the President's scheme to pressure Ukraine to pursue investigations that would benefit the President's personal political interests, rather than the national interest.[3] On October 18, the Department of Energy sent a letter to the Committees stating that the Department would not comply with the duly authorized congressional subpoena "at this time."[4] To date, the Department has not produced a single document to the Committees.

Since the Committees transmitted the subpoena on October 10, the impeachment inquiry has yielded additional evidence of your role in the President's corrupt scheme, including your dealings with the President's personal lawyer, Rudolph Giuliani, and communications with Ukrainian government officials. On October 16, you told *Wall Street Journal* in an interview that—although Mr. Giuliani has no official U.S. government position—you "contacted Mr. Giuliani in an effort to ease a path to a meeting between Mr. Trump and his new Ukrainian counterpart" after the President told you around the time of a May 23, 2019 Oval Office meeting to "[v]isit with Rudy."[5] During a subsequent telephone call, Mr. Giuliani told you that "the [P]resident is really concerned that there are people in Ukraine that tried to beat him during this presidential election" and that "they're corrupt."[6] You further stated that President Trump "doesn't trust" the Ukrainians because, according to Mr. Giuliani, the President "blamed Ukraine for the dossier about Mr. Trump's alleged ties to Russia that was created by a former British intelligence officer," "Ukraine had Mrs. Clinton's email server," and Ukraine "'dreamed up' evidence that helped send former Trump campaign chairman Paul Manafort to jail."[7]

On October 17, you announced your resignation and indicated that you intended to leave the Department of Energy "later this year."[8]

Based upon evidence gathered in the impeachment inquiry and the above-referenced public reporting, we believe that you possess information relevant to the Committees'

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[2] *Id.* at 1.

[3] *Id.* at 5-8.

[4] *See* Letter from Assistant Secretary Melissa F. Burnison, Office of Congressional and Intergovernmental Affairs, Department of Energy, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairman Eliot L. Engel, Committee on Foreign Affairs; and Acting Chairwoman Carolyn B. Maloney, Committee on Oversight and Reform (Oct. 18, 2019).

[5] *Rick Perry Called Rudy Giuliani at Trump's Direction on Ukraine Concerns*, Wall Street Journal (Oct. 16, 2019) (online at www.wsj.com/articles/rick-perry-called-rudy-giuliani-at-trumps-direction-on-ukraine-concerns-11571273635).

[6] *Id.*

[7] *Id.*

[8] *Rick Perry to Step Down as Energy Secretary*, Wall Street Journal (Oct. 17, 2019) (online at www.wsj.com/articles/rick-perry-to-step-down-as-energy-secretary-11571345723).

investigation. Accordingly, we hereby request that you appear for a deposition on November 6, 2019. Because the House deposition regulations do not permit agency counsel to participate in depositions, please have your personal counsel contact us to arrange for your appearance.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

November 3, 2019

Whitney C. Ellerman
Ellerman Enzinna PLLC
1050 30th Street, N.W.
Washington, D.C. 20007

Dear Mr. Ellerman:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Robert B. Blair, to appear at a deposition on **Monday, November 4, 2019, at 9:00 a.m. at The Capitol, HVC-304.**

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The deposition transcript shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Mr. Blair's failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute further evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against Mr. Blair and the President. Moreover, Mr. Blair's failure to appear shall constitute evidence that may be used against him in a contempt proceeding.

Baseless White House Order to Block Witness Testimony

On October 24, 2019, the Committees sent a letter requesting that Mr. Blair appear voluntarily for a deposition, as we have with many other witnesses.[2] On November 2, 2019, you informed us that Mr. Blair would not appear because the White House now takes issue with agency counsel being excluded from congressional depositions—a procedure that is enshrined in House Rules and has been used by both Republicans and Democrats for decades. You wrote:

> Mr. Blair has been directed by the White House not to appear and testify at the Committees' proposed deposition, based on the Department of Justice's advice that the

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[1] *See* Letter from Chairman Jerrold Nadler, House Committee on the Judiciary, to Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, House Committee on Financial Services; Chairman Elijah E. Cummings, House Committee on Oversight and Reform; and Chairman Eliot L. Engel, House Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

[2] Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence, and Acting Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform, to Robert B. Blair, Assistant to the President and Senior Advisor to the Chief of Staff, The White House (Oct. 24, 2019).

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> Committees may not validly require an executive branch witness to appear at such a deposition without the assistance of agency counsel. In light of the clear direction he has been given by the Executive Branch, Mr. Blair must respectfully decline to testify, as you propose, on Monday, November 4, 2019.[3]

This argument has no merit. Instead, it is the latest in a long line of baseless procedural challenges to the House of Representatives' authority to fulfill one of its most solemn responsibilities under the Constitution. The deposition rule that excludes agency counsel is intended for exactly these types of circumstances—to prevent agency officials who are directly implicated in the abuses we are investigating from trying to prevent their own employees from coming forward to tell the truth to Congress. This rationale applies with the same force to the Executive Office of the President as it does to any other Executive Branch agency.

The White House's frivolous challenge to the House deposition rules contradicts decades of precedent in which Republicans and Democrats have used exactly the same procedures to depose Executive Branch officials without agency counsel present, including some of the most senior aides to multiple previous Presidents.

These are the same deposition procedures that were supported by Acting White House Chief of Staff Mick Mulvaney when he served as a Member of the Oversight Committee and by Secretary of State Mike Pompeo when he served as a Member of the Benghazi Select Committee. In fact, some of the same Members and staff currently conducting depositions as part of the present impeachment inquiry participated directly in depositions without agency counsel during the Clinton, Bush, and Obama Administrations. There should not be a different standard now because Donald Trump is in the White House.

Chairman Dan Burton

When Republican Rep. Dan Burton served as Chairman of the Committee on Government Reform, the Committee deposed 141 Clinton Administration officials without agency counsel present—including the following top advisors to President Bill Clinton:

- White House Chief of Staff Mack McLarty;
- White House Chief of Staff Erskine Bowles;
- White House Counsel Bernard Nussbaum;
- White House Counsel Jack Quinn;
- Deputy White House Counsel Bruce Lindsey;
- Deputy White House Counsel Cheryl Mills;
- Deputy White House Chief of Staff Harold Ickes;
- Chief of Staff to the Vice President Roy Neel; and
- Chief of Staff to the First Lady Margaret Williams.[4]

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[3] Letter from Whitney Ellerman, Counsel to Robert B. Blair, to Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam B. Schiff, House Permanent Select Committee on Intelligence, and Acting Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform (Nov. 2, 2019).

[4] Committee on Government Reform, Democratic Staff, *Congressional Oversight of the Clinton*

Chairman Henry Waxman

When Democratic Rep. Henry Waxman became Chairman, the Committee on Oversight and Government Reform continued conducting depositions without agency counsel during the George W. Bush Administration. For example, the Committee deposed five White House officials, including the White House Political Director, during investigations of the White House Office of Political Affairs and the use of private email accounts;[5] eight State Department officials, including a U.S. Ambassador, during investigations of misconduct by the Inspector General and others;[6] two Justice Department Officials during investigations into lobbying contacts by Jack Abramoff;[7] and an EPA official during an investigation of EPA's decision to deny California's request to regulate greenhouse gases.[8]

Chairman Darrell Issa

When Rep. Darrell Issa became Chairman, the Oversight Committee continued conducting depositions without agency counsel present during the Obama Administration. For example, during the investigation of the attacks in Benghazi, the Committee conducted depositions of Ambassador Thomas Pickering and a diplomatic security agent, both of which were personally attended by Rep. Jim Jordan.[9] The Committee also conducted a deposition of John C. Beale, a former senior official at the Office of Air and Radiation at the EPA.[10]

Administration (Jan. 17, 2006) (online at https://wayback.archive-it.org/4949/20141031200116/http://oversight-archive.waxman.house.gov/documents/20060117103516-91336.pdf).

[5] House Committee on Oversight and Government Reform, Deposition of Matthew Aaron Schlapp (Aug. 27, 2007); House Committee on Oversight and Government Reform, Deposition of Sara Taylor (July 27, 2007); House Committee on Oversight and Government Reform, Deposition of Mindy McLaughlin (Apr. 3, 2008); House Committee on Oversight and Government Reform, Deposition of Monica V. Kladakis (Apr. 14, 2008); House Committee on Oversight and Government Reform, Deposition of Jennifer Farley (Jan. 9, 2008).

[6] House Committee on Oversight and Government Reform, Deposition of Mark Duda, Assistant Inspector General for Audits, Department of State (Sept. 26, 2007); House Committee on Oversight and Government Reform, Deposition of Erich Hart (Oct. 3, 2007); House Committee on Oversight and Government Reform, Deposition of Gail Voshell (Oct. 5, 2007); House Committee on Oversight and Government Reform, Deposition of Terry Heide, Director of Congressional and Public Affairs for the Office of the Inspector General, Department of State (Nov. 8, 2007); House Committee on Oversight and Government Reform, Deposition of Robert Peterson, Assistant Inspector General, Department of State (Sept. 27, 2007); House Committee on Oversight and Government Reform, Deposition of William Edward Todd, Deputy Inspector General, Department of State (Oct. 12, 2007); House Committee on Oversight and Government Reform, Deposition of Elizabeth Koniuszkow, Department of State (Nov. 2, 2007); House Committee on Oversight and Government Reform, Deposition of Ambassador John L. Withers, Department of State (Aug. 20, 2008).

[7] House Committee on Oversight and Government Reform, Deposition of Susan Johnson (Oct. 4, 2007); House Committee on Oversight and Government Reform, Deposition of Tracy Henke (June 20, 2007).

[8] House Committee on Oversight and Government Reform, Deposition of Jason Burnett, Associate Deputy Administrator, Environmental Protection Agency (May 15, 2008).

[9] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering, Department of State (June 4, 2013); House Committee on Oversight and Government Reform, Deposition of Diplomatic Security Agent #3, Department of State (Oct. 8, 2013).

[10] House Committee on Oversight and Government Reform, Deposition of John Beale (Dec. 19, 2013).

Chairman Jason Chaffetz

When Rep. Jason Chaffetz became Chairman, the Oversight Committee continued conducting depositions during the Obama Administration without agency counsel present. For example, the Committee conducted a deposition of Dr. William Thompson, a senior scientist at the Centers for Disease Control and Prevention, during an investigation of the safety of vaccines,[11] as well as a deposition of Stephen Siebert, a program manager at the State Department, during an investigation of embassy construction and security.[12]

Chairman Trey Gowdy

When Rep. Trey Gowdy became Chairman, the Oversight Committee continued conducting depositions without agency counsel present during the Obama Administration. For example, the Committee conducted a deposition of Joseph Maher, the Principal Deputy General Counsel for the Department of Homeland Security, during an investigation of the Department's policies for addressing whistleblower investigations by the Office of Special Counsel.[13]

Benghazi Select Committee

House Republicans felt so strongly during the Obama Administration about conducting depositions of Executive Branch officials without agency counsel present that they extended this authority to the Benghazi Select Committee, which was also chaired by Rep. Gowdy. On May 8, 2014, the House passed a resolution establishing the Benghazi Select Committee, and the accompanying regulations issued by the Rules Committee provided: "No one may be present at depositions except members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend."[14]

Expansion of Deposition Authority to Other Committees

The following year, also during the Obama Administration, House Republicans expanded this deposition authority to additional committees. In January 2015, the House voted to approve H. Res. 5, which, along with the accompanying regulations from the Committee on Rules, authorized the Committee on Financial Services, the Committee on Energy and Commerce, the

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[11] House Committee on Oversight and Government Reform, Deposition of William W. Thompson, Centers for Disease Control and Prevention, Department of Health and Human Services (Nov. 22, 2016).

[12] House Committee on Oversight and Government Reform, Deposition of Stephen W. Siebert, Department of State (May 26, 2016).

[13] House Committee on Oversight and Government Reform, Deposition of Joseph P. Maher, Department of Homeland Security (Sept. 25, 2018).

[14] Deposition Procedures for the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Congressional Record, H4056 (May 9, 2014) (online at www.congress.gov/113/crec/2014/05/09/CREC-2014-05-09-pt1-PgH4056.pdf).

Committee on Ways and Means, and the Committee on Science, Space, and Technology to conduct depositions without agency counsel present.[15]

Pursuant to this authority, under Chairman Kevin Brady, the Committee on Ways and Means conducted a deposition of David Fisher, the Chief Risk Officer of the Internal Revenue Service, without allowing agency counsel to attend.[16] The Committee later reported: "The answers this witness provided in a compelled deposition—without Treasury counsel present—provided more insight into the Administration's decision-making process than did any other individual."[17]

Similarly, under Chairman Jeb Hensarling, the Committee on Financial Services conducted depositions of 12 witnesses from the Consumer Financial Protection Bureau without agency counsel present.[18]

Authority for Deposition Rule

The Constitution authorizes Congress to "determine the Rules of its Proceedings."[19] The regulations that govern House depositions state:

> Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, Committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for

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[15] H. Res. 5, 114th Cong. (online at www.congress.gov/bill/114th-congress/house-resolution/5).

[16] House Committee on Ways and Means, Deposition of David Fisher, Internal Revenue Service (May 11, 2016).

[17] House Committee on Energy and Commerce and House Committee on Ways and Means, *Joint Investigative Report into the Source of Funding for the ACA's Cost Sharing Reduction Program* (July 2016) (online at https://gop-waysandmeans.house.gov/wp-content/uploads/2016/07/20160707Joint_Congressional_Investigative_Report-2.pdf).

[18] House Committee on Financial Services, Deposition of James Keegan, Consumer Financial Protection Bureau (May 31, 2017); House Committee on Financial Services, Deposition of Melissa Heist, Consumer Financial Protection Bureau (June 6, 2017); House Committee on Financial Services, Deposition of J. Anthony Ogden, Consumer Financial Protection Bureau (June 14, 2017); House Committee on Financial Services, Deposition of Brian Patrick O'Brien, Consumer Financial Protection Bureau (June 27-28, 2017); House Committee on Financial Services, Deposition of Jacqueline Becker, Consumer Financial Protection Bureau (July 11, 2017); House Committee on Financial Services, Deposition of Julia Lynn Szybala, Consumer Financial Protection Bureau (July 17-18, 2017 and Oct. 11, 2017); House Committee on Financial Services, Deposition of Greg Evans, Consumer Financial Protection Bureau (July 21, 2017); House Committee on Financial Services, Deposition of Anne Harden Tindall, Consumer Financial Protection Bureau (July 27-28, 2017); House Committee on Financial Services, Deposition of Catherine D. Galicia, Consumer Financial Protection Bureau (July 31, 2017); House Committee on Financial Services, Deposition of Mary E. McLeod, Consumer Financial Protection Bureau (Aug. 3, 2017 and Oct. 18, 2017); House Committee on Financial Services, Deposition of Stephen Bressler, Consumer Financial Protection Bureau (Oct. 23, 2017 and Oct. 25, 2017); House Committee on Financial Services, Deposition of Stephen Bressler, Consumer Financial Protection Bureau (Nov. 6, 2017 and Nov. 7, 2017).

[19] U.S. Const., Art. I, sec. 5, cl. 2.

government agencies, may not attend.[20]

The basis for this process is straightforward: it ensures that the Committees are able to depose witnesses in furtherance of our investigation without having in the room representatives of the agency or office under investigation. The rule nevertheless protects the rights of witnesses by allowing them to be accompanied in the deposition by personal counsel, and you will be permitted to accompany Mr. Blair in his deposition on Monday.

Your letter does not indicate that the President has asserted any valid constitutional privilege to direct Mr. Blair to defy this subpoena. To the extent the White House believes that an issue could be raised at the deposition that may implicate a valid privilege, the White House may seek to assert that privilege with the Committee. To date, the White House has not done so.

Instead, your letter asserts only that Mr. Blair plans to comply with the White House's order not to participate in the deposition, despite the failure of the President to assert any valid privilege. This is not a valid basis to defy the Committee's subpoena.

For all of the reasons set forth above, the enclosed subpoena compels Mr. Blair to appear tomorrow for his deposition. Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

[20] 116th Congress Regulations for Use of Deposition Authority, Congressional Record, H1216 (Jan. 25, 2019) (online at www.congress.gov/116/crec/2019/01/25/CREC-2019-01-25-pt1-PgH1216-2.pdf).

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

Congress of the United States
Washington, DC 20515

October 24, 2019

Robert B. Blair
Assistant to the President and Senior Adviser to the Chief of Staff
The White House
Washington, DC 20504

Dear Mr. Blair:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **November 1, 2019, at 9:30 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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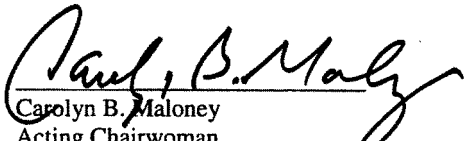
Sincerely,



Eliot L. Engel
Chairman
House Committee on Foreign Affairs



Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence



Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 25, 2019

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street, N.W.
Washington, DC 20503

Dear Acting Director Vought:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to appear at a deposition on **November 6, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On October 11, 2019, the Committees sent a letter to you requesting that you voluntarily appear for a deposition on October 25, 2019. On October 21, 2019, the Office of Management and Budget informed the Committees that you would not voluntarily appear at a deposition per the White House Counsel's October 8, 2019 letter. The Committees therefore have no choice but to issue a subpoena compelling your mandatory appearance.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 25, 2019

Mr. T. Ulrich Brechbuhl
Counselor
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

C/o Ronald J. Tenpas, Esq.
Vinson & Elkins
2200 Pennsylvania Ave. N.W., Suite 500 West
Washington, D.C. 20037

Dear Mr. Brechbuhl:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to appear at a deposition on **November 6, 2019, at 9:30 a.m., at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President, the White House, or the State Department, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

On September 27, 2019, the Committees sent a letter to you requesting that you voluntarily appear for a deposition on October 8, 2019. Your counsel has informed us that you will not appear voluntarily for a deposition. The Committees, therefore, have no choice but to issue a subpoena compelling your mandatory appearance.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Congress of the United States
Washington, DC 20515

October 24, 2019

Preston Wells Griffith
Senior Director for International Energy & Environment
National Security Council
Eisenhower Executive Office Building
Washington, DC 20504

Dear Mr. Griffith:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **November 5, 2019, at 9:30 a.m. at The Capitol, HVC-304**.

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

Based upon public reporting and evidence gathered as part of the impeachment inquiry, we believe you may have information relevant to these matters.

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

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Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

U.S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

November 7, 2019

Pat A. Cipollone
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Cipollone:

On November 7, 2019, the Permanent Select Committee on Intelligence of the House of Representatives issued a subpoena seeking to compel Mick Mulvaney, Assistant to the President and Acting White House Chief of Staff, to testify at a deposition on Friday, November 8. The Committee subpoenaed Mr. Mulvaney as part of its impeachment inquiry into the conduct of the President. *See* H.R. Res. 660, 116th Cong. (2019). You have asked whether the Committee may compel him to testify. We conclude that Mr. Mulvaney is absolutely immune from compelled congressional testimony in his capacity as a senior adviser to the President.

The Executive Branch has taken the position for decades that "Congress may not constitutionally compel the President's senior advisers to testify about their official duties." *Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, at *1 (May 20, 2019). The immunity applies to those "immediate advisers . . . who customarily meet with the President on a regular or frequent basis." Memorandum for John D. Ehrlichman, Assistant to the President for Domestic Affairs, from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff"* at 7 (Feb. 5, 1971) ("Rehnquist Memorandum"). We recently advised you that this immunity applies in an impeachment inquiry just as in a legislative oversight inquiry. *See* Letter for Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel at 2 (Nov. 3, 2019). "Even when impeachment proceedings are underway," we explained, "the President must remain able to continue to discharge the duties of his office. The testimonial immunity of the President's senior advisers remains an important limitation to protect the independence and autonomy of the President himself." *Id.*

This immunity applies in connection with the Committee's subpoena for Mr. Mulvaney's testimony. The Committee intends to question Mr. Mulvaney about matters related to his official duties at the White House—specifically the President's conduct of foreign relations with Ukraine. *See* Letter for Mick Mulvaney from Adam B. Schiff, Chairman, House Permanent Select Committee on Intelligence, et al. (Nov. 5, 2019). And Mr. Mulvaney, as Acting Chief of Staff, is a "top presidential adviser[]," *In re Sealed Case*, 121 F.3d 729, 757 (D.C. Cir. 1997), who works closely with the President in supervising the staff within the Executive Office of the President and managing the advice the President receives. *See* David B. Cohen & Charles E. Walcott, White House Transition Project, Report 2017-21, *The Office of Chief of Staff* 15–26

(2017). Mr. Mulvaney meets with and advises the President on a daily basis about the most sensitive issues confronting the government. Thus, he readily qualifies as an "immediate adviser[]" who may not be compelled to testify before Congress. Rehnquist Memorandum at 7.

This conclusion also follows from this Office's prior recognition that certain *Deputy* White House Chiefs of Staff were immune from compelled congressional testimony. *See* Letter for Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel (Sept. 16, 2019) (former Deputy Chief of Staff for Policy Implementation Rick Dearborn); Letter for Fred F. Fielding, Counsel to the President, from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel (Aug. 1, 2007) (Deputy White House Chief of Staff Karl Rove). In addition, as we have noted with respect to other recently issued subpoenas, testimonial immunity is particularly justified because the Committee seeks Mr. Mulvaney's testimony about the President's conduct of relations with a foreign government. *See, e.g.*, Letter for Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel at 2–3 (Oct. 25, 2019); *see also Harlow v. Fitzgerald*, 457 U.S. 800, 812 n.19 (1982) ("[A] derivative claim to Presidential immunity would be strongest in such 'central' Presidential domains as foreign policy and national security, in which the President could not discharge his singularly vital mandate without delegating functions nearly as sensitive as his own.").

Please let us know if we may be of further assistance.

Steven A. Engel
Assistant Attorney General

U.S. Department of Justice

Office of Legal Counsel

Office of the Assistant Attorney General

Washington, D.C. 20530

October 25, 2019

Pat A. Cipollone
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Cipollone:

Today, the Permanent Select Committee on Intelligence of the House of Representatives issued a subpoena seeking to compel Charles Kupperman, former Assistant to the President and Deputy National Security Advisor, to testify on Monday, October 28. The Committee subpoenaed Mr. Kupperman as part of its purported impeachment inquiry into the conduct of the President. The Administration has previously explained to the Committee that the House has not authorized an impeachment inquiry, and therefore, the Committee may not compel testimony in connection with the inquiry. Setting aside the question whether the inquiry has been lawfully authorized, you have asked whether the Committee may compel Mr. Kupperman to testify even assuming an authorized subpoena. We conclude that he is absolutely immune from compelled congressional testimony in his capacity as a former senior adviser to the President.

The Committee seeks Mr. Kupperman's testimony about matters related to his official duties at the White House. We understand that Committee staff informed Mr. Kupperman's private counsel that the Committee wishes to question him about the telephone call between President Trump and the President of Ukraine that took place on July 25, 2019, during Mr. Kupperman's tenure as a presidential adviser, and related matters. *See "Urgent Concern" Determination by the Inspector General of the Intelligence Community*, 43 Op. O.L.C. __, at *1–3 (Sept. 3, 2019) (discussing the July 25 telephone call).

The Department of Justice has for decades taken the position, and this Office recently reaffirmed, that "Congress may not constitutionally compel the President's senior advisers to testify about their official duties." *Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, at *1 (May 20, 2019) ("*Immunity of the Former Counsel*"). This testimonial immunity is rooted in the separation of powers and derives from the President's status as the head of a separate, co-equal branch of government. *See id.* at *3–7. Because the President's closest advisers serve as his alter egos, compelling them to testify would undercut the "independence and autonomy" of the Presidency, *id.* at *4, and interfere directly with the President's ability to faithfully discharge his responsibilities. Absent immunity, "congressional committees could wield their compulsory power to attempt to supervise the President's actions, or to harass those advisers in an effort to influence their conduct, retaliate for actions the committee disliked, or embarrass and weaken the President for partisan gain." *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach From Congressional Subpoena*, 38 Op. O.L.C. __, at *3 (July 15, 2014).

Congressional questioning of the President's senior advisers would also undermine the independence and candor of executive branch deliberations. *See Immunity of the Former Counsel*, 43 Op. O.L.C. at *5–7. Administrations of both political parties have insisted on the immunity of senior presidential advisers, which is critical to protect the institution of the Presidency. *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. 1, 5 (1999) (A.G. Reno).

Mr. Kupperman qualifies as a senior presidential adviser entitled to immunity. The testimonial immunity applies to the President's "immediate advisers—that is, those who customarily meet with the President on a regular or frequent basis." Memorandum for John D. Ehrlichman, Assistant to the President for Domestic Affairs, from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff"* at 7 (Feb. 5, 1971). Your office has informed us that Mr. Kupperman served as the sole deputy to National Security Advisor John R. Bolton, and briefly served as Acting National Security Advisor after Mr. Bolton's departure. As Deputy National Security Advisor, Mr. Kupperman generally met with the President multiple times per week to advise him on a wide range of national security matters, and he met with the President even more often during the frequent periods when Mr. Bolton was traveling. Mr. Kupperman participated in sensitive internal deliberations with the President and other senior advisers, maintained an office in the West Wing of the White House, traveled with the President on official trips abroad on multiple occasions, and regularly attended the presentation of the President's Daily Brief and meetings of the National Security Council presided over by the President.

Mr. Kupperman's immunity from compelled testimony is strengthened because his duties concerned national security. The Supreme Court held in *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), that senior presidential advisers do not enjoy absolute immunity from civil liability—a holding that, as we have previously explained, does not conflict with our recognition of absolute immunity from compelled congressional testimony for such advisers, *see, e.g.*, *Immunity of the Former Counsel*, 43 Op. O.L.C. at *13–14. Yet the *Harlow* Court recognized that "[f]or aides entrusted with discretionary authority in such sensitive areas as national security or foreign policy," even absolute immunity from suit "might well be justified to protect the unhesitating performance of functions vital to the national interest." 457 U.S. at 812; *see also id.* at 812 n.19 ("a derivative claim to Presidential immunity would be strongest in such 'central' Presidential domains as foreign policy and national security, in which the President could not discharge his singularly vital mandate without delegating functions nearly as sensitive as his own").

Immunity is also particularly justified here because the Committee apparently seeks Mr. Kupperman's testimony about the President's conduct of relations with a foreign government. The President has the constitutional responsibility to conduct diplomatic relations, *see Assertion of Executive Privilege for Documents Concerning Conduct of Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 7 (1996) (A.G. Reno), and as a result, the President has the "exclusive authority to determine the time, scope, and objectives of international negotiations." *Unconstitutional Restrictions on Activities of the Office of Science and Technology Policy in Section 1340(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011*, 35 Op. O.L.C. __, at *4 (Sept. 19, 2011) (quotation marks omitted). Compelling testimony about these sensitive constitutional responsibilities would only deepen the very concerns—about

separation of powers and confidentiality—that underlie the rationale for testimonial immunity. *See New York Times Co. v. United States*, 403 U.S. 713, 728 (1971) (Stewart, J., concurring) ("[I]t is elementary that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy.").

Finally, it is inconsequential that Mr. Kupperman is now a private citizen. In *Immunity of the Former Counsel*, we reaffirmed that for purposes of testimonial immunity, there is "no material distinction" between "current and former senior advisers to the President," and therefore, an adviser's departure from the White House staff "does not alter his immunity from compelled congressional testimony on matters related to his service to the President." 43 Op. O.L.C. at *16; *see also Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 Op. O.L.C. 191, 192–93 (2007). It is sufficient that the Committee seeks Mr. Kupperman's testimony on matters related to his official duties at the White House.

Please let us know if we may be of further assistance.

Steven A. Engel
Assistant Attorney General

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 29, 2019

Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

Earlier this week, Chairman Schiff announced that the House Permanent Select Committee on Intelligence (HPSCI) is "preparing a report summarizing the evidence we have found this far, which will be transmitted to the Judiciary Committee soon after Congress returns from the Thanksgiving recess."[1] That report will describe, among other things, "a months-long effort in which President Trump again sought foreign interference in our elections for his personal and political benefit at the expense of our national interest" and "an unprecedented campaign of obstruction in an effort to prevent the Committees from obtaining documentary evidence and testimony."[2] As you are also aware, the Judiciary Committee has been engaged in an investigation concerning allegations that you may have engaged in acts of obstruction of justice, as detailed in Special Counsel Robert Mueller's *Report on the Investigation into Russian Interference in the 2016 Presidential Election.* For detailed discussion of the scope of the impeachment inquiry, I refer you to the report accompanying House Resolution 660.

In anticipation of our consideration of these matters, I am writing to determine if your counsel will seek to exercise the specific privileges set forth in the Judiciary Committee's Impeachment Procedures adopted pursuant to H. Res. 660 and participate in the upcoming impeachment proceedings. In particular, please provide the Committee with notice of whether your counsel intends to participate, specifying which of the privileges your counsel seeks to exercise, no later than 5:00 pm on December 6, 2019.

I look forward to your prompt response.

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[1] Chairman Adam Schiff, H. Permanent Select Comm. On Intelligence, *Dear Colleague from Chairman Adam Schiff on Next Steps for Impeachment Inquiry*, Nov. 25, 2019.

[2] *Id.*

Sincerely,



Jerrold Nadler
Chairman

cc: The Honorable Doug Collins, Ranking Member, House Committee on the Judiciary
Pat Cipollone, Counsel to the President, Office of White House Counsel

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress
December 8, 2019

Pat A. Cipollone
Counsel to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Cipollone:

Pursuant to the Impeachment Procedures in the Committee on the Judiciary adopted under H. Res. 660 and previously provided to you I am furnishing you copies of reports, records, and other materials committees having custody of records or other materials relating to whether sufficient grounds exist to impeach President Trump have transmitted to the House Judiciary Committee pursuant to H. Res. 660. In this regard, attached to this letter you will find certain transmittals we received from (i) the House Foreign Affairs Committee, (ii) the House Budget Committee, and (iii) the House Permanent Select Committee on Intelligence, in consultation with the Chairs of the Committees on Oversight and Reform and Foreign Affairs.

A limited number of the materials in (iii) contain sensitive materials, such as personally identifiable information. After consulting with Ranking Member Collins, I determined that the sensitive material should be deemed to be held in executive session pursuant to a "Resolution for Investigatory Procedures" approved by the House Judiciary Committee on September 12, 2019. (This Resolution governs the manner by which designated information and other materials may be both retained and released from executive session.) As a result, this portion of the materials in (iii) is being furnished to you for review in our Sensitive Compartmented Information Facility (SCIF) at a mutually convenient time. Copies of the remainder of (iii) are enclosed with this letter.

Please feel free to contact my staff should you have any questions regarding this matter.

Sincerely,

Jerrold Nadler
Chairman

cc: The Honorable Doug Collins, Ranking Member

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 26, 2019

Donald J. Trump
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

Under House Resolution 660, the House of Representatives has approved certain privileges for you in the House Judiciary Committee while the Committee considers whether to recommend articles of impeachment to the full House.[1] For your reference, a copy of the resolution and related procedures are attached to this letter. These procedures, and the privileges afforded to you therein, are consistent with those used by the Committee in the Nixon and Clinton impeachments.

The Committee has noticed its first hearing under these procedures, titled "The Impeachment Inquiry into President Donald J. Trump: Constitutional Grounds for Presidential Impeachment." The hearing is scheduled for December 4, 2019 at 10:00 am. I write to ask if—pursuant to H. Res. 660 and the relating Judiciary Committee Impeachment Inquiry procedures—you and your counsel plan to attend the hearing or make a request to question the witness panel.

The Committee intends this hearing to serve as an opportunity to discuss the historical and constitutional basis of impeachment, as well as the Framers' intent and understanding of terms like "high crimes and misdemeanors." We expect to discuss the constitutional framework through which the House may analyze the evidence gathered in the present inquiry. We will also discuss whether your alleged actions warrant the House's exercising its authority to adopt articles of impeachment.

If you would like to participate in the hearing, please provide the Committee with notice as soon as possible, but no later than by 6:00 pm on December 1, 2019. By that time, I ask that you also indicate who will act as your counsel for these proceedings.

I remain committed to ensuring a fair and informative process. To that end, I remind you that participation by the President or his counsel has been described by the Committee in past inquiries as "not a right but a privilege or a courtesy which is being extended to the President's

[1] H. Res. 660, 116th Cong. (2019).

counsel."[2] I am hopeful that you and your counsel will opt to participate in the Committee's hearing, consistent with the rules of decorum and with the solemn nature of the work before us.

The Committee looks forward to your participation in the impeachment inquiry as the Committee fulfills its constitutional duties. While we invite you to this hearing, we remind you that if you continue to refuse to make witnesses and documents available to the committees of jurisdiction, under H. Res. 660, "the chair shall have the discretion to impose appropriate remedies."[3]

Sincerely,

Jerrold Nadler

Jerrold Nadler
Chairman

cc: The Honorable Doug Collins, Ranking Member, House Committee on the Judiciary
Pat Cipollone, Counsel to the President, Office of White House Counsel

Encl.

[2] *Impeachment Inquiry Meeting before the H. Comm. on the Judiciary*, 93rd Cong. (May 2, 1974) (response by Chairman Peter W. Rodino, Jr.)

[3] H. Res. 660, 116th Cong. (2019).

U.S. GOVERNMENT INFORMATION GPO

IV

116TH CONGRESS
1ST SESSION

H. RES. 660

Directing certain committees to continue their ongoing investigations as part of the existing House of Representatives inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach Donald John Trump, President of the United States of America, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 2019

Mr. MCGOVERN (for himself, Mr. HASTINGS, Mrs. TORRES of California, Mr. PERLMUTTER, Mr. RASKIN, Ms. SCANLON, Mr. MORELLE, Ms. SHALALA, and Mr. DESAULNIER) submitted the following resolution; which was referred to the Committee on Rules

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RESOLUTION

Directing certain committees to continue their ongoing investigations as part of the existing House of Representatives inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach Donald John Trump, President of the United States of America, and for other purposes.

Resolved, That the Permanent Select Committee on Intelligence and the Committees on Financial Services, Foreign Affairs, the Judiciary, Oversight and Reform, and Ways and Means, are directed to continue their ongoing investigations as part of the existing House of Representa-

tives inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach Donald John Trump, President of the United States of America.

SEC. 2. OPEN AND TRANSPARENT INVESTIGATIVE PROCEEDINGS BY THE PERMANENT SELECT COMMITTEE ON INTELLIGENCE.

For the purpose of continuing the investigation described in the first section of this resolution, the Permanent Select Committee on Intelligence (referred to in this resolution as the "Permanent Select Committee") is authorized to conduct proceedings pursuant to this resolution as follows:

(1) The chair of the Permanent Select Committee shall designate an open hearing or hearings pursuant to this section.

(2) Notwithstanding clause 2(j)(2) of rule XI of the Rules of the House of Representatives, upon recognition by the chair for such purpose under this paragraph during any hearing designated pursuant to paragraph (1), the chair and ranking minority member of the Permanent Select Committee shall be permitted to question witnesses for equal specified periods of longer than five minutes, as determined by the chair. The time available for each period of

questioning under this paragraph shall be equal for the chair and the ranking minority member. The chair may confer recognition for multiple periods of such questioning, but each period of questioning shall not exceed 90 minutes in the aggregate. Only the chair and ranking minority member, or a Permanent Select Committee employee if yielded to by the chair or ranking minority member, may question witnesses during such periods of questioning. At the conclusion of questioning pursuant to this paragraph, the committee shall proceed with questioning under the five-minute rule pursuant to clause 2(j)(2)(A) of rule XI.

(3) To allow for full evaluation of minority witness requests, the ranking minority member may submit to the chair, in writing, any requests for witness testimony relevant to the investigation described in the first section of this resolution within 72 hours after notice is given for the first hearing designated pursuant to paragraph (1). Any such request shall be accompanied by a detailed written justification of the relevance of the testimony of each requested witness to the investigation described in the first section of this resolution.

(4)(A) The ranking minority member of the Permanent Select Committee is authorized, with the concurrence of the chair, to require, as deemed necessary to the investigation—

(i) by subpoena or otherwise—

(I) the attendance and testimony of any person (including at a taking of a deposition); and

(II) the production of books, records, correspondence, memoranda, papers, and documents; and

(ii) by interrogatory, the furnishing of information.

(B) In the case that the chair declines to concur in a proposed action of the ranking minority member pursuant to subparagraph (A), the ranking minority member shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the chair shall convene the committee promptly to render that decision, subject to the notice procedures for a committee meeting under clause 2(g)(3)(A) and (B) of rule XI.

(C) Subpoenas and interrogatories so authorized may be signed by the ranking minority member,

and may be served by any person designated by the ranking minority member.

(5) The chair is authorized to make publicly available in electronic form the transcripts of depositions conducted by the Permanent Select Committee in furtherance of the investigation described in the first section of this resolution, with appropriate redactions for classified and other sensitive information.

(6) The Permanent Select Committee is directed to issue a report setting forth its findings and any recommendations and appending any information and materials the Permanent Select Committee may deem appropriate with respect to the investigation described in the first section of this resolution. The chair shall transmit such report and appendices, along with any supplemental, minority, additional, or dissenting views filed pursuant to clause 2(l) of rule XI, to the Committee on the Judiciary and make such report publicly available in electronic form, with appropriate redactions to protect classified and other sensitive information. The report required by this paragraph shall be prepared in consultation with the chairs of the Committee on Foreign Affairs and the Committee on Oversight and Reform.

SEC. 3. TRANSMISSION OF ADDITIONAL MATERIALS.

The chair of the Permanent Select Committee or the chair of any other committee having custody of records or other materials relating to the inquiry referenced in the first section of this resolution is authorized, in consultation with the ranking minority member, to transfer such records or materials to the Committee on the Judiciary.

SEC. 4. IMPEACHMENT INQUIRY PROCEDURES IN THE COMMITTEE ON THE JUDICIARY.

(a) The House authorizes the Committee on the Judiciary to conduct proceedings relating to the impeachment inquiry referenced in the first section of this resolution pursuant to the procedures submitted for printing in the Congressional Record by the chair of the Committee on Rules, including such procedures as to allow for the participation of the President and his counsel.

(b) The Committee on the Judiciary is authorized to promulgate additional procedures as it deems necessary for the fair and efficient conduct of committee hearings held pursuant to this resolution, provided that the additional procedures are not inconsistent with the procedures referenced in subsection (a), the Rules of the Committee, and the Rules of the House.

(c)(1) The ranking minority member of the Committee on the Judiciary is authorized, with the concur-

rence of the chair of the Committee on the Judiciary, to require, as deemed necessary to the investigation—

(A) by subpoena or otherwise—

(i) the attendance and testimony of any person (including at a taking of a deposition); and

(ii) the production of books, records, correspondence, memoranda, papers, and documents; and

(B) by interrogatory, the furnishing of information.

(2) In the case that the chair declines to concur in a proposed action of the ranking minority member pursuant to paragraph (1), the ranking minority member shall have the right to refer to the committee for decision the question whether such authority shall be so exercised and the chair shall convene the committee promptly to render that decision, subject to the notice procedures for a committee meeting under clause 2(g)(3)(A) and (B) of rule XI.

(3) Subpoenas and interrogatories so authorized may be signed by the ranking minority member, and may be served by any person designated by the ranking minority member.

(d) The Committee on the Judiciary shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as it deems proper.

○

Impeachment Inquiry Procedures in the Committee on the Judiciary

Pursuant to H. Res. 660

A. Initial Presentations

1. The Committee on the Judiciary ("Committee") may receive at a hearing presentation(s) from counsel(s) designated by the chairs and ranking minority members for the majority and minority of a committee which provides a report, records or other materials to the Committee under section 2 or 3 of H. Res. 660.

2. In addition, the Committee may receive from Committee counsel for the majority and minority at a hearing a presentation consisting of (i) a written statement detailing, in paragraph form, information believed by the counsel to be pertinent to the inquiry, (ii) a general description of the scope and manner of the presentation of evidence, and/or (iii) a detailed presentation of the evidentiary material, other than the testimony of witnesses.

3. The President's counsel shall be furnished a copy of the report(s), record(s) or other materials referenced in section 2(5) and (6) or section 3 of H. Res. 660, and any material furnished to the Committee pursuant to this section. The President and his counsel shall be invited to attend and observe the initial presentations, and the President's counsel may ask questions, subject to instructions from the chair or presiding member respecting the time, scope and duration of the examination.

B. Additional Evidence

1. Any Committee member may bring additional evidence in writing to the Committee's attention.

2. The President's counsel shall be invited to respond, orally or in writing as shall be determined by the chair, in consultation with the ranking minority member.

3. Should the President's counsel wish the Committee to receive additional testimony or other evidence, he or she shall be invited to submit written requests and precise summaries of what he or she would propose to show, and in the case of a witness precisely and in detail what it is expected the testimony of the witness would be, if called. On the basis of such requests and summaries and of the record then before it, the

Committee shall determine whether the suggested evidence is necessary or desirable to a full and fair record in the inquiry, and, if so, whether the summaries shall be accepted as part of the record or additional testimony or evidence in some other form shall be received, subject to instructions from the chair or presiding member respecting the time, scope and duration of any examination or presentation. In making such determination, notwithstanding Rule II of the Committee on the Judiciary Rules of Procedure, the chair may schedule a Committee meeting subject to the notice procedures for a Committee meeting under clause 2(g)(3)(A) and (B) of House rule XI.

C. Witnesses

If and when witnesses are to be called, the following additional procedures shall be applicable to hearings held for that purpose:

1. The President and his counsel shall be invited to attend all hearings, including any held in executive session.

2. Objections relating to the examination of witnesses or to the admissibility of testimony and evidence may be raised only by a witness or his counsel, a member of the Committee, Committee counsel or the President's counsel and shall be ruled upon by the chair or presiding member. Such rulings shall be final, unless overruled by a vote of a majority of the members present. In the case of a tie vote, the ruling of the chair shall prevail.

3. At the discretion of the chair, in consultation with the ranking minority member, notwithstanding clause 2(j)(2) of rule XI, upon recognition by the chair for such purpose under this section during any hearing designated pursuant to H. Res. 660 and these procedures, the chair and ranking minority member shall be permitted to question witnesses for equal specified periods of longer than 5 minutes, as determined by the chair. The time available for each period of questioning under this section shall be equal for the chair and the ranking minority member. The chair may confer recognition for multiple periods of such questioning, but each period of questioning shall not exceed 90 minutes in the aggregate. Only the chair and ranking minority member, or Committee counsel yielded to by the chair or ranking minority member, may question witnesses during such periods of questioning. At the conclusion of questioning pursuant to this section, the Committee shall proceed with questioning under the 5-minute rule pursuant to clause 2(j)(2)(A) of rule XI.

4. The President's counsel may question any witness called before the Committee, subject to instructions from the chair or presiding member respecting the time, scope and duration of the examination.

D. At the discretion of the chair, in consultation with the ranking minority member, the Committee may receive a concluding presentation from the President's counsel and Committee counsel for the majority and minority.

E. The chair, in consultation with the ranking minority member, shall make a public announcement of the date, time, place and subject matter of any Committee hearing or meeting to consider matters set forth in these procedures as soon as practicable and in no event less than twenty-four hours before the commencement of the hearing or meeting, except as specified in paragraph B(3) and notwithstanding Rule II of the Committee on the Judiciary Rules of Procedure.

F. Should the President unlawfully refuse to make witnesses available for testimony to, or to produce documents requested by, the investigative committees listed in the first section of H. Res. 660 in furtherance of the investigations described in the first section of H. Res. 660, the chair shall have the discretion to impose appropriate remedies, including by denying specific requests by the President or his counsel under these procedures to call or question witnesses.

G. These procedures supersede paragraphs (1), (2), and (4) of the investigative procedures adopted by the Committee on September 12, 2019.

H. For purposes of these procedures, Committee counsel shall include consultants retained by the Committee.

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

December 9, 2019

The Honorable Doug Collins
Ranking Member
House Committee on the Judiciary
2142 Rayburn House Office Building
Washington, DC 20515

Dear Ranking Member Collins:

Thank you for your letter dated December 6, 2019, responding to my November 29 letter concerning whether you would like to pursue the issuance of subpoenas or interrogatories under H. Res. 660. In your letter you make eight requests for witnesses to appear before the Committee, as well as any witnesses "requested by the President." My response to these requests are as follows:

First, since we received your letter, we understand the President is not requesting any witnesses to appear in our impeachment proceedings so there is no further reason to address that request.

With respect to your requests that the Committee obtain testimony from Chairman Schiff as well as "[t]he anonymous whistleblower whose complaint initiated this 'impeachment inquiry,'" the Committee has previously tabled motions with regard to these matters at its December 4, 2019 hearing, and I see no reason to reconsider those requests. Moreover, the Intelligence Committee report has adduced independent evidence for its conclusions that do not rely upon the whistleblower in any way and Intelligence committee counsel will be testifying as provided for by H. Res. 660, and thus there is no need for Chairman Schiff.

Five of your remaining requests were previously made by Ranking Member Nunes during the House Permanent Select Committee on Intelligence impeachment proceedings, and were rejected by that Committee. In doing so, Chairman Schiff stated, "[t]his inquiry is not, and will not serve…as a vehicle to undertake the same sham investigations into the Bidens or 2016 that the President pressed Ukraine to conduct for his personal political benefit, or to facilitate the President's effort to threaten, intimidate, and retaliate against the whistleblower who

courageously raised the initial alarm." I concur in Chairman Schiff's assessment and also find that these requests outside of the parameters of the impeachment inquiry as set forth in the report issued by the Rules Committee to accompany H. Res. 660.[1] The same is true of your remaining request concerning "[t]he Intelligence Community employee who spoke with Lieutenant Colonel Alexander Vindman about President Trump's July 25 phone call."

As described in my November 29 letter, I remain prepared to schedule a meeting at the conclusion of today's hearing should you choose to refer to the Committee for decision the question of whether to subpoena any or all of these witnesses or would like to make any other requests under section 4(c) of H. Res. 660.

Sincerely,

Jerrold Nadler
Chairman

[1] H. Res. 430, 116th Cong. (2019); AUTHORIZING THE COMMITTEE ON THE JUDICIARY TO INITIATE OR INTERVENE IN JUDICIAL PROCEEDINGS TO ENFORCE CERTAIN SUBPOENAS AND FOR OTHER PURPOSES TO ACCOMPANY H. RES. 430, H.R. REP. 116-108 (2019).

Congress of the United States
Washington, DC 20515

August 19, 2019

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Mulvaney:

We write to express our profound concern regarding the Administration's reported plan to submit a rescission request to the Congress just a few weeks before the end of the fiscal year.

Under the Impoundment Control Act of 1974 (ICA), the President may submit a special message proposing the rescission of budget authority and may withhold funds from obligation for a period of 45 calendar days of continuous session following transmission of the special message. In keeping with Congress's constitutional power of the purse, however, such funding must be released absent approval by Congress within the 45-day period. Specifically, section 1012(b) of the ICA states:

> Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

Submitting a rescissions request and withholding funds from obligation this late in the fiscal year could result in funding being withheld through its expiration date. In December 2018, at the request of the House Budget Committee, the U.S. Government Accountability Office (GAO) issued a legal opinion that addressed this circumstance. GAO found that "the ICA does not permit the withholding of funds through their date of expiration." Further, GAO determined that absent Congressional action to rescind the funds,

> amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire: the requirement to make amounts available for obligation in this situation prevails over the privilege to temporarily withhold the amounts.

The authority provided by the ICA to the Executive Branch to withhold funds temporarily is necessarily limited. The GAO opinion states:

> It would be an abuse of this limited authority and an interference with Congress's constitutional prerogatives if a President were to time the withholding of expiring budget authority to effectively alter the time period that the budget authority is available for obligation from the time period established by Congress in duly enacted appropriations legislation.

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As the chairman and ranking member of the respective House and Senate committees with jurisdiction over the Impoundment Control Act, we affirm our strong agreement with the legal analysis and conclusions reached by GAO. We strongly urge the Administration to refrain from sending a rescission message to the Congress; however, in the event the Administration submits such a message, it must take measures to ensure that the affected funds will be prudently obligated in the event the Congress does not approve the rescission, as required by law. To withhold these funds until they can no longer be prudently obligated or until they expire, in the absence of Congressional approval of the rescission, would violate the ICA and flout an important constitutional check. We trust that you will comply with the law and respect the constitutional role of the Congress to remain at the center of funding decisions.

Thank you for your attention to these concerns.

Sincerely,

John Yarmuth
Chairman
House Committee on the Budget

Bernard Sanders
Ranking Member
Senate Committee on the Budget

JOHN YARMUTH, KENTUCKY
CHAIRMAN

ELLEN BALIS, STAFF DIRECTOR
(202) 226-7200



STEVE WOMACK, RANKING MEMBER

DAN KENIRY, MINORITY STAFF DIRECTOR
(202) 226-7270

U.S. House of Representatives

COMMITTEE ON THE BUDGET
Washington, DC 20515

December 6, 2019

The Hon. Jerrold Nadler
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Nadler:

Pursuant to section 3 of H. Res. 660, I am transmitting records to the Committee on the Judiciary relevant to the inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach Donald John Trump, President of the United States of America.

On September 27, I sent a letter[1] with Chairwoman Lowey to Acting Chief of Staff, Mick Mulvaney, and Acting Office of Management and Budget (OMB) Director, Russell Vought, seeking information and documentation from OMB related to the apportionment process and the withholding of funds to inform appropriate legislative responses and reforms by our committees, including in the context of the Impoundment Control Act of 1974.[2] The enclosed records constitute the responses and documents transmitted to our committee by OMB in response to the September 27 letter.

Sincerely,

John Yarmuth
Chairman

Enclosure

CC: Ranking Member Steve Womack, Committee on the Budget

[1] Letter from Chairman John Yarmuth, House Committee on the Budget, and Chairwoman Nita Lowey, House Committee on Appropriations, to Acting Chief of Staff Mick Mulvaney, The White House, and Acting Director Russell Vought, Office of Management and Budget (Sept. 27, 2019), *available at* https://budget.house.gov/sites/democrats.budget.house.gov/files/documents/Letter%20to%20OMB_9%2027%2019.pdf.

[2] *See also* Letter from Chairman John Yarmuth, House Committee on the Budget, and Ranking Member Barnard Sanders, Senate Committee on the Budget, to Acting Chief of Staff Mick Mulvaney, The White House (Aug. 19, 2019), *available at* https://budget.house.gov/sites/democrats.budget.house.gov/files/documents/OMB%20Letter_081919.pdf; Letter from Chairman John Yarmuth, House Committee on the Budget, and Chairwoman Nita Lowey, House Committee on Appropriations (Sept. 18, 2019), *available at* https://budget.house.gov/sites/democrats.budget.house.gov/files/documents/OMB%20Letter_081919_0.pdf.

Congress of the United States
Washington, DC 20515

September 27, 2019

The Honorable Mick Mulvaney
Acting Chief of Staff
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Russell Vought
Acting Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Mulvaney and Mr. Vought:

The Committees on the Budget and Appropriations are the primary committees charged with overseeing and writing federal budget and appropriation laws. Consistent with our authority, we are continuing our efforts in the 116th Congress to pursue productive improvements and reforms to the laws and authorities governing federal financial management to ensure that the Congress remains at the center of funding decisions. Specifically, our committees are considering legislative proposals related to the apportionment process and the withholding of funds, including in the context of the Impoundment Control Act of 1974 (ICA) and the annual appropriations acts.

As we stated in our September 18th letter, we have serious concerns that recent apportionment actions by the Office of Management and Budget (OMB) to withhold military aid for Ukraine and other foreign assistance constitute unlawful impoundments in violation of the ICA and are an abuse of the authority provided to the President to apportion appropriations. In the short time since we sent that letter, additional reports have emerged detailing the circumstances surrounding the withholding of funding for Ukraine and OMB's involvement in that withholding.[1]

According to those reports, at least a week prior to a July 25th phone call between President Trump and Ukrainian President Zelenskyy, President Trump told Mr. Mulvaney to withhold almost $400 million in military aid and foreign assistance for Ukraine,[2] and "[o]fficials at the Office of Management and Budget relayed Trump's order to the State Department and the Pentagon during an interagency meeting in mid-July."[3] The reporting also indicates that "[t]here was concern within the administration that if they did not spend the money [appropriated for Ukraine], they would run afoul of the law" and that, eventually, Mr. Vought released the money.[4]

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[1] *See infra* notes 2-7, 9.
[2] The Washington Post, *Trump ordered hold on military aid days before calling Ukrainian president, officials say,* (Sept. 23, 2019), *available at* https://wapo.st/2kYNju1 ("Washington Post, Sept. 23"); New York Times, *Trump Said to Have Frozen Aid to Ukraine Before Call With Its Leader*, (Sept. 23, 2019), *available at* https://nyti.ms/2kBnT5k ("New York Times, Sept. 23").
[3] Washington Post, Sept. 23.
[4] Washington Post, Sept. 23.

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On Tuesday, September 24, 2019, at the United Nations General Assembly, the President confirmed the withholding and added his reasoning, stating:

> As far as withholding funds, those funds were paid. They were fully paid. But my complaint has always been — and I'd withhold again, and I'll continue to withhold until such time as Europe and other nations contribute to Ukraine. Because they're not doing it.[5]

The recently declassified complaint submitted to the Office of the Inspector General of the Intelligence Community (ICIG) on Monday, August 12, 2019 provided similar confirmation of OMB's withholding of appropriated funding for Ukraine. The complaint, which appeared credible according to a letter from the ICIG,[6] stated among other things:

> On 18 July, an Office of Management and Budget (OMB) official informed Departments and Agencies that the President "earlier that month" had issued instructions to suspend all U.S. security assistance to Ukraine. Neither OMB nor the NSC staff knew why this instruction had been issued. During interagency meetings on 23 July and 26 July, OMB officials again stated explicitly that the instruction to suspend this assistance had come directly from the President, but they still were unaware of a policy rationale. As of early August, I heard from U.S. officials that some Ukrainian officials were aware that U.S. aid might be in jeopardy, but I do not know how or when they learned of it.[7]

As reports continue to emerge, we have deepening concerns that OMB continues to demonstrate a pattern of impeding agencies' ability to use their enacted appropriations; that recent apportionment actions taken by OMB to withhold military aid and foreign assistance funding administered by the Department of Defense, Department of State, and U.S. Agency for International Development constitute unlawful impoundments; and that OMB took the unusual and seemingly unprecedented step of delegating the authority to execute these apportionments to a political appointee, in lieu of career civil servants who have historically been the designated officials responsible for overseeing and executing these technical budget documents.[8] These actions have collectively undermined the longstanding application and predictability of federal

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[5] White House, *Remarks by President Trump Upon Arriving at the U.N. General Assembly*, https://go.usa.gov/xVdPd (Sept. 24, 2019); *see also* The Washington Post, *Trump says he has authorized release of transcript of call with the Ukrainian president*, (Sept. 24, 2019), *available at* https://www.washingtonpost.com/politics/trump-confirms-he-withheld-military-aid-from-ukraine-says-he-wants-other-countries-to-help-pay/2019/09/24/42bdf66c-ded2-11e9-8dc8-498eabc129a0_story.html.

[6] Letter from Michael K. Atkinson, Inspector General of the Intelligence Community to the Honorable Joseph Maguire, Director of National Intelligence (Acting) (Aug. 26, 2019), *available at* https://go.usa.gov/xVwTU (also describing in footnote 12 the Complainant's report regarding OMB officials).

[7] Declassified Whistleblower Complaint to the Honorable Richard Burr, Chairman, Select Committee on Intelligence, and the Honorable Adam Schiff, Chairman, Permanent Select Committee on Intelligence (Aug. 12, 2019), *available at* https://go.usa.gov/xVwTE.

[8] *See, e.g.*, OMB Circular A-11 § 120 (describing that apportionments are legally-binding documents that are approved by an OMB Deputy Associate Director (DAD), which is a career position).

funds management processes and require closer examination by our committees to inform appropriate legislative responses and reforms.

Therefore, to support our committees' efforts, we request that OMB produce written responses to the committees, no later than Tuesday, October 1, 2019, to the following questions:

(1) a. When did OMB first instruct agencies to withhold assistance for Ukraine, including amounts appropriated in section 9013 of the Department of Defense Appropriations Act, 2019 for the Ukraine Security Assistance Initiative and any applicable amounts provided in other appropriation acts for the Foreign Military Financing Program?
   b. In which Treasury Appropriation Fund Symbol(s) (TAFS or account) were amounts withheld?
   c. When was the first apportionment action executed for (each of) the relevant account(s) to withhold those funds?
   d. Were the withheld funds made available for immediate use by the agencies during fiscal year 2019, and if so, when?

(2) a. When did OMB first instruct agencies to withhold funding in the accounts referenced in the letter apportionment effective as of 11:59pm Eastern Daylight Time on Saturday, August 3, 2019 ("August 3, 2019 Letter Apportionment")?[9]
   b. When were the first apportionment actions executed to withhold those funds?
   c. Were the withheld funds made available for immediate use by the agencies during fiscal year 2019, and if so, when?

No later than Tuesday, October 1, 2019, we also request that OMB produce the following documentation to the committees:

(3) All apportionments or reapportionments for fiscal year 2019 that were executed in the last quarter of fiscal year 2019, including documentation of the approval date of each such apportionment action and any footnotes, for any applicable TAFS used for assistance for Ukraine or the Ukraine Security Assistance Initiative appropriation, including the Department of Defense, Operation and Maintenance, Defense-wide account, 97-0100/2019 and account(s) for any applicable amounts provided in other appropriation acts for the Foreign Military Financing Program.

(4) All apportionments and reapportionments for fiscal year 2019 that were executed in the last quarter of fiscal year 2019, including documentation of the approval date of each such apportionment action and any footnotes, for each TAFS referenced in the August 3, 2019 Letter Apportionment and any applicable child accounts.

Finally, we request that OMB produce documentation to the committees, no later than Friday, October 11, 2019, on the following:

[9] August 3, 2019 Letter Apportionment, *available at* https://int.nyt.com/data/documenthelper/1613-letter-foreign-aid/00439a43706d0dbbe8b2/optimized/full.pdf.

(5) Documentation sufficient to show the obligational status of the relevant assistance funding to Ukraine by account, including all amounts appropriated in section 9013 of the Department of Defense Appropriations Act, 2019 and any applicable amounts provided in other appropriation acts for the Foreign Military Financing Program, as of June 30, 2019 and as of September 30, 2019, including the specific amounts that were (a) unobligated, (b) obligated but not expended, and (c) obligated and expended.

(6) Documentation sufficient to show:
   a. when OMB first instructed agencies to withhold assistance for Ukraine, including amounts appropriated in section 9013 of the Department of Defense Appropriations Act, 2019 and any applicable amounts provided in other appropriation acts for the Foreign Military Financing Program;
   b. the amount of funding that was withheld from obligation, and in which account(s);
   c. when the first apportionment action was executed to withhold those funds;
   d. the period over which the funds were withheld;
   e. whether the funds were, subsequent to those withholdings, made available for immediate use by the agencies during fiscal year 2019, and if so, when;
   f. the factual, legal, and policy bases upon which these actions were taken; and
   g. whether requests were made by the affected agencies to reapportion the funding at issue, or to alter the conditions of the apportionments in effect, and if so, whether those requests were granted.

(7) Documentation sufficient to show:
   a. whether there was an "interagency process" related to the withholding or use of amounts appropriated in section 9013 of the Department of Defense Appropriations Act, 2019, and the basis for initiating such interagency process, including its stated purposes and goals;[10]
   b. what entities or agencies were involved in such interagency process;
   c. when that process began; and
   d. the conclusions reached through that process and when they were reached, including the outcomes of any interagency meetings that occurred on July 23, 2019 and July 26, 2019 related to the disposition of the funding.

(8) Documentation sufficient to show the obligational status of all amounts apportioned as unavailable in the August 3, 2019 Letter Apportionment. This documentation should show the status of those funds as of June 30, 2019 and as of September 30, 2019, and should show, at a minimum, the specific amounts by account that were (a) unobligated, (b) obligated but not expended, and (c) obligated and expended.

(9) Documentation sufficient to show:

[10] Washington Post, Sept. 23.

a. when OMB first instructed agencies to withhold funding in the accounts referenced in the August 3, 2019 Letter Apportionment;
b. how much funding was withheld from obligation in each account, and over what period the amounts were withheld;
c. when the first apportionment actions were executed to withhold those funds;
d. whether the funds were, subsequent to those withholdings, made available for immediate use by the agencies during fiscal year 2019, and if so, when;
e. the factual, legal, and policy bases upon which these actions were taken; and
f. whether requests were made by the affected agencies to reapportion the funding at issue, or to alter the conditions of the apportionments in effect, if any, and whether those requests were granted.

(10) Documentation sufficient to show the timeline and basis for the delegation of apportionment authority to the Associate Director for National Security Programs, any related delegation actions, and any other delegations of the apportionment authority to a political appointee during fiscal year 2019.

(11) All apportionments and reapportionments for fiscal year 2019 that were executed in the first three quarters of fiscal year 2019, including documentation of the approval date of each such apportionment action and any footnotes, for any applicable TAFS used for assistance for Ukraine or the Ukraine Security Assistance Initiative appropriation, including the Department of Defense, Operation and Maintenance, Defense-wide account, 97-0100/2019 and account(s) for any applicable amounts provided in appropriation acts for the Foreign Military Financing Program.

(12) All apportionments and reapportionments for fiscal year 2019 that were executed in the first three quarters of fiscal year 2019, including documentation of the approval date of each such apportionment action and any footnotes, for each TAFS referenced in the August 3, 2019 Letter Apportionment and any applicable child accounts.

Thank you for your prompt attention to this matter.

Sincerely,

John A. Yarmuth
Chairman
House Committee on the Budget

Nita M. Lowey
Chairwoman
House Committee on Appropriations

Cooper & Kirk
Lawyers
A Professional Limited Liability Company

Charles J. Cooper
(202) 220-[redacted]

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

(202) 220-[redacted]
Fax (202) 220-[redacted]

October 26, 2019

Daniel S. Noble, Esq.
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Washington, D.C. 20515

Dear Mr. Noble:

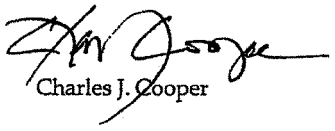
I write in response to the letter of this evening sent by Chairman Schiff, Chairman Engel, and Acting Chair Maloney (the "House Chairs). As the District of Columbia rules of professional ethics prohibit lawyers from communicating directly with represented parties, we are directing our response to you. We make three points.

First, contrary to the assertion of the House Chairs, the lawsuit Dr. Kupperman filed last night asking the Judicial Branch to resolve the constitutional dispute between the Legislative and Executive Branches was not coordinated, nor even discussed, with anyone in the White House before it was filed. The White House had no advance knowledge of the lawsuit, and we informed the White House Counsel that the suit had been filed at the same time we notified you and other members of House staff. To be sure, we did inform the White House Counsel that we expected the Committee to subpoena Dr. Kupperman, and as stated in the Complaint, we provided a copy of the subpoena to the White House Counsel when we received it. But these contacts were only for the purpose ascertaining whether the President would assert absolute testimonial immunity and instruct Dr. Kupperman not to testify.

Second, your clients apparently misapprehend the nature and purpose of Dr. Kupperman's lawsuit. The House Chairs' letter offers an extended argument on the merits of whether the absolute testimonial immunity asserted by the President is valid, but Dr. Kupperman's Complaint makes clear that he takes no position on whether the Legislative Branch or the Executive Branch should prevail on this issue. He seeks only to carry out whichever constitutional obligation the Judicial Branch determines to be lawful and binding on him. We believe the arguments of both Branches are substantial and are offered in good faith. The arguments advanced by the House Chairs are properly directed to the Court.

Third, as stated in the Complaint, it would not be appropriate for a private citizen like Dr. Kupperman to unilaterally resolve this momentous Constitutional dispute between the two political branches of our Government. If Dr. Kupperman appears pursuant to the House's subpoena notwithstanding the President's contrary instruction, the issue will be resolved – indeed, it will be mooted. The proper course for Dr. Kupperman, we respectfully submit, is to lay the conflicting positions before the Court and abide by the Court's judgment as to which is correct.

Sincerely,



Charles J. Cooper

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Lawyers
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Charles J. Cooper
(202) 220-[redacted]

1523 New Hampshire Avenue, N.W.
Washington, D.C. 20036

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October 27, 2019

Daniel S. Noble, Esq.
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Washington, D.C. 20515

Dear Mr. Noble:

We have received just now your clients' letter reiterating their position that the House's subpoena commanding Dr. Kupperman's testimony is "lawful," that President Trump's contrary assertion of testimonial immunity for Dr. Kupperman is "baseless," and that "there is no valid or justiciable legal claim for [Dr. Kupperman] to make to a court to prevent his appearance." We want to assure your clients, again, that it is not Dr. Kupperman who contests your clients' constitutional claim. It is President Trump, and every President before him for at least the last half century, who have asserted testimonial immunity for their closest confidential advisors. If your clients' position on the merits of this issue is correct, it will prevail in court, and Dr. Kupperman, I assure you again, will comply with the Court's judgment.

Sincerely,

Charles J. Cooper

Charles J. Cooper

PAUL
HASTINGS

[redacted]

November 4, 2019

Adam B. Schiff
Chairman
Permanent Select Committee on Intelligence
United States House of Representatives
Washington, DC 20515

Re: Sworn Testimony of Ambassador Gordon Sondland

Dear Chairman Schiff:

Pursuant to Rule 8 of the 116th Congress Regulations for Use of Deposition Authority and Rule 8(e)(2)(B) of the Rules for the House Permanent Select Committee on Intelligence, please find attached the Declaration of Ambassador Gordon Sondland, which supplements his testimony of October 17, 2019. In accordance with the House and Committee rules, this letter and the attached Declaration should be included as an appendix to his sworn testimony.

Ambassador Sondland has reviewed and approved the attached Declaration and his sworn testimony. His signature on the attached Declaration shall serve, in accordance with the relevant rules, as his affirmation that he has also reviewed and approved the transcript of his testimony.

Sincerely,

Robert D. Luskin
Kwame J. Manley

PAUL HASTINGS LLP

PAUL
HASTINGS

[redacted]

October 17, 2019

Adam B. Schiff
Chairman
Permanent Select Committee on Intelligence
United States House of Representatives
Washington, DC 20515

Elijah E. Cummings
Chairman
Committee on Oversight and Reform
United States House of Representatives
Washington, DC 20515

Eliot L. Engel
Chairman
Committee on Foreign Affairs
United States House of Representatives
Washington, DC 20515

Re: Document Subpoena

Dear Chairmen Schiff, Cummings, and Engel:

I write in response to your letter dated October 14, 2019, regarding the subpoena issued to Ambassador Gordon Sondland by the House Committees.

As we have discussed, all of the responsive documents you have requested are federal records under the Federal Records Act. *See* 44 U.S.C. §3301. Ambassador Sondland has taken pains to ensure that all potentially responsive documents, regardless of the device or platform on which they were created, have been turned over to the State Department in accordance with applicable regulations. These records are in the possession, custody, and control of the State Department. Under law and the State Department regulations, Ambassador Sondland is precluded, in his personal capacity, from producing these official records. Respectfully, therefore, Ambassador Sondland cannot comply with the Committees' document requests.

The State Department has asserted that disclosure of these materials may implicate executive privilege, confidentiality, and other constitutional interests of the executive branch. On that basis and others, the State Department has directed Ambassador Sondland and other similarly situated employees not to provide documents without State Department's approval. *See* Letter from Michael R. Pompeo, Secretary of State, to Eliot L. Engel, Chairman, United States House of Representatives Committee on Foreign Affairs (Oct. 1, 2019); Letter from Brian Bulatao, Under Secretary of State, State Department, to Robert Luskin, Attorney, Paul Hastings (Oct. 16, 2019); *see also* 12 FAM 543(c) (requiring State Department employees to "be sure that [any]

distribution [of non-classified sensitive business information] is permissible and, when required, specifically authorized").

The White House has also taken the view that "[i]t is not up to an individual employee or former employee to undertake that analysis herself and to disclose privileged information based on her own individual assessments." Letter from Michael M. Purpura, Deputy Counsel, White House, to Lee S. Wolosky, Boies Schiller Flexner LLP (October 14, 2019).

As a matter of law, Ambassador Sondland is not free to substitute his views on this matter for those of his employer, the State Department. The courts have consistently affirmed the view that the Executive and Legislative branches should resolve any such disclosure issues among themselves. *See United States v. American Tel. & Tel. Co.*, 567 F.2d 121 (D.C. Cir. 1977); *Comm. on the Judiciary v. Miers,* 558 F. Supp. 2d 53, 57 (D.D.C. 2008) ("strongly encourage[ing] the political branches to resume their discourse and negotiations in an effort to resolve their differences constructively").

Ambassador Sondland has encouraged the State Department to provide the Committees with the requested documents in advance of his deposition. He strongly believes that disclosure will lead to a more fulsome and accurate inquiry into the matters at issue and will corroborate the testimony that he will give in key respects. However, the choice is not his to make, and so we must regretfully decline to produce the documents that the Committees have requested from Ambassador Sondland.

Sincerely,

Robert D. Luskin
Kwame J. Manley

PAUL HASTINGS LLP

ROBBINS | RUSSELL
Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP

Lawrence S. Robbins

202.775[redacted]
lrobbins@[redacted]

October 11, 2019

The Honorable Brian Bulatao
Under Secretary of State for Management
U.S. Department of State
Washington, D.C. 20520

Dear Mr. Bulatao:

In my capacity as counsel for Ambassador Marie Yovanovitch, I have received your letter of October 10, 2019, directing the Ambassador not to appear voluntarily for her scheduled deposition testimony on October 11, 2019 before the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Oversight and Reform in connection with the House of Representatives's impeachment inquiry. Just this morning, the Ambassador received a subpoena issued by the House Permanent Select Committee on Intelligence, requiring her to appear for the deposition as scheduled.

Although the Ambassador has faithfully and consistently honored her professional duties as a State Department employee—including at all times following her abrupt termination as U.S. Ambassador to Ukraine—she is unable to obey your most recent directive. As the recipient of a duly issued congressional subpoena, Ambassador Yovanovitch is, in my judgment, legally obligated to attend the deposition as scheduled. *See United States v. Nixon*, 418 U.S. 683, 706 (1974) ("[N]either the doctrine of separation of powers, nor the need for confidentiality of high-level communications, without more, can sustain an absolute, unqualified Presidential privilege of immunity from judicial process under all circumstances."); *Nixon v. Adm'r of Gen. Servs.*, 433 U.S. 425, 454 (1977) ("[W]e believe that the claims of Presidential privilege clearly must yield to the important congressional purposes of preserving the materials and maintaining access to them for lawful governmental and historical purposes"); *In re Sealed Case*, 121 F.3d 729, 752 (D.C. Cir. 1997) ("Not every person who plays a role in the development of presidential advice, no matter how remote and removed from the President, can qualify for the [presidential communications] privilege. In particular, the privilege should not extend to staff outside the White House in executive branch agencies.").

Accordingly, barring some intervening court order to the contrary, Ambassador Yovanovitch intends to comply with the subpoena and attend today's scheduled deposition.

Sincerely,

/s/ Lawrence S. Robbins
Lawrence S. Robbins
Counsel to Amb. Marie Yovanovitch

Akin Gump
STRAUSS HAUER & FELD LLP

MARK MACDOUGALL
202.887.[redacted] fax: 202.887.[redacted]

October 25, 2019

VIA E-MAIL

Nicolas A. Mitchell, Esq.
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Capitol Visitor Center HVC-304
US Capitol Building
Washington, DC 20515-6415

Dear Mr. Mitchell,

I am writing to acknowledge your letter dated October 24, 2019, which I received by e-mail yesterday evening, in which you seek to schedule the testimony by oral deposition of Catherine Croft and Christopher Anderson. As you know, Ms. Croft and Mr. Anderson are career Foreign Service Officers and so we are in the process of contacting the Office of the Legal Adviser of the Department of State in an effort to learn the disposition of that Office with regard to the Committee's request.

We will be back in contact with you once know more – which I expect will be later today. Until then, we can offer no response or commitment with regard to the Committee's request.

Best regards,

Mark J. MacDougall

Cc: Abbey E. McNaughton

BAILEY GLASSER LLP

1055 Thomas Jefferson St. NW
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Tel: 202 463 [redacted]
Fax: 202 463 [redacted]

Brian A. Glasser
[redacted]

November 5, 2019

The Honorable Adam B. Schiff, Chairman
House Permanent Selection Committee on Intelligence
The Honorable Eliot L. Engel, Chairman
House Committee on Foreign Affairs
The Honorable Carolyn B. Maloney, Acting Chairwoman
House Committee on Oversight and Reform

Re: Request for Deposition to the Honorable David Hale

Dear Mr. Schiff, Mr. Engel and Ms. Maloney:

I am personal counsel to David Hale and am in receipt of the invitation from your committees for the appearance of Mr. Hale at a deposition on Wednesday, November 6, 2019, at 9:00 AM. Mr. Hale would be willing to testify pursuant to a subpoena.

It is also our understanding, from speaking with your staff counsel, that Mr. Hale is free to bring with him any documents that may assist him in providing the most accurate testimony possible to the committees, and that those documents will remain solely in his possession and will under no circumstances be reviewed by, or taken by, the committees.

With this understanding, we will accept a subpoena for Mr. Hale's deposition. Please advise if our understanding on documents is correct and how the committees will deliver the subpoena.

Sincerely,

Brian Glasser

Brian A. Glasser

cc. The Honorable David Hale
Cary Joshi

BSF | BOIES SCHILLER FLEXNER

VIA EMAIL

November 18, 2019

Michael M. Purpura, Esq.
Deputy Assistant to the President and Deputy Counsel to the President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C.

Dear Mr. Purpura:

I write to follow-up on our exchange of letters on Sunday, October 13 and Monday, October 14, 2019 concerning the testimony of our client Dr. Fiona Hill.

As you know, following our exchange of letters, the U.S. House of Representatives' Permanent Select Committee on Intelligence, in consultation with the Committee on Foreign Affairs and Committee on Oversight and Reform (collectively, the "Committees"), issued a subpoena for Dr. Hill's testimony. Dr. Hill appeared before the Committees and provided testimony on October 14, 2019 pursuant to that subpoena. At her deposition, I made clear to the Committees that Dr. Hill's testimony was offered subject to our letter exchange and any rulings made by the Chair. Oct. 14, 2019 Hill Dep. Tr. at 18:20–19:6.

You have now had an opportunity to review Dr. Hill's testimony, as it was publicly released on Friday, November 8. We have not received any communications from you since either Dr. Hill's testimony on October 14 or its public release on November 8. We continue to disagree with regard to the parameters of executive privilege as you articulated it on October 14 and our prior telephone calls.[1] And as you know, we do not believe that it is incumbent on the

[1] Notably, the privilege context has changed in two important ways since our prior communications. First, the Committees have released 13 transcripts from current and former administration officials, totaling 3,514 pages of testimony. Chad Pergram (@ChadPergram), Twitter (Nov. 16, 2019, 4:17 PM), https://twitter.com/ChadPergram/status/1195813182830522370. There cannot logically be any assertion of privilege over the information contained in these publicly available transcripts. *See* Letter from Lee S. Wolosky to Michael M. Purpura & Patrick F. Philbin, Deputy Counsels to the President at 2 (Oct. 13, 2019) ("[M]atters which have been made public . . . are likely not protected as confidential by executive privilege because they are, by their very nature, no longer confidential."); *id.* at 1 (quoting *Nixon v. Sirica*, 487 F.2d 700, 761 n.128 (D.C. Cir. 1973) (MacKinnon, J., concurring and dissenting in part) ("Naturally, if a document or a tape is no longer confidential because it has been made public, it would be nonsense to claim that it is privileged . . . ."")). Second, in your October 14 letter, you wrote that "even if it were the case that executive privilege operates differently in connection with an impeachment inquiry, there is no ground for Dr. Hill to believe that she may disclose privileged information on that basis" as "the House has not authorized any committee to conduct an impeachment inquiry." Letter from Michael M. Purpura, Deputy Counsel to the President, to Lee S. Wolosky at 2–3 (Oct. 14, 2019). On October 31, 2019, the House directed the Committees "to continue their ongoing investigations as part of the existing House of Representatives inquiry into whether sufficient grounds exist for the House of Representatives to exercise its Constitutional power to impeach" President Trump. H. Res. 660, 116th Cong. (2019). We trust that the passage of this resolution obviates this specific concern. *See also In re Application of Comm. on Judiciary, U.S. House of Representatives, for an Order Authorizing Release of Certain Grand Jury Materials*, --- F. Supp. 3d ----, 2019 WL 5485221, at *27–30 (D.D.C. Oct. 25, 2019).

witness or her counsel to assert the Executive Branch's privilege; we continue to believe the issue of participation of agency counsel in the taking of witness testimony remains an issue that must be resolved between the executive and legislative branches. We nonetheless set forth the White House's position with regard to executive privilege, and we entered your October 14 letter into the record of the proceedings. Oct. 14, 2019 Hill Dep. Tr. at 18:20–19:6 ("MR. WOLOSKY: . . . I would like to enter into the record a letter of today's date, October 14, 2019, from Michael Purpura of the White House Counsel's [O]ffice governing the subjects or addressing the subjects of executive privilege and classification, along with a letter from me to Mr. Purpura dated October 13, 2019. I'd like to make it clear that Dr. Hill is testifying today subject to the contents . . . of the White House Counsel's Office's letter, also pursuant to the subpoena she received today, and pursuant to any rulings that are made by the chair during the pendency of these proceedings.").

Moreover, regardless of any disagreement on the scope and extent of the applicable privileges, the substance of Dr. Hill's testimony clearly fell within the guidance as to specific subject matters that you provided telephonically and in your October 14 letter. Dr. Hill has not disclosed any classified information (*see* Oct. 14, 2019 Hill Dep. Tr. at 361:11–18, 362:3–8, 363:10–21), and in at least one instance she refused to answer a question because it could have called for the disclosure of classified information. *See id.* at 87:19–20, 138:13–16. Further, Dr. Hill did not (and could not) provide the Committees with any information about "diplomatic communications or to deliberative processes related to the [July 25] call" between the President and President Zelensky. *See* Letter from Michael M. Purpura to Lee S. Wolosky, *supra* note 1, at 2. As Dr. Hill testified, she was not aware that the July 25 call was taking place and did not participate in any preparation for that call before the conclusion of her duties at the White House on July 19. *See* Oct. 14, 2019 Hill Dep. Tr. at 88:22–89:8. Nor has Dr. Hill provided any testimony concerning non-public information about "communications between the President and foreign heads of state and other diplomatic communications." *See* Letter from Michael M. Purpura to Lee S. Wolosky, *supra* note 1, at 1; Oct. 14, 2019 Hill Dep. Tr. at 12:11–14 (statement of Rep. Jordan), 138:13–16.

As you are likely aware, Dr. Hill has been invited to provide testimony in an open hearing before the House of Representatives' Permanent Select Committee on Intelligence on Thursday, October 21. To the extent that you have any additional concerns that you would like to raise concerning the issue of executive privilege before that date, please let us know. Again, we reiterate that Dr. Hill remains mindful of her legal obligations with regard to classified information, and she intends to strictly abide by those obligations.

We appreciate your engagement with us throughout this process, and again welcome your views, including any potential areas of disagreement that you may have.

Thank you,

/s/ Lee S. Wolosky

Lee S. Wolosky

BSF | BOIES SCHILLER FLEXNER

VIA EMAIL

October 13, 2019

Michael M. Purpura, Esq.
Patrick F. Philbin, Esq.
Deputy Assistants to the President and Deputy Counsels to the President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C.

Dear Messrs. Purpura and Philbin:

I write to follow-up on our telephone conversation on Friday, October 11, 2019. During that conversation, I confirmed that our client, Dr. Fiona Hill, will attend a transcribed deposition on October 14 to be taken by the House of Representatives' Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform (the "Committees").

As I told you by phone, Dr. Hill is mindful of her legal obligations with regard to any classified information she possesses or has knowledge of, and she intends to strictly abide by those obligations.

You also raised the issue of executive privilege. While you represented on the phone call that the White House does not believe that the entirety of Dr. Hill's testimony is subject to executive privilege, you noted your position that certain areas of her potential testimony may be subject to that privilege. The first area consisted of "direct communications with the President". The second area consisted of "diplomatic communications," such as "meetings with other heads of state" or "staffing the President on calls with foreign heads of state". After the call, you sent us four documents supporting your view.

We have reviewed those documents and are mindful of the discussion therein. We understand that executive privilege is a qualified privilege that may be overcome by an adequate showing of need. *See, e.g.*, *In re Sealed Case*, 121 F.3d 729, 737, 745 (D.C. Cir. 1997). We also understand that executive privilege likely does not apply to information which is no longer confidential and has come within the sphere of public knowledge through broad disclosures. *See Nixon v. Sirica*, 487 F.2d 700, 761 n.128 (D.C. Cir. 1973) ("Naturally, if a document or a tape is no longer confidential because it has been made public, it would be nonsense to claim that it is privileged . . . ." (quoting Prof. Alexander Bickel, *Wretched Tapes (Cont.)*, N.Y. Times, Aug. 15, 1973, at 37, https://www.nytimes.com/1973/08/15/archives/wretched-tapes-cont-wretched-tapes.html)).

The White House has publicly released the Memorandum of Telephone Conversation of President Trump's July 25, 2019 phone call with President Zelensky of Ukraine. And President

Trump has extensively and publicly discussed that call. *See, e.g.*, Remarks by President Trump and President Niinistö of the Republic of Finland Before Bilateral Meeting, The White House (Oct. 2, 2019), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-president-niinisto-republic-finland-bilateral-meeting/. The August 12, 2019 whistleblower complaint and information discussed therein are also now a matter of public record, having been affirmatively declassified and thrust into the public domain by the White House itself. Michael D. Shear, *Complaint Asserts a White House Cover-Up*, N.Y. Times, Sept. 27, 2019, at A1, https://www.nytimes.com/2019/09/26/us/politics/whistleblower-complaint-released.html. President Trump has extensively and publicly discussed that report. *See, e.g.*, Remarks by President Trump Before Marine One Departure, The White House (Oct. 3, 2019), https://www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-67/. It is our view that these and other matters which have been made public through affirmative actions of White House and/or media reports are likely not protected as confidential by executive privilege because they are, by their very nature, no longer confidential.

Finally, we understand that deliberative process privilege "disappears altogether when there is any reason to believe government misconduct occurred." *Sealed Case*, 121 F.3d at 746. And as lawyers with the Justice Department's Office of Legal Counsel have previously written, prior presidents have largely agreed that executive privilege operates differently in the context of an impeachment inquiry. *See* Office of Legal Counsel, U.S. Dep't of Justice, *Legal Aspects of Impeachment: An Overview*, app. 3, 22-32 (1974). This appears to be a foundational principle of our nation's constitutional system of governance. For example, President James K. Polk stated in 1846 that "[i]f the House of Representatives is the grand inquest of the Nation and should at any time have reason to believe that there has been malversation in office and should think proper to institute an investigation into the matter, all the archives, public or private, would be subject to the inspection and control of a committee of their body and every facility in the power of the Executive afforded them to prosecute the investigation." *Id.* at 12-13, 23-24.

We understand and are mindful that there may be disagreement on these legal issues. To that end, we would welcome your views, including any potential areas of disagreement you may have with our analysis.

Finally, during our call, I noted that any discussion regarding the possible attendance of agency counsel at Dr. Hill's interview is a matter for resolution between the White House and the Committees. Please keep us advised of any developments in that regard.

Thank you,

/s/ Lee S. Wolosky

Lee S. Wolosky

MOLOLAMKEN

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November 11, 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Re: Correction to the transcript of Jennifer Williams's deposition testimony

Dear Chairman Schiff:

We write on behalf of Jennifer Williams under Rule 8 of the 116th Congress's Regulations for Use of Deposition Authority. Ms. Williams has reviewed the transcript of her deposition testimony from November 7, 2019, and wishes to amend it as described below.

At her deposition, Ms. Williams was asked whether the Ukrainian company Burisma was mentioned by name during the call between President Trump and President Zelensky on July 25, 2019. She testified that it was. Tr. at 66-67, 129. She was then asked who had mentioned it and whether she had taken notes. Ms. Williams testified that she had taken notes, and that she believed her notes reflected that President Trump had referenced Burisma. *Id.* At the time of her testimony, that was Ms. Williams's recollection.

Following the deposition, Ms. Williams reviewed her notes again and discovered that her recollection had been incorrect. Her notes reflect that President Zelensky mentioned Burisma during the July 25 call. They do not indicate that President Trump did so. Accordingly, Ms. Williams wishes to amend her response to the question discussed above so that it accurately reflects what she recorded during the call.

We thank the Committee for considering this letter.

Sincerely,

Justin V. Shur
Emily K. Damrau
Caleb Hayes-Deats
Counsel to Jennifer Williams

Jennifer Williams

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CHARLES M. KUPPERMAN *Plaintiff,* v. UNITED STATES HOUSE OF REPRESENTATIVES, *et al.,* *Defendant.*	)	Civil Action No. 19-3224 (RJL)

NOTICE

Plaintiff respectfully submits a courtesy copy of our response to the letter of November 5 from Chairman Schiff, Chairman Engel, and Acting Chair Maloney withdrawing the subpoena issued to Dr. Kupperman, which the House Defendants attached to their Notice of Mootness and Motion to Vacate Briefing Schedule. *See* Exhibit A, Doc. 22-1 (Nov. 6, 2019). Attached hereto as Exhibit 1.

November 8, 2019

Respectfully submitted,

/s/Charles J. Cooper
Charles J. Cooper, Bar No. 248070
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1523 New Hampshire Avenue, NW
Washington, DC 20036
Telephone: (202) 220-9600
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November 8, 2019

BY ELECTRONIC MAIL
Douglas N. Letter, Esq.
General Counsel
United States House of Representatives
219 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Letter:

I write as counsel to Dr. Charles Kupperman and to Ambassador John Bolton, in response (1) to the letter of November 5 from Chairman Schiff, Chairman Engel, and Acting Chair Maloney (the "House Chairs") withdrawing the subpoena issued to Dr. Kupperman and (2) to recent published reports announcing that the House Chairs do not intend to issue a subpoena to Ambassador Bolton. As the District of Columbia rules of professional ethics prohibit lawyers from communicating directly with represented parties, we are directing our response to you. We write to make three points.

First, the House Chairs suggest in their November 5 letter that the validity of the President's assertion of absolute testimonial immunity and his instruction that Dr. Kupperman not appear to testify pursuant to the House's subpoena will be resolved in *Committee on the Judiciary v. McGahn*, No. 19-cv-2379 (D.D.C.). The House Chairs say that Dr. Kupperman, and presumably Ambassador Bolton, should therefore be "guided by the decision in *McGahn*." The House Chairs are mistaken.

In the *McGahn* case, the House Judiciary Committee acknowledged in its brief to the district court that the Supreme Court has "stated that for a Presidential adviser to share in the President's immunity, he 'first must show that the responsibilities of his office embraced a function so sensitive as to require a total shield from liability,' and 'then must demonstrate that he was discharging the protected function when performing the act for which' he is being questioned." Pls.' Reply Brief, *Committee on the Judiciary v. McGahn*, No. 19-cv-2379 (D.D.C.), Doc. 37 at 47 (Oct. 16, 2019) ("Brief") (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 803 (1982)). The Judiciary Committee further acknowledged the Supreme Court's language suggesting that

the President's absolute testimonial immunity "could apply to an exceedingly narrow category of 'aides entrusted with discretionary authority in such sensitive areas as national security or foreign policy' when necessary 'to protect the unhesitating performance of functions vital to the national interest.'" Brief at 46 (quoting *Harlow*, 457 U.S. at 812). The Committee's brief then emphasized to the district court that the information it sought from Mr. McGahn "did not involve the sensitive topics of national security or foreign affairs." *Committee on the Judiciary, U.S. House of Reps. v. Miers*, 558 F. Supp. 2d 53, 105 (D.D.C. 2008). *See* Brief at 46 ("[T]he Committee does not seek to question McGahn on such topics, and he was not performing sensitive national security or foreign affairs functions" during the events subject to the Committee's inquiry.).[1] The Judiciary Committee thus acknowledged that the assertion of absolute testimonial immunity at issue in *McGahn* might well have been valid if the Committee has sought information concerning national security and foreign affairs.

Here, unlike *McGahn*, information concerning national security and foreign affairs is at the heart of the the Committees' impeachment inquiry, and it is difficult to imagine *any* question that the Committees' might put to Dr. Kupperman that would not implicate these sensitive areas. After all, Dr. Kupperman was the Deputy National Security Advisor to the President throughout the period to your inquiry. The same is true, of course, of Ambassador Bolton, who was the National Security Advisor to the President, and who was personally involved in many of the events, meetings, and conversations about which you have already received testimony, as well as many relevant meetings and conversations that have not yet been discussed in the testimonies thus far.

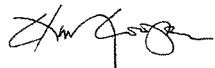
Second, the House Chairs assert that "current and former White House officials who worked alongside" Dr. Kupperman have chosen to appear and testify "despite White House efforts to prevent or limit their testimony." Letter from House Chairs at 2 (Nov. 5, 2019). As you know, the President has not asserted absolute testimonial immunity with respect to *any* of the witnesses who have testified thus far, nor instructed them not to appear pursuant to that immunity, because none of these witnesses, unlike Dr. Kupperman (and, of course, Ambassador Bolton), were within the scope of the immunity, for they did not provide direct advice to the President on a regular or frequent basis.

Third, we are dismayed that the Committees have chosen not to join us in seeking resolution from the Judicial Branch of this momentous Constitutional question as expeditiously as possible. It is important both to Dr. Kupperman and to Ambassador Bolton to get a definitive judgment from the Judicial Branch determining their Constitutional duty in the

[1] We note as well that Judge Bates' decision in *Miers*, 558 F.Supp.2d 53 at 55 (D.D.C. 2008) (Bates, J.), expressly recognized that Presidential assertions of absolute or qualified testimonial immunity may apply if the testimony sought implicates national security or foreign affairs.

face of conflicting demands of the Legislative and Executive Branches. As I emphasized in my previous responses to letters from the House Chairs, Dr. Kupperman stands ready, as does Ambassador Bolton, to testify if the Judiciary resolves the conflict in favor of the Legislative Branch's position respecting such testimony. The House Chairs are mistaken to say Dr. Kupperman's lawsuit is intended "to delay or otherwise obstruct the Committees' vital investigatory work." *Id.* Nor has the lawsuit been coordinated in any way with the White House, any more than it has been coordinated with the House of Representatives. If the House chooses not to pursue through subpoena the testimony of Dr. Kupperman and Ambassador Bolton, let the record be clear: that is the House's decision.

Sincerely,



Charles J. Cooper

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1300 I Street NW, Suite 900, Washington, District of Columbia 20005-3314 | TEL (202) 538-8000 FAX (202) 538-8100

WRITER'S DIRECT DIAL NO.
(202) 538-[redacted]

WRITER'S EMAIL ADDRESS
[redacted]

November 4, 2019

VIA EMAIL

The Honorable Eliot L. Engel
The Honorable Adam B. Schiff
The Honorable Carolyn B. Maloney
United States House of Representatives
Washington DC, USA

Re: Subpoena for Deposition of John A. Eisenberg

Dear Chairmen Engel and Schiff and Acting Chairwoman Maloney,

This firm represents John A. Eisenberg. As you are aware, Mr. Eisenberg is Assistant to the President, Deputy Counsel for National Security Affairs, and Legal Advisor to the National Security Council. In those roles, he serves as a senior advisor to the President.

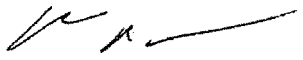
We are in receipt of the subpoena from the United States House of Representatives commanding that Mr. Eisenberg appear for testimony by deposition this morning at 9:00 AM EST. The subpoena was first emailed to Mr. Eisenberg on Friday evening, November 1, 2019, giving him not even a single business day to prepare for testimony. This is insufficient and unreasonable notice and imposes an undue burden on Mr. Eisenberg, especially in light of his legal and national security responsibilities in the White House.

Even if Mr. Eisenberg had been afforded a reasonable amount of time to prepare, the President has instructed Mr. Eisenberg not to appear at the deposition. Enclosed with this letter is the President's instruction as relayed by Pat A. Cipollone, Counsel to the President, in a letter dated November 3, 2019. We also enclose a letter, also dated November 3, 2019, from Steven A. Engel, Assistant Attorney General for the Office of Legal Counsel at the Department of Justice, to Mr. Cipollone advising that Mr. Eisenberg is "absolutely immune from compelled congressional testimony in his capacity as a senior advisor to the President." Under these circumstances, Mr. Eisenberg has no other option that is consistent with his legal and ethical obligations except to follow the direction of his client and employer, the President of the United States. Accordingly, Mr. Eisenberg will not be appearing for a deposition at this time.

In closing, we note that the relevant legal and constitutional questions underlying the congressional demand for Mr. Eisenberg's testimony are currently pending in the United States District Court for the District of Columbia in *Charles M. Kupperman* v. *United States House of*

Representatives et al., Civil Action No. 19-3224 (J. Leon). Mr. Eisenberg, as a lawyer and officer of the court, will abide by whatever final decision the federal judiciary reaches on the dispute between the Executive and Congress.

Respectfully submitted,



William A. Burck

cc: Derek Shaffer (Quinn Emanuel Urquhart & Sullivan LLP, counsel to Mr. Eisenberg)

Akin Gump
STRAUSS HAUER & FELD LLP

Paul W. Butler
202.887[redacted] fax: 202.887.[redacted]
[redacted]

November 4, 2019

VIA EMAIL

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Washington, D.C 20515
[redacted]

The Honorable Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515
[redacted]

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 2051
[redacted]

Re: Subpoena for Deposition of Michael Ellis

Dear Chairman Schiff, Acting Chairwoman Maloney and Chairman Engel:

We represent Mr. Michael Ellis. As you are aware, Mr. Ellis is Special Assistant to the President, Senior Associate Counsel to the President and Deputy Legal Advisor to the National Security Council.

We are in receipt of the subpoena from the United States House of Representatives served last night by email (November 3, 2019 at 9:20 p.m.) requesting Mr. Ellis to appear for deposition testimony some seventeen hours later (today, November 4, 2019 at 2 p.m.). Furthermore, Mr. Ellis was first informed of the Committees' interest in voluntary deposition testimony on October 30, 2019. Since that time, we have been engaged in ongoing discussions with Committee staff regarding the many legal issues raised by this request. Given this timeline and the responsibilities

of Mr. Ellis's positions, the notice provided by the subpoena is patently unreasonable and creates an undue burden on Mr. Ellis.

Moreover, as previously explained to Committee staff, Mr. Ellis has been directed by the White House not to appear for this deposition as noticed. This direction is based on an opinion from the United States Department of Justice, Office of Legal Counsel, stating that the failure to permit relevant Executive Branch agency counsel to attend any deposition of Mr. Ellis would not allow for sufficient protection of relevant privileges and would therefore render any subpoena constitutionally invalid. This is particularly true with respect to Mr. Ellis who, as Senior Associate Counsel to the President and Deputy Legal Advisor to the National Security Council, would have participated in numerous communications covered by multiple privileges. As an Executive Branch employee, Mr. Ellis is required to follow this direction.

We note that the Committee could readily avoid the problem raised by this subpoena by allowing Mr. Ellis to receive the assistance of agency counsel in any deposition. Mr. Ellis remains respectful of the lawful powers of the United States House of Representatives and, as a lawyer and member of the bar, remains willing to comply with a subpoena issued under lawfully valid terms and conditions, or any other resolution of this dispute between the Executive Branch and the Congress.

Respectfully submitted,

Paul W. Butler

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

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Whitney C. Ellerman
Attorney at Law
[redacted]

November 2, 2019

The Honorable Eliot L. Engel, Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Adam B. Schiff, Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Carolyn B. Maloney, Acting Chairwoman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Chairman Engel, Chairman Schiff, and Acting Chairwoman Maloney:

I represent Mr. Robert B. Blair, Assistant to the President and Senior Adviser to the Chief of Staff, with respect to the House of Representatives' impeachment inquiry. This letter is in response to your October 24, 2019, request that Mr. Blair appear and give testimony at a deposition to be conducted jointly by your Committees. Although your request asked Mr. Blair to appear on Friday, November 1, 2019, that date has been extended by your Committees to Monday, November 4, 2019.

Mr. Blair has been directed by the White House not to appear and testify at the Committees' proposed deposition, based on the Department of Justice's advice that the Committees may not validly require an executive branch witness to appear at such a deposition without the assistance of agency counsel. In light of the clear direction he has been given by the Executive Branch, Mr. Blair must respectfully decline to testify, as you propose, on Monday, November 4, 2019.

Mr. Blair understands that the Committee members may have a different view of the relevant law, and may disagree with the opinion of the Department of Justice, but he finds himself caught in the middle between the commands and assertions of legal duty by two co-equal branches of government. Therefore, Mr. Blair will comply with the direction of the White House and decline to appear for testimony, unless and until the White House provides him with different

instructions, or the courts determine finally that the law requires him to appear and testify despite the Executive Branch's directive that he not do so. It is not within Mr. Blair's power to resolve a conflict between the Legislative and Executive branches. Nevertheless, he will fulfill all his legal duties once that conflict is appropriately resolved.

Please contact me if you have any questions.

Sincerely,

Whitney Ellerman

NELSON MULLINS
BROAD AND CASSEL

Jon A. Sale, Of Counsel and Co-Chair White
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* In Florida, known as Nelson Mullins Broad and Cassel

October 15, 2019

VIA EMAIL

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Congress
Washington, D.C. 20515

Dear Mr. Mitchell:

I am writing on behalf of Mr. Rudolph W. Giuliani in response to the letter from Chairmen Schiff, Engel, and Cummings dated September 30, 2019, and the accompanying subpoena. Please accept this response as formal notice that Mr. Giuliani will not participate because this appears to be an unconstitutional, baseless, and illegitimate "impeachment inquiry." By way of this response, Mr. Giuliani adopts all the positions set forth in Mr. Cipollone's October 8, 2019 letter on behalf of President Donald J. Trump.

In addition, the subpoena is overbroad, unduly burdensome, and seeks documents beyond the scope of legitimate inquiry. Moreover, documents sought in the subpoena are protected by attorney-client, attorney work-product, and executive privileges.

Sincerely,

Jon A. Sale
Counsel for Rudolph W. Giuliani

Vinson&Elkins

Ronald J. Tenpas
Tel +1.202.639[redacted] Fax +1.202.879[redacted]

November 5, 2019

Congress of the United States
Washington, DC 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwomen
House Committee on Oversight and Reform

Dear Chairpersons Schiff, Engel and Maloney:

I write on behalf of T. Ulrich Brechbuhl with respect to the subpoena from the House of Representatives Permanent Select Committee on Intelligence for an appearance before your joint Committees on November 6, 2019. Mr. Brechbuhl respects the important Constitutional powers vested in the United States Congress. And, indeed, he would welcome the opportunity to address through testimony an existing inaccuracy in the public record -- the false claim that Mr. Brechbuhl in any way personally participated in the telephone call between President Trump and President Zelensky that occurred on July 25, 2019.

However, Mr. Brechbuhl has received a letter of instruction from the State Department, directing that he not appear. The State Department letter of instruction asserts significant Executive Branch interests as the basis for direction not to appear and also asserts that the subpoena Mr. Brechbuhl received is invalid. The letter is supported by an analysis from the United States Department of Justice.

V&E

We are also aware that litigation has recently been initiated in the United States District Court for the District of Columbia that may bear on resolving the significant issues now arising between the Committees and the President.

Given these current circumstances, Mr. Brechbuhl is not able to appear on November 6, 2019.

Sincerely,

Ronald J. Tenpas

Cc: The Honorable Michael McCaul, Ranking member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

COZEN O'CONNOR

November 4, 2019

VIA E-MAIL

Karen D. Williams
Direct Phone 202-304-[redacted]
Direct Fax 202-540-[redacted]

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform
Washington, D.C. 20515

Re: Preston Wells Griffith

Dear Chairman Schiff, Chairman Engel, and Acting Chairwoman Maloney:

As discussed with Committee counsel, Mr. Griffith respectfully declines to appear for a deposition before the joint Committees conducting the impeachment inquiry, based upon the direction of White House Counsel that he not appear due to agency counsel not being permitted. As of this writing, Mr. Griffith has not been subpoenaed to testify. Mr. Griffith has been put in a paramount dilemma between two equal branches of government: If he appears—either voluntarily or under subpoena—under the House rules, he could be held in contempt if he refuses to answer questions that implicate privilege. If he does not appear, as is the direction from the White House Counsel, he could also be held in contempt.

In the absence of agreement between the Executive branch and Congress, there are pending lawsuits relevant to the disputes between the Executive branch and Congress regarding the testimony of witnesses being sought in this inquiry. Mr. Griffith will abide by whatever final decision the federal judiciary reaches regarding privilege and the validity of a subpoena issued by the Committees. Alternatively, if Congress and the Executive branch reach resolution as to the conflicting issues facing witnesses, Mr. Griffith is prepared to perform his legal duties once the conflicting directives are resolved.

Should the Committees choose to issue a subpoena to Mr. Griffith, I will accept service on his behalf.

Sincerely,

COZEN O'CONNOR

Karen D Wil

By: Karen D. Williams

DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

OCT 22 2019

Daniel Levin
White & Case LLP
701 Thirteenth Street, NW
Washington, DC 20005-3807

Dear Mr. Levin:

I understand that you have been retained by Ms. Laura Cooper, the Department's Deputy Assistant Secretary of Defense for Russia, Ukraine, and Eurasia, as her private counsel for a deposition to be conducted jointly by the House Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform, "[p]ursuant to the House of Representatives' impeachment inquiry." The Department's October 15, 2019 letter to the Chairs of the three House Committees [Tab A] expressed its belief that the customary process of oversight and accommodation has historically served the interests of congressional oversight committees and the Department well. The Committees' purported "impeachment inquiry," however, presents at least two issues of great importance.

The first issue is the Committees' continued, blanket refusal to allow Department Counsel to be present at depositions of Department employees. Department Counsel's participation protects against the improper release of privileged or classified information, particularly material covered by the executive privilege which is the President's alone to assert and to waive. Excluding Department Counsel places the witness in the untenable position of having to decide whether to answer the Committees' questions or to assert Executive Branch confidentiality interests without an attorney from the Executive Branch present to advise on those interests. It violates settled practice and may jeopardize future accommodation. Furthermore, the Department of Justice has concluded that "congressional subpoenas that purport to require agency employees to appear without agency counsel are legally invalid and are not subject to civil or criminal enforcement." *See Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. (May 23, 2019) [Tab B].

The second issue is the absence of authority for the Committees to conduct an impeachment inquiry. In its October 15, 2019 letter, the Department conveyed concerns about the Committees' lack of authority to initiate an impeachment inquiry given the absence of a delegation of such authority by House Rule or Resolution. This correspondence echoed an October 8, 2019 letter from the White House Counsel [Tab C] expressing the President's view that the inquiry was "contrary to the Constitution of the United States and all past bipartisan precedent" and "violates fundamental fairness and constitutionally mandated due process."

This letter informs you and Ms. Cooper of the Administration-wide direction that Executive Branch personnel "cannot participate in [the impeachment] inquiry under these circumstances" [Tab C]. In the event that the Committees issue a subpoena to compel Ms. Cooper's appearance, you should be aware that the Supreme Court has held, in *United States v.*

Rumely, 345 U.S. 41 (1953), that a person cannot be sanctioned for refusing to comply with a congressional subpoena unauthorized by House Rule or Resolution.

To reiterate, the Department respects the oversight role of Congress and stands ready to work with the Committees should there be an appropriate resolution of outstanding legal issues. Any such resolution would have to consider the constitutional prerogatives and confidentiality interests of the co-equal Executive Branch, *see* Tab D, and ensure fundamental fairness to any Executive Branch employees involved in this process, including Ms. Cooper.

Sincerely,

Attachments:
As stated

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1300

LEGISLATIVE AFFAIRS

OCT 15 2019

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Messrs. Chairmen:

I write on behalf of the Department to confirm that we received your letter and subpoena of October 7, 2019, seeking the production of all documents and communications in the custody, possession, or control of the Department of Defense for fourteen categories of information no later than 5:00 pm on October 15, 2019. As your cover letter states, the Permanent Select Committee on Intelligence, in consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform, issued the subpoena "[p]ursuant to the House of Representatives' impeachment inquiry."

The Department understands the significance of your request for information and has taken steps to identify, preserve, and collect potentially responsive documents. The customary process of oversight and accommodation has historically served the interests of congressional oversight committees and the Department well. The Department is prepared to engage in that process consistent with longstanding practice and provide the responsive information should there be resolution of this matter.

The current subpoena, however, raises a number of legal and practical concerns that must first be addressed. For example, although your letter asserts that the subpoena has issued "[p]ursuant to the House of Representatives' impeachment inquiry," the House has not authorized your committees to conduct any such inquiry. The Supreme Court has long held that the first step in assessing the validity of a subpoena from a congressional committee is determining "whether the committee was authorized" to issue the subpoena, which requires "construfing] the scope of the authority which the House of Representatives gave to" the committee. *United States v. Rumely*, 345 U.S. 41, 42-43 (1953). Here, none of your committees has identified any House rule or House resolution that authorized the committees to begin an

inquiry pursuant to the impeachment power. In marked contrast with historical precedents, the House has not expressly adopted any resolution authorizing an impeachment investigation.

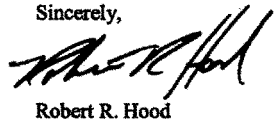
The House also has not delegated such authority to any of your three committees by rule. *See* H. Res. 6, 116th Cong. (2019). To the contrary, House Rule X is currently the only source of your three committees' jurisdiction, and that rule does not provide any of the committees the power to initiate an impeachment inquiry. Indeed, the rule does not mention impeachment at all. *See* H. Rule X, cl. 1(i), (n); cl. 11. Absent a delegation by House Rule or a resolution of the House, none of your committees has been delegated jurisdiction to conduct an investigation pursuant to the impeachment power under Article I, Section 2 of the Constitution.

Even if the inquiry were validly authorized, much of the information sought in the subpoena appears to consist of confidential Executive Branch communications that are potentially protected by executive privilege and would require careful review to ensure that no such information is improperly disclosed. Furthermore, as a practical matter, given the broad scope of your request, the time required to collect the documents, review them for responsiveness and relevant privileges, and produce responsive, non-privileged documents to the committee is not feasible within the mere eight days afforded to the Department to comply with the subpoena.

On a separate note, the Department also objects to your letter's assertion that the Secretary of Defense's "failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against [the Secretary] and the President." Invoking reasonable legal defenses to a subpoena, including invoking legal privileges that are held by the President, in no way manifests evidence of obstruction or otherwise warrants an adverse inference. Indeed, the very idea that reasonably asserting legal rights is itself evidence of wrongdoing turns fundamental notions of fairness on their head and is inconsistent with the rule of law. In fact, the department is diligently preserving and collecting potentially responsive documents.

In light of these concerns, and in view of the President's position as expressed in the White House Counsel's October 8 letter, and without waiving any other objections to the subpoena that the Department may have, the Department is unable to comply with your request for documents at this time. Nevertheless, the Department respects the oversight role of the appropriate committees of Congress, and stands ready to work with your committees should there be an appropriate resolution of this matter. Any such resolution would have to protect the constitutional prerogatives and confidentiality interests of the co-equal Executive Branch and ensure fundamental fairness to any Executive Branch employees involved in this process.

Sincerely,



Robert R. Hood
Assistant Secretary of Defense
for Legislative Affairs

Cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michaele McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

(Slip Opinion)

Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees

Congress may not constitutionally prohibit agency counsel from accompanying agency employees called to testify about matters that potentially involve information protected by executive privilege. Such a prohibition would impair the President's constitutional authority to control the disclosure of privileged information and to supervise the Executive Branch's communications with Congress.

Congressional subpoenas that purport to require agency employees to appear without agency counsel are legally invalid and are not subject to civil or criminal enforcement.

May 23, 2019

MEMORANDUM FOR THE ATTORNEY GENERAL
AND THE COUNSEL TO THE PRESIDENT

On April 2, 2019, the House Committee on Oversight and Reform (the "Committee") issued subpoenas seeking to compel testimony in two separate investigations from two witnesses: John Gore, Principal Deputy Assistant Attorney General for the Department's Civil Rights Division, and Carl Kline, the former head of the White House Personnel Security Office. The Committee sought to question both witnesses about matters that potentially involved communications that were protected by executive privilege. Although the Committee's Rule 15(e) permitted the witnesses to be accompanied at the depositions by private counsel, who would owe duties to the witnesses themselves, the rule purported to bar the presence of agency counsel, who would represent the interests of the Executive Branch.[1] Despite some efforts at accommodation on both sides, the Committee continued to insist that agency counsel could not attend the witnesses' depositions. In response to your requests, we advised that a congressional committee may not constitutionally compel an executive branch witness to testify about potentially privileged matters while depriving the witness of the assistance of agency counsel. Based upon our advice, Mr. Gore and Mr. Kline were directed not to appear at their depo-

[1] Tracking the text of the Committee's rule, which excludes "counsel . . . for agencies," we speak in this opinion of "agency counsel," but our analysis applies equally to all counsel representing the interests of the Executive Branch, no matter whether the witness works for an "agency," as defined by statute. *See, e.g.*, *Kissinger v. Reporters Comm. for Freedom of the Press*, 445 U.S. 136, 156 (1980) (holding that the Office of the President is not an "agency" for purposes of the Freedom of Information Act).

sitions without agency counsel. This memorandum explains the basis for our conclusions.

When this issue last arose, during the Obama Administration, this Office recognized "constitutional concerns" with the exclusion of agency counsel, because such a rule "could potentially undermine the Executive Branch's ability to protect its confidentiality interests in the course of the constitutionally mandated accommodation process, as well as the President's constitutional authority to consider and assert executive privilege where appropriate." *Authority of the Department of Health and Human Services to Pay for Private Counsel to Represent an Employee Before Congressional Committees*, 41 Op. O.L.C. __, *5 n.6 (Jan. 18, 2017) ("*Authority to Pay for Private Counsel*"). This Office, however, was asked to address only the retention of private counsel for a deposition and thus did not evaluate these constitutional concerns.

Faced squarely with the constitutional question here, we concluded that Congress may not compel an executive branch witness to appear without agency counsel and thereby compromise the President's constitutional authority to control the disclosure of privileged information and to supervise the Executive Branch's communications with congressional entities. The "Executive Branch's longstanding general practice has been for agency attorneys to accompany" agency employees who are questioned by congressional committees conducting oversight inquiries. *Id.* at *3. When an agency employee is asked to testify about matters within the scope of his official duties, he is necessarily asked to provide agency information. The agency must have the ability to protect relevant privileges and to ensure that any information provided on its behalf is accurate, complete, and properly limited in scope. Although private counsel may indirectly assist the employee in protecting privileged information, counsel's obligation is to protect the personal interests of the employee, not the interests of the Executive Branch. The Committee, therefore, could not constitutionally bar agency counsel from accompanying agency employees called to testify on matters within the scope of their official duties. In light of this constitutional infirmity, we advised that the Committee subpoenas purporting to require the witnesses to appear without agency counsel were legally invalid and not subject to civil or criminal enforcement.

I.

Congress generally obtains the information necessary to perform its legislative functions by making requests and issuing subpoenas for docu-

ments and testimony through its organized committees. *See, e.g.*, *Barenblatt v. United States*, 360 U.S. 109, 116 (1959); *Watkins v. United States*, 354 U.S. 178, 187–88 (1957). Committees typically seek the information they need from the Executive Branch first by requesting documents and sometimes voluntary interviews. Following such requests, a committee may proceed with a hearing at which Members of Congress ask questions of the witness, and such a hearing is usually open to the public. When executive branch employees appear—either at a voluntary interview or a hearing—agency counsel or another agency representative traditionally accompany them. *See, e.g.*, *Representation of White House Employees*, 4B Op. O.L.C. 749, 754 (1980).

Congressional committees have only rarely attempted to collect information by compelling depositions conducted by committee staff. *See* Jay R. Shampansky, Cong. Research Serv., 95-949 A, *Staff Depositions in Congressional Investigations* 1–2 & n.3 (updated Dec. 3, 1999) ("*Staff Depositions*"). Historically, these efforts were confined to specific investigations that were limited in scope. *See, e.g.*, *Inquiry into the Matter of Billy Carter and Libya: Hearings Before the Subcomm. to Investigate the Activities of Individuals Representing the Interests of Foreign Governments of the S. Comm. on the Judiciary*, 96th Cong. 1708–10, 1718–27, 1742 (1980) (discussing issues related to Senate resolution authorizing depositions by staff members). Recently, however, committees have made increasing use of depositions, and the House of Representatives has adopted an order in the current Congress that permits depositions to go forward without the presence of any Member of Congress. *See* H. Res. 6, 116th Cong. § 103(a)(1) (2019).

Although executive branch witnesses have sometimes appeared and testified at staff depositions, the Executive Branch has frequently objected to the taking of compelled testimony by congressional staff members. These objections have questioned whether committees may properly authorize staff to depose senior executive officials, whether Members of Congress must be present during a committee deposition, and whether the procedures for such depositions adequately protect the President's ability to protect privileged executive branch information. *See, e.g.*, H. Comm. on International Relations, 104th Cong., Final Report of the Select Subcommittee to Investigate the United States Role in Iranian Arms Transfers to Croatia and Bosnia 54–56 (Comm. Print 1997) (summarizing the White House's position that its officials would not "be allowed to sit for staff depositions, because to do so would intrude upon the President's 'deliberative process'"); *see also* Letter for Henry Waxman, Chairman, Commit-

tee on Oversight and Government Reform, U.S. House of Representatives, from Dinah Bear, General Counsel, Council on Environmental Quality at 1 (Mar. 12, 2007) ("Allowing Committee staff to depose Executive Branch representatives on the record would be an extraordinary formalization of the congressional oversight process and would give unelected staff powers and authorities historically exercised only by Members of Congress participating in a public hearing."); Letter for Henry A. Waxman, Chairman, Committee on Oversight and Government Reform, U.S. House of Representatives, from Stephanie Daigle, Associate Administrator, U.S. Environmental Protection Agency at 2 (Apr. 12, 2007) ("[T]he use of formal interviews by Committee counsel, transcribed by a court reporter, rather than the customary informal briefings, have the potential to be overly adversarial and to intimidate Agency staff."). No court has addressed whether Congress may use its oversight authority to compel witnesses to appear at staff depositions conducted outside the presence of any Member of Congress. Courts have recognized, however, that Congress's ability to "delegate the exercise of the subpoena power is not lightly to be inferred" because it is "capable of oppressive use." *Shelton v. United States*, 327 F.2d 601, 606 n.14 (D.C. Cir. 1963); *cf. United States v. Bryan*, 339 U.S. 323, 332 (1950) (concluding, in the context of a criminal contempt-of-Congress citation, that "respondent could rightfully have demanded attendance of a quorum of the Committee and declined to testify or to produce documents so long as a quorum was not present").

The question we address here arose out of the Committee's effort to compel two executive branch witnesses, Mr. Gore and Mr. Kline, to appear at depositions subject to the restrictions of Committee Rule 15(e). In relevant part, Rule 15(e) provides as follows:

> No one may be present at depositions except members, committee staff designated by the Chair of the Committee or the Ranking Minority Member of the Committee, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend.

H. Comm. on Oversight & Reform, 116th Cong., Rule 15(e). In both instances, the Committee sought executive branch information, including matters that implicated executive privilege, but it asserted the authority to compel the witness to answer questions without the assistance of agency counsel. We summarize here the efforts at accommodation made by the Executive Branch and the Committee in connection with the disputes.

Attempted Exclusion of Agency Counsel from Congressional Depositions

A.

The Committee subpoenaed Mr. Gore to testify about privileged matters concerning the Secretary of Commerce's decision to include a citizenship question on the 2020 United States Census. On March 7, 2019, Mr. Gore voluntarily appeared before the Committee, with the assistance of Department counsel, for a transcribed interview on the same topic. Mr. Gore answered all of the Committee's questions, except for those that were determined by Department counsel to concern confidential deliberations within the Executive Branch. The Department's interest in protecting this subject matter was particularly acute because the Secretary of Commerce's decision was subject to active litigation, and those challenges were pending in the Supreme Court. *See Dep't of Commerce v. New York*, No. 18-966 (U.S.) (argued Apr. 23, 2019). Some of the information sought by the Committee had previously been held by a federal district court to be protected by the deliberative process privilege, as well as other privileges, in civil discovery.

On April 2, the Committee served Mr. Gore with a deposition subpoena in an effort to compel responses to the questions that he did not answer during his March 7 interview. Committee staff advised that Committee Rule 15(e) required the exclusion of the agency counsel who had previously represented Mr. Gore. On April 9, the Department explained that the Committee's effort to bar Department counsel would unconstitutionally infringe upon the prerogatives of the Executive Branch. *See* Letter for Elijah E. Cummings, Chairman, Committee on Oversight and Reform, U.S. House of Representatives, from Stephen E. Boyd, Assistant Attorney General, Office of Legislative Affairs at 2–3 (Apr. 9, 2019). Because the Committee sought information from Mr. Gore relating to his official duties, the Department explained that agency counsel must be present to ensure appropriate limits to Mr. Gore's questioning, to ensure the accuracy and completeness of information provided on behalf of the Department, and to ensure that a Department official was not pressed into revealing privileged information. *Id.* The Attorney General determined that Mr. Gore would not appear at the deposition without the assistance of Department counsel. *Id.* at 3.

On April 10, 2019, the Committee responded by disputing the Department's constitutional view, contending that Committee Rule 15(e) had been in place for more than a decade and reflected an appropriate exercise of Congress's authority to determine the rules of its own proceedings. *See* Letter for William P. Barr, Attorney General, from Elijah E. Cummings,

Chairman, Committee on Oversight and Reform, U.S. House of Representatives at 2–3 (Apr. 10, 2019) ("April 10 Cummings Letter") (citing U.S. Const. art. I, § 5, cl. 2). The Committee advised that Mr. Gore could be accompanied by his private counsel, *id.* at 2, and offered to allow Department counsel to wait in a separate room during the deposition, *id.* at 3. The Committee stated that, if necessary, Mr. Gore could request a break during the deposition to consult with Department counsel. *Id.*

On April 24, 2019, the Department reiterated its constitutional objection and explained that the Committee's proposed accommodation would not satisfy the Department's need to have agency counsel assist Mr. Gore at the deposition. *See* Letter for Elijah E. Cummings, Chairman, Committee on Oversight and Reform, U.S. House of Representatives, from Stephen E. Boyd, Assistant Attorney General, Office of Legislative Affairs at 1 (Apr. 24, 2019). Mr. Gore therefore did not appear on the noticed deposition date.

B.

The Committee subpoenaed Mr. Kline to testify concerning the activities of the White House Personnel Security Office in adjudicating security clearances during his time as head of the Office. On March 20, 2019, the current White House Chief Security Officer, with representation by the Office of Counsel to the President ("Counsel's Office"), briefed the Committee's staff on the White House security clearance process for nearly 90 minutes and answered questions from a Member of Congress and staff. On April 1, 2019, the White House offered to have Mr. Kline appear voluntarily before the Committee for a transcribed interview.

Instead, the Committee subpoenaed Mr. Kline on April 2, 2019. The Committee indicated that Committee Rule 15(e) would bar any representative from the Counsel's Office from attending Mr. Kline's deposition. On April 18, 2019, the Counsel's Office advised the Committee that a representative from that office must attend to represent the White House's interests in any deposition of Mr. Kline. *See* Letter for Elijah E. Cummings, Chairman, Committee on Oversight and Reform, U.S. House of Representatives, from Michael M. Purpura, Deputy Counsel to the President at 2 (Apr. 18, 2019). The Counsel's Office relied on the views concerning the exclusion of agency counsel that were articulated by the Department in its April 9, 2019 letter to the Committee. *Id.* The Counsel's Office explained that the President has the authority to raise privilege

concerns at any point during a deposition, and that this could occur only if an attorney from the Counsel's Office accompanied Mr. Kline. *Id.*

On April 22, 2019, the Committee responded, stating, as it had in correspondence concerning Mr. Gore, that its rules were justified based upon Congress's constitutional authority to determine the rules of its proceedings. *See* U.S. Const. art. I, § 5, cl. 2. The Committee asserted that Committee Rule 15(e) had been enforced under multiple chairmen. *See* Letter for Pat Cipollone, Counsel to the President, from Elijah E. Cummings, Chairman, Committee on Oversight and Reform, U.S. House of Representatives at 3 (Apr. 22, 2019) ("April 22 Cummings Letter"). The Committee advised that Mr. Kline could be accompanied by his private counsel, and, as with Mr. Gore, offered to permit attorneys from the Counsel's Office to wait outside the deposition room in case Mr. Kline requested to consult with them during the deposition. *Id.*

In an April 22, 2019 reply, the Counsel's Office explained that, in light of the Committee's decision to apply Rule 15(e), the Acting Chief of Staff to the President had directed Mr. Kline not to attend the deposition for the reasons stated in the April 18, 2019 letter. *See* Letter for Elijah Cummings, Chairman, Committee on Oversight and Reform, U.S. House of Representatives, from Michael M. Purpura, Deputy Counsel to the President at 1 (Apr. 22, 2019). The Committee and the Counsel's Office subsequently agreed to a voluntary transcribed interview of Mr. Kline with the participation of the Counsel's Office. Mr. Kline was interviewed on May 1, 2019. He answered some of the Committee's questions, but at the direction of the representative from the Counsel's Office, he did not address particular matters implicating privileged information.

II.

Under our constitutional separation of powers, both Congress and the Executive Branch must respect the legitimate prerogatives of the other branch. *See, e.g.*, *INS v. Chadha*, 462 U.S. 919, 951 (1983) ("The hydraulic pressure inherent within each of the separate Branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted."); *United States v. Am. Tel. & Tel. Co.*, 567 F.2d 121, 127, 130–31 (D.C. Cir. 1977) ("[E]ach branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation."). Here, the Committee sought to apply Committee Rule 15(e) to compel executive branch officials to testify about poten-

tially privileged matters while barring agency counsel from the room. We concluded that the Committee could not constitutionally compel such an appearance for two reasons. First, the exclusion of agency counsel impairs the President's ability to exercise his constitutional authority to control privileged information of the Executive Branch. Second, the exclusion undermines the President's ability to exercise his constitutional authority to supervise the Executive Branch's interactions with Congress.

A.

Committee Rule 15(e) unconstitutionally interferes with the President's right to control the disclosure of privileged information. Both the Supreme Court and this Office have long recognized the President's "constitutional authority to protect national security and other privileged information" in the exercise of the President's Article II powers. *Authority of Agency Officials to Prohibit Employees from Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004) ("*Authority of Agency Officials*"); *see Dep't of the Navy v. Egan*, 484 U.S. 518, 527 (1988) (the President's "authority to classify and control access to information bearing on national security . . . flows primarily from this constitutional investment of power in the President [as Commander in Chief] and exists quite apart from any explicit congressional grant"); *United States v. Nixon*, 418 U.S. 683, 705–06 (1974) ("Certain powers and privileges flow from the nature of enumerated powers; the protection of the confidentiality of Presidential communications has similar constitutional underpinnings."). That authority is "not limited to classified information, but extend[s] to *all* . . . information protected by [executive] privilege," including presidential and attorney-client communications, attorney work product, deliberative process information, law enforcement files, and national security and foreign affairs information. *Authority of Agency Officials*, 28 Op. O.L.C. at 81 (emphasis added).[2] Protection of such information is "fundamental to the operation of Government and inextri-

[2] Although some of these components, such as deliberative process information, parallel aspects of common law privileges, each falls within the doctrine of executive privilege. *See, e.g., Whistleblower Protections for Classified Disclosures*, 22 Op. O.L.C. 92, 101–102 n.34 (1998); *Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 2, 3 (1996) (opinion of Attorney General Janet Reno) (observing that "[e]xecutive privilege applies" to certain White House documents "because of their deliberative nature, and because they fall within the scope of the attorney-client privilege and the work-product doctrine").

cably rooted in the separation of powers under the Constitution." *Nixon*, 418 U.S. at 708. It ensures that "high Government officials and those who advise and assist them in the performance of their manifold duties" can engage in full and candid decisionmaking, *id.* at 705, 708, and it is necessary to protect sensitive security and other information that could be used to the public's detriment.

The President may protect such privileged information from disclosure in the Executive's responses to congressional oversight proceedings. *See Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974). As we have explained, "[i]n the congressional oversight context, as in all others, the decision whether and under what circumstances to disclose classified information" or other forms of privileged information "must be made by someone who is acting on the official authority of the President and who is ultimately responsible to the President." *Whistleblower Protections for Classified Disclosures*, 22 Op. O.L.C. 92, 100 (1998) ("*Whistleblower Protections*"). Thus, "'Congress may not vest lower-ranking personnel in the Executive branch with a "right" to furnish national security or other privileged information to a member of Congress without receiving official authorization to do so.'" *Authority of Agency Officials*, 28 Op. O.L.C. at 80 (quoting March 9, 1998 Statement of Administration Policy on S. 1668, 105th Cong.); *see Constitutionality of the Direct Reporting Requirement in Section 802(e)(1) of the Implementing Recommendations of the 9/11 Commission Act of 2007*, 32 Op. O.L.C. 27, 43 (2008) ("*Direct Reporting Requirement*") ("We have long concluded that statutory provisions that purport to authorize Executive Branch officers to communicate directly with Congress without appropriate supervision . . . infringe upon the President's constitutional authority to protect against the unauthorized disclosure of constitutionally privileged information."). Because "statutes may not override the constitutional doctrine of executive privilege," they may not "prohibit the supervision of the disclosure of any privileged information, be it classified, deliberative process or other privileged material." *Authority of Agency Officials*, 28 Op. O.L.C. at 81. It necessarily follows that congressional committees' rules of procedure may not be used to override privilege or the Executive's ability to supervise the disclosure of privileged information.

The foregoing principles governed our analysis here. In order to control the disclosure of privileged information, the President must have the discretion to designate a representative of the government to protect this interest at congressional depositions of agency employees. When employ-

ees testify about information created or received during their employment, they are disclosing the Executive Branch's information. The same thing is true for former employees.[3] Yet, in many cases, agency employees will have only limited experience with executive privilege and may not have the necessary legal expertise to determine whether a question implicates a protected privilege. Moreover, the employees' personal interests in avoiding a conflict with the committee may not track the longer-term interests of the Executive Branch. Without an agency representative at the deposition to evaluate which questions implicate executive privilege, an employee may be pressed—wittingly or unwittingly—into revealing protected information such as internal deliberations, attorney-client communications, or national security information. *See Nixon*, 418 U.S. at 705–06; *Senate Select Comm.*, 498 F.2d at 731. Or the agency employee may be pressed into responding to inquiries that are beyond the scope of Congress's oversight authority. *See Barenblatt*, 360 U.S. at 111–12 ("Congress may only investigate into those areas in which it may potentially legislate or appropriate [and] cannot inquire into matters which are within the exclusive province of one of the other branches of the Government.").

Even if the President has not yet asserted a particular privilege, excluding agency counsel would diminish the President's ability to decide whether a privilege should be asserted. The Executive Branch cannot foresee every question or topic that may arise during a deposition, but if questions seeking privileged information are asked, agency counsel, if present, can ensure that the employee does not impermissibly disclose privileged information. *See* Memorandum for Rudolph W. Giuliani, Associate Attorney General, from Theodore B. Olson, Assistant Attorney General, Office of Legal Counsel, *Re: Congressional Demand for Deposition of Counsel to the President Fred F. Fielding* at 2 (July 23, 1982) ("A witness before a Congressional committee may be asked—under threat of contempt—a wide range of unanticipated questions about highly sensitive deliberations and thought processes. He therefore may be unable to confine his remarks only to those which do not impair the deliberative process."). The President, through his subordinates, must be able to intervene *before* that information is disclosed, lest the effectiveness of the

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[3] *See, e.g.*, *Assertion of Executive Privilege Concerning the Dismissal and Replacement of U.S. Attorneys*, 31 Op. O.L.C. 1 (2007) (opinion of Acting Attorney General Paul D. Clement) (concluding that the President may assert executive privilege with respect to testimony by two former White House officials).

privilege be diminished. *See* Memorandum for Peter J. Wallison, Counsel to the President, from Charles J. Cooper, Assistant Attorney General, Office of Legal Counsel at 2 (Sept. 8, 1986) (agency counsel attending congressional interviews can advise "about the sensitivity of particular information and, if need be, to terminate the interview to avoid disclosure of privileged information"). Accordingly, Committee Rule 15(e) unduly interferes with the President's supervision of the disclosure of privileged information by barring agency counsel from the deposition of an agency employee concerning official activities.

These concerns were readily apparent in connection with the subpoenas of Mr. Gore and Mr. Kline. In both instances, the Committee sought information about communications among senior executive branch officials regarding official decisions. There was no doubt that the depositions would implicate matters in which the Executive Branch had constitutionally based confidentiality interests. Indeed, in Mr. Gore's March 7 interview, the Committee repeatedly asked him questions concerning potentially privileged matters—some of which a federal court had already held were protected by privilege in civil discovery. *See New York v. U.S. Dep't of Commerce*, 351 F. Supp. 3d 502, 548 n.19 (S.D.N.Y. 2019) (summarizing discovery orders). And the Committee then noticed the deposition precisely to compel answers to such questions. *See* April 10 Cummings Letter at 3 ("The Department is well aware of the scope of the deposition, based on the issues raised at Mr. Gore's March 7 interview and the list of 18 [previously unanswered] questions provided by Committee staff."). In Mr. Kline's May 1 interview, the witness was similarly instructed not to answer a number of questions implicating the Executive Branch's confidentiality interests. Prohibiting agency counsel from attending the depositions would have substantially impaired the Executive Branch's ability to continue to protect such privileged information and to make similar confidentiality determinations in response to new questions. The Committee's demands that the witnesses address questions already deemed unanswerable by agency counsel indicated that the exclusion of agency counsel would have been intended, in no small part, to circumvent executive branch mechanisms for preserving confidentiality.

B.

Committee Rule 15(e) also interferes with the President's authority to supervise the Executive Branch's interactions with Congress. The Constitution vests "[t]he executive Power" in the President, U.S. Const.

art. II, § 1, cl. 1, and requires him to "take Care that the Laws be faithfully executed," *id.* § 3. This power and responsibility grant the President the "constitutional authority to supervise and control the activity of subordinate officials within the executive branch." *The Legal Significance of Presidential Signing Statements*, 17 Op. O.L.C. 131, 132 (1993) (citing *Franklin v. Massachusetts*, 505 U.S. 788, 800 (1992)); *see also Constitutionality of Statute Requiring Executive Agency to Report Directly to Congress*, 6 Op. O.L.C. 632, 637 (1982) ("*Constitutionality of Reporting Statute*"). As we have previously explained, "'the right of the President to protect his control over the Executive Branch [is] based on the fundamental principle that the President's relationship with his subordinates must be free from certain types of interference from the coordinate branches of government in order to permit the President effectively to carry out his constitutionally assigned responsibilities.'" *Authority of HUD's Chief Financial Officer to Submit Final Reports on Violations of Appropriations Laws*, 28 Op. O.L.C. 248, 252 (2004) ("*Authority of HUD's CFO*") (quoting *Constitutionality of Reporting Statute*, 6 Op. O.L.C. at 638–39).

The President's authority to supervise his subordinates in the Executive Branch includes the power to control communications with, and information provided to, Congress on behalf of the Executive Branch. *See Direct Reporting Requirement*, 32 Op. O.L.C. at 31, 39; *Authority of Agency Officials*, 28 Op. O.L.C. at 80–81; *cf. United States ex rel. Touhy v. Ragen*, 340 U.S. 462, 467–68 (1951) (upholding "a refusal by a subordinate of the Department of Justice to submit papers to the court in response to its subpoena *duces tecum* on the ground that the subordinate [wa]s prohibited from making such submission by" a valid order of the Attorney General). At a minimum, this responsibility includes the power to know about, and assert authority over, the disclosures his subordinates make to Congress regarding their official duties.

Congressional efforts to prevent the President from supervising the Executive Branch's interactions with Congress interfere with the President's ability to perform his constitutional responsibilities. We have long recognized that statutes, "if construed or enforced to permit Executive Branch officers to communicate directly with Congress without appropriate supervision by the President or his subordinates, would violate the constitutional separation of powers and, specifically, the President's Article II authority to supervise Executive Branch personnel." *Direct Reporting Requirement*, 32 Op. O.L.C. at 31–32, 39 (citing *Authority of the Special Counsel of the Merit Systems Protection Board to Litigate and Submit Legislation to Congress*, 8 Op. O.L.C. 30, 31 (1984); *Authority of HUD's*

CFO, 28 Op. O.L.C. at 252–53; *Authority of Agency Officials*, 28 Op. O.L.C. at 80–82). It is on this basis that the Department has consistently resisted congressional attempts to require, by statute, that executive branch officials submit information to Congress in the form of reports without prior opportunity for review by their superiors. *See, e.g.*, *id.* at 34–39 ("[S]tatutory reporting requirements cannot constitutionally be applied to interfere with presidential supervision and control of the communications that Executive Branch officers . . . send to Congress."); *Authority of HUD's CFO*, 28 Op. O.L.C. at 252–53; *Access to Classified Information*, 20 Op. O.L.C. 402, 403–05 (1996); *Inspector General Legislation*, 1 Op. O.L.C. 16, 18 (1977).

Information sought in congressional depositions is no different. An agency employee testifying about official activities may be asked to disclose confidential information, yet the employee may lack the expertise necessary to protect privileged information on his own. Nor will an employee's private counsel always adequately protect such information. Private counsel may not have the expertise to recognize all situations raising issues of executive privilege, and in any event, recognizing such situations and protecting privileged information is not private counsel's job. Private counsel's obligation is to protect the personal interests of the employee, not the interests of the Executive Branch. An agency representative, by contrast, is charged with protecting the Executive Branch's interests during the deposition—ensuring that the information the employee provides to Congress is accurate, complete, and within the proper scope, and that privileged information is not disclosed. The Committee's rule prohibiting agency counsel from accompanying an agency employee to a deposition would effectively, and unconstitutionally, require that employee to report directly to Congress on behalf of the Executive Branch, without an adequate opportunity for review by an authorized representative of the Executive Branch.

C.

Having concluded that the Committee could not constitutionally bar agency counsel from accompanying Mr. Gore or Mr. Kline to depositions, we further advised that the subpoenas that required them to appear without agency counsel, over the Executive Branch's objections, exceeded the Committee's lawful authority and therefore lacked legal effect. The Committee could not constitutionally compel Mr. Gore or Mr. Kline to appear under such circumstances, and thus the subpoenas could not be

enforced by civil or criminal means or through any inherent contempt power of Congress.

This conclusion is consistent with our treatment of referrals to the Department of contempt-of-Congress citations for criminal prosecution under 2 U.S.C. §§ 192 and 194. We have opined that "the criminal contempt of Congress statute does not apply to the President or presidential subordinates who assert executive privilege." *Application of 28 U.S.C. § 458 to Presidential Appointments of Federal Judges*, 19 Op. O.L.C. 350, 356 (1995); *see also Whether the Department of Justice May Prosecute White House Officials for Contempt of Congress*, 32 Op. O.L.C. 65, 65–69 (2008) (concluding that the Department cannot take "prosecutorial action, with respect to current or former White House officials who . . . declined to appear to testify, in response to subpoenas from a congressional committee, based on the President's assertion of executive privilege"); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 101–102 (1984) ("*Prosecution for Contempt*") (finding that "the contempt of Congress statute was not intended to apply and could not constitutionally be applied to an Executive Branch official" who followed presidential instructions to "assert[] the President's claim of executive privilege"). Nor may Congress "utilize its inherent 'civil' contempt powers to arrest, bring to trial, and punish an executive official who assert[s] a Presidential claim of executive privilege." *Prosecution for Contempt*, 8 Op. O.L.C. at 140 n.42. The fundamental constitutional principles underlying executive privilege would be vitiated if any executive branch employee following a direction to invoke the privilege could be prosecuted for doing so.

Similarly, we believe it would be unconstitutional to enforce a subpoena against an agency employee who declined to appear before Congress, at the agency's direction, because the committee would not permit an agency representative to accompany him. As discussed above, having an agency representative present at a deposition of an agency employee may be necessary for the President to exercise his authority to supervise the disclosure of privileged information, as well as to ensure that the testimony provided is accurate, complete, and properly limited in scope. Therefore, agency employees, like Mr. Gore and Mr. Kline, who follow an agency instruction not to appear without the presence of an agency representative are acting lawfully to protect the constitutional interests of the Executive Branch.

III.

In reaching this conclusion, we considered the contrary arguments advanced by the Committee in its April 10 and April 22 letters. The Committee's principal argument was that prohibiting agency counsel from attending depositions of agency employees poses no constitutional concern because Congress has the authority to "determine the Rules of its Proceedings." U.S. Const. art. I, § 5, cl. 2; *see* April 10 Cummings Letter at 2–3; April 22 Cummings Letter at 3. But congressional rulemaking authority "only empowers Congress to bind itself." *Chadha*, 462 U.S. at 955 n.21 (positing that the Constitution's provision of several powers like procedural rulemaking where each House of Congress can act alone reveals "the Framers' intent that Congress not act in any legally binding manner outside a closely circumscribed legislative arena, except in specific and enumerated instances"). Such rulemaking authority does not grant Congress the power to compel testimony from agency officials under circumstances that interfere with the legitimate prerogatives of the Executive Branch.

Congress's authority to make rules governing its own procedures does not mean that the constitutional authorities of a co-equal branch of government are checked at the door. *See Barenblatt*, 360 U.S. at 112 (noting that when engaging in oversight, Congress "must exercise its powers subject to the limitations placed by the Constitution on governmental action"). To the contrary, Congress "may not by its rules ignore constitutional restraints." *United States v. Ballin*, 144 U.S. 1, 5 (1892). Congress may not, by statute, override the President's constitutional authority to control the disclosure of privileged information and to supervise executive branch employees. *See Direct Reporting Requirement*, 32 Op. O.L.C. at 43–44; *Whistleblower Protections*, 22 Op. O.L.C. at 100. It necessarily follows that a committee may not accomplish the same result by adopting a rule governing its own proceedings.

The Committee also justified Committee Rule 15(e) on the ground that it has been in place for a decade. *See* April 10 Cummings Letter at 3; April 22 Cummings Letter at 3. But congressional committee use of depositions is a relatively recent innovation, and historically such "[d]epositions have been used in a relatively small number of major congressional investigations." *Staff Depositions* at 1. Moreover, committees proposing the use of depositions have previously faced objections that they may improperly "'circumvent the traditional committee process'" of hearings and staff interviews and may "compromise the rights of

deponents." *Id.* at 2; *see supra* pp. 3–4. Accordingly, the Committee's limited previous use of depositions from which agency counsel were excluded does not reflect a "long settled and established practice," much less one that has been met by acquiescence from the Executive Branch. *NLRB v. Noel Canning*, 573 U.S. 513, 524 (2014) (internal quotation marks and brackets omitted).

In addition, the Committee claimed that Rule 15(e) serves the purpose of "ensur[ing] that the Committee is able to depose witnesses in furtherance of its investigations without having in the room representatives of the agency under investigation." April 10 Cummings Letter at 2; April 22 Cummings Letter at 3. But that assertion does no more than restate the rule's effect, without advancing any legitimate rationale for excluding the agency's representatives, much less one sufficient to alter the constitutional calculus. The Committee here did not seek information concerning the private affairs of agency employees or articulate any particularized interest in excluding agency counsel. In fact, agency counsel appeared at the staff interviews of both Mr. Gore and Mr. Kline. In view of the President's clear and well-established interests in protecting privileged information and supervising the Executive Branch's interactions with Congress, the Committee offered no countervailing explanation for why it would be necessary to exclude any agency representative from these two depositions.

Indeed, the Committee has not explained why, as a general matter, the House needs to exclude agency counsel from depositions of agency officials. Agency representatives routinely accompany and support agency employees during congressional hearings and staff interviews. *See Authority to Pay for Private Counsel*, 41 Op. O.L.C. at *3 ("When congressional committees seek to question employees of an Executive Branch agency in the course of a congressional oversight inquiry of the agency, the Executive Branch's longstanding general practice has been for agency attorneys to accompany the witnesses."); *Reimbursing Justice Department Employees for Fees Incurred in Using Private Counsel Representation at Congressional Depositions*, 14 Op. O.L.C. 132, 133 (1990) ("[W]hen Department employees are asked in their official capacities to give oral testimony for a congressional investigation (whether at a hearing, interview or deposition), a Department counsel or other representative will normally accompany the witness."); *Representation of White House Employees*, 4B Op. O.L.C. at 754 ("[L]egitimate governmental interests" are "[o]rdinarily . . . monitored by agency counsel who accompany executive branch employees called to testify before congressional commit-

tees."). There is no basis for believing that this routine practice diminishes the Committee's ability to acquire any information it may legitimately seek.[4]

In defending the exclusion of agency counsel, the Committee pointed out that the witnesses may bring their private counsel to the depositions. April 10 Cummings Letter at 2; April 22 Cummings Letter at 3. But allowing agency employees to be accompanied by private counsel is no substitute for the presence of agency counsel. In addition to imposing unnecessary burdens on agency employees by requiring the retention of private counsel, the practice does not adequately protect the agency's interests. As explained above, the President must be able to supervise who discloses executive branch information and under what conditions. An employee's private counsel, however, represents the interests of the employee, not the agency, and "the attorney owes a fiduciary duty and a duty of confidentiality to the employee, not the agency." *Authority to Pay for Private Counsel*, 41 Op. O.L.C. at *5; *see also Representation of White House Employees*, 4B Op. O.L.C. at 754 ("[A]ny counsel directed to represent governmental interests must be controlled by the Government, and private counsel retained by employees to represent personal interests should not be permitted to assert governmental interests or privileges."). Even if the private counsel may sometimes assist the agency employee in protecting agency information, the Committee cannot require the Executive Branch to rely upon the private counsel to make such judgments. Private counsel is not likely to know as well as agency counsel when a line of questioning, especially an unanticipated one, might intrude upon the Executive Branch's constitutionally protected interests.

Finally, we concluded that the Committee's proposed accommodation—to make a separate room available for agency counsel at the two depositions—was insufficient to remedy these constitutional concerns. *See* April 10 Cummings Letter at 3; April 22 Cummings Letter at 3. That

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[4] In a similar vein, agency employees are routinely represented by agency counsel in connection with depositions in civil litigation and, where appropriate, agency counsel will instruct agency employees not to answer questions that implicate privilege. Further, as the Supreme Court recognized in *Touhy*, 340 U.S. 462, the head of an agency may properly bar subordinate officials from disclosing privileged agency information, and departments have accordingly enacted so-called *Touhy* regulations to ensure that privileged information is appropriately protected by agency officials in civil discovery. *See, e.g.*, 28 C.F.R. §§ 16.21–16.29 (Department of Justice *Touhy* regulations). Just as agency counsel may properly participate in ensuring appropriate disclosures in depositions in civil litigation, agency counsel may properly do so in congressional depositions.

practice would put the onus on the agency employee and his private counsel to divine whether the agency would have privilege concerns about each question, and then "request a break during the deposition to consult with" agency counsel. April 10 Cummings Letter at 3; *see* April 22 Cummings Letter at 3. Because this practice would leave such judgments entirely up to the employee and his private counsel, as well as depend on the discretion of the Committee's staff to grant the requested break, it would not adequately ensure that the agency could make the necessary decisions to protect privileged information during the course of the deposition. It also would prevent the Executive Branch from ensuring that the testimony provided was accurate, complete, and properly limited in scope.

We recognize that there is at least one circumstance—an appearance before a grand jury—where a witness's attorney must remain in a separate room during questioning. *See* Fed. R. Crim. P. 6(d)(1); *United States v. Mandujano*, 425 U.S. 564, 581 (1976). However, grand juries can hardly provide a model for congressional depositions, because they operate under conditions of extreme secrecy, and there is a long-established practice of excluding *all* attorneys for witnesses before the grand jury. *See, e.g.*, *In re Black*, 47 F.2d 542, 543 (2d Cir. 1931); *Latham v. United States*, 226 F. 420, 422 (5th Cir. 1915). Committee Rule 15(e) not only lacks the historical pedigree of grand-jury proceedings, but the information collected in congressional depositions is not inherently confidential. Indeed, the Committee does not even have a categorical objection to allowing witnesses to be accompanied by counsel. Rather, the rule permits witnesses to be accompanied by counsel of their choice, provided that counsel does not represent the agency as well. This targeted exclusion underscores the separation of powers problems.[5]

[5] Indeed, the federal courts have recognized that "[t]here is a clear difference between Congress's legislative tasks and the responsibility of a grand jury." *Senate Select Comm.*, 498 F.2d at 732; *see also Nixon*, 418 U.S. at 712 n.19 (distinguishing the "constitutional need for relevant evidence in criminal trials," on the one hand, from "the need for relevant evidence in civil litigation" and "congressional demands for information," on the other). Congressional depositions appear more akin to depositions in civil litigation, rather than grand juries, and in civil litigation it is well established that attorneys "representing the deponent" and attorneys representing "any party to the litigation" have "the right to be present" at a deposition. Jay E. Grenig & Jeffrey S. Kinsler, *Handbook of Federal Civil Discovery and Disclosure* § 5:29 (4th ed. 2018).

IV.

For the foregoing reasons, we concluded that the Committee's prohibition on agency counsel's attendance at depositions impermissibly infringed on the President's constitutional authority to protect information within the scope of executive privilege and to supervise the Executive Branch's communications with Congress. Although the Executive Branch must facilitate legitimate congressional oversight, the constitutionally mandated accommodation process runs both ways. *See Am. Tel. & Tel. Co.*, 567 F.2d at 127, 130–31. Just as the Executive must provide Congress with information necessary to perform its legislative functions, Congress through its oversight processes may not override the Executive Branch's constitutional prerogatives. *See Barenblatt*, 360 U.S. at 112. Here, the constitutional balance requires that agency representatives be permitted to assist agency officials in connection with providing deposition testimony, including on matters that implicate privileged information. Thus, we advised that the subpoenas purporting to compel Mr. Gore and Mr. Kline to appear without agency counsel exceeded the Committee's authority and were without legal effect.

STEVEN A. ENGEL
Assistant Attorney General
Office of Legal Counsel

THE WHITE HOUSE

WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent***. Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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[1] Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."[3] Your contrived process is unprecedented in the

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[2] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

[3] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

history of the Nation,[4] and lacks the necessary authorization for a valid impeachment proceeding.[5]

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"[6] the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."[7] All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.[8] Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.[9] And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.[10] Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for *debate* before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate *at all*.

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g.*, *Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

> politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—***before*** filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.

Department Guidance Regarding Privileges and Work-Product Protections [Tab D]

The Department asks all personnel to abide by important obligations as employees of the Department. These obligations include the following requirements:

- Improper disclosure of any classified information is strictly prohibited.

- No documents, electronically stored information, or tangible things relating to official duties, including personal notes, should be produced or turned over during or after the proceedings. As noted in the Department's October 15 letter, the Department has taken independent steps to "identify, preserve, and collect potentially responsive documents" [Tab A], in order to engage with the three Committees or other Congressional Committees once outstanding legal issues are resolved.

- All privileges and work-product protections must be strictly preserved, including, but not limited to:

  1) Executive Privilege. It is for the President and the Department of Justice—not the Department of Defense—to determine for the Executive Branch the scope of the privilege and whether it has been waived, e.g., by public statements. Accordingly, the Department advises that employees exercise an abundance of caution and refrain from giving any testimony, unless otherwise instructed by the White House, regarding:

     (a) internal White House (including National Security Council (NSC), Office of Management and Budget (OMB)) communications (including but not limited to letters, documents, phone calls, and e-mails);

     (b) communications between White House officials (including NSC and OMB) and individuals outside the Executive Branch (including individuals in the U.S. Government, foreign government officials, and private individuals);

     (c) communications between White House officials and other Executive Branch officials; and

     (d) discussions among Executive Branch officials regarding communications with the White House or the subject matter of such communications.

     See Assertion of Executive Privilege Concerning the Dismissal and Replacement of U.S. Attorneys, Solicitor General and Acting Attorney General Paul D. Clement (June 27, 2007) [attached].

  2) Attorney-Client Privilege. No testimony regarding communications between Department officials and the Department's Office of General Counsel, White

House Counsel, the Department of Justice, or any other attorneys related to the seeking or giving of legal advice or opinions.

3) Attorney Work-Product. No testimony regarding any documents, electronically stored media, tangible things, or conversations or opinions produced or expressed by the Department's Office of General Counsel or other attorneys in preparation for litigation or any other legal proceedings.

4) Deliberative Process Privilege. No testimony regarding pre-decisional discussions of Department policy decisions.

The Department understands the difficult circumstances facing your client and appreciates her and your professionalism in adhering to this guidance.

Assertion of Executive Privilege Concerning the Dismissal and Replacement of U.S. Attorneys

Executive privilege may properly be asserted over the documents and testimony concerning the dismissal and replacement of U.S. Attorneys that have been subpoenaed by congressional committees.

June 27, 2007

THE PRESIDENT
THE WHITE HOUSE

Dear Mr. President:

The Senate Committee on the Judiciary and the House Committee on the Judiciary recently issued five subpoenas in connection with their inquiries into the resignation of several U.S. Attorneys in 2006. Broadly speaking, four of the five subpoenas seek documents in the custody of current or former White House officials ("White House documents") concerning the dismissal and replacement of the U.S. Attorneys. In addition, two of the five subpoenas demand testimony about these matters from two former White House officials, Harriet Miers, former Counsel to the President, and Sara Taylor, former Deputy Assistant to the President and Director of Political Affairs.

You have requested my legal advice as to whether you may assert executive privilege with respect to the subpoenaed documents and testimony concerning the categories of information described in this letter. It is my considered legal judgment that you may assert executive privilege over the subpoenaed documents and testimony.

I.

The documents that the Office of the Counsel to the President has identified as responsive to the subpoenas fall into three broad categories related to the possible dismissal and replacement of U.S. Attorneys, including congressional and media inquiries about the dismissals: (1) internal White House communications; (2) communications by White House officials with individuals outside the Executive Branch, including with individuals in the Legislative Branch; and (3) communications between White House officials and Department of Justice officials. The Committees' subpoenas also seek testimony from Ms. Miers and Ms. Taylor concerning the same subject matters, and the assertion of privilege with respect to such testimony requires the same legal analysis.

The Office of Legal Counsel of the Department of Justice has reviewed the documents identified by the Counsel to the President as responsive to the subpoenas and is satisfied that the documents fall within the scope of executive

privilege. The Office further believes that Congress's interests in the documents and related testimony would not be sufficient to override an executive privilege claim. For the reasons discussed below, I concur with both assessments.

A.

The initial category of subpoenaed documents and testimony consists of internal White House communications about the possible dismissal and replacement of U.S. Attorneys. Among other things, these communications discuss the wisdom of such a proposal, specific U.S. Attorneys who could be removed, potential replacement candidates, and possible responses to congressional and media inquiries about the dismissals. These types of internal deliberations among White House officials fall squarely within the scope of executive privilege. One of the underlying purposes of the privilege is to promote sound decisionmaking by ensuring that senior government officials and their advisers speak frankly and candidly during the decisionmaking process. As the Supreme Court has explained, "[a] President and those who assist him must be free to explore alternatives in the process of shaping policies and to do so in a way many would be unwilling to express except privately." *United States v. Nixon*, 418 U.S. 683, 708 (1974); *see also Assertion of Executive Privilege with Respect to Prosecutorial Documents*, 25 Op. O.L.C. 1, 2 (2001) ("The Constitution clearly gives the President the power to protect the confidentiality of executive branch deliberations."); *Assertion of Executive Privilege With Respect to Clemency Decision*, 23 Op. O.L.C. 1, 2 (1999) (opinion of Attorney General Janet Reno) ("*Clemency Decision*") ("[N]ot only does executive privilege apply to confidential communications to the President, but also to 'communications between high Government officials and those who advise and assist them in the performance of their manifold duties.'") (quoting *Nixon*, 418 U.S. at 705). These confidentiality interests are particularly strong where, as here, the communications may implicate a "quintessential and nondelegable Presidential power," such as the authority to nominate or to remove U.S. Attorneys. *In re Sealed Case*, 121 F.3d 729, 752 (D.C. Cir. 1997); *Clemency Decision*, 23 Op. O.L.C. at 2–3 (finding that executive privilege protected Department and White House deliberations related to decision to grant clemency).

Under D.C. Circuit precedent, a congressional committee may not overcome an assertion of executive privilege unless it establishes that the documents and information are "demonstrably critical to the responsible fulfillment of the Committee's functions." *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc). And those functions must be in furtherance of Congress's legitimate legislative responsibilities. *See McGrain v. Daugherty*, 273 U.S. 135, 160 (1927) (Congress has oversight authority "to enable it efficiently to exercise a legislative function belonging to it under the Constitution").

As a threshold matter, it is not at all clear that internal White House communications about the possible dismissal and replacement of U.S. Attorneys fall within the scope of *McGrain* and its progeny. The Supreme Court has held that Congress's oversight powers do not reach "matters which are within the exclusive province of one of the other branches of the Government." *Barenblatt v. United States*, 360 U.S. 109, 112 (1959). The Senate has the authority to approve or reject the appointment of officers whose appointment by law requires the advice and consent of the Senate (which has been the case for U.S. Attorneys since the founding of the Republic), but it is for the President to decide whom to nominate to such positions and whether to remove such officers once appointed. Though the President traditionally consults with members of Congress about the selection of potential U.S. Attorney nominees as a matter of courtesy or in an effort to secure their confirmation, that does not confer upon Congress authority to inquire into the deliberations of the President with respect to the exercise of his power to remove or nominate a U.S. Attorney.[1] Consequently, there is reason to question whether Congress has oversight authority to investigate deliberations by White House officials concerning proposals to dismiss and replace U.S. Attorneys, because such deliberations necessarily relate to the potential exercise by the President of an authority assigned to him alone. *See Clemency Decision*, 23 Op. O.L.C. at 3–4 ("[I]t appears that Congress' oversight authority does not extend to the process employed in connection with a particular clemency decision, to the materials generated or the discussions that took place as part of that process, or to the advice or views the President received in connection with a clemency decision [because the decision to grant clemency is an exclusive Executive Branch function]."); *Scope of Congressional Oversight and Investigative Power With Respect to the Executive Branch*, 9 Op. O.L.C. 60, 62 (1985) (congressional oversight authority does not extend to "functions fall[ing] within the Executive's exclusive domain").

In any event, even if the Committees have oversight authority, there is no doubt that the materials sought qualify for the privilege and the Committees have not demonstrated that their interests justify overriding a claim of executive privilege as to the matters at issue. The House Committee, for instance, asserts in its letter accompanying the subpoenas that "[c]ommunications among the White House staff involved in the U.S. Attorney replacement plan are obviously of paramount importance to any understanding of how and why these U.S. Attorneys were

[1] *See, e.g., Pub. Citizen v. Dep't of Justice*, 491 U.S. 440, 483 (1989) (Kennedy, J., concurring) ("[T]he Clause divides the appointment power into two separate spheres: the President's power to 'nominate,' and the Senate's power to give or withhold its 'Advice and Consent.' No role whatsoever is given either to the Senate or to Congress as a whole in the process of choosing the person who will be nominated for [the] appointment."); *Myers v. United States*, 272 U.S. 52, 122 (1926) ("The power of removal is incident to the power of appointment, not to the power of advising and consenting to appointment, and when the grant of the executive power is enforced by the express mandate to take care that the laws be faithfully executed, it emphasizes the necessity for including within the executive power as conferred the exclusive power of removal.").

selected to be fired." Letter for Fred F. Fielding, Counsel to the President, from John Conyers, Jr., Chairman, House Judiciary Committee at 2 (June 13, 2007). But the Committees never explain how or why this information is "demonstrably critical" to any "legislative judgments" Congress might be able to exercise in the U.S. Attorney matter. *Senate Select Comm.*, 498 F.2d at 732. Broad, generalized assertions that the requested materials are of public import are simply insufficient under the "demonstrably critical" standard. Under *Senate Select Committee*, to override a privilege claim the Committees must "point[] to . . . specific legislative decisions that cannot responsibly be made without access to [the privileged] materials." *Id.* at 733.

Moreover, any legitimate oversight interest the Committees might have in internal White House communications about the proposal is sharply reduced by the thousands of documents and dozens of hours of interviews and testimony already provided to the Committees by the Department of Justice as part of its extraordinary effort at accommodation.[2] This information has given the Committees extraordinary—and indeed, unprecedented—insight into the Department's decision to request the U.S. Attorney resignations, including the role of White House officials in the process. *See, e.g.*, *History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress*, 6 Op. O.L.C. 751, 758–59, 767 (1982) (documenting refusals by Presidents Jackson, Tyler, and Cleveland

[2] During the past three months, the Department has released or made available for review to the Committees approximately 8,500 pages of documents concerning the U.S. Attorney resignations. The Department has included in its productions many sensitive, deliberative documents related to the resignation requests, including e-mails and other communications with White House officials. The Committees' staffs have also interviewed, at length and on the record, a number of senior Department officials, including, among others, the Deputy Attorney General, the Acting Associate Attorney General, the Attorney General's former chief of staff, the Deputy Attorney General's chief of staff, and two former Directors of the Executive Office for U.S. Attorneys. During these interviews, the Committees' staffs explored in great depth all aspects of the decision to request the U.S. Attorney resignations, including the role of White House officials in the decisionmaking process. In addition, the Attorney General, the Deputy Attorney General, the Principal Associate Deputy Attorney General, the Attorney General's former chief of staff, and the Department's former White House Liaison have testified before one or both of the Committees about the terminations and explained, under oath, their understanding of such involvement.

The President has also made significant efforts to accommodate the Committees' needs. More than three months ago, the Counsel to the President proposed to make senior White House officials, including Ms. Miers, available for informal interviews about "(a) communications between the White House and persons outside the White House concerning the request for resignations of the U.S. Attorneys in question; and (b) communications between the White House and Members of Congress concerning those requests," and he offered to give the Committees access to White House documents on the same subjects. Letter for Patrick Leahy, U.S. Senate, et al., from Fred F. Fielding, Counsel to the President at 1–2 (Mar. 20, 2007). The Committees declined this offer. The Counsel to the President has since reiterated this offer of accommodation but to no avail. *See* Letter for Patrick Leahy, U.S. Senate, and John Conyers, Jr., U.S. House of Representatives, from Fred F. Fielding, Counsel to the President at 1 (Apr. 12, 2007); Letter for Patrick Leahy, U.S. Senate, John Conyers, Jr., U.S. House of Representatives, and Linda T. Sanchez, U.S. House of Representatives, from Fred F. Fielding, Counsel to the President at 1–2 (June 7, 2007).

to provide information related to the decision to remove Executive Branch officials, including a U.S. Attorney).

In a letter accompanying the subpoenas, the House Committee references the alleged "written misstatements" and "false statements" provided by the Department to the Committees about the U.S. Attorney dismissals. *See* Letter for Fred F. Fielding, Counsel to the President, from John Conyers, Jr., Chairman, House Judiciary Committee at 2 (June 13, 2007). The Department has recognized the Committees' interest in investigating the extent to which Department officials may have provided inaccurate or incomplete information to Congress. This interest does not, however, justify the Committees' demand for White House documents and information about the U.S. Attorney resignations. Officials in the Department, not officials in the White House, presented the challenged statements, and as noted, the Department has provided unprecedented information to Congress concerning, *inter alia*, the process that led to the Department's statements. The Committees' legitimate oversight interests therefore have already been addressed by the Department, which has sought to provide the Committees with all documents related to the preparation of any inaccurate information given to Congress.

Given the amount of information the Committees already possess about the Department's decision to remove the U.S. Attorneys (including the involvement of White House officials), there would be little additional legislative purpose served by revealing internal White House communications about the U.S. Attorney matter, and, in any event, none that would outweigh the President's interest in maintaining the confidentiality of such internal deliberations. *See Senate Select Comm.*, 498 F.2d at 732–33 (explaining that a congressional committee may not obtain information protected by executive privilege if that information is available through non-privileged sources). Consequently, I do not believe that the Committees have shown a "demonstrably critical" need for internal White House communications on this matter.

B.

For many of the same reasons, I believe that communications between White House officials and individuals outside the Executive Branch, including with individuals in the Legislative Branch, concerning the possible dismissal and replacement of U.S. Attorneys, and possible responses to congressional and media inquiries about the dismissals, fall within the scope of executive privilege. Courts have long recognized the importance of information gathering in presidential decisionmaking. *See, e.g.*, *In re Sealed Case*, 121 F.3d at 751–52 (describing role of investigation and information collection in presidential decisionmaking). Naturally, in order for the President and his advisers to make an informed decision, presidential aides must sometimes solicit information from individuals outside the White House and the Executive Branch. This need is particularly strong when the decision involved is whether to remove political appointees, such

as U.S. Attorneys, who serve in local districts spread throughout the United States. In those situations, the President and his advisers will be fully informed only if they solicit and receive advice from a range of individuals. Yet the President's ability to obtain such information often depends on the provider's understanding that his frank and candid views will remain confidential. *See Nixon*, 418 U.S. at 705 ("Human experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decisionmaking process."); *In re Sealed Case*, 121 F.3d at 751 ("In many instances, potential exposure of the information in the possession of an adviser can be as inhibiting as exposure of the actual advice she gave to the President. Without protection of her sources of information, an adviser may be tempted to forego obtaining comprehensive briefings or initiating deep and intense probing for fear of losing deniability.").

That the communications involve individuals outside the Executive Branch does not undermine the President's confidentiality interests. The communications at issue occurred with the understanding that they would be held in confidence, and they related to decisionmaking regarding U.S. Attorney removals or replacements or responding to congressional or media inquiries about the U.S. Attorney matter. Under these circumstances, the communications retain their confidential and Executive Branch character and remain protected. *See In re Sealed Case*, 121 F.3d at 752 ("Given the need to provide sufficient elbow room for advisers to obtain information from all knowledgeable sources, the [presidential communications component of executive] privilege must apply both to communications which these advisers solicited and received from others as well as those they authored themselves.").[3]

Again, the Committees offer no compelling explanation or analysis as to why access to confidential communications between White House officials and individuals outside the Executive Branch is "demonstrably critical to the responsible fulfillment of the [Committees'] functions." *Senate Select Comm.*, 498 F.2d at 731. Absent such a showing, the Committees may not override an executive privilege claim.

C.

The final category of documents and testimony concerns communications between the Department of Justice and the White House concerning proposals to dismiss and replace U.S. Attorneys and possible responses to congressional and media inquiries about the U.S. Attorney resignations. These communications are

[3] Moreover, the Department has previously conveyed to the Committees its concern that there would be a substantial inhibiting effect on future informal confidential communications between Executive Branch and Legislative Branch representatives if such communications were to be produced in the normal course of congressional oversight.

deliberative and clearly fall within the scope of executive privilege.[4] *See supra* p. 2. In this case, however, the Department has already disclosed to Congress a substantial amount of documents and information related to White House communications about the U.S. Attorney matter. Consequently, in assessing whether it would be legally permissible to assert executive privilege, it is useful to divide this category into three subcategories, each with slightly different considerations: (1) documents and testimony related to communications between the Department and White House officials that have not already been disclosed by the Department; (2) documents concerning White House-Department communications previously disclosed to the Committees by the Department; and (3) testimony from current or former White House officials (such as the testimony sought from Ms. Miers or Ms. Taylor) about previously disclosed White House-Department communications. After carefully considering the matter, I believe there is a strong legal basis for asserting executive privilege over each of these subcategories.

The President's interest in protecting the confidentiality of documents and information about undisclosed White House-Department communications is powerful. Most, if not all, of these communications concern either potential replacements for the dismissed U.S. Attorneys or possible responses to inquiries from Congress and the media about the U.S. Attorney resignations. As discussed above, the President's need to protect deliberations about the selection of U.S. Attorneys is compelling, particularly given Congress's lack of legislative authority over the nomination or replacement of U.S. Attorneys. *See In re Sealed Case*, 121 F.3d at 751–52. The President also has undeniable confidentiality interests in discussions between White House and Department officials over how to respond to congressional and media inquiries about the U.S. Attorney matter. As Attorney General Janet Reno advised the President in 1996, the ability of the Office of the Counsel to the President to assist the President in responding to investigations "would be significantly impaired" if a congressional committee could review "confidential documents . . . prepared in order to assist the President and his staff in responding to an investigation by the [committee] seeking the documents." *Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 2, 3 (1996). Despite extensive communications with officials at the Department and the White House, the Committees have yet to articulate any "demonstrably critical" oversight interest that would justify overriding these compelling confidentiality concerns.

There are also legitimate reasons to assert executive privilege over White House documents reflecting White House-Department communications that have been previously disclosed to the Committees by the Department. As discussed,

[4] To the extent they exist, White House communications approving the Department's actions by or on behalf of the President would receive particularly strong protection under executive privilege. *See, e.g., In re Sealed Case*, 121 F.3d at 752–53 (describing heightened protection provided to presidential communications).

these documents are deliberative in nature and clearly fall within the scope of executive privilege. The Department's accommodation with respect to some White House-Department communications does not constitute a waiver and does not preclude the President from asserting executive privilege with respect to White House materials or testimony concerning such communications. The D.C. Circuit has recognized that each branch has a "constitutional mandate to seek optimal accommodation" of each other's legitimate interests. *United States v. AT&T Co.*, 567 F.2d 121, 127 (D.C. Cir. 1977). If the Department's provision of documents and information to Congress, as part of the accommodation process, eliminated the President's ability to assert privilege over White House documents and information concerning those same communications, then the Executive Branch would be hampered, if not prevented, from engaging in future accommodations. Thus, in order to preserve the constitutional process of interbranch accommodation, the President may claim privilege over documents and information concerning the communications that the Department of Justice has previously disclosed to the Committees. Indeed, the relevant legal principles should and do encourage, rather than punish, such accommodation by recognizing that Congress's need for such documents is reduced to the extent similar materials have been provided voluntarily as part of the accommodation process.

Here, the Committees' need for White House documents concerning these communications is weak. The Committees already possess the relevant communications, and it is well established that Congress may not override executive privilege to obtain materials that are cumulative or that could be obtained from an alternative source. *See Senate Select Comm.*, 498 F.2d at 732–33 (holding public release of redacted audio tape transcripts "substantially undermined" any legislative need for tapes themselves); *Clemency Decision*, 23 Op. O.L.C. at 3–4 (finding that documents were not demonstrably critical where Congress could obtain relevant information "through non-privileged documents and testimony"). Accordingly, the Committees do not have a "demonstrably critical" need to collect White House documents reflecting previously disclosed White House-Department communications.

Finally, the Committees have also failed to establish the requisite need for testimony from current or former White House officials about previously disclosed White House-Department communications. Congressional interest in investigating the replacement of U.S. Attorneys clearly falls outside its core constitutional responsibilities, and any legitimate interest Congress may have in the disclosed communications has been satisfied by the Department's extraordinary accommodation involving the extensive production of documents to the Committees, interviews, and hearing testimony concerning these communications. As the D.C. Circuit has explained, because "legislative judgments normally depend more on the predicted consequences of proposed legislative actions and their political acceptability," Congress will rarely need or be entitled to a "precise reconstruction of past events" to carry out its legislative responsibilities. *Senate Select Comm.*,

498 F.2d at 732.[5] On the other hand, the White House has very legitimate interests in protecting the confidentiality of this information because it would be very difficult, if not impossible, for current or former White House officials testifying about the disclosed communications to separate in their minds knowledge that is derived from the Department's disclosures from knowledge that is derived from other privileged sources, such as internal White House communications. Consequently, given the President's strong confidentiality interests and the Committees' limited legislative needs, I believe that White House information about previously disclosed White House-Department communications may properly be subject to an executive privilege claim.

II.

In sum, I believe that executive privilege may properly be asserted with respect to the subpoenaed documents and testimony as described above.

PAUL D. CLEMENT
Solicitor General & Acting Attorney General

[5] *See also Senate Select Comm.*, 498 F.2d at 732 (explaining that Congress "frequently legislates on the basis of conflicting information provided in its hearings"); *Congressional Requests for Confidential Executive Branch Information*, 13 Op. O.L.C. 153, 159 (1989) ("Congress will seldom have any legitimate legislative interest in knowing the precise predecisional positions and statements of particular executive branch officials.").

From:	Mitchell, Nicolas
To:	Brian Glasser; Cary Joshi
Cc:	Goldman, Daniel; Bitar, Maher; Bair, James; Grooms, Susanne Sachsman; Carey, Laura; Kenny, Peter
Subject:	Congressional Subpoena for Ambassador Hale
Date:	Wednesday, November 6, 2019 8:01:00 AM
Attachments:	20191105 - Subpoena Hale.pdf House Deposition Regulations.pdf House Resolution 6 Sec 103(a).pdf HPSCI Rules of Procedure.pdf

Counsel:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels your client, Ambassador David Hale, to appear at a previously scheduled deposition on **November 6, 2019, at 9:00 a.m., at The Capitol, HVC-304**:

The subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The testimony shall be part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate. Your client's failure or refusal to comply with the subpoena, including at the direction or behest of the President, the White House, or the State Department shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

In light of recent attempts by the Administration to direct witnesses not to appear voluntarily for depositions, the enclosed subpoena compels your client's mandatory appearance.

Enclosed are copies of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

From:	Mitchell, Nicolas
To:	Brian Glasser; Cary Joshi
Cc:	Goldman, Daniel; Bitar, Maher; Bair, James; Grooms, Susanne Sachsman; Carey, Laura; Kenny, Peter
Subject:	Congressional Subpoena for Ambassador Hale
Date:	Wednesday, November 6, 2019 8:01:00 AM
Attachments:	20191105 - Subpoena Hale.pdf House Deposition Regulations.pdf House Resolution 6 Sec 103(a).pdf HPSCI Rules of Procedure.pdf

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Enclosed are copies of the House Deposition Rules, Section 103(a) of H. Res. 6, and HPSCI's Rules of Procedure for your information.

Kindly confirm receipt. Thank you.

Nicolas A. Mitchell
Senior Investigative Counsel
House Permanent Select Committee on Intelligence
Office: (202) 225-[redacted]

Congress of the United States
Washington, DC 20515

October 9, 2019

Dr. Fiona Hill
c/o Lee Wolosky, Esq.
Boies Schiller Flexner LLP
55 Hudson Yards
20th Floor
New York, NY 10001

Dear Dr. Hill:

Pursuant to the House of Representatives' impeachment inquiry, we write to request your appearance at a deposition on **October 14, 2019, at 10:00 a.m. at The Capitol, HVC-304.**

This deposition will be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform. The deposition transcript and documents produced by you shall be part of the impeachment inquiry and shared among the Committees. Your failure or refusal to appear at the deposition or produce the requested documents, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters. We believe you have information and documents relevant to the Committees' investigation.

We also request that you produce the documents in your possession, custody, or control as set forth in the accompanying Document Request on or before the date of your deposition. An attachment to this letter provides additional instructions for responding to the Committees' request.

PRINTED ON RECYCLED PAPER

If you have any questions, please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690.

Sincerely,

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Adam B. Schiff
Chairman
House Permanent Select Committee
On Intelligence

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosure

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

Document Request

Please produce all documents and communications in your possession, custody, or control referring, relating to, or involving the following subjects. Unless otherwise noted, the time frame for this request is **January 20, 2017, to the present**. The Committees request that these materials be provided to the Committees before or at your deposition.

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

2. Communications between or among any of the following referring or relating in any way to the April 21, 2019, or July 25, 2019, telephone conversations:

    a. Current or former White House officials, employees, and detailees, including within the White House Counsel's Office, the White House Situation Room, and the National Security Council (NSC);

    b. Current or former employees or officials of the Department of State, including but not limited to Secretary Michael R. Pompeo, Counselor T. Ulrich Brechbuhl, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Deputy Assistant Secretary George Kent, U.S. Embassy in Ukraine Deputy Chief of Mission Kristina Kvien, Acting Chargé d'Affaires William "Bill" Taylor, and Ambassador to the European Union Gordon Sondland;

    c. Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr;

    d. Current or former employees or officials of the Department of Energy, including but not limited to Secretary Rick Perry;

    e. Current or former employees or officials of the Office of the Director of National Intelligence (ODNI), including but not limited to Acting Director Joseph Maguire and ODNI's Office of General Counsel;

f. Current or former employees or officials of the Central Intelligence Agency, including but not limited to General Counsel Courtney Simmons Elwood; and

g. Current or former employees or officials of the Department of Defense, including but not limited to Secretary of Defense Mark Esper;

3. Efforts to restrict access to, or limit the distribution of, documents referring or relating to the April 21, 2019, and July 25, 2019, telephone conversations, including but not limited to the transfer to, or placement of documents on, an electronic system or server cleared to hold codeword-level classified information, or the request or direction to do so;

4. All policies, procedures, practices, or guidance at or from the White House or NSC referring or relating to the aforementioned electronic system or server, including all policies, procedures, practices, or guidance referring or relating to the transfer or placement of transcripts, summaries, memos, and notes of the President's meetings and phone calls with foreign leaders on such system or server;

5. The actual or potential suspension, withholding, delaying, freezing, or releasing of foreign assistance of any kind, including but not limited to security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, Office of Management and Budget, Office of the Vice President, Department of Defense, Department of State, Department of Energy, the United States Agency for International Development (USAID), ODNI, or agencies in the Intelligence Community;

6. Interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and/or July 31, 2019, among others;

7. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including any notes, memoranda, documentation or correspondence related to the decision;

8. Any offers extended by President Trump to, or requests from, President Zelensky or other Ukrainian government officials for a phone call or meeting between President Trump and President Zelensky, including but not limited to an Oval Office meeting;

9. Any of the following potential or actual meetings or contacts:

a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to

requests, suggestions, proposals, or other communications relating to the same;

b. President Zelensky's inauguration on May 20, 2019, in Kiev, Ukraine, including but not limited to President Trump's decision not to attend, the decision not to send Vice President Pence, and the decision to send Energy Secretary Rick Perry to lead the U.S. delegation, as well as Ambassador Gordon Sondland's participation, including any dissent from or objections to those decisions;

c. A meeting on or about May 21, 2019, in Kiev, Ukraine including Secretary Perry, Ambassador Sondland, and Ambassador Volker, as well as Ukrainian officials and representatives of the Ukrainian energy sector;

d. A meeting at the White House on or around May 23, 2019, involving President Trump, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Secretary Rick Perry, or Ambassador Gordon Sondland;

e. A meeting, dinner, or event involving President Zelensky and Ambassador Gordon Sondland, Jared Kushner, Energy Secretary Perry, and other U.S. officials in Brussels, Belgium on or about June 4, 2019;

f. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Perry, former National Security Advisor John Bolton, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, and Ambassador Gordon Sondland, including but not limited to the proposed or actual participation of President Trump and Vice President Pence in the meeting;

g. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on or about September 1, 2019, including but not limited to President Trump's decision to cancel his attendance;

h. All meetings and communications between U.S. officials, including but not limited to Vice President Pence, Secretary Perry, and President Zelensky or other Ukrainian government officials in Warsaw, Poland on or about September 1, 2019;

i. A telephone call between Secretary of State Pompeo and the Ukrainian Foreign Minister on or about September 17, 2019;

j. A telephone call between Vice President Pence and President Zelensky on or about September 18, 2019; and

k. All meetings between President Trump and President Zelensky during the United Nations General Assembly in or around September 2019, including but not limited to any discussion of their July 25, 2019, telephone conversation, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

10. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden Jr., the Democratic National Committee, Hillary Clinton, and former U.S. Ambassador Marie "Masha" Yovanovitch;

11. All meetings or communications with officials or employees of the U.S. Department of Justice relating to the investigations described in the preceding paragraph;

12. Rudolph W. Giuliani's activities referring or relating to Ukraine;

13. Naftogaz, including all proposed or actual changes to the company's Board of Directors, potential or actual proposals for business or new contracts involving Naftogaz, and communications referencing or related to the company from, to, or referencing Rudy Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Harry Sargeant III, Amos Hochstein, Robert Bensh, Michael Bleyzer, Haley Baumgardner, 45 Energy Group, Andriy Kobolyev, Andrew Favorov, Dale W. Perry, Joseph diGenova, Victoria Toensing, and/or Vitaly Pruss;

14. Proposed or actual business plans relating to liquefied natural gas (LNG) in Ukraine;

15. All meetings between or among current or former White House officials, employees, or detailees, including President Trump, and Rudolph W. Giuliani, including but not limited to requests for meetings or telephone calls, scheduling items, calendar entries, White House visitor records, and email or text messages using personal or work-related devices;

16. The decision to recall or curtail former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

17. The acquisition by Ukraine of Javelin missiles from the United States and the decision by Ukraine (a) to cease investigations of Paul Manafort; (b) to cease

cooperation with Special Counsel Robert Mueller's investigation; and/or (c) to permit Konstantin Kilimnik to leave Ukraine for Russia in or about the spring of 2018;

18. The investigation announced by the Permanent Select Committee on Intelligence, Foreign Affairs Committee, and Oversight and Reform Committee of the U.S. House of Representatives on September 9, 2019;

19. The allegations in the Intelligence Community whistleblower complaint that was made public on September 26, 2019;

20. Efforts by any current or former White House officials, employees, or detailees, including President Trump, to identify or retaliate against the whistleblower who filed the complaint with the Inspector General of the Intelligence Community that was released by the House Permanent Select Committee on Intelligence on September 26, 2019, or against any individual who provided information to, or raised concerns to, the whistleblower or the Inspector General, including but not limited to any documents or communications referring or relating to searching communications, telephone records, telephones, or any other information to identify any of these individuals; and

21. Efforts to conceal, destroy, or otherwise dispose of any documents, records, or communications referring or relating to any of the foregoing matters.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 3, 2019

The Honorable John A. Yarmuth
Chairman
Committee on Budget
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Office of Management and Budget (OMB) received your September 27, 2019 letter requesting information and documents about OMB's apportionment actions. Per your request, please find enclosed a preliminary response. We will be in contact about the remaining requests in your letter.

Sincerely,

Jason A. Yaworske
Associate Director for Legislative Affairs

Enclosure

cc: The Honorable Steve Womack
The Honorable Kay Granger

Identical Letter Sent to The Honorable Nita Lowey

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 3, 2019

The Honorable Nita Lowey
Chairwoman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

The Office of Management and Budget (OMB) received your September 27, 2019 letter requesting information and documents about OMB's apportionment actions. Per your request, please find enclosed a preliminary response. We will be in contact about the remaining requests in your letter.

Sincerely,

Jason A. Yaworske
Associate Director for Legislative Affairs

Enclosure

cc: The Honorable Steve Womack
The Honorable Kay Granger

Identical Letter Sent to The Honorable John A. Yarmuth

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

November 4, 2019

The Honorable Adam Schiff
Chairman
House Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Schiff:

This letter is in response to your October 25, 2019, subpoenas to Acting Director Russell Vought and Associate Director Michael Duffey and your November 1, 2019, subpoena to Associate Director Brian McCormack compelling their appearances for depositions. The Office of Management and Budget (OMB) reasserts its position that, as directed by the White House Counsel's October 8, 2019, letter, OMB will not participate in this partisan and unfair impeachment inquiry.[1] Thursday's resolution only formalized a process that lacks basic due process protections and the ability to protect executive privilege. For example, as set forth in your rules[2] and your Committee's communications with Mr. Vought, Mr. Duffey, and Mr. McCormack, the Committee is denying agency counsel from participating in these depositions. The Office of Legal Counsel has advised that the Committee cannot lawfully bar agency counsel from these depositions. Therefore, Mr. Vought, Mr. Duffey, and Mr. McCormack will not appear at their respective depositions without being permitted to bring agency counsel.

Sincerely,

Jason A. Yaworske
Associate Director
for Legislative Affairs

cc: The Honorable Devin Nunes

[1] Letter from Jason Yaworske, Assoc. Dir. for Leg. Affairs, Off. of Management and Budget to Hon. Adam B. Schiff, Chairman, H. Permanent Select Comm. on Intelligence (Oct. 15, 2019).
[2] Regulation for the Use of Deposition Authority, 116th Cong. H1216 (Jan. 25, 2019).

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

October 15, 2019

The Honorable Adam Schiff
Chairman
House Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter is in response to your October 7, 2019 letter and subpoena for documents and communications in the custody, possession, or control of the Office of Management and Budget (OMB). According to the letter and subpoena schedule, you are demanding the production of nine categories of information no later than 5:00 pm on October 15, 2019. This demand, made in consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform, is "[p]ursuant to the House of Representatives' impeachment inquiry."[1]

The House of Representatives has yet to authorize such an inquiry. The Supreme Court has long held that the first step in assessing the validity of a subpoena from a congressional committee is determining "whether the committee was authorized" to issue the subpoena, which requires "construe[ing] the scope of the authority which the House of Representatives gave to" the committee.[2] Here, none of the committees has identified any House rule or House resolution that authorized the committees to begin an inquiry pursuant to the impeachment power. In marked contrast with historical precedents, the House has not expressly adopted any resolution authorizing an impeachment investigation.[3] The House also has not delegated such authority to any of the three committees by rule.[4] To the contrary, House Rule X is currently the only source of the three committees' jurisdiction, and that rule does not provide any of the committees the power to initiate an impeachment inquiry. The rule does not mention impeachment at all.[5] Absent a delegation by a House Rule or a resolution of the House, none of your committees has been delegated jurisdiction to conduct an investigation pursuant to the impeachment power under Article I, Section 2 of the Constitution.

Therefore, pursuant to the White House Counsel's October 8, 2019 letter, the President has advised that "[g]iven that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch

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[1] Letter from Hon. Adam B. Schiff, Chairman, House Permanent Select Comm. On Intelligence, to Hon. Russell T. Vought, Acting Dir., Off. of Management and Budget (Oct. 7, 2019).
[2] *United States v. Rumely*, 345 U.S. 41, 42-43 (1953).
[3] Letter from Pat A. Cipollone, White House Counsel to Hon. Nancy Pelosi, Speaker, House of Rep. et al., (Oct. 8, 2019).
[4] *See* H. Res. 6, 116th Cong. (2019).
[5] *See* H. Rule X, cl. 1(i), (n); cl. 11.

cannot be expected to participate in it."[6] The letter further directed that "[c]onsistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances."[7]

Even if the inquiry were validly authorized, much of the information sought in the subpoena appears to consist of confidential Executive Branch communications that are potentially protected by executive privilege and would require careful review to ensure that no such information is improperly disclosed. Furthermore, as a practical matter, given the broad scope of your request, the time required to collect the documents, review them for responsiveness and relevant privileges, and produce responsive, non-privileged documents to the committee is not feasible, within the mere eight days afforded to OMB to comply with the subpoena.

Separately, your letter claims that "failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President."[8] OMB objects to this extraordinary threat. Invoking reasonable legal defenses to a subpoena, including invoking privileges that are held by the President, in no way manifests evidence of obstruction or otherwise warrants an adverse inference. Indeed, the very idea that reasonably asserting legal rights is itself evidence of wrongdoing turns fundamental notions of fairness on their head and is inconsistent with the rule of law.

Consistent with the actions of prior Administrations, this Administration has a duty to protect the constitutional prerogatives of the Executive Branch. The committees' "impeachment inquiry" is entirely unprecedented and occupies a novel realm that is neither general oversight nor impeachment. As the White House Counsel explained, "you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers."[9] Therefore, without waiving any other objections to the subpoena that OMB may have, OMB is unable to comply with your request for documents at this time.

Sincerely,

Jason Yaworske
Legislative Director

cc: The Honorable Devin Nunes

[6] Letter from Pat A. Cipollone, White House Counsel to Hon. Nancy Pelosi, Speaker, House of Rep. et al., at 7 (Oct. 8, 2019) ("Cipollone Letter").
[7] *Id.*
[8] Letter from Hon. Adam B. Schiff, Chairman, House Permanent Select Comm. On Intelligence, to Hon. Russell T. Vought, Acting Dir., Off. of Management and Budget (Oct. 7, 2019).
[9] Cipollone Letter at 8.

John M. Dowd
Attorney at Law

[redacted]
Washington, D.C. 20015

(O) [redacted]
(C)
(F) [redacted]

VIA E-MAIL

October 3, 2019

[redacted]
Investigation Counsel
House Permanent Select Committee on Intelligence
Democratic Congress of the United States
Washington, D.C. 20515

Subject: Your letters of September 30, 2019, to Lev Parnas and Igor Fruman

Dear [redacted]

This letter will confirm our recent telephone conversation of October 1, 2019, in response to the Committees' extensive and detailed letters which the Committees unfortunately caused to be published on the internet in violation of all norms of fairness and decency.

In that call, I advised you of my anticipated retainer by Lev Parnas and Igor Frumas. I now represent Lev Parnas and Igor Fruman with respect to the alleged impeachment investigation referenced in your letters of September 30, 2019.

I will meet with Mr. Parnas and Mr. Fruman beginning this weekend to get acquainted with them, the facts and documents requested in your detailed letter in order to prepare a response to the Committees' requests. This effort will take some time.

Be advised that Messrs. Parnas and Fruman assisted Mr. Giuliani in connection with his representation of President Trump. Mr. Parnas and Mr. Furman have also been represented by Mr. Giuliani in connection with their personal and business affairs. They also assisted Joseph DiGenova and Victoria Toensing in their law practice.Thus, certain information you seek in your September 30, 2019, letter is protected by the attorney-client, attorney work product and other privileges. Given the breadth and detail of your request for information, an appropriate privilege review cannot reasonably be conducted by October 7, 2019, the date you have set to produce documents and communications. The amount of time required is difficult to determine. but we are happy to keep you advised of our progress and engage in a rolling production of non-privileged documents.

Your request for documents and communications is overly broad and unduly burdensome. The subject matter of your requests is well beyond the scope of your inquiry. This, in combination with requiring immediate responses, leads me to the inescapable conclusion that the Democratic Committee members' intent is to harass, intimidate and embarrass my clients.

The "Committees" and its Democratic members are well aware that my clients are entitled to retain counsel and counsel is entitled to an adequate period of time to get acquainted with the clients, review documents, consult with the clients and prepare the clients for any

potential testimony and document production. Requesting production of documents within seven days and requiring testimony within fifteen days is unreasonable and not in keeping with your Committees' standard procedures.

Considering the important factual questions and legal issues attendant to the alleged whistleblower, your investigation, your authority and requests for information, your charter should be amended to exhibit some semblance of due process, fairness, justice and common decency.

Respectfully submitted,

John M. Dowd
Counsel to Messrs. Parnas and Fruman

John M. Dowd
Attorney at Law

5335 Wisconsin Avenue, N.W.
Suite 700
Washington, D.C. 20015

(O) 202-362-[redacted]
(C) 571-435-[redacted]
(F) 703-759-[redacted]
john@[redacted]

VIA E-MAIL

October 8, 2019

Nicolas A. Mitchell
Investigation Counsel
House Permanent Select Committee on Intelligence
Democratic Congress of the United States
Washington, D.C. 20515

Subject: Your letters of September 30, 2019, to Lev Parnas and Igor Fruman

Dear Mr. Mitchell:

Kindly refer to my letter of October 3, 2019. This is an update. We continue to meet with Mr. Parnas and Mr. Fruman to gather the facts and documents related to the many subjects and persons detailed in your September 30 letter and to evaluate all of that information in light of the privileges we raised in our last letter. This effort will take some additional time. Accordingly, Messrs. Parnas and Fruman will not be available for depositions scheduled for October 10, 2019.

Considering the important factual questions and legal issues attendant to the alleged whistleblowers, your investigation, your authority and requests for information, your charter should be amended to exhibit some semblance of due process, fairness, justice and common decency.

Respectfully submitted,

John M. Dowd
Counsel to Messrs. Parnas and Fruman

UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2000

POLICY

FEB 28 2019

MAR 05 2019

The Honorable Eliot L. Engel
Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing to notify you that, in coordination with the Secretary of State, the Department of Defense (DoD) will use the authority provided by Section 1250 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 (Public Law 114-92), as most recently amended by Section 1246 of the NDAA for Fiscal Year 2019 (Public Law 115-232), to support programs in Ukraine. Implementation of these programs will begin no sooner than 15 days following this notification. This authority will be used to provide appropriate security assistance, including training, equipment, and logistics support, supplies, and services, to the military and other security forces of the Government of Ukraine.

The total estimated cost of these programs does not exceed $125 million. Funding made available pursuant to Section 9013 of the Department of Defense Appropriations Act, 2019 (division A of Public Law 115-245) will finance these programs.

DoD has included more than $50 million of assistance to deliver counter-artillery radars and defensive lethal assistance pursuant to Section 1250 of the NDAA for Fiscal Year 2016, as amended.

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125 million, and the quantity of items will remain consistent with the stated nature and scope of the program.

This notification is provided to meet the requirements of section 1250 of the NDAA for Fiscal Year 2016, as amended. Descriptions of the programs and associated training are enclosed. I am sending identical letters to the congressional defense committees and the Senate Committee on Foreign Relations.

Sincerely,

John Rood

Enclosures:
As stated

cc:
The Honorable Michael McCaul
Ranking Member

Ukraine Security Assistance Initiative Notification Summary Table
In Accordance with Section 9013 of the Department of Defense Appropriations Act, 2019 and Section 1250 of the National Defense Authorization Act for 2016, as Amended

Proposal	Program	Component	Combatant Command	Dollars
1	Lethal Equipment and Counter-Artillery Radars	DSCA	USEUCOM	$53,300,000
2	Ministry of Defense - Air Force	DSCA	USEUCOM	$5,000,000
3	Ministry of Defense - Land Forces and Special Operations Forces	DSCA	USEUCOM	$13,000,000
4	Ministry of Defense – Navy and Naval Infantry	DSCA	USEUCOM	$29,000,000
5	Ministry of Defense - Other	DSCA	USEUCOM	$24,700,000
Total				**$125,000,000**

DSCA – Defense Security Cooperation Agency
USEUCOM – U.S. European Command

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Lethal Equipment and Counter-Artillery Radars

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to the military and security forces of the Government of Ukraine to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds defensive lethal weapons systems, including sniper rifles and associated ammunition, optics, and ancillary items, and shoulder-fired grenade launchers and associated ammunition. This program also funds two counter-artillery radar systems, upgrades to 13 previously-provided counter-artillery radar systems, and the associated training, maintenance, and services. These additional radar systems and upgrades will enhance the survivability of Ukrainian forces by providing early warning against enemy indirect fire attacks. The sniper rifles, grenade launchers, and ammunition will increase the defensive capacity of Ukrainian forces for fixed site security, anti-armor, and counter-sniper missions.

Units selected to receive this assistance will undergo human rights vetting before such assistance is provided and will be provided human rights training by the Defense Institute of International Legal Studies. USEUCOM assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance (O&M), Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	**Value**	**Executing Component**
1	Radars, Spares, and Supporting Equipment, including: • AN/TPQ-37 FIREFINDER Radar (2) • Spares and Ancillary Items	$29,900,000	Army
2	Sniper Rifles, Spares, and Supporting Equipment, including: • .50 Sniper Rifle (122)	$5,800,000	Army

	Articles/Services	Value	Executing Component
	• .50 BMG Match, Armor Piercing, and Armor Piercing Incendiary Cartridges • Associated optics, parts, tools, accessories		
3	Grenade Launchers and Supporting Equipment, including: • PSRL-1 Grenade Launcher (1000) • Associated parts, tools, accessories, and rounds	$6,100,000	Navy
4	• Operations and Maintenance Training • Human Rights Training (DIILS) • Services, Service Charges, and Technical Support • Transportation, Consolidation, Shipping • Admin Surcharge (3.2%)	$11,500,000	Army/Navy
	PROGRAM TOTAL	**$53,300,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense - Air Force

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds equipment and training to enable the Ukrainian Air Force to become NATO-interoperable and to improve the Ukrainian Air Force's combat effectiveness. Equipment includes navigational aids, which will significantly enhance the utilization of air defense radars, make operations in a challenging electronic-warfare environment more feasible, and improve the overall air defense capability of Ukraine by enabling day/night and all-weather operational capabilities. This will be vital for the training of Ukrainian forces in critical combat operations to the NATO standard.

Units selected to receive this assistance will undergo human rights vetting before such assistance is provided. This program was approved by the Secretary of Defense, in coordination with the Secretary of State. USEUCOM assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance (O&M), Defense-wide, account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	Value	Executing Component
1	Aircraft Navigational Systems, including: • Doppler VHF Omnidirectional Radio Ranging and Tactical Air Navigation System • Associated spares and ancillaries Instrument Landing System/Distance Measuring Equipment, including: • Localizer (1) • Glideslope (1)	$2,300,000	Air Force

	Articles/Services	Value	Executing Component
	• Associated spares and ancillaries		
2	Aircraft Security and Communication, including: • Electrical Support Equipment • Safety and Security Equipment • Communications and Telephony • Bird Strike Prevention Equipment	$400,000	Army
3	• Additional associated spares and ancillaries • Equipment Testing, Maintenance, Training • Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$2,300,000	Air Force
	PROGRAM TOTAL	**$5,000,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense – Land Forces and Special Operations Forces

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability necessary to defend its sovereignty and territorial integrity, and support Ukraine's effort to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds Ukrainian land forces and special operations forces (SOF) equipment and associated critical combat operations training, maintenance, and services. Ukrainian land forces and SOF units will be equipped with electronic warfare equipment, tactical vehicles, shelters, and mine rollers. This program will promote the NATO interoperability of Ukrainian land forces and SOF. This assistance is supported by enduring defense reform programs through the support of the Ministry of Defense Advisors (MoDA) Program and the Defense Governance and Management Team (DGMT).

Units selected to receive this assistance will undergo human rights vetting before such assistance is provided. This program was approved by the Secretary of Defense, in coordination with the Secretary of State. USEUCOM assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance (O&M), Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	**Value**	**Executing Component**
1	Tactical Vehicles, including: • M1151 High Mobility Multipurpose Wheeled Vehicle (HMMWV) (6) • Self Protection Adaptive Roller Kit System (SPARKS) Mine Rollers (6) • HMMWV Trailers (30) • Associated spares and ancillaries	$4,000,000	Army

	Articles/Services	Value	Executing Component
2	Electronic Warfare (EW) • Versatile Radio Observation and Direction (VROD) and VROD Modular Adaptive Transmit (VMAX) Manpack EW System (12) • Unmanned Aerial System (UAS) Tracking Software for TCI Model 903S • Maintenance Package • Associate Spares and ancillaries	$3,000,000	Army
3	SOF Berthing Package (Alaska Shelter, 15 sets) • Associated spares and ancillaries	$1,500,000	Army
4	• Operations and Maintenance Training • Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$4,500,000	Army
	PROGRAM TOTAL	**$13,000,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense – Navy and Naval Infantry

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability necessary to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds small vessels, communications equipment, and supplies for the Ukrainian Navy and Naval Infantry, including night-vision equipment, thermal scopes, and rifle-mounted lasers to improve the Ukrainian Naval Infantry's capacity to conduct low-light and night-time operations. The program also funds diving equipment to support underwater operations. This assistance is supported by enduring defense reform programs through the support of the Ministry of Defense Advisors (MoDA) Program and the Defense Governance and Management Team (DGMT).

Units selected to receive this assistance will undergo human rights vetting before such assistance is provided. This program was approved by the Secretary of Defense, in coordination with the Secretary of State. USEUCOM assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance (O&M), Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	Value	Executing Component
1	Navy and Naval Infantry Communication Systems, including: • Shore Station System (1) • Shore Retransmission Station (6) • Intercom System (4) • Boat Radios (27) • Ruggedized Command Element Portable Computers (66) • Associated spares and ancillaries	$4,700,000	Army
2	Naval Infantry Tactical Equipment: • Night Vision Device (470) • Laser Weapon Sight (350)	$3,200,000	Army

	Articles/Services	Value	Executing Component
	• Associated spares and ancillaries		
3	Submerged Operations Equipment, including: • Scuba Operations Equipment (190) • Surface Swimmer Equipment (190) • Closed-Circuit Diving Equipment (204) • Support equipment, tools, associated spares, and ancillaries	$10,700,000	Navy
4	Rigid Hull Inflatable Boats (10) • Support equipment, tools, associated spares, and ancillaries Combat Rubber Raiding Crafts (47) • Support equipment, tools, associated spares, and ancillaries	$3,900,000	Navy
5	Mine Countermeasures/Harbor Security • Side Scan Sonar (4) • Autonomous Underwater Vehicle (1) • Tethered Remotely Operated Vehicle (4)	$2,300,000	Navy
4	• Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$4,200,000	Army/Navy
	PROGRAM TOTAL	**$29,000,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense – Other

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist in developing the combat capability necessary to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds secure communication radio equipment, communications training equipment, communication monitoring equipment, and secure computer network equipment to improve the Ukrainian Ministry of Defense's communication and cyber capabilities. This program also funds a technical support package to provide training and advisory efforts to enable the Ukrainian Ministry of Defense and Armed Forces to develop capabilities to support critical combat operations through such activities as planning, logistics, procurement, and acquisition, in line with NATO principles and standards. The technical support package will include training for staff and senior leadership to allow the armed forces to better analyze, budget, and select capabilities for procurement via a transparent, responsive, and competitive process.

This program was approved by the Secretary of Defense, in coordination with the Secretary of State. USEUCOM assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance (O&M), Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	Value	Executing Component
1	Secure Radio Equipment, including: • VHF/UHF Radio Systems (260) • HF Radio Systems (40) • Associated spares, ancillaries	$15,100,000	Army
2	Training and Classroom Equipment, including: • Tactical Vehicle Mounted Radio System (2) • Intercom System (2) • Tactical Radio System manpack (4) • Associated spares and ancillaries	$700,000	Army

	Articles/Services	Value	Executing Component
3	Radio Net Control Stations/Spectrum Monitoring Equipment, including: • Receiver/Scanner (3) • Antenna (3) • Software (3) • Analyst Equipment (3) • Associated spares and ancillaries	$800,000	Army
4	Net Infrastructure Installation Program, including: • Cabling and installation hardware to outfit 12 facilities and 6 teams • Associated spares and ancillaries	$2,900,000	Army
5	Technical Support Package • Support development of an acquisition and procurement system • Provide appropriate training materials, aids, and support	$2,000,000	DSCA
6	• Operations and Maintenance Training • Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$3,200,000	Army
	PROGRAM TOTAL	**$24,700,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

UNDER SECRETARY OF DEFENSE
2000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-2000

POLICY

MAY 23 2019

MAY 28 2019

The Honorable Eliot L. Engel
Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the Secretary of Defense, and in coordination with the Secretary of State, I have certified that the Government of Ukraine has taken substantial actions to make defense institutional reforms for the purposes of decreasing corruption, increasing accountability, and sustaining improvements of combat capability enabled by U.S. assistance. An assessment of the actions taken by Ukraine, the remaining areas in need of defense institutional reform, and the methodology used to evaluate this reform are included in this letter. Furthermore, now that this defense institutional reform has occurred, we will use the authority provided by section 1250 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 (Public Law 114-92), as amended most recently by section 1246 of the John S. McCain NDAA for Fiscal Year 2019 (Public Law 115-232), to support programs in Ukraine further. Implementation of this further support will begin no sooner than 15 days following this notification. This authority will be used to provide appropriate security assistance, including training, equipment, and logistics support, supplies, and services, to the military and other security forces of the Government of Ukraine.

Pursuant to Section 9013 of the Department of Defense (DoD) Appropriations Act, 2019 (division A of Public Law 115-245), we are notifying the committees of this obligation.

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125 million, and the quantity of items will remain consistent with the stated nature and scope of the program.

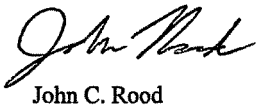
The primary methodology used to inform this certification was persistent U.S. engagement with Ukraine, including, but not limited to: 1) the Secretary's meetings with Minister of Defense Poltorak; 2) a visit to Kyiv by the U.S. Deputy Assistant Secretary of Defense for Russia, Ukraine, Eurasia; 3) Lieutenant General (Retired) Keith Dayton's bilateral consultations with and participation in Ukraine's Defense Reform Advisory Board in his role as U.S. Senior Defense Advisor on Ukraine; 4) former Secretary of the Navy Dr. Donald Winter's visit to Kyiv in his role a U.S. Senior Defense Industry Advisor; 5) senior level engagements led by the Department of State, including the U.S.-Ukraine Strategic Partnership Commission; 6) U.S. European Command's efforts through the Multinational Joint Commission on Ukraine; 7) the Joint Multinational Training Group – Ukraine training program; and 8) other advisory efforts through the Ministry of Defense Advisors Program, Defense Governance and Management Team, Cooperative Technology Security Dialogue, and the U.S. Embassy in Kyiv and U.S. Mission to NATO in Brussels.

Through these engagements, the United States has effectively helped Ukraine advance institutional reforms through a number of substantial actions to align Ukraine's defense enterprise more closely with NATO standards and principles. The Ukrainian Government adopted legislation to authorize the Ministry of Defense to conduct direct procurement from international manufacturers, including through the Foreign Military Sales program. Furthermore, to strengthen civilian control of the military, the ministry is making progress toward increasing civilian staff, as most prominently illustrated by the fact that the Minister of Defense is now a civilian. Minister Poltorak also initiated an ambitious program to reform the command and control system in line with Euro-Atlantic principles, which will further strengthen civilian control, and to separate force generation from force employment functions, which will improve the management of Ukraine's forces. Lastly, Ukraine committed in writing to defense industry reforms and requested a Senior Defense Industry Advisor to improve the ability of Ukraine's domestic industry to provide critical material to the Ukrainian armed forces and transform the state-owned enterprise.

Although substantial progress has been made on defense reform since 2014, there remain areas that require significant attention. Although Ukraine has made a commitment to defense industry reforms, increased transparency in acquisition and budgeting will require a sustained effort. DoD is supporting Ukraine with the development of a transformation plan to bring its industry in line with global best practices, which will likely be a multi-year effort. The implementation of a modern human resources management system is another area that still requires attention. Moreover, Ukraine, with U.S. advice and mentoring, continues to mature its processes and procedures to ensure technology security, proper accountability, and end-use controls for U.S.-provided equipment. The United States remains committed to assisting with the implementation of these reforms to bolster Ukraine's ability to defend its territorial integrity in support of a secure and democratic Ukraine.

This notification is provided to meet the requirements of section 1250 of the NDAA for Fiscal Year 2016, as amended. Descriptions of the programs and associated training are enclosed. I am sending identical letters to the congressional defense committees and the Senate Committee on Foreign Relations.

Sincerely,



John C. Rood

Enclosures:
As Stated

cc:
The Honorable Michael McCaul
Ranking Member

Ukraine Security Assistance Initiative Notification Summary Table
In Accordance with Section 9013 of the Department of Defense Appropriations Act, 2019, and Section 1250 of the National Defense Authorization Act for 2016, as Amended
(Tranche 2, $125 Million)

Proposal	Program	Component	Combatant Command	Dollars
1	Electronic Warfare and Counter-Mortar Radars	DSCA	USEUCOM	$26,900,000
2	National Guard	DSCA	USEUCOM	$9,700,000
3	Ministry of Defense – Land Forces and Special Operations Forces	DSCA	USEUCOM	$28,300,000
4	Ministry of Defense – Command and Control	DSCA	USEUCOM	$51,100,000
5	Ministry of Defense – Other	DSCA	USEUCOM	$9,000,000
	Total			**$125,000,000**

DSCA – Defense Security Cooperation Agency
USEUCOM – U.S. European Command

Ukraine Security Assistance Initiative (USAI):
Electronic Warfare and Counter-Mortar Radars

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds 15 Electronic Warfare (EW) systems, including 12 systems to be mounted on command-variant HMMWVs for the Ukrainian Land Forces and three systems for the Ukrainian Navy to be mounted on U.S.-provided Island Class Patrol Boats. This program also provides funding for the upgrade of 56 counter-mortar radar systems to be equipped with a Counter-Unmanned Arial Vehicle (UAV) capability, 12 Command-variant HMMWVs, and associated training, maintenance, and services. These additional EW systems and upgraded radar systems will enhance the survivability of Ukrainian forces by providing early warning against indirect fire attacks and detecting UAVs to increase situational awareness of enemy activity.

Units selected to receive this assistance will undergo Leahy human rights vetting before such assistance is provided and will be provided human rights training by the Defense Institute of International Legal Studies. U.S. European Command (USEUCOM) assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance, Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	**Value**	**Executing Component**
1	Radars, Spares, and Supporting Equipment, including: • AN/TPQ-49 Counter-UAV Software Upgrades (56) • Spares and Ancillary Items	$2,900,000	Army/USMC
2	Electronic Warfare systems and Supporting Equipment, including: • TCI Model 903-2 platforms (15) • Associated parts, tools, installation, and accessories	$19,300,000	Army/Navy

	Articles/Services	Value	Executing Component
3	• Operations and Maintenance Training • Human Rights Training (DIILS) • Services, Service Charges, and Technical Support • Transportation, Consolidation, Shipping	$4,700,000	Army/Navy/USMC
	PROGRAM TOTAL	**$26,900,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
National Guard

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds equipment for the National Guard of Ukraine's (NGU) Rapid Reaction Brigade and three training centers (Zolochiv, Kharkiv, and Stare). Equipment includes secure communication equipment, four static electronic warfare systems, and trailer-mounted tent systems to increase capacity at NGU training centers, and secure containers for the storage of Enhanced End-Use Monitoring items provided through USAI.

Units selected to receive this assistance will undergo Leahy human rights vetting and will be provided human rights training by the Defense Institute of International Legal Studies before such assistance is provided. U.S. European Command (USEUCOM) assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance, Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	**Value**	**Executing Component**
1	Secure Communications, including: • VHF Radio Systems (36) • HF Radio Systems (16) • Additional associated spares and ancillaries	$3,400,000	Army
2	Electronic Warfare Systems • TCI Model-903S (4)	$2,100,000	Army
3	Trailer-Mounted Tent Systems • Large Tent System (2) • Medium Tent System (3) • Assorted tactical items, containers, metal detectors, associated spares, and accessories	$2,500,000	Army, Navy

	Articles/Services	Value	Executing Component
4	• Operations and Maintenance Training • Human Rights Training (DIILS) • Services, Service Charges, and Technical Support • Transportation, Consolidation, Shipping	$1,700,000	Army
	PROGRAM TOTAL	**$9,700,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense – Land Forces and Special Operations Forces

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability necessary to defend its sovereignty and territorial integrity, and support Ukraine's effort to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds Ukrainian land forces and special operations forces (SOF) equipment and associated critical combat operations training, maintenance, and services. This program funds additional up-armored HMMWVs, maintenance and sustainment equipment and spare parts for night-vision devices, Explosive Ordnance Disposal (EOD) equipment, and secure communications equipment. These items increase survivability of Ukraine's forces by increasing their capacity and capability to address Improvised Explosive Devices and Unexploded Ordnance threats throughout the Joint Forces Operation area, and increases their lethality with advanced weapon optics.

Units selected to receive this assistance will undergo Leahy human rights vetting before such assistance is provided and will be provided human rights training by the Defense Institute of International Legal Studies. The U.S. European Command (USEUCOM) assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance, Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	**Value**	**Executing Component**
1	Tactical Vehicles, including: • M1151 HMMWV (20) • M1152 HMMWV Maintenance Contact Vehicle (4) • Associated spares and ancillaries	$6,300,000	Army

	Articles/Services	Value	Executing Component
2	Night-Vision Device (NVD) sustainment and maintenance, including: • NVD consumable spare parts • NVD repair tools and supplies • Secure storage containers (20) • Associated Spares and ancillaries • Collimator Rifle Sights (1000) • Associated Rifle Handguards, batteries, spares, ancillaries	$3,600,000	Army
3	Engineering and Explosive Ordnance Disposal (EOD), including: • Husky Demining Vehicle (1) • EOD Robots (20) • EOD Bomb-technician Suits (14) • Associated spares and ancillaries	$7,200,000	Navy
4	Non-Commissioned Officer Academy and Yavoriv Training Center Equipment, including: • English Language Labs (20) • Simulations software and servers • Associated spares and ancillaries	$400,000	Army
5	SOF Secure Communication, including: • HF/VHF Radios (124) • Associated Spares and ancillaries	$4,200,000	Army
6	SOF Optics, Medical, and Engineering, including: • Weapon optics (550) • Secure Storage Containers (6) • EOD equipment • Medical equipment • Water Purification system (8) • Associated Spares and ancillaries	$2,500,000	Army/Navy

	Articles/Services	Value	Executing Component
7	• Operations and Maintenance Training • Human Rights Training (DILLS) • Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$4,100,000	Army/Navy
	PROGRAM TOTAL	**$28,300,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense – Command and Control

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist Ukraine in developing the combat capability necessary to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds equipment to develop further Ukraine's ability to communicate securely in the Joint Forces Operation area and emissions and penetration testing equipment to harden communication networks. These systems will improve the Ukrainian Ministry of Defense's communication and cyber capabilities.

Units selected to receive this assistance will undergo Leahy human rights vetting before such assistance is provided and will be provided human rights training by the Defense Institute of International Legal Studies. The U.S. European Command (USEUCOM) assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance, Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	Value	Executing Component
1	Secure Communications equipment, including: • VHF/UHF radio systems (100) • VHF Dismount System (100) • HF Radio Systems (350) • Associated spares and ancillaries	$43,200,000	Army
2	Emissions and Penetration Testing and certification equipment, including: • Spectrum Analyzers (23) • Servers, racks, and cabling • Associated spares and ancillaries	$1,400,000	Army

	Articles/Services	Value	Executing Component
3	• Operations and Maintenance Training • Human Rights Training (DIILS) • Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$6,500,000	Army
	PROGRAM TOTAL	**$51,100,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Ukraine Security Assistance Initiative (USAI):
Ministry of Defense – Other

The Department of Defense (DoD) plans to undertake activities to provide security assistance and intelligence support to military and security forces of the Government of Ukraine in order to enhance Ukraine's capabilities to defend against Russian aggression, assist in developing the combat capability necessary to defend its sovereignty and territorial integrity, and support Ukraine's efforts to defend against actions by Russia and Russian-backed separatists that violate the ceasefire agreements of September 4, 2014, and February 11, 2015. All activities notified under this program will be executed pursuant to Section 1250 of the National Defense Authorization Act for Fiscal Year 2016, as amended, and Section 9013 of the Department of Defense Appropriations Act, 2019.

This program funds 10 additional HMMWV ambulances, medical treatment supplies, optics and ancillaries for the Military Police, 10 vehicle-mounted public address systems, and associated training. These programs will continue to enhance Ukraine's military medical capacity and capability in support of continued U.S.-led medical training in Ukraine designed to develop an organic and self-sustaining military medic program.

Units selected to receive this assistance will undergo Leahy human rights vetting before such assistance is provided and will be provided human rights training by the Defense Institute of International Legal Studies. The U.S. European Command (USEUCOM) assesses that Ukraine will be able to absorb effectively and benefit from the proposed assistance. There will be no adverse effect on U.S. personnel or operations. The funding for this program will come from the Department's FY 2019 Operation and Maintenance, Defense-wide account.

These efforts support U.S. national security objectives both globally and within the USEUCOM area of responsibility.

DoD intends to provide the following articles or equivalent variants and services:

	Articles/Services	**Value**	**Executing Component**
1	Medical Equipment, including: • M1152 HMMWV Ambulances (10) • Hospital equipment (30) • Treatment and Training supplies • Associated spares, ancillaries	$5,500,000	Army
2	Military Police Equipment, including: • Weapon Optics (200) • Range finders (10) • Associated spares and ancillaries	$500,000	Army
3	STRATCOM equipment, including: • Vehicle-Mounted Public Announcement system (10) • US standard digital media kits (30) • Associated spares and ancillaries	$1,600,000	Army

	Articles/Services	Value	Executing Component
4	• Operations and Maintenance Training • Human Rights Training (DIILS) • Services, Service Charges, and Technical Support • Transportation, Consolidation, and Shipping	$1,400,000	Army
	PROGRAM TOTAL	**$9,000,000**	

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125,000,000. The quantity of items will remain consistent with the notified nature and scope of the program.

Dear Mr. Chairman:

On behalf of the Secretary of Defense, and in coordination with the Secretary of State, I have certified that the Government of Ukraine has taken substantial actions to make defense institutional reforms for the purposes of decreasing corruption, increasing accountability, and sustaining improvements of combat capability enabled by U.S. assistance. An assessment of the actions taken by Ukraine, the remaining areas in need of defense institutional reform, and the methodology used to evaluate this reform are included in this letter. Furthermore, now that this defense institutional reform has occurred, we will use the authority provided by section 1250 of the National Defense Authorization Act (NDAA) for Fiscal Year 2016 (Public Law 114-92), as amended most recently by section 1246 of the John S. McCain NDAA for Fiscal Year 2019 (Public Law 115-232), to support programs in Ukraine further. Implementation of this further support will begin no sooner than 15 days following this notification. This authority will be used to provide appropriate security assistance, including training, equipment, and logistics support, supplies, and services, to the military and other security forces of the Government of Ukraine.

Pursuant to Section 9013 of the Department of Defense (DoD) Appropriations Act, 2019 (division A of Public Law 115-245), we are notifying the committees of this obligation.

Figures provided in this notification reflect estimated quantities and values. These figures may change based on the final price and availability of individual items, but the overall cost will not exceed $125 million, and the quantity of items will remain consistent with the stated nature and scope of the program.

The primary methodology used to inform this certification was persistent U.S. engagement with Ukraine, including, but not limited to: 1) the Secretary's meetings with Minister of Defense Poltorak; 2) a visit to Kyiv by the U.S. Deputy Assistant Secretary of Defense for Russia, Ukraine, Eurasia; 3) Lieutenant General (Retired) Keith Dayton's bilateral consultations with and participation in Ukraine's Defense Reform Advisory Board in his role as U.S. Senior Defense Advisor on Ukraine; 4) former Secretary of the Navy Dr. Donald Winter's visit to Kyiv in his role a U.S. Senior Defense Industry Advisor; 5) senior level engagements led by the Department of State, including the U.S.-Ukraine Strategic Partnership Commission; 6) U.S. European Command's efforts through the Multinational Joint Commission on Ukraine; 7) the Joint Multinational Training Group – Ukraine training program; and 8) other advisory efforts through the Ministry of Defense Advisors Program, Defense Governance and Management

Team, Cooperative Technology Security Dialogue, and the U.S. Embassy in Kyiv and U.S. Mission to NATO in Brussels.

Through these engagements, the United States has effectively helped Ukraine advance institutional reforms through a number of substantial actions to align Ukraine's defense enterprise more closely with NATO standards and principles. The Ukrainian Government adopted legislation to authorize the Ministry of Defense to conduct direct procurement from international manufacturers, including through the Foreign Military Sales program. Furthermore, to strengthen civilian control of the military, the ministry is making progress toward increasing civilian staff, as most prominently illustrated by the fact that the Minister of Defense is now a civilian. Minister Poltorak also initiated an ambitious program to reform the command and control system in line with Euro-Atlantic principles, which will further strengthen civilian control, and to separate force generation from force employment functions, which will improve the management of Ukraine's forces. Lastly, Ukraine committed in writing to defense industry reforms and requested a Senior Defense Industry Advisor to improve the ability of Ukraine's domestic industry to provide critical material to the Ukrainian armed forces and transform the state-owned enterprise.

Substantial progress has been made on defense reform since 2014, but there remain areas that require significant attention. Although Ukraine has made a commitment to defense industry reforms, increased transparency in acquisition and budgeting will require a sustained effort. DoD is supporting Ukraine with the development of a transformation plan to bring its industry in line with global best practices, which will likely be a multi-year effort. The implementation of a modern human resources management system is another area that still requires attention. Moreover, Ukraine, with U.S. advice and mentoring, continues to mature its processes and procedures to ensure technology security, proper accountability, and end-use controls for U.S.-provided equipment. The United States remains committed to assisting with the implementation of these reforms to bolster Ukraine's ability to defend its territorial integrity in support of a secure and democratic Ukraine.

This notification is provided to meet the requirements of section 1250 of the NDAA for Fiscal Year 2016, as amended. Descriptions of the programs and associated training are enclosed. I am sending identical letters to the other congressional defense committees, the Senate Committee on Foreign Relations, and the House Committee on Foreign Affairs.

Sincerely,

John C. Rood

Department of Energy
Washington, DC 20585

November 5, 2019

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

The Honorable Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Committee Chairs:

Please be advised that the Secretary will not appear on Wednesday, November 6, 2019 at 2:00 pm for a deposition to be conducted jointly by the Permanent Select Committee on Intelligence, the Committee on Foreign Affairs, and the Committee on Oversight and Reform.

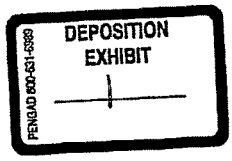
Sincerely,

Bill Cooper
General Counsel

United States Department of State

Washington, D.C. 20520

October 2, 2019



Ms. Margaret E. Daum
Squire Patton Boggs
2550 M Street NW
Washington DC 20037
[redacted]

Dear Ms. Daum:

Thank you for the opportunity to speak earlier today. We wanted to confirm several points with you before your client appears voluntarily for testimony tomorrow.

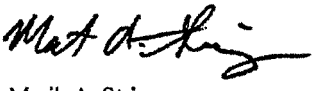
I understand that your client intends voluntarily to appear tomorrow for a transcribed interview before the House Permanent Select Committee on Intelligence notwithstanding the fact that the Committee has refused to allow a lawyer from the State Department to be present to safeguard legitimate Executive Branch interests. In this context, it is important that I write to remind you that his appearance does not relieve him of his legal obligations to protect classified information and potentially privileged communications. The confidential communications between your client and foreign government officials may be classified and may be subject to claims of privilege. *See, e.g., Assertion of Executive Privilege for Documents Concerning Conduct of Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 6 (1996) (opinion of Attorney General Janet Reno). In addition, the Department's internal communications, or those with other Executive Branch officials, related to foreign affairs may be classified and privileged. As Secretary Pompeo has explained, the absence of Department counsel deprives the State Department of the opportunity to address questions relating to the disclosure of privileged information and classified information when those matters arise. *See generally Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __ (May 23, 2019), available at https://www.justice.gov/olc/file/1171671/download.

Please advise your client that, in the absence of an opportunity to review the information that may be disclosed to the Committee by your client, your client is not authorized to disclose information that may be subject to executive privilege or to disclose classified information in the absence of the required safeguards necessary to ensure its protections. In addition, if you believe that your representation of your client requires that you obtain access to the Department's classified information, including information known to your client, then you should request that the agency that issued your security clearance confirm the status of your clearance to the Department through appropriate channels.

Finally, with respect to the Committee's request to your client for documents, please be advised that in the absence of an opportunity for the Department to review the documents in question, your client is not authorized to disclose to Congress any records relating to his official duties. The Department has received a document subpoena for similar records and will send a response to the subpoena shortly. In this connection, it is also important that you remind your client of his responsibility under the Federal Records Act to ensure that any Department records currently in his possession, in whatever format, be transferred into the control and possession of the Department. These may include documents located on a personal cell phone, if your client relied upon that device for communications related to his work on behalf of the Department of State.

Please contact us if you wish to discuss any questions on these issues.

Sincerely yours,



Marik A. String
Acting Legal Adviser

OFFICE OF THE VICE PRESIDENT
WASHINGTON

October 15, 2019

VIA ELECTRONIC MAIL ONLY

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

Dear Chairmen:

The Office of the Vice President has received the Committees' Letter to the Vice President, dated October 4, 2019, which requests a wide-ranging scope of documents, some of which are clearly not vice-presidential records, pursuant to a self-proclaimed "impeachment inquiry." As noted in the October 8, 2019 letter from the White House Counsel to each of you and to Speaker Nancy Pelosi,[1] the purported "impeachment inquiry" has been designed and implemented in a manner that calls into question your commitment to fundamental fairness and due process rights.

The Office of the Vice President recognizes the oversight role of your respective committees in Congress. Please know that if the Committees wish to return to the regular order of legitimate legislative oversight requests, and the Committees have appropriate requests for information solely in the custody of the Office of the Vice President, we are prepared to work with you in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers. Until that time, the Office of the Vice President will continue to reserve all rights and privileges that may apply, including those protecting executive privileges, national security, attorney-client communications, deliberations, and communications among the President, the Vice President, and their advisors.

As detailed in the White House Counsel Letter, the House of Representatives has not authorized any "impeachment inquiry." Specifically, the operative House rules do not delegate to any committee the authority to conduct an inquiry under the impeachment power of Article I, Section 2 of the Constitution. Instead of being accountable to the American people and casting a vote to authorize what all agree is a substantial constitutional step, you have instead attempted to

[1] Letter from Pat A. Cipollone, White House Counsel, to Speaker Nancy Pelosi and Chairmen Adam B. Schiff, Eliot L. Engel, and Elijah E. Cummings (Oct. 8, 2019).

avoid this fundamental requirement by invoking the Speaker's announcement of an "official impeachment inquiry" at a press conference.[2] Never before in history has the Speaker of the House attempted to launch an "impeachment inquiry" against a President without a majority of the House of Representatives voting to authorize a constitutionally acceptable process.

The Office of the Vice President encourages the Committees to forgo their request to the Office of the Vice President, or hold it in abeyance, pending your discussion with the White House Counsel's Office concerning compliance with constitutionally mandated procedures. Similarly, the Office of the Vice President encourages the Committees to first seek information from primary sources that may be responsive to your broad requests.

Sincerely,

Matthew E. Morgan
Counsel to the Vice President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence

[2] Speaker of the House Nancy Pelosi, *Press Release: Pelosi Remarks Announcing Impeachment Inquiry* (Sept. 24, 2019), www.speaker.gov/newsroom/92419-0.

Department of Energy
Washington, DC 20585

October 18, 2019

The Honorable Adam Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

The Honorable Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Committee Chairs:

I am responding on behalf of the Department of Energy to your October 10, 2019 letter and subpoena to produce documents and communications in the custody, possession, or control of the Department related to ten categories of information by October 18, 2019. The stated purpose for the demand is the House "impeachment inquiry."

As the Supreme Court has long recognized, a Congressional committee cannot exercise the investigative power of the full House of Representatives unless it has that power through proper delegation.[1] In contrast to historical precedent, the House has neither expressly adopted a resolution authorizing an impeachment investigation nor delegated impeachment authority by rule.[2] By failing to validly authorize the impeachment inquiry, the House apparently seeks to investigate conduct of an impeachable officer pursuant to the legislative power—not the impeachment power of the House. The Department reiterates the White House Counsel's concern that blurring the distinction between Congress' legislative and impeachment powers violates separation of powers.[3]

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[1] *United States v. Rumely*, 1953, 345 U.S. 41, 42-43 (1953).
[2] *See* H. Res. 6, 116 Cong. (2019) (containing no reference to impeachment).
[3] Letter from Pat A. Cipollone, Counsel to the President, to Hon. Nancy Pelosi, Speaker, House of Representatives et al., (Oct. 8, 2019).

Even if the inquiry was validly authorized, much of the information sought in the subpoena appears to consist of confidential Executive Branch communications that are potentially protected by executive privilege and would require careful review to ensure that no such information is improperly disclosed. Furthermore, as a practical matter, given the ten categories of information sought, some with numerous subparts, the time and effort required to collect, review, and produce responsive, non-privileged documents is not feasible within the short time afforded to comply with the subpoena.

Additionally, the Department does not accept the claim that "failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President." There is no basis to this claim, as invoking reasonable defenses to a subpoena or privileges held by the President cannot be considered under any rational basis to be acts of obstruction or used as the basis for an adverse inference. The rule of law and fundamental notions of fairness protect the assertion of these legal rights.

Pursuant to these concerns, the Department restates the President's position: "Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it."[4] Therefore, without waiving any other objections to the subpoena that the Department may have, the Department is unable to comply with your request for documents and communications at this time. However, the Department remains committed to working with Congress on matters of mutual importance conducted in accordance with proper authorizations and procedures.

Sincerely,

Melissa F. Burnison
Assistant Secretary of Energy
Congressional and Intergovernmental Affairs

Cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

[4] *Id.*

UNCLASSIFIED//FOUO

INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY
WASHINGTON, D.C. 20511

September 9, 2019

VIA ELECTRONIC TRANSMISSION

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Schiff and Ranking Member Nunes:

(U//FOUO) On August 12, 2019, the Office of the Inspector General of the Intelligence Community (ICIG) received a disclosure from an individual (hereinafter "the Complainant") regarding an alleged "urgent concern," pursuant to 50 U.S.C. § 3033(k)(5)(A).[1] The term "urgent concern" is defined, in relevant part, as:

> (U) A serious or flagrant problem, abuse, violation of the law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.[2]

[1] (U) 50 U.S.C. § 3033(k)(5)(A) provides that an "employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information" to the ICIG.

[2] (U) 50 U.S.C. § 3033(k)(5)(G)(i).

(U//FOUO) After receiving the Complainant's disclosure, the ICIG was required within 14 calendar days to determine whether the information alleged by the Complainant with respect to an urgent concern appeared credible.[3] During that 14-day time period, the ICIG conducted a preliminary review of the disclosure. As a result of that preliminary review, I determined that the Complainant's disclosure met the definition of an urgent concern, *i.e.*, a "serious or flagrant problem, abuse, violation of the law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information."[4] I also determined that there were reasonable grounds to believe that information relating to the urgent concern appeared credible.[5]

(U//FOUO) On August 26, 2019, I forwarded the Complainant's disclosure and accompanying materials, along with my determination that the Complainant's information appeared credible, to the Acting Director of National Intelligence (Acting DNI). Pursuant to the urgent concern statute, upon receipt of the ICIG's transmittal, the Acting DNI within seven calendar days is required to forward such transmittal to the congressional intelligence committees along with any comments he considers appropriate.[6]

(U//FOUO) It is my understanding that the Acting DNI has determined that he is not required to transmit my determination of a credible urgent concern or any of the Complainant's information to the congressional intelligence committees because the allegations do not meet the definition of an "urgent concern" under the statute, and has not made the transmission as of today's date. Although I believe and appreciate that the Acting DNI is acting in good faith, the Acting DNI's treatment of the Complainant's alleged "urgent concern" does not appear to be consistent with past practice. As you know, the ICIG has on occasion in the past determined that, for a variety of reasons, disclosures submitted to the ICIG under the urgent concern statute did not constitute an urgent concern. In those cases, even though the ICIG determined that those disclosures did not meet the definition of an urgent concern, the DNI nevertheless provided direction to the ICIG to transmit the ICIG's determination and the complainants' information to the congressional intelligence committees. In each of those cases, the ICIG followed the DNI's direction and transmitted the ICIG's determination along with the complainants' information to the congressional intelligence committees. That past practice permitted complainants in the Intelligence Community to contact the congressional intelligence committees directly, in an authorized and protected manner, as intended by the urgent concern statute.

(U//FOUO) I am continuing my efforts to obtain direction from the Acting DNI regarding how the Complainant may bring the Complainant's concerns to the congressional intelligence

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[3] (U) *Id.* at § 3033(k)(5)(B).

[4] (U) *Id.* at § 3033(k)(5)(G)(i).

[5] (U) *Id.* at § 3033(k)(5)(B).

[6] (U) *Id.* at § 3033(k)(5)(C).

committees in an authorized and protected manner, and "in accordance with appropriate security practices."[7] I intend to reach back out to you in the near future to discuss my attempts to resolve outstanding issues relating to this matter.

(U) Please contact me if you have any questions.

Sincerely yours,

Michael K. Atkinson
Inspector General
of the Intelligence Community

cc: The Honorable Joseph Maguire
Director of National Intelligence (Acting)

[7] (U) *Id.* at § 3033(k)(5)(D)(ii).



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

John J. Sullivan
Deputy Secretary
U.S. Department of State
2201 C St NW
Washington, DC 20520

Bonnie Glick
Deputy Administrator
U.S. Agency for International Development
1001 Pennsylvania Ave NW
Washington, DC 20004

Dear Mr. Sullivan and Ms. Glick:

Pursuant to the authority delegated to me by the Acting Director of OMB to carry out OMB's apportionment authority under 31 U.S.C. 1512, this letter constitutes a reapportionment of the previously approved apportionments of the below-mentioned Treasury Appropriation Fund Symbols (TAFS), which will become effective as of September 1, 2019. Through August 31, 2019, the daily rate required by the letter apportionment signed on August 9, 2019 shall remain in effect for all TAFS except for the Global Health account.

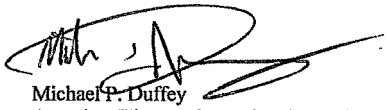
One-quarter of the balances in the TAFS included in this letter that are unobligated as of September 1, 2019, and were not available for obligation under the August 9 letter as of such date, shall become available for obligation on a cumulative basis on each of the Sundays between September 1st and September 22nd of 2019. However, this apportionment action shall not apply to $250,000,000 that is available for priority programs (i.e., Iraq stabilization, W-GDP, and religious and ethnic minorities) which is entirely available for obligation as of the date of this letter apportionment. All of the footnotes and conditions placed on the apportionments for the TAFS listed below that were approved before the date of this reapportionment (including categories of apportionments) remain in effect. The Department should seek OMB concurrence on the calculation of the amounts made available under this apportionment action. Additionally, if the Department believes that a higher apportionment level for an account is necessary for programmatic reasons, the Department may seek a reapportionment from OMB.

This apportionment does not apply to unobligated resources available for obligation for salaries and expenses and upward adjustments for outstanding financial obligations in the relevant TAFS, or to any reimbursable work done pursuant to interagency agreements. The following TAFS are so reapportioned:

Department of State/United States Agency for International Development

- Contributions to International Organizations (019-1126 2019/2019)
- Contributions for International Peacekeeping Activities (019-1124 2018/2019)
- Contributions for International Peacekeeping Activities (019-1124 2019/2019)
- International Narcotics Control and Law Enforcement (011-1022 2018/2019)
- Development Assistance (072-1021 2018/2019)
- Development Assistance (19-72-1021 2018/2019)
- Assistance for Europe, Eurasia and Central Asia (072-0306 2018/2019)
- Assistance for Europe, Eurasia and Central Asia (19-72-0306 2018/2019)
- Peacekeeping Operations (011-1032 2018/2019)
- Peacekeeping Operations (011-1032 2019/2019)

- Economic Support Fund (072-1037 2018/2019)
- Economic Support Fund (19-72-1037 2018/2019)
- Foreign Military Financing Program (011-1082 2018/2019)
- International Organizations and Programs (019-1005 2019/2019)



Michael P. Duffey
Associate Director for National Security Programs
The White House Office of Management & Budget

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

John J. Sullivan
Deputy Secretary
U.S. Department of State
2201 C St NW
Washington, DC 20520

Bonnie Glick
Deputy Administrator
U.S. Agency for International Development
1001 Pennsylvania Ave NW
Washington, DC 20004

Dear Mr. Sullivan and Miss Glick:

Pursuant to the authority delegated to me by the Acting Director of OMB to carry out OMB's apportionment authority under 31 U.S.C. 1512, this letter constitutes a reapportionment of all previously approved apportionments of the below-mentioned Treasury Appropriation Fund Symbols (TAFS). All previously apportioned unobligated resources in the TAFS shall be unavailable for obligation until three business days after the Office of Management and Budget receives an accounting from your agencies of the current outstanding unobligated resources in the TAFS. This apportionment does not apply to unobligated resources available for obligation for salaries and expenses and upward adjustments for outstanding financial obligations in the relevant TAFS. The following TAFS are so reapportioned:

Department of State/United States Agency for International Development

- Contributions to International Organizations (019-1126 2019/2019)
- Contributions for International Peacekeeping Activities (019-1124 2018/2019)
- Contributions for International Peacekeeping Activities (019-1124 2019/2019)
- International Narcotics Control and Law Enforcement (011-1022 2018/2019)
- Development Assistance (072-1021 2018/2019)
- Development Assistance (19-72-1021 2018/2019)
- Assistance for Europe, Eurasia and Central Asia (072-0306 2018/2019)
- Assistance for Europe, Eurasia and Central Asia (19-72-0306 2018/2019)
- Peacekeeping Operations (011-1032 2018/2019)
- Peacekeeping Operations (011-1032 2019/2019)
- Economic Support Fund (072-1037 2018/2019)
- Economic Support Fund (19-72-1037 2018/2019)
- Foreign Military Financing Program (011-1082 2018/2019)
- International Organizations and Programs (019-1005 2019/2019)
- Global Health (072-19-1031 2018/2019)

This apportionment action is effective as of 11:59 p.m. Eastern Daylight Time on Saturday, August 3, 2019, and supersedes all apportionment actions for fiscal year 2019 for the abovementioned TAFS.

Michael P. Duffey
Associate Director for National Security Programs
The White House Office of Management & Budget

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

August 9, 2019

John J. Sullivan
Deputy Secretary
U.S. Department of State
2201 C St NW
Washington, DC 20520

Bonnie Glick
Deputy Administrator
U.S. Agency for International Development
1001 Pennsylvania Ave NW
Washington, DC 20004

Dear Mr. Sullivan and Ms. Glick:

Pursuant to the authority delegated to me by the Acting Director of OMB to carry out OMB's apportionment authority under 31 U.S.C. 1512, this letter constitutes a reapportionment of the August 3, 2019 apportionment of the below-mentioned Treasury Appropriation Fund Symbols (TAFS). The balances in the TAFS included in this letter that are unobligated as of the date of this reapportionment shall be obligated at a daily rate calculated to obligate remaining funds by September 30th. The Department should seek OMB concurrence on the calculation of the daily rate. Additionally, if the Department believes that a higher apportionment level for an account is necessary for programmatic reasons, the Department may seek a reapportionment from OMB.

This apportionment does not apply to unobligated resources available for obligation for salaries and expenses and upward adjustments for outstanding financial obligations in the relevant TAFS, as well as reimbursable work pursuant to interagency agreements. The following TAFS are so reapportioned:

Department of State/United States Agency for International Development

- Contributions to International Organizations (019-1126 2019/2019)
- Contributions for International Peacekeeping Activities (019-1124 2018/2019)
- Contributions for International Peacekeeping Activities (019-1124 2019/2019)
- International Narcotics Control and Law Enforcement (011-1022 2018/2019)
- Development Assistance (072-1021 2018/2019)
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- International Organizations and Programs (019-1005 2019/2019)
- Global Health (072-19-1031 2018/2019)

Michael P. Duffey
Associate Director for National Security Programs
The White House Office of Management & Budget

From: Purpura, Michael M. EOP/WHO
To: Noble, Daniel
Cc: Bergreen, Timothy; Bitar, Maher; Goldman, Daniel; Mitchell, Nicolas; Wirkkala, Rheanne; Rapallo, Dave; Grooms, Susanne Sachsman; Kenny, Peter; Carey, Laura; Bair, James; Mulvaney, Mick M. EOP/WHO
Subject: RE: Deposition Notice - House Impeachment Inquiry
Date: Wednesday, November 6, 2019 7:08:42 PM

Dan:
On behalf of Mr. Mulvaney, I confirm his receipt of the Committees' deposition notice.
Mike

From: Noble, Daniel [redacted]
Sent: Wednesday, November 6, 2019 12:14 PM
To: Purpura, Michael M. EOP/WHO [redacted]
Cc: Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Rapallo, Dave [redacted]; Grooms, Susanne Sachsman [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Mulvaney, Mick M. EOP/WHO [redacted]
Subject: RE: Deposition Notice - House Impeachment Inquiry

Michael – Could you please confirm receipt of this request on behalf of Mr. Mulvaney? Thanks very much.

Best,
Dan

From: Noble, Daniel
Sent: Tuesday, November 5, 2019 12:33 PM
To: Mick Mulvaney [redacted]
Cc: Bergreen, Timothy [redacted]; Bitar, Maher [redacted]; Goldman, Daniel [redacted]; Mitchell, Nicolas [redacted]; Wirkkala, Rheanne [redacted]; Rapallo, Dave [redacted]; Susanne Sachsman Grooms [redacted]; Kenny, Peter [redacted]; Carey, Laura [redacted]; Bair, James [redacted]; Purpura, Michael M. EOP/WHO [redacted]
Subject: Deposition Notice - House Impeachment Inquiry

Mr. Mulvaney,

Please find attached a letter from Chairmen Schiff and Engel and Acting Chairwoman Maloney requesting your appearance at a deposition on **Friday, November 8, at 9:00 a.m.**, which is being transmitted to you pursuant to the House of Representatives' impeachment inquiry. Also attached

is a copy of the House Deposition Regulations, which provide that you may be accompanied at the deposition by personal, non-government counsel.

Committee staff stand ready to discuss arrangements for your deposition on Friday with you or your personal attorney.

We look forward to your timely response.

Sincerely,

Daniel S. Noble
Senior Investigative Counsel (Majority)
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Desk: 202-226-[redacted]
Cell: 202-596-[redacted]
Secure: 936-[redacted]

THE WHITE HOUSE
WASHINGTON

November 20, 2019

BY EMAIL

Lee S. Wolosky, Esq.
Boies Schiller Flexner LLP
55 Hudson Yards, 20th Floor
New York, New York 10001

Dear Mr. Wolosky:

Thank you for your recent letter, dated November 18, 2019. We welcome the opportunity to reiterate that your client, Dr. Fiona Hill, continues to be bound by important obligations to refrain from disclosing classified information or information subject to executive privilege in her upcoming testimony before the House Permanent Select Committee on Intelligence (the "Committee").

Our guidance concerning Dr. Hill's obligations, including with respect to the scope of executive privilege, remains the same as expressed in our October 14, 2019 letter (the "October 14 letter"). We appreciate that, in her initial deposition, Dr. Hill endeavored not to disclose classified information and declined to answer a question potentially calling for the disclosure of classified information. We also appreciate that Dr. Hill did not reveal any deliberative processes related to the July 25, 2019 call between President Trump and President Zelenskyy and did not testify about communications between the President and foreign heads of state or other diplomatic communications.

Our position on the applicability of executive privilege to anticipated areas of testimony in Dr. Hill's upcoming appearance likewise remains unchanged since our prior correspondence. In particular, we continue to disagree that executive privilege operates differently in the context of an impeachment inquiry. Whether or not the House authorized the "impeachment inquiry" after Dr. Hill's October 14 deposition, Dr. Hill is still obligated to protect potentially privileged information acquired during the course of her service. According to a recent opinion by the Department of Justice's Office of Legal Counsel ("OLC"), just as a qualified executive privilege applies to protect information in connection with a criminal trial or a grand-jury investigation, "a congressional committee must likewise make a showing of need that is sufficient to overcome the privilege in connection with an impeachment inquiry."[1] As stated in our October 14 letter, it is not up to an individual employee or former employee to decide to disclose potentially

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[1] *Exclusion of Agency Counsel from Congressional Depositions in the Impeachment Context*, 43 Op. O.L.C. __, *2–*3 (Nov. 1, 2019).

privileged information based on her own individual assessment of a congressional committee's need.

We further note that Chairman Schiff claimed, during Dr. Hill's testimony, that the "deliberative process privilege as an element of executive privilege . . . is not a privilege recognized by the Congress."[2] But Chairman Schiff had no legal basis for such a statement, and he cannot be arbiter of the existence of a privilege necessary to protect the confidentiality of deliberations within the Executive Branch. Indeed, prior Presidents have invoked executive privilege based on deliberative process on numerous occasions,[3] and the only court to decide this issue rejected Chairman Schiff's view.[4] Thus, notwithstanding the Chairman's erroneous assertions, we caution Dr. Hill about revealing information subject to the component of executive privilege protecting deliberative processes. It remains incumbent on Dr. Hill and you, as her counsel, to ensure that Dr. Hill does not reveal classified information or information subject to executive privilege.

Please do not hesitate to contact me if you have any further questions or would like to discuss this matter further.

Sincerely,

Michael M. Purpura
Deputy Counsel to the President

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2 F. Hill Dep. Tr. (Oct. 14, 2019), at 21:12–14; *see also* F. Hill Dep. Tr. (Oct. 14, 2019) at 30:2–5 ("To the extent that the White House may be asserting a deliberative process privilege as an element of executive privilege, this is not a privilege recognized by Congress.").

3 *Assertion of Executive Privilege Over Documents Generated in Response to Congressional Investigation into Operation Fast and Furious*, 36 Op. O.L.C. __, *3 (June 19, 2012) ("Thus, Presidents have repeatedly asserted executive privilege to protect confidential Executive Branch deliberative materials from congressional subpoena.") (compiling examples).

4 *See Comm. on Oversight & Gov't Reform v. Holder*, C.A. No. 12-1332, 2014 WL 12662665, at *1 (D.D.C. Aug. 20, 2014) ("And [the D.C. Circuit] described the deliberative process privilege and the Presidential communications privilege as 'closely affiliated'; '[b]oth are executive privileges designed to protect executive branch decisionmaking.' So, the Court rejects the Committee's suggestion that the only privilege the executive can invoke in response to a subpoena is the Presidential communications privilege.") (citation omitted).

THE WHITE HOUSE

WASHINGTON

October 14, 2019

BY EMAIL

Lee S. Wolosky, Esq.
Boies Schiller Flexner LLP
55 Hudson Yards, 20th Floor
New York, New York 10001

Dear Mr. Wolosky:

Thank you for speaking with us this past Friday and for your follow-up letter this afternoon. We understand that your client, Dr. Fiona Hill, former Senior Director for European and Russian Affairs for the National Security Council ("NSC"), plans to appear on Monday, October 14, 2019, for a non-public deposition conducted by the U.S. House of Representatives Permanent Select Committee on Intelligence, Committee on Oversight and Reform, and Committee on Foreign Affairs (the "House Committees").

We appreciate that Dr. Hill is aware of her continuing obligation not to reveal classified information or information subject to executive privilege. As we discussed, that information includes but is not limited to the content of communications between the President and foreign heads of state and other diplomatic communications.

It has been the longstanding position of Administrations of both political parties—indeed, dating back to the very first presidential administration[1]—that such diplomatic communications are protected by executive privilege. As Attorney General Reno explained during the Clinton Administration:

> History is replete with examples of the Executive's refusal to produce to Congress diplomatic communications and related documents because of the prejudicial impact such disclosure could have on the President's ability to conduct foreign relations. It is equally well established that executive privilege applies to communications to and from the President and Vice President and to White House and NSC deliberative communications.[2]

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[1] *See History of Refusals by Executive Branch Officials to Provide Information Demanded by Congress*, 6 Op. O.L.C. 751, 753 (1982) (noting that in response to a request for documents relating to negotiation of the Jay Treaty with Great Britain, President Washington sent a letter to Congress stating, "[t]o admit, then, a right in the House of Representatives to demand, and to have, as a matter of course, all the papers respecting a negotiation with a foreign Power, would be to establish a dangerous precedent.") (citation omitted).

[2] *Assertion of Executive Privilege for Documents Concerning Conduct of Foreign Affairs with Respect to Haiti*, 20 Op. O.L.C. 5, 6 (1996) (citation and paragraph break omitted).

Two points in your letter suggesting that there may be exceptions to executive privilege with respect to Dr. Hill's testimony merit some response.

First, you note that executive privilege does not apply to otherwise privileged matters that the White House itself has made public, thereby waiving the privilege. It is true that the President has authorized the public disclosure of the contents of the July 25, 2019 telephone call with President Zelenskyy and thus that call is not privileged. The privilege has not been waived, however, with respect to any other diplomatic communications or to deliberative processes related to the call. The subject-matter waiver doctrine does not apply to executive privilege; thus, matters not expressly disclosed remain privileged.[3] Moreover, other than the July 25 call, the President has not authorized the public disclosure of any other of his conversations with foreign leaders, and therefore executive privilege continues to apply to all of those communications. In addition to the protection of executive privilege, calls and discussions with foreign heads of states are almost always classified, as Dr. Hill is aware, and she should treat them as such.

Second, with respect to the component of executive privilege protecting deliberative processes, Dr. Hill may not discuss privileged communications based on the assertions of certain members of the House of Representatives that her deposition will occur as part of an "impeachment inquiry." As the White House Counsel has explained, there is no valid impeachment inquiry underway.[4] The House of Representatives as a whole delegates authority to each standing committee in the House.[5] Yet the House has not authorized any committee to conduct an impeachment inquiry. The three committees that seek Dr. Hill's testimony have jurisdiction solely under House Rule X, which does not provide the power to initiate or investigate impeachment to any of them.[6] Absent a delegation by House Rule or a resolution of the House, none of these committees has been delegated jurisdiction to conduct an investigation pursuant to the impeachment power under Article I, Section 2 of the Constitution. Thus, even if it were the case that executive privilege operates differently in connection with an impeachment inquiry, there is no ground for Dr. Hill to believe that she may disclose privileged information on

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[3] As the D.C. Circuit explained in *In re Sealed Case*:

> It is true that voluntary disclosure of privileged material subject to the attorney-client privilege to unnecessary third parties in the attorney-client privilege context waives the privilege, not only as to the specific communication disclosed but often as to all other communications relating to the same subject matter. But this all-or-nothing approach has not been adopted with regard to executive privileges generally, or to the deliberative process privilege in particular. Instead, courts have said that release of a document only waives these privileges for the document or information specifically released, and not for related materials. This limited approach to waiver in the executive privilege context is designed to ensure that agencies do not forego voluntarily disclosing some privileged material out of the fear that by doing so they are exposing other, more sensitive documents.

121 F.3d 729, 741 (D.C. Cir. 1997) (internal citations and quotations omitted).

[4] *See* Letter from Pat A. Cipollone, Counsel to the President, to Nancy Pelosi, Speaker, House of Representatives, *et al.* (Oct. 8, 2019).

[5] *See* H. Res. 6, 116th Cong. (2019).

[6] *See* H. Rule X, cl. 1(i), (n); cl. 11.

that basis to the House Committees.

It is likewise incorrect to suggest that the deliberative process prong of executive privilege may "disappear[] altogether" based on a belief that government misconduct has occurred. As the D.C. Circuit noted in *In re Sealed Case*: "In regard to both [the deliberative process and presidential communications privileges], courts must balance the public interests at stake in determining whether the privilege should yield in a particular case, and must specifically consider the need of the party seeking privileged evidence."[7] Any showing of the House's need for access to privileged information must be addressed through the constitutionally required accommodations process between authorized representatives of the Executive Branch (the holder of the privilege) and the House Committees. It is not up to an individual employee or former employee to undertake that analysis herself and to disclose privileged information based on her own individual assessments. Indeed, that is what makes it especially unfortunate that Chairman Schiff has demanded that Dr. Hill appear and testify on matters that will undoubtedly touch on privileged information without allowing her the benefit of having Administration counsel present, who may raise objections to ensure that she does not breach her obligations with respect to privileged and classified material.[8]

Because the House Committees are refusing to allow counsel from the Executive Office of the President to attend Dr. Hill's deposition to protect core Executive Branch confidentiality interests, it is incumbent on Dr. Hill and you, as her counsel, to guard against unauthorized disclosure. To be clear, Dr. Hill is not authorized to reveal or release any classified information or any information subject to executive privilege.

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[7] 121 F.3d at 746. The Obama Administration has similarly explained that "the D.C. Circuit already has decided that ... a claim of 'misconduct' does not invalidate an assertion of Executive Privilege." Mem. in Supp. of Def.'s Mot. for Summ. J. at 36 (Jan. 21, 2014), *Comm. on Oversight & Gov't Reform v. Holder*, No. 12-1332, 2014 WL 298660 (quoting *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974) (en banc)). The privilege asserted by the Obama Administration, despite a claim of misconduct, was one of deliberative process.

[8] The House Committees have made clear, in writings and in meetings and discussions with Administration counsel, that they will not permit counsel from the agencies or offices at which witnesses were employed to be present during their depositions, despite the determination by the Department of Justice that it is unconstitutional to exclude them. *See, e.g.*, 116th Congress Regulations for Use of Deposition Authority, Congressional Record, H1216 (Jan. 25, 2019); Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, *et al.*, to John J. Sullivan, Deputy Secretary of State at 2 (Oct. 1, 2019) (citing 116th Congress Regulations for Use of Deposition Authority); *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. _, * 1-2 (May 23, 2019).

Please do not hesitate to contact me if you have any further questions or would like to discuss this matter further. We would be happy to speak with you at your convenience.

Sincerely,

Michael M. Purpura
Deputy Counsel to the President

THE SECRETARY OF STATE
WASHINGTON

October 1, 2019

The Honorable
Adam Schiff, Chairman
Permanent Select Committee on Intelligence
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are in receipt of your September 27, 2019 letter requesting the Department to voluntarily make available five current and former Department officials for depositions.

I am concerned with aspects of your request, described more fully below, that can be understood only as an attempt to intimidate, bully, and treat improperly the distinguished professionals of the Department of State, including several career Foreign Service Officers, whom the Committee is now targeting. I have also been made aware that Committee staff has been sending intimidating communications to career Department professionals, who have specifically asked for Committee communications to be channeled through the Bureau of Legislative Affairs, as is customary. Let me be clear: I will not tolerate such tactics, and I will use all means at my disposal to prevent and expose any attempts to intimidate the dedicated professionals whom I am proud to lead and serve alongside at the Department of State.

Your letter also raises significant legal and procedural concerns. First, your letter raises fundamental legal questions related to the authority of the Committee to compel an appearance for a deposition solely by virtue of these letters. Your letter implies that you have sought to compel Department officials to appear for depositions on the identified dates, yet the Committee has not issued any subpoenas for depositions, and we are not aware of any other authority by which the committee could compel appearance at a deposition. The House Rules also require the Committee to provide a Notice of Deposition, but your letter contains no such notice and otherwise fails to meet the requirements of those rules. It therefore appears that your letter may only be read as a request for a voluntary appearance of the five Department officials.

Second, your letter provides a woefully inadequate opportunity for the Department and the requested witnesses to prepare. These individuals have retained, or may be retaining, private counsel, as is their constitutional right, and in the course of the Department's discussions with these individuals, several have indicated that they need more time both to retain and to consult with private counsel. In addition, State Department counsel must consult with these officials and their counsel, once retained, regarding the Department's legitimate interests in safeguarding potentially privileged and classified information. The proposed dates for the depositions do not provide adequate time for the Department and its employees to appropriately prepare.

Third, your letter, and subsequent communications by Committee staff, indicate that the Committee intends to prevent State Department counsel from participating in the depositions of current and former Department officials. This amounts to an attempt to circumvent the Executive Branch's unquestionably legitimate constitutional interest in protecting potentially privileged information related to the conduct of diplomatic relations. This information may also remain subject to federal rules relating to the unauthorized disclosure of classified information. As the Department of Justice has made clear, a congressional committee may not validly prohibit agency counsel from being present during an employee deposition, because such an exclusion "would impair the President's constitutional authority to control the disclosure of privileged information and to supervise the Executive Branch's communications with Congress."[1] Therefore, the five officials subject to your letter may not attend any interview or deposition without counsel from the Executive Branch present to ensure that the Executive Branch's constitutional authority to control the disclosure of confidential information, including deliberative matters and diplomatic communications, is not impaired.

Fourth, the invitations the Committee sent to the five Department officials include requests that each of them personally produce a vast amount of documents. These requests appear to duplicate the subpoena that was previously served on the Secretary of State. The requested records constitute the property of the Department of State and are subject to restrictions on the unauthorized disclosure of classified information and various Executive Branch privileges. By purporting to induce individual Department professionals and career Foreign Service Officers to produce materials that are not theirs to produce – which could potentially constitute a violation of numerous civil and criminal statutes and regulations if proper procedures are not followed – the Committee has engaged in an act of intimidation and an invitation to violate federal records laws.

Finally, you have asserted that failure by Department officials to meet your demonstrably inadequate timeline for voluntary appearances "shall constitute evidence of obstruction." There is no legal basis for such a threat. Given the serious substantive and procedural deficiencies in the Committee's requests, including the Committee's apparent effort to circumvent Executive Branch constitutional interests in having Department counsel present at any depositions, the Committee's assertion lacks any recognized legal basis. I urge you to exercise restraint in making such unfounded statements in the future.

The Department also acknowledges receipt of the subpoena communicated by separate letter dated September 27, 2019 and intends to respond to that subpoena by the noticed return date of October 4, 2019.

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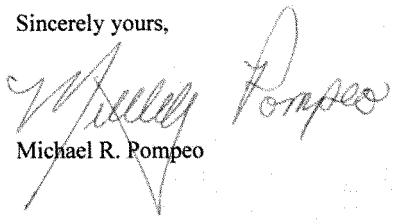
[1] Department of Justice, Office of Legal Counsel, Slip Opinion (May 23, 2019) ("Congress may not constitutionally prohibit agency counsel from accompanying agency employees called to testify about matters that potentially involve information protected by executive privilege.")

Based on the profound procedural and legal deficiencies noted above, the Committee's requested dates for depositions are not feasible. The Department will be in further contact with the Committee in the near future as we obtain further clarity on these matters.

Sincerely yours,



Michael R. Pompeo

Cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

THE SECRETARY OF STATE
WASHINGTON

October 1, 2019

The Honorable
Elijah E. Cummings, Chairman
Committee on Oversight and Reform
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are in receipt of your September 27, 2019 letter requesting the Department to voluntarily make available five current and former Department officials for depositions.

I am concerned with aspects of your request, described more fully below, that can be understood only as an attempt to intimidate, bully, and treat improperly the distinguished professionals of the Department of State, including several career Foreign Service Officers, whom the Committee is now targeting. I have also been made aware that Committee staff has been sending intimidating communications to career Department professionals, who have specifically asked for Committee communications to be channeled through the Bureau of Legislative Affairs, as is customary. Let me be clear: I will not tolerate such tactics, and I will use all means at my disposal to prevent and expose any attempts to intimidate the dedicated professionals whom I am proud to lead and serve alongside at the Department of State.

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Sincerely yours,

Michael R. Pompeo

Cc: The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

THE SECRETARY OF STATE
WASHINGTON

October 1, 2019

The Honorable
Eliot L. Engel, Chairman
Committee on Foreign Affairs
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

We are in receipt of your September 27, 2019 letter requesting the Department to voluntarily make available five current and former Department officials for depositions.

I am concerned with aspects of your request, described more fully below, that can be understood only as an attempt to intimidate, bully, and treat improperly the distinguished professionals of the Department of State, including several career Foreign Service Officers, whom the Committee is now targeting. I have also been made aware that Committee staff has been sending intimidating communications to career Department professionals, who have specifically asked for Committee communications to be channeled through the Bureau of Legislative Affairs, as is customary. Let me be clear: I will not tolerate such tactics, and I will use all means at my disposal to prevent and expose any attempts to intimidate the dedicated professionals whom I am proud to lead and serve alongside at the Department of State.

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Third, your letter, and subsequent communications by Committee staff, indicate that the Committee intends to prevent State Department counsel from participating in the depositions of current and former Department officials. This amounts to an attempt to circumvent the Executive Branch's unquestionably legitimate constitutional interest in protecting potentially privileged information related to the conduct of diplomatic relations. This information may also remain subject to federal rules relating to the unauthorized disclosure of classified information. As the Department of Justice has made clear, a congressional committee may not validly prohibit agency counsel from being present during an employee deposition, because such an exclusion "would impair the President's constitutional authority to control the disclosure of privileged information and to supervise the Executive Branch's communications with Congress."[1] Therefore, the five officials subject to your letter may not attend any interview or deposition without counsel from the Executive Branch present to ensure that the Executive Branch's constitutional authority to control the disclosure of confidential information, including deliberative matters and diplomatic communications, is not impaired.

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The Department also acknowledges receipt of the subpoena communicated by separate letter dated September 27, 2019 and intends to respond to that subpoena by the noticed return date of October 4, 2019.

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Based on the profound procedural and legal deficiencies noted above, the Committee's requested dates for depositions are not feasible. The Department will be in further contact with the Committee in the near future as we obtain further clarity on these matters.

Sincerely yours,

Michael R. Pompeo

Cc: The Honorable Michael T. McCaul, Ranking Member
House Committee on Foreign Affairs

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

January 3, 2020

Mr. Charlie Savage
The New York Times
1627 I Street NW
Washington, DC 20006

Sent via email: [redacted]@nytimes.com

RE: *New York Times Co. et al. v. Office of Management and Budget*, 19-cv-03562 (DDC)

Dear Mr. Savage:

This is an interim response to your Freedom of Information Act (FOIA) request to the Office of Management and Budget (OMB) received on September 26, 2019, seeking "all email correspondence between Michael Duffey and Robert Blair from May 1 to the present." OMB assigned your FOIA request tracking number 2019-486.

In accordance with the Joint Status Report filed in this matter dated December 13, 2019, OMB conducted a search for communications between Michael Duffey and Robert Blair from May 1 to October 9, 2019, and identified a total of 20 responsive documents, consisting of 40 pages, excluding those not related to the Ukraine-matter. All 20 documents are being withheld in full pursuant to FOIA Exemption 5, 5 U.S.C. § 552(b)(5). Exemption 5 protects both deliberative and presidential communications, the disclosure of which would inhibit the frank and candid exchange of views that is necessary for effective government decision-making.

Please note that because your request is in litigation, your administrative appellate rights are now moot. If you have any questions about this interim response, please contact Rebecca Cutri-Kohart at (202) [redacted] or [redacted]@usdoj.gov.

Sincerely,

Dionne Hardy
FOIA Officer

THE WHITE HOUSE

WASHINGTON

October 18, 2019

The Honorable Carolyn Maloney
Acting Chairwoman
House Committee on Oversight and Reform
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

Dear Acting Chairwoman Maloney, Chairman Schiff, and Chairman Engel:

I write with respect to the subpoena issued by the Committee on Oversight and Reform ("Oversight Committee") of the United States House of Representatives, in consultation with the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs (collectively "Committees"), to Acting White House Chief of Staff Mick Mulvaney on October 4, 2019. The subpoena directs the production of documents and other materials by October 18, 2019.

The subpoena suffers from several legal defects. Although the Committees' subpoena transmittal letter states that the subpoena has issued "[p]ursuant to the House of Representatives' impeachment inquiry," the House has not authorized your committees to conduct any such inquiry or to subpoena information in furtherance of it. The Constitution vests the "sole Power of Impeachment" in the House of Representatives. U.S. Const. Art. I, § 2, cl. 5. For that reason, the House itself must authorize a committee to move from routine oversight to an impeachment inquiry, as the House has done in every prior instance involving the potential impeachment of an executive official.

The Oversight Committee has not identified any valid basis for claiming that the full House has delegated authority to compel the production of documents in furtherance of the House's impeachment power under Article I, Section 2 of the Constitution. The Supreme Court has made clear that the first step in assessing the validity of a subpoena from a congressional committee is determining "whether the committee was authorized" to issue the subpoena, which requires "constru[ing] the scope of the authority which the House of Representatives gave to" the committee. *United States v. Rumely*, 345 U.S. 41, 42-44 (1953); *see also Watkins v. United States*, 354 U.S. 178, 201 ("Those instructions are embodied in the authorizing resolution. That document is the committee charter."); *Exxon Corp. v. FTC*, 589 F.2d 582, 592 (D.C. Cir. 1978) ("To issue a

valid subpoena, . . . a committee or subcommittee must conform strictly to the resolution establishing its investigatory powers.").

Here, none of your Committees has identified any House rule or House resolution that authorized the Committees to begin an inquiry pursuant to the impeachment power. As explained in my October 8, 2019 letter, in marked contrast with historical precedents, the House has not expressly adopted any resolution authorizing an impeachment investigation. Letter from Pat A. Cipollone, Counsel to the President, to Nancy Pelosi, Speaker of the House of Representatives, et al. 2 (October 8, 2019) ("October 8 Cipollone Letter"). The House also has not delegated such authority to any of your Committees by rule. *See* H. Res. 6, 116th Cong. (2019). To the contrary, House Rule X is currently the only source of your Committees' jurisdiction, and that rule does not provide any of the Committees the power to initiate an impeachment inquiry. Indeed, the rule does not mention impeachment at all. *See* H. Rule X, cl. 1(i), (n); cl. 11. Absent a delegation by House rule or a resolution of the House, none of your Committees has been delegated jurisdiction to conduct an investigation pursuant to the impeachment power under Article I, Section 2 of the Constitution.

As explained in my October 8 letter, "[i]n the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step." October 8 Cipollone Letter at 2. In addition, again in contrast to longstanding historical precedents, the Committees have not established any procedures affording the President even the most basic procedural rights in this purported impeachment inquiry. *Id.* at 3. There can be no legitimate reason why the House would deprive President Trump of the procedural protections that have been repeatedly provided to Presidents and other officials in connection with past impeachment inquiries. *See, e.g.*, *Jefferson's Manual*, H. Doc. 114-192 § 606, at 322 (2017) (recognizing that in modern practice, "the sentiment of the committees has been in favor of permitting the accused to explain, present witnesses, cross-examine . . . , and be represented by counsel"). As a result of these and other legal and procedural defects, my letter explained that the Executive Branch cannot be expected to participate in your inquiry under the current circumstances.

The Committees' October 4 transmittal letter also asserts that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee could still seek the information requested in the subpoena under a different authority—its oversight authority pursuant to Congress's power to legislate—and that Acting Chief of Staff Mulvaney should respond to the subpoena on that basis. With respect, we disagree. As detailed in my October 8 letter, the Committees cannot have it both ways. The Committees seek this information "[p]ursuant to the House of Representatives' impeachment inquiry," and the letter comes jointly from all three Committees. The information sought in the subpoena "will be shared among the Committees, as well as with the Committee on the Judiciary as appropriate." There can be no genuine dispute here that the Committees seek this information for the purpose of advancing a purported impeachment inquiry—not for the purpose of routine oversight. The Committees cannot rely on traditional oversight authority to gather information as part of an unauthorized impeachment inquiry.

The Committees' letter separately claims that "failure or refusal to comply with the subpoena, including at the direction or behest of the President or others at the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against [the Acting Chief of Staff] and the President." Invoking legal defenses to a subpoena, including invoking privileges that are held by the President, in no way manifests evidence of obstruction or otherwise warrants any adverse inference. Indeed, the very idea that asserting legal rights is itself somehow evidence of wrongdoing turns fundamental notions of fairness on their head and is inconsistent with the rule of law.

Finally, the information sought by your Committees implicates significant Executive Branch confidentiality interests and executive privilege. The subpoena seeks a vast amount of material, all of which would have to be reviewed in light of the important constitutionally based confidentiality interests and privileges that would likely apply to most of the requested materials. As a result, even if the subpoena were otherwise valid, the White House could not be expected to provide a detailed response in a mere two weeks.

For the foregoing reasons, and the reasons explained in further detail in my letter of October 8, the White House cannot comply with the October 4 subpoena to Acting Chief of Staff Mulvaney. As I stated in my letter of October 8, if the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established constitutional protections and a respect for the separation of powers enshrined in our Constitution.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: The Honorable Jim Jordan, Ranking Member, House Committee on Oversight and Reform
The Honorable Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
The Honorable Michael McCaul, Ranking Member, House Committee on Foreign Affairs

THE WHITE HOUSE

WASHINGTON

November 8, 2019

Mr. William Pittard
KaiserDillon PLLC
1099 14th Street, N.W.
Washington, D.C. 20005

Dear Mr. Pittard:

I write in response to your request regarding the subpoena issued to your client, Mick Mulvaney, by the Permanent Select Committee on Intelligence of the United States House of Representatives (the "Committee") on November 7, 2019. The subpoena directs Mr. Mulvaney to appear to testify at a deposition at 9:00 a.m. on November 8, 2019.

The Department of Justice (the "Department") has advised me that Mr. Mulvaney is absolutely immune from compelled congressional testimony with respect to matters related to his service as a senior adviser to the President. *See* Letter to Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel (Nov. 7, 2019). The Department has long taken the position—across administrations of both political parties—that "the President and his immediate advisers are absolutely immune from testimonial compulsion by a Congressional committee." *Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 Op. O.L.C. 191, 191 (2007) (quoting *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. 1, 4 (1999) (opinion of Attorney General Janet Reno)); *Immunity of the Counsel to the President from Compelled Congressional Testimony*, 20 Op. O.L.C. 308, 308 (1996). That immunity arises from the President's position as head of the Executive Branch and from Mr. Mulvaney's position as a senior adviser to the President, specifically Assistant to the President and Acting White House Chief of Staff.

As the Department's letter states, Mr. Mulvaney qualifies as a senior presidential adviser entitled to immunity. The Department's opinions on this topic have consistently recognized that this immunity extends to immediate advisers "'who customarily meet with the President on a regular or frequent basis,' and upon whom the President relies directly for candid and sound advice." *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach from Congressional Subpoena*, 38 Op. O.L.C. __, at *2 (June 15, 2014) (quoting Memorandum from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff"* at 7 (Feb. 5, 1971)). Accordingly, Mr. Mulvaney cannot be compelled to appear before the Committee because "[s]ubjecting a senior presidential advisor to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters

relating to the performance of his constitutionally assigned executive functions." *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. at 5. The constitutional immunity of current and former senior advisers to the President exists to protect the institution of the Presidency and, as stated by former Attorney General Reno, "may not be overborne by competing congressional interests." *Id.*

Accordingly, in order to protect the prerogatives of the Office of President today and in the future, and in response to your request, the President directs Mr. Mulvaney not to appear at the Committee's scheduled deposition on November 8, 2019. This long-standing principle is firmly rooted in the Constitution's separation of powers and protects the core functions of the Presidency, and this office is adhering to this well-established precedent in order to allow future Presidents to effectively execute the responsibilities of the Office of President. I also attach the letter opinion provided by the Department regarding Mr. Mulvaney's immunity.

Thank you for your attention to this matter. Please do not hesitate to contact me or Mike Purpura if you have any questions.

Sincerely,

Pat A. Cipollone

Pat A. Cipollone
Counsel to the President

THE WHITE HOUSE

WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent***. Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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[1] Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."[3] Your contrived process is unprecedented in the

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[2] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

[3] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

history of the Nation,[4] and lacks the necessary authorization for a valid impeachment proceeding.[5]

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"[6] the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."[7] All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.[8] Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.[9] And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.[10] Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for ***debate*** before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate ***at all.***

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g., Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g.*, *Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

> politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—***before*** filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.

THE WHITE HOUSE

WASHINGTON

October 25, 2019

Mr. Charles J. Cooper
Cooper & Kirk, PLLC
1523 New Hampshire Ave., N.W.
Washington, D.C. 20036

Dear Mr. Cooper:

I write in response to your request regarding the subpoena issued to your client, Charles Kupperman, by the Permanent Select Committee on Intelligence of the United States House of Representatives (the "Committee") on October 25, 2019. The subpoena directs Mr. Kupperman to appear to testify at a deposition at 9:30 a.m. on Monday, October 28, 2019.

The Department of Justice (the "Department") has advised me that Mr. Kupperman is absolutely immune from compelled congressional testimony with respect to matters related to his service as a senior adviser to the President. *See* Letter to Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel (October 25, 2019). The Department has long taken the position—across administrations of both political parties—that "the President and his immediate advisers are absolutely immune from testimonial compulsion by a Congressional committee." *Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 Op. O.L.C. 191, 191 (2007) (quoting *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. 1, 4 (1999) (opinion of Attorney General Janet Reno)); *Immunity of the Counsel to the President from Compelled Congressional Testimony*, 20 Op. O.L.C. 308, 308 (1996). That immunity arises from the President's position as head of the Executive Branch and from Mr. Kupperman's former position as a senior adviser to the President, specifically Assistant to the President and Deputy National Security Advisor.

As the Department's letter states, Mr. Kupperman qualifies as a senior presidential adviser entitled to immunity. The Department's opinions on this topic have consistently recognized that this immunity extends to immediate advisers "'who customarily meet with the President on a regular or frequent basis,' and upon whom the President relies directly for candid and sound advice." *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach from Congressional Subpoena*, 38 Op. O.L.C. __, at *2 (June 15, 2014) (quoting Memorandum from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff"* at 7 (Feb. 5, 1971)). Accordingly, Mr. Kupperman cannot be compelled to appear before the Committee because "[s]ubjecting a senior presidential advisor to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters

relating to the performance of his constitutionally assigned executive functions." *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. at 5. The constitutional immunity of current and former senior advisers to the President exists to protect the institution of the Presidency and, as stated by former Attorney General Reno, "may not be overborne by competing congressional interests." *Id.*

Accordingly, in order to protect the prerogatives of the Office of President today and in the future, and in response to your request, the President directs Mr. Kupperman not to appear at the Committee's scheduled hearing on Monday, October 28, 2019. This long-standing principle is firmly rooted in the Constitution's separation of powers and protects the core functions of the Presidency, and this office is adhering to this well-established precedent in order to allow future Presidents to effectively execute the responsibilities of the Office of President. I also attach the letter opinion provided by the Department regarding Mr. Kupperman's immunity.

Thank you for your attention to this matter. Please do not hesitate to contact me or Mike Purpura if you have any questions.

Sincerely,

Pat A. Cipollone

Pat A. Cipollone
Counsel to the President

THE WHITE HOUSE

WASHINGTON

November 3, 2019

Bill Burck, Esq.
Quinn Emanuel Urquhart & Sullivan, LLP
1300 I Street, N.W., Suite 900
Washington, D.C. 20005

Dear Mr. Burck:

I write in response to your request regarding the subpoena issued to your client, John A. Eisenberg, by the Permanent Select Committee on Intelligence of the United States House of Representatives (the "Committee") on November 1, 2019. The subpoena directs Mr. Eisenberg to appear to testify at a deposition at 9:00 a.m. on Monday, November 4, 2019.

The Department of Justice (the "Department") has advised me that Mr. Eisenberg is absolutely immune from compelled congressional testimony with respect to matters related to his service as a senior adviser to the President. *See* Letter to Pat A. Cipollone, Counsel to the President, from Steven A. Engel, Assistant Attorney General, Office of Legal Counsel (Nov. 3, 2019). The Department has long taken the position—across administrations of both political parties—that "the President and his immediate advisers are absolutely immune from testimonial compulsion by a Congressional committee." *Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 Op. O.L.C. 191, 191 (2007) (quoting *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. 1, 4 (1999) (opinion of Attorney General Janet Reno)); *Immunity of the Counsel to the President from Compelled Congressional Testimony*, 20 Op. O.L.C. 308, 308 (1996). That immunity arises from the President's position as head of the Executive Branch and it extends to Mr. Eisenberg due to his position as a senior adviser to the President, specifically Assistant to the President, Deputy Counsel to the President for National Security Affairs, and Legal Advisor to the National Security Council.

As the Department's letter states, Mr. Eisenberg qualifies as a senior presidential adviser entitled to immunity. The Department's opinions on this topic have consistently recognized that this immunity extends to immediate advisers "'who customarily meet with the President on a regular or frequent basis,' and upon whom the President relies directly for candid and sound advice." *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach from Congressional Subpoena*, 38 Op. O.L.C. __, at *2 (June 15, 2014) (quoting Memorandum from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of "White House Staff"* at 7 (Feb. 5, 1971)). Accordingly, Mr. Eisenberg cannot be compelled to appear before the Committee because "[s]ubjecting a senior presidential advisor to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters

relating to the performance of his constitutionally assigned executive functions." *Assertion of Executive Privilege with Respect to Clemency Decision*, 23 Op. O.L.C. at 5. The constitutional immunity of current and former senior advisers to the President exists to protect the institution of the Presidency and, as stated by former Attorney General Reno, "may not be overborne by competing congressional interests." *Id.*

Accordingly, in order to protect the prerogatives of the Office of President today and in the future, and in response to your request, the President directs Mr. Eisenberg not to appear at the Committee's deposition on Monday, November 4, 2019. This long-standing principle is firmly rooted in the Constitution's separation of powers and protects the core functions of the Presidency, and this office is adhering to this well-established precedent in order to allow future Presidents to effectively execute the responsibilities of the Office of President. I also attach the letter opinion provided by the Department regarding Mr. Eisenberg's immunity.

Thank you for your attention to this matter. Please do not hesitate to contact me or Mike Purpura if you have any questions.

Sincerely,

Pat A. Cipollone
Counsel to the President

THE WHITE HOUSE

WASHINGTON

December 1, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

I write in response to your letter of November 26, 2019, to President Trump regarding the purported "impeachment inquiry" currently being conducted by Democrats in the House of Representatives ("House"). As you know, this baseless and highly partisan inquiry violates all past historical precedent, basic due process rights, and fundamental fairness. Your letter asked that the President notify the House Committee on the Judiciary ("Judiciary Committee" or "Committee") by December 1, 2019, whether the Administration intends to participate in a hearing scheduled for December 4, 2019. You scheduled this initial hearing—no doubt purposely—during the time that you know the President will be out of the country attending the NATO Leaders Meeting in London.

Your letter provides little information about the upcoming hearing. It vaguely indicates that you intend to hold a hearing to discuss the "historical and constitutional basis of impeachment." We understand from rumors and press reports (though not from any notice provided in your letter or in the official notice of the hearing) that the hearing will consist of an academic discussion by law professors. We understand this to mean that your initial hearing will include no fact witnesses at all.

You also sent another letter on November 29, 2019, setting a different deadline of December 6 for the President to provide notice as to whether the Administration intends to participate in additional, unspecified hearings that apparently will occur after that date and to specify the rights the President wishes to exercise at these additional hearings. Again, your letter provided no information whatsoever as to the dates these hearings will occur, what witnesses will be called, what the schedule will be, what the procedures will be, or what rights, if any, the Committee intends to afford the President. In other words, you have given no information regarding your plans, set arbitrary deadlines, and then demanded a response, all to create the false appearance of providing the President some rudimentary process. In any event, this letter responds only to your letter of November 26 and fully reserves the right to respond further when and if you release more information about the December 4 hearing. We will respond separately to your letter of November 29 by your requested deadline of Friday, December 6.

As an initial matter, your letter of November 26 only exacerbates the complete lack of due process and fundamental fairness afforded the President throughout this purported impeachment inquiry. Although your letter attempts to invoke precedent from the Clinton impeachment inquiry, you have completely ignored not only the process followed then, but all other historical precedent. For example, when the Judiciary Committee scheduled a similar hearing during the Clinton impeachment process, it allowed those questioning the witnesses two-and-a-half weeks' notice to prepare, and it scheduled the hearing on a date suggested by the President's attorneys.[1] Today, by contrast, you have afforded the President no scheduling input, no meaningful information, and so little time to prepare that you have effectively denied the Administration a fair opportunity to participate. Although the hearing is set to occur in just three days, you still have not disclosed the identities of the witnesses who will appear. Press reports as late as this afternoon indicate that the identities of these witnesses, apparently all academics, have not even been provided to other Democrats on the Judiciary Committee. These reports also indicate that you currently intend to call three academic witnesses, but will allow Republicans to call only one such witness. Worse, while providing no information, you have demanded a response from the President. Your letter does not even attempt to explain the reason for this.

The Committee's unfair process regarding this hearing follows numerous other violations of due process by the House—both before and since the adoption of House Resolution ("H. Res.") 660—including the outright prohibition on participation by the President at any stage in the proceedings before the House Permanent Select Committee on Intelligence ("HPSCI"). There, Chairman Schiff attempted to concoct a false narrative through selective citation of the testimony of witnesses of his choosing, after vetting them during closed-door depositions hidden from both the President and the American public. The President was not allowed to present evidence, to call witnesses, to cross examine witnesses, or even to see transcripts until weeks after testimony had been taken, and he was allowed absolutely no participation in the public hearings that followed. Further, witness requests made by Republicans were denied. In addition, certain questioning of the witnesses who did testify was censored by Democrats.

Despite the fundamental unfairness of those hearings, the facts that emerged even from Chairman Schiff's carefully controlled and blatantly unfair process served only to further confirm that the President has done nothing wrong and that there is no basis for continuing your inquiry. Inviting the Administration now to participate in an after-the-fact constitutional law seminar—with yet-to-be-named witnesses—only demonstrates further the countless procedural deficiencies that have infected this inquiry from its inception and shows the lack of seriousness with which you are undertaking these proceedings. An academic discussion cannot retroactively fix an irretrievably broken process.

Moreover, your November 26 letter threatens that "[w]hile we invite you to this hearing, we remind you that if you continue to refuse to make witnesses and documents available to the committees of jurisdiction, under H. Res. 660, 'the chair shall have the discretion to impose additional remedies.'" Any attempt by the Judiciary Committee to deny the President procedural

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[1] *See* Letter from Charles F.C. Ruff, Counsel to the President, et al., to Henry J. Hyde, Chairman, House Judiciary Committee, and John J. Conyers, Jr., Ranking Member, House Judiciary Committee (Oct. 21 1998); Guy Gugliotta, "House Hearing Set on Impeachment History," *Wash. Post* (Oct. 24, 1998), *available at* https://www.washingtonpost.com/wp-srv/politics/special/clinton/stories/impeach102498.htm.

rights based on the President's assertion of the longstanding constitutional rights and privileges of the Executive Branch is equivalent to denying the President his procedural rights altogether.

Your letter also wrongly claims an equivalence between the procedures applicable to past impeachment inquiries and the procedures adopted by H. Res. 660. Past inquiries, however, did not authorize one set of committees to conduct two rounds of hearings with witnesses (one round in secret and another in public) while prohibiting the President from any opportunity to participate. Nor did these past inquiries continue to deny those rights to the President even in a *third* round of hearings before yet another committee, the Judiciary Committee. In other impeachment proceedings, the President's counsel was not excluded from the hearings that took testimony from fact witnesses, nor was the President denied the right of cross examination during those hearings.[2]

It is also demonstrably false for you to claim that the procedures provided in H. Res. 660 for the Judiciary Committee's hearings are "consistent with those used by the Committee in the Nixon and Clinton impeachments." First and foremost, nothing in the procedures for those impeachment inquiries permitted the Chairman to deny the President the ability to participate or to deny any other procedural rights as a punishment for asserting Executive Branch constitutional privileges.[3] Both Presidents in those proceedings had asserted numerous privileges,[4] but it never even occurred to the Judiciary Committee that offering the opportunity to present a defense and to have a fair hearing should be conditioned on forcing the President to abandon the longstanding constitutional rights and privileges of the Executive Branch. This would cause significant and lasting institutional harm. Second, in both of those proceedings, the minority party had co-equal subpoena authority.[5] Here, by contrast, the ranking member of this Committee cannot force a vote on subpoenas that you choose to issue, but you can force committee votes on the ranking member's subpoenas.[6] All of this is an unprecedented and extremely troubling denial of basic due process that destroys the legitimacy and credibility of your inquiry.

Lastly, what past impeachment proceedings make clear is that the Judiciary Committee must hear and assess evidence for itself. In 1998, you pointed out that the Committee cannot simply receive a report compiled by another entity and proceed on the basis of that report. That, you explained, "would be to say that the role of this committee of the House is a mere

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[2] *See* Impeachment Inquiry Procedures, Authorization of an Inquiry into Whether Grounds Exist for the Impeachment of William Jefferson Clinton, President of the United States, 105th Cong. 220 (Comm. Print 1998); Impeachment Inquiry Procedures, Deschler's Precedents ch. 14, § 6.5.

[3] *See* Impeachment Inquiry Procedures, Authorization of an Inquiry into Whether Grounds Exist for the Impeachment of William Jefferson Clinton, President of the United States, 105th Cong. 220 (Comm. Print 1998).

[4] *See* Cong. Research Serv., R42670, *Presidential Claims of Executive Privilege: History, Law, Practice, and Recent Developments* 24-26 (Dec. 15, 2014).

[5] H. Res. 581, 105th Cong., § 2(b) (1998); H. Res. 803, 93rd Cong., § 2(b) (1974).

[6] H. Res. 660, 116th Cong., § 4 (2019).

transmission belt or rubber stamp."[7] At that time, President Clinton was allowed to call fourteen witnesses.[8] Here, with the hearings before the Committee set to begin a mere five days from the date of your latest letter, it still remains unclear whether the Judiciary Committee actually intends to permit the President or your Republican colleagues to call witnesses at all. In fact, you have not even provided simple notice of the process that will be followed or the schedule for the Judiciary Committee's hearings.

It is too late to cure the profound procedural deficiencies that have tainted this entire inquiry. Nevertheless, if you are serious about conducting a fair process going forward, and in order to protect the rights and privileges of the President, we may consider participating in future Judiciary Committee proceedings if you afford the Administration the ability to do so meaningfully. As you have acknowledged, the House's "power of impeachment . . . demands a rigorous level of due process," and in this context "due process mean[s] . . . the right to confront witnesses against you, to call your own witnesses, and to have the assistance of counsel."[9] So far, all of these rights have been violated. Even at this late date, it is not yet clear whether you will afford the President at least these basic, fundamental rights or continue to deny them.

As for the hearing scheduled for December 4, we cannot fairly be expected to participate in a hearing while the witnesses are yet to be named and while it remains unclear whether the Judiciary Committee will afford the President a fair process through additional hearings. More importantly, an invitation to an academic discussion with law professors does not begin to provide the President with any semblance of a fair process. Accordingly, under the current circumstances, we do not intend to participate in your Wednesday hearing.

We will respond separately to your letter of November 29 by the deadline you indicated of Friday, December 6. In the meantime, and in order to assess our ability to participate in future proceedings, please let us know at least the following: (i) whether you intend to allow for fact witnesses to be called, including the witnesses requested by HPSCI Ranking Member Nunes on November 9, 2019 (whom Chairman Schiff, without explanation, declined to call) as well as other witnesses we may choose to call; (ii) whether you intend to allow members of the Judiciary Committee and the President's counsel the right to cross examine fact witnesses (including those who have already testified and any others called before the Judiciary Committee); and (iii) whether your Republican colleagues on the Judiciary Committee will be allowed to call witnesses of their choosing. Other procedural protections to which the President would be entitled will depend on the scope and nature of the proceedings that will be held in your Committee. As of yet, however, you have failed to provide this basic information to us. We stand ready to meet with you to discuss a plan for these proceedings at your convenience. As

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[7] Impeachment Inquiry: William Jefferson Clinton, President of the United States, Consequences of Perjury and Related Crimes, 105th Cong. 19 (1998) (statement of Rep. Nadler).

[8] *Hearing on Impeachment Inquiry Pursuant to H. Res. 581 Before the H. Comm. on the Judiciary: Presentation on Behalf of the President*, 105th Cong. 3 (Dec. 8–9, 1998).

[9] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

you know, it is your responsibility as the Chairman of the House Judiciary Committee to ensure that due process rights are protected and to conduct a fair and just process.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: The Honorable Doug Collins, Ranking Member

THE WHITE HOUSE
WASHINGTON

December 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

As you know, your impeachment inquiry is completely baseless and has violated basic principles of due process and fundamental fairness. Nevertheless, the Speaker of the House yesterday ordered House Democrats to proceed with articles of impeachment before your Committee has heard a single shred of evidence.

House Democrats have wasted enough of America's time with this charade. You should end this inquiry now and not waste even more time with additional hearings. Adopting articles of impeachment would be a reckless abuse of power by House Democrats, and would constitute the most unjust, highly partisan, and unconstitutional attempt at impeachment in our Nation's history. Whatever course you choose, as the President has recently stated: "if you are going to impeach me, do it now, fast, so we can have a fair trial in the Senate, and so that our Country can get back to business."

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: The Honorable Doug Collins, Ranking Member

THE WHITE HOUSE

WASHINGTON

October 8, 2019

The Honorable Nancy Pelosi
Speaker
House of Representatives
Washington, D.C. 20515

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Foreign Affairs Committee
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Madam Speaker and Messrs. Chairmen:

I write on behalf of President Donald J. Trump in response to your numerous, legally unsupported demands made as part of what you have labeled—contrary to the Constitution of the United States and all past bipartisan precedent—as an "impeachment inquiry." As you know, you have designed and implemented your inquiry in a manner that violates fundamental fairness and constitutionally mandated due process.

For example, you have denied the President the right to cross-examine witnesses, to call witnesses, to receive transcripts of testimony, to have access to evidence, to have counsel present, and many other basic rights guaranteed to all Americans. You have conducted your proceedings in secret. You have violated civil liberties and the separation of powers by threatening Executive Branch officials, claiming that you will seek to punish those who exercise fundamental constitutional rights and prerogatives. All of this violates the Constitution, the rule of law, and ***every past precedent.*** Never before in our history has the House of Representatives—under the control of either political party—taken the American people down the dangerous path you seem determined to pursue.

Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen. Many Democrats now apparently view impeachment not only as a means to undo the democratic results of the ***last*** election, but as a strategy to influence the ***next*** election, which is barely more than a year away. As one member of Congress explained, he is "concerned that if we don't impeach the President, he will get reelected."[1] Your highly partisan and unconstitutional effort threatens grave and lasting damage to our democratic institutions, to our system of free elections, and to the American people.

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[1] Interview with Rep. Al Green, MSNBC (May 5, 2019).

For his part, President Trump took the unprecedented step of providing the public transparency by declassifying and releasing the record of his call with President Zelenskyy of Ukraine. The record clearly established that the call was completely appropriate and that there is no basis for your inquiry. The fact that there was nothing wrong with the call was also powerfully confirmed by Chairman Schiff's decision to create a false version of the call and read it to the American people at a congressional hearing, without disclosing that he was simply making it all up.

In addition, information has recently come to light that the whistleblower had contact with Chairman Schiff's office before filing the complaint. His initial denial of such contact caused *The Washington Post* to conclude that Chairman Schiff "clearly made a statement that was false."[2] In any event, the American people understand that Chairman Schiff cannot covertly assist with the submission of a complaint, mislead the public about his involvement, read a counterfeit version of the call to the American people, and then pretend to sit in judgment as a neutral "investigator."

For these reasons, President Trump and his Administration reject your baseless, unconstitutional efforts to overturn the democratic process. Your unprecedented actions have left the President with no choice. In order to fulfill his duties to the American people, the Constitution, the Executive Branch, and all future occupants of the Office of the Presidency, President Trump and his Administration cannot participate in your partisan and unconstitutional inquiry under these circumstances.

I. Your "Inquiry" Is Constitutionally Invalid and Violates Basic Due Process Rights and the Separation of Powers.

Your inquiry is constitutionally invalid and a violation of due process. In the history of our Nation, the House of Representatives has never attempted to launch an impeachment inquiry against the President without a majority of the House taking political accountability for that decision by voting to authorize such a dramatic constitutional step. Here, House leadership claims to have initiated the gravest inter-branch conflict contemplated under our Constitution by means of nothing more than a press conference at which the Speaker of the House simply announced an "official impeachment inquiry."[3] Your contrived process is unprecedented in the

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[2] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

[3] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

history of the Nation,[4] and lacks the necessary authorization for a valid impeachment proceeding.[5]

The Committees' inquiry also suffers from a separate, fatal defect. Despite Speaker Pelosi's commitment to "treat the President with fairness,"[6] the Committees have not established any procedures affording the President even the most basic protections demanded by due process under the Constitution and by fundamental fairness. Chairman Nadler of the House Judiciary Committee has expressly acknowledged, at least when the President was a member of his own party, that "[t]he power of impeachment . . . demands a rigorous level of due process," and that in this context "due process mean[s] . . . the right to be informed of the law, of the charges against you, the right to confront the witnesses against you, to call your own witnesses, and to have the assistance of counsel."[7] All of these procedures have been abandoned here.

These due process rights are not a matter of discretion for the Committees to dispense with at will. To the contrary, they are constitutional requirements. The Supreme Court has recognized that due process protections apply to all congressional investigations.[8] Indeed, it has been recognized that the Due Process Clause applies to impeachment proceedings.[9] And precedent for the rights to cross-examine witnesses, call witnesses, and present evidence dates back nearly 150 years.[10] Yet the Committees have decided to deny the President these elementary rights and protections that form the basis of the American justice system and are protected by the Constitution. No citizen—including the President—should be treated this unfairly.

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[4] Since the Founding of the Republic, under unbroken practice, the House has never undertaken the solemn responsibility of an impeachment inquiry directed at the President without first adopting a resolution authorizing a committee to begin the inquiry. The inquiries into the impeachments of Presidents Andrew Johnson and Bill Clinton proceeded in multiple phases, each authorized by a separate House resolution. *See, e.g.*, H.R. Res. 581, 105th Cong. (1998); H.R. Res. 525, 105th Cong. (1998); III Hinds' Precedents §§ 2400-02, 2408, 2412. And before the Judiciary Committee initiated an impeachment inquiry into President Richard Nixon, the Committee's chairman rightfully recognized that "a[n] [inquiry] resolution has always been passed by the House" and "is a necessary step." III Deschler's Precedents ch. 14, § 15.2. The House then satisfied that requirement by adopting H.R. Res. 803, 93rd Cong. (1974).

[5] Chairman Nadler has recognized the importance of taking a vote in the House before beginning a presidential impeachment inquiry. At the outset of the Clinton impeachment inquiry—where a floor vote was held—he argued that even limiting the time for ***debate*** before that vote was improper and that "an hour debate on this momentous decision is an insult to the American people and another sign that this is not going to be fair." 144 Cong. Rec. H10018 (daily ed. Oct. 8, 1998) (statement of Rep. Jerrold Nadler). Here, the House has dispensed with any vote and any debate ***at all.***

[6] Press Release, Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

[7] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler); *Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary*, 105th Cong. 17 (1998) (statement of Rep. Jerrold Nadler).

[8] *See, e.g.*, *Watkins v. United States*, 354 U.S. 178, 188 (1957); *Quinn v. United States*, 349 U.S. 155, 161 (1955).

[9] *See Hastings v. United States*, 802 F. Supp. 490, 504 (D.D.C. 1992), *vacated on other grounds by Hastings v. United States*, 988 F.2d 1280 (D.C. Cir. 1993).

[10] *See, e.g.*, III Hinds' Precedents § 2445.

To comply with the Constitution's demands, appropriate procedures would include—at a minimum—the right to see all evidence, to present evidence, to call witnesses, to have counsel present at all hearings, to cross-examine all witnesses, to make objections relating to the examination of witnesses or the admissibility of testimony and evidence, and to respond to evidence and testimony. Likewise, the Committees must provide for the disclosure of all evidence favorable to the President and all evidence bearing on the credibility of witnesses called to testify in the inquiry. The Committees' current procedures provide ***none*** of these basic constitutional rights.

In addition, the House has not provided the Committees' Ranking Members with the authority to issue subpoenas. The right of the minority to issue subpoenas—subject to the same rules as the majority—has been the standard, bipartisan practice in all recent resolutions authorizing presidential impeachment inquiries.[11] The House's failure to provide co-equal subpoena power in this case ensures that any inquiry will be nothing more than a one-sided effort by House Democrats to gather information favorable to their views and to selectively release it as only they determine. The House's utter disregard for the established procedural safeguards followed in past impeachment inquiries shows that the current proceedings are nothing more than an unconstitutional exercise in political theater.

As if denying the President basic procedural protections were not enough, the Committees have also resorted to threats and intimidation against potential Executive Branch witnesses. Threats by the Committees against Executive Branch witnesses who assert common and longstanding rights destroy the integrity of the process and brazenly violate fundamental due process. In letters to State Department employees, the Committees have ominously threatened—without any legal basis and before the Committees even issued a subpoena—that "[a]ny failure to appear" in response to a mere letter ***request*** for a deposition "shall constitute evidence of obstruction."[12] Worse, the Committees have broadly threatened that if State Department officials attempt to insist upon the right for the Department to have an agency lawyer present at depositions to protect legitimate Executive Branch confidentiality interests—or apparently if they make any effort to protect those confidentiality interests ***at all***—these officials will have their salaries withheld.[13]

The suggestion that it would somehow be problematic for anyone to raise long-established Executive Branch confidentiality interests and privileges in response to a request for a deposition is legally unfounded. Not surprisingly, the Office of Legal Counsel at the Department of Justice has made clear on multiple occasions that employees of the Executive Branch who have been instructed not to appear or not to provide particular testimony before Congress based on privileges or immunities of the Executive Branch cannot be punished for

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[11] H.R. Res. 581, 105th Cong. (1998); H.R. Res. 803, 93rd Cong. (1974).

[12] Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to George P. Kent, Deputy Assistant Secretary, U.S. Department of State 1 (Sept. 27, 2019).

[13] *See* Letter from Eliot L. Engel, Chairman, House Committee on Foreign Affairs, et al., to John J. Sullivan, Deputy Secretary of State 2-3 (Oct. 1, 2019).

following such instructions.[14] Current and former State Department officials are duty bound to protect the confidentiality interests of the Executive Branch, and the Office of Legal Counsel has also recognized that it is unconstitutional to exclude agency counsel from participating in congressional depositions.[15] In addition, any attempt to withhold an official's salary for the assertion of such interests would be unprecedented and unconstitutional.[16] The Committees' assertions on these points amount to nothing more than strong-arm tactics designed to rush proceedings without any regard for due process and the rights of individuals and of the Executive Branch. Threats aimed at intimidating individuals who assert these basic rights are attacks on civil liberties that should profoundly concern all Americans.

II. The Invalid "Impeachment Inquiry" Plainly Seeks To Reverse the Election of 2016 and To Influence the Election of 2020.

The effort to impeach President Trump—without regard to any evidence of his actions in office—is a naked political strategy that began the day he was inaugurated, and perhaps even before.[17] In fact, your transparent rush to judgment, lack of democratically accountable authorization, and violation of basic rights in the current proceedings make clear the illegitimate, partisan purpose of this purported "impeachment inquiry." The Founders, however, did not create the extraordinary mechanism of impeachment so it could be used by a political party that feared for its prospects against the sitting President in the next election. The decision as to who will be elected President in 2020 should rest with the people of the United States, exactly where the Constitution places it.

Democrats themselves used to recognize the dire implications of impeachment for the Nation. For example, in the past, Chairman Nadler has explained:

> The effect of impeachment is to overturn the popular will of the voters. We must not overturn an election and remove a President from office except to defend our system of government or our constitutional liberties against a dire threat, and we must not do so without an overwhelming consensus of the American people. There must never be a narrowly voted impeachment or an impeachment supported by one of our major political parties and opposed by another. Such an impeachment will produce divisiveness and bitterness in our

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[14] *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 Op. O.L.C. __, *19 (May 20, 2019); *Prosecution for Contempt of Congress of an Executive Branch Official Who Has Asserted a Claim of Executive Privilege*, 8 Op. O.L.C. 101, 102, 140 (1984) ("The Executive, however, must be free from the threat of criminal prosecution if its right to assert executive privilege is to have any practical substance.")

[15] *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __, *1-2 (May 23, 2019).

[16] *See* President Donald J. Trump, Statement by the President on Signing the Consolidated Appropriations Act, 2019 (Feb. 15, 2019); *Authority of Agency Officials To Prohibit Employees From Providing Information to Congress*, 28 Op. O.L.C. 79, 80 (2004).

[17] *See* Matea Gold, *The Campaign To Impeach President Trump Has Begun*, Wash. Post (Jan. 21, 2017) ("At the moment the new commander in chief was sworn in, a campaign to build public support for his impeachment went live . . . .").

> politics for years to come, and will call into question the very legitimacy of our political institutions.[18]

Unfortunately, the President's political opponents now seem eager to transform impeachment from an extraordinary remedy that should rarely be contemplated into a conventional political weapon to be deployed for partisan gain. These actions are a far cry from what our Founders envisioned when they vested Congress with the "important trust" of considering impeachment.[19] Precisely because it nullifies the outcome of the democratic process, impeachment of the President is fraught with the risk of deepening divisions in the country and creating long-lasting rifts in the body politic.[20] Unfortunately, you are now playing out exactly the partisan rush to judgment that the Founders so strongly warned against. The American people deserve much better than this.

III. There Is No Legitimate Basis for Your "Impeachment Inquiry"; Instead, the Committees' Actions Raise Serious Questions.

It is transparent that you have resorted to such unprecedented and unconstitutional procedures because you know that a fair process would expose the lack of any basis for your inquiry. Your current effort is founded on a completely appropriate call on July 25, 2019, between President Trump and President Zelenskyy of Ukraine. Without waiting to see what was actually said on the call, a press conference was held announcing an "impeachment inquiry" based on falsehoods and misinformation about the call.[21] To rebut those falsehoods, and to provide transparency to the American people, President Trump secured agreement from the Government of Ukraine and took the extraordinary step of declassifying and publicly releasing the record of the call. That record clearly established that the call was completely appropriate, that the President did nothing wrong, and that there is no basis for an impeachment inquiry. At a joint press conference shortly after the call's public release, President Zelenskyy agreed that the call was appropriate.[22] In addition, the Department of Justice announced that officials there had reviewed the call after a referral for an alleged campaign finance law violation and found no such violation.[23]

Perhaps the best evidence that there was no wrongdoing on the call is the fact that, after the actual record of the call was released, Chairman Schiff chose to concoct a false version of the call and to read his made-up transcript to the American people at a public hearing.[24] This

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[18] 144 Cong. Rec. H11786 (daily ed. Dec. 18, 1998) (statement of Rep. Jerrold Nadler).

[19] The Federalist No. 65 (Alexander Hamilton).

[20] *See id.*

[21] Press Release, Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).

[22] *President Trump Meeting with Ukrainian President*, C-SPAN (Sept. 25, 2019).

[23] Statement of Kerri Kupec, Director, Office of Public Affairs, Dept. of Justice (Sept. 25, 2019) ("[T]he Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted.").

[24] *See Whistleblower Disclosure: Hearing Before the H. Select Comm. on Intel.*, 116th Cong. (Sept. 26, 2019) (statement of Rep. Adam Schiff).

powerfully confirms there is no issue with the actual call. Otherwise, why would Chairman Schiff feel the need to make up his own version? The Chairman's action only further undermines the public's confidence in the fairness of any inquiry before his Committee.

The real problem, as we are now learning, is that Chairman Schiff's office, and perhaps others—despite initial denials—were involved in advising the whistleblower before the complaint was filed. Initially, when asked on national television about interactions with the whistleblower, Chairman Schiff unequivocally stated that "[w]e have not spoken directly with the whistleblower. We would like to."[25]

Now, however, it has been reported that the whistleblower approached the House Intelligence Committee with information—and received guidance from the Committee—***before*** filing a complaint with the Inspector General.[26] As a result, *The Washington Post* concluded that Chairman Schiff "clearly made a statement that was false."[27] Anyone who was involved in the preparation or submission of the whistleblower's complaint cannot possibly act as a fair and impartial judge in the same matter—particularly after misleading the American people about his involvement.

All of this raises serious questions that must be investigated. However, the Committees are preventing anyone, including the minority, from looking into these critically important matters. At the very least, Chairman Schiff must immediately make available all documents relating to these issues. After all, the American people have a right to know about the Committees' own actions with respect to these matters.

* * *

Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it. Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the Executive Branch and lasting damage to the separation of powers, you have left the President no choice. Consistent with the duties of the President of the United States, and in particular his obligation to preserve the rights of future occupants of his office, President Trump cannot permit his Administration to participate in this partisan inquiry under these circumstances.

Your recent letter to the Acting White House Chief of Staff argues that "[e]ven if an impeachment inquiry were not underway," the Oversight Committee may seek this information

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[25] Interview with Chairman Adam Schiff, MSNBC (Sept. 17, 2019).

[26] Julian Barnes, et al., *Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew*, N.Y. Times (Oct. 2, 2019).

[27] Glenn Kessler, *Schiff's False Claim His Committee Had Not Spoken to the Whistleblower*, Wash. Post (Oct. 4, 2019).

as a matter of the established oversight process.[28] Respectfully, the Committees cannot have it both ways. The letter comes from the Chairmen of three different Committees, it transmits a subpoena "[p]ursuant to the House of Representatives' impeachment inquiry," it recites that the documents will "be collected as part of the House's impeachment inquiry," and it asserts that the documents will be "shared among the Committees, as well as with the Committee on the Judiciary as appropriate."[29] The letter is in no way directed at collecting information in aid of legislation, and you simply cannot expect to rely on oversight authority to gather information for an unauthorized impeachment inquiry that conflicts with all historical precedent and rides roughshod over due process and the separation of powers. If the Committees wish to return to the regular order of oversight requests, we stand ready to engage in that process as we have in the past, in a manner consistent with well-established bipartisan constitutional protections and a respect for the separation of powers enshrined in our Constitution.

For the foregoing reasons, the President cannot allow your constitutionally illegitimate proceedings to distract him and those in the Executive Branch from their work on behalf of the American people. The President has a country to lead. The American people elected him to do this job, and he remains focused on fulfilling his promises to the American people. He has important work that he must continue on their behalf, both at home and around the world, including continuing strong economic growth, extending historically low levels of unemployment, negotiating trade deals, fixing our broken immigration system, lowering prescription drug prices, and addressing mass shooting violence. We hope that, in light of the many deficiencies we have identified in your proceedings, you will abandon the current invalid efforts to pursue an impeachment inquiry and join the President in focusing on the many important goals that matter to the American people.

Sincerely,

Pat A. Cipollone
Counsel to the President

cc: Hon. Kevin McCarthy, Minority Leader, House of Representatives
Hon. Michael McCaul, Ranking Member, House Committee on Foreign Affairs
Hon. Devin Nunes, Ranking Member, House Permanent Select Committee on Intelligence
Hon. Jim Jordan, Ranking Member, House Committee on Oversight and Reform

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[28] Letter from Elijah E. Cummings, Chairman, House Committee on Oversight and Government Reform, et al., to John Michael Mulvaney, Acting Chief of Staff to the President 3 (Oct. 4, 2019).

[29] *Id.* at 1.

THE WHITE HOUSE

WASHINGTON

December 17, 2019

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

I write to express my strongest and most powerful protest against the partisan impeachment crusade being pursued by the Democrats in the House of Representatives. This impeachment represents an unprecedented and unconstitutional abuse of power by Democrat Lawmakers, unequaled in nearly two and a half centuries of American legislative history.

The Articles of Impeachment introduced by the House Judiciary Committee are not recognizable under any standard of Constitutional theory, interpretation, or jurisprudence. They include no crimes, no misdemeanors, and no offenses whatsoever. You have cheapened the importance of the very ugly word, impeachment!

By proceeding with your invalid impeachment, you are violating your oaths of office, you are breaking your allegiance to the Constitution, and you are declaring open war on American Democracy. You dare to invoke the Founding Fathers in pursuit of this election-nullification scheme—yet your spiteful actions display unfettered contempt for America's founding and your egregious conduct threatens to destroy that which our Founders pledged their very lives to build. Even worse than offending the Founding Fathers, you are offending Americans of faith by continually saying "I pray for the President," when you know this statement is not true, unless it is meant in a negative sense. It is a terrible thing you are doing, but you will have to live with it, not I!

Your first claim, "Abuse of Power," is a completely disingenuous, meritless, and baseless invention of your imagination. You know that I had a totally innocent conversation with the President of Ukraine. I then had a second conversation that has been misquoted, mischaracterized, and fraudulently misrepresented. Fortunately, there was a transcript of the conversation taken, and you know from the transcript (which was immediately made available) that the paragraph in question was perfect. I said to President Zelensky: "I would like you to do us a favor, though, because our country has been through a lot and Ukraine knows a lot about it." I said do <u>us</u> a favor, not <u>me</u>, and <u>our country</u>, not a campaign. I then mentioned the Attorney General of the United States. Every time I talk with a foreign leader, I put America's interests first, just as I did with President Zelensky.

You are turning a policy disagreement between two branches of government into an impeachable offense—it is no more legitimate than the Executive Branch charging members of Congress with crimes for the lawful exercise of legislative power.

You know full well that Vice President Biden used his office and $1 billion dollars of U.S. aid money to coerce Ukraine into firing the prosecutor who was digging into the company paying his son millions of dollars. You know this because Biden bragged about it on video. Biden openly stated: "I said, 'I'm telling you, you're not getting the billion dollars'...I looked at them and said: 'I'm leaving in six hours. If the prosecutor is not fired, you're not getting the money.' Well, son of a bitch. He got fired." Even Joe Biden admitted just days ago in an interview with NPR that it "looked bad." Now you are trying to impeach me by falsely accusing me of doing what Joe Biden has admitted he actually did.

President Zelensky has repeatedly declared that I did nothing wrong, and that there was No Pressure. He further emphasized that it was a "good phone call," that "I don't feel pressure," and explicitly stressed that "nobody pushed me." The Ukrainian Foreign Minister stated very clearly: "I have never seen a direct link between investigations and security assistance." He also said there was "No Pressure." Senator Ron Johnson of Wisconsin, a supporter of Ukraine who met privately with President Zelensky, has said: "At no time during this meeting...was there any mention by Zelensky or any Ukrainian that they were feeling pressure to do anything in return for the military aid." Many meetings have been held between representatives of Ukraine and our country. Never once did Ukraine complain about pressure being applied—not once! Ambassador Sondland testified that I told him: "No quid pro quo. I want nothing. I want nothing. I want President Zelensky to do the right thing, do what he ran on."

The second claim, so-called "Obstruction of Congress," is preposterous and dangerous. House Democrats are trying to impeach the duly elected President of the United States for asserting Constitutionally based privileges that have been asserted on a bipartisan basis by administrations of both political parties throughout our Nation's history. Under that standard, every American president would have been impeached many times over. As liberal law professor Jonathan Turley warned when addressing Congressional Democrats: "I can't emphasize this enough...if you impeach a president, if you make a high crime and misdemeanor out of going to the courts, it is an abuse of power. It's your abuse of power. You're doing precisely what you're criticizing the President for doing."

Everyone, you included, knows what is really happening. Your chosen candidate lost the election in 2016, in an Electoral College landslide (306-227), and you and your party have never recovered from this defeat. You have developed a full-fledged case of what many in the media call Trump Derangement Syndrome and sadly, you will never get over it! You are unwilling and unable to accept the verdict issued at the ballot box during the great Election of 2016. So you have spent three straight years attempting to overturn the will of the American people and nullify their votes. You view democracy as your enemy!

Speaker Pelosi, you admitted just last week at a public forum that your party's impeachment effort has been going on for "two and a half years," long before you ever heard about a phone call with Ukraine. Nineteen minutes after I took the oath of office, the *Washington Post*

published a story headlined, "The Campaign to Impeach President Trump Has Begun." Less than three months after my inauguration, Representative Maxine Waters stated, "I'm going to fight every day until he's impeached." House Democrats introduced the first impeachment resolution against me within months of my inauguration, for what will be regarded as one of our country's best decisions, the firing of James Comey (see Inspector General Reports)—who the world now knows is one of the dirtiest cops our Nation has ever seen. A ranting and raving Congresswoman, Rashida Tlaib, declared just hours after she was sworn into office, "We're gonna go in there and we're gonna impeach the motherf****r." Representative Al Green said in May, "I'm concerned that if we don't impeach this president, he will get re-elected." Again, you and your allies said, and did, all of these things long before you ever heard of President Zelensky or anything related to Ukraine. As you know very well. this impeachment drive has nothing to do with Ukraine, or the totally appropriate conversation I had with its new president. It only has to do with your attempt to undo the election of 2016 and steal the election of 2020!

Congressman Adam Schiff cheated and lied all the way up to the present day, even going so far as to fraudulently make up, out of thin air, my conversation with President Zelensky of Ukraine and read this fantasy language to Congress as though it were said by me. His shameless lies and deceptions, dating all the way back to the Russia Hoax, is one of the main reasons we are here today.

You and your party are desperate to distract from America's extraordinary economy, incredible jobs boom, record stock market, soaring confidence, and flourishing citizens. Your party simply cannot compete with our record: 7 million new jobs; the lowest-ever unemployment for African Americans, Hispanic Americans, and Asian Americans; a rebuilt military; a completely reformed VA with Choice and Accountability for our great veterans; more than 170 new federal judges and two Supreme Court Justices; historic tax and regulation cuts; the elimination of the individual mandate; the first decline in prescription drug prices in half a century; the first new branch of the United States Military since 1947, the Space Force; strong protection of the Second Amendment; criminal justice reform; a defeated ISIS caliphate and the killing of the world's number one terrorist leader, al-Baghdadi; the replacement of the disastrous NAFTA trade deal with the wonderful USMCA (Mexico and Canada); a breakthrough Phase One trade deal with China; massive new trade deals with Japan and South Korea; withdrawal from the terrible Iran Nuclear Deal; cancellation of the unfair and costly Paris Climate Accord; becoming the world's top energy producer; recognition of Israel's capital, opening the American Embassy in Jerusalem, and recognizing Israeli sovereignty over the Golan Heights; a colossal reduction in illegal border crossings, the ending of Catch-and-Release, and the building of the Southern Border Wall—and that is just the beginning, there is so much more. You cannot defend your extreme policies—open borders, mass migration, high crime, crippling taxes, socialized healthcare, destruction of American energy, late-term taxpayer-funded abortion, elimination of the Second Amendment, radical far-left theories of law and justice, and constant partisan obstruction of both common sense and common good.

There is nothing I would rather do than stop referring to your party as the Do-Nothing Democrats. Unfortunately, I don't know that you will ever give me a chance to do so.

After three years of unfair and unwarranted investigations, 45 million dollars spent, 18 angry Democrat prosecutors, the entire force of the FBI, headed by leadership now proven to be totally incompetent and corrupt, you have found NOTHING! Few people in high position could have endured or passed this test. You do not know, nor do you care, the great damage and hurt you have inflicted upon wonderful and loving members of my family. You conducted a fake investigation upon the democratically elected President of the United States, and you are doing it yet again.

There are not many people who could have taken the punishment inflicted during this period of time, and yet done so much for the success of America and its citizens. But instead of putting our country first, you have decided to disgrace our country still further. You completely failed with the Mueller report because there was nothing to find, so you decided to take the next hoax that came along, the phone call with Ukraine—even though it was a perfect call. And by the way, when I speak to foreign countries, there are many people, with permission, listening to the call on both sides of the conversation.

You are the ones interfering in America's elections. You are the ones subverting America's Democracy. You are the ones Obstructing Justice. You are the ones bringing pain and suffering to our Republic for your own selfish personal, political, and partisan gain.

Before the Impeachment Hoax, it was the Russian Witch Hunt. Against all evidence, and regardless of the truth, you and your deputies claimed that my campaign colluded with the Russians—a grave, malicious, and slanderous lie, a falsehood like no other. You forced our Nation through turmoil and torment over a wholly fabricated story, illegally purchased from a foreign spy by Hillary Clinton and the DNC in order to assault our democracy. Yet, when the monstrous lie was debunked and this Democrat conspiracy dissolved into dust, you did not apologize. You did not recant. You did not ask to be forgiven. You showed no remorse, no capacity for self-reflection. Instead, you pursued your next libelous and vicious crusade—you engineered an attempt to frame and defame an innocent person. All of this was motivated by personal political calculation. Your Speakership and your party are held hostage by your most deranged and radical representatives of the far left. Each one of your members lives in fear of a socialist primary challenger—this is what is driving impeachment. Look at Congressman Nadler's challenger. Look at yourself and others. Do not take our country down with your party.

If you truly cared about freedom and liberty for our Nation, then you would be devoting your vast investigative resources to exposing the full truth concerning the FBI's horrifying abuses of power before, during, and after the 2016 election—including the use of spies against my campaign, the submission of false evidence to a FISA court, and the concealment of exculpatory evidence in order to frame the innocent. The FBI has great and honorable people, but the leadership was inept and corrupt. I would think that you would personally be appalled by these revelations, because in your press conference the day you announced impeachment, you tied the impeachment effort directly to the completely discredited Russia Hoax, declaring twice that "all roads lead to Putin," when you know that is an abject lie. I have been far tougher on Russia than President Obama ever even thought to be.

Any member of Congress who votes in support of impeachment—against every shred of truth, fact, evidence, and legal principle—is showing how deeply they revile the voters and how truly they detest America's Constitutional order. Our Founders feared the tribalization of partisan politics, and you are bringing their worst fears to life.

Worse still, I have been deprived of basic Constitutional Due Process from the beginning of this impeachment scam right up until the present. I have been denied the most fundamental rights afforded by the Constitution, including the right to present evidence, to have my own counsel present, to confront accusers, and to call and cross-examine witnesses, like the so-called whistleblower who started this entire hoax with a false report of the phone call that bears no relationship to the actual phone call that was made. Once I presented the transcribed call, which surprised and shocked the fraudsters (they never thought that such evidence would be presented), the so-called whistleblower, and the second whistleblower, disappeared because they got caught, their report was a fraud, and they were no longer going to be made available to us. In other words, once the phone call was made public, your whole plot blew up, but that didn't stop you from continuing.

More due process was afforded to those accused in the Salem Witch Trials.

You and others on your committees have long said impeachment must be bipartisan—it is not. You said it was very divisive—it certainly is, even far more than you ever thought possible—and it will only get worse!

This is nothing more than an illegal, partisan attempted coup that will, based on recent sentiment, badly fail at the voting booth. You are not just after me, as President, you are after the entire Republican Party. But because of this colossal injustice, our party is more united than it has ever been before. History will judge you harshly as you proceed with this impeachment charade. Your legacy will be that of turning the House of Representatives from a revered legislative body into a Star Chamber of partisan persecution.

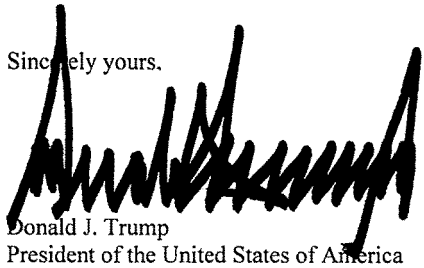
Perhaps most insulting of all is your false display of solemnity. You apparently have so little respect for the American People that you expect them to believe that you are approaching this impeachment somberly, reservedly, and reluctantly. No intelligent person believes what you are saying. Since the moment I won the election, the Democrat Party has been possessed by Impeachment Fever. There is no reticence. This is not a somber affair. You are making a mockery of impeachment and you are scarcely concealing your hatred of me, of the Republican Party, and tens of millions of patriotic Americans. The voters are wise, and they are seeing straight through this empty, hollow, and dangerous game you are playing.

I have no doubt the American people will hold you and the Democrats fully responsible in the upcoming 2020 election. They will not soon forgive your perversion of justice and abuse of power.

There is far too much that needs to be done to improve the lives of our citizens. It is time for you and the highly partisan Democrats in Congress to immediately cease this impeachment fantasy and get back to work for the American People. While I have no expectation that you will do so, I write this letter to you for the purpose of history and to put my thoughts on a permanent and indelible record.

One hundred years from now, when people look back at this affair, I want them to understand it, and learn from it, so that it can never happen to another President again.

Sincerely yours,



Donald J. Trump
President of the United States of America

cc: United States Senate
United States House of Representatives

Congress of the United States
Washington, DC 20515

November 9, 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Schiff:

In March 2019, prior to unilaterally initiating an "impeachment inquiry" in the House of Representatives, Speaker Pelosi said that "impeachment is so divisive to the country that unless there's something so compelling and overwhelming and bipartisan, I don't think we should go down that path because it divides the country."[1] Today, eight months after Speaker Pelosi's statement, there is bipartisan opposition in the House of Representatives to pursuing impeachment.[2] Undeterred, Speaker Pelosi and you now plan to move your one-sided and purely political "impeachment inquiry" from behind closed doors to open hearings next week.

Speaker Pelosi promised the "impeachment inquiry" would "treat the President with fairness."[3] You have failed to honor the Speaker's promise. During the Committee's last open hearing, you fabricated evidence out of thin air to portray President Trump's telephone conversation with President Zelensky in a sinister light.[4] During your closed-door proceedings, you offered no due process protections for the President. You directed witnesses called by the Democrats not to answer Republican questions. You withheld deposition transcripts from Republican Members. You selectively leaked cherry-picked information to paint misleading public narratives about the facts. You misled the American people about your interactions with the anonymous whistleblower, earning you "Four Pinocchios" from the *Washington Post*.[5] Your actions have greatly damaged the integrity of the Intelligence Committee and any legitimacy of your "impeachment inquiry."

Americans see through this sham impeachment process, despite the Democrats' efforts to retroactively legitimize it last week. The resolution that Democrats passed last week—over bipartisan opposition—limits the rights of minority Members beyond those prescribed in the House Rules and prevents minority Members from fully and fairly participating in the proceedings. While in traditional hearings the minority is permitted the ability to call a witness, the resolution only allows minority Members to suggest a witness list and requires them to

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[1] Nicholas Fandos, *Impeaching Trump Is 'Not Worth It,' Nancy Pelosi Says*, N.Y. Times, Mar. 11, 2019.
[2] H. Res. 660, 116th Cong. (2019) (roll call vote 604).
[3] Speaker Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).
[4] *"Whistleblower Disclosure": Hearing of the H. Perm. Sel. Comm. on Intelligence*, 116th Cong. (2019) (statement of Rep. Adam Schiff, Chairman).
[5] Glenn Kessler, *Schiff's false claim his committee had not spoken to the whistleblower*, Wash. Post, Oct. 4, 2019.

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provide "a detailed written justification of the relevance of the testimony of each requested witness."[6] The minority Members must identify all potential witnesses we wish to call before knowing the number, topics, or scope of hearings you intend to convene.[7] The Democrats' impeachment process against President Trump is a drastic departure from bipartisan precedent for presidential impeachment proceedings.

To provide transparency to your otherwise opaque and unfair process, and after consultation with Ranking Member Jim Jordan and Ranking Member Michael McCaul, the American people deserve to hear from the following witnesses in an open setting:

1. **Devon Archer, former board member of Burisma Holdings.** Multiple Democrat witnesses in closed-door testimony explained that Ukrainian energy company Burisma has a reputation in Ukraine for corruption. Mr. Archer is Hunter Biden's long-term business partner and served as a board member of Burisma Holdings with Mr. Biden. Mr. Archer's firsthand experiences with Burisma can assist the American public in understanding the nature and extent of Ukraine's pervasive corruption, information that bears directly on President Trump's longstanding and deeply-held skepticism of the country.

2. **Hunter Biden, former board member of Burisma Holdings.** As stated previously, Burisma has a reputation in Ukraine for corruption. According to public reporting, Burisma recruited Mr. Biden to its board to improve its public image at a time when Mr. Biden's father, Vice President Joe Biden, was the Obama Administration's point person for Ukraine policy.[8] Mr. Biden reportedly received $50,000 a month for his presence on Burisma's board.[9] Deputy Assistant Secretary George Kent testified that he raised concerns in 2015 to Vice President Biden's office about the appearance of a conflict of interest stemming from Mr. Biden's position on Burisma's board. Ambassador Marie Yovanovitch testified that the Obama State Department prepared her to address Mr. Biden's position on Burisma during her confirmation hearing to be ambassador to Ukraine. As with Mr. Archer, Mr. Biden's firsthand experiences with Burisma can assist the American public in understanding the nature and extent of Ukraine's pervasive corruption, information that bears directly on President Trump's longstanding and deeply-held skepticism of the country.

3. **Alexandra Chalupa, former Democratic National Committee (DNC) staffer.** During the 2016 U.S. presidential election, Alexandra Chalupa, a former DNC staffer and contractor, worked with the Ukrainian Embassy in Washington, D.C. to try and get political dirt on then-candidate Trump's campaign.[10] She has admitted to providing anti-

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[6] H. Res. 660, *supra* note 2.
[7] *Id.*
[8] Kenneth P. Vogel & Iuliia Mendel, *Biden faces conflicts of interest questions that are being promoted by Trump and allies*, N.Y. Times, May 1, 2019.
[9] *Id.*
[10] Kenneth P. Vogel & David Stern, *Ukrainian efforts to sabotage Trump backfire*, Politico, January 11, 2017.

Trump dirt to the DNC and the Hillary Clinton campaign, and to discussing such dirt with then-Ukrainian Ambassador to the United States Valeriy Chaly. Given President Trump's documented belief that the Ukrainian government meddled in the 2016 election to oppose his candidacy, which forms the basis for a reasonable desire for Ukraine to investigate the circumstances surrounding the election and any potential Ukrainian involvement, Ms. Chalupa is a prime fact witness who can assist Congress and the American public in better understanding the facts and circumstances surrounding Ukrainian involvement in the 2016 election.

4. **David Hale, Under Secretary of State for Political Affairs.** The three committees interviewed Under Secretary Hale on November 6, 2019. Under Secretary Hale has direct knowledge of U.S. government policy with respect to foreign assistance and foreign assistance review, which is critical to informing the American public's understanding of President Trump's posture on such matters. Given Under Secretary Hale's firsthand knowledge of events preceding and surrounding Ambassador Yovanovitch's recall from Ukraine, as well as Under Secretary Hale's communications with Ambassador Taylor regarding Ukraine matters, the American people deserve to hear from Under Secretary Hale.

5. **Tim Morrison, former Senior Director for European and Russian Affairs on the National Security Council (NSC), to testify on the same panel as Lt. Col. Alexander Vindman, assuming you request Lt. Col. Vindman to testify.** The three committees conducted a deposition of Mr. Morrison on October 31, 2019. You have yet to release Mr. Morrison's transcript; however, Mr. Morrison was one of the few witnesses who listened on the President's July 25 phone call and subsequently dealt with matters on the NSC related to U.S. military assistance to Ukraine. If you intend to call Lt. Col. Alexander Vindman, who worked for Mr. Morrison, to publicly testify, the minority requests Mr. Morrison sit on the same panel as Mr. Vindman.

6. **Nellie Ohr, former contractor for opposition research firm Fusion GPS.** In a 2018 interview with the House Judiciary and Oversight Committees, Ms. Ohr stated that, during her work with Fusion GPS that ultimately assisted in the production of the Steele Dossier—comprising false allegations against then-candidate Trump—Fusion GPS used information from sources in Ukraine, including Serhiy Leshchenko who recently lost his post from the Ukrainian parliament.[11] Given President Trump's documented belief that the Ukrainian government meddled in the 2016 election to oppose his candidacy, which forms the basis for a reasonable desire for Ukraine to investigate the circumstances surrounding the election and any potential Ukrainian involvement, Ms. Ohr is a prime fact witness who can assist Congress and the American public in better understanding the facts and circumstances surrounding Ukrainian involvement in the 2016 election.

[11] Transcribed Interview of Nellie Ohr, House Committee on the Judiciary and House Committee on Oversight and Government Reform, Wash., D.C., at 113-15 (Oct. 19, 2018).

7. **Ambassador Kurt Volker, former U.S. Special Representative for Ukraine Negotiations, to testify on the same panel as Ambassador William Taylor and Deputy Assistant Secretary of State George Kent on Wednesday, November 13, 2019.** The three committees conducted a transcribed interview of Ambassador Volker on October 2, 2019 and you subsequently released the transcript of the interview on November 5, 2019. Given Ambassador Volker's role as a primary interlocutor and trusted confidant of the Ukrainian government, as well as his firsthand knowledge of the circumstances surrounding Ukraine, to include discussions with Mayor Rudy Giuliani, Ambassador Gordon Sondland, Ambassador William Taylor, and others, the American people deserve to hear from Ambassador Volker in public on the same panel as Ambassador Taylor and Deputy Assistant Secretary of State Kent.

8. **The anonymous whistleblower whose secondhand complaint initiated the Democrats' "impeachment inquiry."** Because President Trump should be afforded an opportunity to confront his accusers, the anonymous whistleblower should testify. In addition, the Inspector General of the Intelligence Community reported that the whistleblower had a bias against President Trump and public reports indicate that the whistleblower worked closely with Vice President Biden.[12] Moreover, given the multiple discrepancies between the whistleblower's complaint and the closed-door testimony of the witnesses, it is imperative that the American people hear definitively how the whistleblower developed his or her information, and who else the whistleblower may have fed the information he or she had gathered and how that treatment of classified information may have led to the false narrative being perpetrated by the Democrats during this process.

9. **All individuals relied upon by the anonymous whistleblower in drafting his or her secondhand complaint.** In the whistleblower's complaint, the whistleblower suggests that he or she received accounts of President Trump's July 25 phone call with President Zelensky and associated information from "more than half a dozen" sources.[13] These sources provided information that does not match the closed-door testimony from witnesses, particularly as it relates to whether the President actually conditioned a face-to-face visit or U.S. military assistance on opening an investigation into the President's political rivals. The whistleblower's complaint alleged that most, if not all, of these individuals had firsthand information related to the whistleblower's claims, making their testimony particularly relevant to the American people.

We expect that you will call each of the witnesses listed above to ensure that the Democrats' "impeachment inquiry" treats the President with fairness, as promised by Speaker Pelosi. Because the Democrats' resolution unfairly restricts Minority rights and because you

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[12] Arden Farhi & Kathryn Watson, *Whistleblower had "prior working relationship" with current 2020 Democrat, source says*, CBS News, Oct. 9, 2019; Memorandum Opinion for the General Counsel Office of the Director of National Intelligence, 43 Op. Off. Legal Counsel at *4 (2019) (slip opinion).

[13] *See* letter to Richard Burr, Chairman, S. Sel. Comm. on Intel., & Adam Schiff, Chairman, H. Perm. Sel. Comm. on Intel. (Aug. 12, 2019).

have provided no information about which witnesses you may invite to testify at future hearings not yet scheduled, we reserve our right to request additional witnesses, if necessary, as you announce additional hearings. Your failure to fulfill Minority witness requests shall constitute evidence of your denial of fundamental fairness and due process.

Sincerely,

Devin Nunes
Ranking Member

cc: The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

United States Senate

WASHINGTON, DC 20510

December 17, 2019

The Honorable Lindsey O. Graham
Chairman
Committee on the Judiciary
United States Senate
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Johnson
Chairman
Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairs Graham, Grassley and Johnson:

You have stated your intent to investigate purported Ukrainian interference in the 2016 election and Vice President Joe Biden – the same investigations that President Trump pressed the Ukrainian government to announce that it would pursue.

Allegations of Ukrainian interference in the 2016 election are part of a Russian disinformation campaign. Dr. Fiona Hill, the former head of Russia and Ukraine policy for the National Security Council and formerly the top analyst for Russia at the National Intelligence Council, testified to Congress, with regard to these allegations: "This is a fictional narrative that is being perpetrated and propagated by the Russian security services themselves." And Assistant Secretary of State George Kent testified that there is no evidence "whatsoever" of wrongdoing by Vice President Biden. Consequently, we do not see a basis for an investigation by three major Senate Committees into these discredited allegations and believe that doing so could advance the Russian disinformation and election interference efforts. We should not facilitate foreign interference in our 2020 election.

Should you chose to continue this effort, we ask, consistent with Senate Rule 26, that you provide us with any evidence that you have that supports the investigation.

Sincerely,

Dianne Feinstein
Ranking Member
Committee on the Judiciary

Gary C. Peters
Ranking Member
Committee on Homeland Security
and Governmental Affairs

Ron Wyden
Ranking Member
Committee on Finance

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

December 2, 2019

The Honorable Jerrold Nadler
Chairman, Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

On November 12, 14, 18, 21, and 30, I wrote you asking specific questions about the process the House Judiciary Committee will use to bring some legitimacy to this "impeachment inquiry" launched by Democrats alone. During the markup on November 21, I asked you to keep me apprised of the process.[1] Every letter and nearly every question remains unanswered, with only 48 hours before our first hearing to consider the impeachment of the President. You have not provided a witness list. We do not have the Schiff Report. We do not have any underlying materials to the Schiff Report. We do not know of any hearings other than one of academics and possibly a presentation by Chairman Schiff's committee. For the first time in history, this Committee will weigh impeachment without any evidence for us to review. Any discussion with the yet-to-be lentified witnesses will, therefore, be in the abstract.

Regarding the White House participation in this sham inquiry, White House Counsel Pat Cipollone wrote you yesterday evening, "the countless procedural deficiencies that have infected this inquiry from its inception ... shows the lack of seriousness with which you are undertaking these proceedings."[2] Former Rep. Jane Harman (D-CA) said on television Sunday morning, "the process is being rushed at this point ... I think that [the Schiff Report] and the names of the witnesses [for December 4] should be public immediately."[3] Even members of your own party are calling on you to conduct a fair and thorough process. This *ad hoc*, poorly executed "impeachment inquiry" will provide the Senate with ample justification for expeditiously disposing of it.

Once again, I request clarity on how you intend to conduct this inquiry. As Republicans have stated before, and consistent with Chairman Schiff's repeated statements, withholding information from the minority shall constitute evidence of your denial of fundamental fairness and due process, as well as obstruction of minority rights. I stand ready to engage with you on this point, and look forward to hearing from you today.

Sincerely,

Doug Collins
Ranking Member

Markup of H.R. 5038, Hearing Before the Comm. on the Judiciary (2019) (Statement of Ranking Member Collins).
[2] Letter from Mr. Pat A. Cipollone, Counsel to the President, to Hon. Jerrold Nadler, Chairman, H. Comm. on the Judiciary (Dec. 1, 2019).
[3] Fox News Sunday transcript, *available at* https://www.foxnews.com/transcript/reps-doug-collins-hakeem-jeffries-on-what-to-expect-as-impeachment-hearings-shift-to-the-house-judiciary-committee.

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

December 5, 2019

The Honorable Jerrold Nadler
Chairman
House Judiciary Committee
House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler,

During yesterday's impeachment hearing, Representative Jim Sensenbrenner furnished you with a timely demand for a minority day of hearings, signed by all Republican Members of the Committee [1] You declined repeated requests by Republican Members during the hearing to acknowledge your obligation to schedule such a hearing or to provide any details on your planned schedule for further impeachment proceedings

Clause 2(j)(1) of Rule XI is clear and unequivocal: Once the demand is made, Minority Members "shall be entitled to... call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon."[2] As you have previously stated: "It is not the Chairman's right to determine whether we "deserve" a hearing; it is not the Chairman's right to decide whether his prior hearings were sufficient; it is not the Chairman's right to decide whether what we say or think is acceptable, and it is certainly never the Chairman's right to violate the rules in order to interfere with our right to conduct a hearing."[3]

Considering the haste with which this sham impeachment has been conducted, it is imperative that you contact me or my office as soon as possible to consult on scheduling the requested minority hearing day The requested minority hearing day *must* take place before articles of impeachment are considered by the Committee I'll remind you once more: "The Chairman is entitled to his opinions. He is not entitled to break the rules, abuse his power, and impose his will."[4]

Sincerely,

Doug Collins
Ranking Member

cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Kevin McCarthy, Minority Leader

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[1] Letter from the Honorable Jim Sensenbrenner, Representative, to the Honorable Jerrold Nadler, Chairman, House Judiciary Committee. (Dec. 4, 2019).
[2] Rules of the House of Representatives, Rule XI, Clause 2(j)(1).
[3] Press Release, The Honorable Jerrold Nadler, Nadler Remarks on Privileged Resolution (June 15, 2005).
[4] Id.

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515–6216
One Hundred Sixteenth Congress

December 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

In 1998, you joined your Democratic colleagues in stating that in an impeachment inquiry the President deserves not only the presumption of innocence and the right to confront witnesses, but "due process quadrupled." You stated:

> [T]he Majority position represents a breathtaking denial of the President's right to the presumption of innocence and his right to confront any witnesses making accusations against him. Although the Committee is not bound as a matter of House Rules to provide these protections, we believe it is incumbent upon the Committee to provide these basic protections. As Rep. Barbara Jordan (D-TX) observed during the Watergate inquiry, impeachment not only mandates due process, but of [sic] 'due process quadrupled.'[1]

Chairman Schiff failed to provide those protections during his phase of this "impeachment inquiry." Rather than "due process quadrupled," he provided zero due process to the President. We hope that changes now that the "impeachment inquiry" has finally come to the Judiciary Committee—the committee that historically has handled the entire impeachment process in the House of Representatives.

Thus far, the only witnesses Chairman Schiff has permitted to testify publicly are those he has previously vetted and approved in a private deposition setting. He did not permit Republicans or the President to call any additional witnesses. We hope that will change. To provide context and transparency about the underlying facts at issue in this "impeachment inquiry," the American people deserve to hear from the following witnesses in the Judiciary Committee:

1. **Chairman Adam Schiff.** There is no indication the Judiciary Committee will hold any hearings with fact witnesses, and instead, will have to rely on a report written by Chairman Schiff and his staff. As the author of the Intelligence Committee report and the chief prosecutor for the House, it is imperative that Chairman Schiff testify before this committee and entertain questions from duly elected Members of Congress. At a minimum, he should testify about his report, just as Special Counsel Robert Mueller and Independent Counsel Ken Starr testified to this Committee about their reports.

2. **The anonymous whistleblower whose complaint initiated this "impeachment inquiry."** As you stated in 1998, the President should be afforded the opportunity to

[1] H.R. Rep. 105-830, 105th Cong. 126 at 264-265 (1998).

confront his accusers. The anonymous whistleblower is the accuser who initiated this impeachment process. Moreover, the Inspector General of the Intelligence Community reported that the whistleblower had a bias against President Trump.[2] And public reporting suggests he or she worked closely with Vice President Biden[3] and coordinated his or her complaint with Chairman Adam Schiff or his staff.[4] The President and the public deserve to learn about these interactions. Additionally, it is important to the American people to hear definitively how the whistleblower developed his or her information, to whom the whistleblower may have fed the information and how treatment of classified information may have led to the false narrative being perpetrated by the Democrats during this process. This testimony can be conducted in a way that does not reveal the identity of the whistleblower.

3. **All individuals relied upon by the anonymous whistleblower in drafting his or her complaint**. The whistleblower's complaint suggests the whistleblower received accounts of President Trump's July 25 phone call and associated information from "more than half a dozen" sources.[5] These sources provided information that does not match the testimony from witnesses before the Intelligence Committee, especially as it relates to whether the President conditioned a face-to-face visit or U.S. military assistance on announcing or opening investigations. The whistleblower's complaint alleged that most, if not all, of these individuals had firsthand information related to the whistleblower's claims, making their testimony particularly relevant to the American public.

4. **The Intelligence Community employee who spoke with Lieutenant Colonel Alexander Vindman about President Trump's July 25 phone call**. During his public testimony, Lt. Col. Vindman testified that he shared details of President Trump's July 25 call with two individuals outside of the White House: Department of State Deputy Assistant Secretary George Kent, and "an individual in the Intelligence Community."[6] Lt. Col. Vindman, with the support of his lawyer and Chairman Schiff, declined to identify that individual because it might reveal the identity of the whistleblower, even though both Lt. Col. Vindman and Chairman Schiff claim not to know the identity of the whistleblower.[7] Because neither Chairman Schiff nor Lt. Col.

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[2] Memorandum Opinion for the General Counsel Office of the Director of National Intelligence, 43 Op. Off. Legal Counsel at *4 (Sept. 3, 2019) (slip opinion).
[3] Arden Farhi & Kathryn Watson, "Whistleblower had 'prior working relationship' with current 2020 Democrat, source says," CBS News, Oct. 9, 2019, *available at* https://www.cbsnews.com/news/the-whistleblower-complaint-whistleblower-had-prior-working-relationship-with-current-2020-democratic-candidate/.
[4] Julian E. Barnes et al., "Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew," NY TIMES, Oct 2, 2019, *available at* https://www.nytimes.com/2019/10/02/us/politics/adam-schiff-whistleblower.html.
[5] *See* letter to Richard Burr, Chairman, S. Sel. Comm. on Intel., & Adam Schiff, Chairman, H. Perm. Sel. Comm. on Intel. (Aug. 12, 2019).
[6] U.S. House of Rep. Permanent Select Comm. on Intelligence, Impeachment Inquiry: Ms. Jennifer Williams and Lt. Col. Alexander Vindman, Hr'g Tr. at 58-59 (November 19, 2019).
[7] *Id;* U.S. House of Rep. Permanent Select Comm. on Intelligence, Impeachment Inquiry: Amb. William B. Taylor and Mr. George Kent, Hr'g Tr. 17:23-25 (November 13, 2019).

Vindman know who the whistleblower is, identifying who in the Intelligence Community Lt. Col. Vindman spoke with would not reveal the identity of the whistleblower. Hearing from this individual would bring transparency to the process, afford fairness to the accused, and provide the American people with critical facts underlying the current allegations.

5. **Devon Archer, former board member of Burisma Holdings**. Burisma has a reputation for corruption, as confirmed by nearly all witnesses who have testified in this "impeachment inquiry." Mr. Archer is Hunter Biden's long-term business partner and served as a board member of Burisma Holdings with Mr. Biden. Mr. Archer's experience with Burisma will shed light on the nature and extent of Ukraine's private-sector corruption generally, and at Burisma specifically. Additionally, according to public reports, Mr. Archer has donated over $40,000 to political candidates and PACs.[8] Members of this Committee should have the opportunity to probe whether those funds derived from a corrupt Ukrainian company—in this case, Burisma—whose founder is currently under investigation for embezzlement of state funds.[9] This information bears directly on President Trump's longstanding skepticism of the country.

6. **Hunter Biden, former board member of Burisma Holdings**. As noted above, Burisma has a reputation for corruption and has been subject to multiple anticorruption investigations. According to public reports, Hunter Biden was recruited to sit on its board to improve its public image at the time when his father, Vice President Joe Biden, was the Obama Administration's point person for Ukraine policy.[10] Mr. Biden was paid a substantial sum without having any obvious qualifications. Multiple Democrat-invited witnesses testified during this "impeachment inquiry" that this created at least the appearance of impropriety.[11] Mr. Biden's experience with Burisma will help the public understand the nature and extent of corruption at Burisma and in Ukraine. Again, this information bears directly on President Trump's longstanding skepticism of the country.

7. **Nellie Ohr, former contractor for opposition research firm Fusion GPS**. In a 2018 interview with the House Judiciary and Oversight Committees, Ms. Ohr stated that Fusion GPS used information from sources in Ukraine to compile the now infamous "Steele Dossier," which was used by the FBI to spy on President Trump's

[8] OpenSecrets.org, Devon Archer, *available at* https://www.opensecrets.org/search?q=devon+archer&type=donors.
[9] Zhegulev, Ilya, "Ukraine widens probe against Burisma founder to embezzlement of state funds," Reuters, November 20, 2019, *available at* https://www.reuters.com/article/us-usa-trump-impeachment-burisma/ukraine-widens-probe-against-burisma-founder-to-embezzlement-of-state-funds-idUSKBN1XU2N7.
[10] Kenneth Vogel & Iuliia Mendel, "Biden Faces Conflicts of Interest Questions that are Being Promoted by Trump and Allies," NY TIMES, May 1, 2019, *available at* https://www.nytimes.com/2019/05/01/us/politics/biden-son-ukraine.html.
[11] *See e.g.*, U.S. House of Rep. Permanent Select Comm. on Intelligence, Impeachment Inquiry: Mr. George Kent, Hr'g Tr. 94-95 (November 13, 2019) & Amb. Marie Yovanovitch, Hr'g Tr. 134-136 (Nov. 15, 2019).

2016 presidential campaign.[12] Given President Trump's documented belief that Ukrainians meddled in the 2016 election, which forms the basis for a reasonable desire for Ukraine to investigate potential election meddling by Ukrainians, Ms. Ohr is a relevant fact witness who will help the public more fully understand the facts and circumstances surrounding involvement by Ukrainians in the 2016 election.

8. **Alexandra Chalupa, former Democratic National Committee (DNC) staffer.** During the 2016 U.S. presidential election, Alexandra Chalupa, a former DNC staffer and contractor, worked with the Ukrainian Embassy in Washington, D.C. to obtain political dirt on then-candidate Trump's campaign.[13] Ms. Chalupa admitted to providing anti-Trump dirt to the DNC and the Hillary Clinton campaign, and to discussing that dirt with then-Ukrainian Ambassador to the United States Valeriy Chaly.[14] Given President Trump's documented belief that Ukrainians meddled in the 2016 election, Ms. Chalupa is a relevant fact witness who will help the public understand the basis for President Trump's belief that Ukrainians meddled in the 2016 presidential election. And Ms. Chalupa herself has stated publicly that she is "on a mission to testify."[15]

On November 20, the *New York Times* editorial board called on Congress "to hear from more witnesses before an impeachment vote."[16] We expect you to follow this reasonable advice by calling each of the witnesses listed above to testify before this Committee to ensure a full evaluation of the facts and to cure the procedural and fairness defects injected into these proceedings by Chairman Schiff. We also expect you to call all the witnesses, if any, requested by the President. That will be necessary to ensure at least a modicum of fairness and due process is afforded to the President, and, more importantly, the American electorate.

With the exception of Chairman Schiff, we request that you immediately issue subpoenas to compel the testimony of the individuals listed above pursuant to H. Res. 660, Section 4(c).[17] We reserve the right to request additional witnesses, if necessary, as more facts come to light.

Sincerely,

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[12] Transcribed Interview of Nellie Ohr, House Comm. on the Jud. & House Comm. on Oversight and Gov. Reform, Wash., D.C., at 113-115 (Oct. 19, 2018).
[13] Kenneth Vogel & David Stern, "Ukrainian Efforts to Sabotage Trump Backfire," POLITICO, Jan. 11, 2017, *available at* https://www.politico.com/story/2017/01/ukraine-sabotage-trump-backfire-233446.
[14] *See* Ltr. from Hon. Devin Nunes et al, Ranking Member, House Perm. Select Comm. on Intel., to Hon. Adam Schiff, Chairman, House Perm. Select Comm. on Intel. (Nov. 9, 2019) (discussing the role of Ms. Chalupa in the 2016 election).
[15] Natasha Bertrand and Kyle Cheney, "'I'm on a mission to testify': Dem Ukraine activist eager for impeachment cameo," POLITICO, Nov. 12, 2019, *available at* https://www.politico.com/news/2019/11/12/alexandra-chalupa-testify-impeachment-069817.
[16] The Editorial Board, "Sondland Has Implicated the President and His Top Men," NY TIMES, Nov. 20, 2019, *available at* https://www.nytimes.com/2019/11/20/opinion/sondland-impeachment-hearings.html.
[17] *See* H. Res. 660, Sec. 4(c)(1).

Doug Collins
Ranking Member

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 14, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler,

On June 22, 2016, during hearings exploring the potential impeachment of IRS Commissioner Koskinen, you said: "The power of impeachment is a solemn responsibility, assigned to the House by the Constitution, and to this Committee by our peers. That responsibility demands a rigorous level of due process."[1] Now that Congress is officially engaged in a so-called "impeachment inquiry," it is incumbent upon you and the Democratic caucus to be faithful to your prior statement and to prioritize due process. In light of this, I hope that you join me in demanding the House take the same steps as have historically been taken to ensure fairness throughout impeachment proceedings.

I. Participation of President's Counsel in Impeachment Proceedings

The rules of the current "impeachment inquiry" allow the President and his counsel to participate only in impeachment hearings held by the Judiciary Committee, but not in hearings or interviews held by the House Permanent Select Committee on Intelligence (HPSCI).[2] Permitting the President to participate only in Judiciary Committee activities is a thinly-veiled attempt by Speaker Nancy Pelosi and Chairman Adam Schiff to erect a façade of fairness, while in practice denying the President and his counsel the protections and involvement afforded, historically, to every other president subject to impeachment proceedings.

Historically, impeachment proceedings have been conducted by the Judiciary Committee—not HPSCI.[3] This includes proceedings during the information-gathering stage.[4] The President and

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[1] *Examining the Allegations of Misconduct Against IRS Commissioner John Koskinen (Part II): Hearing Before the H. Comm. on the Judiciary*, 114th Cong. 3 (2016) (statement of Rep. Jerrold Nadler). With Commissioner Koskinen, as is the case here, the main fact investigation into possible impeachable conduct was performed by another Committee of the House.

[2] *Id.*

[3] The House looks "to the Judiciary Committee to conduct this 'inquest,' or information-gathering stage of the impeachment process." Todd Garvey, "Congressional Access to Information in an Impeachment Investigation," CRS, at n.4 (October 25, 2019) (Citing CHARLES W. JOHNSON ET AL., HOUSE PRACTICE: A GUIDE TO THE RULES, PRECEDENTS, AND PRACTICE OF THE HOUSE, ch. 27 § 6, at 615 (2017)).

[4] *Id.*

his counsel have always been invited to participate in impeachment proceedings from the outset. In the cases of Presidents Nixon and Clinton, the House adopted resolutions to commence impeachment proceedings and gave sole jurisdiction to the Judiciary Committee.[5] In both instances, the President and his counsel were afforded the chance to participate in all substantive hearings.[6] That has not happened here.

So far, the Judiciary Committee has been excluded from all closed-door witness interviews during these impeachment proceedings. Judiciary Committee Members and staff are also prohibited from participating in HPSCI's current spate of public hearings.[7] If this trend continues and the Judiciary Committee remains sidelined, the President and his counsel will be denied the procedural protections and fairness afforded by Congress to presidents in prior impeachment inquiries. The accused will not be able to confront his potential accusers, cross-examine witnesses, or test the evidence. The process will be devoid of fundamental fairness.

II. Holding Public Hearings in the Judiciary Committee

Although the current impeachment procedures adopted by the House allow the Judiciary Committee to hold hearings, they do not require the Committee to do so.[8] The rules require only that the Judiciary Committee receive a presentation from someone on HPSCI's staff. Mr. Chairman, will the Judiciary Committee's involvement in the impeachment of a sitting president be limited to hearing from a member of Chairman Schiff's staff?

If the answer to this question is yes, then this Committee's historical role and importance has been drastically undermined under your leadership. But even more significant than the watering down of this Committee's historical importance would be the complete lack of procedural fairness afforded to the President and, ultimately, to the American electorate.

If the answer to the question is no, what exactly will this Committee's role be during the second phase of this unprecedented "impeachment inquiry"? If relevant fact witnesses are going to be called to testify privately and publicly before HPSCI, as appears to be the case, will you recall witnesses to testify, some for a third time, before our Committee?[9] If the answer is no, then again House Democrats are denying the President procedural protections rooted in our historical traditions. If this Committee will not hear from fact witnesses, will we again be relegated simply to hearing the opinions of cable news pundits and partisan academics?[10]

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[5] H. Res. 803, 93d Cong. (1974) (Nixon); H. Res. 581, 105th Cong. (1998) (Clinton).

[6] *See Impeachment of Richard M. Nixon, President of the United States*, H. R. Rept. 91-1305 (1974); *Investigatory Powers of the Committee on the Judiciary with Respect to its Impeachment Inquiry*, H.R. Rept. 105-795, 105th Cong. 24 (1998); H.R. Rept. 105-845, 105th Cong. 26 (1998).

[7] Press Release "House Intelligence Committee Announces First Week of Open Hearings With William Taylor, George Kent and Marie Yovanovitch, Nov. 6, 2019, https://intelligence.house.gov/news/documentsingle.aspx?DocumentID=792.

[8] H. Res. 660.

Thus far, the House has completely failed to deliver on your 2016 promise to provide "rigorous due process." Indeed, Chairman Schiff is proceeding without regard to fairness or historical precedent. For the first time in modern history, an impeachment of a President has been initiated by a single party and conducted outside of the Judiciary Committee. What concerns me most, however, is the extent to which you seem willing to allow Chairman Schiff to strip the accused of deep-rooted principles of procedural fairness by prohibiting the duly-elected President from participating in the proceedings in any meaningful way, and thereby denying due process to the American electorate. I urge you to promptly rectify these failures.

Sincerely,

Doug Collins
Ranking Member

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 18, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler,

Today, I am writing to raise concerns regarding House Permanent Select Committee on Intelligence ("Intelligence Committee") Chairman Adam Schiff's role working in concert with certain witnesses to conceal basic and relevant facts during this sham impeachment process There is also new concern regarding the credibility and judgment of one of the witnesses, Lieutenant Colonel Alexander S. Vindman.

I. New Information from Mr. Morrison's Deposition Released November 16

On November 16, 2019, Chairman Schiff released the transcript of Tim Morrison's deposition.[1] According to the transcript, officials on the National Security Council were concerned about Colonel Vindman's judgment and about whether he may have leaked information. Following is the relevant portion of the exchange:

> MR. CASTOR: Okay. It had nothing to do with your trust in Colonel Vindman?
>
> MR. MORRISON: I had two motivations to do my best to protect my personnel from my concerns about this issue, the concerns that I weighed out about the Washington's political environment.
>
> MR. CASTOR: Uh-huh. ..
>
> **MR. MORRISON: I had concerns about Lieutenant Colonel Vindman's judgment.**
>
> MR. CASTOR: Judgment with respect to what?

[1] Deposition Transcript of Mr. Tim Morrison (Oct. 31, 2019).

> MR. MORRISON: Among the discussions I had with Dr Hill in the transition was our team, my team, its strengths and its weaknesses And Fiona and others had raised concerns about Alex's judgment
>
> MR. CASTER: Okay Did you ever have any concerns that he might leak something?
>
> MR. MORRISON: No.
>
> **MR. CASTOR: Did anyone ever bring concerns to you that they believed Colonel Vindman may have leaked something?**
>
> **MR. MORRISON: Yes.**[2]

An in-depth review of Colonel Vindman's deposition transcript also reveals a reluctance to be forthcoming with the Intelligence Committee. The combination of questionable judgment, possible leaks, and his refusal to answer basic questions posed by Intelligence Committee counsel raise serious concerns about his trustworthiness and motives.

II. Chairman Schiff is Actively Suppressing Evidence Requested by Republicans

On November 9, 2019, Intelligence Committee Ranking Member Devin Nunes wrote to Chairman Schiff about his alarming and biased behavior. He wrote:

> During your closed-door proceedings, [Chairman Schiff] offered no due process protections for the President. [Chairman Schiff] directed witnesses called by the Democrats not to answer Republic questions. [Chairman Schiff] withheld deposition transcripts from Republican Members. [Chairman Schiff] leaked cherry-picked information to paint misleading public narratives about the facts.[3]

Chairman Schiff's conduct, while deeply troubling, is not surprising. As you will recall, Chairman Schiff told the American people repeatedly "there was 'ample evidence of collusion in plain sight'" regarding the President's 2016 campaign.[4] As a two-year investigation by Special Counsel Mueller found, however, no such collusion existed. More recently, Chairman Schiff parodied, into the record, a fictional version of the President's July 25, 2019 phone call with

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[2] *Id.* at 81-82 (emphasis added).
[3] Letter from Hon. Devin Nunes, Ranking Member, H. Permanent Select Comm. on Intelligence to Hon. Adam Schiff, Chairman, H. Permanent Select Comm. on Intelligence (Nov. 9, 2019).
[4] David Cohen, *Schiff: 'Ample evidence of collusion in plain sight,'* POLITICO (Apr. 21, 2019) (quoting Hon. Adam Schiff commenting on the Mueller investigation); Kent Forgey, *Schiff: There is still 'significant evidence of collusion,'* POLITICO (Mar. 24, 2019).

President Zelensky. These actions and disingenuous comments only further damage the credibility of this process.

Chairman Schiff's dishonest tactics were again on full display during Colonel Vindman's deposition. A thorough review of the October 29, 2019, transcript indicates Chairman Schiff, together with Colonel Vindman's counsel, worked to conceal certain relevant facts Under the guise of protecting the whistleblower, the Chairman and the witness's counsel repeatedly shut down relevant questioning.[5] For example, on page 78 of a 340-page transcript, the witness's counsel objects to basic questions about who his client spoke with after the July 10 meeting between U.S. officials and Ukrainian officials.[6] As the Republican counsel explains, "I'm not asking for a list of names. I'm asking what about who he had communications with about the 7/10 meeting?"[7] This indicates counsel was probing the witness's impressions of conversations he was having after an important meeting involving Ambassador Bolton and Ukrainian officials

Chairman Schiff ruled "the witness may refrain from identifying any employee, detailee, or contractor of the Intelligence Community."[8] This is a sweeping edict covering numerous agencies and concealing relevant facts. It is also clear from the transcript that the witness's counsel had concocted this plan to conceal information with Chairman Schiff's staff, in advance of the deposition. Chairman Schiff stated: "You may continue with the advisory that pursuant to the instruction of the witness' counsel he will not go into questions about Intelligence Community employees, detailees, or contractors."[9]

Chairman Schiff both allowed and condoned contemptuous behavior on the part of the witness and his counsel. Much later in the deposition, Intelligence Committee Member Jim Jordan tried to introduce a modicum of fairness to the process. He said:

> MR. JORDAN: Mr. Chairman, if I could, just for the second here, we just got a resolution that I think is going to be voted on Thursday, and it says at some point in that resolution, whatever winds up happening here is going to go to the Judiciary Committee. They are going to want to call witnesses at some point.
>
> We would like to give them some help in who they want to call. One of the things you do to determine that is ask the who, what, when, where, why questions of whatever witnesses you allow us to have in here. **And all we've been asking is, who did Colonel Vindman talk to after important events that happened this past July?** That's all we're asking.

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[5] Deposition Transcript of Lieutenant Colonel Alexander S. Vindman [hereinafter Vindman Deposition] (Oct. 29, 2019).
[6] *Id.* at 78.
[7] *Id.* at 78.
[8] *Id.* at 80.
[9] *Id.* at 82.

> **And you're saying you're not going to let him answer, not based on any classification concern, solely because you have some concern that we're trying to get to the whistleblower, which isn't the case.** We're trying to get to a list of witnesses that we think will be helpful at some point if, in fact, this goes to the Judiciary Committee.
>
> THE CHAIRMAN: **I've made my ruling.**[10]

In short, Chairman Schiff is ignoring existing procedures, making up new rules, and suppressing valid questions from the minority side of the aisle.

A. Colonel Vindman's Counsel Refuses to Allow Any Rational Workarounds

At one point during the closed-door deposition, counsel for the minority tried to ask basic factual questions, and Chairman Schiff rejected these. He did not even allow a sensible workaround—the witness could identify people as "Person 1, Person 2," and so forth. Below is the pertinent portion of the transcript:

> MR. JORDAN: Colonel Vindman, the question from Counsel Castor is real simple: How many individuals did you talk to after the July 25th call after your meeting with Mr. Eisenberg, and how many times did you talk to them? So that's what we're looking for, how many people and how many times?
>
> MR. CASTOR: **So person one, two, three, four -- just let me finish and then person one, two, three, four, or person one, and then communication one, two, three, four. Was it one person, one communication?**
>
> MR. VOLKOV: **Yeah, and we'll object to that.** He's already testified as to one conversation that he did have, which was with the -- Mr. Kent, okay, from the State Department.[11]

In a matter as serious as an impeachment inquiry—even this one-sided inquiry—it is unbelievable the Chairman would condone such contemptuous behavior—unless, he is afraid of the truth. The totality of the transcript, and the severity of the Chairman's refusal to permit basic lines of inquiry, indicate there is more to the story than the Chairman wishes to make known. This is entirely consistent, of course, with the Chairman's practice of selectively leaking details he finds favorable.

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[10] *Id.* at 276 (emphasis added).
[11] *Id.* at 278 (emphasis added)

B. Colonel Vindman's Counsel Allows his Client to Engage in Contemptuous Behavior

A witness compelled to appear before Congress must answer the question propounded [12] The level of obstruction by Colonel Vindman's counsel did not wane as the deposition proceeded In fact, the Chairman's ruling was expanded. The witness was prohibited from answering the number of people with whom he discussed the July 25 phone call between President Trump and President Zelensky, much less their identities.[13] Following is the relevant portion of the transcript:

> MR. CASTOR: We're just trying to find out if it's one person or five people
>
> MR. VOLKOV: Look, I was a prosecutor for 25 years, sir, okay? I handled confidential informants. I handled very risky situations. What these questions are designed to do, you've already -- you don't need this. You don't need to go down this. And, look, you guys can -- if you want to ask, you can ask questions about his conversation with Mr. Kent. That's it We're not answering any others.[14]

This level of obstruction continued as counsel instructed his client to withhold important information from Members and staff. To allow this level of contempt by a witness, under subpoena, is unprecedented. Case law permits witnesses before Congress to decline to answer certain questions that would infringe on their First Amendment rights or those of another group related to the witness.[15] Of course, if a witness makes a valid assertion of his or her Fifth Amendment privilege, the congressional witness can avoid questions.[16] Here, those constitutional privileges did not apply. The witness cannot decline to answer basic questions without asserting a valid constitutional objection or a privilege recognized by the Intelligence Committee, as noted by Majority counsel at the beginning of the hearing.[17]

III. Conclusion and Questions for the Chairman

On December 18, 1998, now-Speaker Pelosi stood in the well of the House and said the following:

> Today, the Republican majority is not judging the President with fairness but impeaching him with a vengeance. In the investigation of the President fundamental principles of which Americans hold dear: privacy, fairness,

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[12] *Rumely v. U.S.*, 345 U.S. 41, 48 (1953) (determining the contours of a citizen's duty to comply with a congressional subpoena).
[13] Vindman Deposition at 280-281.
[14] *Id.* At 280.
[15] *See generally Rumely v. U.S.*, 345 U.S. 41 (1953).
[16] *See Watkins v. United States*, 354 U.S. 178 (1957); *See also Quinn v. United States*, 349 U.S. 155, 162 (1955).
[17] *See* Vindman Deposition at 11-12. Remarks by Counsel Daniel Goldman. ("You may only refuse to answer a question to preserve a privilege recognized by the committee. If you refuse to answer a question on the basis of privilege, staff may either proceed with the deposition or seek a ruling from the chairman on the objection. If the chairman overrules any such objection, you are required to answer the question.").

> checks and balances have been seriously violated ... we are here today because the Republicans in the House are paralyzed with hatred of President Clinton.[18]

These same remarks could be applied to the process transpiring today. However, as I detailed in my previous letters to you, this Democrat impeachment crusade *lacks* the due process protections afforded in all past presidential impeachments, including those protections afforded to President Clinton by Republicans. It is an unfair process for many other reasons, chief among them the fact that minority questions are not being answered in depositions and the President's counsel has had no voice in the fact-gathering phase of this impeachment inquiry. To rectify these deficiencies, please provide answers to the following questions:

1. Will you demand Chairman Schiff provide all evidence in the Intelligence Committee's custody to the Judiciary Committee, including unredacted transcripts of depositions?

2. Will you require that certain witnesses answer pertinent questions they were previously directed by Chairman Schiff not to answer?

3. Will you commit to allowing the President's counsel to call witnesses?

4. With regard to Colonel Vindman, when this matter is committed to Judiciary, will you require that he answer all relevant, factual minority questions, including those not previously answered?

As noted in my prior, unanswered letters, I reserve the right to request documents, additional witnesses, and participation of the President's counsel. Democrats have been fond of accusing the Administration of obstruction throughout this so-called "impeachment inquiry." In that vein, I will consider a failure to respond to my questions as evidence of your intent to continue with this denial of fundamental fairness.[19] I look forward to your response to my November 12, 14, and today's letter.

Sincerely,

Doug Collins
Ranking Member

[18] Remarks of Hon. Nancy Pelosi, House of Representatives, Dec. 18, 1998, *available at* https://www.c-span.org/video/?c4818805/user-clip-pelosi-impeachment-1998.

[19] *See also* Letter from Hon. Devin Nunes, Ranking Member, H. Permanent Select Comm. on Intelligence to Hon. Adam Schiff, Chairman, H. Permanent Select Comm. on Intelligence (Nov. 9, 2019).

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 21, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

Today, we write to request that you obtain all documents and information from Chairman Schiff pursuant to House Resolution 660 and its accompanying procedures. The so-called impeachment inquiry unfolding before the House Permanent Select Committee on Intelligence ("Intelligence Committee") at the direction and discretion of Chairman Adam Schiff will soon arrive in the House Committee on the Judiciary ("this Committee"), according to the impeachment resolution passed and supported solely by Democrats.[1] Without all documents and materials considered by the Intelligence Committee, this Committee will be unable to fulfill its obligation to the American people to carefully consider a matter as dire as removing a duly elected president.

As we are confident you will agree, this Committee will only be able to conduct a fulsome examination of the facts when all Committee members have had sufficient opportunity to review all of the materials. After the suspect handling of these proceedings by the Intelligence Committee, this Committee will only be able to restore some sensibility to this process by conducting its portion of this inquiry in a fair and objective manner.

I. Chairman Schiff Has Conducted a Lopsided Inquiry; You Must Balance the Process

Chairman Schiff has engaged in an assault on the already one-sided process. Based on the publicly available transcripts, it appears Chairman Schiff has worked in concert with select disgruntled bureaucrats to withhold evidence from Intelligence Committee Republicans, this Committee, and the American people. He has cut off Republican questioning and instructed witnesses not to answer Republicans' questions.[2] For example, during the deposition of Lt. Col. Vindman, the minority sought answers to relevant questions related to *basic* facts (e.g., who, what, when, why, etc.) regarding Colonel Vindman's actions after the July 25 phone call

[1] *See* H.R. Res. 660, 116th Cong. (as passed by the House by a vote of 232-196 with only Democrats voting in favor and both Democrats and Republicans voting against).
[2] Cite cutting off female Republicans

between President Trump and President Zelensky.[3] Chairman Schiff refused to allow the witness to answer.[4] Similarly, on Tuesday, November 19, 2019, during the public hearing, Chairman Schiff refused to allow Republicans to ask basic questions of Colonel Vindman. And on November 15, 2019, Chairman Schiff either cut off or refused to entertain parliamentary inquiries by Representative Elise Stefanik and Representative Mike Conaway.[5]

Given these tactics, we are concerned that Chairman Schiff has not released all underlying evidence gathered during his investigation. In order to correct this and other procedural flaws and inequities, we urge you to conduct the proceedings in this Committee with an even-handed approach. Additionally, we request that you require Chairman Schiff to provide this Committee all materials and evidence obtained by the Intelligence Committee prior to or since July 25, 2019, when Intelligence Committee staff reportedly initially communicated with the whistleblower.

II. History Demands that this Committee Fully Consider the Evidence and Facts

In modern history, this Committee solely handled impeachment proceedings. They were open, they were deliberative, and the President and his counsel were invited "to attend all executive session and open committee hearings."[6] It is undisputed that, during the impeachment of President Clinton, this Committee held at least five days of public hearings to examine the constitutional standards as well as testimony from witnesses requested by President Clinton.[7]

According to contemporaneous reporting on the Clinton impeachment process, then-Independent Counsel Ken Starr turned over voluminous amounts of evidence. The *Washington Post* reported:

> On a day dreaded at the White House since the Lewinsky investigation began in January, two government vans containing Starr's 445-page report and 36 sealed boxes of grand jury material -- two sets of 18 boxes each -- arrived at the Capitol at 4 p.m., culminating an unprecedented eight-month probe that has explored the most intimate details of Clinton's life and forced him to admit that he lied to the nation.[8]

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[3] *See* Letter from Hon. Doug Collins, Ranking Member, H. Comm. on the Judiciary to Hon. Jerrold Nadler, Chairman, H. Comm. on the Judiciary (Nov. 18, 2019) (citing various points during the Col. Vindman's deposition during which the witness refused to answer without citing a privilege).
[4] *Id.*
[5] *Hearing on the Impeachment Inquiry of President Donald J. Trump: Hearing Before H. Permanent Select Comm. on Intelligence, available at* https://www.youtube.com/watch?v=LrL2q91fnnQ&feature=youtu.be, 116th Cong. (Nov. 13, 2019).
[6] H.R. Rep. No. 105-830, Sec. II, at page 25 (1998).
[7] *Id.*
[8] Peter Baker & Susan Schmidt, *Starr Submits Report to House*, WASH. POST (Sept. 10, 1998).

Constitutional scholars, even Democratic scholars, who participated directly in the impeachment of President Clinton, are baffled by current Democrats' staking their hope of impeachment "on a barely developed evidentiary record and cursory public hearings[.]"[9] As Professor Turley wrote:

> The contrast with the Nixon impeachment is so concerning in the current context. In the Nixon impeachment, public opinion shifted after months of public hearings and testimony. The evidentiary record showed that Nixon knew of criminal acts and sought to conceal them. The result was a deeply developed evidentiary record . . .[10]

This rush to impeach a president is anomalous. The impeachments of district court judges (i.e., *not the President of the United States*) have virtually always taken well over a year of investigation and consideration and have included the hiring of dedicated staffs and committee resources to properly handle the grueling investigative work and solemnity impeachment demands. In contrast, this majority is attempting to impeach the President in approximately two months, in an apparent attempt to be done by the December holiday break so that the Senate can conduct a trial before the Iowa caucuses. The fairness of the impeachment process should not be sacrificed at the altar of a few Democratic senators' campaign schedules.

III. Evidence Chairman Schiff Should Transmit to this Committee

In light of how Chairman Schiff is conducting the impeachment process and pursuant to Section III of H. Res. 660, all materials in the custody of the Intelligence Committee should be transmitted immediately to this Committee, including but not limited to the following materials:

- Unaltered transcripts – Chairman Schiff must provide unedited and un-redacted versions of all transcripts of depositions, transcribed interviews, and other interactions between the Intelligence Committee, including but not limited to, any agent, consultant, or staff and any witness or potential witness. If no transcript was taken during these interactions, the Intelligence Committee must provide the name(s) of any participant(s), date(s), and summary of the interaction.

- Any and all text messages, including but not limited to WhatsApp messages, in the custody of the Intelligence Committee.

- Any and all documents provided to the Intelligence Committee by "whistleblowers," government employees, journalists, or anonymous sources, including any classified information.[11]

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[9] Jonathan Turley, *Are Democrats Building a Collapsible Impeachment?*, THE HILL, November 13, 2019.
[10] *Id.*
[11] Please note, the Judiciary Committee has the capability to store classified information as well as a secure setting to review such information.

Texts and classified materials are routinely discussed in the transcripts released and it is the minority's expectation that all such materials in the custody of the Intelligence Committee will be transmitted to this Committee.

IV. Conclusion

We would like to thank you in advance for your commitment to taking whatever steps are necessary to cure the bias injected into this inquiry by Chairman Schiff. As you said earlier this month, it is important to allow the minority and the President the chance to *fully* participate in this process, ask appropriate questions, and be afforded due process rights at the committee-stage of these proceedings.[12] We hope these were not mere platitudes and you will require the same of Chairman Schiff. As now-Speaker Pelosi said in 1998:

> In the investigation of the president, **fundamental principles which Americans hold dear -- fairness, privacy, checks and balances -- have been seriously violated and why?** Because we are here today because the Republicans in the House are paralyzed with hatred of President Clinton. ... Until the Republicans free themselves of that hatred, our country will suffer.[13]

This Committee owes truth and fairness to the American people, who have been presented with only a carefully-curated panel of public witnesses by Chairman Schiff. Any further attempts by Chairman Schiff to delay Republicans' access to these materials for his own tactical advantage will only serve to undermine *this* Committee's consideration of the facts and shall constitute evidence of your denial of fundamental fairness and due process. We are certain you agree with Speaker Pelosi: This Committee's process must be fair and preserve due process for the executive branch, with which the House and Senate are co-equal.

The list provided in Section III, above, is subject to amendment if any new information, from testimony or other evidence, comes forward. If this process is truly an inquiry—and not a prosecution by Democrats with predetermined outcomes—all meaningful evidence must be brought forward. We will consider any effort to prevent the production of evidence—even that which may shed unfavorable light on misdeeds by Democratic presidential candidates—as constituting obstruction of a legitimate congressional inquiry. Under House Resolution 660, we also reserve the right to call witnesses before this Committee at the appropriate time(s).

If Democrats are determined to overturn the results of the 2016 election, the process should be fair to the President and the people who elected him. If not, you can be sure Republicans will

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[12] Hon. Jerrold Nadler Interview with Chris Hayes. MSNBC. November 8, 2019 (1:50).
[13] David Montanaro. *Nancy Pelosi on Bill Clinton's Impeachment in 1998: 'Republicans Are Paralyzed with Hatred'* (Sept. 25. 2019).

routinely protest these inequities. We look forward to your response(s) to this letter and to my letters of November 12, 14, and 18.

Sincerely,

Doug Collins
Ranking Member

JERROLD NADLER, New York
CHAIRMAN

DOUG COLLINS, Georgia
RANKING MINORITY MEMBER

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 30, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

On Wednesday, December 4, 2019, the House Judiciary Committee (the "Committee") is scheduled to hear testimony on the constitutional grounds for presidential impeachment from four scholars. To ensure fairness and restore integrity to the ongoing impeachment process, I request an expanded panel and a balanced composition of academic witnesses to opine on the subject matter at issue during the hearing.

Historically, the Committee has called upon a robust slate of academics—representing a spectrum of scholastic and political viewpoints—to expound upon the somber subject of removing a duly-elected president. For example, during the impeachment inquiry of President William J. Clinton, the Committee assembled *two* panels of ten and nine academics, respectively, to help the Committee grapple with impeachment.[1]

On December 4, the Committee will hear from only four academic witnesses during its consideration of the question of impeachment. This is less than a quarter of those called to testify during the Clinton impeachment. In light of this, I request that you expand the number of witnesses called upon to testify on December 4 to give the American people a wider array of perspectives regarding impeachment. I further request that you equally allocate those witnesses to the majority and minority's choosing.

The Committee must ensure it maintains its credibility and its historically preeminent role in the impeachment of presidents by not rushing to articles of impeachment or hearing only from scholars with demonstrated animosity towards the President.[2] Throughout this hurried and partisan impeachment process, I have consistently requested mere fairness from members of the majority. An equal distribution of experts for the December 4 hearing would be a small concession to demonstrate to the American people this impeachment inquiry is not merely political theater.

Sincerely,

Doug Collins
Ranking Member

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[1] Background and History of Impeachment: Hearing Before the Subcomm. on the Constitution, 105th Cong. (1998).
[2] *See, e.g.*, Laurence Tribe, *Trump Must Be Impeached. Here's Why: A Look at President Trump's First Year in Office, So Far*, WASH. POST (May 13, 2017).

Congress of the United States

House of Representatives

Washington, DC 20515

November 16, 2019

The Honorable Ron Johnson
United States Senator
Washington, DC 20510

Dear Senator Johnson:

On September 24, 2019, Speaker Nancy Pelosi unilaterally announced that the House of Representatives would initiate an inquiry into impeaching President Donald J. Trump concerning the President's telephone conversation with Ukrainian President Volodymyr Zelensky on July 25.[1] Democrats allege that President Trump "jeopardized U.S. national security by pressuring Ukraine to initiate politically-motivated investigations that could interfere in U.S. domestic politics."[2] We respectfully write to request any firsthand information that you possess and are willing to provide relating to the Democrats' "impeachment inquiry."

According to information obtained during the Democrats' "impeachment inquiry" and news reports, you have firsthand information about facts at issue in this inquiry. You joined the high-level U.S. delegation to President Zelensky's inauguration in May 2019, as well as the subsequent debriefing with President Trump.[3] You also participated in phone calls with Ambassador Sondland and President Trump, and a meeting with President Zelensky, Senator Murphy, and Ambassador Taylor in Kyiv on September 5.[4] These events are relevant to the "impeachment inquiry."

House Democrats have been engaged in a one-sided, partisan, and fundamentally unfair "impeachment inquiry." They have declined to allow the anonymous whistleblower to testify, despite their previous promises that he would testify.[5] Democrats have declined to call witnesses identified by Republicans. They have interrupted Republican questioning and even directed witnesses not to answer Republican questions. Democrats have provided no due process protections for the President.

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[1] Speaker Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).
[2] H. Rpt. 116-266, 116th Cong. 2-3 (2019).
[3] *See, e.g.*, transcribed interview of Kurt Volker, in Wash., D.C., at 29, 289-93 (Oct. 3, 2019).
[4] *See, e.g.*, *"Open Hearing with Ambassador Bill Taylor and George Kent": Hearing before the H. Perm. Sel. Comm. on Intelligence*, 116th Cong. (2019).
[5] *See, e.g.*, Josh Mitchell, *Whistleblower is expected to testify soon, House Intelligence Chairman Schiff says*, Wall St. J., Sept. 29, 2019.

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Accordingly, because the Democrats have abandoned fundamental fairness and objectivity in their "impeachment inquiry," we reluctantly write to request any firsthand information you have about President Trump's actions toward Ukraine between April and September 2019. We appreciate any information that you could provide. Thank you for your attention to this request.

Sincerely,

Jim Jordan
Ranking Member
Committee on Oversight
and Reform

Devin Nunes
Ranking Member
Permanent Select Committee
on Intelligence

cc: The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence

Congress of the United States
House of Representatives
Washington, DC 20515

November 16, 2019

The Honorable Ron Johnson
United States Senator
Washington, DC 20510

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[1] Speaker Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).
[2] H. Rpt. 116-266, 116th Cong. 2-3 (2019).
[3] *See, e.g.*, transcribed interview of Kurt Volker, in Wash., D.C., at 29, 289-93 (Oct. 3, 2019).
[4] *See, e.g.*, *"Open Hearing with Ambassador Bill Taylor and George Kent": Hearing before the H. Perm. Sel. Comm. on Intelligence*, 116th Cong. (2019).
[5] *See, e.g.*, Josh Mitchell, *Whistleblower is expected to testify soon, House Intelligence Chairman Schiff says*, Wall St. J., Sept. 29, 2019.

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Sincerely,

Jim Jordan
Ranking Member
Committee on Oversight
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cc: The Honorable Michael T. McCaul
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Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence

Congress of the United States

House of Representatives

Washington, DC 20515

November 20, 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Schiff:

On September 24, 2019, Speaker Nancy Pelosi unilaterally announced that the House of Representatives would initiate an inquiry into impeaching President Donald J. Trump.[1] Although Speaker Pelosi promised that Democrats would "treat the President with fairness,"[2] you have repeatedly prevented Republicans from fully and fairly examining issues central to the Democrats' "impeachment inquiry." We therefore write to inform you that we intend to subpoena testimony and records in an attempt to inject some semblance of fairness and objectivity into your one-sided and partisan inquiry.

You have repeatedly rejected our request that the anonymous whistleblower testify during the "impeachment inquiry," despite asserting in September that the whistleblower would provide "unfiltered testimony" "very soon."[3] Speaker Pelosi even promised that the whistleblower would "speak directly to the House and Senate Intelligence Committees *as required by law*."[4] However, following revelations that the whistleblower has a bias against President Donald Trump and the disclosure that you had received an early account of the whistleblower allegations,[5] you reversed course to deny the whistleblower an opportunity to testify.[6]

The whistleblower's testimony is necessary for a full and fair understanding of all relevant facts. The Inspector General of the Intelligence Community reported that the

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[1] Speaker Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).
[2] Speaker Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).
[3] Josh Mitchell, *Whistleblower is expected to testify soon, House Intelligence Chairman Schiff says*, Wall St. J., Sept. 29, 2019.
[4] Press Release, Speaker Nancy Pelosi, Dear Colleague to All Members on Whistleblower Complaint (Sept. 22, 2019), https://www.speaker.gov/newsroom/92219 (emphasis added).
[5] *See, e.g.*, Arden Farhi & Kathryn Watson, *Whistleblower had "prior working relationship" with current 2020 Democrat, source says*, CBS News, Oct. 9, 2019; Julian E. Barnes et al., *Schiff got early account of accusations as whistleblower's concerns grew*, N.Y. Times, Oct. 2, 2019.
[6] *See, e.g.*, Justin Wise, *Schiff denies GOP calls for Trump whistleblower to testify: 'Redundant and unnecessary,'* The Hill, Nov. 10, 2019.

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whistleblower had a political bias against President Trump and public reports suggest that the whistleblower worked closely with former Vice President Joe Biden.[7] In addition, there are multiple discrepancies between the whistleblower's complaint—the piece of evidence central to the Democrats' inquiry—and the closed-door testimony of the witnesses. For these reasons, we must assess the whistleblower's credibility and the sources he or she utilized to develop the anonymous complaint.

You have repeatedly refused to allow Republicans to fully examine the actions of senior Ukrainian government officials in interfering in the 2016 election in opposition to then-candidate Trump. In August 2016, less than three months before the election, Valeriy Chaly, then-Ukrainian Ambassador to the United States, authored an op-ed in a U.S. newspaper criticizing candidate Trump.[8] In addition, in January 2017, *Politico* reported about Ukrainian government's effort to "sabotage" the Trump campaign in 2016 by working closely with the media and a Democratic National Committee consultant named Alexandra Chalupa.[9] The *Politico* article detailed how Chalupa "traded information and leads" with staff at the Ukrainian embassy and how the Ukrainian embassy "worked directly with reporters researching Trump, [Trump campaign manager Paul] Manafort, and Russia to point them in the right directions."[10] Because witnesses testified that President Trump believed that Ukraine "tried to take [him] down" in 2016,[11] this information is directly relevant to the Democrats' "impeachment inquiry."

You have repeatedly refused to allow Republicans to fully examine the role of Vice President Biden's son, Hunter Biden, on the board of directors of Burisma Holdings, a corrupt Ukrainian company, during Vice President Biden's term in office. According to the *New York Times*, Hunter Biden was "part of a broad effort by Burisma to bring in well-connected Democrats during a period when the company was facing investigations backed not just by domestic Ukrainian forces but by officials in the Obama administration."[12] Reports suggest that Burisma paid Hunter Biden $50,000 per month through a company called Rosemont Seneca Bohai LLC.[13] Because witnesses explained that Hunter Biden's presence on Burisma's board raised concerns during the Obama Administration[14] and President Trump briefly raised this issue during his phone call with President Zelensky, this this information is directly relevant to the Democrats' "impeachment inquiry."

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[7] Arden Farhi & Kathryn Watson, *Whistleblower had "prior working relationship" with current 2020 Democrat, source says*, CBS News, Oct. 9, 2019; Memorandum Opinion for the General Counsel Office of the Director of National Intelligence, 43 Op. Off. Legal Counsel at *4 (2019) (slip opinion).

[8] *See* Valeriy Chaly, *Ukraine's ambassador: Trump's comments send wrong message to world*, The Hill, Aug. 4, 2016.

[9] Kenneth P. Vogel & David Stern, *Ukrainian efforts to sabotage Trump backfire*, Politico, Jan. 11, 2017.

[10] *Id.*

[11] Deposition of Ambassador Gordon D. Sondland, in Wash., D.C. at 75 (Oct. 17, 2019).

[12] Kenneth P. Vogel & Iuliia Mendel, *Biden faces conflicts of interest questions that are being promoted by Trump and allies*, N.Y. Times, May 1, 2019.

[13] *Id.*; Polina Ivanova, *What Hunter Biden did on the board of Ukrainian energy company Burisma*, Reuters, Oct. 18, 2019.

[14] Deposition of George Kent, in Wash., D.C., at 227 (Oct. 15, 2019); Deposition of Ambassador Marie L. Yovanovitch, in Wash., D.C., at 150-53 (Oct. 11, 2019).

The American people see through your sham "impeachment inquiry." The American people understand how you have affirmatively prevented Republicans from examining serious issues directly relevant to the issues. Therefore, to provide some basic level of fairness and objectivity to your "impeachment inquiry," we intend to subpoena the anonymous whistleblower and Hunter Biden for sworn testimony in closed-door depositions. We also intend to subpoena the following entities for records relevant to the Democrats' "impeachment inquiry":

1. The whistleblower for documents and communications relating to the drafting and filing of the complaint dated August 12, 2019, and the personal memorandum drafted on or around July 26, 2019.

2. Rosemont Seneca Bohai LLC and any subsidiaries or affiliates for records relating to Hunter Biden's position on the Board of Directors of Burisma Holdings; and

3. The Democratic National Committee for communications with Ukrainian government officials and for records relating to Alexandra Chalupa.

We transmit this letter pursuant to section 2(4)(A) of H. Res. 660, and we look forward to your prompt concurrence.[15] Your failure to concur with all of these subpoenas shall constitute evidence of your denial of fundamental fairness and due process.

Sincerely,

Devin Nunes
Ranking Member
Permanent Select Committee
on Intelligence

Jim Jordan
Ranking Member
Committee on Oversight and Reform

cc: The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

[15] H. Res. 660, 116th Cong. (2019).

ELIJAH E. CUMMINGS, MARYLAND
CHAIRMAN

ONE HUNDRED SIXTEENTH CONGRESS

JIM JORDAN, OHIO
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Majority (202) 225-5051
Minority (202) 225-5074
http://oversight.house.gov

October 23, 2019

The Honorable Philip T. Reeker
Acting Assistant Secretary
Bureau of European and Eurasian Affairs
U.S. Department of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Ambassador Reeker:

On October 17, 2019, the Democrat chairmen of the Oversight, Foreign Affairs, and Intelligence Committees noticed your deposition for today, October 23, as part of their so-called "impeachment inquiry."[1] On Monday night, we learned that you have agreed to reschedule your testimony to Saturday, October 26, when the House of Representatives will not be in session. Because the chairmen have excluded us from deliberations about deposition scheduling, we write to understand the circumstances that led to the rescheduling of your deposition to a date on which Members may not be able to attend.

We regret that we are compelled to seek this information from you; however, we have no confidence that Intelligence Committee Chairman Adam Schiff—who Speaker Pelosi chose to lead this "impeachment inquiry"—is operating fairly or in good faith. Since allegations of a potential *quid pro quo* arose in August 2019, Chairman Schiff has misled the American public about his involvement with the whistleblower complaint and publicly fabricated information about President Trump's phone call with President Zelensky.[2] Chairman Schiff has chosen to conduct his inquiry behind closed doors with only a limited group of Members present, allowing selective leaks of cherry-picked information to paint misleading public narratives.

For these reasons, we were surprised and disappointed that you had agreed to appear for a deposition on Saturday. In light of Chairman Schiff's pattern of closely restricting information about the "impeachment inquiry," we can only assume that he selected Saturday's date to further limit Member attendance and participation at your deposition. If you are willing and available to testify on a business day in the near future, we encourage you to testify on a business day to allow robust Member attendance and participation.

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[1] Notice of Joint Depositions (Oct. 17, 2019).
[2] Glenn Kessler, *Schiff's false claim his committee had not spoken to the whistleblower*, WASH. POST (Oct. 4, 2019).

In addition to the surprise rescheduling of your deposition, we have questions about your announced participation in a panel discussion sponsored by the Atlantic Council.[3] As you may know, in 2018, the Atlantic Council received between $100,000 and $249,999 from Burisma, the Ukrainian energy company linked to Hunter Biden.[4] According to the *New York Times*, "Hunter Biden and his American business partners were part of a broad effort by Burisma to bring in well-connected Democrats during a period when the company was facing investigations backed not just by domestic Ukrainian forces but by officials in the Obama Administration."[5] As of yesterday morning, the Atlantic Council had removed your name as a panelist from the event.[6]

To better understand the circumstances surrounding the rescheduling of your deposition and your participation in the Atlantic Council event, we ask that you please provide the following information:

1. Please explain the circumstances that lead to the rescheduling of your deposition from October 23 to October 26.

    a. When did the discussions about rescheduling your deposition begin?

    b. Did you propose the rescheduling or did the Democrat staff?

    c. What were the reasons given for rescheduling your deposition to a Saturday?

    d. Did you discuss alternative business days on which to provide testimony?

2. Please explain whether you are represented by private counsel in this matter. If so, who is your attorney?

3. Please explain why your name was removed as a panelist from the Atlantic Council's event, titled *More In The Med: Revitalizing Nato's Southern Strategy For An Era of Great Power Competition*?

---

[3] Atlantic Council (@AtlanticCouncil), Twitter, (Oct. 19, 2019, 10:10 AM) (Join us on Oct. 22 at 3pm to hear Gen. Jim Jones, @StateDept's Phil Reeker, @ARVershbow & @ItalyinUS discuss why NATO urgently needs to do #MoreintheMed even as we face great challenges to the east.) https://twitter.com/atlanticcouncil/status/1185604187679277056?s=21.

[4] Atlantic Council, Honor roll of contributors, https://www.atlanticcouncil.org/support-the-council/honor-roll-of-contributors/ (last accessed on Oct. 22, 2019).

[5] Kenneth P. Vogel & Iuliia Mendel, *Biden faces conflict of interest questions that are being promoted by Trump and allies*, N.Y. TIMES (May 1, 2019).

[6] *More In The Med: Revitalizing Nato's Southern Strategy For An Era of Great Power Competition*, Atlantic Council, https://www.atlanticcouncil.org/event/more-in-the-med-revitalizing-natos-southern-strategy-for-an-era-of-great-power-competition/.

We look forward to your responses as soon as possible. If you are represented by private counsel, please forward this letter to your attorney and ask him or her to contact Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,

Jim Jordan
Ranking Member

cc: The Honorable Carolyn B. Maloney
Acting Chairwoman

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence

The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence

Congress of the United States

House of Representatives

Washington, DC 20515

October 29, 2019

The Honorable James McGovern
Chairman
Committee on Rules
U.S. House of Representatives
Washington, DC 2015

Dear Chairman McGovern:

On September 24, 2019—35 days ago—Speaker Pelosi unilaterally announced that the House of Representatives would initiate an inquiry into impeaching President Trump.[1] Since then, Intelligence Committee Chairman Adam Schiff has been conducting a closed-door inquiry from his Capitol basement bunker, selectively leaking cherry-picked information that paints misleading public narratives. While we strongly believe this impeachment inquiry should be transparent, we are disappointed that Democrats are now rushing and breaking House rules in an attempt to retroactively legitimize their illegitimate impeachment inquiry.

As announced yesterday, you will introduce an as-yet secret resolution sometime today, the Rules Committee will hold a markup tomorrow, and the House Democrats will force the full House to vote the following day.[2] Closed-door legislation does not cure the defects of a closed-door inquiry. Under the House Rules you championed at the beginning of this Congress, major legislation is required to be posted 72 hours in advance of a vote.[3] Yet, here, on the gravest and most solemn work the House can do, you are forcing the House to consider a resolution with text that is still not available two days before the vote.

Without text, we know nothing about the Democrats' intended impeachment process. Your website describes the resolution as "directing certain committees to continue their ongoing investigation."[4] Chairman Schiff does not need a resolution to continue leaking selective facts from his basement bunker. We can only assume, therefore, that this resolution is necessary to allow Democrats to subvert the ordinary legislative process. Reportedly, the resolution will allow the Committees to "side step traditional time limits" and allow unelected congressional staff additional time during public hearings to question witnesses.[5]

---

[1] Speaker Nancy Pelosi, Pelosi Remarks Announcing Impeachment Inquiry (Sept. 24, 2019).
[2] Sara Ferris, et. al., *Democrats prepare to take impeachment probe public*, Politico, Oct. 28, 2019.
[3] H. Comm on Rules, 116th Cong., *Restoring Congress for the People: New Congress New Rules*.
[4] Rules (Oct. 29, 2019), rules.house.gov.
[5] Ferris, *supra* note 2.

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Further, your proposed impeachment process will circumvent the Democrats' rule requiring that major legislation receive a legislative hearing. In fact, you were the one who recommended the rule for legislative hearings.[6] Described as a "return to regular order," your rules package required "bills that go through the Rules Committee to have a hearing."[7] This resolution, which affects every American, should receive a legislative hearing so that Members and their constituents understand Speaker Pelosi's impeachment process and how it compares to past precedent.

At the beginning of this Congress, you said "I want my legacy to be that I was fair. We didn't rig the process and we moved good things forward."[8] The Democrats' entire impeachment process is fundamentally unfair. It is rigged. The American people see through this partisan charade. No matter how hard you try to legitimize this sham impeachment inquiry, it cannot hide the Democrats' goal of relitigating the results of the 2016 presidential election.

Sincerely,

Jim Jordan
Ranking Member
Committee on Oversight and Reform

Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence

cc: The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence

---

[6] *Restoring Congress for the People: New Congress New Rules*, *supra* note 2, at 7.
[7] *Id.*
[8] Brendan Deady & Marc Filippino, *Rep. Jim McGovern Vows To Restore Normal Debate Rules As Rules Committee Chair, WGBH News*, Jan. 3, 2019.

ELIOT L. ENGEL, NEW YORK
CHAIRMAN

JASON STEINBAUM
STAFF DIRECTOR

MICHAEL T. MCCAUL, TEXAS
RANKING REPUBLICAN MEMBER

BRENDAN P. SHIELDS
REPUBLICAN STAFF DIRECTOR

One Hundred Sixteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

October 22, 2019

Hon. Adam Schiff, Chairman
House Permanent Select Committee on Intelligence
Capitol Visitor Center HVC-304
Washington, DC 20515

Mister Chairman:

To date, your Ukraine "joint investigation" has operated almost exclusively within the jurisdiction of the Committee on Foreign Affairs.

So I was shocked to be informed yesterday that you will not be providing deposition and interview transcripts from this supposed "joint inquiry" to the Foreign Affairs Committee. Your staff claims that the only way we will have access to the transcripts is in your offices, during designated hours, under the personal supervision and monitoring of a majority staffer.

It is outrageous and unjustifiable to deny us those basic documents, which are critical to our ability to meaningfully prepare for and participate in this investigation. We require the same access to the same documents in the same format, as is enjoyed by you and your staff.

Foreign Affairs is an intelligence-receiving committee with a Sensitive Compartmented Information Facility (SCIF), a classified computer system, and a full-time non-partisan Security Officer. There is no legitimate reason to deny us the transcripts.

I urge you to remedy this procedural injustice immediately, so that I am not forced to pursue public efforts to correct it, including by seeking a privileged vote on the House Floor.

Sincerely,

Michael T. McCaul

MICHAEL T. McCAUL
Ranking Member



CHRISTOPHER SMITH
Member of Congress



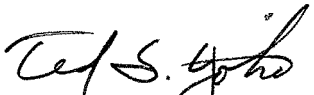
STEVE CHABOT
Member of Congress



JOE WILSON
Member of Congress



SCOTT PERRY
Member of Congress



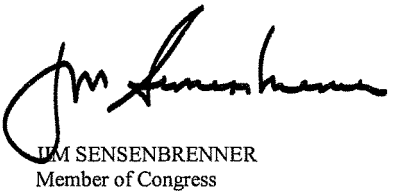
TED YOHO
Member of Congress



ADAM KINZINGER
Member of Congress



LEE ZELDIN
Member of Congress



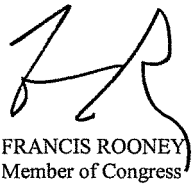
JIM SENSENBRENNER
Member of Congress



ANN WAGNER
Member of Congress



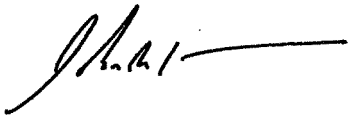
BRIAN MAST
Member of Congress



FRANCIS ROONEY
Member of Congress



BRIAN FITZPATRICK
Member of Congress



JOHN CURTIS
Member of Congress



KEN BUCK
Member of Congress



RON WRIGHT
Member of Congress



GUY RESCHENTHALER
Member of Congress



TIM BURCHETT
Member of Congress



GREG PENCE
Member of Congress

STEVE WATKINS
Member of Congress

MICHAEL GUEST
Member of Congress

CC:
Hon. Nancy Pelosi, Speaker of the House
Hon. Kevin McCarthy, Republican Leader
Hon. Eliot Engel, Chairman, Committee on Foreign Affairs

ELIOT L. ENGEL, NEW YORK
CHAIRMAN

JASON STEINBAUM
STAFF DIRECTOR

MICHAEL T. MCCAUL, TEXAS
RANKING REPUBLICAN MEMBER

BRENDAN P. SHIELDS
REPUBLICAN STAFF DIRECTOR



One Hundred Sixteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515
www.foreignaffairs.house.gov

October 10, 2019

The Honorable Eliot Engel, Chairman
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

Re: Applicability of longstanding committee impeachment inquiry procedures

Dear Mr. Chairman:

As a friend and colleague who deeply values our years of bipartisan cooperation to promote America's national security and foreign policy interests, I regret that I must publicly register serious objections and pose questions about the rushed, closed-door, and unprecedented "joint impeachment inquiry" initiated by Speaker Pelosi and Chairman Schiff, to which the Committee on Foreign Affairs has been committed.

Yesterday evening, you issued a newly updated public notice for depositions of five current and former foreign policy officials, beginning tomorrow, October 11, 2019. Thus, I respectfully request that you clarify as soon as possible whether those proceedings will include the fundamental procedural fairness safeguards guaranteed in prior impeachment inquiries of both Republican and Democrat Presidents, as specifically outlined below.

For more than 45 years, the consistent, bipartisan procedures followed by both Democrat and Republican chairmen in presidential impeachment inquiries (sometimes referred to as the "Rodino-Hyde rules") have guaranteed certain fundamental elements of due process:[1]

1. The Majority and the Minority are guaranteed co-equal power to initiate subpoenas;

[1] H.Res. 581 (105th Congress); H.Res. 803 (93rd Congress); Deschler's Precedents Vol. 3, Ch. 14, §15.6; House Committee on the Judiciary, *Authorization of an Inquiry Into Whether Grounds Exist for the Impeachment of William Jefferson Clinton, President of the United States*, committee print, 105th Cong., 2nd sess., December 1998, Committee Print Ser. No. 8 (Washington: GPO, 1998), pp. 220-221 ("House Committee on the Judiciary Impeachment Inquiry Procedures").

2. The Majority and the Minority each have the right to require a prompt committee vote on any subpoena;

3. The President's counsel has the right to attend all depositions and hearings, including those held in executive session;

4. The President's counsel has the right to cross-examine witnesses;

5. The President's counsel has the right to propose witnesses;

6. The President's counsel has the right to present evidence, and to object to the admission of evidence, at committee proceedings; and

7. The President's counsel has the right to respond to evidence received and testimony adduced by the committee.

These basic protections represent longstanding, bipartisan consensus, which – according to precedent on this most serious Constitutional matter– should be voted on and adopted at the outset of an impeachment inquiry. It is deeply troubling that they have been willfully ignored by Speaker Pelosi and Chairman Schiff, even though the Republican Leader sent two letters raising these concerns last week. It is clear to me that this rush to impeachment is a result of political calculation, not a desire to get to bottom of the matter.

The impeachment of a sitting President is not a run-of-the-mill committee inquiry. It is a grave Constitutional reckoning that demands basic standards of order, transparency, and fairness. We are only asking for the same rights and procedures that were afforded to the minority in the Nixon and Clinton impeachment proceedings. Without such protections, this rushed proceeding will undermine our Constitutional democracy.

I do not presume to know all the information an impeachment inquiry might find. But I am certain that any fact-finding process must be credible, methodical, public, and beyond reproach if the outcome is to enjoy the trust and support of the American people. For these reasons, there needs to be a clear answer to what this process will be prior to the conduct of any new deposition or interview under the auspices of this, or any other, committee.

Sincerely,

Michael T. McCaul

MICHAEL T. McCAUL
Ranking Member

ANDY HARRIS, M.D.
FIRST DISTRICT, MARYLAND

COMMITTEE ON APPROPRIATIONS

SUBCOMMITTEES
AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION
LABOR, HEALTH AND HUMAN SERVICES, EDUCATION



2334 RAYBURN HOUSE OFFICE BUILDING
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BEL AIR, MARYLAND 21014
PHONE 410.588.5670

100 EAST MAIN STREET, SUITE 702
SALISBURY, MARYLAND 21801
PHONE 443.944.8624

100 OLDE POINT VILLAGE, SUITE 101
CHESTER, MARYLAND 21619
PHONE 410.643.5425

WWW.HARRIS.HOUSE.GOV

Congress of the United States
House of Representatives
Washington, DC 20515

October 22, 2019

The Honorable Carolyn Maloney
Acting Chairperson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Acting Chairperson Maloney,

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform so that you may prepare accordingly. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform.

Please ensure that all such materials are available for my review no later than noon on October 24, 2019.

Sincerely,

Andy Harris, M.D.
Member of Congress (MD-01)

BEN CLINE
6TH DISTRICT, VIRGINIA

1009 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
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FAX (202) 225-9681
www.cline.house.gov

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON COURTS, INTELLECTUAL PROPERTY, AND THE INTERNET

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND CIVIL LIBERTIES

SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY

COMMITTEE ON EDUCATION AND LABOR

SUBCOMMITTEE ON HIGHER EDUCATION AND WORKFORCE INVESTMENT

SUBCOMMITTEE ON WORKFORCE PROTECTIONS

October 23, 2019

The Honorable Carolyn Maloney
Acting Chairperson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Acting Chairperson Maloney:

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform so that you may prepare accordingly. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform.

Please ensure that all such materials are available for my review no later than noon on October 28, 2019.

Sincerely,

Ben Cline
Member of Congress

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BRETT GUTHRIE
SECOND DISTRICT, KENTUCKY

COMMITTEE ON
EDUCATION AND LABOR
SUBCOMMITTEE:
HIGHER EDUCATION AND
WORKFORCE INVESTMENT

OCT 2 8 2019

DEPUTY ASSISTANT WHIP

COMMITTEE ON
ENERGY AND COMMERCE
SUBCOMMITTEES:
OVERSIGHT AND INVESTIGATIONS,
REPUBLICAN LEADER
HEALTH
CONSUMER PROTECTION
AND COMMERCE

Congress of the United States
House of Representatives

October 23, 2019

The Honorable Carolyn Maloney
Acting Chairperson
Oversight and Reform Committee
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C., 20515

Dear Acting Chairperson Maloney:

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform. This request does not pertain to material described in Clause 11(g)(3) of Rule X.

As a Member of the House of Representatives, it is important that I understand all of the facts related to the whistleblower complaint and ongoing impeachment inquiry. I appreciate the Committee's immediate consideration of this request.

Sincerely,

Brett Guthrie
Member of Congress

Copy: The Honorable Jim Jordan, Ranking Member

556 WILKINSON TRACE, SUITE B2
BOWLING GREEN, KENTUCKY 42103
270-842-9856

www.guthrie.house.gov
THIS MAILING WAS PREPARED, PUBLISHED, AND MAILED AT TAXPAYER EXPENSE.
2434 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202-225-3501

DAVID KUSTOFF
8TH DISTRICT TENNESSEE
523 CANNON HOUSE OFFICE BUILDING
(202) 225-4714

FINANCIAL SERVICES
CONSUMER PROTECTION AND FINANCIAL INSTITUTIONS
DIVERSITY AND INCLUSION
HOUSING, COMMUNITY DEVELOPMENT, AND INSURANCE

Congress of the United States
House of Representatives
Washington, DC 20515–4208

October 22, 2019

The Honorable Carolyn Maloney
Acting Chairperson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Acting Chairperson Maloney:

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform related to the House Impeachment Inquiry so that you may prepare accordingly. House Rule XI, Clause 2(e)(2)(A) states:

> *Except as provided in subdivision (B), all committee records (including hearings, data charts, and files) shall be kept separate and distinct from the congressional office records of the member serving as its chair. Such records shall be the property of the House and each Member, Delegate, and the Resident Commission shall have access thereto.*

Please make available, no later than noon on October 25, 2019, all records, documents, transcripts, and other materials in possession of your committee related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform.

Sincerely,

David Kustoff
Member of Congress

DYERSBURG
425 WEST COURT STREET
DYERSBURG, TN 38024
(731) 412-1037

MEMPHIS
5900 POPLAR AVENUE
SUITE 702
MEMPHIS, TN 38119
(901) 682-4422

JACKSON
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JACKSON, TN 38301
(731) 423-4848

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DEBBIE LESKO
8TH DISTRICT, ARIZONA

COMMITTEE ON
HOMELAND SECURITY
ING MEMBER, TRANSPORTATION AND
MARITIME SECURITY

COMMITTEE ON
THE JUDICIARY

COMMITTEE ON RULES

Congress of the United States
House of Representatives
Washington, DC 20515–0308

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(623) 776-7911

website: Lesko.House.gov

December 4, 2019

The Honorable Jerrold Nadler
Chairman
2138 Rayburn House Office Building
Washington, DC 20515

Chairman Nadler,
I call on you to cancel any and all upcoming Judiciary Committee hearings regarding impeachment. The process to date has failed to not only meet the basic standards of respecting minority rights for committee procedures and providing due process to the President, but has also violated your own standards for any impeachment proceeding.

During an interview on MSNBC's "Morning Joe" on November 26, 2018 you outlined a three-pronged test that you said would allow for a legitimate impeachment proceeding.

You said....

"There are really three questions, I think.

Number one, has the President committed impeachable offenses?

Number two, do those offenses rise to the gravity that's worth putting the country through the trauma of an impeachment proceeding?

And number three, because you don't want to tear the country apart...you don't want half of the country to say to the other half for the next 30 years, we won the election, you stole it from us. You have to be able to think at the beginning of the impeachment process that the evidence is so clear, of offenses so grave, that once you've laid out all the evidence a good fraction of the opposition, voters, will reluctantly admit to themselves they had to do it. Otherwise you have a partisan impeachment which will tear the country apart. If you meet those three tests, I think you do the impeachment."

Well, Chairman Nadler, your own three-pronged test for impeachment has failed on all three counts.

First, the evidence and testimony have not revealed any impeachable offenses.

Second, there is nothing that rises to the gravity that's worth putting the country through the trauma of impeachment.

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And third, you and House Democrat leadership ARE tearing the country apart. You said the evidence needs to be clear. It is not. You said offenses need to be grave. They are not. You said that once the evidence is laid out that the opposition will admit "they had to do it". That has not happened, in fact polling and the lack of one single Republican vote on the impeachment inquiry resolution, reveal the opposite is true.

In fact, what you and your Democratic colleagues have done is opposite of what you said had to be done. This is a partisan impeachment and it is tearing the country apart.

As such, Mr. Chairman, I ask you to keep your word and stand up to pressures from your own leadership who want to deliver an impeachment vote by Christmas and cancel Judiciary proceedings until each of your three prongs have been achieved. These proceedings have failed to meet your own standards that you have publicly outlined. Follow your own advice and cancel these hearings. Get back to the work of the American people and focus on issues they want us to achieve like lowering health care costs, passing a new trade deal with Mexico and Canada and securing our borders. These political hearings do little to achieve progress for the country and by your own words will tear the country apart.

Respectfully,

DLesko

Debbie Lesko
Member of Congress

JEFF DUNCAN
3RD DISTRICT, SOUTH CAROLINA

COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY
SUBCOMMITTEE ON ENVIRONMENT AND CLIMATE CHANGE
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
DEPUTY REPUBLICAN WHIP
HOUSE ENERGY ACTION TEAM
CO-CHAIR

OCT 2 8 2019

Congress of the United States
House of Representatives
Washington, DC 20515–4003

2229 RAYBURN HOUSE OFFICE BUILDING
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303 WEST BELTLINE BOULEVARD
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(864) 224-7401

100 PLAZA CIRCLE, SUITE A1
CLINTON, SC 29325
(864) 681-1028

jeffduncan.house.gov

October 24, 2019

The Honorable Carolyn Maloney
Acting Chairperson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Acting Chairperson Maloney,

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform so that you may prepare accordingly. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform.

Please ensure that all such materials are available for my review no later than noon on October 31, 2019.

Blessings and Liberty,

Jeff Duncan
Member of Congress

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KELLY ARMSTRONG
AT-LARGE, NORTH DAKOTA
COMMITTEE ON THE JUDICIARY
COMMITTEE ON OVERSIGHT & REFORM
SELECT COMMITTEE ON THE CLIMATE CRISIS

Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE:
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DISTRICT OFFICES:
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(701) 353-6665

220 EAST ROSSER AVENUE
228 FEDERAL BUILDING
BISMARCK, ND 58501
(701) 354-6700

WWW.ARMSTRONG.HOUSE.GOV

October 21, 2019

OCT 21 2019

The Honorable Carolyn Maloney
Acting Chairperson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Acting Chairperson Maloney,

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform so that you may prepare accordingly. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform. This request does not pertain to material described in Clause 11(g)(3) of Rule X.

Please ensure that all such materials are available for my review no later than noon on October 22, 2019.

Sincerely,

Representative Kelly Armstrong
North Dakota (at-large)

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Congress of the United States
Washington, DC 20515

October 29, 2019

The Honorable Adam B. Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
HVC-304, Capitol Visitor Center
Washington, D.C. 20515

Dear Mr. Chairman:

During the October 29, 2019 deposition of LTC Alexander Vindman, you overruled an objection raised allowing LTC Vindman to refrain from answering certain questions. As you aware, LTC Vindman's testimony before the Committees on Intelligence, Oversight and Reform, and Foreign Affairs was compelled, and a witness may only refuse to answer a question to preserve a privilege.

Accordingly, pursuant to paragraph 7 of the *116th Congress Regulations for Use of Deposition Authority,* I appeal the ruling of the Chair and ask that the question of the ruling of the Chair be immediately put for consideration before the Committee.

I appreciate your prompt attention to this matter.

Sincerely,

Mark Meadows
Ranking Member
Committee on Oversight and Reform
Subcommittee on Government Operations

Copy to: Mr. Thomas J. Wickham, Jr, Parliamentarian

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7. Objections must be stated concisely and in a non-argumentative and non-suggestive manner. A witness's counsel may not instruct a witness to refuse to answer a question, except to preserve a privilege. In the event of professional, ethical, or other misconduct by the witness's counsel during the deposition, the Committee may take any appropriate disciplinary action. The witness may refuse to answer a question only to preserve a privilege. When the witness has refused to answer a question to preserve a privilege, members or staff may (i) proceed with the deposition, or (ii) either at that time or at a subsequent time, seek a ruling from the Chair either by telephone or otherwise. If the Chair overrules any such objection and thereby orders a witness to answer any question to which an objection was lodged, the witness shall be ordered to answer. If a member of the committee chooses to appeal the ruling of the chair, such appeal must be made within three days, in writing, and shall be preserved for committee consideration. The Committee's ruling on appeal shall be filed with the clerk of the Committee and shall be provided to the members and witness no less than three days before the reconvened deposition. A deponent who refuses to answer a question after being directed to answer by the chair may be subject to sanction, except that no sanctions may be imposed if the ruling of the chair is reversed by the committee on appeal.

NEAL P. DUNN, MD
2ND DISTRICT, FLORIDA

COMMITTEE ON AGRICULTURE
COMMITTEE ON VETERANS' AFFAIRS

Congress of the United States
House of Representatives
Washington, DC 20515–0902

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300 SOUTH ADAMS STREET
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(850) 891-8610

316 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-5235

October 22, 2019

The Honorable Carolyn Maloney
Acting Chairperson
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Acting Chairperson Maloney,

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform so that you may prepare accordingly. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform.

Please ensure that all such materials are available for my review no later than noon on October 24, 2019.

Sincerely,

NEAL P. DUNN M.D.

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TOM McCLINTOCK
4TH DISTRICT, CALIFORNIA

2312 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
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2700A DOUGLAS BLVD, SUITE 240
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HTTPS://MCCLINTOCK.HOUSE.GOV/



COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON
CRIME, TERRORISM, AND HOMELAND SECURITY

SUBCOMMITTEE ON
IMMIGRATION AND CITIZENSHIP

COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON
WATER, OCEANS, AND WILDLIFE
RANKING MEMBER

SUBCOMMITTEE ON
NATIONAL PARKS, FORESTS, AND PUBLIC LANDS

Congress of the United States
House of Representatives
Washington, DC 20515–0504

OCT 23 2019

October 23, 2019

The Honorable Carolyn Maloney, Acting Chairperson
The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Acting Chairperson Maloney and Ranking Member Jordan,

I write to inform you of my intent to exercise my right under House Rule XI, Clause 2(e)(2)(A) to review documents and records in possession of the House Committee on Oversight and Reform so that you may prepare accordingly. Please make available all records, documents, transcripts, and other materials related to or obtained in the course of the ongoing joint investigation between the Permanent Select Committee on Intelligence, Committee on Foreign Affairs, and Committee on Oversight and Reform.

Sincerely,

Tom McClintock

JERROLD NADLER, New York
CHAIRMAN

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

December 3, 2019

The Honorable Jerrold Nadler
Chairman, Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman,

As the House Judiciary Committee prepares to begin consideration of the so-called "impeachment inquiry" against President Donald J. Trump, we write to remind you of our recent letters demanding that this Committee provide the due process the Intelligence Committee, and Chairman Adam Schiff, did not.[1]

In our most recent markup, the Committee adopted, by voice vote, legislation to address anti-competitive behavior in prescription drug markets and lower prescription drug costs. That bill was the product of bipartisan negotiations with multiple stakeholders, and it received bipartisan support at markup. It shows what we can accomplish when we put partisan politics aside.

Unfortunately, during this session, such bipartisan cooperation has been the exception, rather than the rule. Under your leadership, bipartisan solutions to real problems affecting real Americans have been sacrificed in favor of Committee Democrats' obsession with impeaching the president and undoing the 2016 election.

For example, this Committee has failed to craft an agricultural guest worker bill that can actually be enacted—or, more broadly, to do anything to fix the immigration crisis at our southern border. Rather, this Committee's actions have only exacerbated the crisis.

This Committee has failed to address mass violence and domestic terrorism—instead passing a series of bills that would do nothing to stem the tide of violence at schools, in urban and rural communities, and elsewhere. These bills have no chance of being enacted.

This Committee has failed to take any action whatsoever to address the opioid epidemic plaguing our nation. According to the National Institute on Drug Abuse, more than 130 people in the United States die every day after overdosing on opioids.[2]

---

[1] *See, e.g.*, Letter from Republican Members of the H. Comm, on Judiciary to Chmn. Jerrold Nadler, November 12, 2019, *available at* https://republicans-judiciary.house.gov/press-release/republicans-to-nadler-make-up-for-intelligence-committees-failure/.

[2] National Institute on Drug Abuse, "Opioid Overdose Crisis," January 2019, *available at* https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis.

This Committee has failed to take any action to establish a new eligibility test to encourage investment in developing new U.S. technologies and ensure American inventors aren't at a global disadvantage, or take any meaningful steps to protect Americans' intellectual property from theft by China and other hostile nation-states.

This Committee, despite significant rhetoric from the Speaker and other leading Democrats, has failed to pass any significant bipartisan legislation to bolster election security.

This Committee has abdicated its responsibility to conduct normal, constitutionally-mandated oversight of the Department of Justice.

The above is by no means an exhaustive list. Thus far during the 116th Congress, this Committee—and the Democratic House as a whole—have utterly failed in their duty to the American people. This has happened because Democrats, beholden to a radical base, are determined to impeach the president, no matter the cost and by any means necessary. This irresponsible, reckless behavior threatens to undermine the very credibility of this House.

Committee Republicans stand ready to work with you to address the above challenges. However, should you continue to pursue this "impeachment inquiry," and do so without regard for the fundamentally American principles of fairness and due process, we will resist vigorously. Our constituents deserve no less.

Sincerely,

Doug Collins
Ranking Member

Jim Sensenbrenner

Steve Chabot

Louie Gohmert

Jim Jordan

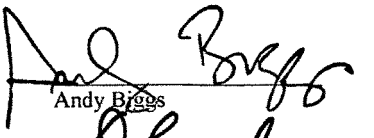
Ken Buck

John Ratcliffe

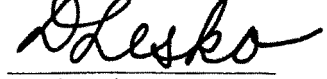
Martha Roby

Matt Gaetz

Mike Johnson



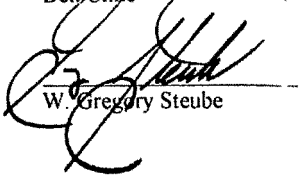
Andy Biggs



Debbie Lesko



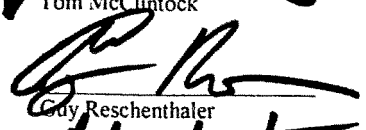
Ben Cline



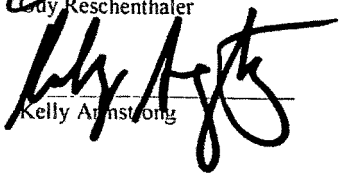
W. Gregory Steube



Tom McClintock



Guy Reschenthaler



Kelly Armstrong

U.S. House of Representatives
Committee on the Judiciary
Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 12, 2019

The Honorable Jerrold Nadler
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Nadler,

Pursuant to H. Res. 660, the Judiciary Committee ("Committee") will soon come into possession of materials pertaining to the ongoing impeachment inquiry conducted by the House Permanent Select Committee on Intelligence (HPSCI). We are concerned that, given the breakneck speed at which Democrats have chosen to conduct the impeachment inquiry, the Judiciary Committee may rush through its requirements and leave Members and the American people without the information needed to consider removal of a duly-elected President.

I. Committee Involvement

Unfortunately – and inexplicably – House leadership decided to allow HPSCI, the House Oversight and Reform Committee, and the House Foreign Affairs Committee to conduct impeachment proceedings. As you know, this is a stark departure from precedent. This departure has led to a bifurcated process wherein the Committee is expected to vote on articles of impeachment without first reviewing all the evidence – both public and underlying – and hearing from investigators and fact witnesses, as was done in both 1974 and 1998.

Members of the Judiciary Committee – which has historically considered matters of impeachment – must ensure that our committee undertakes a thorough and public review of the facts prior to deciding on articles of impeachment. Without this, Members and the American public cannot be expected to make a decision as important as overturning a national election.

II. Expectations for Committee Proceedings Under H. Res. 660

Unfortunately, H. Res. 660 authorized a flow of information favorable to those who wish to see the President removed. HPSCI Chairman Adam Schiff can pick and choose which information to pass onto the Judiciary Committee, can continue to conduct closed-door hearings without the participation of the President's counsel, and can hold public hearings, again, without the

participation of the President's counsel. We expect the proceedings conducted by this Committee to take a drastically different form to make up for the procedural shortfalls in HPSCI.

A. The Committee Must Receive All Evidence and Materials from Investigating Committees

First, we expect the Committee to receive *all* underlying evidence and materials pertaining to the impeachment inquiry gathered or demanded by other committees pursuant to any investigation of the President. To that end, we hope you will join us in requesting that Chairman Schiff ensure all documents, evidence, and testimony are expediently transmitted to this Committee. This step is necessary in preserving any ounce of credibility left in this process. Without it, America will be left to wonder what Chairman Schiff chose to keep to himself. To the extent your staff is already in receipt of evidence, this evidence should be shared with the minority pursuant to House Rule XI, Clause 2(e)(1)(A), generally.

B. The Committee Must Conduct Public Hearings to Ensure All Information is Considered

Second, we expect the Committee to conduct as many public hearings as necessary to consider the constitutional standards of impeachment and to hear testimony from fact witnesses, including those requested by the President. We hope you will look to the precedent set by impeachment proceedings for Presidents Nixon and Clinton in forming your approach to the Committee's public hearings. Specifically, we hope that you will follow in Chairmen Rodino and Hyde's examples by accommodating requests from the President and dedicating ample time to considering the underlying evidence prior to voting on articles of impeachment. As you know, Chairman Hyde held two days of hearings to call witnesses requested by the President, and at least two counsel represented the President during those proceedings.[1]

C. The Committee Must Be in Communication with Investigating Committees

Finally, we expect there to be an open line of communication amongst the involved committees so that Members' questions may be answered thoroughly and expeditiously. To that end, we are hopeful that Chairman Schiff will agree to testify before the Committee as to the contents of his report and the methodology of his investigation, just as Ken Starr did in 1998.

Thus far, Members and the American public have been deprived of information, and this Committee has been forced out of its historic role as the lead House committee on impeachment matters. Should you choose to deny the minority Members of this Committee and the President, at a minimum, what is articulated above, this process will continue to trample decades of precedent and endanger the future of this institution. We hope you will join us in making sure the Committee's consideration of impeachment is thorough and fair.

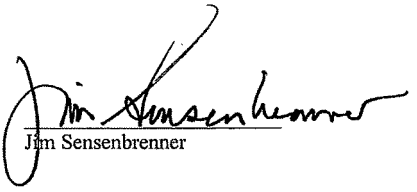
---

[1] *See Impeachment Inquiry of William Jefferson Clinton, President of the United States*, Hearing before the H. Comm. on the Judiciary, Serial No. 68, Dec. 8 & 9, 1998 *available at* https://www.govinfo.gov/content/pkg/CHRG-105hhrg52320/pdf/CHRG-105hhrg52320.pdf.

Sincerely,



Doug Collins
Ranking Member



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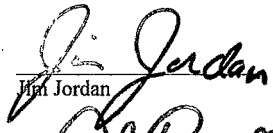
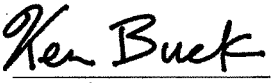


Jim Jordan



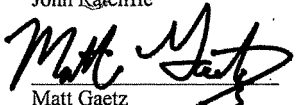
Ken Buck



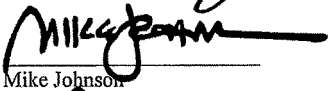
John Ratcliffe



Martha Roby



Matt Gaetz



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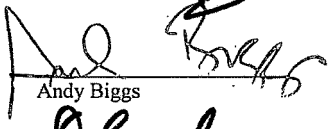

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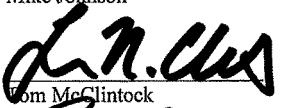
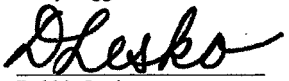
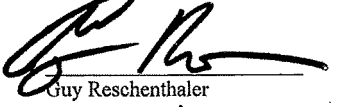


Tom McClintock



Debbie Lesko



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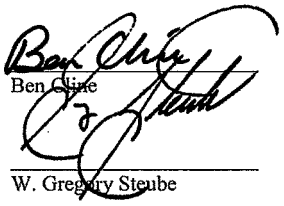

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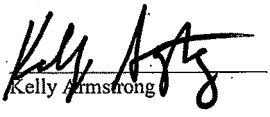

Kelly Armstrong

U.S. House of Representatives
Committee on the Judiciary

Washington, DC 20515–6216
One Hundred Sixteenth Congress

November 12, 2019

The Honorable Jerrold Nadler
Chairman
House Judiciary Committee
2138 Rayburn House Office Building
Washington, D.C. 20515

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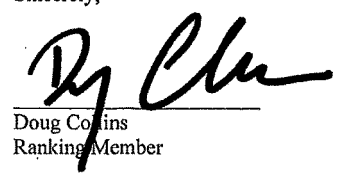
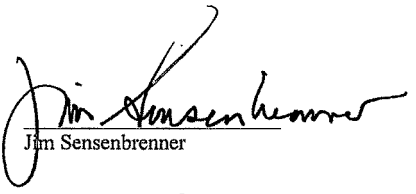
Sincerely,



Doug Collins
Ranking Member



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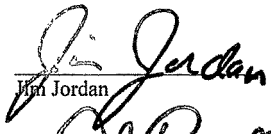
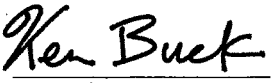
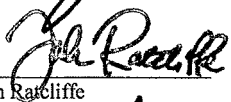


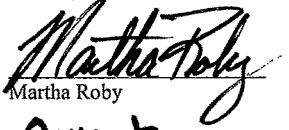
Jim Jordan



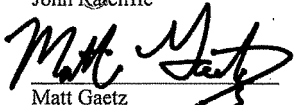
Ken Buck



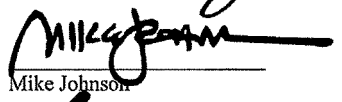
John Ratcliffe



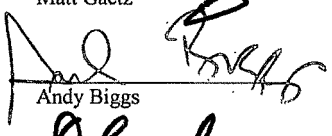
Martha Roby



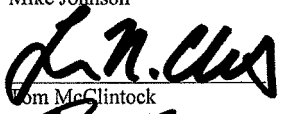
Matt Gaetz



Mike Johnson



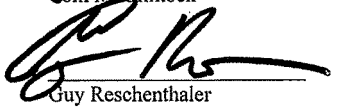
Andy Biggs



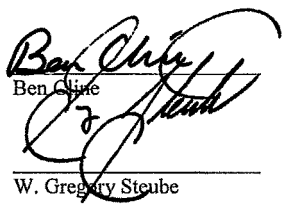
Tom McClintock



Debbie Lesko

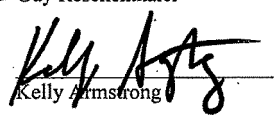


Guy Reschenthaler



Ben Cline

W. Gregory Steube



Kelly Armstrong

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301-1300

LEGISLATIVE AFFAIRS

OCT 15 2019

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
Washington, D.C. 20515

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
Washington, D.C. 20515

The Honorable Elijah E. Cummings
Chairman
House Committee on Oversight and Reform
Washington, D.C. 20515

Dear Messrs. Chairmen:

I write on behalf of the Department to confirm that we received your letter and subpoena of October 7, 2019, seeking the production of all documents and communications in the custody, possession, or control of the Department of Defense for fourteen categories of information no later than 5:00 pm on October 15, 2019. As your cover letter states, the Permanent Select Committee on Intelligence, in consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform, issued the subpoena "[p]ursuant to the House of Representatives' impeachment inquiry."

The Department understands the significance of your request for information and has taken steps to identify, preserve, and collect potentially responsive documents. The customary process of oversight and accommodation has historically served the interests of congressional oversight committees and the Department well. The Department is prepared to engage in that process consistent with longstanding practice and provide the responsive information should there be resolution of this matter.

The current subpoena, however, raises a number of legal and practical concerns that must first be addressed. For example, although your letter asserts that the subpoena has issued "[p]ursuant to the House of Representatives' impeachment inquiry," the House has not authorized your committees to conduct any such inquiry. The Supreme Court has long held that the first step in assessing the validity of a subpoena from a congressional committee is determining "whether the committee was authorized" to issue the subpoena, which requires "constru[ing] the scope of the authority which the House of Representatives gave to" the committee. *United States v. Rumely,* 345 U.S. 41, 42-43 (1953). Here, none of your committees has identified any House rule or House resolution that authorized the committees to begin an

inquiry pursuant to the impeachment power. In marked contrast with historical precedents, the House has not expressly adopted any resolution authorizing an impeachment investigation.

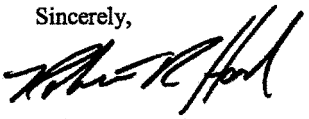
The House also has not delegated such authority to any of your three committees by rule. *See* H. Res. 6, 116th Cong. (2019). To the contrary, House Rule X is currently the only source of your three committees' jurisdiction, and that rule does not provide any of the committees the power to initiate an impeachment inquiry. Indeed, the rule does not mention impeachment at all. *See* H. Rule X, cl. 1(i), (n); cl. 11. Absent a delegation by House Rule or a resolution of the House, none of your committees has been delegated jurisdiction to conduct an investigation pursuant to the impeachment power under Article I, Section 2 of the Constitution.

Even if the inquiry were validly authorized, much of the information sought in the subpoena appears to consist of confidential Executive Branch communications that are potentially protected by executive privilege and would require careful review to ensure that no such information is improperly disclosed. Furthermore, as a practical matter, given the broad scope of your request, the time required to collect the documents, review them for responsiveness and relevant privileges, and produce responsive, non-privileged documents to the committee is not feasible within the mere eight days afforded to the Department to comply with the subpoena.

On a separate note, the Department also objects to your letter's assertion that the Secretary of Defense's "failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against [the Secretary] and the President." Invoking reasonable legal defenses to a subpoena, including invoking legal privileges that are held by the President, in no way manifests evidence of obstruction or otherwise warrants an adverse inference. Indeed, the very idea that reasonably asserting legal rights is itself evidence of wrongdoing turns fundamental notions of fairness on their head and is inconsistent with the rule of law. In fact, the department is diligently preserving and collecting potentially responsive documents.

In light of these concerns, and in view of the President's position as expressed in the White House Counsel's October 8 letter, and without waiving any other objections to the subpoena that the Department may have, the Department is unable to comply with your request for documents at this time. Nevertheless, the Department respects the oversight role of the appropriate committees of Congress, and stands ready to work with your committees should there be an appropriate resolution of this matter. Any such resolution would have to protect the constitutional prerogatives and confidentiality interests of the co-equal Executive Branch and ensure fundamental fairness to any Executive Branch employees involved in this process.

Sincerely,



Robert R. Hood
Assistant Secretary of Defense
for Legislative Affairs

Cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michaele McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

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United States Senate
WASHINGTON, DC 20510

November 19, 2019

U.S. Rep. Adam Schiff
Chairman
House Permanent Select Committee on Intelligence

U.S. Rep. Carolyn Maloney
Acting Chairman
House Committee on Oversight and Reform

Dear Chairman Schiff and Acting Chairman Maloney,

On November 18, House Intelligence Committee Ranking Member Devin Nunes and House Oversight Committee Ranking Member James Jordan wrote to my colleague, Senator Ron Johnson, requesting he provide information to the impeachment inquiry regarding conversations he had with President Donald J. Trump, Ukrainian President Volodymyr Zelensky, and other officials regarding the facts at the center of the inquiry. Later on November 18, Senator Johnson provided a detailed account of these interactions, as well as his opinion on the motivation of several actors who have provided testimony to the inquiry. Since I was also present for several of the most events detailed in Senator Johnson's letter, and since I have additional information and important context to share regarding these events, I am writing to the committee today to make sure that all relevant information regarding our meetings in Ukraine is on the record for the committee's review.

First, let me make clear at the outset that I believe Senator Johnson's account of meetings in Ukraine, in particular our meeting with President Zelensky, accurately represents the conversations we had in Kiev. While I do not share Senator Johnson's interpretation and analysis of the facts surrounding these conversations, this letter is not intended to contradict his description of what was said. Instead, my purpose is to relay to the inquiry committee additional facts surrounding our visit to Ukraine not included in Senator Johnson's letter, and additional context regarding our discussions and my decision to join Senator Johnson on the trip.

For the last six years, I have been intimately involved in the effort to construct and maintain bipartisan congressional support for Ukraine and their battle to repel the Russian invasion of Crimea and eastern Ukraine. In December 2013, at the height of that winter's protests against the corrupt, Russian-aligned Yanukovych administration and amidst concerns that Yanukovych planned to turn his security forces on the encamped demonstrators, I traveled to Kiev with Senator John McCain to express U.S. support for the right of the Ukrainian people to peacefully protest. I would make two more trips to Ukraine with Senator McCain over the next year, and Senator Johnson, who shared my desire to increase U.S. support for Ukraine, joined us on both. I also returned to Kiev a fourth time in the fall of 2017 to visit a U.S. funded and staffed effort to train Ukrainian troops at an army base in western Ukraine. Senator Johnson had intended to join

me in this trip, but events in Washington prevented him from making the trip. My trip to Ukraine in September of this year was my fifth trip to Ukraine, and my third with Senator Johnson.

During the past six years of dynamic political change in Ukraine, the U.S. has been lucky to have incredibly able representation in Kiev. Ambassador Geoffrey Pyatt had been confirmed only months before the 2013 protests began, and he ably helped guide Ukraine through its transition of power. Pyatt and the rest of President Obama's Ukraine team pushed Congress to approve record amounts of economic, security, and anti-corruption aid for Ukraine, and to the extent the Obama administration placed conditions on the receipt of that aid, it was to effectuate goals that advanced the national security interests of the United States that were shared by both Republicans and Democrats, and had nothing to do with President Obama's personal political priorities and grudges. When Pyatt's tenure ended, many congressional supporters of Ukraine were delighted that Marie Yovanovitch would be his replacement. A highly respected career public servant, Yovanovitch had previously served as the deputy in Kiev, so she had valuable experience in Ukraine, and had served twice before as ambassador in difficult posts (Armenia and Kyrgyzstan). During my 2017 trip to Ukraine, I spent enough time with Ambassador Yovanovitch to see her skill and toughness up close. In one meeting with a Ukrainian leader who was complaining about the state control of media, she boldly called him out for hypocrisy in light of his own family's ownership of several media outlets. Once Yovanovitch was recalled after a conspiracy of lies was launched against her by President Trump's allies, I was relieved to hear that another former ambassador to Ukraine, Bill Taylor, would be taking up the post until a permanent replacement could be named.

All of these public servants undoubtedly had moments when they disagreed with Administration policy. And it is right that the proper channel to contest policy is through internal mechanisms, and if you ultimately lose the argument, it is the duty of an Administration official to carry out the policy, unless the policy is illegal or unethical. That is why the most disturbing element of Senator Johnson's letter was his assertion that certain Administration staffers, most notably Lt. Col. Alexander Vindman, may be actively working to "sabotage" the President's foreign agenda, despite having no actual evidence of such sabotage. In all my years working on Ukraine policy, I have never witnessed any Administration officials actively working to undermine the policy of the President. In fact, the narrative that is becoming clear surrounding the efforts of President Trump to withhold aid from Ukraine in order to secure promises of election interference shows how many of the key players on Ukraine policy were, in fact, implementing Trump's unethical orders despite their grave reservations. I do not believe a "deep state" existed regarding Ukraine policy under Trump – I simply believe that ethical public officials saw corruption occurring and tried their best to manage and counteract it, and then, when questioned by Congress, tell the truth about what happened.

In early May of this year, I learned that Rudy Giuliani was running a shadow foreign policy operation in Ukraine, pushing the Ukrainian government to pursue political investigations of the Biden family that would benefit President Trump. To my knowledge, no career staff working on Ukraine policy supported these investigations. The insinuations of improper behavior underlying the requests were constructed by Giuliani and his associates, and Giuliani admitted publicly that

he was pushing Ukraine to pursue an investigation of Biden, President Trump's potential general election opponent in 2020, to benefit Trump personally, not to advance U.S. national security goals. This struck me as an extraordinary abuse of power by President Trump, who clearly had authorized Giuliani's actions, and my concern was raised even higher when I began to hear from people who had spoken to Zelensky that he was very confused by Giuliani's requests, and worried about the possible consequences of rebuffing Trump's demands. These reports were so alarming that I wrote to the Chairman of the Senate Foreign Relations Committee, Senator James Risch, requesting that our committee investigate these allegations and any impact they might have on U.S. policy toward Ukraine. I also spoke directly to both Senator Risch and Senator Johnson regarding my belief that the Senate needed to act to stop Giuliani's overtures. I never received an official response from Chairman Risch, but I continued to ask questions about Giuliani's involvement in Ukraine in meetings and committee hearings.

When President Zelensky was inaugurated on May 20, I was surprised that the United States sent a small, relatively mid-level delegation headed by U.S. Department of Energy Secretary Rick Perry. When Zelensky's predecessor was sworn in, Vice President Biden led the delegation, which included myself, Senator Johnson and Senator John McCain. We now know through testimony provided to your committee that Vice President Pence was prepared to lead the delegation, but Trump directed him not to go. However, as Senator Johnson said in his letter, the date of Zelensky's inaugural was set very last-minute. This could explain the small delegation, but I remember being concerned that the Administration did not assure that there would be bipartisan representation on the delegation.

Given the partisan nature of the delegation, and my continued concerns regarding Giuliani's pressure campaign, I began to believe that it would be important for me to travel back to Ukraine, to express to the new government the dangers of acceding to Giuliani's requests and getting Ukraine dragged into American domestic politics. I felt Ukraine's international credibility would be damaged if the new government was perceived to be acting as a political tool of the Trump reelection campaign. This was the context for my decision to join Senator Johnson on the trip this September.

On August 31, 2019, just days before Senator Johnson I were due to begin our trip to Ukraine, Kosovo, and Serbia (I also visited Germany, without Senator Johnson, during this same trip), I read a press report that the Administration was withholding $250 million in Department of Defense security assistance to Ukraine. We did not know at the time that the hold included assistance from the Department of State as well. The hold was baffling because there was no defensible public policy reason for the freeze in funding and because the Administration is not allowed to cancel congressionally authorized foreign aid without detailing to Congress the reasons for the decision. The aid was essential to Ukraine's defense against Russia's invasion, and a delay of even days or weeks could result in lives being lost. Further, the correlation between Zelensky's election and the funding hold made no policy sense. Zelensky had been elected based on his anti-corruption agenda. If America was concerned about corruption in Ukraine, why keep aid flowing to the Poroshenko government but then suddenly cut it off when the pro-reform candidate is elected? Given that the Administration articulated no policy reason

for the aid cutoff, I immediately began to worry that the aid was being withheld in order to secure Zelensky's cooperation with Giuliani's demands. The Ukrainian press was already reporting the two were possibly connected.

Though Senator Johnson was not alarmed like I was about Giuliani's efforts, he did not support the president's decision to stop security aid to Ukraine, and we believed it would be important for Zelensky and Ukrainian leaders to hear a message of bipartisan support for the resumption of aid. That was the foundation of the message we intended to deliver while in Kiev.

The day we arrived in Ukraine, Senator Johnson and I had dinner with Ambassador William Taylor. At dinner, I raised with Taylor the news reports of Giuliani's shadow foreign policy operation in Ukraine, and I asked him the impact it was having on U.S.-Ukraine policy and his work at the embassy. "It's a problem," he told me. He went on to explain that Giuliani's requests were not made on behalf of the Embassy, and Zelensky and his team were confused by the conflicting policy being articulated to them by different representatives of the U.S. government. Taylor informed us that Zelensky had deputized an aide, Andriy Yermak, to "deal with the Giuliani channel." Taylor was clearly dismayed by Giuliani's efforts, and gave the impression that he had little input into this back channel of communications to Zelesnky. I did not specifically ask Taylor if any conditions were being placed on the resumption of aid, largely because I was relying on Senator Johnson's representations regarding the reasons provided to him by President Trump in their phone call regarding the issue, and Taylor did not voluntarily inform me of the conversations that he was having with, and the concerns he had raised to, U.S. ambassador to the European Union, Gordon Sondland, Special Envoy Kurt Volker, and others.

It was also during this dinner that Taylor informed us that the Trump administration was holding up both the Pentagon and State Department aid, a fact that had not been previously disclosed in the press and of which Congress had not been notified. Given that there were often several conversations happening at the dinner table, I do not recall if Senator Johnson was part of any of these specific discussions with Taylor.

The next day, I pulled Taylor aside to tell him that I planned to raise the Giuliani issue with Zelensky, and advise the new president to stay clear of internal U.S. politics. Taylor's response was to encourage me to raise this issue with Zelensky, noting that no official U.S. delegation had raised the concern with the president directly. He said that he would be very interested to hear Zelensky's response.

As Senator Johnson accurately described, the next day President Zelensky opened our meeting by turning straight to the issue that was at the top of all our minds: the military aid. Zelensky is a friendly and charismatic leader, but once this discussion began, he became gravely serious. Suddenly, I felt the enormous burden this suspension of aid was putting on the new leader of an extraordinarily fragile democracy.

Senator Johnson and I assured Zelensky that Congress wanted to continue this funding, and would press Trump to release it immediately. As a member of the Appropriations Committee, I raised the possibility that Congress might provide additional funding for Ukraine in legislation

for the next fiscal year if necessary. We went on to discuss the challenges they face from Russia, President Zelensky's commitment to fighting corruption, negotiations with the IMF on economic assistance to Ukraine, and the Nord Stream 2 gas pipeline that Russia is building to bypass Ukraine and further isolate them from Europe. I shared an update from my discussions with German officials earlier in the trip and assured him that Congress was strongly opposed to the pipeline.

Finally, I broached the topic of the pressure on Zelensky from Rudy Giuliani and the president's other emissaries to launch investigations into Trump's political rivals—namely the Bidens. I explained that I heard reports that Zelensky was being asked to become an actor in U.S. domestic politics. I urged him to ignore requests from Trump's personal political representatives and to conduct relations with the United States through official channels like the U.S. embassy and congressional delegations. I told him that the bipartisan support for Ukraine was their greatest strength, and that it would be bad for the U.S.-Ukraine relationship if he was perceived to be taking sides in a U.S. election. President Zelensky said he understood, and represented to us that he had no desire to interfere in a U.S. election.

In his letter, Senator Johnson indicates that he believes it was significant that Zelensky did not raise concerns, in the face of my warning, regarding the pressure he was getting from the Administration to conduct investigations that would be politically advantageous to President Trump. While I do not dispute any of Senator Johnson's factual representations regarding our meeting, I came to a very different conclusion regarding the way that Zelensky reacted to my comments. The predicate of my statement to Zelensky was that President Trump was pressuring Zelensky to do something improper – interfere in U.S. domestic politics. Because I had no hard evidence at the time that the suspension of aid was being used as leverage to secure these investigations, I did not raise the prospect of a quid pro quo in my comments and thus I did not ask Zelensky to respond to this allegation.

I interpreted Zelensky's answer to my question as a concession of the premise of my question – that he was receiving improper overtures from Giuliani to interfere in the 2020 election. He did not contradict the facts I laid out in my question, and instead simply relayed his desire to say clear of becoming enmeshed in American politics. To me, this was confirmation that Zelensky was indeed feeling the pressure I described.

We now know that Zelensky was indeed reluctant to agree to the investigations President Trump's emissaries were asking him to publicly announce. Outreach had been going on for at least six months, and he had resisted until that point. But we also know that the pressure was relentless, and it had been made clear to Zelensky by several top level representatives of President Trump that Zelensky needed to make a public statement regarding his intent to conduct investigations into the Bidens and the 2016 election in order to get the aid resumed and a meeting with Trump confirmed.

Now having knowledge of this extraordinary pressure campaign, there are two details of the meeting that stand out to me in retrospect.

First was the clear importance that Zelensky placed on securing a meeting with Trump. He believed that the lack of this meeting was a signal to the Russians of a breach in the once unbreakable alliance between Ukraine and the United States. Knowing that the Trump meeting was being made conditional on Zelensky's agreement to Giuliani's demands, I can understand why Zelensky was ready to relent.

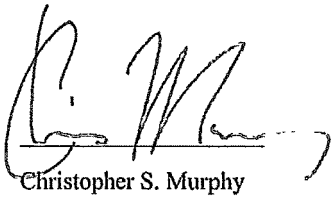
Second was Johnson's confirmation that "corruption" was a clear concern of President Trump. Senator Johnson was simply relaying what the president had told him during their conversations regarding Trump's priorities in Ukraine, and Johnson made it clear to Zelensky that he personally opposed the suspension of security aid. But it's clear that in other conversations through the Giuliani back channel, "corruption" had become synonymous with two specific investigations that would personally benefit the president, and indeed, as we learned later, these were the only two "corruption" matters that Trump raised directly with Zelensky on their July 25 phone call.

The funding was eventually released, two days after the whistleblower complaint was delivered to the House Intelligence Committee and simultaneous to a likely vote in the Appropriations Committee to constrain the president's discretion regrading security aid to Ukraine in the upcoming fiscal year. Defenders of the president claim that because the aid-for-interference exchange was not officially consummated, it absolves the president of responsibility or consequence. As a student of U.S./Ukraine/Russia interplay, I cannot disagree more. The suspension of aid, right at the moment that the new president of Ukraine needed a clear sign of U.S. support for his anti-corruption agenda and his effort to strike a preliminary peace deal with Russia, weakened Zelensky badly. The deal that Zelensky eventually announced with Russia regarding the future of the occupied territory in eastern Ukraine likely could have been better for Ukraine if Russia hadn't been under the impression America was abandoning Ukraine. And the suspension of security aid, at a time when Ukrainian soldiers were dying along the front with Russia, compromised Ukraine's defense. The public pullback of U.S. support to Ukraine, even if it was temporary, had enormous consequence for Ukraine. And the subsequent disclosure that the American president's interest in Ukraine wasn't tied to protecting that nation's sovereignty, but instead aligned with enlisting Ukraine in the president's reelection effort, was a signal to Russia that America's support for Ukraine was now not connected solely to protecting Ukraine against Russia's aggression. This was, and still remains, a gift to the Kremlin and a sign of enormous American weakness.

It is an extraordinary measure to impeach a president and only extraordinary abuses of power should merit the commencement of such proceedings. And given that I was present during some of the events that are central to your inquiry, and since Senator Johnson decided to present you with his interpretation of those events, I feel it is my duty to provide you with additional details regarding those events, and my perspective on what can be learned from them.

In my view, the one offense that cannot be tolerated from an American president is the use of the massive power entrusted to him to advance his personal political or financial interests. The sacred covenant that a president makes with the people he govern is to use the levers of influence entrusted to them for the good of the country, not for his personal gain. President Trump preyed

on a vulnerable foreign nation, dependent on the U.S. for its very survival, and used taxpayer money as leverage to get that nation to work for the personal political benefit of the president. This cannot be allowed in a democracy, and I am glad that this inquiry has been convened. I hope the information included in this letter aids the committee in your deliberation regarding what consequences are appropriate for this abuse of power.



Christopher S. Murphy

U.S. Senator

United States Senate

WASHINGTON, DC 20510

September 3, 2019

Mick Mulvaney
Director
Office of Management and Budget
725 17th Street N.W.
Washington, D.C. 20007

Dear Director Mulvaney:

As members of the bi-partisan Ukraine Caucus we write to express our deep concerns of reports that the Administration is considering not obligating the Ukraine Security Initiative funds for 2019.

This body has long advocated for increasing the military capacity and capabilities of Ukraine—a fledgling democracy that is pro-West and pro-United States, and since 2014 has been under increased military, political and economic pressure from Russia.

The funds designated for the Ukraine Security Assistance Initiative are vital to the long term viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward. This is not only critical from a security perspective, but it is the only way for Ukrainians to continue their progress toward reforming and defending their country's democratic institutions. In this way, we are helping Ukraine to one day become a net assistance provider, and not just a recipient.

We have worked hard in a bi-partisan manner in the Senate to provide funding for a security assistance program for Ukraine that is effective, transparent and fiscally responsible. This funding is crucial to the long term stability of Ukraine and has the continued backing and approval of the U.S. Congress which appropriated these funds. We strongly urge you to direct the Department of Defense to obligate these funds immediately.

Thank you for your prompt attention to this matter.

Sincerely,

Jeanne Shaheen
United States Senator

Rob Portman
United States Senator

Richard J. Durbin
United States Senator

Ron Johnson
United States Senator

Richard Blumenthal
United States Senator

CC: Secretary of State Michael R. Pompeo
Secretary of Defense Mark T. Esper

RON JOHNSON
WISCONSIN

BUDGET
COMMERCE, SCIENCE AND TRANSPORTATION
FOREIGN RELATIONS
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

United States Senate

WASHINGTON, DC 20510

November 18, 2019

The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence

Dear Congressman Jordan and Congressman Nunes:

I write in response to your letter dated Nov. 16, 2019. You requested "any firsthand information … about President Trump's actions toward Ukraine between April and September 2019." Attached, please find an accurate accounting of the information that I believe is relevant to your request.

I hope you find this helpful.

Sincerely,

Ron Johnson
United States Senator

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United States Senate
WASHINGTON, DC 20510

November 18, 2019

The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

The Honorable Devin Nunes
Ranking Member
Permanent Select Committee on Intelligence

Dear Congressman Jordan and Congressman Nunes:

I am writing in response to the request of Ranking Members Nunes and Jordan to provide my first-hand information and resulting perspective on events relevant to the House impeachment inquiry of President Trump. It is being written in the middle of that inquiry — after most of the depositions have been given behind closed doors, but before all the public hearings have been held.

I view this impeachment inquiry as a continuation of a concerted, and possibly coordinated, effort to sabotage the Trump administration that probably began in earnest the day after the 2016 presidential election. The latest evidence of this comes with the reporting of a Jan. 30, 2017 tweet (10 days after Trump's inauguration) by one of the whistleblower's attorneys, Mark Zaid: "#coup has started. First of many steps. #rebellion. #impeachment will follow ultimately."

But even prior to the 2016 election, the FBI's investigation and exoneration of former Secretary of State Hillary Clinton, combined with Fusion GPS' solicitation and dissemination of the Steele dossier — and the FBI's counterintelligence investigation based on that dossier — laid the groundwork for future sabotage. As a result, my first-hand knowledge and involvement in this saga began with the revelation that former Secretary of State Hillary Clinton kept a private e-mail server.

I have been chairman of the Senate Committee on Homeland Security and Governmental Affairs (HSGAC) since January 2015. In addition to its homeland security portfolio, the committee also is charged with general oversight of the federal government. Its legislative jurisdiction includes federal records. So when the full extent of Clinton's use of a private server became apparent in March 2015, HSGAC initiated an oversight investigation.

Although many questions remain unanswered from that scandal, investigations resulting from it by a number of committees, reporters and agencies have revealed multiple facts and episodes that are similar to aspects of the latest effort to find grounds for impeachment. In particular, the political bias revealed in the Strzok/Page texts, use of the discredited Steele dossier to initiate and sustain the FBI's counterintelligence investigation and FISA warrants, and leaks to the

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media that created the false narrative of Trump campaign collusion with Russia all fit a pattern and indicate a game plan that I suspect has been implemented once again.
It is from this viewpoint that I report my specific involvement in the events related to Ukraine and the impeachment inquiry.

I also am chairman of the Subcommittee on Europe and Regional Security Cooperation of the Senate Foreign Relations Committee. I have made six separate trips to Ukraine starting in April 2011. Most recently, I led two separate Senate resolutions calling for a strong U.S. and NATO response to Russian military action against Ukraine's navy in the Kerch Strait. I traveled to Ukraine to attend president-elect Volodymyr Zelensky's inauguration held on May 20, and again on Sept. 5 with U.S. Sen. Chris Murphy to meet with Zelensky and other Ukrainian leaders.

Following the Orange Revolution, and even more so after the Maidan protests, the Revolution of Dignity, and Russia's illegal annexation of Crimea and invasion of eastern Ukraine, support for the people of Ukraine has been strong within Congress and in both the Obama and Trump administrations. There was also universal recognition and concern regarding the level of corruption that was endemic throughout Ukraine. In 2015, Congress overwhelmingly authorized $300 million of security assistance to Ukraine, of which $50 million was to be available only for lethal defensive weaponry. The Obama administration never supplied the authorized lethal defensive weaponry, but President Trump did.

Zelensky won a strong mandate — 73% — from the Ukrainian public to fight corruption. His inauguration date was set on very short notice, which made attending it a scheduling challenge for members of Congress who wanted to go to show support. As a result, I was the only member of Congress joining the executive branch's inaugural delegation led by Energy Secretary Rick Perry, Special Envoy Kurt Volker, U.S. Ambassador to the European Union Gordon Sondland, and Lt. Col. Alexander Vindman, representing the National Security Council. I arrived the evening before the inauguration and, after attending a country briefing provided by U.S. embassy staff the next morning, May 20, went to the inauguration, a luncheon following the inauguration, and a delegation meeting with Zelensky and his advisers.

The main purpose of my attendance was to demonstrate and express my support and that of the U.S. Congress for Zelensky and the people of Ukraine. In addition, the delegation repeatedly stressed the importance of fulfilling the election mandate to fight corruption, and also discussed the priority of Ukraine obtaining sufficient inventories of gas prior to winter.

Two specific points made during the meetings stand out in my memory as being relevant.

The first occurred during the country briefing. I had just finished making the point that supporting Ukraine was essential because it was ground zero in our geopolitical competition with Russia. I was surprised when Vindman responded to my point. He stated that it was the position of the NSC that our relationship with Ukraine should be kept separate from our geopolitical competition with Russia. My blunt response was, "How in the world is that even possible?"

I do not know if Vindman accurately stated the NSC's position, whether President Trump shared that viewpoint, or whether Vindman was really just expressing his own view. I raise this point because I believe that a significant number of bureaucrats and staff members within the executive branch have never accepted President Trump as legitimate and resent his unorthodox style and his intrusion onto their "turf." They react by leaking to the press and participating in the ongoing effort to sabotage his policies and, if possible, remove him from office. It is entirely possible that Vindman fits this profile.

Quotes from the transcript of Vindman's opening remarks and his deposition reinforce this point and deserve to be highlighted. Vindman testified that an "alternative narrative" pushed by the president's personal attorney, Rudy Giuliani, was "inconsistent with the consensus views of the" relevant federal agencies and was "undermining the consensus policy."

Vindman's testimony, together with other witnesses' use of similar terms such as "our policy," "stated policy," and "long-standing policy" lend further credence to the point I'm making. Whether you agree with President Trump or not, it should be acknowledged that the Constitution vests the power of conducting foreign policy with the duly elected president. American foreign policy is what the president determines it to be, not what the "consensus" of unelected foreign policy bureaucrats wants it to be. If any bureaucrats disagree with the president, they should use their powers of persuasion within their legal chain of command to get the president to agree with their viewpoint. In the end, if they are unable to carry out the policy of the president, they should resign. They should not seek to undermine the policy by leaking to people outside their chain of command.

The other noteworthy recollection involves how Perry conveyed the delegation concern over rumors that Zelensky was going to appoint Andriy Bohdan, the lawyer for oligarch Igor Kolomoisky, as his chief of staff. The delegation viewed Bohdan's rumored appointment to be contrary to the goal of fighting corruption and maintaining U.S. support. Without naming Bohdan, Secretary Perry made U.S. concerns very clear in his remarks to Zelensky.

Shortly thereafter, ignoring U.S. advice, Zelensky did appoint Bohdan as his chief of staff. This was not viewed as good news, but I gave my advice on how to publicly react in a text to Sondland on May 22: *"Best case scenario on COS: Right now Zelensky needs someone he can trust. I'm not a fan of lawyers, but they do represent all kinds of people. Maybe this guy is a patriot. He certainly understands the corruption of the oligarchs. Could be the perfect guy to advise Zelensky on how to deal with them. Zelensky knows why he got elected. For now, I think we express our concerns, but give Zelensky the benefit of the doubt. Also let him know everyone in the U.S. will be watching VERY closely."*

At the suggestion of Sondland, the delegation (Perry, Volker, Sondland and me) proposed a meeting with President Trump in the Oval Office. The purpose of the meeting was to brief the president on what we learned at the inauguration, and convey our impressions of Zelensky and the current political climate in Ukraine. The delegation uniformly was impressed with Zelensky, understood the difficult challenges he faced, and went into the meeting hoping to obtain President Trump's strong support for Zelensky and the people of Ukraine. Our specific

goals were to obtain a commitment from President Trump to invite Zelensky to meet in the Oval Office, to appoint a U.S. ambassador to Ukraine who would have strong bipartisan support, and to have President Trump publicly voice his support.

Our Oval Office meeting took place on May 23. The four members of the delegation sat lined up in front of President Trump's desk. Because we were all directly facing the president, I do not know who else was in attendance sitting or standing behind us. I can't speak for the others, but I was very surprised by President Trump's reaction to our report and requests.

He expressed strong reservations about supporting Ukraine. He made it crystal clear that he viewed Ukraine as a thoroughly corrupt country both generally and, specifically, regarding rumored meddling in the 2016 election. Volker summed up this attitude in his testimony by quoting the president as saying, "They are all corrupt. They are all terrible people. ... I don't want to spend any time with that." I do not recall President Trump ever explicitly mentioning the names Burisma or Biden, but it was obvious he was aware of rumors that corrupt actors in Ukraine might have played a part in helping create the false Russia collusion narrative.

Of the four-person delegation, I was the only one who did not work for the president. As a result, I was in a better position to push back on the president's viewpoint and attempt to persuade him to change it. I acknowledged that he was correct regarding endemic corruption. I said that we weren't asking him to support corrupt oligarchs and politicians but to support the Ukrainian people who had given Zelensky a strong mandate to fight corruption. I also made the point that he and Zelensky had much in common. Both were complete outsiders who face strong resistance from entrenched interests both within and outside government. Zelensky would need much help in fulfilling his mandate, and America's support was crucial.

It was obvious that his viewpoint and reservations were strongly held, and that we would have a significant sales job ahead of us getting him to change his mind. I specifically asked him to keep his viewpoint and reservations private and not to express them publicly until he had a chance to meet Zelensky. He agreed to do so, but he also added that he wanted Zelensky to know exactly how he felt about the corruption in Ukraine prior to any future meeting. I used that directive in my Sept. 5 meeting with Zelensky in Ukraine.

One final point regarding the May 23 meeting: I am aware that Sondland has testified that President Trump also directed the delegation to work with Rudy Giuliani. I have no recollection of the president saying that during the meeting. It is entirely possible he did, but because I do not work for the president, if made, that comment simply did not register with me. I also remember Sondland staying behind to talk to the president as the rest of the delegation left the Oval Office.

I continued to meet in my Senate office with representatives from Ukraine: on June 13 with members of the Ukrainian Parliament's Foreign Affairs Committee; on July 11 with Ukraine's ambassador to the U.S. and secretary of Ukraine's National Security and Defense Council, Oleksandr Danyliuk; and again on July 31 with Ukraine's ambassador to the U.S., Valeriy Chaly. At no time during those meetings did anyone from Ukraine raise the issue of the withholding of

military aid or express concerns regarding pressure being applied by the president or his administration.

During Congress' August recess, my staff worked with the State Department and others in the administration to plan a trip to Europe during the week of Sept. 2 with Senator Murphy to include Russia, Serbia, Kosovo and Ukraine. On or around Aug. 26, we were informed that our requests for visas into Russia were denied. On either Aug. 28 or 29, I became aware of the fact that $250 million of military aid was being withheld. This news would obviously impact my trip and discussions with Zelensky.

Sondland had texted me on Aug. 26 remarking on the Russian visa denial. I replied on Aug. 30, apologizing for my tardy response and requesting a call to discuss Ukraine. We scheduled a call for sometime between 12:30 p.m. and 1:30 p.m. that same day. I called Sondland and asked what he knew about the hold on military support. I did not memorialize the conversation in any way, and my memory of exactly what Sondland told me is far from perfect. I was hoping that his testimony before the House would help jog my memory, but he seems to have an even fuzzier recollection of that call than I do.

The most salient point of the call involved Sondland describing an arrangement where, if Ukraine did something to demonstrate its serious intention to fight corruption and possibly help determine what involvement operatives in Ukraine might have had during the 2016 U.S. presidential campaign, then Trump would release the hold on military support.

I have stated that I winced when that arrangement was described to me. I felt U.S. support for Ukraine was essential, particularly with Zelensky's new and inexperienced administration facing an aggressive Vladimir Putin. I feared any sign of reduced U.S. support could prompt Putin to demonstrate even more aggression, and because I was convinced Zelensky was sincere in his desire to fight corruption, this was no time to be withholding aid for any reason. It was the time to show maximum strength and resolve.

I next put in a call request for National Security Adviser John Bolton, and spoke with him on Aug. 31. I believe he agreed with my position on providing military assistance, and he suggested I speak with both the vice president and president. I requested calls with both, but was not able to schedule a call with Vice President Pence. President Trump called me that same day.

The purpose of the call was to inform President Trump of my upcoming trip to Ukraine and to try to persuade him to authorize me to tell Zelensky that the hold would be lifted on military aid. The president was not prepared to lift the hold, and he was consistent in the reasons he cited. He reminded me how thoroughly corrupt Ukraine was and again conveyed his frustration that Europe doesn't do its fair share of providing military aid. He specifically cited the sort of conversation he would have with Angela Merkel, chancellor of Germany. To paraphrase President Trump: "Ron, I talk to Angela and ask her, 'Why don't you fund these things,' and she tells me, 'Because we know you will.' We're schmucks. Ron. We're schmucks."

I acknowledged the corruption in Ukraine, and I did not dispute the fact that Europe could and should provide more military support. But I pointed out that Germany was opposed to providing Ukraine lethal defensive weaponry and simply would not do so. As a result, if we wanted to deter Russia from further aggression, it was up to the U.S. to provide it.

I had two additional counterarguments. First, I wasn't suggesting we support the oligarchs and other corrupt Ukrainians. Our support would be for the courageous Ukrainians who had overthrown Putin's puppet, Viktor Yanukovich, and delivered a remarkable 73% mandate in electing Zelensky to fight corruption. Second, I argued that withholding the support looked horrible politically in that it could be used to bolster the "Trump is soft on Russia" mantra.

It was only after he reiterated his reasons for not giving me the authority to tell Zelensky the support would be released that I asked him about whether there was some kind of arrangement where Ukraine would take some action and the hold would be lifted. Without hesitation, President Trump immediately denied such an arrangement existed. As reported in the Wall Street Journal, I quoted the president as saying, "(Expletive deleted) — No way. I would never do that. Who told you that?" I have accurately characterized his reaction as adamant, vehement and angry — there was more than one expletive that I have deleted.

Based on his reaction, I felt more than a little guilty even asking him the question, much less telling him I heard it from Sondland. He seemed even more annoyed by that, and asked me, "Who is that guy"? I interpreted that not as a literal question — the president did know whom Sondland was — but rather as a sign that the president did not know him well. I replied by saying, "I thought he was your buddy from the real estate business." The president replied by saying he barely knew him.

After discussing Ukraine, we talked about other unrelated matters. Finally, the president said he had to go because he had a hurricane to deal with. He wrapped up the conversation referring back to my request to release the hold on military support for Ukraine by saying something like, "Ron, I understand your position. We're reviewing it now, and you'll probably like my final decision."

On Tuesday, Sept. 3, I had a short follow up call with Bolton to discuss my upcoming trip to Ukraine, Serbia and Kosovo. I do not recall discussing anything in particular that relates to the current impeachment inquiry on that call.

We arrived in Kyiv on Sept. 4, joining Taylor and Murphy for a full day of meetings on Sept. 5 with embassy staff, members of the new Ukrainian administration, and Zelensky, who was accompanied by some of his top advisers. We also attended the opening proceedings of the Ukrainian High Anti-Corruption Court. The meetings reinforced our belief that Zelensky and his team were serious about fulfilling his mandate — to paraphrase the way he described it in his speech at the High Anti-Corruption Court — to not only fight corruption but to defeat it.

The meeting with Zelensky started with him requesting we dispense with the usual diplomatic opening and get right to the issue on everyone's mind, the hold being placed on military support.

He asked if any of us knew the current status. Because I had just spoken to President Trump, I fielded his question and conveyed the two reasons the president told me for his hold. I explained that I had tried to persuade the president to authorize me to announce the hold was released but that I was unsuccessful.

As much as Zelensky was concerned about losing the military aid, he was even more concerned about the signal that would send. I shared his concern. I suggested that in our public statements we first emphasize the universal support that the U.S. Congress has shown — and will continue to show — for the Ukrainian people. Second, we should minimize the significance of the hold on military aid as simply a timing issue coming a few weeks before the end of our federal fiscal year. Even if President Trump and the deficit hawks within his administration decided not to obligate funding for the current fiscal year, Congress would make sure he had no option in the next fiscal year — which then was only a few weeks away. I also made the point that Murphy was on the Appropriations Committee and could lead the charge on funding.

Murphy made the additional point that one of the most valuable assets Ukraine possesses is bipartisan congressional support. He warned Zelensky not to respond to requests from American political actors or he would risk losing Ukraine's bipartisan support. I did not comment on this issue that Murphy raised.

Instead, I began discussing a possible meeting with President Trump. I viewed a meeting between the two presidents as crucial for overcoming President Trump's reservations and securing full U.S. support. It was at this point that President Trump's May 23 directive came into play.

I prefaced my comment to Zelensky by saying, "Let me go out on a limb here. Are you or any of your advisers aware of the inaugural delegation's May 23 meeting in the Oval Office following your inauguration?" No one admitted they were, so I pressed on. "The reason I bring up that meeting is that I don't want you caught off-guard if President Trump reacts to you the same way he reacted to the delegation's request for support for Ukraine."

I told the group that President Trump explicitly told the delegation that he wanted to make sure Zelensky knew exactly how he felt about Ukraine before any meeting took place. To repeat Volker's quote of President Trump: "They are all corrupt. They are all terrible people. ... I don't want to spend any time with that." That was the general attitude toward Ukraine that I felt President Trump directed us to convey. Since I did not have Volker's quote to use at the time, I tried to portray that strongly held attitude and reiterated the reasons President Trump consistently gave me for his reservations regarding Ukraine: endemic corruption and inadequate European support.

I also conveyed the counterarguments I used (unsuccessfully) to persuade the president to lift his hold: 1) We would be supporting the people of Ukraine, not corrupt oligarchs, and 2) withholding military support was not politically smart. Although I recognized how this next point would be problematic, I also suggested any public statement Zelensky could make asking for greater support from Europe would probably be viewed favorably by President Trump.

Finally, I commented on how excellent Zelensky's English was and encouraged him to use English as much as possible in a future meeting with President Trump. With a smile on his face, he replied, "But Senator Johnson, you don't realize how beautiful my Ukrainian is." I jokingly conceded the point by saying I was not able to distinguish his Ukrainian from his Russian.

This was a very open, frank, and supportive discussion. There was no reason for anyone on either side not to be completely honest or to withhold any concerns. At no time during this meeting — or any other meeting on this trip — was there any mention by Zelensky or any Ukrainian that they were feeling pressure to do anything in return for the military aid, not even after Murphy warned them about getting involved in the 2020 election — which would have been the perfect time to discuss any pressure.

Following the meeting with Zelensky and his advisers, Murphy and I met with the Ukrainian press outside the presidential office building. Our primary message was that we were in Kyiv to demonstrate our strong bipartisan support for the people of Ukraine. We were very encouraged by our meetings with Zelensky and other members of his new government in their commitment to fulfill their electoral mandate to fight and defeat corruption. When the issue of military support was raised, I provided the response I suggested above: I described it as a timing issue at the end of a fiscal year and said that, regardless of what decision President Trump made on the fiscal year 2019 funding, I was confident Congress would restore the funding in fiscal year 2020. In other words: Don't mistake a budget issue for a change in America's strong support for the people of Ukraine.

Congress came back into session on Sept. 9. During a vote early in the week, I approached one of the co-chairs of the Senate Ukraine Caucus, U.S. Sen. Richard Durbin. I briefly described our trip to Ukraine and the concerns Zelensky and his advisers had over the hold on military support. According to press reports, Senator Durbin stated that was the first time he was made aware of the hold. I went on to describe how I tried to minimize the impact of that hold by assuring Ukrainians that Congress could restore the funding in fiscal year 2020. I encouraged Durbin, as I had encouraged Murphy, to use his membership on the Senate Appropriations Committee to restore the funding.

Also according to a press report, leading up to a Sept. 12 defense appropriation committee markup, Durbin offered an amendment to restore funding. On Sept. 11, the administration announced that the hold had been lifted. I think it is important to note the hold was lifted only 14 days after its existence became publicly known, and 55 days after the hold apparently had been placed.

On Friday, Oct. 4, I saw news reports of text messages that Volker had supplied the House of Representatives as part of his testimony. The texts discussed a possible press release that Zelensky might issue to help persuade President Trump to offer an Oval Office meeting. Up to that point, I had publicly disclosed only the first part of my Aug. 31 phone call with President Trump, where I lobbied him to release the military aid and he provided his consistent reasons for not doing so: corruption and inadequate European support.

Earlier in the week, I had given a phone interview with Siobhan Hughes of the Wall Street Journal regarding my involvement with Ukraine. With the disclosure of the Volker texts, I felt it was important to go on the record with the next part of my Aug. 31 call with President Trump: his denial. I had not previously disclosed this because I could not precisely recall what Sondland had told me on Aug. 30, and what I had conveyed to President Trump, regarding action Ukraine would take before military aid would be released. To the best of my recollection, the action described by Sondland on Aug. 30 involved a demonstration that the new Ukrainian government was serious about fighting corruption — something like the appointment of a prosecutor general with high integrity.

I called Hughes Friday morning, Oct. 4, to update my interview. It was a relatively lengthy interview, almost 30 minutes, as I attempted to put a rather complex set of events into context. Toward the tail end of that interview, Hughes said, "It almost sounds like, the way you see it, Gordon was kind of freelancing and he took it upon himself to do something that the president hadn't exactly blessed, as you see it." I replied, "That's a possibility, but I don't know that. Let's face it: The president can't have his fingers in everything. He can't be stage-managing everything, so you have members of his administration trying to create good policy."

To my knowledge, most members of the administration and Congress dealing with the issues involving Ukraine disagreed with President Trump's attitude and approach toward Ukraine. Many who had the opportunity and ability to influence the president attempted to change his mind. I see nothing wrong with U.S. officials working with Ukrainian officials to demonstrate Ukraine's commitment to reform in order to change President Trump's attitude and gain his support.

Nor is it wrong for administration staff to use their powers of persuasion within their chain of command to influence policy. What is wrong is for people who work for, and at the pleasure of, the president to believe they set U.S. foreign policy instead of the duly elected president doing so. It also would be wrong for those individuals to step outside their chain of command — or established whistleblower procedures — to undermine the president's policy. If those working for the president don't feel they can implement the president's policies in good conscience, they should follow Gen. James Mattis' example and resign. If they choose to do so, they can then take their disagreements to the public. That would be the proper and high-integrity course of action.

This impeachment effort has done a great deal of damage to our democracy. The release of transcripts of discussions between the president of the United States and another world leader sets a terrible precedent that will deter and limit candid conversations between the president and world leaders from now on. The weakening of executive privilege will also limit the extent to which presidential advisers will feel comfortable providing "out of the box" and other frank counsel in the future.

In my role as chairman of the Senate's primary oversight committee, I strongly believe in and support whistleblower protections. But in that role, I am also aware that not all whistleblowers

are created equal. Not every whistleblower has purely altruistic motives. Some have personal axes to grind against a superior or co-workers. Others might have a political ax to grind.

The Intelligence Community Inspector General acknowledges the whistleblower in this instance exhibits some measure of "an arguable political bias." The whistleblower's selection of attorney Mark Zaid lends credence to the ICIG's assessment, given Zaid's tweet that mentions coup, rebellion and impeachment only 10 days after Trump's inauguration.

If the whistleblower's intention was to improve and solidify the relationship between the U.S. and Ukraine, he or she failed miserably. Instead, the result has been to publicize and highlight the president's deeply held reservations toward Ukraine that the whistleblower felt were so damaging to our relationship with Ukraine and to U.S. national security. The dispute over policy was being resolved between the two branches of government before the whistleblower complaint was made public. All the complaint has accomplished is to fuel the House's impeachment desire (which I believe was the real motivation), and damage our democracy as described above.

America faces enormous challenges at home and abroad. My oversight efforts have persuaded me there has been a concerted effort, probably beginning the day after the November 2016 election, to sabotage and undermine President Trump and his administration. President Trump, his supporters, and the American public have a legitimate and understandable desire to know if wrongdoing occurred directed toward influencing the 2016 election or sabotaging Trump's administration. The American public also has a right to know if no wrongdoing occurred. The sooner we get answers to the many unanswered questions, the sooner we can attempt to heal our severely divided nation and turn our attention to the many daunting challenges America faces.

Sincerely,

Ron Johnson
United States Senator

cc: The Honorable Michael T. McCaul
Ranking Member
Committee on Foreign Affairs

The Honorable Carolyn B. Maloney
Acting Chairwoman
Committee on Oversight and Reform

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence

1 of 2

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December 30, 2019

Hon. J. Paul Oetken
United States District Judge
Southern District of New York
40 Foley Square
Courtroom 706
New York, NY 10007

Re: United States v. Lev Parnas, et. al., 19-cr-725 (JPO)

Dear Judge Oetken:

Tomorrow, the Government will be producing documents seized from Mr. Parnas's home on October 9, 2019, stamped USAO_00072469 through USAO_00073221, and the complete extraction of Parnas's iPhone 11, seized from Mr. Parnas upon his arrest on October 9, 2019, stamped USAO_95359.

These materials fall within the scope of the September 30, 2019 letter request and October 10, 2019 subpoena of the United States House of Representatives' Permanent Select Committee on Intelligence (HPSCI), in connection with the presidential impeachment inquiry. Review of these materials is essential to the Committee's ability to corroborate the strength of Mr. Parnas's potential testimony.

The Government does not object to Mr. Parnas producing USAO_00072469 through USAO_00073221 and USAO_95359 to HPSCI, subject to receiving approval from the Court.

At present, we do not know whether we intend to produce the entirety of the materials, or a subset filtered for either privilege or relevancy. If a subset, we will inform the Court and Government as to what we have actually have produced.

Thank you for consideration of this application.

Respectfully submitted,

_____/S/____
Joseph A. Bondy
Counsel to Lev Parnas

c: All Counsel

Granted. Defendant Lev Parnas may produce the materials referenced herein to the United States House of Representatives Permanent Select Committee on Intelligence.
So ordered:
January 3, 2020

J. PAUL OETKEN
United States District Judge

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

B-330330

December 10, 2018

The Honorable Steve Womack
Chairman
Committee on the Budget
House of Representatives

The Honorable John Yarmuth
Ranking Member
Committee on the Budget
House of Representatives

Subject: *Impoundment Control Act—Withholding of Funds through Their Date of Expiration*

This responds to your request for our legal opinion regarding the scope of the authority provided under the Impoundment Control Act of 1974 (ICA) to withhold budget authority from obligation pending congressional consideration of a rescission proposal. Pub. L. No. 93-344, title X, 88 Stat. 297, 332 (July 12, 1974), *amended by* Pub. L. No. 100-119, title II, §§ 206, 207, 101 Stat. 754, 785 (Sept. 29, 1987), *classified at* 2 U.S.C. §§ 681-688; Letter from Representative Steve Womack, Chairman, and Representative John Yarmuth, Ranking Member, House Committee on the Budget, to Comptroller General (Oct. 31, 2018). Under limited circumstances, the ICA allows the President to withhold amounts from obligation for up to 45 calendar days of continuous congressional session. *See* ICA, § 1012(b); 2 U.S.C. § 683(b). At issue here is whether the Act allows such a withholding of a fixed-period appropriation scheduled to expire within the prescribed 45-day period to continue through the date on which the funds would expire.

As discussed below, we conclude that the ICA does not permit the withholding of funds through their date of expiration. The statutory text and legislative history of the ICA, Supreme Court case law, and the overarching constitutional framework of the legislative and executive powers provide no basis to interpret the ICA as a mechanism by which the President may unilaterally abridge the enacted period of availability of a fixed-period appropriation. The Constitution vests in Congress the power of the purse, and Congress did not cede this important power through the ICA. Instead, the terms of the ICA are strictly limited. The ICA permits only the temporary withholding of budget authority and provides that unless Congress rescinds the amounts at issue, they must be made available for obligation. The

President cannot rely on the authority in the ICA to withhold amounts from obligation, while simultaneously disregarding the ICA's limitations.

In accordance with our regular practice, we contacted the Office of Management and Budget (OMB) for its legal views on this matter. GAO, *Procedures and Practices for Legal Decisions and Opinions*, GAO-06-1064SP (Washington, D.C.: Sept. 2006), *available at* www.gao.gov/products/GAO-06-1064SP; Letter from General Counsel, GAO, to General Counsel, OMB (Nov. 1, 2018). In response, OMB provided its legal analysis. Letter from General Counsel, OMB, to General Counsel, GAO (Nov. 16, 2018) (Response Letter).

BACKGROUND

The Constitution specifically vests Congress with the power of the purse, providing that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." U.S. Const., art. I, § 9, cl. 7. The Constitution also vests all legislative powers in Congress and sets forth the procedures of bicameralism and presentment, through which the President may accept or veto a bill passed by both houses of Congress and Congress may subsequently override a presidential veto. *Id.*, art. I, § 7, cl. 2, 3. The procedures of bicameralism and presentment form the only mechanism for enacting federal law. *See INS v. Chadha*, 462 U.S. 919, 951 (1983) ("[T]he prescription for legislative action in Art. I, §§ 1, 7, represents the Framers' decision that the legislative power of the Federal Government be exercised in accord with a single, finely wrought and exhaustively considered, procedure."). The Constitution also vests Congress with power to make all laws "necessary and proper" to implement its constitutional authorities. U.S. Const., art. I, § 8, cl. 18. To that end, Congress has enacted several permanent statutes that govern the use of appropriations, including the Antideficiency Act, which provides that agencies may incur obligations or make expenditures only when sufficient amounts are available in an appropriation. 31 U.S.C. § 1341. Because agencies may incur obligations only in accordance with appropriations made by law, and because the Constitution vests all lawmaking power in Congress, only appropriations duly enacted through the constitutional processes of bicameralism and presentment authorize agencies to incur obligations or make expenditures.

The Presentment Clauses allow the President to veto an appropriations bill before it becomes law. *See* Art. I, § 7, cl. 2, 3. However, the Constitution provides no mechanism for the President to invalidate a duly enacted law. Instead, the Constitution requires the President to "take Care that the Laws be faithfully executed." U.S. Const., art. II, § 3; *see also Clinton v. City of New York*, 524 U.S. 417, 438 (1998) (the Constitution does not authorize the President "to enact, to amend, or to repeal statutes").

An appropriation is a law like any other; therefore, unless Congress has enacted a law providing otherwise, the President must take care to ensure that appropriations

are prudently obligated during their period of availability. *See* B-329092, Dec. 12, 2017 (noting that the ICA operates on the premise that the President is required to obligate funds appropriated by Congress, unless otherwise authorized to withhold). An "impoundment" is any action or inaction by an officer or employee of the federal government that precludes obligation or expenditure of budget authority. GAO, *A Glossary of Terms Used in the Federal Budget Process*, GAO-05-734SP (Washington, D.C.: Sept. 2005), at 61. The President has no unilateral authority to withhold funds from obligation. *See* B-135564, July 26, 1973. The ICA, however, allows the President to impound budget authority in limited circumstances. The President may temporarily withhold funds from obligation—but not beyond the end of the fiscal year—by proposing a "deferral." ICA, § 1013; 2 U.S.C. § 684. The President may also seek the permanent cancellation of funds for fiscal policy or other reasons, including the termination of programs for which Congress has provided budget authority, by proposing a "rescission." ICA, § 1012; 2 U.S.C. § 683.

When the President transmits a special message proposing a rescission of budget authority (a rescission proposal) in accordance with the ICA, amounts proposed for rescission may be impounded (that is, withheld from obligation) for a period of 45 calendar days of continuous congressional session.[1] *See* ICA, § 1012; 2 U.S.C. § 683. The Act states that such amounts "shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved."[2] ICA, § 1012(b); 2 U.S.C. § 683(b). Section 1017 of the ICA establishes expedited procedures to facilitate Congress's consideration of a rescission bill during the 45-day period. ICA, § 1017; 2 U.S.C. § 688. This opinion focuses on the withholding of amounts pursuant to a rescission proposal.

DISCUSSION

The ICA authorizes the President to withhold funds from obligation under limited circumstances. At issue here is whether the ICA allows the withholding of a fixed-

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[1] The continuity of a session of Congress is only broken if either House adjourns for more than three days to a day certain, or upon an adjournment of Congress *sine die*. ICA, § 1011(5); 2 U.S.C. § 682(5). As a result of Congress's current practice of conducting *pro forma* sessions, this 45-day period is likely to be 45 calendar days after the date of transmission of the special message.

[2] The ICA defines a "rescission bill" as "a bill or joint resolution which only rescinds, in whole or in part, budget authority proposed to be rescinded in a special message transmitted by the President under section 1012 [section 683], and upon which the Congress completes action before the end of the first period of 45 calendar days of continuous session of the Congress after the date on which the President's message is received by the Congress." ICA, § 1011(3); 2 U.S.C. § 682(3).

period appropriation, pursuant to the President's transmission of a rescission proposal, to continue through the date on which the funds would expire.

Powers Granted by the ICA are Limited

To interpret the ICA, we begin with the text of the statute and give ordinary meaning to statutory terms, unless otherwise defined. *Sebelius v. Cloer*, 569 U.S. 369, 376 (2013); *BP America Production Co. v. Burton*, 549 U.S. 84, 91 (2006). Section 1012(b) states that funds proposed to be rescinded "shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded . . . ." Use of the conjunction "unless" denotes that the clause that follows provides an exception to the rule that precedes the term. *See American Heritage Dictionary* (4th ed. 2009) (defining "unless" as "except on the condition that" and "except under the circumstances that"). Further, "shall," in the context of a statute, generally means "must." *Ballentine's Law Dictionary* (3d ed. 2010) (defining shall as "the equivalent of 'must,' where appearing in a statute"). *See also Western Minnesota Municipal Power Agency v. FERC*, 806 F.3d. 588, 592 (D.C. Cir. 2015) ("shall give preference" was a mandatory directive to the commission); *Drummond Coal Co. v. Watt*, 735 F.2d 469, 473 (11th Cir. 1984) (noting "'shall' is a mandatory, not permissive form"). The phrase "shall be made available" thus constitutes a mandatory directive that funds proposed for rescission be made available for obligation, and the term "unless" denotes the single exception to this requirement. The text of section 1012(b) then provides that the only mechanism that permits budget authority to be permanently withheld is Congress's completion of action on a rescission bill within the 45-day period.

An appropriation is available to incur new obligations only during its period of availability, which, for a fixed-period appropriation, is a finite period of time.[3] *See* 31 U.S.C. § 1551(a)(3). *See also* 31 U.S.C. §§ 1501, 1502 (obligation of a fixed-period appropriation must correspond to the *bona fide* needs of the appropriation's period of availability and must be executed before the end of such period). For example, an agency may use a one-year appropriation to obligate the government for expenses properly chargeable to that year, or may use a multiple-year appropriation to obligate the government for expenses properly chargeable to that multiple-year period. But the government may not incur obligations against such appropriations after the relevant time frame, as the budget authority's period of availability would have ended.

[3] An obligation is defined as a "definite commitment that creates a legal liability of the government for the payment of goods and services ordered or received, or a legal duty on the part of the United States that could mature into a legal liability by virtue of actions on the part of the other party beyond the control of the United States." *Glossary*, at 70. *See also* B-325526, July 16, 2014.

Immediately after the period of availability for obligation of a fixed-period appropriation ends, the budget authority is "expired" and no longer available to incur new obligations.[4] *Glossary*, at 23 (defining expired budget authority). *See also* 18 Comp. Gen. 969 (1939). An expired account is only available to record, to adjust, and to liquidate obligations properly chargeable to that account during the account's period of availability. 31 U.S.C. § 1553(a). Notably, the permissible uses of an expired appropriation relate back to obligations incurred during the period of availability of the funds and do not constitute new obligations themselves.

The plain language of section 1012(b) provides that absent Congress's completion of action on a rescission bill rescinding all or part of amounts proposed to be rescinded within the prescribed 45-day period, *such amounts must be made available for obligation*. The authority to withhold is not severable from the provision's requirement regarding the release of the funds. Indeed, the provision permits a *temporary* withholding of budget authority, and otherwise requires its availability for obligation in all other circumstances. As budget authority is available to incur obligations only during its period of availability, implicit in the ICA's requirement under section 1012(b) that budget authority be "made available for obligation" is that such budget authority must not be expired. Because a fixed-period appropriation is current only for a definite period of time, section 1012(b) of the ICA requires that if Congress does not enact a rescission bill, the appropriation must be made available for obligation during that finite period. After this finite period has ended, the appropriation is expired and cannot be available for new obligations.

Consequently, the ICA does not permit budget authority proposed for rescission to be withheld until its expiration simply because the 45-day period has not yet elapsed. A withholding of this nature would be an aversion both to the constitutional process for enacting federal law and to Congress's constitutional power of the purse, for the President would preclude the obligation of budget authority Congress has already enacted and did not rescind. For example, consider a situation where fiscal year budget authority is withheld pursuant to a special message submitted less than 45 days before the end of the fiscal year and where, upon conclusion of the 45-day period, Congress has not completed action on a corresponding rescission bill. An interpretation of section 1012(b) that would permit the withholding of such budget authority for the duration of the 45-day period would result in the expiration of the funds during that period. The expired amounts then could not be made available for obligation despite Congress not having completed action on a bill rescinding the amounts, as expired appropriations are not available for obligation. The ICA represents an agreement between the legislative and executive branches, whereby the President may withhold budget authority for a limited period during which Congress may *consider* the corresponding proposal to rescind the amounts using

[4] An expired account closes five years after the period of availability for obligation ends, and any remaining balance is then cancelled. 31 U.S.C. § 1552(a).

expedited procedures. The expiration of these amounts would frustrate the design of the ICA, as it would contravene the plain meaning of section 1012(b), which requires that amounts not rescinded during this period of *consideration* be "made available for obligation."

Regardless of whether the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire, section 1012(b) requires that budget authority be made available in sufficient time to be prudently obligated. The amount of time required for prudent obligation will vary from one program to another. In some programs, prudent obligation may require hours or days, while others may require weeks or months. We have previously signaled that the consequence of an unenacted rescission proposal should be the full and prudent obligation of the budget authority. B-115398, Aug. 27, 1976. In 1976, the President submitted a special message for which the 45-day period would end on September 29, 1976, leaving one day to obligate appropriations that were withheld. *Id.* We noted this one-day period could be insufficient to prudently obligate the funds. *Id.* We found the timing of the proposal "particularly troublesome" as it could "operate to deny to the Congress the expected consequence of its rejecting a rescission proposal—the full and prudent use of the budget authority." *Id.*

We have drawn similar conclusions concerning deferrals under the ICA. In such cases we have noted that deferred funds must be released in sufficient time to allow them to be prudently obligated. *See* B-216664, Apr. 12, 1985 (emphasizing that deferral, under the President's sixth special message for fiscal year 1985, of amounts scheduled to expire should not extend beyond the point at which the funds could be prudently obligated). *See also* 54 Comp. Gen. 453 (1974) (recognizing that a deferral of budget authority that "could be expected with reasonable certainty to lapse before [it] could be obligated, or would have to be obligated imprudently to avoid that consequence" constitutes a de facto rescission, and must be reclassified as a rescission proposal).

The legislative history of the ICA supports this construction of section 1012(b). During consideration of the report of the committee of conference on H.R. 7130, 93rd Cong. (1974), which was ultimately enacted into law as the ICA, members recognized that affirmative congressional action is required for a rescission of funds under the language of section 1012. Senator Sam J. Ervin, Jr., the sponsor of a related bill, stated regarding section 1012:

> "[The purpose] is to provide an orderly method by which differences of opinion may be reconciled between the President and Congress in respect to the amounts of appropriations sought. . . . The recommendation of the President that an appropriation be eliminated or reduced *in and of itself would have no legal effect whatsoever.* In other words, for it to become effective, both Houses of Congress, by a majority vote, would have to take action either eliminating the appropriation or reducing the appropriation. . . . I might say that the

> 45-day provision is placed in the bill for the purpose of spurring speedy congressional action, but with recognition of the fact that Congress cannot deprive itself of any other power it has under the Constitution."

120 Cong. Rec. 20,473 (June 21, 1974) (statement of Sen. Ervin) (emphasis added). As one member stated succinctly when discussing similar language: "the impoundment fails unless Congress acts affirmatively." 119 Cong. Rec. 15,236 (May 10, 1973) (statement of Sen. Roth) (debating S.373, which would have required an impoundment to cease within 60 days unless it had been ratified by Congress). *See also* H.R. Conf. Rep. No. 93-1101, at 76 (1974); S. Conf. Rep. No. 93-924, at 76 (1974) ("Unless both Houses of Congress complete action on a rescission bill within 45 days, the budget authority shall be made available for obligation.").

Congress considered bill language under which an impoundment would have continued indefinitely unless Congress took specific action to affirmatively *disapprove* of the impoundment. H.R. 8480, 93rd Cong. (1973) (providing that an impoundment "shall cease *if* within [60] calendar days of continuous session after the date on which the message is received by the Congress the specific impoundment shall have been *disapproved* by either House . . . ." (emphasis added)). However, Congress did not enact such language.[5] Instead, Congress enacted legislation under which an impoundment becomes permanent only if Congress enacts appropriate legislation through the processes of bicameralism and presentment.

Under the Constitution, the President must take care to execute the appropriations that Congress has enacted. Though the ICA permits the President to withhold amounts from obligation under limited circumstances, the amounts are permanently rescinded only if Congress takes affirmative legislative action through the constitutional processes of bicameralism and presentment. One must read the ICA as a whole. The Act outlines a process, and affords the President limited authority to withhold appropriated amounts while Congress expedites its consideration of the President's legislative proposal to rescind the already enacted appropriations. It would be an abuse of this limited authority and an interference with Congress's constitutional prerogatives if a President were to time the withholding of expiring budget authority to effectively alter the time period that the budget authority is available for obligation from the time period established by Congress in duly enacted appropriations legislation. It would be inimical to the ICA and to its constitutional underpinnings for the executive to avail itself of the withholding authority in the ICA, but to ignore the remainder of the process. *See generally* B-330376, Nov. 30, 2018

[5] Congress did, however, initially enact language requiring that deferred funds be made available if either house of Congress passed an "impoundment resolution" disapproving of the deferral. Pub. L. No. 93-344, § 1013(b) (prior to 1987 amendment).

(citing *NRDC v. Abraham*, 355 F.3d 179, 205 (2d Cir. 2004)) (finding that agencies "cannot have it both ways," claiming both the benefit of adhering to a statutory provision, while simultaneously arguing that the requirements of the provision do not apply). Therefore, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire: the requirement to make amounts available for obligation in this situation prevails over the privilege to temporarily withhold the amounts.

OMB asserts that the ICA does not preclude an impoundment from persisting through the date on which amounts would expire. Response Letter, at 2. Specifically, OMB relies on the purported silence of section 1012 with regard to the President's ability to propose rescissions under the ICA late in the fiscal year, as compared to the language in section 1013, which governs the deferral of budget authority. *Id.* In particular, section 1013 states that a deferral "may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate[,]" and also provides that the provisions of the section, which necessarily includes this proscription, do not apply to amounts proposed for rescission under section 1012. ICA, §§ 1013(a), (c); 2 U.S.C. §§ 684(a), (c). According to OMB, these distinctions demonstrate that section 1012 does not require the President to make withheld budget authority available for obligation before the end of the fiscal year. Response Letter, at 1. Under OMB's rationale, the ICA grants the President authority to withhold funds for the entire 45-day period, even if such withholding would result in the expiration of impounded balances.

We disagree with OMB's position. As a practical matter, OMB's interpretation of the ICA would grant the President unilateral authority to rescind funds that are near expiration by altering the time period that the budget authority is available for obligation from the time period established in existing law. Suppose the President were to transmit a special message less than 45 days before amounts are due to expire. In OMB's view, an impoundment could continue through the funds' date of expiration—at which point the funds would no longer be available for new obligations. Therefore, fiscal year funds proposed for rescission in a special message late in the fiscal year, even if not legally rescinded by the enactment of legislation, would be effectively rescinded if Congress takes no action at all. In OMB's view, only through affirmative legislative action could Congress prevent the rescission of funds that the President proposes for rescission in a special message transmitted close to the date on which the funds would expire. OMB's reading of the ICA would preempt the congressional process by which the budget authority's period of availability was established, fundamentally ceding Congress's power of the purse to the President.

This interpretation would contradict the plain meaning of section 1012, which, by its terms, requires that amounts not rescinded through a rescission bill be made available for obligation. As previously discussed, this requirement that amounts be

made available for obligation already limits the time frame during which such amounts may be permissibly withheld; there is no need in section 1012 for language that specifically prohibits amounts from being withheld beyond the end of the fiscal year.

In addition, the legislative history of the ICA indicates that the distinctions between section 1012 and section 1013, on which OMB relies, do not carry the implications that OMB suggests. *See* 120 Cong. Rec. at 20,473 (statements of Sen. Ervin and Sen. McClellan) (discussing distinction between deferral and rescission proposals). Unlike a rescission proposal, through which the President seeks the permanent cancellation of budget authority and may temporarily withhold amounts pending congressional consideration, the ultimate objective of a deferral proposal is a temporary withholding only. Section 1013 was crafted to govern this temporary withholding of budget authority and, thus, specifies that amounts may not be withheld beyond the end fiscal year. *See id.* In contrast, section 1012 limits withholding to the prescribed 45-day period, absent Congress's completion of a bill rescinding the amounts proposed for rescission. Neither does section 1013(c), which provides that the provisions of section 1013 do not apply to rescission proposals submitted under section 1012, support OMB's position that there is no restriction on when the President may submit a rescission proposal. Rather, section 1013(c) was intended to clarify that any action that would seek the permanent cancellation of budget authority must be governed by the more stringent provisions of section 1012. *See id.* (statement of Sen. Ervin) ("Any action or proposal which results in a permanent withholding of budget authority must be proposed under section 1012. Section 1013(c) specifically provides that section 1013 does not apply to cases to which section 1012 applies. Only temporary withholding may be proposed under section 1013 . . . .").

Through the ICA, Congress did not grant the President the extraordinarily broad rescissions authority that OMB asserts. Indeed, the ICA grants the President no authority whatsoever to rescind funds. The Act allows the President to transmit legislative proposals for rescission to Congress, while granting the President authority to withhold the funds for limited periods of time while Congress considers the proposals. Congress considered, and did not enact, language that would have granted the President authority to propose rescissions that would take permanent effect if Congress took no action. Instead, as we discussed above, under the ICA only Congress may rescind budget authority.

Under the Constitution, Congress enacts laws, and the President must take care to faithfully execute the terms of those laws, including appropriations acts. Within this framework, Congress enacted the ICA, which granted the President strictly circumscribed authority to temporarily withhold funds from obligation. The overarching constitutional framework of the executive and legislative powers, as well as the statutory text and legislative history of the ICA, provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting strategically-timed special

messages. Rather, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the date on which the funds would expire.

Prior Opinions

We have previously considered situations in which the President transmitted special messages concerning amounts that were near their date of expiration. We have intimated that in such a situation, the President may withhold the budget authority from obligation for the duration of the 45-day period, and that Congress must take affirmative action to prevent the withheld funds from expiring. *See, e.g.*, B-115398, Dec. 15, 1975. In some instances we have simply noted that funds may expire, without stating whether the funds were properly withheld or reporting that they must be made available for obligation. *See, e.g.*, B-115398, Aug. 27, 1976. *See also* B-220532, Sept. 19, 1986 (reclassifying deferral as rescission proposal, recognizing potential for funds to expire before being able to be obligated for intended purpose). As we explain below, in light of Supreme Court precedent and subsequent amendments to the ICA, we overrule these prior opinions.

In the President's second special message for fiscal year 1976, submitted on July 26, 1975, he included two rescission proposals of budget authority scheduled to expire on September 30, 1975.[6] B-115398, Aug. 12, 1975. In our review of the special message, we stated that these amounts would lapse nearly a month before expiration of the 45-day period, B-115398, Aug. 12, 1975, and, in a subsequent report on the status of funds, confirmed the amounts had in fact lapsed during the 45-day period, B-115398, Dec. 15, 1975. In our report on the status of the funds, we stated that "having to wait 45 days of continuous session before it can be determined that a proposed rescission has been rejected is a major deficiency of the [ICA]." B-115398, Dec. 15, 1975. We offered that Congress should have an affirmative means within the Act to address scenarios such as this, by, for example "changing the Act to allow a rescission resolution as is now allowed for deferrals, or changing the Act to prevent funds from lapsing where the 45-day period has not expired." *Id.* We stated that with respect to the two rescission proposals, "Congress was unable, under the Act, to reject the rescission in time to prevent the budget authority from lapsing."[7] *Id.*

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[6] Prior to fiscal year 1977, the fiscal year began on July 1 and extended through June 30 of the following year—for example, fiscal year 1976 began on July 1, 1975 and extended through June 30, 1976. Beginning on October 1, 1976, the fiscal year time frame changed to October 1 through September 30. *See* Pub. L. No. 93-344, title V, § 501, 88 Stat. at 321.

[7] Similarly, the President submitted a special message about a year later, on July 19, 1977, proposing the rescission of budget authority that expired on

(continued...)

When the ICA was enacted, it required deferred funds to be made available if either house of Congress passed an "impoundment resolution" disapproving of the deferral. Pub. L. No. 93-344, § 1013(b) (prior to 1987 amendment). In 1975, we suggested that Congress create an analogous process to enable rejection of a rescission proposal. B-115398, Dec. 15, 1975. However, our statement predated *INS v. Chadha*, 462 U.S. 919, in which the Supreme Court held a one-house veto provision to be unconstitutional because it was an exercise of legislative power that circumvented the procedures of bicameralism and presentment. The deferral provision in the ICA was later eliminated in the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987.[8] Pub. L. No. 100-119, title II, § 206.

Our 1975 opinions are based on the premise that Congress could amend the ICA to provide Congress with a unilateral mechanism to reject a rescission proposal. In addition to *Chadha,* other Supreme Court decisions also have resoundingly invalidated this premise. *See Clinton*, 524 U.S. 417, 438–41; *Chadha*, 462 U.S. at 951–58. As the Court made clear in *Clinton*, the Constitution vests the President with authority to "initiate and influence legislative *proposals*." 524 U.S. at 438 (emphasis added). A rescission proposal is one such legislative proposal. The rescission proposal does not have the force of law: "[t]here is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes." *Id.*

Because bicameral passage by Congress is necessary for the President's proposal to become law, no congressional action is necessary to invalidate the President's proposal. Without affirmative congressional action, the President's proposal remains just that: a proposal. Our 1975 opinions intimate that, under some circumstances, congressional inaction on a rescission proposal can be tantamount to affirmative congressional action to enact the rescission proposal. This interpretation would, in effect, give the President power to amend or to repeal previously enacted appropriations merely by calibrating the timing of the submission of a special message. This interpretation is clearly contrary to the Supreme Court's rulings in *Chadha* and *Clinton*. *See* 524 U.S. at 448–49; 462 U.S. at 951–58. Therefore, we overrule our prior inconsistent opinions.

(...continued)
September 30, 1977. B-115398, Aug. 5, 1977. The funds lapsed prior to completion of the 45-day period on October 4, 1977. B-115398, Oct. 26, 1977.

[8] We initially opined that *Chadha* did not implicate the disapproval provision in the ICA. B-196854.3, Mar. 9, 1984. However, as Congress ultimately amended the ICA and eliminated the provision, this case is no longer applicable.

CONCLUSION

The terms of the ICA are strictly limited. They vest in the President limited authority to propose a rescission of budget authority and to withhold such budget authority from obligation for a limited time period during which Congress may avail itself of expedited procedures to consider the proposal. However, the statutory text and legislative history of the ICA, Supreme Court case law, and the overarching constitutional framework of legislative and executive powers provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting rescission proposals shortly before amounts are due to expire.

To dedicate such broad authority to the President would have required affirmative congressional action in legislation, not congressional silence. *See, e.g.*, B-303961, Dec. 6. 2004 (declining to interpret a general "notwithstanding" clause to imply a waiver of the Antideficiency Act without indication that Congress intended to relinquish its "strongest means" to enforce its power of the purse). To paraphrase the Supreme Court, Congress does not alter the fundamental details of its constitutional power of the purse through vague terms or ancillary provisions —"it does not, one might say, hide elephants in mouseholes." *See Whitman v. American Trucking Ass'ns*, 531 U.S. 457, 468 (2001) (declining to interpret a statute in a manner inconsistent with its plain meaning). A construction of the ICA that would permit the withholding of funds proposed for rescission through their date of expiration would be precisely this elephant.

Though the ICA permits the President to withhold amounts from obligation under limited circumstances, the amounts are rescinded only if Congress takes affirmative legislative action through the constitutional processes of bicameralism and presentment. Therefore, amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the date on which the funds would expire. We overrule prior inconsistent GAO opinions.

If you have any questions, please contact Julie Matta, Managing Associate General Counsel, at (202) 512-4023, or Omari Norman, Assistant General Counsel for Appropriations Law, at (202) 512-8272.

Sincerely,

Thomas H. Armstrong
General Counsel

Congress of the United States
Washington, DC 20515

August 09, 2019

Mr. Mick Mulvaney
Acting Chief of Staff
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Mr. Russell Vought
Acting Director
Office of Management and Budget
Washington, DC 20503

Dear Mr. Mulvaney and Mr. Vought:

We are writing regarding an August 3, 2019, letter from Michael P. Duffey, OMB's Associate Director for National Security Policy, to the Deputy Secretary of State and the Deputy USAID Administrator, which states that the letter "constitutes a reapportionment of all previously approved apportionments" of Fiscal Year 2018 and 2019 funds from specified State, Foreign Operations accounts. The letter improperly withholds these funds from obligation, with a limited exception for certain salaries expenses. We are informed that the total unobligated funds impacted by this decision may be more than $4 billon, and that the suspension of obligations may be in preparation of a rescissions package for submission to Congress in the waning days of the fiscal year.

These funds were appropriated by overwhelming bipartisan majorities and after lengthy negotiations between the House and Senate, and including the White House. They were signed into law by President Trump. They are intended to implement policies and programs which, among other things, fulfill U.S. treaty obligations, support our allies and partners, protect the public against Ebola and other infectious diseases, counter-Russian aggression and Chinese influence, respond to humanitarian crises in Venezuela, Syria, Burma, and elsewhere, counter violent extremism in the Sahel, Yemen, and elsewhere, and support such initiatives as the Indo-Pacific Strategy, Power Africa, and the Women's Global Development and Prosperity Initiative. In short, these funds, which the agencies have plans to obligate for their intended purposes before the end of the fiscal year, are essential to promoting U.S. global leadership and protecting the security of the American people.

Your action is reminiscent of a reported attempt by OMB last year to improperly withhold State, Foreign Operations funds, which was widely opposed in Congress and triggered a GAO legal opinion, dated December 10, 2018, on whether the Impoundment Control Act of 1974 (ICA) allows a withholding of appropriations scheduled to expire within the prescribed 45-day period to continue through the date on which the funds would expire. The GAO concluded that "the statutory text and legislative history of the Impoundment Control Act (ICA), Supreme Court case

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law, and the overarching constitutional framework of executive and legislative powers provide no basis to construe the ICA as a mechanism by which the President may, in effect, unilaterally shorten the availability of budget authority by transmitting rescission proposals shortly before amounts are due to expire." GAO further concluded, "amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration in the ICA approaches or spans the date on which the funds would expire." (emphasis added).

If a rescissions package is sent to Congress in the coming weeks the 45-day period would extend to late September, leaving only days before the end of the fiscal year for the Department of State and USAID to obligate the funds, assuming Congress rejects the rescissions or takes no action. This is too little time to prudently obligate such a large amount of funds for such a diverse array of purposes before they expire, and would constitute another attempt to circumvent Congress's constitutional spending authority.

We are deeply concerned by the apportionment action in the August 3, 2019, letter to withhold budget authority from 15 expiring appropriation accounts. Absent the President sending Congress a special message, any funding withheld by OMB in anticipation of a rescission proposal would constitute an illegal impoundment of funds. OMB should release the funding identified in the letter immediately to enable it to be obligated in accordance with current law, and immediately transmit to the Congress the legal justification OMB relied upon for withholding these funds, including an explanation of how such withholding is consistent with the ICA.

There is no ambiguity with regard to the ICA or the Appropriations bills passed by Congress and affirmed by the President when the Fiscal Year 2018 and 2019 State, Foreign Operations appropriations acts were signed into law. We urge OMB, the Department of State, and USAID to adhere to the law and use these funds for their intended purposes on behalf of the American people and the Nation.

Sincerely,

Senator Patrick Leahy
Vice Chairman
Committee on Appropriations
United States Senate

Representative Nita M. Lowey
Chairwoman
Committee on Appropriations
U.S. House of Representatives

The Honorable Mike Pompeo, Secretary, U.S. Department of State
The Honorable Mark Green, Administrator, U.S. Agency for International Development

Congress of the United States
Washington, DC 20515

August 19, 2019

The Honorable Mick Mulvaney
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Mulvaney:

We write to express our profound concern regarding the Administration's reported plan to submit a rescission request to the Congress just a few weeks before the end of the fiscal year.

Under the Impoundment Control Act of 1974 (ICA), the President may submit a special message proposing the rescission of budget authority and may withhold funds from obligation for a period of 45 calendar days of continuous session following transmission of the special message. In keeping with Congress's constitutional power of the purse, however, such funding must be released absent approval by Congress within the 45-day period. Specifically, section 1012(b) of the ICA states:

> Any amount of budget authority proposed to be rescinded or that is to be reserved as set forth in such special message shall be made available for obligation unless, within the prescribed 45-day period, the Congress has completed action on a rescission bill rescinding all or part of the amount proposed to be rescinded or that is to be reserved.

Submitting a rescissions request and withholding funds from obligation this late in the fiscal year could result in funding being withheld through its expiration date. In December 2018, at the request of the House Budget Committee, the U.S. Government Accountability Office (GAO) issued a legal opinion that addressed this circumstance. GAO found that "the ICA does not permit the withholding of funds through their date of expiration." Further, GAO determined that absent Congressional action to rescind the funds,

> amounts proposed for rescission must be made available for prudent obligation before the amounts expire, even where the 45-day period for congressional consideration provided in the ICA approaches or spans the date on which funds would expire: the requirement to make amounts available for obligation in this situation prevails over the privilege to temporarily withhold the amounts.

The authority provided by the ICA to the Executive Branch to withhold funds temporarily is necessarily limited. The GAO opinion states:

> It would be an abuse of this limited authority and an interference with Congress's constitutional prerogatives if a President were to time the withholding of expiring budget authority to effectively alter the time period that the budget authority is available for obligation from the time period established by Congress in duly enacted appropriations legislation.

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As the chairman and ranking member of the respective House and Senate committees with jurisdiction over the Impoundment Control Act, we affirm our strong agreement with the legal analysis and conclusions reached by GAO. We strongly urge the Administration to refrain from sending a rescission message to the Congress; however, in the event the Administration submits such a message, it must take measures to ensure that the affected funds will be prudently obligated in the event the Congress does not approve the rescission, as required by law. To withhold these funds until they can no longer be prudently obligated or until they expire, in the absence of Congressional approval of the rescission, would violate the ICA and flout an important constitutional check. We trust that you will comply with the law and respect the constitutional role of the Congress to remain at the center of funding decisions.

Thank you for your attention to these concerns.

Sincerely,

John Yarmuth
Chairman
House Committee on the Budget

Bernard Sanders
Ranking Member
Senate Committee on the Budget

An Open Letter from Legal Scholars on Trump Impeachment Inquiry

For only the fourth time in American history, there is a serious inquiry concerning the impeachment of the President of the United States. We write as law professors because impeachment is a legal proceeding provided for by the Constitution of the United States. We write because the core principle of the rule of law is that no one, not even the President, is above the law and impeachment is the ultimate check provided for by the Constitution. We are writing not to express an opinion as to whether President Donald Trump should be impeached or removed, but to clarify the legal standards and procedures that should be followed.

Impeachment by the United States House of Representatives followed by a conviction in the United States Senate is one of only two methods under the Constitution for removing a President. (The 25th Amendment provides for the removal of the president due to incapacity, and while some have called for that as well, this letter does not address it.) Article II, §4, of the Constitution provides for impeachment for "Treason, Bribery, or other high Crimes and Misdemeanors." There is no definitive answer to what constitutes a "high crime or misdemeanor." There is no Supreme Court case addressing it. But the history of the phrase and the experience of prior impeachments make clear that "high crimes and misdemeanors" include a serious abuse of power while in office whether or not a crime has occurred. In other words, a criminal act is often sufficient to be an impeachable offense, but it is not necessary.

We urge that the President and those in the Executive Branch cooperate with an impeachment inquiry. Prior Presidents facing such inquiries – Andrew Johnson, Richard Nixon, and Bill Clinton – cooperated with the House of Representatives and its committees. We urge the House to act expeditiously, while providing the President and those in the Executive Branch a full and fair opportunity to be heard. This, however, does not include the right of the President, or the public, to know the identity of the whistleblower. Federal law explicitly provides for secrecy of whistleblowers precisely so they will come forward and report wrong-doing.

We strongly disagree with White House Counsel Pat Cipollone's statements in an October 8, 2019 letter that the impeachment inquiry is "contrary to the Constitution ... and all past bipartisan precedent" and violates "fundamental fairness and constitutionally mandated due process." Quite the contrary, the Constitution does not mandate the process for impeachment and there is no constitutional requirement that the House of Representatives authorize an impeachment inquiry before one begins. Cipollone wrongly condemns the impeachment inquiry as the House "seeking to overturn the result of the 2016 election." This fails to recognize the seriousness of the charges against President Trump for abusing executive power for personal political gain and violating federal election law.

If there is an impeachment by the House of Representatives, we believe that the Senate is constitutionally obligated to hold a trial to be presided over by the Chief Justice of the United

States. Unlike past trials following impeachments, we urge that this trial be conducted in public, not behind closed doors.

Signed,[1]

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SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To John Michael "Mick" Mulvaney, Acting White House Chief of Staff

You are hereby commanded to be and appear before the

Committee on Oversight and Reform

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 2157 Rayburn House Office Building, Washington, D.C. 20515

Date: October 18, 2019 Time: 12:00 noon

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To any authorized staff member or the U.S. Marshals Service

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 4th day of October, 2019.

Chairman or Authorized Member

Attest:

Clerk

SCHEDULE

In accordance with the attached Definitions and Instructions, you, John Michael "Mick" Mulvaney, in your capacity as Acting Chief of Staff to President Donald J. Trump, are hereby required to produce, for the time period from January 20, 2017, to the present, all documents and communications referring or relating to:

1. The potential or suggested investigations and legal cases referenced in the letter sent to White House Counsel Pat Cipollone on September 9, 2019, from Chairmen Eliot L. Engel, Adam B. Schiff, and Elijah E. Cummings (attached as Exhibit 1), including but not limited to those relating to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, and Burisma Holdings Ltd.;

2. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

3. Communications between or among any of the following referring or relating in any way to the July 25, 2019, telephone conversation:

    a. Current or former White House officials, employees, and detailees, including within the White House Counsel's Office, the White House Situation Room, and the National Security Council (NSC), including but not limited to:

        i. The Assistant to the President for National Security Affairs;
        ii. The Deputy Assistant to the President for National Security Affairs;
        iii. The Senior Director for European Affairs;
        iv. All Directors within the Directorate or Directorates involved in European and Russian Affairs;
        v. All Directors covering energy affairs;
        vi. The Senior Director for the Directorate of International Economics;
        vii. All White House Situation Room Duty Officers who staffed the call and produced the original draft "Memorandum of Telephone Conversation";
        viii. The Senior White House Situation Room Duty Officer during the telephone conversation;
        ix. The NSC Legal Advisor;

x. The NSC Executive Secretary and any other staff from NSC's Executive Secretary office involved in preparing the "Memorandum of Telephone Conversation" and any preparatory materials for the President prior to the telephone conversation; and

xi. The Office of the Vice President, to include Vice President Michael R. Pence and Lieutenant General Keith Kellogg;

b. Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr and Assistant Attorney General John Demers;

c. Current or former employees or officials of the Department of State, including but not limited to Secretary Michael R. Pompeo, Counselor T. Ulrich Brechbuhl, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Deputy Assistant Secretary George Kent, U.S. Embassy in Ukraine Charge d'Affaires William B. Taylor, U.S. Embassy in Ukraine Deputy Chief of Mission Kristina Kvien, and Ambassador to the European Union Gordon Sondland;

d. Current or former employees or officials of the Department of Energy, including but not limited to Secretary Rick Perry and Special Advisor Samuel Buchan;

e. Current or former employees or officials of the Office of the Director of National Intelligence (ODNI), including but not limited to Acting Director Joseph Maguire and ODNI's Office of General Counsel;

f. Current or former employees or officials of the Central Intelligence Agency, including but not limited to General Counsel Courtney Simmons Elwood; and

g. Current or former employees or officials of the Department of Defense, including but not limited to Secretary of Defense Mark Esper and Undersecretary for Policy John C. Rood;

4. Any and all recordings, transcripts, notes (including electronic and hand-written notes), summaries, memoranda of conversation, readouts, or other documents memorializing communications between President Trump and the leader of any other foreign country that refer or relate to the subject matters of the July 25 telephone conversation between President Trump and President Zelensky, including but not limited to pursuing investigations of President Trump's political rivals and Ukrainian foreign aid;

5. The actual or potential suspension, withholding, delaying, freezing, or releasing of foreign assistance of any kind, including but not limited to security assistance, to Ukraine;

6. Any of the following meetings or potential meetings:

a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications;

b. A meeting at the White House on or around May 23, 2019, involving President Trump, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, Energy Secretary Rick Perry, or Ambassador Gordon Sondland;

c. President Zelensky's inauguration on May 20, 2019, in Kiev, Ukraine, including but not limited to President Trump's decision not to attend and not to send Vice President Pence to lead the U.S. delegation and to instead send Energy Secretary Rick Perry;

d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Perry, former National Security Advisor John Bolton, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker, and Ambassador Gordon Sondland, including but not limited to the proposed or actual participation of President Trump and Vice President Pence in the meeting;

e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland in or around September 2019, including but not limited to President Trump's decision to cancel his attendance;

f. All meetings and communications between U.S. officials, including but not limited to Vice President Pence, Energy Secretary Perry, and Senior Advisor Jared Kushner, and President Zelensky or other Ukrainian government officials in Warsaw, Poland in or around September 2019; and

g. All meetings between President Trump and President Zelensky during the United Nations General Assembly in or around September 2019, including but not limited to any discussion of their July 25, 2019, telephone conversation, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

7. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or any U.S. persons or entities;

8. All meetings or communications between any current or former White House officials, employees, or detailees, including President Trump, and Attorney General William Barr or any other Department of Justice official or employee, relating to the investigations described in paragraph 7;

9. All meetings between or among current or former White House officials or employees, including President Trump, and Rudolph W. Giuliani, including but not limited to requests for meetings or telephone calls, scheduling items, calendar entries, White House visitor records, and email or text messages using personal or work-related devices;

10. Former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the decision to end her tour or recall her from the U.S. Embassy in Kiev;

11. With respect to the storage of documents regarding telephone conversations:

    a. Documents sufficient to show the dates and times when any documents referring or relating to the April 21, 2019, or July 25, 2019, telephone conversations between President Trump and President Zelensky were moved or transferred from one electronic system or server into another electronic system or server, the names, descriptions, and levels of classification of each electronic system or server involved, and the identity of all individuals who were involved in the transfer of any such documents;

    b. Efforts to restrict access to, or limit the distribution of, documents referring or relating to the April 21, 2019, and July 25, 2019, telephone conversations, including but not limited to the transfer to, or placement of documents on, an electronic system or server cleared to hold codeword-level classified information, or the request or direction to do so; and

    c. All policies, procedures, practices, or guidance at or from the White House or NSC referring or relating to the aforementioned electronic system or server, including all policies, procedures, practices, or guidance referring or relating to the transfer or placement of transcripts, summaries, memos, and notes of the President's meetings and phone calls with foreign leaders on such system or server;

12. Efforts by any current or former White House officials, employees, or detailees, including President Trump, to identify or retaliate against the whistleblower who filed the complaint with the Inspector General of the Intelligence Community that was released by the House Permanent Select Committee on Intelligence on September 26, 2019, or against any individual who provided information to, or raised concerns to, the whistleblower or the Inspector General, including but not limited to any documents or communications referring or relating to searching communications, telephone records, telephones, or any other information to identify any of these individuals; and

13. Efforts to conceal, destroy, or otherwise dispose of any documents, records, or communications referring or relating to any of the foregoing matters.

Schedule Instructions

1. In complying with this subpoena, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.

2. Subpoenaed documents, and all documents reasonably related to the subpoenaed documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual denoted in this subpoena is or has been known by any name other than that herein denoted, the subpoena shall be read also to include that alternative identification.

4. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions.

5. Documents produced in electronic format should be organized, identified, and indexed electronically.

6. Electronic document productions should be prepared according to the following standards:

    a. The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.

    b. Document numbers in the load file should match document Bates numbers and TIF file names.

    c. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.

    d. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

        BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,

INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

7. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.

8. Documents produced in response to this subpoena shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the subpoena was served.

9. When you produce documents, you should identify the paragraph(s) in the subpoena schedule to which the documents respond.

10. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.

11. The pendency of or potential for litigation shall not be a basis to withhold any information.

12. In accordance with 5 U.S.C.§ 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.

13. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.

14. If compliance with the subpoena cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.

15. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) every privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the privilege(s) asserted. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

16. In complying with the subpoena, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act

or the Privacy Act; or any purported contractual privileges, such as non-disclosure agreements.

17. Any assertion by a subpoena recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If any document responsive to this subpoena was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control.

19. If a date or other descriptive detail set forth in this subpoena referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the subpoena, produce all documents that would be responsive as if the date or other descriptive detail were correct.

20. This subpoena is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.

21. All documents shall be Bates-stamped sequentially and produced sequentially.

22. Two sets of each production shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2105 of the Rayburn House Office Building.

23. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, or otherwise.

3. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.

4. The term "including" shall be construed broadly to mean "including, but not limited to."

5. The term "Company" means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.

6. The term "identify," when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; (b) the

individual's business or personal address and phone number; and (c) any and all known aliases.

7. The term "related to" or "referring or relating to," with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.

8. The term "employee" means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.

9. The term "individual" means all natural persons and all persons or entities acting on their behalf.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To JOHN EISENBERG

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 4, 2019 Time: 9:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 1ST day of November 2019.

Chairman or Authorized Member

Attest:

Clerk

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To AMBASSADOR MARIE YOVANOVITCH

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 11, 2019 Time: 9:30 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for AMBASSADOR MARIE YOVANOVITCH

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date OCTOBER 11, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Gordon Sondland

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 20, 2019 Time: 9:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Gordon Sondland

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/20/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To DR. FIONA HILL

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: 10/14/2019 Time: 10:00 A.M.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8th day of OCTOBER, 20 19.

Chairman or Authorized Member

Attest:

Glenn J. Lott, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for Dr. Fiona Hill

Address C/o Lee Wolosky, Esq., Boies Schiller LLP, 55 Hudson Yards, 20th Floor, New York, NY 10001

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date October 14 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To George Kent

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 1100 Longworth House Office Building

Date: Nov. 13, 2019 Time: 10:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7th day of November, 2019.

Chairman or Authorized Member

Attest:

Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for George Kent

Address C/o Andrew M. Wright, Esq., K&L Gates LLP, 1601 K Street N.W., Washington, D.C. 20006

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/13/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Ambassador Gordon Sondland

You are hereby commanded to be and appear before the
Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☒ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: THE CAPITOL, HVC-304
Date: 10/14/19 Time: 12:00 PM

☒ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: THE CAPITOL, HVC-304
Date: 10/16/19 Time: 9:30 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time _____

To The U.S. Marshals Service, or any authorized Member or congressional staff
to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8th day of October, 2019

Chairman or Authorized Member

Attest: Robert F Reeves, Deputy Clerk
Clerk

PROOF OF SERVICE

Subpoena for
Ambassador Gordon Sondland

Address U.S. Department of State, 2201 C St. NW, Washington DC

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Schedule

The Permanent Select Committee on Intelligence, requires that, you, Gordon Sondland, in accordance with the attached Definitions and Instructions, produce all documents and communications from January 20, 2017 to present, in your possession, custody, or control referring, relating to, or involving the following subjects:

1. Any communications or meetings between President Donald Trump and Ukrainian president Volodymyr Zelensky, including but not limited to phone calls between President Trump and President Zelensky on April 21, 2019, and July 25, 2019, and a meeting between President Trump and President Zelensky on September 25, 2019, in New York City;

2. The U.S. delegation to the inauguration of President Zelensky in Kiev, Ukraine, in or about May 2019;

3. A potential visit of President Zelensky to the United States for an Oval Office meeting with President Trump;

4. A potential meeting between President Trump and President Zelensky in Poland in or about early September 2019;

5. Any other proposed meetings or communications, whether or not they occurred, between President Trump, Vice President Pence, Secretary of State Michael Pompeo, former National Security Advisor John Bolton, or Secretary of Energy Rick Perry and Ukrainian president Volodymyr Zelensky or other Ukrainian government official;

6. Any efforts, whether by you or anyone else, to induce, compel, suggest, pressure, solicit, or otherwise influence former or present Ukrainian officials, politicians, or other persons of influence, or their representatives or agents, to investigate matters relating to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or Burisma Holdings Ltd. (or any of its parents, subsidiaries, or affiliates, collectively "Burisma");

7. The actual or potential withholding, suspending, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine;

8. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

9. Rudolph W. Giuliani, including any text messages or emails using either official government devices or personal devices;

10. Paul Manafort;

11. Hunter Biden;

12. Burisma; and

13. Efforts to conceal or destroy any documents or records relating to any of the foregoing items (1-12).

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Marie Yovanovitch

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 15, 2019 Time: 9:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Marie Yovanovitch

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/15/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To William B. Taylor, Jr.

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 1100 Longworth House Office Building

Date: Nov. 13, 2019 Time: 10:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7th day of November, 2019.

[signature]

Chairman or Authorized Member

Attest:

[signature], Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for William B. Taylor, Jr.

Address C/o John Bellinger, III, Esq., and Jeffrey Smith, Esq., Arnold & Porter Kaye Scholer LLP,

601 Massachusetts Ave. N.W., Washington D.C. 20001

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/13/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To William B. Taylor, Jr.

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI, HVC-304, THE CAPITOL

Date: 10/22/2019 Time: 9:30 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 21ST day of October, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for William B. Taylor, Jr.

Address C/o John Bellinger, III, Esq., and Jeffrey Smith, Esq., Arnold & Porter Kaye Scholer LLP

601 Massachusetts Ave. N.W., Washington, D.C. 20001

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date October 22, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To BRIAN McCORMACK

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 4, 2019 Time: 2:00 PM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 1ST day of NOVEMBER, 2019.

Chairman or Authorized Member

Attest:

Gloria J. Lett, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for BRIAN MCCORMACK

Address OFFICE OF MANAGEMENT & BUDGET, 725 17TH ST. N.W.

WASHINGTON, D.C. 20503

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/01/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To CATHERINE CROFT

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: OCTOBER 30, 2019 Time: 9:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 28th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for CATHERINE CROFT

Address _____

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/30/19

Signature of Server _____

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Dr. Charles Kupperman

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI, HVC-304, THE CAPITOL

Date: 10/28/19 Time: 9:30 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 21 ST day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Dr. Charles Kupperman

Address C/o Michael W. Kirk, Esq., Cooper & Kirk, PLLC, 1523 New Hampshire Ave., N.W.

Washington, D.C. 20036

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/25/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To CHRISTOPHER ANDERSON

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: OCTOBER 30, 2019 Time: 2:30 PM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 28th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for

CHRISTOPHER ANDERSON

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 1/30/19

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To David Hale

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 20, 2019 Time: 2:30 p.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for David Hale

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/20/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To AMBASSADOR DAVID HALE

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: NOVEMBER 6, 2019 Time: 9:00AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 4TH day of NOVEMBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for
AMBASSADOR DAVID HALE
Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/06/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To David Holmes

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI, HVC-304, The Capitol

Date: Nov. 15, 2019 Time: 3:00 p.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for David Holmes

Address _____

_____

before the Permanent Select Committee on Intelligence

_____

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/15/2019

Signature of Server _____

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

_____

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To David Holmes

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 21, 2019 Time: 9:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 15th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for David Holmes

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/21/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Dr. Fiona Hill

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 21, 2019 Time 9:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Dr. Fiona Hill

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/21/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To GEORGE KENT

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 15, 2019 Time: 10:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 8TH day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for GEORGE KENT

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date OCTOBER 15, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To IGOR FRUMAN

You are hereby commanded to be and appear before the
House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, THE CAPITOL
Date: OCTOBER 16, 2019 Time: 5:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff
to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 10th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:
Thomas J. Sett, Deputy Clerk
Clerk

PROOF OF SERVICE

Subpoena for Igor Fruman

Address c/o JOHN DOWD, 5335 WISCONSIN AVE. N.W., SUITE 700, WASHINGTON, D.C. 20015

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/10/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Igor Fruman, are hereby required to produce, for the period of **January 20, 2017, to the present**, all documents and communications in your custody, possession, or control referring or relating to:

1. Paul Manafort, Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

2. Efforts, including but not limited to those by you, Rudolph ("Rudy") Giuliani, Lev Parnas, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

3. Serhiy Leshchenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

4. The White House, President Donald Trump, Attorney General William Barr, Donald Trump Jr., Rudolph ("Rudy") Giuliani, former Ambassador Kurt Volker, State Department Counselor T. Ulrich Brechbuhl, State Department Deputy Assistant Secretary George Kent, Assistant Secretary of State for European Affairs A. Wess Mitchell, or anyone in or associated with the Trump Administration;

5. Former Congressman Pete Sessions, including but not limited to a meeting in or about May 2018;

6. Former United States Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

7. Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been

associated with Ukrainian law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

8. United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

9. Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs—including but not limited to America First Action, Inc.—by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities; and

10. The source of any monies, funds, gifts, contributions, donations, or offers of anything of value made by Global Energy Producers, LLC or Aaron Investments I, LLC to America First Action, Inc., including but not limited to a $325,000 donation in May 2018.

You are also required to produce:

11. Any and all documents supplied in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by any U.S. federal or state agency.

Congress of the United States
Washington, DC 20515

October 10, 2019

VIA U.S. MAIL

John M. Dowd, Esq.
5335 Wisconsin Avenue, N.W.
Suite 700
Washington, D.C. 20015

Dear Mr. Dowd:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting the following subpoenas:

- A subpoena that compels your client, Lev Parnas, to produce the documents set forth in the accompanying schedule by **October 16, 2019**; and

- A subpoena that compels your client, Igor Fruman, to produce the documents set forth in the accompanying schedule by **October 16, 2019.**

The subpoenas are being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.[1] Your clients' failure or refusal to comply with the subpoenas, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against your clients and anyone with whom they are acting in concert, including the President.

In addition to providing the subpoenaed documents, the Committees also expect your clients to appear to testify about these matters at a later date.

Background

The Committees are investigating the extent to which President Trump jeopardized national security by pressing Ukraine to interfere with our 2020 election and by withholding a White House meeting with the President of Ukraine and military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

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[1] *See* Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf).

PRINTED ON RECYCLED PAPER

According to press reports, Mr. Parnas and Mr. Fruman reportedly were "assisting Giuliani's push to get Ukrainian officials to investigate former vice president Joe Biden and his son, as well as Giuliani's claim that Democrats conspired with Ukrainians in the 2016 campaign."[2]

Press reports also indicate that Mr. Parnas and Mr. Fruman were involved with efforts to press Ukrainian officials to change the management structure at a Ukrainian state-owned energy company, Naftogaz, to benefit individuals involved with Mr. Giuliani's push to get Ukrainian officials to interfere in the 2020 election.

For example, according to press reports, Secretary of Energy Rick Perry reportedly "pressed the Ukrainian president to fire members of the Naftogaz advisory board" and "made clear" to Ukrainian officials and energy sector officials "that the Trump administration wanted to see the entire Naftogaz supervisory board replaced." He reportedly gave President Zelensky a list of potential board members, including Michael Bleyzer, who "donated $20,000 to Perry's reelection campaign" in 2010, and Robert Bensh, "another Texan who frequently works in Ukraine."[3]

The proposal to install new board members at Naftogaz was reportedly promoted by "two Soviet-born Florida real estate entrepreneurs, Lev Parnas and Igor Fruman, and an oil magnate from Boca Raton, Florida, named Harry Sargeant III." According to these reports, their plan was to "steer lucrative contracts to companies controlled by Trump allies." In service of these efforts, Mr. Parnas, Mr. Fruman, and Mr. Sargeant also touted "a plan to replace Naftogaz CEO Andriy Kobolyev with another senior executive at the company."[4]

Mr. Parnas and Mr. Fruman are also "clients of Trump's personal lawyer Rudy Giuliani." When Mr. Giuliani was asked about efforts to install new members on Naftogaz's board, he responded, "I may or may not know anything about it."[5]

Throughout this period, Mr. Parnas, Mr. Fruman, and Mr. Sargeant reportedly "touted connections to Giuliani and Trump while trying to install new management at the top of Ukraine's massive state gas company." They also "appear to have had inside knowledge of the U.S. government's plans in Ukraine."[6] For example, "Mr. Parnas and Mr. Fruman boasted that

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[2] *Impeachment Inquiry Puts New Focus on Giuliani's Work for Prominent Figures in Ukraine*, Washington Post (Oct. 2, 2019) (online at www.washingtonpost.com/politics/impeachment-inquiry-puts-new-focus-on-giulianis-work-for-prominent-figures-in-ukraine/2019/10/01/b3c6d08c-e089-11e9-be96-6adb81821e90_story.html).

[3] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

[4] *Id.*

[5] *Perry Pressed Ukraine on Corruption, Energy Company Changes*, Politico (Oct. 5, 2019) (online at www.politico.com/news/2019/10/05/rick-perry-ukraine-trump-030230).

[6] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

they had worked with Mr. Giuliani to force the recall this spring of the American ambassador to Ukraine, Marie L. Yovanovitch."[7]

Mr. Parnas and Mr. Fruman reportedly "told people that Trump would replace the U.S. ambassador there months before she was actually recalled to Washington." When Mr. Giuliani was asked about whether he was involved with this effort to recall the Ambassador to Ukraine, he responded, "I did play a role in that."[8]

Your Clients' Refusal to Cooperate

On September 30, 2019, the Committees sent letters to your clients requesting that they produce documents relating to the Committees' inquiry by October 7, 2019, and appear for depositions on October 10, 2019, for Mr. Parnas and October 11, 2019, for Mr. Fruman.[9]

On October 3, 2019, you sent a letter in your capacity as counsel for Mr. Parnas and Mr. Fruman. You asked for additional time to respond to the Committees' request, but you also wrote that the "amount of time required is difficult to determine." You objected to the requests on various grounds, and you argued that they were intended to "harass, intimidate, and embarrass" your clients. Your letter confirmed, however, that "Messrs. Parnas and Fruman assisted Mr. Giuliani in connection with his representation of President Trump."[10]

On October 8, 2019, you sent a second letter stating that your clients would not appear for the depositions on October 10 and 11, 2019.[11]

On October 9, 2019, you sent an email informing Committee counsel that your clients "agree with and adopt the position of the White House Counsel pertaining to Democrat inquiry [sic]."[12] You attached a copy of a letter that the White House Counsel wrote to House Speaker Nancy Pelosi and our Committees on Tuesday stating that President Trump will not cooperate with the impeachment inquiry.

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[7] *Rick Perry's Focus on Gas Company Entangles Him in Ukraine Case*, New York Times (Oct. 7, 2019) (online at www.nytimes.com/2019/10/07/us/politics/rick-perry-ukraine.html).

[8] *Profits, Not Politics: Trump Allies Sought Ukraine Gas Deal*, Associated Press (Oct. 7, 2019) (online at https://apnews.com/d7440cffba4940f5b85cd3dfa3500fb2).

[9] *See, e.g.*, letter from Chairman Adam B. Schiff, Permanent Select Committee on Intelligence, Chairman Eliot L. Engel, Committee on Foreign Affairs, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Lev Parnas (Sept. 30, 2019) (online at https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/20190930%20-%20Parnas%20Letter%20and%20Doc%20Request%20Schedule.pdf).

[10] Letter from John M. Dowd to Staff, Permanent Select Committee on Intelligence (Oct. 3, 2019).

[11] Letter from John M. Dowd to Staff, Permanent Select Committee on Intelligence (Oct. 8, 2019).

[12] Email from John M. Dowd to Staff, Permanent Select Committee on Intelligence (Oct. 9, 2019).

Your clients are private citizens who are not employees of the Executive Branch. They may not evade requests from Congress for documents and information necessary to conduct our inquiry. They are required by law to comply with the enclosed subpoenas. They are not exempted from this requirement merely because they happen to work with Mr. Giuliani, and they may not defy congressional subpoenas merely because President Trump has chosen the path of denial, defiance, and obstruction.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of these documents.

Sincerely,

Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence

Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Jennifer Williams

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 19, 2019 Time: 9:00 a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Jennifer Williams

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/19/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Jennifer Williams

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI, HVC-304, The Capitol

Date: Nov. 7, 2019 Time: 9:30 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 6th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Jennifer Williams

Address C/O Justin V. Shur, Esq., Molo Lamken LLP, 600 New Hampshire Ave. N.W., Washington D.C. 20037

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/7/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To JOHN EISENBERG

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 4, 2019 Time: 9:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 1ST day of NOVEMBER 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for JOHN EISENBERG, ESQ.

Address NATIONAL SECURITY COUNCIL, EISENHOWER EXECUTIVE OFFICE BLDG., WASHINGTON D.C. 20504

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/01/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Laura Cooper

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 20, 2019 Time 2:30 p.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Laura Cooper

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/20/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To LAURA COOPER

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 23, 2019 Time: 10:00 A.M.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 21ST day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for LAURA COOPER

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To LEV PARNAS

You are hereby commanded to be and appear before the
House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE
HVC-304, THE CAPITOL
Date: OCTOBER 16, 2019 Time: 5:00 P.M.

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff
to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 10th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:
Clerk

PROOF OF SERVICE

Subpoena for Lev Parnas

Address C/O JOHN DOWD, 5335 WISCONSIN AVE. N.W., SUITE 700, WASHINGTON, D.C. 20015

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/10/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Lev Parnas, are hereby required to produce, for the period of **January 20, 2017, to the present**, all documents and communications in your custody, possession, or control referring or relating to:

1. Paul Manafort, Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

2. Efforts, including but not limited to those by you, Rudolph ("Rudy") Giuliani, Igor Fruman, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

3. Serhiy Leshchenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

4. The White House, President Donald Trump, Attorney General William Barr, Donald Trump Jr., Rudolph ("Rudy") Giuliani, former Ambassador Kurt Volker, State Department Counselor T. Ulrich Brechbuhl, State Department Deputy Assistant Secretary George Kent, Assistant Secretary of State for European Affairs A. Wess Mitchell, or anyone in or associated with the Trump Administration;

5. Former Congressman Pete Sessions, including but not limited to a meeting in or about May 2018;

6. Former United States Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

7. Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been

associated with Ukrainian law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

8. United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

9. Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs—including but not limited to America First Action, Inc.—by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities; and

10. The source of any monies, funds, gifts, contributions, donations, or offers of anything of value made by Global Energy Producers, LLC or Aaron Investments I, LLC to America First Action, Inc., including but not limited to a $325,000 donation in May 2018.

You are also hereby required to produce:

11. Any and all documents supplied in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by any U.S. federal or state agency.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Alexander Vindman

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 19, 2019 Time: 9:00a.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Alexander Vindman

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/19/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To ALEXANDER VINDMAN

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: 10/29/2019 Time: 9:30 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 24th day of October, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for Alexander Vindman

Address C/o Michael Volkov, The Volkov Law Group LLC, Email: [redacted]

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/29/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mark Sandy

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: Nov. 16, 2019 Time: 10:00 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Mark Sandy

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/16/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HONORABLE MARK T. ESPER, SECRETARY OF DEFENSE

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S CAPITOL

Date: OCTOBER 15, 2019 Time: 5:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7TH day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for THE HONORABLE MARK T. ESPER, SECRETARY OF DEFENSE

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) MATHER BITAR

Title GENERAL COUNSEL

Manner of service ELECTRONIC MAIL

Date OCTOBER 7, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Mark T. Esper, in your capacity as Secretary of Defense, are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession or control referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. Any recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials including the full presidential call package and any addenda; and

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

2. Communications between or among current or former officials of the following entities relating to the July 25, 2019, telephone conversation:

    a. The White House, including the White House Counsel's Office, the National Security Council (NSC), the Office of the Vice President (OVP), the Office of Management and Budget (OMB), or the White House Situation Room;

    b. The Department of Justice (DOJ);

    c. The Department of State (DOS);

    d. The Department of Energy (DOE);

    e. Agencies in the Intelligence Community (IC); and

    f. The Department of Defense (DOD).

3. Any of the following meetings or potential meetings:

    a. Any request, suggestion, or proposal for a telephone call, meeting, visit, or other communication involving President Trump and President Zelensky;

b. A meeting at the White House on May 23, 2019, involving President Trump, Energy Secretary Rick Perry, former Ambassador Kurt Volker, and/or Ambassador Gordon Sondland;

c. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend and to send Energy Secretary Rick Perry to lead the U.S. delegation instead of Vice President Pence;

d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Rick Perry, former National Security Advisor John Bolton, former Ambassador Kurt Volker, and Ambassador Gordon Sondland, including the proposed or actual participation of Vice President Mike Pence and/or President Trump in the meeting, and any notes or memoranda related to the meeting that were provided to you or your office;

e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on about September 1, 2019, including President Trump's decision to cancel his attendance;

f. Meetings and communications between U.S. officials, including but not limited to Vice President Mike Pence, Energy Secretary Rick Perry, and Senior Advisor Jared Kushner, and President Zelensky and other Ukrainian government officials in Warsaw, Poland on or about September 1, 2019;

g. Secretary Pompeo's September 17, 2019, call with the Ukrainian Foreign Minister Prystayko;

h. Vice President Pence's September 18, 2019, call with President Zelensky; and

i. A meeting between President Trump and President Zelensky during the United Nations General Assembly on or about September 25 2019, including but not limited to any discussion of their July 25, 2019, phone call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

4. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph DiGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

5. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, DOD, DOS , DOE, United States Agency for International Development (USAID), ODNI, or agencies in the IC;

6. The timing, content, and manner for communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;

7. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS , DOE, USAID, ODNI or the IC, including funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);

8. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including transmitting a "special message" to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;

9. Opinions, advice, counsel, approvals, or concurrences provided by OMB, NSC, the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;

10. The rate of obligations or expenditure for foreign assistance of any kind provided by DOD, DOS, DOE, USAID, or IC agencies to Ukraine, including the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;

11. Any delegation or revocation of apportionment authority involving OMB political or career officials;

12. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019, among others;

13. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision; and

14. Meetings, calls, or other engagements with Ukrainian officials regarding potential or actual delays in the provision of funding or implementation of U.S. foreign assistance, including security assistance, to Ukraine.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the subpoena, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. To expedite our review, we request that you produce any responsive materials immediately upon being identified, rather than waiting to submit all documents at one time.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's subpoena to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as

thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every

such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel

in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The term "entity" means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

4. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, smartphone, mail, telex, facsimile, computer, encrypted app, in-person discussions, releases, delivery, or otherwise.

5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

6. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

7. The terms or "relating" "concerning" with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To MICHAEL DUFFEY

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 5, 2019 Time: 9:30a.m

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 24th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Robert F Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for MICHAEL DUFFEY

Address _____

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/25/2019

Signature of Server _____

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To MICHAEL ELLIS

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 4, 2019 Time: 2:00 PM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 1st day of NOVEMBER, 2019.

Chairman or Authorized Member

Attest:

Maria J. Lott, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for
MICHAEL ELLIS, ESQ.
Address NATIONAL SECURITY COUNCIL, EISENHOWER EXECUTIVE OFFICE BLDG., WASHINGTON, D.C. 20504
before the House Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar
Title General Counsel, House Permanent Select Committee on Intelligence
Manner of service
Date 11/03/2019
Signature of Server
Address

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HONORABLE JOHN MICHAEL ("MICK") MULVANEY

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: NOVEMBER 8, 2019 Time: 9:00AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 4TH day of NOVEMBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for THE HONORABLE JOHN MICHAEL ("MICK") MULVANEY

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/7/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To AMBASSADOR PHILIP T. REEKER

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, US CAPITOL

Date: OCTOBER 26, 2019 Time: 11:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 21ST day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for AMBASSADOR PHILIP T. REEKER

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/25/19

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HON. JAMES RICHARD "RICK" PERRY, SECRETARY, U.S. DEPT. OF ENERGY

You are hereby commanded to be and appear before the Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☒ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: HPSCI, THE CAPITOL, HVC-304

Date: OCTOBER 18, 2019 Time: 5:00 P.M.

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 9th day of October, 2019.

Chairman or Authorized Member

Attest:

Glenn J. Lett, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for The Hon. James Richard "Rick" Perry, Secretary, U.S. Department of Energy

Address 1000 Independence Avenue S.W., Washington, D.C. 20585

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date October 10, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, James Richard "Rick" Perry, in your capacity as Secretary of Energy, are hereby required to produce, for the time period from February 1, 2019, to the present, all documents and communications referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:

    a. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";

    b. All preparatory memoranda and materials including the full presidential call package and any addenda;

    c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;

    d. All memoranda, briefing materials, summaries, and other documents received by you or officials in the Department of Energy (DOE) referring or relating to the July 25, 2019, call;

2. Communications between or among current or former officials of any of the following entities referring or relating in any way to the April 21, 2019, or July 25, 2019, telephone conversations:

    a. The White House, including the Office of the Vice President (OVP), the White House Counsel's Office, the National Security Council (NSC), the Office of Management and Budget (OMB), or the White House Situation Room;

    b. The Department of Justice (DOJ);

    c. The Department of State (DOS);

    d. The Department of Defense (DOD);

    e. The Department of Energy (DOE); and

    f. Agencies in the Intelligence Community (IC);

3. Any of the following actual or potential meetings or contacts:

   a. All telephone calls, meetings, visits, or other communication involving President Trump and President Zelensky, including but not limited to requests, suggestions, proposals, or other communications;

   b. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend or send Vice President Mike Pence to lead the U.S. delegation, and instead to send you;

   c. A meeting on or about May 21, 2019, in Kyiv, Ukraine including you, former Special Representative for Ukraine Negotiations Ambassador Kurt Volker,a nd Ambassador to the European Union Gordon Sondland, as well as Ukrainian officials and representatives of the Ukrainian energy sector;

   d. A meeting at the White House on or about May 23, 2019, involving you, President Trump, Ambassador Kurt Volker, Ambassador Gordon Sondland, and others, including a discussion relating to Ukraine and/or Rudolph ("Rudy") W. Giuliani;

   e. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including you, former National Security Advisor John Bolton, Ambassador Kurt Volker, and Ambassador Gordon Sondland, as well as the proposed or actual participation of Vice President Mike Pence and/or President Trump in the meeting;

   f. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on or about September 1, 2019, including President Trump's decision to cancel his attendance;

   g. All meetings and communications between U.S. officials, including but not limited to you, Vice President Mike Pence, or Senior Advisor Jared Kushner, and President Zelensky or other Ukrainian government officials in Warsaw, Poland on or around September 1, 2019;

   h. Secretary Pompeo's September 17, 2019, call with the Ukrainian Foreign Minister Vadym Prystayko;

   i. Vice President Pence's September 18, 2019, call with President Zelensky; and

   j. All meetings between President Trump and President Zelensky during the United Nations General Assembly on or about September 25, 2019, including but not limited to any discussion of their July 25, 2019, phone

call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;

4. Efforts by any current or former member of the Trump Administration or Rudy Giuliani, Igor Fruman, Lev Parnas, and Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, former U.S. Ambassador Marie "Masha" Yovanovitch, and/or any U.S. persons or entities;

5. Naftogaz, including all proposed or actual changes to the company's Board of Directors, potential or actual proposals for business or new contracts involving Naftogaz, and communications referencing or related to the company from, to, or referencing Rudy Giuliani, Igor Fruman, Lev Parnas, Sam Kislin, Harry Sargeant III, Amos Hochstein, Robert Bensh, Michael Bleyzer, Haley Baumgardner, 45 Energy Group, Andriy Kobolyev, Andrew Favorov, Dale W. Perry, Joseph diGenova, Victoria Toensing, and/or Vitaly Pruss;

6. Proposed or actual transactions, investments, or projects relating to liquefied natural gas (LNG) in Ukraine;

7. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, DOD, DOS, DOE, the United States Agency for International Development (USAID), ODNI, or agencies in the IC;

8. Interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and/or July 31, 2019, among others;

9. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including any notes, memoranda, documentation or correspondence related to the decision; and

10. All meetings or discussions with Rudy Giuliani referring or relating to Ukraine.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To ROBERT BLAIR

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 4, 2019 Time: 9:00 AM

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 1st day of NOVEMBER, 2019.

Chairman or Authorized Member

Attest: Thomas J. Scott, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for ROBERT B. BLAIR

Address C/O WHITNEY C. ELLERMAN, ELLERMAN ENZINNA PLLC,
1050 30TH ST. NW, WASHINGTON, D.C. 20007

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/03/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To THE HONORABLE RUSSELL T. VOUGHT, ACTING DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL

Date: OCTOBER 15, 2019 Time: 5:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 7th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest:

Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for THE HONORABLE RUSSELL T. VOUGHT

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) MAHER BITAR

Title GENERAL COUNSEL

Manner of service ELECTRONIC MAIL

Date OCTOBER 7, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Russell Vought, in your capacity as Acting Director of the Office of Management and Budget (OMB), are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession, or control referring or relating to:

1. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to communications among or between individuals in the White House, OMB, the Office of the Vice President (OVP), the Department of Defense (DOD), the State Department (DOS), the Department of Energy (DOE), the United States Agency for International Development (USAID), or agencies in the Intelligence Community (IC);

2. The timing, content, and manner of communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;

3. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS, DOE, USAID, or the IC, including but not limited to the withholding of funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);

4. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including but not limited to transmitting a "special message" to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;

5. Opinions, advice, counsel, approvals, or concurrences provided by OMB, the National Security Council (NSC), the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;

6. The rate of obligation or expenditure for foreign assistance of any kind provided by DOD, State, DOE, USAID, or IC agencies to Ukraine, including but not limited to the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;

7. Any delegation or revocation of apportionment authority involving OMB political or career officials;

8. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019; and

9. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision.

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the subpoena, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. To expedite our review, we request that you produce any responsive materials immediately upon being identified, rather than waiting to submit all documents at one time.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's subpoena to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as

thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every

such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel

in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The term "entity" means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

4. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, smartphone, mail, telex, facsimile, computer, encrypted app, in-person discussions, releases, delivery, or otherwise.

5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

6. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

7. The terms or "relating" "concerning" with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To RUSSELL VOUGHT

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

Date: NOVEMBER 6, 2019 Time: 9:30 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 24th day of OCTOBER, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for RUSSELL VOUGHT

Address _____

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/25/2019

Signature of Server _____

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Timothy Morrison

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

☑ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: Room 1100, Longworth House Office Building, Washington, D.C.

Date: Nov. 19, 2019 Time: 2:30 p.m.

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 12th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Timothy Morrison

Address

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 11/19/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Tim Morrison

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI, HVC-304, The Capitol

Date: 10/31/19 Time 8:00 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 24th day of October, 2019.

Chairman or Authorized Member

Attest:

Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for Tim Morrison

Address C/o Barbara Van Gelder, Esq., Cozen O'Connor, 1200 19th Street, N.W.

Washington, D.C. 20036

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/31/2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Thomas Ulrich Breckbuhl

You are hereby commanded to be and appear before the

House Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI; HVC-304, The Capitol

Date: 11/6/2019 Time: 9:30 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 24th day of October, 2019.

Chairman or Authorized Member

Attest: Robert F. Reeves, Deputy Clerk

Clerk

PROOF OF SERVICE

Subpoena for Thomas Ulrich Brechbuhl

Address C/o Ronald J. Tenpas, Esq., Vinson & Elkins, 2200 Pennsylvania Ave. N.W., Suite 500 W

Washington, D.C. 20037

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date 10/25/2019

Signature of Server [signature]

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Preston Wells Griffith

You are hereby commanded to be and appear before the

Permanent Select Committee on Intelligence

of the House of Representatives of the United States at the place, date, and time specified below.

☐ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____

Date: _____ Time: _____

☑ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: HPSCI, HVC-304, The Capitol

Date: November 5, 2019 Time: 9:00 a.m.

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time: _____

To The U.S. Marshals Service, or any authorized Member or congressional staff

to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 4th day of November, 2019.

Chairman or Authorized Member

Attest:

Clerk

PROOF OF SERVICE

Subpoena for Preston Wells Griffith

Address C/o Karen Williams, Esq., Cozen O'Connor, 1200 19th Street NW, Washington, D.C. 20036

before the Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel

Manner of service Electronic Mail

Date November 4, 2019

Signature of Server

Address Permanent Select Committee on Intelligence, HVC-304, U.S. Capitol

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

The Honorable Michael R. Pompeo, Secretary of State, U.S. Department of State

To _____

You are hereby commanded to be and appear before the

Committee on Foreign Affairs

of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: Rayburn House Office Building 2170, U.S. House of Representatives

Date: October 4, 2019 Time: 12:00 pm

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____

Date: _____ Time _____

To Any authorized staff member or U.S. Marshals Service

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 27 day of September, 2019.

Eliot L. Engel

Chairman or Authorized Member

Attest:

Clerk

SCHEDULE A

In accordance with the attached Definitions and Instructions, you, Secretary of State, Michael R. Pompeo, are hereby required to produce all documents and communications, from January 20, 2017 to the present, relating or referring to:

1. The potential or suggested investigations and legal cases referenced in the September 9, 2019 letter from Chairmen Engel, Schiff, and Cummings (attached as Exhibit 1), including but not limited to those relating to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, and Burisma Holdings Ltd.;

2. Efforts by any U.S. persons, including but not limited to Rudolph W. Giuliani and individuals working in concert with Mr. Giuliani, including but not limited to Igor Fruman, Lev Parnas, and Semyon ("Sam") Kislin, to induce, compel, petition, press, solicit, suggest, or otherwise influence former or present Ukrainian government officials, politicians, or other persons of influence in Ukraine, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma Holdings Ltd., or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

3. Communications between any current or former State Department officials or employees and Rudolph W. Giuliani, including any text messages using personal or work-related devices;

4. Communications between any current or former Trump Administration officials or employees and President Zelensky or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for President Zelensky, relating to paragraphs 2 and 12 of this Schedule;

5. Communications between or among any current or former Trump Administration officials or employees (including but not limited to the Vice President, the Secretary of State, Secretary of Energy, former National Security Advisor John Bolton, and Senior Advisor to the President Jared Kushner, Deputy Secretary John Sullivan, Under Secretary for Political Affairs David Hale, Assistant

Secretary of State for European Affairs A. Wess Mitchell, Acting Assistant Secretary of State for European Affairs Phillip Reeker, Charge de Affairs William Taylor, former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, Counselor T. Ulrich Brechbuhl, as well as the aforementioned officials/employees' immediate senior advisors and staff), as well as any briefing memoranda and/or talking points, relating to paragraphs 2 and 12 of this Schedule;

6. The removal of former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch;

7. A potential visit of President Zelensky to the United States;

8. A potential meeting between President Trump and President Zelensky in Poland on/about early September 2019;

9. President Zelensky's inauguration on May 20, 2019, including but not limited to possible attendance of the Vice President and the Secretary of Energy;

10. President Trump's April 21, 2019 call ("April 21 Call") and July 25, 2019 call ("July 25 Call") with Ukrainian President Volodymyr Zelensky, including all transcripts, notes, or other documents memorializing or summarizing the April 21 Call and the July 25 Call, as well as any communications with the White House, the Department of Justice, the Federal Bureau of Investigation, the Department of Energy, and the Office of the Director of National Intelligence relating or referring to the April 21 Call or the July 25 Call;

11. The identity of any individuals who listened to, participated in, assisted in preparation for, and/or received a readout (formally or informally, written or oral) of the April 21 Call and the July 25 Call; and

12. The actual or potential suspension, withholding, delaying, or releasing of foreign assistance of any kind, including security assistance, to Ukraine, including all communications with the White House, the Department of Defense, and the Office of Management and Budget relating to the same.

INSTRUCTIONS

In responding to the document request, please apply the instructions and definitions set forth below:

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff and one set to the minority staff in Room 2170 of the Rayburn House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege

applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

SCHEDULE DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded and whether original or copy, including, but not limited to, the following: memoranda; reports; expense reports; books; manuals; instructions; financial reports; data; working papers; records; notes; letters; notices; confirmations; telegrams; receipts; appraisals; pamphlets; magazines; newspapers; prospectuses; communications; contracts; cables; notations of any type of conversation; telephone call; meeting or other inter-office or intra-office communication; bulletins; emails; electronic messages (including, but not limited to, both government and commercial/personal email accounts, text messages, or messaging services such as WhatsApp, Signal, Viber, Facebook, Twitter, and/or Telegram), regardless of whether such records were created, modified, sent, or received on an official or personal address or device, as well as log files and metadata; printed matter; computer printouts; teletypes; invoices; transcripts; diaries; analyses; returns; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; press releases; circulars; financial statements; reviews; opinions; offers; studies and investigations; questionnaires and surveys; and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto); and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures); and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. For the purposes of this request, "preserve" means taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutilation of records, including but not limited to emails and handwritten notes, as well as negligent or intentional handling which would foreseeably make such records incomplete or inaccessible. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in an in-person meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

7. "You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any other person(s) defined in the document request letter.

8. The term "employee" means agent, borrowed employee, casual employee, consultant, de facto employee, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, contract employee, contractor, or any other type of service provider.

9. The term "Administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf or under the control or direction of the Executive Branch.

EXHIBIT 1

Congress of the United States
Washington, DC 20515

September 9, 2019

The Honorable Mike Pompeo
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Mr. Secretary:

The Committees on Foreign Affairs, Intelligence, and Oversight and Reform jointly request documents related to reported efforts by President Trump and his associates to improperly pressure the Ukrainian government to assist the President's bid for reelection.

A growing public record indicates that, for nearly two years,[1] the President and his personal attorney, Rudy Giuliani,[2] appear to have acted outside legitimate law enforcement and diplomatic channels to coerce the Ukrainian government into pursuing two politically-motivated investigations under the guise of anti-corruption activity. The first is a prosecution of Ukrainians who provided key evidence against Mr. Trump's convicted campaign manager Paul Manafort. That investigation aims to undercut the Mueller Report's overwhelming evidence that Russia interfered in the 2016 election to support Trump's campaign. The other case targets the son of former Vice President Joseph R. Biden, who is challenging Mr. Trump for the presidency in 2020.

As the 2020 election draws closer, President Trump and his personal attorney appear to have increased pressure on the Ukrainian government and its justice system in service of President Trump's reelection campaign, and the White House and the State Department may be abetting this scheme.[3]

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[1] *See* tweet @realDonaldTrump, July 25, 2017 ("Ukrainian efforts to sabotage Trump campaign – 'quietly working to boost Clinton.' So where is the investigation A.G. @seanhannity") (online at: https://twitter.com/realDonaldTrump/status/889788202172780544?s=20). This tweet was also referenced by Special Counsel Robert Mueller in his investigation of President's Trump's possible obstruction of justice. *See* Mueller Report, Vol. II, at p 96, FN 660.

[2] *See* Victor Pinchuk Foundation, June 8, 2017, *107th Mayor of New York Rudy Giuliani Gave Public Lecture at the Invitation of the Victor Pinchuk Foundation,* noting the first publicly-reported meeting between Mr. Giuliani and Prosecutor General of Ukraine Petro Poroshenko (online at https://pinchukfund.org/en/news/20207/).

[3] Kenneth P. Vogel and Andrew E. Kramer, *Giuliani Renews Push for Ukraine to Investigate Trump's Political Opponents,* N.Y. Times, August 21, 2019 (online at: https://www.nytimes.com/2019/08/21/us/politics/giuliani-ukraine.html).

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According to the Ukrainian government, in a July 25, 2019 call with Ukraine's President Volodymyr Zelenskyy, President Trump apparently focused on these investigations, telling President Zelenskyy that he is "convinced the new Ukrainian government will be able to quickly improve [the] image of Ukraine, [and] complete [the] investigation of corruption cases, which inhibited the interaction between Ukraine and the USA."[4] The next day, Ambassador Kurt Volker, U.S. Special Representative for Ukraine, was dispatched to meet with President Zelenskyy.[5] Days later, the President's personal attorney met Andriy Yermak, an aide to President Zelenskyy, in Spain, where the President's personal attorney, who has no official administration or diplomatic position, reportedly suggested a "possible heads of state meeting" between Presidents Trump and Zelenskyy[6] and tweeted an accusation about former Vice President Biden's son.[7] The State Department subsequently acknowledged that Ambassador Volker used his office to facilitate the meeting between the two.[8] Although the State Department has insisted that President Trump's attorney is "a private citizen" who "does not speak on behalf of the U.S. Government," Mr. Yermak publicly stated that "it was not clear to him whether Mr. Giuliani was representing Mr. Trump in their talks."[9]

President Trump has also threatened to withhold[10] more than $250 million in security assistance that Congress has appropriated, the Pentagon supports,[11] and Ukraine desperately needs. Ukraine's sovereignty and territorial integrity are under assault from Russia and its proxies in illegally-occupied Ukrainian territory. If the President is trying to pressure Ukraine into choosing between defending itself from Russian aggression without U.S. assistance or

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[4] *See* Official Website of the President of Ukraine, *Volodymyr Zelenskyy had a phone conversation with President of the United States*, July 25, 2019 (online at: https://www.president.gov.ua/en/news/volodimir-zelenskij-proviv-telefonnu-rozmovu-z-prezidentom-s-56617).

[5] *See* tweet by U.S. Embassy Kyiv, July 26, 2019, showing Ambassador Volker meeting with President Zelenskyy (online at: https://twitter.com/USEmbassyKyiv/status/1154712337368190976?s=20)

[6] *See* Kenneth P. Vogel and Andrew E. Kramer, *supra* n. 3.

[7] *See* tweet by Rudy Giuliani, August 3, 2019 from Santa Cruz del Retamar, Espana (online at: https://twitter.com/RudyGiuliani/status/1157778959653842945?s=20) ("The Politico coverup article doesn't mention the bribery of Ukraine Pres. by then VP Biden to get the case against his son dismissed. Nor does it explain the Chinese pay-off of $1.5billion to Biden's useless fund. Joe took his son on AFII to get the investment. It stinks!!").

[8] *See* State Department Spokesperson Statement, August 22, 2019 (online at: https://twitter.com/kenvogel/status/1164666081501470727/photo/1)

[9] *See* Kenneth P. Vogel and Andrew E. Kramer, *supra* n. 3.

[10] Caitlin Emma and Connor O'Brien, *Trump Holds Up Ukraine Military Aid Meant to Confront Russia*, Politico, August 29, 2019 (online at: https://www.politico.com/story/2019/08/28/trump-ukraine-military-aid-russia-1689531).

[11] Bryan Bender, *Pentagon Wants Ukraine Military Aid to Continue*, Politico, August 29, 2019 (online at: https://www.politico.com/story/2019/08/29/pentagon-wants-ukraine-military-aid-to-continue-1477957).

leveraging its judicial system to serve the ends of the Trump campaign, this would represent a staggering abuse of power, a boon to Moscow, and a betrayal of the public trust. That the State Department has apparently acted as a broker between President Trump's personal attorney and Ukrainian officials raises serious concerns that the Department is complicit in a corrupt scheme that undercuts U.S. foreign policy and national security interests in favor of the President's personal agenda.

Congress has a constitutionally-mandated obligation to conduct oversight, protect the sanctity of our elections, and ensure that the nation's diplomatic resources and foreign assistance are being deployed for the benefit of the United States, not the personal interests of the President. In order to fulfill this obligation and determine what legislative reform may be required, we request that the White House preserve all documents, communications, and other data ("records"), regardless of format, that may be required for the Committees' oversight and investigative duties relating to this subject. The term "records" is broad and includes both paper and electronic records.[12] Specifically, the State Department should:

1. identify and notify all current and former employees and contractors, subcontractors, consultants, and Special Government Employees who may have access to such records that they are to be preserved;

2. identify, record, and preserve any records which have been deleted or marked for deletion but are still recoverable; and

3. if it is the routine practice of any employee or contractor to destroy or otherwise alter such records, either halt such practices or arrange for the preservation of complete and accurate duplicates or copies of such records, suitable for production, if requested.

In addition, we request that the Department produce to the Committees the following,[13] no later than **Monday, September 16**:

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[12] This includes emails, electronic messages (including, but not limited to, both government and commercial/personal email accounts, text messages, or messaging services such as WhatsApp, Signal, Viber, Facebook, Twitter, and/or Telegram), regardless of whether such records were created, modified, sent, or received on an official or personal address or device, as well as log files and metadata. For purposes of this request, "preserve" means taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutilation of records, including but not limited to emails and handwritten notes, as well as negligent or intentional handling which would foreseeably make such records incomplete or inaccessible.

[13] Any alternate spellings or transliterations of any names reference herein would also render a document responsive to these requests.

1. Any and all correspondence sent to or received by the State Department from January 20, 2017 to the present related to or referring in any way to the potential or suggested investigations/legal cases referred to in this letter. This includes, but is not limited to, correspondence regarding or referring to Paul Manafort, Serhiy Leshchenko, the "Black Ledger," Hunter Biden, Burisma Holdings, former Ukrainian Prosecutor General Yuriy Lutsenko, or Presidential Aide Andriy Yermak in the context of these potential or suggested investigations/legal cases.

2. Any copies in the State Department's, custody, or control of the transcript of President Trump's July 25, 2019 call with Ukrainian President Zelenskyy (the "July 25 Call").

3. Any and all records generated or received by the State Department in connection with, or that refer or relate in any way to the July 25 Call.

4. A full list of any Department officials who participated in, assisted in preparation for, or received a readout of the July 25 Call.

5. Any and all records generated or received by Department officials with or referring to President Trump's personal attorney, Rudy Giuliani.

6. Any and all records generated or received by any State Department staff in connection with, or that refer or relate in any way to the actual or potential suspension of security assistance to Ukraine.

Relevant custodians for responsive records include, but are not limited to:

1. the Office of the Secretary, including the Policy Planning Staff, the Counselor;
2. the Office of the Deputy Secretary;
3. the Office of the Undersecretary for Political Affairs;
4. Ambassador Kurt Volker and the office of the Special Representative for Ukraine;
5. The Bureau of European Affairs; and
6. U.S. Embassy Kyiv.

The Committees are prepared to work with the Department to facilitate the production of these documents.

The Honorable Mike Pompeo
September 9, 2019
Page Five

Sincerely,

ELIOT L. ENGEL
Chairman
House Foreign Affairs Committee

ADAM SCHIFF
Chairman
House Permanent Select Committee
On Intelligence

ELIJAH E. CUMMINGS
Chairman
House Committee on Oversight and Reform

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To RUDOLPH ("RUDY") W. L. GIULIANI

You are hereby commanded to be and appear before the
House Permanent Select Committee on Intelligence
of the House of Representatives of the United States at the place, date, and time specified below.

☑ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: PERMANENT SELECT COMMITEE ON INTELLIGENCE, HVC-304, U.S. CAPITOL
Date: OCTOBER 15, 2019 Time: 3:00 PM

☐ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time _____

To U.S. Marshals Service, or any authorized Member or congressional staff
to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, D.C. this 30 day of SEPTEMBER, 2019.

Chairman or Authorized Member

Attest: Thomas J. Sett, Deputy Clerk
Clerk

PROOF OF SERVICE

Subpoena for RUDOLPH ("RUDY") W. L. GIULIANI

Address

before the House Permanent Select Committee on Intelligence

U.S. House of Representatives
116th Congress

Served by (print name) Maher Bitar

Title General Counsel, House Permanent Select Committee on Intelligence

Manner of service ELECTRONIC MAIL

Date SEPTEMBER 30, 2019

Signature of Server

Address HVC-304, U.S. CAPITOL

SCHEDULE

The House Permanent Select Committee on Intelligence compels Rudy Giuliani to preserve and produce to the Committees all documents and communications for the period of **January 20, 2017, through the present** (unless otherwise noted), regardless of form and as defined below, referring or relating to:[2]

(1) Hunter Biden, Mykola Zlochevsky, Burisma Holdings Ltd. ("Burisma"), or any employee or agent of Burisma;

(2) Efforts, including but not limited to those by you, Igor Fruman, Lev Parnas, Vitaly Pruss, Semyon ("Sam") Kislin, Joseph diGenova, or Victoria Toensing, to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian government officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Burisma, or any U.S. persons or entities, including but not limited to Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, or Hillary Clinton, as well as any responses by current or former Ukrainian government officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, concerning the same;

(3) Serhiy Leschenko, Igor Kolomoisky, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for these individuals, including but not limited to efforts to induce, compel, petition, press, solicit, suggest, or otherwise pressure current or former Ukrainian officials, politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, to investigate matters related to Leshchenko and Kolomoisky, and any documents, communications, or meetings with former Prosecutor General Yuri Lutsenko related to these matters;

(4) United States foreign assistance to Ukraine, including but not limited to the Ukraine Security Assistance Initiative and any efforts to withhold, delay, or release security assistance to Ukraine;

(5) Ukrainian President Volodymyr Zelensky's inauguration on May 20, 2019, including but not limited to possible attendance by Vice President Michael Pence and Secretary of Energy Rick Perry;

(6) A meeting at the White House on May 23, 2019 involving former Ambassador Kurt Volker, Secretary Rick Perry, and/or Ambassador Gordon Sondland;

(7) Meetings or telephone communications between President Trump and President Zelensky, including but not limited to an April 21, 2019 call ("April 21 Call") and a July

[2] Any alternate spellings or transliterations of any names referenced herein would also render a document responsive to these requests.

25, 2019 call ("July 25 Call"), as well as any communications with the White House, the Department of Justice, the Federal Bureau of Investigation, the Department of Energy, the Office of the Director of National Intelligence, and the Office of the Inspector General of the Intelligence Community relating or referring to the April 21 Call or the July 25 Call;

(8) Communications or meetings with Ukrainian government officials or politicians, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals;

(9) Communications or meetings with Attorney General William Barr or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for Attorney General Barr;

(10) Travel (whether completed or not) by you or by any individual at your direction or on your behalf to Ukraine, France, or Spain, including for any meeting between you and Andriy Yermak in Spain on or about August 2, 2019, including but not limited to any documents and communications regarding the planning, travel, funding, itineraries, schedules, agendas, meetings, call notes, or read-outs relating to the trip, as well as the identity of any Ukrainian officials or their agents, representatives, or proxies who met with trip participants;

(11) TriGlobal Strategic Ventures and 45 Energy Group;

(12) Potential or actual visits of President Zelensky or current or former Ukrainian officials to the United States;

(13) A potential meeting between President Trump and President Zelensky in Poland in or around September 2019, including President Trump's decision not to attend the meeting and the decision to send Vice President Pence in his stead;

(14) Former U.S. Ambassador to Ukraine Marie "Masha" Yovanovitch, including but not limited to the former Ambassador's recall or dismissal;

(15) Petro Poroshenko, Volodymyr Zelensky, Nazar Kholodnitsky, Andriy Telizhenko, Andriy Yermak, Yuri Lutsenko, Serhiy Shefir, Ivan Bakanov, Ruslan Ryaboshapka, Andriy Bogdan, Kostiantyn Kulyk, Victor Shokin, Lena ("Olena") Zerkal, Andriy Favorov, Gennady Bogolyubov, or anyone who is or has been associated with Ukrainian law enforcement or anti-corruption organizations or entities, including but not limited to the office of the Prosecutor General, the Special Anti-Corruption Prosecutor's Office, or the National Anti-Corruption Bureau of Ukraine (NABU);

(16) Semyon "Sam" Kislin, Igor Fruman, Victor Pruss, Sergey Probylov, or Lev Parnas, including but not limited to any agreements between the aforementioned individuals and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to the aforementioned individuals, or that they have

provided to you (directly or indirectly); the aforementioned individuals' travel to or from Ukraine; and meetings and communications involving the aforementioned individuals and former or present Ukrainian officials, politicians, or other persons of influence, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals; and any services performed or actions taken by the aforementioned individuals for you or at your direction;

(17) Pavel Fuks, including but not limited to any agreements between Fuks and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to Fuks, or that he has provided to you (directly or indirectly); and any services performed or actions taken by you for or at the direction of or for the benefit of Fuks;

(18) Gennady Kernes, the Mayor of the city of Kharkiv, including but not limited to any agreements between Mayor Kernes or the Kharkiv city government or related entities (collectively, "Kharkiv City") and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to Mayor Kernes or Kharkiv City, or that they have provided to you (directly or indirectly); and any services performed or actions taken by you for or at the direction of Mayor Kernes or Kharkiv City;

(19) Vitaly Klitchko, the Mayor of the city of Kiev, including but not limited to any agreements between Mayor Klitchko or the Kiev city government or related entities (collectively, "Kiev") and you or any agent of yours or entity under your control or in which you maintain beneficial ownership; monies, funds, gifts, contributions, donations, or offers of anything of value that you have provided to Mayor Klitchko or Kiev, or that they have provided to you (directly or indirectly); and any services performed or actions taken by you for or at the direction of Mayor Klitchko or Kiev;

(20) Any current or former officials or employees of the U.S. Government, including but not limited to former Ambassador Kurt Volker, Secretary Rick Perry, and Ambassador Gordon Sondland, regarding the subjects described in paragraphs 1 through 19;

(21) Engagements, consulting, advising, or lobbying work for the benefit of or on behalf of Ukraine, Ukrainian officials, Ukrainian politicians, or state-owned enterprises undertaken by you or any of your firms, including, but not limited to Giuliani Partners LLC, Giuliani Security & Safety LLC, Giuliani Capital Advisors LLC, their affiliated entities, and any other entities in which you maintain beneficial ownership, or for which you serve as an officer, director, or advisor; and

(22) Monies, funds, gifts, contributions, donations, or offers of anything of value made directly or indirectly to U.S. political campaigns, candidates, parties, political action committees (PACs) and super PACs by any foreign individuals or entities of any type (*e.g.*, government, business, organization, etc.), individuals or entities on the Office of Foreign Assets Control's (OFAC) list of Specially Designated Nationals and Blocked

Persons (SDNs) or Sectoral Sanctions Identifications List, or any persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals or entities.

The Committee also requires you to produce:

(23) Any and all documents supplied by you in response to any subpoena, search warrant, seizure warrant, summons, or other legal writ, notice, investigation or order or request for information, property, or material, made by Congress or any U.S. federal or state agency, that could lead to discovery of any facts within the Committee's investigation, or efforts to obstruct authorized investigations into these matters.

To expedite the Committee's review, responsive materials should be produced immediately upon being identified, rather than waiting to submit all documents at one time, and all material produced be bates-stamped and provided in a searchable, Adobe PDF electronic format.

# # #

RESPONDING TO COMMITTEE SUBPOENAS

In responding to the subpoena, please apply the instructions and definitions set forth below:

INSTRUCTIONS

1. In complying with this request, you should produce all responsive documents in unredacted form that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you. To expedite our review, we request that you produce any responsive materials immediately upon being identified, rather than waiting to submit all documents at one time.

2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.

3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.

4. Each document should be produced in a form that may be copied by standard copying machines.

5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's subpoena to which the document responds.

6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced. Documents produced on paper (those from paper files that you choose to produce as such) shall not contain any permanent fasteners (i.e., staples), but shall be separated based on the divisions between documents as it is maintained in the custodian's files by non-permanent fasteners (e.g., paper clips, binder clips, rubber bands) or a non-white slip sheet.

7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.

8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.

9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as

thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.

10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

a. how the document was disposed of;
b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
c. the date of disposition;
d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be Bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide a log containing the following information concerning every

such document: (i) the reason the document is not being produced; (ii) the type of document; (iii) the general subject matter; (iv) the date, author and addressee; (v) the relationship of the author and addressee to each other; and (vi) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

(a) Any objections or claims of privilege are waived if you fail to provide an explanation of why full compliance is not possible and a log identifying with specificity the ground(s) for withholding each withheld document prior to the request compliance date.

(b) In complying with the request, be apprised that (unless otherwise determined by the Committee) the Committee does not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative-process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.

(c) Any assertion by a request recipient of any such non-constitutional legal bases for withholding documents or other materials, for refusing to answer any deposition question, or for refusing to provide hearing testimony, shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee (or the chair of the Committee, if authorized) has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you must submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request; and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

20. When representing a witness or entity before the Committee in response to a document request or request for transcribed interview, counsel for the witness or entity must promptly submit to the Committee a notice of appearance specifying the following: (a) counsel's name, firm or organization, and contact information; and (b) each client represented by the counsel

in connection with the proceeding. Submission of a notice of appearance constitutes acknowledgement that counsel is authorized to accept service of process by the Committee on behalf of such client(s), and that counsel is bound by and agrees to comply with all applicable House and Committee rules and regulations.

DEFINITIONS

1. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

2. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: agreements; papers; memoranda; correspondence; reports; studies; reviews; analyses; graphs; diagrams; photographs; charts; tabulations; presentations; marketing materials; working papers; records; records of interviews; desk files; notes; letters; notices; confirmations; telegrams; faxes, telexes, receipts; appraisals; interoffice and intra office communications; electronic mail (e-mail) and attachments; electronic messages; text messages; contracts; cables; recordings, notations or logs of any type of conversation, telephone call, meeting or other communication; bulletins; printed matter; computer printouts; teletype; invoices; transcripts; audio or video recordings; statistical or informational accumulations; data processing cards or worksheets; computer stored and/or generated documents; computer databases; computer disks and formats; machine readable electronic files, data or records maintained on a computer; instant messages; diaries; questionnaires and responses; data sheets; summaries; minutes; bills; accounts; estimates; projections; comparisons; messages; correspondence; electronically stored information and similar or related materials. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

3. The term "entity" means a corporation, partnership, limited partnership, limited liability company, joint venture, business trust, or any other form or organization by which business or financial transactions are carried out.

4. The term "communication" means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face to face, in meetings, by telephone, smartphone, mail, telex, facsimile, computer, encrypted app, in-person discussions, releases, delivery, or otherwise.

5. The terms "and" and "or" shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this subpoena any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.

6. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

7. The terms or "relating" "concerning" with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.