Garvey, Kevin P. EOP/WHO

From:	Garvey, Kevin P. EOP/WHO
Sent:	Thursday, April 18, 2019 11:01 AM
To:	(b)(6), (b)(7)(C) per FBI (OGC) (FBI)
Cc:	Lytle, Mark D. EOP/WHO; Lasseter, David F. (OLA) (JMD); (b)(6), (b)(7)(C) per FBI (DO) (FBI)
Subject:	RE: FBI Congressional Oversight Statistics

Thanks very much, (b)(6), (b)(7)(C) per FBI

Best,
K.

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Sent: Thursday, April 18, 2019 10:32 AM
To: Garvey, Kevin P. EOP/WHO (b) (6)
Cc: Lytle, Mark D. EOP/WHO (b) (6); Lasseter, David F. (OLA) (JMD) (b) (6) >; (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Subject: RE: FBI Congressional Oversight Statistics

DELIBERATIVE
FOR OFFICIAL USE ONLY

Good morning Kevin:

Below is the information you requested, as of last Friday:

Oversight Statistics for 116th Congress Only:

-

- Number of FBI Congressional Hearings: Four.
- Number of FBI Witnesses appearing at those hearings: Four.
- Number of FBI Briefings to Congress: 43.
- Number of requests from Congress for information/documents: 435 total incoming letters. Many of these letters seek information or production of materials and require a substantive response. But, the FBI does track separately those letters that are just referrals or constituent inquiries. My best estimation is that roughly 20% of the letters are oversight or other similar requests that require a more involved review and response process.
- Number of FBI responses/letters sent back to Congress: 173 outgoing letters.
- Number of FBI documents/pages (approximation is fine) produced to Congress: We have gathered and made available for *in camera* review hundreds of pages of documents. We continue to gather and review hundreds, perhaps thousands more that may eventually be produced or made available for review.
- Number of Hours (approximation is fine) spent responding to requests for information and documents: Hundreds, likely thousands, of man hours. FBI OCA has a Unit dedicated to Congressional oversight and investigations that is responsible for managing many of these inquires. In addition, there are other Units in OCA that handle briefings and hearings. And, OCA works in conjunction with, or is supported by, the Office of the General Counsel and the relevant operational divisions providing information, documents, or witnesses.

From: Garvey, Kevin P. EOP/WHO [mailto: (b) (6)
Sent: Thursday, April 11, 2019 6:06 PM
To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Cc: Lytle, Mark D. EOP/WHO (b) (6)
Subject: RE: FBI Congressional Oversight Statistics

Thanks (b)(6), (b)(7)(C) We appreciate the assistance.

Best,
K.

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Sent: Thursday, April 11, 2019 5:22 PM
To: Garvey, Kevin P. EOP/WHO (b) (6)
Cc: Lytle, Mark D. EOP/WHO < (b) (6)
Subject: RE: FBI Congressional Oversight Statistics

Hi Kevin and Mark:

We are still working on this. I hope to have something to you early next week.

Best,

(b)(6), (b)(7)(C) per FBI

From: Garvey, Kevin P. EOP/WHO [mailto: (b) (6)
Sent: Thursday, April 04, 2019 2:49 PM
To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Cc: Lytle, Mark D. EOP/WHO < (b) (6)
Subject: FBI Congressional Oversight Statistics

(b)(6), (b)(7)(C) per FBI

As discussed this morning, when you have a moment, would you please send me and Mark Lytle (cc'ed) FBI oversight statistics for the 116th Congress – to the extent you can estimate them? Many thanks.

Oversight Statistics for 116th Congress Only:

- Number of FBI Congressional Hearings:
- Number of FBI Witnesses appearing at those hearings:
- Number of FBI Briefings to Congress:
- Number of requests from Congress for information/documents:
- Number of FBI responses/letters sent back to Congress:
- Number of FBI documents/pages (approximation is fine) produced to Congress:
- Number of Hours (approximation is fine) spent responding to requests for information and documents:

Best,
K.

Kevin P. Garvey
Office of the White House Counsel

Office of the White House Counsel
EEOB No. 190A
(b) (6)
O: (b) (6) | C: (b) (6)

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Wednesday, April 24, 2019 3:45 PM
To:	Brosnan, Kyle; Jenny, Brenna (HHS/OGC); Chang, William (HHS/OGC); Hankey, Mary Blanche (OLA)
Cc:	Sue Bai (b) (6)); Mizelle, Chad; Block, Andrew
Subject:	RE: Call this Afternoon - Cummings Subpoena

I am available for DOJ.

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Brosnan, Kyle (b)(6) per DHS >
Sent: Wednesday, April 24, 2019 3:42 PM
To: Jenny, Brenna (HHS/OGC) <Brenna.Jenny@hhs.gov>; Chang, William (HHS/OGC) <William.Chang@hhs.gov>; Hankey, Mary Blanche (OLA) (b) (6); Greer, Megan L. (OLA) < (b) (6)
Cc: Sue Bai (b) (6)) (b) (6); Mizelle, Chad (b)(6) per DHS; Block, Andrew (b)(6) per DHS
Subject: Call this Afternoon - Cummings Subpoena

Team,

Are you available for a short call this afternoon to discuss the Cummings subpoena? We are generally free the rest of this afternoon if we find a time that works for the group. Can we pencil in 5:30?

Thanks,
Kyle

Kyle Brosnan
Oversight Counsel
U.S. Department of Homeland Security
(b)(6) per DHS (desk)
(mobile)

Brosnan, Kyle

Subject:	Call - COR Subpoena
Location:	(b) (6) Pin: (b) (6)
Start:	Wednesday, April 24, 2019 5:30 PM
End:	Wednesday, April 24, 2019 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Organizer:	Brosnan, Kyle
Required Attendees:	Mizelle, Chad; Block, Andrew; Sue Bai (b) (6) ; Chang, William (HHS/OGC); Jenny, Brenna (HHS/OGC); Greer, Megan L. (OLA); Hankey, Mary Blanche (OLA)

Brosnan, Kyle

Subject:	Call - COR Subpoena
Location:	(b) (6) Pin: (b) (6)
Start:	Wednesday, April 24, 2019 5:30 PM
End:	Wednesday, April 24, 2019 6:00 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brosnan, Kyle
Required Attendees:	Mizelle, Chad; Block, Andrew; Sue Bai (b) (6)); Chang, William (HHS/OGC); Jenny, Brenna (HHS/OGC); Greer, Megan L. (OLA); Hankey, Mary Blanche (OLA)

Garvey, Kevin P. EOP/WHO

From:	Garvey, Kevin P. EOP/WHO
Sent:	Friday, April 26, 2019 12:04 PM
To:	(b)(6), (b)(7)(C) per FBI (OGC) (FBI)
Cc:	Lytle, Mark D. EOP/WHO; Lasseter, David F. (OLA) (JMD); (b)(6), (b)(7)(C) per FBI (DO) (FBI)
Subject:	Re: FBI Congressional Oversight Statistics

Excellent. Thanks, (b)(6), (b)(7)(C) per FBI

Sent from my iPhone

On Apr 26, 2019, at 11:58 AM, (b)(6), (b)(7)(C), (b)(7)(E) per FBI wrote:

> DELIBERATIVE
> FOR OFFICIAL USE ONLY
>
> Hi Kevin:
>
> I understood you would like a sort of rolling update of the statistics requested. The numbers below that are in bold and underlined have been updated. I don't know the right frequency for updates yet but, I had our folks put this together just so you could see the change over the span of approximately two weeks.
>
> Best,
>
> (b)(6), (b)(7)(C) per FBI
>
> Oversight Statistics for 116th Congress Only:
>
> -
> - Number of FBI Congressional Hearings: Four.
> - Number of FBI Witnesses appearing at those hearings: Four.
> - Number of FBI Briefings to Congress: **51**
> - Number of requests from Congress for information/documents: **518** total incoming letters. Many of these letters seek information or production of materials and require a substantive response. But, the FBI does track separately those letters that are just referrals or constituent inquiries. My best estimation is that roughly 20% of the letters are oversight or other similar requests that require a more involved review and response process.
> - Number of FBI responses/letters sent back to Congress: **203** outgoing letters.
> - Number of FBI documents/pages (approximation is fine) produced to Congress: We have gathered and made available for *in camera* review hundreds of pages of documents. We continue to gather and review hundreds, perhaps thousands more that may eventually be produced or made available for review.
> - Number of Hours (approximation is fine) spent responding to requests for information and documents: Hundreds, likely thousands, of man hours. FBI OCA has a Unit dedicated to Congressional oversight and investigations that is responsible for managing many of these inquires. In addition, there are other Units in OCA that handle briefings and hearings. And, OCA works in conjunction with, or is supported by, the Office of the General Counsel and the

relevant operational divisions providing information, documents, or witnesses.

From: Garvey, Kevin P. EOP/WHO [(b) (6)]
Sent: Thursday, April 18, 2019 11:01 AM
To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Cc: Lytle, Mark D. EOP/WHO (b) (6) ; Lasseter, David F. (OLA) (JMD) (b) (6) v>; (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Subject: RE: FBI Congressional Oversight Statistics

Duplicative Material

O'Callaghan, Edward C. (ODAG)

From:	O'Callaghan, Edward C. (ODAG)
Sent:	Monday, May 6, 2019 12:21 PM
To:	Philbin, Patrick F. EOP/WHO; Purpura, Michael M. EOP/WHO
Cc:	Engel, Steven A. (OLC); Colborn, Paul P (OLC); Gannon, Curtis E. (OLC)
Subject:	Letter response to Nadler
Attachments:	5-6-19 Letter to Nadler bcr + sae + SB.docx

As discussed. Thanks.

Edward C. O'Callaghan
Principal Associate Deputy Attorney General
United States Department of Justice
(o) (b) (6)
(c) (b) (6)

O'Callaghan, Edward C. (ODAG)

From:	O'Callaghan, Edward C. (ODAG)
Sent:	Monday, May 6, 2019 12:29 PM
To:	Philbin, Patrick F. EOP/WHO; Purpura, Michael M. EOP/WHO
Cc:	Engel, Steven A. (OLC); Colborn, Paul P (OLC); Gannon, Curtis E. (OLC)
Subject:	RE: Letter response to Nadler
Attachments:	5-6-19 Letter to Nadler 1230 pm.docx

Pat, Mike,

Please review the attached version instead. We would very much like to get this out in next 15 minutes if possible.
Thanks.

Edward C. O'Callaghan
(b) (6)

From: O'Callaghan, Edward C. (ODAG)
Sent: Monday, May 6, 2019 12:21 PM
To: Philbin, Patrick F. EOP/WHO <(b) (6); Purpura, Michael M. EOP/WHO (b) (6)
Cc: Engel, Steven A. (OLC) (b) (6) (b) (6); Colborn, Paul P (OLC) (b) (6); Gannon, Curtis E. (OLC) (b) (6)>
Subject: Letter response to Nadler

Duplicative Material

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, D.C. 20530*

May 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

I write in response to your May 3, 2019 letter to the Attorney General. We appreciate the House Committee on the Judiciary's (Committee) offer to negotiate a reasonable accommodation to the demands made by the April 18, 2019 subpoena, and we emphasize the Department of Justice's (Department) continued willingness to engage in good faith with the Committee on these issues consistent with its obligations under the law. We were disappointed that the Committee took initial steps this morning toward moving forward with the contempt process.

The Department reiterates its concerns with the Committee's rush to issue a subpoena immediately after the Attorney General took the extraordinary step of publicly disclosing, with as few redactions as possible, the confidential report of Special Counsel Robert S. Mueller, III, and after he took the further step of making an even-less-redacted version available to a bipartisan group of congressional leaders. The Committee did so even though you have yet to take advantage of the Department's offer to review the less-redacted version of the Special Counsel's report which naturally raises questions about the sincerity of the Committee's interest in and purported need for the redacted material. Your refusal to review the less-redacted report also hinders our ability to engage in a meaningful discussion about what specific information Congress needs in furtherance of its legitimate legislative activities. Furthermore, the Committee has not articulated any legitimate basis for requesting the law enforcement documents that bear upon more than two dozen criminal cases and investigations, including ongoing matters, and does not identify any available legal basis to authorize the Department to ask a court to share materials protected by Rule 6(e) of the Federal Rules of Criminal Procedure. Indeed, the Committee fails even to address the D.C. Circuit's recent decision on this question. *See McKeever v. Barr*, 920 F.3d 842, 844 45 (D.C. Cir. 2019).

Nonetheless, as we have made clear from the outset, the Department welcomes the Committee's offer to attempt to negotiate an acceptable accommodation of our respective interests on these issues. We are prepared to discuss the matters raised in your letter, including your request to provide greater access to the less-redacted version of the report to additional Members of Congress and staff, as well as prioritizing review and possible disclosure of certain materials cited

in the Special Counsel's report, provided that such access and disclosure is done lawfully and in a manner that protects long-established Executive Branch confidentiality interests.

To that end, we invite members of your and the Ranking Member's staff to the Department on the afternoon of Wednesday, May 8, 2019 to negotiate an accommodation that meets the legitimate interests of each of our coequal branches of government. In order to make the meeting productive, we believe that it would make sense for you to at least review the less-redacted version of the report in advance, and we will take steps to ensure that it remains available to you prior to the meeting. We are available to discuss further details of the meeting with you in advance.

Sincerely,

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

O'Callaghan, Edward C. (ODAG)

From: O'Callaghan, Edward C. (ODAG)
Sent: Monday, May 6, 2019 1:03 PM
To: Purpura, Michael M. EOP/WHO; Philbin, Patrick F. EOP/WHO
Cc: Engel, Steven A. (OLC); Colborn, Paul P (OLC); Gannon, Curtis E. (OLC)
Subject: RE: Letter response to Nadler

Thanks.

Edward C. O'Callaghan
(b) (6)

From: Purpura, Michael M. EOP/WHO (b) (6) >
Sent: Monday, May 6, 2019 1:01 PM
To: O'Callaghan, Edward C. (ODAG) (b) (6) >; Philbin, Patrick F. EOP/WHO (b) (6)
Cc: Engel, Steven A. (OLC) (b) (6) >; Colborn, Paul P (OLC) (b) (6) ; Gannon, Curtis E. (OLC) (b) (6)
Subject: RE: Letter response to Nadler

This is fine with me. Sorry for the delay.
Mike

From: O'Callaghan, Edward C. (ODAG) < (b) (6) >
Sent: Monday, May 6, 2019 12:29 PM
To: Philbin, Patrick F. EOP/WHO (b) (6) >; Purpura, Michael M. EOP/WHO (b) (6) >
Cc: Engel, Steven A. (OLC) (b) (6) >; Colborn, Paul P (OLC) (b) (6) ; Gannon, Curtis E. (OLC) (b) (6) >
Subject: RE: Letter response to Nadler

Duplicative Material

Bai, Sue J. EOP/WHO

From:	Bai, Sue J. EOP/WHO
Sent:	Monday, May 6, 2019 1:28 PM
To:	Brosnan, Kyle; Hankey, Mary Blanche (OLA); Greer, Megan L. (OLA)
Cc:	Mizelle, Chad
Subject:	RE: COR Subpoena - Asylum Information

Let's aim for 4 pm. Thank you.

Sue

From: Brosnan, Kyle [redacted]
Sent: Monday, May 6, 2019 1:04 PM
To: Hankey, Mary Blanche (OLA) [redacted]; Greer, Megan L. (OLA) [redacted]
Cc: Bai, Sue J. EOP/WHO [redacted]; Mizelle, Chad [redacted]
Subject: RE: COR Subpoena - Asylum Information

Any time in that window works for me, if there is a time in there that works for Sue as well. If not we can chat just between us.

From: Hankey, Mary Blanche (OLA) [redacted]
Sent: Monday, May 6, 2019 12:46 PM
To: Brosnan, Kyle [redacted]; Greer, Megan L. (OLA) [redacted]
Cc: Sue Bai [redacted]; Mizelle, Chad [redacted]
Subject: RE: COR Subpoena - Asylum Information

Thanks Kyle. We are available from 4 to 6 this afternoon if that works for everyone else.

From: Brosnan, Kyle [redacted]
Sent: Monday, May 6, 2019 10:42 AM
To: Hankey, Mary Blanche (OLA) [redacted]; Greer, Megan L. (OLA) [redacted]
Cc: Sue Bai [redacted]; Mizelle, Chad [redacted]
Subject: COR Subpoena - Asylum Information

Good morning team,

We finally have received our asylum information from USCIS (see attached). What is everyone's availability this afternoon for a short call to discuss the potential production of this information? My schedule this afternoon is flexible so whatever time works best for you all.

Thanks,
Kyle

Kyle Brosnan
Oversight Counsel
U.S. Department of Homeland Security
[redacted] (desk)

(b)(6) per DHS (mobile)

Brosnan, Kyle

Subject:	Call - COR Subpoena
Location:	(b) (6)
Start:	Monday, May 6, 2019 4:00 PM
End:	Monday, May 6, 2019 4:30 PM
Show Time As:	Tentative
Recurrence:	(none)
Organizer:	Brosnan, Kyle
Required Attendees:	Bai, Sue J. EOP/WHO; Mizelle, Chad; Greer, Megan L. (OLA); Hankey, Mary Blanche (OLA)

Brosnan, Kyle

Subject:	Call - COR Subpoena
Location:	(b) (6)
Start:	Monday, May 6, 2019 4:00 PM
End:	Monday, May 6, 2019 4:30 PM
Recurrence:	(none)
Meeting Status:	Accepted
Organizer:	Brosnan, Kyle
Required Attendees:	Bai, Sue J. EOP/WHO; Mizelle, Chad; Greer, Megan L. (OLA); Hankey, Mary Blanche (OLA)

O'Callaghan, Edward C. (ODAG)

From:	O'Callaghan, Edward C. (ODAG)
Sent:	Monday, May 6, 2019 2:14 PM
To:	Purpura, Michael M. EOP/WHO; Philbin, Patrick F. EOP/WHO
Cc:	Engel, Steven A. (OLC); Colborn, Paul P (OLC); Gannon, Curtis E. (OLC)
Subject:	RE: Letter response to Nadler
Attachments:	Response to Chairman Nadler 3 May 2019 letter.pdf

As sent. Thanks again.

Edward C. O'Callaghan
(b) (6)

From: Purpura, Michael M. EOP/WHO (b) (6) >
Sent: Monday, May 6, 2019 1:01 PM
To: O'Callaghan, Edward C. (ODAG) (b) (6) >; Philbin, Patrick F. EOP/WHO (b) (6)
Cc: Engel, Steven A. (OLC) (b) (6) ; Colborn, Paul P (OLC) (b) (6) >; Gannon, Curtis E. (OLC) (b) (6) >
Subject: RE: Letter response to Nadler

Duplicative Material

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, D.C. 20530*

May 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Nadler:

I write in response to your May 3, 2019 letter to the Attorney General. We appreciate the House Committee on the Judiciary's (Committee) offer to negotiate a reasonable accommodation to the demands made by the April 18, 2019 subpoena, and we emphasize the Department of Justice's (Department) continued willingness to engage in good faith with the Committee on these issues consistent with its obligations under the law. We were disappointed that the Committee took initial steps this morning toward moving forward with the contempt process.

The Department reiterates its concerns with the Committee's rush to issue a subpoena immediately after the Attorney General took the extraordinary step of publicly disclosing, with as few redactions as possible, the confidential report of Special Counsel Robert S. Mueller, III, and after he took the further step of making an even-less-redacted version available to a bipartisan group of congressional leaders. The Committee did so even though you have yet to take advantage of the Department's offer to review the less-redacted version of the Special Counsel's report—which naturally raises questions about the sincerity of the Committee's interest in and purported need for the redacted material. Your refusal to review the less-redacted report also hinders our ability to engage in a meaningful discussion about what specific information Congress needs in furtherance of its legitimate legislative activities. Furthermore, the Committee has not articulated any legitimate basis for requesting the law enforcement documents that bear upon more than two dozen criminal cases and investigations, including ongoing matters, and does not identify any available legal basis to authorize the Department to ask a court to share materials protected by Rule 6(e) of the Federal Rules of Criminal Procedure. Indeed, the Committee fails even to address the D.C. Circuit's recent decision on this question. *See McKeever v. Barr*, 920 F.3d 842, 844–45 (D.C. Cir. 2019).

Nonetheless, as we have made clear from the outset, the Department welcomes the Committee's offer to attempt to negotiate an acceptable accommodation of our respective interests on these issues. We are prepared to discuss the matters raised in your letter, including your request to provide greater access to the less-redacted version of the report to additional Members of Congress and staff, as well as prioritizing review and possible disclosure of certain materials cited

in the Special Counsel's report, provided that such access and disclosure is done lawfully and in a manner that protects long-established Executive Branch confidentiality interests.

To that end, we invite members of your and the Ranking Member's staff to the Department on the afternoon of Wednesday, May 8, 2019 to negotiate an accommodation that meets the legitimate interests of each of our coequal branches of government. In order to make the meeting productive, we believe that it would make sense for you to at least review the less-redacted version of the report in advance, and we will take steps to ensure that it remains available to you prior to the meeting. We are available to discuss further details of the meeting with you in advance.

Sincerely,

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Garvey, Kevin P. EOP/WHO

From: Garvey, Kevin P. EOP/WHO
Sent: Monday, May 6, 2019 2:35 PM
To: (b)(6), (b)(7)(C) per FBI (OGC) (FBI)
Cc: Lytle, Mark D. EOP/WHO; Lasseter, David F. (OLA) (JMD); (b)(6), (b)(7)(C) per FBI (DO) (FBI)
Subject: RE: FBI Congressional Oversight Statistics

(b)(6), (b)(7)(C) per FBI,

We are beginning to collect the agency oversight statistics on a weekly basis. Can you please send me any updates, and then updates weekly going forward by COB on Mondays?

Best,
K.

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Sent: Friday, April 26, 2019 11:58 AM
To: Garvey, Kevin P. EOP/WHO (b) (6) >
Cc: Lytle, Mark D. EOP/WHO (b) (6) >; Lasseter, David F. (OLA) (JMD) < (b) (6) >; (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Subject: RE: FBI Congressional Oversight Statistics

Duplicative Material

Hankey, Mary Blanche (OLA)

From:	Hankey, Mary Blanche (OLA)
Sent:	Tuesday, May 7, 2019 2:42 PM
To:	Sue Bai ([redacted (b) (6)])
Subject:	FW: Letter for Mr. Gene Hamilton, Counselor to the Attorney General, U.S. Department of Justice
Attachments:	2019-05-07.EEC JR to Hamilton-DOJ re TI.pdf

Hi Sue—Please see attached.

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

May 7, 2019

Mr. Gene Hamilton
Counselor to the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20230

Dear Mr. Hamilton:

The Committee requests your appearance for a transcribed interview on Thursday, May 30, 2019, at 9:30 a.m., in room 6400 of the O'Neill House Office Building.

The interview will address the decision by Secretary of Commerce Wilbur Ross to add a citizenship question to the 2020 Decennial Census and other topics. Documents obtained by the Committee show that you played a key role in communications leading up to this decision involving the Department of Justice, the Department of Commerce, and the Department of Homeland Security.

On March 14, 2019, Secretary Ross testified before the Committee, but he refused to answer key questions or commit to providing requested documents regarding the addition of the citizenship question. I explained at the hearing that if he continued to withhold this information, the Committee would, among other steps, seek transcribed interviews with Department of Commerce and Department of Justice staff to obtain the information.

On April 2, 2019, the Committee voted on a bipartisan basis to authorize subpoenas to Secretary Ross and Attorney General William Barr for the key documents sought by the Committee.[1] Nevertheless, both the Department of Commerce and the Department of Justice have continued to withhold these documents.

The Committee is now writing to request your voluntary participation in an interview.

Please be advised that any official at the Department who "prohibits or prevents" or "attempts or threatens to prohibit or prevent" you from speaking with the Committee could have his or her salary withheld pursuant to section 713 of the Financial Services and General

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[1] Committee on Oversight and Reform, *Committee Approves Subpoenas in Security Clearance and Census Investigations* (Apr. 2, 2019) (online at https://oversight.house.gov/news/press-releases/committee-approves-subpoenas-in-security-clearance-and-census-investigations).

Government Appropriations Act.[2] The Government Accountability Office (GAO) has reported to the Committee in the past when an agency official has violated this provision by preventing agency staff from being interviewed by Congress,[3] and a portion of that official's salary was ordered to be returned to the federal government.[4] If at any point you believe any Department official has violated this provision, I encourage you to notify the Committee and/or GAO.

Please contact the Committee by May 13, 2019, to confirm your attendance.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,

Elijah E. Cummings
Chairman

Jamie Raskin
Chairman
Subcommittee on Civil Rights and
Civil Liberties

cc: The Honorable Jim Jordan, Ranking Member

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

[2] Pub. L. No. 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.").

[3] Letter from Government Accountability Office, to Chairman Jason Chaffetz, Committee on Oversight and Government Reform, et al. (Apr. 5, 2016) (online at www.gao.gov/assets/680/676341.pdf); Letter from Aaron Santa Anna, Acting General Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development, to Chairman Charles E. Grassley, Senate Committee on the Judiciary (June 19, 2017) (online at www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf).

[4] Letter from Craig T. Clemmensen, Senior Advisor to Acting Deputy Secretary, Department of Housing and Urban Development, to former General Deputy Assistant Secretary (June 15, 2017) (online at www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf) (directing the former General Deputy Assistant Secretary to repay a portion of his salary for violating this provision).

O'Callaghan, Edward C. (ODAG)

From:	O'Callaghan, Edward C. (ODAG)
Sent:	Wednesday, May 8, 2019 10:07 AM
To:	Philbin, Patrick F. EOP/WHO; Purpura, Michael M. EOP/WHO
Cc:	Engel, Steven A. (OLC); Gannon, Curtis E. (OLC)
Subject:	FW: Letter to President
Attachments:	Chairman Nadler letter_8 May 2019.pdf

Edward C. O'Callaghan
(b) (6)

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 8, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Nadler:

We are disappointed that you have rejected the Department of Justice's request to delay the vote of the Committee on the Judiciary on a contempt finding against the Attorney General this morning. By doing so, you have terminated our ongoing negotiations and abandoned the accommodation process with respect to your April 18, 2019, subpoena of confidential Department of Justice materials related to the investigation conducted by Special Counsel Robert S. Mueller, III. As we have repeatedly explained, the Attorney General could not comply with your subpoena in its current form without violating the law, court rules, and court orders, and without threatening the independence of the Department of Justice's prosecutorial functions. Despite this, we have attempted to engage with the Committee in good faith in an effort to accommodate your stated interest in these materials. Unfortunately, rather than allowing negotiations to continue, you scheduled an unnecessary contempt vote, which you refused to postpone to allow additional time for compromise.

Accordingly, this is to advise you that the President has asserted executive privilege over the entirety of the subpoenaed materials. As I indicated in my letter to you last night, this protective assertion of executive privilege ensures the President's ability to make a final decision whether to assert privilege following a full review of these materials. *See Protective Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 1 (1996) (opinion of Attorney General Janet Reno). Regrettably, you have made this assertion necessary by your insistence upon scheduling a premature contempt vote.

Sincerely,

Stephen E. Boyd
Assistant Attorney General

cc: The Honorable Doug Collins
Ranking Member

Hankey, Mary Blanche (OLA)

From:	Hankey, Mary Blanche (OLA)
Sent:	Wednesday, May 8, 2019 11:50 AM
To:	Brosnan, Kyle (b)(6) per DHS ; Mizelle, Chad; Sue Bai (b) (6)
Cc:	Greer, Megan L. (OLA)
Subject:	HOGR proposed production Asylum
Attachments:	HOGR Data from DHS.pdf

Hi All,

Please see the attached document which we propose producing. Let us know if you'd like to discuss further.

Thanks,

Mary Blanche

Mary Blanche Hankey
Chief of Staff and Counselor
Office of Legislative Affairs
Office: (b) (6)
Cell: (b) (6)

Hankey, Mary Blanche (OLA)

From:	Hankey, Mary Blanche (OLA)
Sent:	Friday, May 10, 2019 10:25 AM
To:	Brosnan, Kyle (b)(6) per DHS ; Mizelle, Chad; Sue Bai (b) (6)
Cc:	Megan L. Greer (OLA) (b) (6)
Subject:	RE: HOGR proposed production Asylum

Team—We wanted to touch base about the expected production timeline. Are we still targeting today?

From: Hankey, Mary Blanche (OLA)
Sent: Wednesday, May 8, 2019 11:50 AM
To: Brosnan, Kyle (b)(6) per DHS ; Mizelle, Chad (b)(6) per DHS ; Sue Bai (b) (6)
Cc: Megan L. Greer (OLA) (b) (6)
Subject: HOGR proposed production Asylum

Duplicative Material

Brosnan, Kyle

Subject:	Call re COR Subpoena
Location:	(b) (6)
Start:	Wednesday, May 15, 2019 4:45 PM
End:	Wednesday, May 15, 2019 5:15 PM
Show Time As:	Tentative
Recurrence:	(none)
Organizer:	Brosnan, Kyle
Required Attendees:	Mizelle, Chad; Bai, Sue J. EOP/WHO; Hankey, Mary Blanche (OLA); Greer, Megan L. (OLA)

Brosnan, Kyle

Subject:	Call re COR Subpoena
Location:	(b) (6)
Start:	Wednesday, May 15, 2019 4:45 PM
End:	Wednesday, May 15, 2019 5:15 PM
Show Time As:	Tentative
Recurrence:	(none)
Meeting Status:	Not yet responded
Organizer:	Brosnan, Kyle
Required Attendees:	Mizelle, Chad; Bai, Sue J. EOP/WHO; Hankey, Mary Blanche (OLA); Greer, Megan L. (OLA)

Hankey, Mary Blanche (OLA)

From:	Hankey, Mary Blanche (OLA)
Sent:	Tuesday, May 14, 2019 6:16 PM
To:	Brosnan, Kyle; Bai, Sue J. EOP/WHO; Mizelle, Chad
Cc:	Greer, Megan L. (OLA)
Subject:	RE: HOGR proposed production Asylum

Good here.

From: Brosnan, Kyle <(b)(6) per DHS>
Sent: Tuesday, May 14, 2019 6:05 PM
To: Bai, Sue J. EOP/WHO <(b) (6)> Hankey, Mary Blanche (OLA) (b) (6); Mizelle, Chad (b)(6) per DHS
Cc: Greer, Megan L. (OLA) (b) (6)
Subject: RE: HOGR proposed production Asylum

I can do 4:45 if that works for everyone too.

Kyle

From: Bai, Sue J. EOP/WHO <(b) (6)>
Sent: Tuesday, May 14, 2019 5:55 PM
To: Brosnan, Kyle (b)(6) per DHS>; Hankey, Mary Blanche (OLA) (b) (6)>; Mizelle, Chad (b)(6) per DHS
Cc: Greer, Megan L. (OLA) <(b) (6)>
Subject: RE: HOGR proposed production Asylum

I am not available 3:30-4:30 pm but would be happy to catch up with you all afterwards.

Thank you,
Sue

CONFIDENTIAL // DELIBERATIVE // PREDECISIONAL

Sue J. Bai
Associate Counsel to the President
EEOB No. 118
(b) (6)
O: (b) (6) | C: (b) (6)

From: Brosnan, Kyle [redacted]
Sent: Tuesday, May 14, 2019 5:48 PM
To: Hankey, Mary Blanche (OLA) [redacted]; Mizelle, Chad [redacted]; Bai, Sue J. EOP/WHO [redacted]
Cc: Greer, Megan L. (OLA) [redacted]
Subject: RE: HOGR proposed production Asylum

How about 4:00?

From: Hankey, Mary Blanche (OLA) [redacted]
Sent: Tuesday, May 14, 2019 5:47 PM
To: Brosnan, Kyle [redacted]; Mizelle, Chad [redacted]; Sue Bai [redacted]
Cc: Greer, Megan L. (OLA) [redacted]
Subject: RE: HOGR proposed production Asylum

Thanks for reaching out. Would a time between 3 pm – 5 pm work?

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, June 3, 2019 5:26 PM
To:	(b)(6) - Austin Mayron Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 6/3/2019

Austin,

Please find below the DOJ oversight metrics we discussed last week. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 2085 documents; 40,318 pages

- Number of documents and pages produced to:
  - HOGR: 951 documents; 19,585 pages
  - HJC: 1124 documents; 18,246 pages

- DOJ Hearings (excluding appropriations and nominations)
  - 4

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, June 10, 2019 5:02 PM
To:	(b)(6) - Austin Mayron Email Address; (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 6/10/2019

Austin,

Please find below updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 2,227 documents; 42,101 pages
- Number of documents and pages produced to:
  - HOGR: 966 documents; 20,876 pages
  - HJC: 1,250 documents; 18,738 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 4

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, June 17, 2019 6:01 PM
To:	(b)(6) - Austin Mayron Email Address; (b)(6) - Ryan Brady Email Address; (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 6/17/2019

Austin,

Please find below updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 2,227 documents; 42,101 pages
- Number of documents and pages produced to:
  - HOGR: 966 documents; 20,876 pages
  - HJC: 1,250 documents; 18,738 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 4

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, June 24, 2019 6:54 PM
To:	(b)(6) - Austin Mayron Email Address (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 6/24/2019

Austin,

Please find below updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 2,381 documents; 59,887 pages
- Number of documents and pages produced to:
  - HOGR: 966 documents; 20,876 pages
  - HJC: 1,404 documents; 36,514 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 4

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, July 1, 2019 3:14 PM
To:	(b)(6) - Austin Mayron Email Address; (b)(6) - Ryan Brady Email Address; (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 7/1/2019

Austin,

Please find below updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know. Have a wonderful Fourth!

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,173 documents; 72,462 pages
- Number of documents and pages produced to:
  - HOGR: 966 documents; 20,876 pages
  - HJC: 2,188 documents; 46,115 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 4

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
mobile

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, July 8, 2019 2:36 PM
To:	(b)(6) - Austin Mayron Email Address (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 7/8/2019

Austin,

Please find below updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,187 documents; 73,270 pages
- Number of documents and pages produced to:
  - HOGR: 966 documents; 20,876 pages
  - HJC: 2,202 documents; 46,923 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 4

Megan L. Greer
Office of Legislative Affairs
[redacted] *office*
[redacted] *mobile*

(b)(6) - David Lasseter Email Address

From: (b)(6) - David Lasseter Email Address
Sent: Tuesday, July 9, 2019 7:50 PM
To: (b)(6) per State
Cc: Johnson, Joanne E. (OLA); Thomas, Kenneth A; (b)(6) - Mark Lytle Email Address
Subject: Re: Question re: Committee letters

(b)(6) per State –That is not the case and is not an agreement I am aware of. (b) (5) We don't have the capacity to troll through all the SCO holdings for documents that the state department provided SCO.

I have included Mark on this email so that we can hammer this out. I have asked all agencies that

David F. Lasseter
Deputy Assistant Attorney General
U.S. Department of Justice

On Jul 9, 2019, at 17:54, (b)(6) per State > wrote:

> State's POC is Mark Lydle. (b)(5) per State . I am adding my colleague (b)(6) per State who spoke directly with Mark.
>
> ---
>
> **From:** Lasseter, David F. (OLA) (b) (6)
> **Date:** July 9, 2019 at 5:17:33 PM EDT
> **To:** (b)(6) per State
> **Cc:** Johnson, Joanne E. (OLA) <(b) (6) v>, Taylor, Mary Elizabeth (b)(6) per State
> **Subject:** RE: Question re: Committee letters
>
> Thanks (b)(6) per State Can you tell me what the guidance was from WHCO and who your POC is at WHCO?
>
> ---
>
> **From:** (b)(6) per State >
> **Sent:** Tuesday, July 9, 2019 3:42 PM
> **To:** Lasseter, David F. (OLA) (b) (6)
> **Cc:** Johnson, Joanne E. (OLA) (b) (6) >; Taylor, Mary Elizabeth (b)(6) per State
> **Subject:** RE: Question re: Committee letters
>
> Hi David - (b)(5) per State . Regards, (b)(6) per State

Official
UNCLASSIFIED

From: Lasseter, David F. (OLA) [redacted] (b) (6) [redacted] >
Sent: Tuesday, July 9, 2019 3:37 PM
To: [redacted] (b)(6) per State [redacted]
Cc: Johnson, Joanne E. (OLA) [redacted] (b) (6) [redacted]; Taylor, Mary Elizabeth [redacted] (b)(6) per State [redacted]
Subject: RE: Question re: Committee letters

Thanks Mary Elizabeth

[redacted] (b)(6) per Sta –good afternoon [redacted] (b)(6) per Sta ....hope you are well. Yes ODAG has responsibility for the SCO files since the SCO is no longer operational. I work closely with ODAG on these documents requests and the associated reviews. Could you send any materials that your folks identify as responsive for production to me for review? [redacted] (b) (5) [redacted]

Has State yet produced anything to SSCI responsive to this request?

David

From: [redacted] (b)(6) per State [redacted] >
Sent: Tuesday, July 9, 2019 3:27 PM
To: Lasseter, David F. (OLA) [redacted] (b) (6) [redacted] >
Cc: Johnson, Joanne E. (OLA) [redacted] (b) (6) [redacted]; Taylor, Mary Elizabeth [redacted] (b)(6) per State [redacted] >; Wonnenberg, David [redacted] (b)(6) per DHS [redacted] (b)(6) per Treasury [redacted] @treasury.gov
Subject: RE: Question re: Committee letters

Hi David,

[redacted] (b)(5) per State [redacted]

Regards,

[redacted] (b)(6) per S [redacted]

Official
UNCLASSIFIED

From: Taylor, Mary Elizabeth [redacted] (b)(6) per State [redacted]
Sent: Tuesday, July 9, 2019 3:21 PM
To: Lasseter, David F. (OLA) < [redacted] (b) (6) [redacted]; Wonnenberg, David [redacted] (b)(6) per DHS [redacted] (b)(6) per Treasury [redacted] @treasury.gov
Cc: Johnson, Joanne E. (OLA) [redacted] (b) (6) [redacted] >; [redacted] (b)(6) per State [redacted]

Subject: RE: Question re: Committee letters

Thanks, David.

+ (b)(6) per State who is lead on my team for investigations

Mary Elizabeth Taylor
Assistant Secretary of State
Legislative Affairs (H)
(b)(6) per State

Official
UNCLASSIFIED

From: Lasseter, David F. (OLA) (b) (6)
Sent: Tuesday, July 9, 2019 2:53 PM
To: Wonnenberg, David (b)(6) per DHS ; (b)(6) per Treasury l@treasury.gov; Taylor, Mary Elizabeth (b)(6) per State >
Cc: Johnson, Joanne E. (OLA) (b) (6)
Subject: FW: Question re: Committee letters

Good afternoon folks. Hope y'all are well. Please see below. Do you know to whom at DOJ your folks have sent these referenced materials? I have not seen anything from DHS, State, or Treasury. Could you please ask whomever is managing this on your respective teams to please send any information they plan to produce to Joanne Johnson (cc'd) and me? Also, (b) (5) .

Thanks much,
David

David F. Lasseter
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
(b) (6)

From: Le, Vanessa (Intelligence) (b) (6)
Sent: Tuesday, July 9, 2019 10:20 AM
To: Lasseter, David F. (OLA) (b) (6)
Cc: Cooper, Aaron (Intelligence) (b) (6) >; Casey, Mike (Intelligence) (b) (6) Joyner, Chris (Intelligence) (b) (6)
Subject: Question re: Committee letters

Hi David,

As you may know, the Committee sent letters to CIA, State, NSA, DHS, DIA, and Treasury on or about June 26, 2019 requesting that each respective agency provide to the Committee those

intelligence products that had been previously provided to SCO.

So far, we have received responses from DHS, DIA, State, and Treasury, all stating that they are prevented from producing the requested intelligence products because they are "tied up in Executive Branch review" or because "DOJ is reviewing for Executive Privilege." We have received no response from CIA or NSA. We are confused as to how intelligence products—the provision of which is an essential part of the IC's legal obligations to keep the Committee fully and currently informed—could be candidates for Executive Privilege. Could you shed some light on what's going on here?

As always, happy to jump on a call to discuss.

Thanks,
Vanessa

Vanessa J. Le
Senate Select Committee on Intelligence
(O) 202-228-(b) (6)
(M) (b) (6)

Garvey, Kevin P. EOP/WHO

From:	Garvey, Kevin P. EOP/WHO
Sent:	Thursday, July 18, 2019 1:47 PM
To:	Greer, Megan L. (OLA); Lytle, Mark D. EOP/WHO
Cc:	Lasseter, David F. (OLA)
Subject:	RE: COR Security Clearances Investigation

Thanks, Megan. Let me know if you want to discuss. But in my opinion, (b) (5) . The Executive Branch accommodates duly authorized oversight requests of *Congress* which is a branch of government. That would not include requests from individual members or committee staff, which are not branches of government.

From: Greer, Megan L. (OLA) (b) (6) >
Sent: Thursday, July 18, 2019 11:59 AM
To: Garvey, Kevin P. EOP/WHO (b) (6) >; Lytle, Mark D. EOP/WHO (b) (6) >
Cc: Lasseter, David F. (OLA) (b) (6)
Subject: FW: COR Security Clearances Investigation

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Kim, Janet < (b) (6)
Sent: Thursday, July 18, 2019 11:38 AM
To: Lasseter, David F. (OLA) (b) (6) >; Greer, Megan L. (OLA) (b) (6) >
Cc: Waters, Laura < (b) (6)
Subject: COR Security Clearances Investigation

David and Megan,

Please see the attached letter from Assistant Director Jill C. Tyson regarding the FBI's response to Chairman Cummings January 23, 2019, requests. The FBI wrote: "The remaining requests in your letter pertain to specific individuals. The FBI is not in a position to provide that information. We respectfully refer the Committee to the Office of Legislative Affairs, Department of Justice, for further information."

Can you please provide "further information" about the FBI's inability to provide the documents the Chairman has requested?

Please also advise whether the Department intends to make any productions in response to the Committee's outstanding requests from January 23, 2019.

Thank you,

Janet H. Kim

Chief Counsel for Investigations
House Committee on Oversight and Reform
(202) 225(b) (6)

(b)(6) - David Lasseter Email Address

From: (b)(6) - David Lasseter Email Address
Sent: Thursday, July 18, 2019 6:35 PM
To: Mark D. EOP/WHO Lytle
Subject: Fwd: Question re: Committee letters

Fysa below Mark

David F. Lasseter
Deputy Assistant Attorney General
U.S. Department of Justice

Begin forwarded message:

From: "Le, Vanessa (Intelligence)" <(b) (6)>
Date: July 17, 2019 at 15:30:55 EDT
To: "Lasseter, David F. (OLA)" (b) (6)
Cc: "Cooper, Aaron (Intelligence)" (b) (6), "Casey, Mike (Intelligence)" (b) (6), "Joyner, Chris (Intelligence)" (b) (6)
Subject: RE: Question re: Committee letters

Thanks, David. I appreciate you getting back to us. As a courtesy, we're happy to let you know when we've sent a narrowed request to the agencies.

Once the request is narrowed to intel products, we will go back to engaging directly with the agencies. As discussed last week, it's hard to see a need for the Department to insert itself in any way between the Committee and the agencies that the Committee oversees.

Vanessa J. Le
Senate Select Committee on Intelligence
(O) 202-228-(b) (6)
(M) (b) (6)

From: Lasseter, David F. (OLA) (b) (6)
Sent: Wednesday, July 17, 2019 1:43 PM
To: Le, Vanessa (Intelligence) (b) (6)
Cc: Cooper, Aaron (Intelligence) (b) (6); Casey, Mike (Intelligence) (b) (6) Joyner, Chris (Intelligence) (b) (6)
Subject: RE: Question re: Committee letters

Good afternoon Vanessa. As discussed on Friday due to Congressional action in the House of Representatives there exists a protective assertion of executive privilege over the entirety of SCO's investigative file. This protective assertion is outlined in the attached letter from Attorney General Barr to President Trump.

As you know the Department of Justice has worked closely with the Committee to accommodate it's oversight requests and we believe the same can be done in this instance. We would ask that the Committee transmit to the Department of Justice a narrowed request for specific final intelligence products generated by the Departments and Agencies who received the Committee's correspondence dated May 29, 2019 (Department of Treasury letter attached). The Department of Justice will then work with the various Departments and Agencies to identify these products for the Committee's review.

Respectfully,
David

David F. Lasseter
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
(b) (6)

From: Le, Vanessa (Intelligence) (b) (6) >
Sent: Tuesday, July 16, 2019 12:42 PM
To: Lasseter, David F. (OLA) (b) (6)
Cc: Cooper, Aaron (Intelligence) (b) (6) >; Casey, Mike (Intelligence) (b) (6) Joyner, Chris (Intelligence) (b) (6)
Subject: RE: Question re: Committee letters

Hey David,

Happy Tuesday. Per our conversation on Friday, can we expect a letter or email from DOJ explaining the Department's position by COB today? As discussed, Aaron and I are working with the team to potentially narrow the requests, but we do need a written response from you all outlining the protective assertion you described.

Thanks,
Vanessa

Vanessa J. Le
Senate Select Committee on Intelligence
(O) 202-228-(b) (6)
(M) (b) (6)

From: Lasseter, David F. (OLA) (b) (6)
Sent: Thursday, July 11, 2019 6:38 PM
To: Le, Vanessa (Intelligence) < (b) (6) >
Cc: Cooper, Aaron (Intelligence) (b) (6) >; Casey, Mike (Intelligence) (b) (6) >; Joyner, Chris (Intelligence) (b) (6) >
Subject: Re: Question re: Committee letters

Vanessa—good evening. Sorry just getting back with you. Can we touch base tomorrow?

Thanks,
David

David F. Lasseter
Deputy Assistant Attorney General
U.S. Department of Justice

On Jul 9, 2019, at 10:23, Le, Vanessa (Intelligence) [redacted] (b) (6) > wrote:

Escalona, Prim F. (OLA)

From:	Escalona, Prim F. (OLA)
Sent:	Monday, July 22, 2019 12:39 PM
To:	Freeland, Jeff K. EOP/WHO
Subject:	FW: Immigration Supp Briefings
Attachments:	Border Supplementl Oversight letter to President Trump signed 7 18 19.pdf

Jeff,
Are you tracking this? I reached out to Richard Chalkey (we worked with him on other immigration related issues last week), and he asked that I reach out to you. Our briefing is set for today at 3:00 pm.

Thanks,
Prim

From: Escalona, Prim F. (OLA)
Sent: Monday, July 22, 2019 10:15 AM
To: (b)(6) - Richard Chalkley Email Address
Subject: Immigration Supp Briefings

Richard,
I hope you had a good weekend. I wanted to check in and see if you are aware of this letter? I believe that these briefings are being set up independently by the agencies, (b) (5)

Thanks,
Prim

Prim Escalona
Principal Deputy Assistant Attorney General
Office of Legislative Affairs
(b) (6)

United States Senate

WASHINGTON, DC 20510

July 18, 2019

The Honorable Donald Trump
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President,

On July 1, 2019, H.R. 3401, the Emergency Supplemental for Humanitarian Assistance at the Southern Border, was signed into law. This bill contained critical, targeted assistance to help alleviate and improve the increasingly inhumane conditions faced by many migrant children and families seeking refuge at our southern border, and to provide the resources needed to ensure those in U.S. custody are treated humanely and cared for with dignity and compassion, as our American values require.

The images over the last few months have shocked a nation – women and children in cages, sleeping in over-crowded facilities on cement floors, lacking even the most basic of services or medical care – this is not who we are as a nation. That is why Congress passed this important piece of legislation. We could not allow this situation to continue. Inaction was simply not an option. But the humanitarian assistance provided in this bill is not a blank check. Congress included explicit restrictions and new requirements to ensure the money effectively addresses the situation on our southern border and improves conditions for those in our custody; it cannot be diverted for other purposes, and its restrictions and new requirements must be followed. In the past, this Administration has diverted funds for unintended purposes and, at times, refused to spend money as directed by Congress. This is unacceptable.

Congress intends to scrutinize the expenditure of these funds and will use all methods of oversight to ensure that the requirements of the law are faithfully executed. This letter sets forth our expectations as this important bill is implemented, and asks for critical information about the Administration's plans for this humanitarian assistance going forward.

Department of Health and Human Services

The humanitarian border assistance supplemental provides $2.88 billion to the Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), which has custody of some of the most vulnerable group of migrants: unaccompanied children. HHS has a responsibility to ensure the welfare of children in its custody, many of whom have experienced

significant trauma in their home country and in traveling to the United States. By law, unaccompanied children must be transferred to HHS within 72 hours. ORR is then charged with caring for those children while working to place them with a sponsor, generally a parent or relative. The supplemental includes requirements to make sure unaccompanied children are appropriately cared for and that ORR is living up to its federally-mandated mission: prompt placement in the least restrictive setting that is in the best interest of the child.

The best place for a child is in a safe and loving home. The supplemental includes several provisions that help ensure HHS places children safely and expeditiously with sponsors. In May of 2018, HHS implemented policies on information-sharing with the Department of Homeland Security (DHS) that led to children lingering in ORR care for far too long. Section 403 of the supplemental directs HHS in law to restrict the amount of information shared with DHS in order to place children with sponsors more quickly. Section 409 states that information obtained from potential sponsors of unaccompanied alien children cannot be used for immigration enforcement, except in certain circumstances. Section 402 requires HHS to ensure that potential sponsors are aware of the ways in which their information obtained through the sponsorship process can be used under current law.

The law also provides additional funding for case management and case coordination services, staff dedicated to strategic improvements, and development of a discharge rate improvement plan, all of which will reduce the average length of stay in ORR custody. It expands funding for legal, post-release and child advocate services, providing critical resources for the most vulnerable children. We expect HHS to provide to Congress its plans to increase those staff and services, including reports on amounts spent and services provided.

The *Flores* Settlement Agreement established that migrant children should be at state-licensed shelters while in government custody. While exceptions are allowed during an "influx" of children, the Administration has overused this authority. The supplemental requires HHS to expand its state-licensed capacity and prioritize small-scale, community-based placements. Section 404 sets standards for unlicensed or "influx" facilities, including child-to- staff ratios and monitoring requirements. At a minimum, children at influx facilities must receive the basic services for licensed facilities under *Flores*, such as routine medical care, individualized needs assessments, educational services, activities, individual and group counseling, and legal services information. HHS must also work to meet state child welfare laws at influx facilities, and Section 404 requires that HHS brief Congress on any requirements that the Secretary determines are not applicable to unlicensed facilities no later than August 30, 2019.

The law includes numerous provisions to increase transparency of the program and how funds are spent. Section 405 requires monthly reporting on children in influx facilities, including their average length of stay and reasons for any delays in release. Section 407 establishes that Members of Congress can access any Department-funded facility housing an unaccompanied alien child provided they have given advance notice of two business days. Section 408 requires monthly public reporting on the number of children separated from their parents by DHS, including the reasons for such separations, to help ensure that the Administration does not return to its morally abhorrent family separation policy. We expect these provisions to be fully

complied with as required by law. Finally, as required by Section 410, HHS must provide a detailed bimonthly spend plan to Congress.

It is critical that HHS executes this law, and all federal law, in good faith in order to meet the needs of the vulnerable children in its care. We ask that HHS provide a briefing no later than July 22, 2019, that outlines its plan for meeting the requirements in the supplemental, and addressing the concerns laid out in this letter.

Department of Homeland Security

The supplemental includes significant funds for the Department of Homeland Security (DHS), to improve conditions for processing and temporarily housing migrants in safe, clean, and humane facilities. Many of these families are fleeing violence in their home countries and legally seeking asylum in the United States. They should not be subjected to overcrowded, inadequate facilities, without even the most basic services. We can and must do better.

The supplemental funds are specifically provided to address the humanitarian needs at the southern border, not to further the Administration's immigration agenda, and the bill includes a number of restrictions limiting the Administration's ability to use these funds for any other purpose. For instance, it does not provide any funding for a border wall or Immigration and Customs Enforcement (ICE) detention beds, and Sec. 301 specifically prohibits funds from being used or otherwise transferred for those purposes. We expect this prohibition to be complied with, as the law requires.

The supplemental includes $1.1 billion to Customs and Border Protection (CBP) for migrant care, processing facilities, food, medical services, safe transportation, and temporary duty and overtime. Section 303 of the supplemental withholds funds until CBP establishes policies (via directive, procedures, guidance, and/or memorandum) to ensure facilities established with supplemental funding adhere to the National Standards on Transport, Escort, Detention, and Search. We look forward to receiving a report on the establishment and implementation of such policies and training programs as required by the supplemental.

We also ask that DHS provide a deployment and construction schedule for new shelters and migrant processing facilities along the southwest border to eliminate overcrowding of families in Border Patrol stations. We expect these structures to be equipped with appropriate beds and shower facilities and that CBP will ensure that migrants have access to age-appropriate food, clean clothing, toilets, and personal hygiene products, such as soap and toothbrushes.

DHS should provide a plan for improved medical care for migrants from their initial encounter with border officials until their release to the Office of Refugee Resettlement or their onward destination. This plan should include efforts to expand training of agents and officers for providing basic, immediate medical assessments and care. Medical equipment and supplies for pediatric services should be provided as well as access to medical professionals and appropriate care, supplies, and transport to hospitals or other medical facilities as required.

The supplemental also provides $20 million to expand Alternatives to Detention by an estimated 13,500 people and invest in programs that have the potential to reduce costs, prioritize resources, and strengthen security. The Administration shall provide Congress with a plan, with specific

dates and locations, on how it will expand enrollment in the program of individuals that do not pose a security risk to our communities.

Finally, the bill includes $30 million in grants for local recipient organizations that have assisted jurisdictions impacted by the significant influx of migrants released from DHS custody. It is our expectation that the Federal Emergency Management Agency (FEMA) will award funds to the Emergency Food and Shelter Program National Board in an expedited fashion and subsequent disbursements to local recipient organizations will be made within 30 days, as required by the supplemental. FEMA and the National Board should provide clear guidelines about eligibility and funding criteria to ensure a fair process without delay.

We ask that DHS provide a briefing no later than July 22, 2019, that outlines its plan for meeting the requirements in the supplemental, and addressing the concerns laid out in this letter.

Department of Justice

Congress provided a total of $220 million to the Department of Justice (DOJ) to meet the emergency needs at the border. Of this amount, $155 million was designated for the U.S. Marshals Service's Federal Prisoner Detention account and $65 million for the Executive Office for Immigration Review (EOIR).

The law is clear that $55 million in funding for EOIR is to hire 30 immigration judge teams, including courtroom space and equipment to accompany them, and $10 million in funding was for the expansion of programming offered by EOIR's Legal Orientation Program (LOP). We expect the Administration to ensure that EOIR swiftly hire these teams and immediately disburse the LOP funding via the existing contract. We ask that DOJ provide a briefing no later than July 22, 2019, that outlines its plan for meeting these requirements.

Department of Defense

The supplemental includes funding for the cost of Department of Defense (DOD) operations along the border. DOD has deployed thousands of active duty troops to the border, plus thousands more members of the National Guard deployed under state status in response to DHS requests for assistance, on a non-reimbursable basis. These deployments have incurred significant costs and have potentially impacted military readiness.

While members of the National Guard have been deployed to the border for more than a year, and DOD has been deploying members of the active component since late last year, the Pentagon's budget proposal for next year does not contain any request for these costs. Additionally, the Administration has already reprogrammed $2.5 billion in military funding for the border wall, in violation of Section 8005, of Public Law 115-245.

These actions show a clear failure by this Administration to adequately and transparently budget and plan for the ongoing situation on the southern border. Diverting hundreds of millions of dollars of funds intended for necessary training and readiness to non-essential activities along the border is unacceptable.

We request that the Department of Defense provide Congress with estimates for the substantial costs it expects to pay for continuing the active duty and National Guard deployments in the next

deployments of military personnel to the border. We request that the Department of Defense provide details on the composition of this planning cell, and monthly updates on its activities, to include a strategy to cease the deployment of active component troops to the border.

Finally, former Defense Secretary James Mattis directed that military personnel deployed in support of other Federal agencies should have no direct contact with migrants. We believe that this policy has been diluted through a series of ad hoc exceptions, to the point that the policy is nearly meaningless, while never having been formally revoked. We ask that the Department of Defense issue a clear and definitive policy on tasks that military personnel shall not be allowed to undertake, especially in relation to the Posse Comitatus Act that prohibits the use of troops for law enforcement operations.

We ask that the Department of Defense provide a briefing no later than July 22, 2019, that outlines its plan for meeting the requirements in the supplemental, and addressing the concerns laid out in this letter.

Sincerely,

Senator Charles Schumer

Senator Patrick Leahy

Senator Dianne Feinstein

Senator Patty Murray

Senator Gary C. Peters

Senator Jack Reed

Senator Jeanne Shaheen

Senator Christopher A. Coons

Senator Robert P. Casey, Jr.

Senator Tammy Duckworth

Senator Mark R. Warner

Senator Benjamin L. Cardin

Senator Michael F. Bennet

Senator Ron Wyden

Senator Bernard Sanders

Senator Catherine Cortez Masto

Senator Jon Tester

Senator Brian Schatz

Senator Tina Smith

Senator Kirsten Gillibrand

Senator Sherrod Brown

Senator Christopher S. Murphy

Senator Martin Heinrich

Senator Jacky Rosen

Senator Amy Klobuchar

Senator Richard Blumenthal

Senator Tammy Baldwin

Senator Tom Udall

Senator Sheldon Whitehouse

Senator Thomas R. Carper

cc. Attorney General
Secretary of Health and Human Services
Acting Secretary of Defense
Acting Secretary of Homeland Security

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, July 22, 2019 4:44 PM
To:	(b)(6) - Austin Mayron Email Address; (b)(6) - Ryan Brady Email Address; (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 7/22/2019

Austin,

Please find below updated DOJ oversight metrics. In addition, and as Mark Grider is aware, DOJ provided an oversight briefing to five House Committees last week. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,187 documents; 73,270 pages
- Number of documents and pages produced to:
  - HOGR: 966 documents; 20,876 pages
  - HJC: 2,202 documents; 46,923 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 6

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

(b)(6) - Edward O'Callaghan Email Address

From: (b)(6) - Edward O'Callaghan Email Address
Sent: Monday, July 22, 2019 7:27 PM
To: (b)(6) - Michael Purpura Email Address
Subject: Fwd: Letter to Robert Mueller
Attachments: Mueller Letter 072219.pdf; ATT00001.htm

Edward C. O'Callaghan
(b) (6)

U.S. Department of Justice

Office of the Deputy Attorney General

Office of the Deputy Attorney General

950 Pennsylvania Ave., N.W.
Room 4113, RFK Main Justice Bldg.
Washington, D.C. 20530

July 22, 2019

Robert S. Mueller, III
Washington, D.C.
By email

Dear Mr. Mueller:

I write in response to your July 10, 2019 letter concerning the testimonial subpoenas you received from the House Judiciary Committee (HJC) and House Permanent Select Committee on Intelligence (HPSCI). Your letter requests that the Department provide you with guidance concerning privilege or other legal bars applicable to potential testimony in connection with those subpoenas.

On May 29, 2019, with the Department's authorization, you made a public statement about your work as Special Counsel. In that statement, you addressed a possible appearance before Congress, saying that you "hope and expect this to be the only time I will speak to you in this matter." You also stated that if you testify before Congress, "[a]ny testimony from this office would not go beyond our report. It contains findings and analysis, and the reasons for the decisions we made. We chose those words carefully, and the work speaks for itself. The report is my testimony. I would not provide information beyond that which is already public in any appearance before Congress." I understand that subsequently, you advised the committees that you do not wish to testify concerning your work as Special Counsel, given that you would not add anything beyond what you already said in the now-public report and your public statement.

As the Attorney General has repeatedly stated, the decision to testify before Congress is yours to make in this case, but the Department agrees with your stated position that your testimony should be unnecessary under the circumstances. The Department generally does not permit prosecutors such as you to appear and testify before Congress regarding their investigative and prosecutorial activity. In addition, the Department already has taken extraordinary steps to make almost your entire report, as well as a substantial volume of your underlying investigative material, available to the committees. Should you testify, the Department understands that testimony regarding the work of the Special Counsel's Office will be governed by the terms you outlined on May 29 – specifically, that the information you discuss during your testimony appears in, and does "not go beyond," the public version of your March 22, 2019 report to the Attorney General or your May 29 public statement.

Please note that there should be no testimony concerning the redacted portions of the public version of your report, which may not be disclosed because of applicable laws, court rules and orders (including Federal Rule of Criminal Procedure 6(e)), or longstanding Department policies. As you know, the *U.S. v. Stone* and *U.S. v. Concord* cases remain pending, and local

court rules and specific orders issued in those cases substantially restrict the Department's ability to make public statements about those cases. In addition, it is the Department's longstanding policy not to discuss the conduct of uncharged third-parties. *See* Justice Manual § 9-27.760. Established Department policy also precludes any comment on the facts developed and legal conclusions by the Special Counsel's Office with respect to uncharged individuals, other than information contained within the portions of your report that already have been made public.

Finally, any testimony must remain within the boundaries of your public report because matters within the scope of your investigation were covered by executive privilege, including information protected by law enforcement, deliberative process, attorney work product, and presidential communications privileges. These privileges would include discussion about investigative steps or decisions made during your investigation not otherwise described in the public version of your report. Consistent with standard practice, Department witnesses should decline to address potentially privileged matters, thus affording the Department the full opportunity at a later date to consider particular questions and possible accommodations that may fulfill the committees' legitimate need for information while protecting Executive Branch confidentiality interests.

I trust this information is helpful. Please do not hesitate to contact me if you wish to further discuss these issues.

Sincerely,

Bradley Weinsheimer
Associate Deputy Attorney General

(b)(6) - Edward O'Callaghan Email Address

From: (b)(6) - Edward O'Callaghan Email Address
Sent: Tuesday, July 23, 2019 10:31 PM
To: (b)(6) - Michael Purpura Email Address
Subject: Fwd: 20190723 - HPSCI CHM Schiff Letter to Mueller on Testimony.pdf
Attachments: 20190723 - HPSCI CHM Schiff Letter to Mueller on Testimony.pdf; ATT00001.htm

Edward C. O'Callaghan
(b) (6)

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

July 23, 2019

VIA ELECTRONIC MAIL

The Honorable Robert S. Mueller, III
Washington D.C.

Dear Mr. Mueller:

I write in advance of your testimony before the House Permanent Select Committee on Intelligence (Committee) tomorrow and in response to the last-minute July 22, 2019 letter to you from Associate Deputy Attorney General Bradley Weinsheimer (DOJ Letter), a copy of which was provided to the Committee by the Department of Justice yesterday evening. The DOJ Letter attempts unduly to circumscribe your testimony and represents yet another attempt by the Trump Administration to obstruct the authorized oversight activity and legitimate investigations of the Committee. The Committee categorically rejects the Department's overly expansive and baseless "prophylactic" assertion of executive privilege in all its various forms. Accordingly, I fully expect that the DOJ Letter will have no bearing on your testimony before the Committee tomorrow.

The Department has expressed its "understand[ing]" that your testimony before the Committee will be governed by the terms you outlined during your May 29, 2016 press conference, specifically, that your testimony will be based upon the information that appears in, and "does not go beyond," the public version of your March 22, 2019 report to the Attorney General or your May 29 public statement. While I understand that it is your intention to focus on the public version of your report, the Department's attempt to restrict your testimony finds no support in law, regulation, or Department policy. Moreover, the subpoena issued by the Committee placed no such limitations on the scope of your testimony, nor did the Committee agree to any such limitations during our weeks of negotiations about the terms of your appearances before the Committee.

The DOJ Letter also invokes various "longstanding Department policies" in an attempt further to circumscribe your testimony tomorrow. To the extent they exist, such self-serving Department policies are not binding on Congress. Moreover, there is equally longstanding precedent, including during the 115th Congress, for such Department policies yielding to legitimate congressional requests in cases where, as here, there is a compelling need for testimony concerning prosecutorial decisions and investigations of national importance. While the Committee is prepared to respect any necessary circumspection on your part in order to

protect legitimate Department equities and not to interfere with ongoing prosecutions, the Committee is wary of selective invocations of Department "policies" by this Attorney General in light of his own public statements regarding the findings of the Special Counsel's Office. For example, the DOJ Letter cites "[e]stablished Department policy" that "precludes any comment on the facts developed and legal conclusions . . . with respect to uncharged individuals," but the Attorney General has made extensive and misleading public comments about unindicted individuals, most notably the President.[1] The Department cannot expect you, or others, to abide by Department policies when the Attorney General himself does not follow them.

The Committee likewise expects that the untenable position that the Department has staked out with regard to executive privilege will have no impact on your testimony. The Department provides no legal support for its claim that such privileges apply here. Nor could it. At its core, the doctrine of executive privilege is intended to preserve the ability of a President to receive confidential advice from the President's closest advisors. It is *not* intended to shield a President from congressional testimony of the utmost national importance concerning a criminal investigation of which the President was personally a target. The Department's attempt prophylactically to assert almost every possible form of executive privilege—including law enforcement, deliberative process, attorney work product, and presidential communications privileges—less than 36 hours before your testimony must be seen for what it is: yet another attempt by the President and the Attorney General to discourage your full cooperation with the Committee and to shield from the American people your critical testimony.

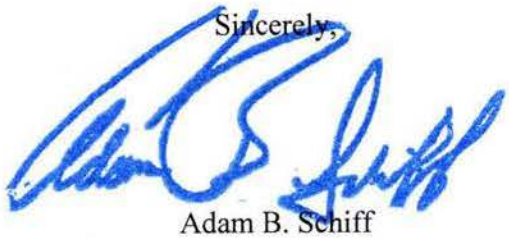
In any event, each of the variants of executive privilege cited in the DOJ Letter are inapplicable here. *First*, there is no basis to support the proposition that a law enforcement privilege—particularly one applied to the now-closed Special Counsel's investigation, which referred consideration of the evidence uncovered to Congress for scrutiny of the President's actions—can shield from congressional scrutiny information that is necessary to address Congress's independent constitutional functions and oversight concerns. *Second,* the deliberative process and work product privileges are common-law privileges that cannot shield testimony pursuant to a constitutionally-rooted congressional subpoena. *Finally*, the presidential communications privilege is designed only to protect the *presidential* decision-making process involving the President's closest White House advisors and, therefore, has no bearing on your testimony as a private citizen and former special counsel.

---

[1] *See, e.g.*, William Barr, Press Statement, *Attorney General William P. Barr Delivers Remarks on the Release of the Report on the Investigation into Russian Interference in the 2016 Presidential Election* (Apr. 18, 2019) ("In assessing the President's actions discussed in the report, it is important to bear in mind the context. President Trump faced an unprecedented situation. As he entered into office, and sought to perform his responsibilities as President, federal agents and prosecutors were scrutinizing his conduct before and after taking office, and the conduct of some of his associates. At the same time, there was relentless speculation in the news media about the President's personal culpability. Yet, as he said from the beginning, there was in fact no collusion. And as the Special Counsel's report acknowledges, there is substantial evidence to show that the President was frustrated and angered by a sincere belief that the investigation was undermining his presidency, propelled by his political opponents, and fueled by illegal leaks. Nonetheless, the White House fully cooperated with the Special Counsel's investigation, providing unfettered access to campaign and White House documents, directing senior aides to testify freely, and asserting no privilege claims. And at the same time, the President took no act that in fact deprived the Special Counsel of the documents and witnesses necessary to complete his investigation."), *available at:* https://www.justice.gov/opa/speech/attorney-general-william-p-barr-delivers-remarks-release-report-investigation-russian.

In short, the Committee rejects the limitations that the Department of Justice has attempted to place on your testimony on the eve of your appearance before our Committee. We look forward to your full, truthful, and frank testimony, which is critical to the Committee's ongoing oversight activities and legitimate investigations.

Sincerely,



Adam B. Schiff
Chairman

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, August 5, 2019 4:12 PM
To:	(b)(6) - Austin Mayron Email Address (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 8/5/2019

Austin,

Please find below the updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,278 documents; 73,742 pages
- Number of documents and pages produced to:
  - HOGR: 981 documents; 20,919 pages
  - HJC: 2,278 documents; 47,352 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 7

Megan L. Greer
Office of Legislative Affairs
(b) (6) (*office*
mobile

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Thursday, August 8, 2019 4:43 PM
To:	Clark, Tamara (OS/OGC); Mao, Coreen EOP/WHO; Chang, William (HHS/OGC)
Cc:	Bai, Sue J. EOP/WHO; Brosnan, Kyle; Hankey, Mary Blanche (OLA); Velchik, Michael K. EOP/WHO
Subject:	RE: Touch-base?

Perfect. I will circulate a dial-in momentarily.

Thanks,
Megan

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Clark, Tamara (OS/OGC) <Tamara.Clark@hhs.gov>
Sent: Thursday, August 8, 2019 4:40 PM
To: Greer, Megan L. (OLA) (b) (6) >; Mao, Coreen EOP/WHO < (b) (6)
Chang, William (HHS/OGC) <William.Chang@hhs.gov>
Cc: Bai, Sue J. EOP/WHO (b) (6) Brosnan, Kyle (b)(6) per DHS >; Hankey, Mary Blanche (OLA) (b) (6) >; Velchik, Michael K. EOP/WHO (b) (6)
Subject: RE: Touch-base?

Yes, 9:30 a.m. EST works for me.

Tamara S. Clark
U.S. Dept. of Health & Human Services
Office of the General Counsel
601 E. 12th St.
Kansas City, MO 64106
Office: (816) 426-5423
Cell: (b)(6) per HHS
tamara.clark@hhs.gov

From: Greer, Megan L. (OLA) (b) (6) >
Sent: Thursday, August 8, 2019 3:38 PM
To: Mao, Coreen EOP/WHO (b) (6) ; Chang, William (HHS/OGC) <William.Chang@hhs.gov>
Cc: Bai, Sue J. EOP/WHO < (b) (6) Brosnan, Kyle (b)(6) per DHS >; Hankey, Mary Blanche (OLA) (b) (6) >; Clark, Tamara (OS/OGC) <Tamara.Clark@hhs.gov>; Velchik, Michael K. EOP/WHO (b) (6)
Subject: RE: Touch-base?

Thanks so much, all. Perhaps we shoot for 9:30 if that works for Tamara/HHS.

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Mao, Coreen EOP/WHO (b) (6) >
Sent: Thursday, August 8, 2019 4:24 PM
To: Chang, William (HHS/OGC) <William.Chang@hhs.gov>
Cc: Bai, Sue J. EOP/WHO (b) (6) ; Greer, Megan L. (OLA) (b) (6) >; Brosnan, Kyle (b)(6) per DHS Hankey, Mary Blanche (OLA) (b) (6) Clark, Tamara (OS/OGC) <Tamara.Clark@hhs.gov>; Velchik, Michael K. EOP/WHO (b) (6)
Subject: Re: Touch-base?

+Michael Velchik.

I can speak anytime before 10am (when Andrew becomes unavailable, per his earlier email). 1pm also works.

Thanks,

Coreen Mao
Office of White House Counsel
(b) (6)

On Aug 8, 2019, at 16:11, Chang, William (HHS/OGC) <William.Chang@hhs.gov> wrote:

> Looping in Tamara as I am out of the office.
>
> William Chang
> Deputy General Counsel
> U.S. Department of Health and Human Services
> 202.819.0810
>
> ---
>
> On: 08 August 2019 16:09,
> "Bai, Sue J. EOP/WHO" < (b) (6) > wrote:
>
> Looping in Coreen while I am out of the office.
>
> Thank you,
> Sue
>
> On Aug 8, 2019, at 9:08 PM, Greer, Megan L. (OLA) (b) (6) wrote:
>
> > All,
> >
> > Could we please quickly touch base on the HJC zero tolerance matter? Perhaps tomorrow morning or at 1pm?
> >
> > Thanks,
> > Megan

Lasseter, David F. (OLA)

From:	Lasseter, David F. (OLA)
Sent:	Monday, August 12, 2019 3:56 PM
To:	Lytle, Mark D. EOP/WHO (b) (6)
Subject:	FW: Draft response to revised SSCI letter
Attachments:	Pompeo_SSCI_06AUG19.pdf; Response to SSCI SCO documents 20190809.docx

Mark—good afternoon. Please see attached draft response from State. We are good with this response. Any issues from your perspective?

Thanks,
David

From: (b)(6) per State
Sent: Friday, August 9, 2019 2:59 PM
To: Lasseter, David F. (OLA) (b) (6)
Cc: (b)(6) per State >; Johnson, Joanne E. (OLA) (b) (6) >
Subject: Draft response to revised SSCI letter

Hi David,

We have this revised SSCI request and a draft proposed response back to the Committee. Given the issues with the previous letter we want to be sure that DOJ would not have any issues with this response before we finalize it.

Regards,

(b)(6) per State

(b)(6) per State
Senior Congressional Advisor
United States Department of State
Room 7805
Office: (b)(6) per State
Cell: (b)(6) per State

Official - SBU
UNCLASSIFIED

United States Senate

SELECT COMMITTEE ON INTELLIGENCE

WASHINGTON, DC 20510–6475

August 6, 2019

VIA HAND DELIVERY
The Honorable Mike Pompeo
Secretary of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Pompeo:

This letter supersedes the Committee's May 29, 2019, letter requesting that the Department of State produce "all State Department information that was provided" to the Special Counsel's Office (SCO).

In order to potentially ease the burden of production and to expedite a response, the Committee hereby amends its request and asks that you please provide to the Committee: all intelligence products, including analytic production, finished intelligence, or raw reporting disseminated by State to the SCO, or disseminated to the Department of Justice for the purposes of further use by the SCO.

As you know, State has a statutory obligation to keep this Committee "fully and currently informed" of its intelligence activities. If, despite your oversight obligations to this Committee, you are unable to produce information responsive to this request because of a valid legal privilege, please indicate the reason and explain the basis thereof in writing as soon as possible.

Thank you for your prompt attention to this request. If you cannot produce this information by August 20, 2019, please contact Committee the Committee's Majority Staff Director, Chris Joyner, at (202) 224-(b) (6), or the Committee's Minority Staff Director, Mike Casey, at (202) 224-(b) (6).

Sincerely,

Richard Burr
Chairman

Mark R. Warner
Vice Chairman

Approved: H: Mary Elizabeth Taylor

Drafted: H (b)(6) per State

Cleared: L/M (b)(6) per State
INR: EPitterle

Greer, Megan L. (OLA)

From: Greer, Megan L. (OLA)
Sent: Monday, August 12, 2019 5:17 PM
To: (b)(6) - Austin Mayron Email Address (b)(6) - Ryan Brady Email Address
(b)(6) - Ryan Brady Email Address
Cc: Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject: RE: DOJ Oversight Metrics - 8/5/2019

Austin,

The metrics below remain accurate as of today.

Best regards,
Megan

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Greer, Megan L. (OLA)
Sent: Monday, August 5, 2019 4:12 PM
To: (b)(6) - Austin Mayron Email Address (b)(6) - Austin Mayron Email Address;
(b)(6) - Ryan Brady Email Address >
Cc: Boyd, Stephen E. (OLA) (b) (6) ; Mary Blanche Hankey (OLA)
(b) (6)
Subject: DOJ Oversight Metrics - 8/5/2019

Duplicative Material

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, August 19, 2019 4:26 PM
To:	(b)(6) - Austin Mayron Email Address (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 8/19/2019

Austin,

Please find below the updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,282 documents; 73,846 pages
- Number of documents and pages produced to:
  - HOGR: 981 documents; 20,919 pages
  - HJC: 2,282 documents; 47,456 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 7

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Garvey, Kevin P. EOP/WHO

From: Garvey, Kevin P. EOP/WHO
Sent: Wednesday, August 21, 2019 1:55 PM
To: Greer, Megan L. (OLA); Lytle, Mark D. EOP/WHO
Cc: Lasseter, David F. (OLA)
Subject: RE: FBI Oversight Statistics

Thanks, Megan!

From: Greer, Megan L. (OLA) (b) (6)
Sent: Wednesday, August 21, 2019 1:47 PM
To: Lytle, Mark D. EOP/WHO (b) (6) >; Garvey, Kevin P. EOP/WHO (b) (6)
Cc: Lasseter, David F. (OLA) (b) (6)
Subject: FW: FBI Oversight Statistics

Mark and Kevin,

Passing along the updated oversight metrics from FBI. Please let me know if any other info would be helpful.

Best,
Megan

From: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Sent: Tuesday, August 20, 2019 1:44 PM
To: Greer, Megan L. (OLA) (b) (6)
Cc: (b)(6), (b)(7)(C), (b)(7)(E) per FBI >; Lasseter, David F. (OLA) (b) (6)
Subject: RE: FBI Oversight Statistics

Hi Megan:

See below for the most recent facts and figures.

1. Cumulative number of documents and pages produced to Congress since 7/9/2019 (not including constituent services, GAO responses, etc.)
    a. **2650 pages** of actual production.

2. Number of documents and pages produced to:
    a. HCOR:
        i. On 6/7/2019, the majority was provided **425 pages** of (b)(7)(E) per FBI materials (NB: these are for "hold and review" only, to be returned upon the request of the FBI and not to be copied, scanned, or disseminated).
        ii. As 8/21/2019, **2225 pages** have been produced in the HQ matter
    b. HJC:
        i. There have been no productions to HJC that I am aware of.

3. Number of Congressional hearings with a Bureau witness (not including appropriations or

3. Number of Congressional hearings with a Bureau witness (not including appropriations or nominations hearings) since 7/9/2019:
    a. Senate Judiciary Committee, Oversight of the FBI; July, 23, 2019, Director Wray.
    b. Additionally, the FBI produced EAD Richard Haley for a transcribed interview with HCOR (and T&I) on 7/26/2019 to discuss the history of the FBI HQ Project.

From: Greer, Megan L. (OLA) (b) (6)
Sent: Monday, August 19, 2019 4:30 PM
To: (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Cc: (b)(6), (b)(7)(C), (b)(7)(E) per FBI >; Lasseter, David F. (OLA) (JMD) (b) (6) >
Subject: FW: FBI Oversight Statistics

Hi (b)(6), (b)(7)(C) per FBI

Have you all updated the FBI's oversight metrics since this report? If so, would you please send to me? If not, could you all please send the updated figures by Wednesday am?

Thanks so much,
Megan

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Greer, Megan L. (OLA)
Sent: Tuesday, July 9, 2019 1:34 PM
To: Garvey, Kevin P. EOP/WHO (b) (6)
Cc: Lytle, Mark D. EOP/WHO (b) (6) >; (b)(6), (b)(7)(C), (b)(7)(E) per FBI >
Subject: RE: FBI Oversight Statistics

Kevin,

(b)(6), (b)(7)(C) per FBI may have additional updates when he is back in the office tomorrow, but in the interim, the below information includes document and hearing updates from the HQ inquiry. Please let us know if anything else would be helpful.

2. Cumulative number of documents and pages produced to Congress since 1/3/2019 (not including constituent services, GAO responses, etc.)
    a. 1902 pages of production but hundreds of thousands more subject to review for potential productions

3. Number of documents and pages produced to:
    a. HOGR:
        i. On 6/7/2019, the majority was provided 425 pages of (b)(7)(E) per FBI materials (NB: these are for "hold and review" only, to be returned upon the request of the FBI and not to be copied, scanned, or disseminated).
        ii. As 7/9/2019, 1477 pages have been produced in the HQ matter
    b. HJC:
        i. There have been no productions to HJC that I am aware of.

4. Number of Congressional hearings with a Bureau witness (not including appropriations or nominations hearings) since 1/3/2019:
    a. 7 (including one gun hearing before CJS approps and the 6/27/2019 HOGR hearing regarding document production at which AD Jill Tyson testified)

Best regards,
Megan

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

From: Garvey, Kevin P. EOP/WHO (b) (6) >
Sent: Tuesday, July 9, 2019 11:12 AM
To: Greer, Megan L. (OLA) (b) (6) >; (b)(6), (b)(7)(C), (b)(7)(E) per FBI
Cc: Lytle, Mark D. EOP/WHO (b) (6) >
Subject: FBI Oversight Statistics

(b)(6), (b)(7)(C) per FBI and Megan,

When you have a moment, can you please send me updated FBI oversight statistics as soon as possible? It's been a while since we got figures from FBI and we're getting pressure from senior leadership in our office to produce updated numbers today.

As a reminder, here's what we're looking for:

Statistics for FBI – 116th Congress (cumulative, as of July 5):

1. Number of Documents and Pages produced to Congress:
    - Documents –
    - Pages –

2. Number of Documents and Pages produced each to the House Judiciary Committee and to the House Oversight and Reform Committee:
    - House Judiciary –
    - House Oversight –

3. Number of Hearings (excluding nominations, appropriations):

Best,
K.

Kevin P. Garvey
Office of the White House Counsel

Office of the White House Counsel
EEOB No. 190A
(b) (6)
O: (b) (6) | C: (b) (6)

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, September 16, 2019 4:33 PM
To:	(b)(6) - Austin Mayron Email Address ; (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA)
Subject:	DOJ Oversight Metrics - 9/16/2019

Austin,

Please find below the updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,448 documents; 75,447 pages
- Number of documents and pages produced to:
  - HOGR: 1,028 documents; 21,998 pages
  - HJC: 2,401 documents; 47,978 pages
- DOJ Hearings (excluding appropriations and nominations)
  - 8

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, September 23, 2019 6:46 PM
To:	(b)(6) - Austin Mayron Email Address ; (b)(6) - Ryan Brady Email Address (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA); Reuss, Alexis (OLA)
Subject:	DOJ Oversight Metrics - 9/23/2019

Austin,

Please find below the updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,671 documents; 75,929 pages
- Number of documents and pages produced to:
  - HOGR: 1,201 documents; 22,184 pages
  - HJC: 2,451 documents; 48,274 pages
- DOJ Hearings (excluding appropriations and nominations):
  - 11

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Greer, Megan L. (OLA)

From:	Greer, Megan L. (OLA)
Sent:	Monday, September 30, 2019 5:10 PM
To:	(b)(6) - Austin Mayron Email Address; (b)(6) - Ryan Brady Email Address; (b)(6) - Ryan Brady Email Address
Cc:	Boyd, Stephen E. (OLA); Hankey, Mary Blanche (OLA); Reuss, Alexis (OLA)
Subject:	DOJ Oversight Metrics - 9/30/2019

Austin,

Please find below the updated DOJ oversight metrics. If you need any additional information, please don't hesitate to let me know.

Best regards,
Megan

- Cumulative number of documents and pages produced to Congress since 1/3/2019:
  - 3,722 documents; 76,083 pages
- Number of documents and pages produced to:
  - HOGR: 1,201 documents; 22,184 pages
  - HJC: 2,451 documents; 48,274 pages
- DOJ Hearings (excluding appropriations and nominations):
  - 11

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

Lasseter, David F. (OLA)

From:	Lasseter, David F. (OLA)
Sent:	Wednesday, October 9, 2019 2:14 PM
To:	Greer, Megan L. (OLA); Lytle, Mark D. EOP/WHO (b) (6) Garvey, Kevin P. EOP/WHO (b) (6)
Subject:	RE: GJ Litigation
Attachments:	37 - Submission re Accommodation Process.pdf

Filing attached

From: Greer, Megan L. (OLA) (b) (6) >
Sent: Wednesday, October 9, 2019 10:56 AM
To: Lytle, Mark D. EOP/WHO (b) (6) >; Garvey, Kevin P. EOP/WHO (b) (6)
Cc: Lasseter, David F. (OLA) (b) (6)
Subject: GJ Litigation

Here is Judge Howell's order from yesterday's hearing:

MINUTE ORDER (paperless) DIRECTING the Department of Justice to (1) by 7:00 PM today, October 8, 2019, identify the number of FBI Form 302 interview reports that have been provided to the Committee on the Judiciary thus far, and the witnesses whose interviews are covered, the number and percentage of the reports that contain redactions, the basis for those redactions, and the witnesses for whom the FBI still plans to produce FBI-302 reports to the Committee; (2) by October 11, 2019, identify whether the requests to foreign governments that Special Counsel Robert S. Mueller, III made pursuant to Mutual Legal Assistance Treaties (MLATs) contained grand jury information and, if so, the number of MLATs that contained such information; (3) by October 11, 2019, identify whether grand jury information collected during the Mueller investigation has been shared with foreign governments pursuant to Federal Rule of Criminal Procedure 6(e)(3)(D) and, if so, the number of times such disclosure has occurred; (4) by October 11, 2019, clarify whether grand jury secrecy is the only basis for redaction of material marked in the public version of the Mueller Report as being withheld on the basis of grand jury secrecy, or whether other bases for withholding that same information also apply, and if so, identify what other bases apply; and (5) by October 11, 2019, file a supplemental brief addressing (a) the Department's basis for redacting the information contained in paragraph 4 of the Declaration of Bradley Weinsheimer submitted, in redacted form, as Exhibit 10 to the Department's 20 Response to the Committee's Application, and (b) why the Department believes Rule 6(e)(3)(D) does not authorize the Department to share any of the grand jury information in or underlying the Mueller Report with members of Congress; and FURTHER DIRECTING the Committee on the Judiciary to (1) by 7:00 PM on October 9, 2019, identify (a) any instances in which the Committee believes the submission that will be made by the Department on October 8, 2019 is inaccurate, (b) the reasons why the Committee believes that submission is inaccurate, and (c) the instances in which the Committee has challenged redactions that the Department has made to the FBI-302 reports the Committee has already received; and (2) by October 16, 2019, respond to the Department of Justice's supplemental brief due on October 11, 2019. Signed by Chief Judge Beryl A. Howell on October 8, 2019. (lcbah1)

Megan L. Greer
Office of Legislative Affairs
(b) (6) *office*
(b) (6) *mobile*

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE:	)	
APPLICATION OF THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, FOR AN ORDER AUTHORIZING THE RELEASE OF CERTAIN GRAND JURY MATERIALS	)	Civil Action No. 1:19-gj-00048 BAH

SUPPLEMENTAL SUBMISSION REGARDING ACCOMMODATION PROCESS

In accordance with the Court's minute order of October 8, 2019, the Department of Justice hereby provides the requested information, following consultation with Department officials familiar with the ongoing accommodation process with the House Judiciary Committee ("Committee" or "HJC").

1. As the Department explained in its Opposition to the Committee's Application, the Department has attempted to accommodate the Committee's stated need for information sought in a subpoena it issued to the Department. *See, e.g.*, Exh. 6 to Application Opp. (Letter from Stephen E. Boyd to Chairman Nadler, dated May 6, 2019). Eventually, the Committee sent the Department a list of FBI Form 302 interview reports (FBI-302s) referenced in Volume II of the Mueller Report, as well as a list of notes and other documents, and advised that the production of those documents "would satisfy the Committee's subpoena." HJC App., Exh. O at 2. That accommodation process is ongoing and none of the documents involved in that process are themselves grand jury documents. There is a separate accommodation process with the House Permanent Select Committee on Intelligence ("HPSCI") in connection with the Volume I FBI-302s.

2. The Department and the Committee reached an agreement on June 7, 2019 that governs the terms of the Committee's review of the FBI-302s. The agreement provided for the Department to begin making the FBI-302s available at the Department for review on or before June 17, 2019 (pursuant to specified terms) with production to continue on a rolling basis thereafter. It was agreed that the Department would withhold any information covered by Criminal Rule 6(e), though redactions pursuant to Criminal Rule 6(e) have been minimal given that these FBI-302s and documents relate to Volume II of the Mueller Report the portion of the Report that addresses the President's actions in connection with alleged obstruction of justice which includes almost no grand jury information. It was also agreed that the Department reserved its right to redact portions of the documents, including on the basis of privilege, and that the Committee would reserve its right to object to withholdings. The documents are available for review at the Department of Justice, by all members of the Committee and specified staff from both the majority and minority. Notes (other than classified notes) were permitted to be taken back to the Committee, so long as they were treated as sensitive and confidential and appropriately stored. The agreement provided that those with access to the materials could discuss the materials only among themselves.

3. The Committee requested FBI-302s for 33 individuals. To date the Department has provided access to the FBI-302s of 17 of those individuals, several of whom had multiple interviews. Those individuals are (in alphabetical order): (1) Chris Christie, (2) Michael Cohen (six separate FBI-302s); (3) Rick Dearborn; (4) Uttam Dhillon; (5) John Kelly; (6) Jared Kushner; (7) Cory Lewandowski; (8) Paul Manafort (seven separate FBI-302s); (9) Mary McCord; (10) K.T. McFarland (five separate FBI-302s); (11)

Stephen Miller; (12) Rob Porter (two separate FBI-302s); (13) Rod Rosenstein; (14) Christopher Ruddy; (15) Sarah Sanders; (16) Sean Spicer; (17) Sally Yates.

4. All of the FBI-302s produced to date have some level of redaction applied. Some are redacted only to protect agent and prosecutor names, personal identification information, and FBI file numbers, and thus may be 95% or more unredacted. Others, such as Porter and Dhillon (both senior Presidential advisors who had direct conversations with the President), are substantially redacted, perhaps as much as 75% or more. It is difficult to arrive at a precise estimation of the level of redaction in the FBI-302's, however the Department estimates that many FBI-302s processed to date likely have 15-20% or less of the content redacted. These percentages are rough approximations, and the amount of information redacted varies from document to document, with some having substantially more redactions. Without waiving any potential objections to judicial review of the accommodation process, the underlying bases for the redactions are grand jury information (minimal); personal privacy (including information such as names of agents and prosecutors, email addresses, phone numbers, dates of birth); sensitive information relating to ongoing cases and investigations; classification; and Executive Branch confidentiality interests.

5. The Department currently anticipates making the remaining FBI-302's available under the agreed upon terms as processing is completed, so long as they do not adversely impact ongoing investigations and cases and subject to redaction and potential withholding in order to protect Executive Branch confidentiality interests. These include, in alphabetical order (1) Stephen Bannon; (2) Dana Boente; (3) James Burnham; (4) James Comey; (5) Annie Donaldson; (6) John Eisenberg; (7) Michael Flynn; (8) Rick Gates; (9)

Hope Hicks; (10) Jody Hunt; (11) Andrew McCabe; (12) Don McGahn; (13) Reince Priebus; (14) James Rybicki; (15) Jeff Sessions. In addition, the Committee requested the FBI-302 for the counsel to Michael Flynn, which also has not yet been processed.

Date: October 8, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

JAMES M. BURNHAM
Deputy Assistant Attorney General

/s/ Elizabeth J. Shapiro
ELIZABETH J. SHAPIRO
CRISTEN C. HANDLEY
Attorneys, Civil Division
U.S. Department of Justice
1100 L Street NW
Washington, DC 20005
Tel: (202) 514-5302
Fax: (202) 616-8460

Counsel for Department of Justice

O'Callaghan, Edward C. (ODAG)

From:	O'Callaghan, Edward C. (ODAG)
Sent:	Thursday, October 17, 2019 8:59 AM
To:	Philbin, Patrick F. EOP/WHO; Purpura, Michael M. EOP/WHO
Subject:	HJC filing in 6e litigation
Attachments:	41 - HJC memorandum re court order.pdf

Please see attached filing made by HJC last night.

Edward C. O'Callaghan
Principal Associate Deputy Attorney General
(o) (b) (6)
(c) (b) (6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE: APPLICATION OF THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, FOR AN ORDER AUTHORIZING THE RELEASE OF CERTAIN GRAND JURY MATERIALS	No. 19-gj-48 (BAH)

RESPONSE OF THE COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, TO DOJ'S SECOND SUPPLEMENTAL SUBMISSION

The Committee on the Judiciary of the U.S. House of Representatives (Committee) hereby responds to the Court's October 8, 2019 Minute Order, and to the Department of Justice's second supplemental submission (Oct. 11, 2019), Dkt. 40 (DOJ 10/11/19 Supp. Sub.). The information set forth below is based on consultation with the Committee staff who have been directly involved in discussions with the Department of Justice (DOJ), including on the status of the production of FBI-302 interview reports and other materials requested as part of the Committee's impeachment inquiry.

1. All parties agree that "the identity of grand jury witnesses is protected by Rule 6(e)," but that "the identification of who did not testify before the grand jury would not normally violate Rule 6(e)." DOJ 10/11/19 Supp. Sub. ¶ 4; *see also* Second Decl. of Bradley Weinsheimer ¶ 4 (Oct. 11, 2019), Dkt. 40-1 (Second Weinsheimer Decl.) ("Typically, the names of individuals who did not testify before the grand jury are not protected by Rule 6(e), and the Mueller Report contains no redactions for that purpose."). DOJ argues, however, that because the Committee requested FBI-302 reports for a "finite list of individuals," disclosing the non-testifying witnesses in paragraph four of the first Declaration of Bradley Weinsheimer (Sept. 13, 2019), Dkt. 20-10 (First Weinsheimer Decl.), "would necessarily reveal those who did testify,"

DOJ 10/11/19 Supp. Sub. ¶ 4. Paragraph four of the First Weinsheimer Declaration is completely redacted. The Committee, therefore, cannot test the accuracy of DOJ's assertion and leaves to the Court the determination whether, on the facts here, disclosing the non-testifying witnesses' identities would necessarily disclose the identity of the testifying witnesses. If the Court determines based on the circumstances presented here that the non-testifying witnesses' identities are protected under Rule 6(e), and subsequently rules in the Committee's favor on the merits of the Committee's Rule 6(e) application, the Committee respectfully requests that it be provided access to any Rule 6(e) material in paragraph four of the First Weinsheimer Declaration.

2. The Committee disagrees with DOJ's assertion that the foreign intelligence exception in Rule 6(e)(3)(D) does not authorize disclosure of grand-jury information to the U.S. House of Representatives. *See, e.g.*, Letter from Chairman Adam Schiff to Attorney General Barr at 3 n.2 (May 8, 2019) (attached as Ex. N to App. of the Comm. (July 26, 2019), Dkt. 1-15). But regardless of whether Rule 6(e)(3)(D) is correctly interpreted to include the House, this Court has recently stated that the foreign intelligence exception does not "authorize[] *a court* to order release of grand jury material[s]." *In re App. of the Reporters Comm. for Freedom of the Press*, No. 19-45, 2019 WL 4707242, at *4 (D.D.C. Sept. 9, 2019) (emphasis added). And because DOJ has made clear that it does not interpret Rule 6(e)(3)(D) to authorize disclosure of the grand-jury information the Committee seeks, Second Weinsheimer Decl. ¶ 5; *see id.*, Ex. A, Dkt. 40-2 (Letter from Assistant Attorney General Stephen E. Boyd to Chairman Adam Schiff (June 12, 2019)), the Committee has no expectation that DOJ will provide grand-jury information pursuant to Rule 6(e)(3)(D). This conclusion only underscores the Committee's

particularized need for a court order authorizing disclosure pursuant to the judicial proceeding exception in Rule 6(e)(3)(E)(i).

3. The Committee is both perplexed and concerned by DOJ's retreat in its representations to the Court concerning the status of DOJ's agreement to produce certain FBI-302 reports to the Committee. *See* DOJ 10/11/19 Supp. Sub. ¶ 6; *see also* Second Weinsheimer Decl. ¶ 6. The shift in DOJ's assertions further undercuts its claim that the Committee has not demonstrated a particularized need.

DOJ had originally argued that the Committee cannot establish a particularized need because the Committee has other sources for the information it seeks, including the FBI-302 reports that DOJ had "agreed" to provide to the Committee. DOJ's Resp. to App. of the Comm. at 34, 32 (Sept. 13, 2019), Dkt. 20; *see* 10/8 H'rg Tr. at 47-48. In its first supplemental submission after the October 8, 2019 hearing, DOJ again stated that it "currently anticipates making the remaining FBI-302's available under the agreed upon terms as processing is completed." DOJ Supp. Sub. Regarding Accommodation Process ¶ 5 (Oct. 8, 2019), Dkt. 37 (DOJ 10/8/19 Supp. Sub.). In DOJ's second supplemental submission and contrary to DOJ's earlier statement that it would be "making the remaining FBI-302's available *under the agreed upon terms*," *id.* (emphasis added) DOJ states that it "may need to amend the current agreement," Second Weinsheimer Decl. ¶ 6,[1] in light of a letter sent from the White House to

[1] Notably, in its second supplemental submission, DOJ does not dispute that the redactions to the FBI-302 reports that it has produced to the Committee so far have never been explained to the Committee. Nor does DOJ dispute that many additional FBI-302 reports and other documents pertaining to many of the most crucial witnesses for the Committee's investigation have yet to be made available to the Committee. *See generally* DOJ 10/11/19 Supp. Sub. DOJ last made a batch of FBI-302 reports available to the Committee on August 20, 2019.

House Leadership on October 8, 2019.[2] In that letter, the White House stated that "President Trump and his Administration" would not "participate in" the House's impeachment inquiry. Cipollone Letter at 2.

Upon reviewing the Second Weinsheimer Declaration, undersigned counsel for the Committee contacted counsel for DOJ to clarify whether DOJ still planned to make "the remaining FBI-302s available under the agreed upon terms," as it had advised the Court on October 8, DOJ 10/8/19 Supp. Sub. ¶ 5, or whether the agreement had been superseded by the October 8 letter from the White House. Counsel for DOJ responded that this matter should be resolved between the Committee and DOJ's Office of Legislative Affairs. The Committee then sought clarification from that office, and an official responded that "Speaker Pelosi's recent view that the House is now engaged in an impeachment inquiry *may necessitate modification* of our June 2019 agreement with the Committee," including because DOJ "needs to understand [the Committee's] purpose in accessing any additional materials." Email from David F. Lasseter, Deputy Assistant Attorney General, Office of Legislative Affairs, to Committee Staff (Oct. 15, 2019). Given these apparently contradictory messages, the Committee thus far has been unable to obtain clarity on whether DOJ is going to proceed with the promised production of the FBI-302 reports and adhere to its agreement with the Committee on this subject.

Moreover, since at least July 2019, when the Committee filed its Application, DOJ has known that the Committee is conducting an investigation to determine whether to recommend articles of impeachment against President Trump. *See* App. of the Comm. at 1 (July 26, 2019),

[2] *See* Letter from White House Counsel Pat A. Cipollone to Speaker Nancy Pelosi at 2 (Oct. 8, 2019), https://perma.cc/68H3-5XTE (Cipollone Letter). The letter appears to have been made public by 5:30 p.m. on October 8, 2019. *See* Quinta Jurecic, *White House Letter to Congress on Impeachment Inquiry*, Lawfare (Oct. 8, 2019, 5:23 PM), https://perma.cc/9DRX-ESQK.

Dkt. 1; *see also id.*, Ex. A at 3 (July 11, 2019 Memorandum from Committee Chairman Jerrold Nadler). DOJ was well aware of that fact at the hearing in this matter on the morning of October 8, 2019, when DOJ stated to this Court and the Committee that it would produce the remaining FBI-302 reports, 10/8 Hr'g Tr. at 47-50,[3] and that evening, when it filed its first supplemental submission reiterating its commitment, DOJ 10/8/19 Supp. Sub. ¶ 5.

Regardless of this confusing situation created by DOJ and the White House, the bottom line is that the Committee has received only some of the FBI-302 reports it has requested (and these generally do not include the ones of most interest to the Committee). Moreover, many of the reports that have been produced contain substantial unexplained redactions. Accordingly, this Court should reject DOJ's argument that the Committee, in theory, can obtain the information it seeks from other sources and therefore has not demonstrated a particularized need. In reality, DOJ has not made such information available to the Committee. The course of dealings described above underscores the Committee's need for the requested disclosure.

Respectfully submitted,

/s/ Douglas N. Letter
Douglas N. Letter (D.C. Bar No. 253492)
General Counsel
Todd B. Tatelman (VA Bar No. 66008)
Deputy General Counsel
Megan Barbero (MA Bar No. 668854)
Associate General Counsel
Josephine Morse (DC Bar No. 1531317)
Associate General Counsel
Adam A. Grogg (DC Bar No. 1552438)
Assistant General Counsel
Jonathan B. Schwartz (DC Bar No. 342758)
Attorney
OFFICE OF GENERAL COUNSEL

[3] *See, e.g.*, 10/8 Hr'g Tr. at 50 ("There are five 302s from Mr. McGhan that are in the process of being redacted and may already be redacted. They are in the pipeline, so [the Committee] will get those.").

U.S. HOUSE OF REPRESENTATIVES
219 Cannon House Office Building
Washington, D.C. 20515
Telephone: (202) 225-9700
douglas.letter@mail.house.gov

Counsel for Committee on the Judiciary, United States House of Representatives

October 16, 2019

Lasseter, David F. (OLA)

From:	Lasseter, David F. (OLA)
Sent:	Wednesday, October 23, 2019 9:01 AM
To:	Lytle, Mark D. EOP/WHO (b) (6) ; Garvey, Kevin P. EOP/WHO
Subject:	Congressional request for email from Mueller Report
Attachments:	20191023084145285.pdf

Good morning guys. I have received multiple requests for this attached email. It is referenced in footnote 468 of the Mueller Report. Because it is a purely EOP email I thought it best if I referred the requestors to both of you. I am happy to discuss over the phone if needed.

Thanks,
David

David F. Lasseter
(b) (6)

-----Original Message-----
From: Aficio_MP_C6502@usdoj.gov <Aficio_MP_C6502@usdoj.gov>
Sent: Wednesday, October 23, 2019 8:42 AM
To: Lasseter, David F. (OLA) (b) (6)
Subject: Message from "RNP002673A26A1B"

This E-mail was sent from "RNP002673A26A1B" (MP C6502).

Scan Date: 10.23.2019 08:41:45 (-0400)
Queries to: Aficio_MP_C6502@usdoj.gov

RE: Tick Tock on the visit

From:

"Ciaramella, Eric A. EOP/NSC" <eric_a_ciaramella@nsc.eop.gov>

To:

"Kelly, William R. EOP/NSC" <william.r.kelly@nsc.eop.gov>, "Hill, Fiona . EOP/NSC" <fiona.hill@nsc.eop.gov>

Cc:

DL NSC Press <dl.press@whmo.mil>, "Raimondi, Marc" <marc.a.raimondi@nsc.eop.gov>, "Bergen, Charles W. EOP/NSC" <charles.w.bergen@nsc.eop.gov>, "Holmes, Stephanie E. EOP/NSC" <stephanie_e_holmes@nsc.eop.gov>

Date:

Wed, 10 May 2017 11:28:37 -0400

Here you go:

April 12 - Sec Tillerson visits Moscow and is received by President Putin

May 2 - POTUS phone call with Putin, at Putin's request, to discuss Syria; Putin asks POTUS to receive Lavrov when he stops through DC en route to Arctic Ministerial in Fairbanks, Alaska (a long-planned international meeting); POTUS agrees, and preparations begin

May 5 - WH scheduling confirms Lavrov meeting for 5/10 at 10:30; US and Russian protocol teams begin working out the details

-----Original Message-----
From: Kelly, William R. EOP/NSC
Sent: Wednesday, May 10, 2017 11:22 AM
To: Ciaramella, Eric A. EOP/NSC <Eric_A_Ciaramella@nsc.eop.gov>; Hill, Fiona . EOP/NSC <fiona.hill@nsc.eop.gov>
Cc: DL NSC Press <DL.Press@whmo.mil>; Raimondi, Marc <Marc.A.Raimondi@nsc.eop.gov>
Subject: Tick Tock on the visit

Can we please get a quick tick tock on how this visit comes together to make clear that it was planned for some time and has nothing to do with the recent events? This is normal in the course of diplomacy and reciprocal for Tillerson visit. Need in next 45 minutes please.

Very respectfully,
William Kelly
Strategic Communications
National Security Council
Office: (202) 456-9269
Cell: (202) 881-8752

FOIA Confidential b5, b7
Subject to Executive Privilege

(b)(7)(E) per FBI

Lasseter, David F. (OLA)

From:	Lasseter, David F. (OLA)
Sent:	Thursday, October 24, 2019 5:43 PM
To:	Garvey, Kevin P. EOP/WHO
Cc:	Lytle, Mark D. EOP/WHO
Subject:	Re: Congressional request for email from Mueller Report

Mark and I discussed yesterday. We are good to go.

Thanks,
dfl

David F. Lasseter
Deputy Assistant Attorney General
U.S. Department of Justice

> On Oct 24, 2019, at 17:35, Garvey, Kevin P. EOP/WHO [redacted (b) (6)] wrote:
>
> David,
>
> I'm happy to discuss tomorrow at your convenience. Not sure what Mark's schedule is like but I'm pretty flexible.
>
> Best,
> K.
>
> Kevin P. Garvey
> Associate Counsel to the President
> Office of the White House Counsel
> O: [redacted (b) (6)] | C: [redacted (b) (6)]
>
> -----Original Message-----
> From: Lasseter, David F. (OLA) <[redacted (b) (6)]
> Sent: Wednesday, October 23, 2019 9:01 AM
> To: Lytle, Mark D. EOP/WHO [redacted (b) (6)]>; Garvey, Kevin P. EOP/WHO [redacted (b) (6)]>
> Subject: Congressional request for email from Mueller Report

[redacted Duplicative Material]

Rosen, Jeffrey A. (ODAG)

From:	Rosen, Jeffrey A. (ODAG)
Sent:	Monday, October 28, 2019 11:43 AM
To:	(b)(6) - Patrick Philbin Email Address
Subject:	1954
Attachments:	1954PubPapers483.pdf; 1954 Eisenhower Letter and Brownell Memo (NYT).pdf

Eisenhower Letter to Secretary of Defense attached, along with AG Brownell memo, during Army-McCarthy hearings.

Eisenhower: "Any man who testifies as to the advice he gave me won't be working for me that night." https://constitutioncenter.org/blog/when-presidents-use-executive-privilege

See "Advising Ike: The Memoirs of Herbert Brownell", chapter 14 ('Protecting the Presidency'), University of Kansas Press, 1993.

(b) (5)

Texts of Eisenhower Letter and Brownell Memorandum on Testimony in Senate Inquiry

WASHINGTON, May 17 (AP)—Following are the texts of the letter from President Eisenhower and the memorandum from Attorney General Herbert Brownell Jr. concerning the White House's refusal today to permit certain testimony in the McCarthy-Army dispute:

Letter From President

Dear Mr. Secretary [of Defense]:

It has long been recognized that to assist the Congress in achieving its legislative purposes every Executive department or agency must, upon the request of a Congressional committee, expeditiously furnish information relating to any matter within the jurisdiction of the committee, within certain historical exceptions—some of which are pointed out in the attached memorandum from the Attorney General.

This Administration has been and will continue to be diligent in following this principle. However, it is essential to the successful working of our system that the persons entrusted with power in any one of the three great branches of Government shall not encroach upon the authority confided to the others. The ultimate responsibility for the conduct of the Executive Branch rests with the President.

Within this constitutional framework each branch should cooperate fully with each other for the common good. However, throughout our history the President has withheld information whenever he found that what was sought was confidential or its disclosure would be incompatible with the public interest or jeopardize the safety of the nation.

Because it is essential to efficient and effective administration that employes of the Executive Branch be in a position to be completely candid in advising with each other on official matters, and because it is not in the public interest that any of their conversations or communications or any documents or reproductions concerning such advice be disclosed, you will instruct employes of your department that in all of their appearances before the subcommittee of the Senate Committee on Government Operations regarding the inquiry now before it, they are not to testify to any such conversations or communications or to produce any such document or reproduction.

This principle must be maintained regardless of who would be benefited by such disclosures.

I direct this action so as to maintain the proper separation of powers between the Executive and Legislative Branches of the Government in accordance with my responsibilities and duties under the Constitution. This separation is vital to preclude the exercise of arbitrary power by any branch of the Government.

By this action I am not in any way restricting the testimony of such witnesses as to what occurred regarding any matters where the communication was directly between any of the principals in the controversy within the Executive Branch on the one hand and a member of the subcommittee or its staff on the other.

Sincerely,
DWIGHT D. EISENHOWER.

The Honorable
The Secretary of Defense,
Washington, D. C.

Memorandum From Brownell

For: The President
From: The Attorney General

One of the chief merits of the American system of written constitutional law is that all the powers entrusted to the Government are divided into three great departments, the Executive, the Legislative and the Judicial.

It is essential to the successful working of this system that the persons entrusted with power in any one of these branches shall not be permitted to encroach upon the powers confided to the others, but that each be limited to the exercise of the powers appropriate to its own department and no other. The doctrine of separation of powers was adopted to preclude the exercise of arbitrary power and to save the people from autocracy.

This fundamental principle was fully decognized by our first President, George Washington, as early as 1796 when he said:

" * * * It is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved * * * ."

In his Farewell Address, President Washington again cautioned strongly against the danger of encroachment by one department into the domain of another as leading to despotism.

This principle has received steadfast adherence throughout the many years of our history and growth. More than ever, it is our duty today to heed these words if our country is to retain its place as a leader among the free nations of the world.

For over 150 years—almost from the time that the American form of Government was created by the adoption of the Constitution—our Presidents have established, by precedent, that they and members of their Cabinet and other heads of Executive Departments have an undoubted privilege and discretion to keep confidential, in the public interest, papers and information which require secrecy.

American history abounds in countless illustrations of the refusal, on occasion, by the President and heads of departments to furnish papers to Congress, or its committees, for reasons of public policy. The messages of our past Presidents reveal that almost every one of them found it necessary to inform Congress of his constitutional duty to execute the office of President, and, in furtherance of that duty, to withhold information and papers for the public good.

Nor are the instances lacking where the aid of a court was sought in vain to obtain information or papers from a President and the heads of departments.

Courts have uniformly held that the President and the heads of departments have an uncontrolled discretion to withhold the information and papers in the public interest; they will not interfere with the exercise of that discretion, and that Congress has not the power, as one of the three great branches of the Government, to subject the Executive Branch to its will any more than the Executive Branch may impose its unrestrained will upon the Congress.

President Washington's Administration

In March, 1792, the House of Representatives passed the following resolution:

"Resolved, that a committee be appointed to inquire into the causes of the failure of the late expedition under Major General St. Clair; and that the said committee be empowered to call for such persons, papers and records, as may be necessary to assist their inquiries." (3 Annals of Congress, P. 493)

This was the first time that a committee of Congress was appointed to look into a matter which involved the Executive Branch of the Government. The expedition of General S. Clair was under the direction of the Secretary of War. The communitures connected therewith came under the Secretary of the Treasury. The House based its right to investigate on the control of the expenditures of public moneys.

It appears that the Secretaries of War and the Treasury appeared before the committee. However, when the committee was bold enough to ask the President for the papers pertaining to the General St. Clair campaign, President Washington called a meeting of his Cabinet. (Binkley, "President and Congress," Pp. 40-41)

Thomas Jefferson, as Secretary of State, reports what took place at that meeting. Besides Jefferson, Alexander Hamilton, Henry Knox, Secretary of War, and Edmond Randolph, the Attorney General, were present.

The question had first written to Knox for the original letters, instructions, etc., to General St. Clair. President Washington stated that he had called his Cabinet members together, because it was the first example of a demand on the Executive for papers, which he wished that so far as it should become a precedent, it should be rightly conducted.

The President readily admitted that he did not doubt the propriety of what the House was doing, but he could conceive that there might be papers of so secret a nature, that they ought not to be given up. Washington and his Cabinet came to the unanimous conclusion:

"First, that the House was an inquest, and therefore might institute inquiries. Second, that it might call for papers generally. Third, that the Executive ought to communicate such papers as the public good would permit, and ought to refuse those, the disclosure of which would injure the public: consequently were to exercise a discretion. Fourth, that neither the committee nor House had a right to call on the head of a department, who and whose papers were under the President alone; but that the committee should instruct their chairman to move the House to address the President."

'Classic Reply' Quoted

The precedent thus set by our first President and his Cabinet was followed by 1796, when President Washington was presented with a resolution of the House of Representatives, which requested him to lay before the House a copy of the instructions to the Minister of the United States who negotiated the treaty with the King of Great Britain, together with the correspondence and documents relative to that treaty.

Apparently it was necessary to implement the treaty with an appropriation, which the House was called upon to vote. The House insisted on its right to the papers requested, as a condition to appropriating the required funds. "President and Congress," Wilfred E. Binkley, 1947, P. 44.)

President Washington's classic reply was, in part, as follows:

"I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right; and with truth I affirm that it has been, as it will continue to be while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof so far as the trust delegated to me by the people of the United States and my sense of the obligation it imposes to preserve, protect and defend the Constitution' will permit."

(Richardson's "Messages and Papers of the Presidents," Vol. 1, P. 194.)

Washington then went on to discuss the secrecy required in negotiations with foreign Governments, and cited that as a reason for vesting the power of making treaties in the President, with the advice and consent of the Senate. He felt that to admit the House of Representatives into the treaty making power, by reason of its constitutional duty to appropriate monies to carry out a treaty, would be to establish a dangerous precedent. He closed his message to the House as follows:

"As, therefore, it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty; * * * and it is essential to the due administration of the Government that the boundaries fixed by the Constitution between the different departments should be preserved, a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbids a compliance with your request." (Richardson's "Messages and Papers of the Presidents," Vol. 1, P. 196).

President Jefferson's Administration

In January, 1807, Representative Randolph introduced a resolution, as follows:

"Resolved, that the President of the United States be, and he hereby is, requested to lay before this House any information in possession of the Executive, except such as he may deem the public welfare to require not to be disclosed, touching any illegal combination of private individuals against the peace and safety of the Union, or any military expedition or armament against the territories of any powers in amity with the United States; together with the measures which the Executive has pursued and proposes to take for suppressing or defeating the same." (4 Annals of Congress, 1806-1807, P. 336).

The resolution was overwhelmingly passed. The Burr conspiracy was then agitating the country. Jefferson had made it the object of a special message to Congress wherein he referred to a military expedition headed by Burr.

Jefferson's reply to the resolution was a message to the Senate and House of Representatives. Jefferson brought the Congress up to date on the news which he had been receiving concerning the illegal combination of private individuals against the peace and safety of the Union. He pointed out that he had recently received a mass of data, some of which had been obtained without the sanction of an oath so as to constitute formal and legal evidence.

"It is chiefly in the form of letters, often containing such a mixture of rumors, conjectures and suspicions as renders it difficult to sift out the facts and unadvisable to hazard more than general outlines, strengthened by concurrent information or the particular credibility of the relator.

"In this state of the evidence, delivered sometimes, too, under the restriction of private confidence, neither safety nor justice will permit the exposing names, except that of the principal actor, whose guilt is placed beyond question."

(Richardson's "Messages and Papers of the Presidents," Vol. 17, P. 412, dated Jan. 22, 1807.)

Associated Press Wirephoto

SECRECY ORDER RELEASED: James C. Hagerty, White House press secretary, reads to reporters a copy of President Eisenhower's letter to Defense Secretary Charles E. Wilson.

Similar Actions by Presidents Jackson, Tyler, Buchanan and Grant

On Feb. 10, 1835, President Jackson sent a message to the Senate wherein he declined to comply with the Senate's resolution requesting him to communicate copies of charges which had been made to the President against the official conduct of Gideon Fitz, late Surveyor General, which caused his removal from office.

The resolution stated that the information requested was necessary both in the action which it proposed to take on the nomination of a successor of Fitz, and in connection with the investigation which was then in progress by the Senate respecting the frauds in the sales of public lands.

The President's message referred to many previous similar requests, which he deemed unconstitutional demands by the Senate:

"Their continued repetition imposes on me, as the representative and trustee of ht American people, the painful but imperious duty of resisting to the utmost any further encroachment on the rights of the executive." Ibid. P. 133)

The President next took up the fact that the Senate resolution had been passed in executive session, from which he was bound to presume that if the information requested by the resolution were communicated, it would be applied in secret session to the investigation of frauds in the sales of public lands.

The President said that, if he were to furnish the information, the citizen whose conduct the Senate sought to impeach would lose one of his basic rights, namely—that of a public investigation in the presence of his accusers and of the witnesses against him.

In addition, compliance with the resolution would subject the motives of the President, in the case of Mr. Fitz, to the review of the Senate when not sitting as judges on an impeachment; and even if such a consequence did not follow in the present case, the President feared that compliance by the Executive might thereafter be quoted as a precedent for similar and repeated applications.

"Such a result, if acquiesced in, would ultimately subject the independent constitutional action of the executive in a matter of great national concernment to the domination and control of the Senate * * *

Tyler's Action Cited

"I therefore decline a compliance with so much of the resolution of the Senate as requests 'copies of the charges, if any,' in relation to Mr. Fitz, and in doing so must be distinctly understood as neither affirming nor denying that any such charges were made * * * *" (Ibid. P. 134).

One of the best reasoned precedents of a President's refusal to permit the head of a department to disclose confidential information to the House of Representatives is President Tyler's refusal to communicate to the House or Representatives the reports relative to the affairs of the Cherokee Indians and to the frauds which were alleged to have been practiced upon them.

A resolution of the House of Representatives had called upon the Secretary of War to communicate to the House the reports made to the Department of War by Lieutenant Colonel Hitchcock relative to the affairs of the Cherokee Indians together with all information communicated by him concerning the frauds he was charged to investigate; also all facts in the possession of the executive relating to the subject.

The Secretary of War consulted with the President and under the latter's direction informed the House that negotiations were then pending with the Indians for settlement of theirs claims; in the opinion of the President and the department, therefore, publication of the report at that time would be inconsistent with the public interest.

The Secretary of War further stated in his answer to the resolution that the report sought by the House, dealing with alleged frauds which Lieutenant Colonel Hitchcock was charged to investigate contained information which was obtained by Colonel Hitchcock by ex parte inquiries of persons whose statements were without the sanction of an oath, and which the persons implicated had no opportunity to contradict or explain.

The Secretary of War expressed the opinion that to promulgate those statements at that time would be grossly unjust to those persons, and would defeat the object of the inquiry. He also remarked that the Department had not been given at that time sufficient opportunity to pursue the investigation, to call the parties affected for explanations, or to determine on the measures proper to be taken.

The answer of the Secretary of War was not satisfactory to the Committee on Indian Affairs of the House, which claimed the right to demand from the Executive and heads of departments such information as may be in their possession relating to subjects of the deliberations of the House.

President Tyler in a message dated Jan. 31, 1843, vigorously asserted that the House of Representatives could not exercise a right to call upon the Executive for information, even though it related to a subject of the deliberations of the House, if, by so doing, it attempted to interfere with the discretion of the Executive.

The same course of action was taken by President James Buchanan in 1860 in resisting a resolution of the House to investigate whether the President or any other officer of the Government had, by money, patronage or other improper means sought to influence the action of Congress for or against the passage of any law relating to the rights of any state or territory (See Richardson, "Messages and Papers of the Presidents." Vol. 5, P. 618-619).

In the Administration of President Ulysses S. Grant the House requested the President to inform it whether any Executive office, acts, or duties, and if any, what, have been performed at a distance from the seat of Government established by law. It appears that the purpose of this inquiry was to embarrass the President by reason of his having spent some of the hot months at Long Branch. President Grant replied that he failed to find in the Constitution the authority given to Representatives and that this inquiry had nothing to do with legislation (Richardson, "Messages and Papers of the Presidents." Vol. VII. PP. 382-383).

President Cleveland's Administration

In 1886, during President Cleveland's Administration, there was an extended discussion in the Senate with reference to its relations to the Executive caused by the refusal of the Attorney General to transmit to the Senate certain documents concerning the Administration of the office of the District Attorney for the Southern District of South Alabama, and suspension of George W. Durkin, the late incumbent.

The majority of the Senate Committee on the Judiciary concluded it was entitled to know all that officially exists or takes place in any of the departments of Government and that neither the President nor the head of a department could withhold official facts and information as distinguished from private and unofficial papers.

In his reply President Cleveland disclaimed any intention to withhold official papers, but he denied that papers and documents inherently private or confidential, addressed to the President or a head of a department, having reference to acts entirely Executive such as the suspension of an official, were changed in their nature and became official papers fit for convenience in the custody of a public department. (Richardson, "Messages and Papers of the President," Vol. 8, PP. 378-379, 381.)

Challenging the attitude that because the Executive departments were created by Congress the latter had any supervisory power over them, President Cleveland declared (Eberling, Congressional Investigation Page 258):

"I do not suppose that the public offices of the United States are constituted and controlled in their relations to either House of Congress by the fact that they were created by laws enacted by the two Houses. It must be that these instrumentalities were created for the benefit of the people and to answer the general purposes of Government under the Constitution and the laws, and that they are unencumbered by any lien in favor of either branch of Congress growing out of their construction, and unembarrassed by any obligation to the Senate as the price of their creation."

President Theodore Roosevelt's Administration

In 1909, during the Administration of President Theodore Roosevelt, the question of the right of the President to exercise complete direction and control over heads of Executive departments was raised again. At that time the Senate passed a resolution directing the Attorney General to inform the Senate whether certain legal proceedings had been instituted against the United States Steel Corporation, and if not, the reasons for its nonaction.

Request was also made for any opinion of the Attorney General, if one was written. President Theodore Roosevelt replied refusing to honor this request upon the ground that "heads of the Executive departments are subject to the Constitution, and to the laws passed by the Congress in pursuance of the Constitution, and to the directions of the President of the United States, but to no other direction whatever." (Cong. Rec. V. 43, Part 1, 60th Cong., 1st Sess., Pp. 527-528).

When the Senate was unable to get the documents from the Attorney General, it summoned Herbert Knox Smith, the head of the Bureau of Corporations, and requested the papers and documents on penalty of imprisonment for contempt. Mr. Smith reported the request to the President, who directed him to turn over to the President all the papers in the case "so that I could assist the Senate in the prosecution of its investigation."

President Roosevelt then informed Senator Clark of the Judiciary Committee what had been done, that he had the papers and the only way the Senate could get them was through his impeachment.

President Roosevelt also explained that some of the facts were given to the Government under the seal of secrecy and cannot be divulged, "and I will see to it that the word of this Government to the individual is kept sacred." (Corwin, "The President—Office and Powers," pp. 281, 428; Abbott, "The Letters of Archie Butt, Personal Aide to President Roosevelt," pp. 305-306).

President Coolidge's Administration

In 1924, during the administration of President Coolidge, the latter objected to the action of a special investigating committee appointed by the Senate to investigate the Bureau of Internal Revenue.

Request was made by the committee for a list of the companies in which the Secretary of the Treasury was alleged to be interested for the purpose of investigating their tax returns. Calling this exercise of power an unwarranted intrusion, President Coolidge said:

"Whatever may be necessary for the information of the Senate or any of its committees in order to better enable them to perform their legislative or other constitutional functions ought always to be furnished willingly and expeditiously by any department. But it is recognized both by law and custom that there is certain confidential information which it would be detrimental to the public service to reveal." (68th Cong., 1st sess., Record, April 11, 1924, p. 6087.)

President Hoover's Administration

A similar question arose in 1930 during the Administration of President Hoover. Secretary of State Stimson refused to disclose to the chairman of the Senate Foreign Relations Committee certain confidential telegrams and letters leading up to the London conference and the London treaty.

The committee asserted its right to have full and free access to all records touching the negotiations of the treaty, basing right upon the constitutional prerogative of the Senate in the treaty-making process. In his message to the Senate, President Hoover pointed out that there were a great many informal statements and reports which were given to the government in confidence. The Executive was under a duty, in order to maintain amicable relations with other nations, not to publicize all the negotiations and statements which went into the making of the treaty.

He further declared that the Executive must not be guilty of a breach of trust, nor violate the invariable practice of nations. "In view of this, I believe that to further comply with the above resolution would be incompatible with the public interest." (S.Doc.No.216, 71st Cong., Special Sess., P.2).

President Franklin D. Roosevelt's Administration

The position was followed during the Administration of President Franklin D. Roosevelt. There were many instances in which the President and his Executive heads refused to make available certain information to Congress the disclosure of which was deemed to be confidential or contrary to the public interest. Merely a few need to be cited.

1. Federal Bureau of Investigation records and reports were refused to Congressional committees, in the public interest. (40 OP.A.G. No. 8, April 30, 1941).

2. The director of the Federal Bureau of Investigation refused to give testimony or to exhibit a copy of the President's directive requiring him, in the interests of national security, to refrain from testifying or from disclosing the contents of the bureau's reports and activities. (Hearings, Vol. 2, House, 76th Cong. Special Committee to Investigate the Federal Communications Commission (1944) P. 2337).

3. Communications between the President and the heads of departments were held to be confidential and privileged and not subject to inquiry by a committee of one of the houses of Congress. (Letter dated Jan. 22, 1944 signed Francis Biddle, Attorney General to select committee, etc.)

4. The Director of the Bureau of the Budget refused to testify and to produce the bureau's files, pursuant to subpoena which had been served upon him, because the President had instructed him not to make public the records of the bureau due to their confidential nature. Public interest was again invoked to prevent disclosure. (Reliance placed on Attorney General's opinion in 40 Op. A.G. No. 8, April 30, 1941).

5. The Secretaries of War and Navy were directed not to deliver documents which the committee had requested, on grounds of public interest. The Secretaries, in their own judgment, refused permission to Army and Navy officers to appear and testify because they felt that it would be contrary to the public interests. (Hearings, Select Committee to Investigate the Federal Communications Commission, Vol. 1, Pp. 46, 48-68).

President Truman's Administration

During the Truman Administration also the President adhered to the traditional Executive view that the President's discretion must govern the surrender or reports concerning loyalty of their employes to any court or committee of Congress, unless President approves.

MARCH 4, 1948—F. B. I. letter-report on Dr. Condon, Director of National Bureau of Standards, refused by Secretary of Commerce.

MARCH 15, 1948—President issued directive forbidding all Executive departments and agencies to furnish information or reports concerning loyalty of their employes to any court or committee of Congress, unless President approves.

MARCH, 1948—Dr. John R. Steelman, confidential adviser to the President, refused to appear before Committee on Education and Labor of the House, following the service of two subpoenas upon him. President directed him not to appear.

AUG. 5, 1948—Attorney General wrote Senator Ferguson, chairman of Senate Investigations subcommittee, that he would not furnish letter, memoranda, and other confidential files of the Justice Department had furnished to other government agencies concerning W. W. Remington.

FEB. 22, 1950—Senate Res. 231 directing Senate subcommittee to probe into State Department loyalty files was met with President Truman's refusal, following vigorous opposition of J. Edgar Hoover.

MARCH 27, 1950—Attorney General and Director of F.B.I. appeared before Senate subcommittee. Mr. Hoover's historic statement of reasons for refusing to furnish raw files approved by Attorney General.

MAY 16, 1951—General Bradley refused to divulge conversations between President and his advisers to combine Senate Foreign Relations and Armed Services Committees.

JAN. 31, 1952—President Truman directed Secretary of State to refuse to furnish Senate Appropriations subcommittee files on loyalty and security investigations of employes—policy to apply to all Executive agencies. The names of individuals determined to be security risks would not be divulged. The voluminous record of members of an agency loyalty board would not be divulged.

Thus, you can see that the Presidents of the United States have withheld information of Executive departments or agencies whenever it was found that the information sought was confidential or that its disclosure would be incompatible with the public interest or jeopardize the safety of the nation.

The courts too have held that the question whether the production of the papers was in the public interest, was a matter for the executive to determine.

By keeping the lines which separate and divide the three great branches of our Government clearly defined, no one branch has been able to encroach upon the powers of the others.

Upon this firm principle our country's strength, liberty and democratic form of Government will continue to endure.

Dwight D. Eisenhower, Letter to the Secretary of Defense Directing Him to Withhold Certain Information from the Senate Committee on Government Operations - May 17, 1954, 1954 Pub. Papers 483 (1954).

and that the cause of liberty and justice will prevail, as it did at Monte Cassino ten years ago.

Sincerely,

DWIGHT D. EISENHOWER

Lieutenant General W. Anders, C.B.
18, Queen's Gate Terrace
London, S.W. 7, England

113 ¶ Letter to the Secretary of Defense Directing Him To Withhold Certain Information from the Senate Committee on Government Operations. *May* 17, 1954

Dear Mr. Secretary:

It has long been recognized that to assist the Congress in achieving its legislative purposes every Executive Department or Agency must, upon the request of a Congressional Committee, expeditiously furnish information relating to any matter within the jurisdiction of the Committee, with certain historical exceptions—some of which are pointed out in the attached memorandum from the Attorney General. This Administration has been and will continue to be diligent in following this principle. However, it is essential to the successful working of our system that the persons entrusted with power in any one of the three great branches of Government shall not encroach upon the authority confided to the others. The ultimate responsibility for the conduct of the Executive Branch rests with the President.

Within this Constitutional framework each branch should cooperate fully with each other for the common good. However, throughout our history the President has withheld information whenever he found that what was sought was confidential or its disclosure would be incompatible with the public interest or jeopardize the safety of the Nation.

Because it is essential to efficient and effective administration that employees of the Executive Branch be in a position to be completely candid in advising with each other on official matters, and because it is not in

the public interest that any of their conversations or communications, or any documents or reproductions, concerning such advice be disclosed, you will instruct employees of your Department that in all of their appearances before the Subcommittee of the Senate Committee on Government Operations regarding the inquiry now before it they are not to testify to any such conversations or communications or to produce any such documents or reproductions. This principle must be maintained regardless of who would be benefited by such disclosures.

I direct this action so as to maintain the proper separation of powers between the Executive and Legislative Branches of the Government in accordance with my responsibilities and duties under the Constitution. This separation is vital to preclude the exercise of arbitrary power by any branch of the Government.

By this action I am not in any way restricting the testimony of such witnesses as to what occurred regarding any matters where the communication was directly between any of the principals in the controversy within the Executive Branch on the one hand and a member of the Subcommittee or its staff on the other.

Sincerely,

DWIGHT D. EISENHOWER

NOTE: Attorney General Brownell's memorandum of March 2, 1954, was released with the President's letter. The memorandum traces the development from Washington's day of the principle that the President may, under certain circumstances, withhold information from the Congress.

Taking the doctrine of separation of powers as his text, the Attorney General stated that it is essential to the successful working of the American system that the persons entrusted with power in any one of the three branches should not be permitted to encroach upon the powers confided to the others.

The memorandum continues: "For over 150 years . . . our Presidents have established, by precedent, that they and members of their Cabinet and other heads of executive departments have an undoubted privilege and discretion to keep confidential, in the public interest, papers and information which require secrecy. American history abounds in countless illustrations of the refusal, on occasion, by the President and heads of departments to furnish papers to Congress, or its committees, for reasons of public policy. The messages of our past Presidents reveal that almost every one of them found it necessary to inform Congress of his constitutional duty to execute the office of President, and, in furtherance of that duty, to withhold information and papers for the public good."

As for the courts, they have "uniformly held that the President and the heads of departments have an uncontrolled discretion to withhold . . . information and papers in the public interest; they will not interfere with the exercise of that discretion, and that Congress has not the power, as one of the three great branches of the Government, to subject the Executive Branch to its will any more than the Executive Branch may impose its unrestrained will upon the Congress."

Among the precedents cited in the Attorney General's memorandum are the following:

President Washington, in 1796, was presented with a House Resolution requesting him to furnish copies of correspondence and other papers relating to the Jay Treaty with Great Britain as a condition to the appropriation of funds to implement the treaty. In refusing, President Washington replied "I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right; and with truth I affirm that it has been, as it will continue to be while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof so far as the trust delegated to me by the people of the United States and my sense of the obligation it imposes to 'preserve, protect, and defend the Constitution' will permit."

President Theodore Roosevelt, in 1909, when faced with a Senate Resolution directing his Attorney General to furnish documents relating to proceedings against the U.S. Steel Corporation, took possession of the papers. He then informed Senator Clark of the Judiciary Committee that the only way the Senate could get them was through impeachment. The President explained that some of the facts were given to the Government under the seal of secrecy and could not be divulged. He added "and I will see to it that the word of this Government to the individual is kept sacred."

"During the administration of President Franklin D. Roosevelt," the Attorney General's memorandum states, "there were many instances in which the President and his Executive heads refused to make available certain information to Congress the disclosure of which was deemed to be confidential or contrary to the public interest." Five such cases are cited, including one in which "communications between the President and the heads of departments were held to be confidential and privileged and not subject to inquiry by a committee of one of the Houses of Congress."

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Governor Umstead, members of this distinguished gathering:

First, may I pay to each of you my personal thanks for the cordiality of your welcome. To each of you who along the street or in this gathering has given me a smile or a wave, I am eternally grateful, and I say this most feelingly and most sincerely.

Any American with a modicum of modesty would at times be overwhelmed by the intensity and the importance of the problems that he would meet, if he were called upon to serve in the chief official position of this country. He would find, as I have found, and as all before me in the same office have found, that his great inspiration, his great source of help is going back and meeting his friends in the street, in gatherings