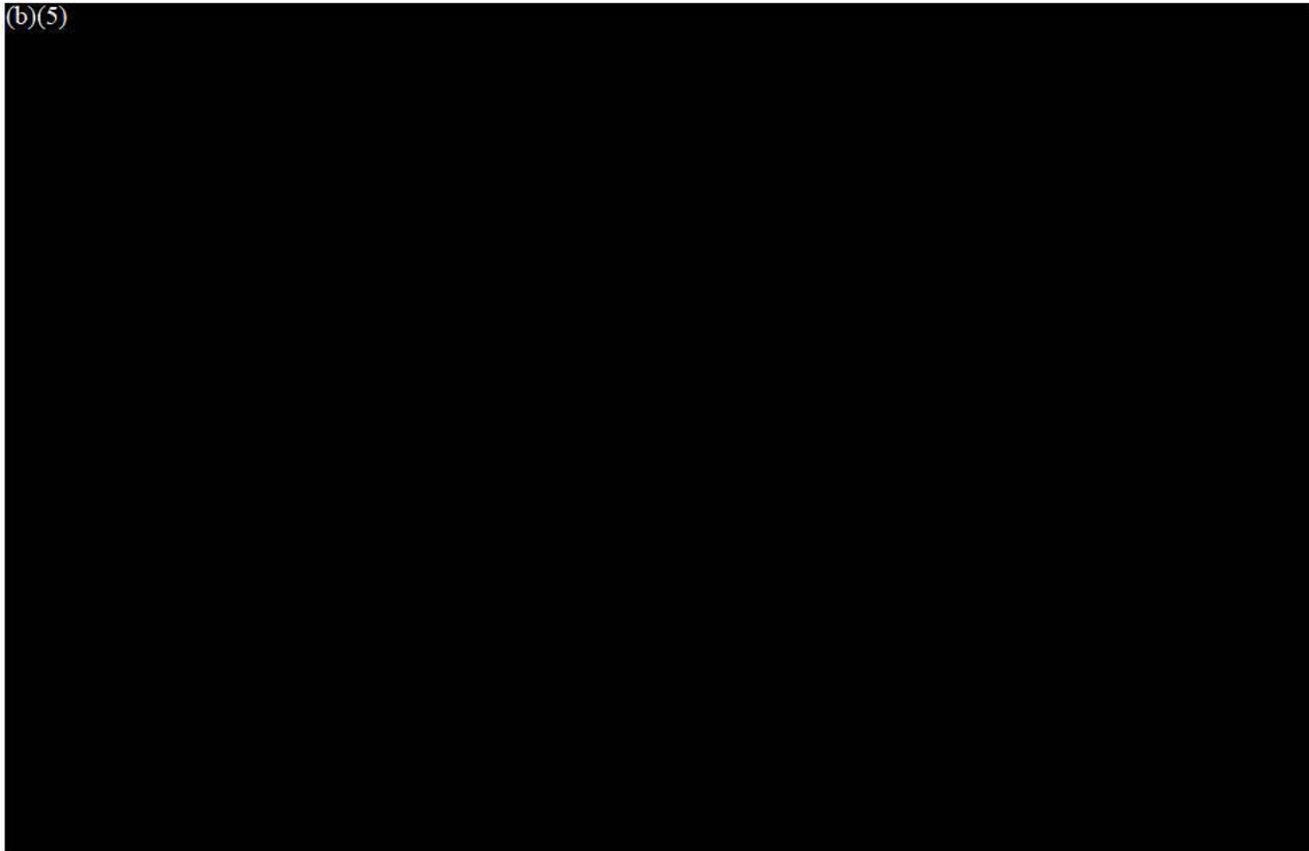


Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Thursday, December 12, 2019 11:29 AM
To: Shea, Timothy (OAG); Favitta, Jeff (OAG)
Cc: Kupec, Kerri (OPA)
Subject: FW: NBC transcript

(b)(5)



From: Kupec, Kerri (OPA) (b)(6)
Sent: Tuesday, December 10, 2019 3:36 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>; Levi, William (OAG) <wlevi@jmd.usdoj.gov>; DuCharme, Seth (OAG) <sducharme@jmd.usdoj.gov>
Subject: NBC transcript

Everything AG says is an exact verbatim. Pete's questions are just rough logged, except for those in bold.

11;16;03;08 **Pete:** Mr. Attorney General, why do you say FBI opened investigation on the thinnest of suspicions?

11;16;11;07 **Barr:** Well I'm glad to get into the issue of predication, but let me start out by saying that I think you have to put this in context. I think the heart of the IG's report really focused on how the investigation was conducted once it got going. And that is especially the very serious abuses of FISA that

occurred, much of which in my view has not been accurately reported by the press over the last day

11;16;38;17 But in one area I do disagree with the IG and that is whether there was sufficient predication to open a full-blown counterintelligence investigation, specifically using the techniques that they did to collect intelligence about the Trump campaign.

11;16;59;17 **Pete: Well as a policy matter, why not open an investigation on a thin pretext? I guess on the one hand, you could say it's a presidential campaign, it's very sensitive, you need better evidence. On the other hand you could say, it's a presidential campaign, we have to be very careful there could be a threat to our political process.**

11;17;17;05 Barr: Well I think probably from a civil liberties standpoint, the greatest danger to our free system is that the incumbent government use the apparatus of the state, principally the law enforcement agencies and the intelligence agencies both to spy on political opponents, but also to use them in a way that could affect the outcome of the election

11;17;42;19 Barr: As far as I'm aware, this is the first time in history this has been done to a presidential campaign - the use of these counterintelligence techniques against a presidential campaign. And we have to remember that in today's world, presidential campaigns are frequently in contact with foreign persons and indeed in most campaigns there are signs of illegal foreign money coming in. And we don't automatically assume that the campaign are nefarious and traitors and acting in league with foreign powers.

11;18;15;19 Barr: There has to be some basis before we use these very potent powers in our core first amendment activity. And here, I felt this was very flimsy. Basically I think the department has a rule of reason - which is at the end of the day, is what you're relying on sufficiently powerful to justify the techniques you're using and the question there is how strong is the evidence, how sensitive is the activity you're looking at and what are the alternatives?

11;18;48;25 Barr: And I think when you step back here and say what was this all based on, it's not sufficient. Remember there was, and never has been, any evidence of collusion, and yet this campaign and the president's administration has been dominated by this investigation into what turns out to be completely baseless.

11;19;15;27 Pete: well it doesn't turn out that way at the beginning, at the start -

11;19;19;24 Barr: Lets look at what the basis of it was. In may 2016, apparently a 28-year-old campaign volunteer says in a social setting

11;19;34;23 Pete: This is George Papadopoulos

11;19;36;05 Barr: This is George Papadopoulos. And this was described by the foreign official who heard him as, who couldn't remember exactly what was said but it was characterized as a suggestion of a suggestion. He suggested that there had been a suggestion from the Russians that they had some adverse information to Hillary which they might dump in the campaign.

11;20;00;17 Barr: Well what was going on in May? You may recall that we were in the thick of the investigation of Hillary Clinton's secret server. And the media was full of stories and the blogosphere was full of stories and political circles in Washington were full of stories and speculation that the Russians had in 2014 - two years before - hacked into her secret server and were therefore in a position to drop this stuff during the election.

11;20;29;23 Barr: In fact, the day before this comment was made, in a bar, Fox News was reporting that their sources told them there was a debate going on in the Russian government as to whether or not to drop this Hillary Clinton's emails between the intelligence agency and the foreign ministry

this primary Clinton's emails, between the intelligence agency and the foreign ministry.

11;20;51;05 Barr: But that related to Hillary's server. So what the FBI did, is after the DNC hack and the dumping through Wikipedia - WikiLeaks in July, they get this information that his somewhat vague statement was made in a bar. And they jumped right into a full-scale investigation before they even went and talked to the foreign officials about exactly what was said, they opened an investigation of the campaign and they used very intrusive techniques.

11;21;29;09 Barr: They didn't do, I think, what would normally be done under those circumstances. Which is to go to the campaign, and there were certainly people in the campaign who could be trusted, including a member of the Senate judiciary committee and the governor of New Jersey, former US attorney. There were people to talk to

11;21;49;26 Barr: And what I find particularly inexplicable is that they talked to the Russians, but not to the presidential campaign. On August 4th, Brennan braced the head of Russian intelligence. He calls the head of Russian intelligence and says "we know what you're up to, you better stop it."

11;22;07;10 Barr: He did it again later in August and then President Obama talked to President Putin in September and said "we know what you're up to, you better cut it out."

11;22;16;27 Barr: So they go and confront the Russians, who clearly are the bad guys, and they won't go and talk to the campaigns and say "what is this about?"

11;22;27;12 Pete: so the IG says no evidence start of investigation was based on political bias. Do you agree?

11;22;37;03 Barr: Well, I think you have to understand what the IG's methodology is. I think it's the appropriate methodology for an inspector general.

11;22;46;01 Barr: He starts with limited information, he can only talk to people who are essentially there as employees and he's limited to the information generally in the FBI. But his approach is to say "if I get an explanation from the people I'm investigating that is not unreasonable on its face, then I will accept it as long as there's not contradictory testimonial or documentary evidence."

11;23;11;17 Barr: In other words, it's a very deferential standard and all he said was "people gave me an explanation and I didn't find anything to contradict it so I don't have a basis for saying that there was improper motive."

11;23;25;12 Barr: But he hasn't decided the issue of improper motive.

11;23;28;09 Pete: have you?

11;23;30;05 Barr: No. I think we have to wait until the investigation, the full investigation, is done and that's the fundamental distinction between what Durham is doing and what the IG is doing. Durham is not limited to the FBI, he can talk to other agencies, he can compel people to testify

11;23;48;18 Barr: One of the problem's in the IG's investigation, I think he would agree, is that Comey refused to sign back up for his security clearance and therefore couldn't be questioned about classified matters. So someone like Durham can compel testimony, he can talk to a whole range of people, private parties, foreign governments and so-forth and I think that is the point at which a decision has to be made about motivations and I think right now it would be pre-mature to make any judgement one way or the other.

11;24;24;13 Pete: I just wonder though, about - what the FBI would say, I think, here is, ok so they

opened an investigation. Nobody was ever charged, they were concerned about possible Russian meddling in the election. Why not open this investigation? What's the harm? You've said "intrusive means" so what is your concern about the fact that they did this?

11;24;46;19 Barr: Well I think the big picture is this. From day one, remember they say we're not going to go to talk to the campaign, we're going to put people in there, wire them up and have these conversations with people involved in the campaign cause that way we'll get the truth.

11;25;01;04 Barr: From the very first day of this investigation, which was July 31, 2016, all the way to its end in September 2017, there was not one incriminatory bit of evidence to come in. It was all exculpatory, the people that they were taping denied any involvement with Russia, denied the very specific facts that the FBI was relying on. So what happens? The FBI ignores it, presses ahead, withholds that information from the court, withholds critical exculpatory information from the court while it gets an electronic surveillance warrant

11;25;41;23 Barr: It also withholds from the court, clear cut evidence that the dossier that they ultimately relied on to get the FISA warrant was a complete sham. They hid information about the lack of reliability even when they went the first time for the warrant. But in January, after the election, the entire case collapsed when the principal source says "I never told Steele this stuff"

11;26;18;13 Barr: "And this was all speculation. I have zero information to support this stuff." At that point, when their entire case collapsed, what did they do? They kept on investigating the president well into his administration. After the case collapsed - but here to me is the damning thing. They not only didn't tell the court that what they had been relying on was completely rubbish, they actually started putting in things to bolster the Steele report by saying "well we talked to the sources and they appeared to be truthful."

11;26;53;29 Barr: But they don't inform the court that what they're truthful about is that the dossier is false. So that's hard to explain and the core statement in my opinion by the IG is that these irregularities, these misstatements, these omissions were not satisfactorily explained. And I think that leaves open the possibility to infer bad faith.

11;27;21;12 Barr: I think it's premature now to reach a judgement on that, but I think that further work has to be done and that's what Durham is doing.

11;27;29;05 Pete: This of course is where the inspector general is most critical of the FBI. When you say bad faith, are you saying a bias? Because there can be all sorts of bias, there can be political bias, confirmation bias, what do you think happened?

11;27;41;28 Barr: Well I think there are a number of scenarios, but I don't want to get into them. I think there could have been a lot of motivations involved and different motivations and there could have been motivations in the FBI and motivations outside the FBI by other players in this. This thing focuses on the FBI, there was a lot going on around this that is not the subject matter of Horowitz's report, but I think has a direct bearing on perhaps what was going on in the FBI

11;28;10;29 Pete: based on what you know do you stand by statement that campaign was spied upon?

11;28;18;08 Barr: Oh it was clearly spied upon, I mean that's what electronic surveillance is, I think wiring people up to go in and talk to people and make recordings of their conversations is spying. I think going through people's emails, which they did as a result of the FISA warrant, they went through everything from Page's life -

11;28;36;17 Pete: of course he wasn't in the campaign at the point where they began surveillance

11;28;39;20 Barr: Yes, but his emails go back. I mean the main reason they were going for the FISA warrant initially was to go back historically and seize all his emails and texts and all that stuff from back months and even years. So they were covering the period that he was in the campaign and that's exactly the reason they went for the FISA to get that stuff.

11;29;03;01 Pete: So what do you think, what will Durham address that IG didn't?

11;29;07;11 Barr: Well Durham is looking at the whole other front, he is looking at the issue of how it got started. He's looking at whether or not the narrative of Trump being involved in the Russian interference actually preceded July and was it in fact the precipitating trigger for the investigation.

11;29;32;14 Barr: He's also looking at the conduct of the investigation, there are some things that were done in the investigation that were not included in Horowitz's report and he's looking at those things.

11;29;43;17 Barr: But also a few weeks ago I told him that he should spend just as much attention on the post-election period and I did that because of some of the stuff that Horowitz has uncovered which to me is inexplicable

11;29;57;21 Pete: Such as?

11;29;58;13 Barr: Well what I said is their case collapsed after the election and they never told the court and they kept on getting renewals on these applications. There was documents falsified in order to get these renewals, there was all kinds of withholding of information from the court, and the question really is: what was the agenda after the election that kept them pressing ahead after their case collapsed?

11;30;26;11 Barr: This is the president of the united states

11;30;28;19 Pete: You went to three countries with him. Why?

11;30;38;01 Barr: The presentation of that in the media has been silly. The person running the investigation is John Durham. But this is a very unusual circumstance where we are going to foreign governments and asking them to assist and cooperate, including some of their sensitive materials and personnel.

11;30;59;19 Barr: And a US attorney doesn't show up on the doorstep in some of these countries, like London, and say "hey I want to talk to your intelligence people" and so-forth. All the regularities were followed. I went through the - my purpose was to introduce Durham to the appropriate people and set up a channel that he could work with these countries.

11;31;20;20 Barr: At the request - I went through the ambassadors of each country and the governments initially wanted to talk to me to find out what is this about, what are the ground rules, is this going to be a criminal case, are you going to do a public report, they wanted to understand the ground rules before they met with Durham.

11;31;40;24 Barr: And I met with them, then I set up appropriate channels. This was perfectly appropriate.

11;31;45;07 Pete: Speaking of appropriate, was it correct for Durham to issue statement yesterday?

11;31;55;28 Barr: Oh yeah, I think it was definitely appropriate because I think it was necessary to avoid public confusion. I think it was sort of being reported by the press that the issue of predication was sort of done and over, even though it was a very limited look at that issue by the IG given the narrowness of his, you know, evidence available to him

you know, evidence available to him.

11;32;18;18 Barr: And I think it was important for people to understand that Durham's work was not being pre-empted and that Durham was doing something different, and he explains what he's doing different and that there are areas of disagreement. I think it was perfectly appropriate so that the public understood the relationship between the two exercises.

11;32;40;21 Pete: So you've outlined a number of problems with how FBI handled investigation. Can FBI fix these?

11;33;01;26 Barr: Well practically speaking, I think Chris has been working hard to address the problems of the past. We've worked well together, the people who were involved in the past are no longer there, he's brought in a new team that I think is a good team, I have confidence in that team. I think he has set forth a number of specific proposals as to how to address those problems.

11;33;29;11 Barr: And I think what the president was getting at, and I feel the same way, is that we can't ignore the abuses of the past and appear to be justifying them or minimizing them. We have to focus on getting it right going forward.

11;33;44;24 Pete: So you have confidence in Chris Wray?

11;33;46;13 Barr: Yes

11;33;47;18 Pete: Before I go into a couple of other questions, let me just sort of button this up. I think a lot of people will hear what you're saying here and think "Well that's just Bill Barr defending Trump." Your concern about the FBI's investigation is what? Civil libertarian?

11;34;03;09 Barr: I think our nation was turned on its head for three years, I think based on a completely bogus narrative that was largely fanned and hyped by an irresponsible press and I think that there were gross abuses of FISA and inexplicable behavior that is intolerable within the FBI.

11;34;35;15 Barr: The attorney general's primary responsibility is to protect against the abuse of the law enforcement and intelligence apparatus and make sure that it doesn't play an improper role in our political life. That's my responsibility and I'm going to carry it out.

11;34;51;23 Pete: Couple other questions. Did White House ever ask you to talk to someone in Ukraine about investigation of Joe Biden?

11;34;58;04 Barr: No.

11;34;58;28 Pete: Are you concerned that Ukraine has missing server from Hillary Clinton email?

11;35;03;17 Barr: Fortunately, I haven't gotten into the Ukraine thing yet, I don't know. I'm not even sure about the nature of these allegations.

11;35;13;28 Pete: What about the allegation that it was the Ukrainians who meddled in election, not Russians. Are you satisfied that's not the case?

11;35;19;19 Barr: I'm confident the Russians attempted to interfere in the election, I don't know about the Ukrainians. I haven't even looked into it frankly.

11;35;29;02 Pete: What was your involvement in DOJ's decision not to investigate president's phone call to Ukraine?

11;35;34;25 Barr: Well we put out a statement that explained the process which was the criminal division made that decision and in the process consulted with the senior most career employees who are the experts on campaign finance laws and that process was supervised by the deputy, but I'm not going to go beyond what we've already said about that process.

11;35;58;05 Pete: Well were you satisfied everything was done that should have been done?

11;36;01;07 Barr: Oh absolutely, absolutely.

11;36;03;01 Pete: Was the shooting attack in Pensacola last Friday a terrorist act?

11;36;10;20 Barr: At this stage it certainly appears to be and that's what we're investigating and the people investigating it are our anti-terrorist investigators and agents. I would say that we appreciate the fact that the Kingdom has been cooperative so far and we hope and expect that will continue.

11;36;31;16 Pete: Are they allowing, for example, FBI agents to go to Saudi and question people?

11;36;38;10 Barr: I don't want to get into the details of the investigation

11;36;43;00 Pete: I ask only because in the Khobar Towers, for example, investigation and past investigations where FBI wanted to do stuff in Saudi it hasn't gone very smoothly

11;36;53;15 Barr: As far as I'm aware right now, we're satisfied with the cooperation we're getting, I haven't heard anything otherwise.

11;37;01;16 Pete: You gave speech last week, you said people applaud for military veterans, not so for police. You said "if communities don't give support and respect for police they might find themselves without the police protection they need." What did you mean by that?

11;37;30;07 Barr: That was a somewhat condensed version of a speech I had given to the fraternal order of police in New Orleans. And we're in a crisis right now, it's not something that has been adequately covered by the media but we're in a full employment economy. And one of the toughest jobs we have in the country is policing, and it's getting tougher and tougher, these are the points I was making and I said this in that recent more abbreviated version.

11;37;58;16 Barr: And so it's very hard to recruit people these days in this full employment economy for these tough jobs. That's why virtually every police force in the country is way under strength - they have vacancies.

11;38;10;22 Barr: And as the jobs get tougher, we're seeing a very high suicide rate now among police. And I'm saying that we have to focus on this and start valuing the people who serve us as police officers and show them support and respect just the way we do our military forces, or else we're not going to be able to attract people into this profession and we're not going to end up with police forces. That was my point

11;38;38;14 Pete: But you're not saying people shouldn't criticize police?

11;38;42;07 Barr: No.

11;38;45;00 Pete: How long do you think Durham's investigation will take? What will we see when he's finished?

11;38;56;16 Barr: These things take time and I know there's a lot of impatience, people want results immediately but those are people that don't understand our process.

11;39;13;15 Barr: We have to be careful about the way that we collect evidence and we have to be sure that we have enough evidence to justify our actions and we're not going to cut corners in that respect.

11;39;24;03 Barr: There are some people who think this thing is going to drop in a few weeks. That's not the case. I see this perhaps reaching an important watershed perhaps in the late Spring, early Summer

11;39;37;06 Pete: Will he have a report, bring charges, just tell you?

11;39;44;29 Barr: I haven't discussed that with him yet

11;39;48;21 Pete: Would you like to see a report? Or make public presentation?

11;39;52;24 Barr: I'm going to largely leave that to him, but I'm also interested in discussing that with him as he gets further along

11;40;00;05 Pete: Mr. Attorney General, thank you.

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Tuesday, November 12, 2019 11:59 AM
To: Bobak Talebian (OIP) (btalebian@jmd.usdoj.gov); Sean O'Neill (OIP) (soneill@jmd.usdoj.gov)
Cc: Megan L. Greer (OLA) (mlgreer@jmd.usdoj.gov)
Subject: FW: FOIA Request from Sens. Harris, Whitehouse, Blumenthal
Attachments: 11.08.19 Harris Whitehouse Blumenthal FOIA Letter.pdf
Importance: High

FYI Bobby and Sean—We received another FOIA request from the same group of Senators.

From: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Sent: Tuesday, November 12, 2019 11:45 AM
To: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Subject: FW: FOIA Request from Sens. Harris, Whitehouse, Blumenthal
Importance: High

Good morning

Pls advise if the attached inquiry should be assigned to OIP. Thanks.

From: Wunder, Nick (Harris) (b)(6)
Sent: Friday, November 08, 2019 5:34 PM
To: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Cc: DOJ.OIP.FOIA (SMO) <Ex_DOJOIPFOIA@jmd.usdoj.gov>; Moore, Lauren (Harris) (b)(6)
Subject: FOIA Request from Sens. Harris, Whitehouse, Blumenthal

To Whom It May Concern:

Attached please find a FOIA request from Senators Harris, Whitehouse, and Blumenthal.

Please don't hesitate to reach out with any questions or concerns.

Best,

Nick Wunder
Senior Counsel
U.S. SENATOR KAMALA D. HARRIS

United States Senate

WASHINGTON, DC 20510

November 8, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Barr:

This letter is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

On November 6, 2019, *The Washington Post* reported that President Trump requested that you, acting in your official capacity as the United States Attorney General, hold a news conference to declare that he had broken no laws during the July 25, 2019, phone call in which he pressured Ukrainian President Volodymyr Zelensky to investigate his political rival.¹ As you are aware, President Trump’s conversation with the leader of Ukraine is the subject of a whistleblower complaint alleging that President Trump was “using the power of his office to solicit interference from a foreign country in the 2020 U.S. election.”² The whistleblower’s complaint has since been corroborated by multiple officials who have testified before the House Permanent Select Committee on Intelligence.

Reportedly, shortly after the White House released a summary of the call on September 25, 2019, President Trump told White House officials of his desire for the attorney general to appear publicly and “personally deliver the message to the news media that Mr. Trump had done nothing wrong, much as [the attorney general] did in a news conference he held shortly before the release of the report by Robert S. Mueller III.”³ White House officials in receipt of the president’s ask allegedly passed it along to the Justice Department, where you are reported to have declined the request.⁴ The whistleblower’s complaint and the summary of the president’s phone call were, however, reviewed by Justice Department prosecutors, who declined to investigate the matter and instead concluded that the president’s actions did not violate campaign finance laws.⁵ The Justice Department spokeswoman then issued a statement saying that DOJ’s

¹ Matt Zapotosky, Josh Dawsey, and Carol D. Leonnig, *Trump wanted Barr to hold news conference saying the president broke no laws in call with Ukrainian leader*, WASH. POST, Nov. 6, 2019, https://www.washingtonpost.com/world/national-security/trump-wanted-barr-to-hold-news-conference-saying-the-president-broke-no-laws-in-call-with-ukrainian-leader/2019/11/06/16d541ec-ff55-11e9-8bab-0fc209e065a8_story.html.

² Unclassified Whistleblower Complaint (Aug. 12, 2019) at 1, <https://apps.npr.org/documents/document.html?id=6430359-Whistleblower-Complaint>.

³ Michael D. Shear, Michael S. Schmidt, and Maggie Haberman, *Attorney General Declined Trump Request to Declare Nothing Illegal in Ukraine Call*, N.Y. TIMES, Nov. 6, 2019, <https://www.nytimes.com/2019/11/06/us/politics/trump-william-barr-ukraine-call.html>.

⁴ *Id.* (“Mr. Barr declined, according to two people with knowledge of the matter.”).

⁵ Devlin Barrett, Matt Zapotosky, Carol D. Leonnig, and Shane Harris, *Trump offered Ukrainian president Justice Dept. help in an investigation of Biden, memo shows*, WASH. POST, Sept. 26, 2019,

criminal division reviewed the official record of the conversation and determined that “there was no campaign finance violation and that no further action was warranted,” a move that reportedly satisfied President Trump.⁶ In the weeks since, however, President Trump is reported to have mentioned to associates your refusal to convene a news conference and publicly clear him of wrongdoing, an event he wishes would have occurred.⁷

On November 7, 2019, President Trump took to Twitter to dispute reports about his request. He tweeted that the “Washington Post MADE UP the story about me asking Bill Barr to hold a news conference.”⁸ President Trump declared that it “[n]ever happened, and there were no sources!”⁹ A senior administration official also disputes the reports, and commented that “[t]he DOJ did in fact release a statement about the call, and the claim that it resulted in tension because it wasn’t a news conference is completely false.”¹⁰ The Justice Department, however, refused to comment.

These reports raise serious concerns about the president’s perception of the Justice Department as a partisan political instrument and his willingness to use the power of federal law enforcement in pursuit of his own objectives. We submit this FOIA request in order to obtain communications, documents, and other information related to the president’s reported request that you hold a news conference to clear him of wrongdoing during his call with the Ukrainian president.

If President Trump’s passionate assertion that such reports are “pure fiction”¹¹ and “Fake News”¹² is indeed correct, then the Department of Justice should have no problem in expeditiously processing our request. Accordingly, we seek expedited treatment of our request for the following records, to the full extent permitted by law:

Records Requested

All memoranda, correspondence, including email or other correspondence, or memorialized conversations, with, to, or from Attorney General William Barr, Deputy Attorney General Jeffrey Rosen, or the immediate office of the attorney general, from August 14, 2019, to present, which contain any of the following words or phrases:

- “Ukraine” and “press conference”
- “Ukraine” and “presser”
- “Ukraine” and “news conference”
- “Ukraine” and “media”
- “Ukraine” and “journalist”
- “Ukraine” and “journalists”

https://www.washingtonpost.com/national-security/transcript-of-trumps-call-with-ukrainian-president-shows-him-offering-us-assistance-for-biden-investigation/2019/09/25/16aa36ca-df0f-11e9-8dc8-498eabc129a0_story.html;

Katie Benner, *Justice Dept. ’s Dismissal of Ukraine Call Raises New Questions About Barr*, N.Y. TIMES, Sept. 25, 2019, <https://www.nytimes.com/2019/09/25/us/politics/william-barr-trump-ukraine.html>.

⁶ *Supra* note 3.

⁷ *Supra* note 1.

⁸ Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 7, 2019, 5:46 a.m.), <https://twitter.com/realDonaldTrump/status/1192438178747170816>.

⁹ *Id.*

¹⁰ *Supra* note 1.

¹¹ Donald J. Trump (@realDonaldTrump), TWITTER (Nov. 7, 2019, 7:27 a.m.), <https://twitter.com/realDonaldTrump/status/1192463709400117250>.

¹² *Id.*

- “Ukraine” and “reporter”
- “Ukraine” and “reporters”
- “Ukraine” and “call was perfect”
- “Ukraine” and “perfect call”
- “Ukraine” and “call was good”
- “Ukraine” and “good call”
- “Zelensky” and “press conference”
- “Zelensky” and “presser”
- “Zelensky” and “news conference”
- “Zelensky” and “media”
- “Zelensky” and “journalist”
- “Zelensky” and “journalists”
- “Zelensky” and “reporter”
- “Zelensky” and “reporters”
- “Zelensky” and “call was perfect”
- “Zelensky” and “perfect call”
- “Zelensky” and “call was good”
- “Zelensky” and “good call”
- “Transcript” and “press conference”
- “Transcript” and “presser”
- “Transcript” and “news conference”
- “Transcript” and “media”
- “Transcript” and “journalist”
- “Transcript” and “journalists”
- “Transcript” and “reporter”
- “Transcript” and “reporters”
- “Transcript” and “call was perfect”
- “Transcript” and “perfect call”
- “Transcript” and “call was good”
- “Transcript” and “good call”

Thank you for your attention to this request. As provided in 5 U.S.C. § 552(a)(6)(E)(ii)(I), I look forward to your response within five business days.

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 36 C.F.R. § 1250.56(a)(1)-(2), we request a waiver of all fees associated with processing this records request. Disclosure of the records we request is in the public interest because, for the reasons stated above, they are likely to contribute significantly to public understanding of government operations and activities.

Disclosure of these records is in no way associated with any commercial interest of ours. Rather, we are requesting these documents to fulfill our constitutional duties as Senators, which require us to understand DOJ operations and activities. We are therefore entitled to a fee waiver.

Sincerely,



Kamala D. Harris
United States Senator



Sheldon Whitehouse
United States Senator



Richard Blumenthal
United States Senator

CC: Douglas Hibbard, Chief, Initial Request Staff, Office of Information Policy, Department of Justice

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Tuesday, November 12, 2019 11:58 AM
To: Megan L. Greer (OLA) (mlgreer@jmd.usdoj.gov)
Subject: FW: FOIA Request from Sens. Harris, Whitehouse, Blumenthal
Attachments: 11.08.19 Harris Whitehouse Blumenthal FOIA Letter.pdf
Importance: High

Another FOIA from Senators. I will share with OIP.

From: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Sent: Tuesday, November 12, 2019 11:45 AM
To: Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Subject: FW: FOIA Request from Sens. Harris, Whitehouse, Blumenthal
Importance: High

Good morning

Pls advise if the attached inquiry should be assigned to OIP. Thanks.

From: Wunder, Nick (Harris) (b)(6)
Sent: Friday, November 08, 2019 5:34 PM
To: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Cc: DOJ.OIP.FOIA (SMO) <Ex_DOJOIPFOIA@jmd.usdoj.gov>; Moore, Lauren (Harris) (b)(6)
Subject: FOIA Request from Sens. Harris, Whitehouse, Blumenthal

To Whom It May Concern:

Attached please find a FOIA request from Senators Harris, Whitehouse, and Blumenthal.

Please don't hesitate to reach out with any questions or concerns.

Best,

Nick Wunder
Senior Counsel
U.S. SENATOR KAMALA D. HARRIS

Boyd, Stephen E. (OLA)

From: Boyd, Stephen E. (OLA)
Sent: Saturday, November 9, 2019 1:22 PM
To: Greer, Megan L. (OLA)
Cc: Lasseter, David F. (OLA); Hankey, Mary Blanche (OLA)
Subject: Re: Republican Witness List

As always, thanks for sending info around. Very helpful. SB

Sent from my iPhone

> On Nov 9, 2019, at 11:12 AM, Greer, Megan L. (OLA) <mlgreer@jmd.usdoj.gov> wrote:
>

FYSA, Ranking Member Nunes has requested the following witnesses:

Devon Archer, Hunter Biden, Alexandra Chalupa, David Hale, Tim Morrison, Nellie Ohr, Kurt Volker, the whistleblower, and all individuals the whistleblower relied upon in drafting the complaint.

https://republicans-intelligence.house.gov/uploadedfiles/rm_letter_to_chm_re_witness_request.pdf

<rm_letter_to_chm_re_witness_request.pdf>

Sent from my iPhone

Congress of the United States
Washington, DC 20515

November 9, 2019

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Schiff:

In March 2019, prior to unilaterally initiating an “impeachment inquiry” in the House of Representatives, Speaker Pelosi said that “impeachment is so divisive to the country that unless there’s something so compelling and overwhelming and bipartisan, I don’t think we should go down that path because it divides the country.”¹ Today, eight months after Speaker Pelosi’s statement, there is bipartisan opposition in the House of Representatives to pursuing impeachment.² Undeterred, Speaker Pelosi and you now plan to move your one-sided and purely political “impeachment inquiry” from behind closed doors to open hearings next week.

Speaker Pelosi promised the “impeachment inquiry” would “treat the President with fairness.”³ You have failed to honor the Speaker’s promise. During the Committee’s last open hearing, you fabricated evidence out of thin air to portray President Trump’s telephone conversation with President Zelensky in a sinister light.⁴ During your closed-door proceedings, you offered no due process protections for the President. You directed witnesses called by the Democrats not to answer Republican questions. You withheld deposition transcripts from Republican Members. You selectively leaked cherry-picked information to paint misleading public narratives about the facts. You misled the American people about your interactions with the anonymous whistleblower, earning you “Four Pinocchios” from the *Washington Post*.⁵ Your actions have greatly damaged the integrity of the Intelligence Committee and any legitimacy of your “impeachment inquiry.”

Americans see through this sham impeachment process, despite the Democrats’ efforts to retroactively legitimize it last week. The resolution that Democrats passed last week—over bipartisan opposition—limits the rights of minority Members beyond those prescribed in the House Rules and prevents minority Members from fully and fairly participating in the proceedings. While in traditional hearings the minority is permitted the ability to call a witness, the resolution only allows minority Members to suggest a witness list and requires them to

¹ Nicholas Fandos, *Impeaching Trump Is ‘Not Worth It,’ Nancy Pelosi Says*, N.Y. Times, Mar. 11, 2019.

² H. Res. 660, 116th Cong. (2019) (roll call vote 604).

³ Speaker Nancy Pelosi, Transcript of Pelosi Weekly Press Conference Today (Oct. 2, 2019).

⁴ “Whistleblower Disclosure”: *Hearing of the H. Perm. Sel. Comm. on Intelligence*, 116th Cong. (2019) (statement of Rep. Adam Schiff, Chairman).

⁵ Glenn Kessler, *Schiff’s false claim his committee had not spoken to the whistleblower*, Wash. Post, Oct. 4, 2019.

provide “a detailed written justification of the relevance of the testimony of each requested witness.”⁶ The minority Members must identify all potential witnesses we wish to call before knowing the number, topics, or scope of hearings you intend to convene.⁷ The Democrats’ impeachment process against President Trump is a drastic departure from bipartisan precedent for presidential impeachment proceedings.

To provide transparency to your otherwise opaque and unfair process, and after consultation with Ranking Member Jim Jordan and Ranking Member Michael McCaul, the American people deserve to hear from the following witnesses in an open setting:

1. **Devon Archer, former board member of Burisma Holdings.** Multiple Democrat witnesses in closed-door testimony explained that Ukrainian energy company Burisma has a reputation in Ukraine for corruption. Mr. Archer is Hunter Biden’s long-term business partner and served as a board member of Burisma Holdings with Mr. Biden. Mr. Archer’s firsthand experiences with Burisma can assist the American public in understanding the nature and extent of Ukraine’s pervasive corruption, information that bears directly on President Trump’s longstanding and deeply-held skepticism of the country.
2. **Hunter Biden, former board member of Burisma Holdings.** As stated previously, Burisma has a reputation in Ukraine for corruption. According to public reporting, Burisma recruited Mr. Biden to its board to improve its public image at a time when Mr. Biden’s father, Vice President Joe Biden, was the Obama Administration’s point person for Ukraine policy.⁸ Mr. Biden reportedly received \$50,000 a month for his presence on Burisma’s board.⁹ Deputy Assistant Secretary George Kent testified that he raised concerns in 2015 to Vice President Biden’s office about the appearance of a conflict of interest stemming from Mr. Biden’s position on Burisma’s board. Ambassador Marie Yovanovitch testified that the Obama State Department prepared her to address Mr. Biden’s position on Burisma during her confirmation hearing to be ambassador to Ukraine. As with Mr. Archer, Mr. Biden’s firsthand experiences with Burisma can assist the American public in understanding the nature and extent of Ukraine’s pervasive corruption, information that bears directly on President Trump’s longstanding and deeply-held skepticism of the country.
3. **Alexandra Chalupa, former Democratic National Committee (DNC) staffer.** During the 2016 U.S. presidential election, Alexandra Chalupa, a former DNC staffer and contractor, worked with the Ukrainian Embassy in Washington, D.C. to try and get political dirt on then-candidate Trump’s campaign.¹⁰ She has admitted to providing anti-

⁶ H. Res. 660, *supra* note 2.

⁷ *Id.*

⁸ Kenneth P. Vogel & Iuliia Mendel, *Biden faces conflicts of interest questions that are being promoted by Trump and allies*, N.Y. Times, May 1, 2019.

⁹ *Id.*

¹⁰ Kenneth P. Vogel & David Stern, *Ukrainian efforts to sabotage Trump backfire*, Politico, January 11, 2017.

Trump dirt to the DNC and the Hillary Clinton campaign, and to discussing such dirt with then-Ukrainian Ambassador to the United States Valeriy Chaly. Given President Trump's documented belief that the Ukrainian government meddled in the 2016 election to oppose his candidacy, which forms the basis for a reasonable desire for Ukraine to investigate the circumstances surrounding the election and any potential Ukrainian involvement, Ms. Chalupa is a prime fact witness who can assist Congress and the American public in better understanding the facts and circumstances surrounding Ukrainian involvement in the 2016 election.

4. **David Hale, Under Secretary of State for Political Affairs.** The three committees interviewed Under Secretary Hale on November 6, 2019. Under Secretary Hale has direct knowledge of U.S. government policy with respect to foreign assistance and foreign assistance review, which is critical to informing the American public's understanding of President Trump's posture on such matters. Given Under Secretary Hale's firsthand knowledge of events preceding and surrounding Ambassador Yovanovitch's recall from Ukraine, as well as Under Secretary Hale's communications with Ambassador Taylor regarding Ukraine matters, the American people deserve to hear from Under Secretary Hale.
5. **Tim Morrison, former Senior Director for European and Russian Affairs on the National Security Council (NSC), to testify on the same panel as Lt. Col. Alexander Vindman, assuming you request Lt. Col. Vindman to testify.** The three committees conducted a deposition of Mr. Morrison on October 31, 2019. You have yet to release Mr. Morrison's transcript; however, Mr. Morrison was one of the few witnesses who listened on the President's July 25 phone call and subsequently dealt with matters on the NSC related to U.S. military assistance to Ukraine. If you intend to call Lt. Col. Alexander Vindman, who worked for Mr. Morrison, to publicly testify, the minority requests Mr. Morrison sit on the same panel as Mr. Vindman.
6. **Nellie Ohr, former contractor for opposition research firm Fusion GPS.** In a 2018 interview with the House Judiciary and Oversight Committees, Ms. Ohr stated that, during her work with Fusion GPS that ultimately assisted in the production of the Steele Dossier—comprising false allegations against then-candidate Trump—Fusion GPS used information from sources in Ukraine, including Serhiy Leshchenko who recently lost his post from the Ukrainian parliament.¹¹ Given President Trump's documented belief that the Ukrainian government meddled in the 2016 election to oppose his candidacy, which forms the basis for a reasonable desire for Ukraine to investigate the circumstances surrounding the election and any potential Ukrainian involvement, Ms. Ohr is a prime fact witness who can assist Congress and the American public in better understanding the facts and circumstances surrounding Ukrainian involvement in the 2016 election.

¹¹ Transcribed Interview of Nellie Ohr, House Committee on the Judiciary and House Committee on Oversight and Government Reform, Wash., D.C., at 113-15 (Oct. 19, 2018).

7. **Ambassador Kurt Volker, former U.S. Special Representative for Ukraine Negotiations, to testify on the same panel as Ambassador William Taylor and Deputy Assistant Secretary of State George Kent on Wednesday, November 13, 2019.** The three committees conducted a transcribed interview of Ambassador Volker on October 2, 2019 and you subsequently released the transcript of the interview on November 5, 2019. Given Ambassador Volker's role as a primary interlocutor and trusted confidant of the Ukrainian government, as well as his firsthand knowledge of the circumstances surrounding Ukraine, to include discussions with Mayor Rudy Giuliani, Ambassador Gordon Sondland, Ambassador William Taylor, and others, the American people deserve to hear from Ambassador Volker in public on the same panel as Ambassador Taylor and Deputy Assistant Secretary of State Kent.
8. **The anonymous whistleblower whose secondhand complaint initiated the Democrats' "impeachment inquiry."** Because President Trump should be afforded an opportunity to confront his accusers, the anonymous whistleblower should testify. In addition, the Inspector General of the Intelligence Community reported that the whistleblower had a bias against President Trump and public reports indicate that the whistleblower worked closely with Vice President Biden.¹² Moreover, given the multiple discrepancies between the whistleblower's complaint and the closed-door testimony of the witnesses, it is imperative that the American people hear definitively how the whistleblower developed his or her information, and who else the whistleblower may have fed the information he or she had gathered and how that treatment of classified information may have led to the false narrative being perpetrated by the Democrats during this process.
9. **All individuals relied upon by the anonymous whistleblower in drafting his or her secondhand complaint.** In the whistleblower's complaint, the whistleblower suggests that he or she received accounts of President Trump's July 25 phone call with President Zelensky and associated information from "more than half a dozen" sources.¹³ These sources provided information that does not match the closed-door testimony from witnesses, particularly as it relates to whether the President actually conditioned a face-to-face visit or U.S. military assistance on opening an investigation into the President's political rivals. The whistleblower's complaint alleged that most, if not all, of these individuals had firsthand information related to the whistleblower's claims, making their testimony particularly relevant to the American people.

We expect that you will call each of the witnesses listed above to ensure that the Democrats' "impeachment inquiry" treats the President with fairness, as promised by Speaker Pelosi. Because the Democrats' resolution unfairly restricts Minority rights and because you

¹² Arden Farhi & Kathryn Watson, *Whistleblower had "prior working relationship" with current 2020 Democrat, source says*, CBS News, Oct. 9, 2019; Memorandum Opinion for the General Counsel Office of the Director of National Intelligence, 43 Op. Off. Legal Counsel at *4 (2019) (slip opinion).

¹³ See letter to Richard Burr, Chairman, S. Sel. Comm. on Intel., & Adam Schiff, Chairman, H. Perm. Sel. Comm. on Intel. (Aug. 12, 2019).

The Honorable Adam B. Schiff

November 9, 2019

Page 5

have provided no information about which witnesses you may invite to testify at future hearings not yet scheduled, we reserve our right to request additional witnesses, if necessary, as you announce additional hearings. Your failure to fulfill Minority witness requests shall constitute evidence of your denial of fundamental fairness and due process.

Sincerely,

A handwritten signature in blue ink that reads "Devin Nunes". The signature is fluid and cursive, with the first name "Devin" being larger and more prominent than the last name "Nunes".

Devin Nunes
Ranking Member

cc: The Honorable Jim Jordan
Ranking Member
Committee on Oversight and Reform

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

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

The Honorable Eliot Engel
Chairman
Committee on Foreign Affairs

Greer, Megan L. (OLA)

From: Greer, Megan L. (OLA)
Sent: Tuesday, November 5, 2019 4:11 PM
To: Colborn, Paul P (OLC); Metcalf, David (ODAG); Grieco, Christopher (ODAG)
Cc: Hankey, Mary Blanche (OLA)
Subject: Senate Ukraine Correspondence
Attachments: 10.23.2019 FOIA Request to William Barr.pdf; 2019.10.10 SJC to AAG Benczkowski.pdf

Attached here are copies of the Senate correspondence regarding Ukraine, as discussed.

Best,
Megan

Megan L. Greer
Office of Legislative Affairs
202.353.9085 *office*
(b)(6) *mobile*

United States Senate

WASHINGTON, DC 20510

October 23, 2019

The Honorable William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Barr:

This letter is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552.

On August 12, 2019, a whistleblower alleged that he had received information from multiple U.S. government officials that President Trump was “using the power of his office to solicit interference from a foreign country in the 2020 U.S. election.”¹ Specifically, on a July 25, 2019 phone call, President Trump urged Ukrainian President Volodymyr Zelensky to investigate the family of one of Trump’s political opponents, just one week after ordering the freeze of military aid to Ukraine. You were named in the whistleblower’s complaint as someone who “appears to be involved.”²

Since the whistleblower’s complaint became public, President Trump has publicly asked China to investigate the family of one of his domestic political opponents.³ Two associates of Rudy Giuliani, the President’s personal lawyer, have been indicted and arrested on charges that they funneled foreign money to U.S. politicians while trying to influence U.S.-Ukraine relations.⁴ It has also been reported that, during an Oval Office meeting with President Trump and Secretary of State Rex Tillerson in 2017, Giuliani pressed for help in securing the release of his jailed client, an Iranian-Turkish gold trader named Reza Zarrab, as part of a potential prisoner swap with Turkey.⁵

These factual revelations raise serious concerns about the Justice Department’s involvement in politically-motivated investigations, at the behest of the White House and Rudy Giuliani.

¹ Unclassified Whistleblower Complaint (Aug. 12, 2019) at 1, available at <https://apps.npr.org/documents/document.html?id=6430359-Whistleblower-Complaint>.

² *Id.*

³ “Trump Publicly Urges China to Investigate the Bidens,” N.Y. Times (Oct. 3, 2019), <https://www.nytimes.com/2019/10/03/us/politics/trump-china-bidens.html>.

⁴ “Two Business Associates of Trump’s Personal Attorney Giuliani Have Been Arrested on Campaign Finance Charges,” Washington Post (Oct. 10, 2019), https://www.washingtonpost.com/politics/two-business-associates-of-trumps-personal-lawyer-giuliani-have-been-arrested-and-are-in-custody/2019/10/10/9f9c101a-eb63-11e9-9306-47cb0324fd44_story.html.

⁵ “Giuliani Pressed for Turkish Prisoner Swap in Oval Office Meeting,” N.Y. Times (Oct. 10, 2019), <https://www.nytimes.com/2019/10/10/us/politics/giuliani-trump-rex-tillerson.html>.

Therefore, we submit a request for records seeking information about the White House's attempts to interfere with federal law enforcement to pursue politically beneficial outcomes.

As current members of the U.S. Senate, we have constitutional authority to conduct oversight of the executive branch. This request does not mean or suggest that we are not congressionally entitled to documents from the administration. However, in light of the administration's refusal to cooperate with multiple congressional requests, we submit this FOIA request to secure access to documents and information for the benefit of the American people. Accordingly, we seek the following records, to the full extent permitted by law:

Records Requested

All memoranda, correspondence, including email or other correspondence, or memorialized conversations, with, to, or from Attorney General William Barr, Deputy Attorney General Jeremy Rosen, or the immediate office of the attorney general, from February 14, 2019 to present, which contain any of the following words or phrases:

- "Benczkowski" & "DiGenova"
- "Benczkowski" & "Giuliani"
- "Benczkowski" & "Iran"
- "Benczkowski" & "Toensing"
- "Benczkowski" & "Turkey"
- "Benczkowski" & "Ukraine"
- "Benczkowski" & "Zarab"
- "Benczkowski" & "Zarrab"
- "Bill Taylor"
- "Brady Toensing"
- "Brafman"
- "Burisma"
- "Crowdstrike"
- "DiGenova"
- "Duffey"
- "Giuliani"
- "Kislin"
- "Parnas"
- "Erdogan"
- "Erdogan"
- "Fiona Hill"
- "Firtash"
- "Fraud Guarantee"
- "Fruman"
- "Furman"
- "Halkbank"
- "Jayanti"
- "Kent"
- "Kurdish"
- "Kurds"
- "Laura Cooper"
- "Lutsenko"
- "McKinley"
- "Morrison"
- "Mnuchin" & "Giuliani"
- "Mnuchin" & "Halkbank"
- "Mnuchin" & "Turkey"
- "Mnuchin" & "Turkey"
- "Mnuchin" & "Ukraine"
- "Mukasey"
- "Perry" & "Ukraine"
- "Pompeo" & "Turkey"
- "Pompeo" & "Ukraine"
- "Poroshenko"
- "Pruss"
- "quid pro quo"
- "recusal"
- "recuse"
- "Reeker"
- "Rudy"
- "Shokin"
- "Sondland"
- "Taylor"
- "Tillerson" & "Giuliani"
- "Tillerson" & "Iran"
- "Tillerson" & "Turkey"
- "Tillerson" & "Ukraine"
- "Tim Morrison"

- “Toensing”
- “TriGlobal Strategic Ventures”
- “TriGlobal”
- “Victoria Toensing”
- “Vindman”
- “Volker”
- “William Taylor”
- “Xi”
- “Yermak”
- “Yovanovitch”
- “Zarab”
- “Zarrab”
- “Zelensky”
- “Zelenskyy”
- “Zlochevsky”

All other documents with, to, or from Attorney General William Barr, Deputy Attorney General Jeremy Rosen, or the immediate office of the attorney general, from February 14, 2019 to present, relating to the following topics:

- All documents related to interactions between the Justice Department and the government of China, with regards to any potential political opponents of President Trump in 2020.
- All documents related to interactions between the Justice Department and the government of Ukraine, with regards to any potential political opponents of President Trump in 2020.
- All documents created or modified since February 14, 2019 pertaining to any requests from the White House, whether directly or indirectly, to investigate companies associated with Hunter Biden.

Thank you for your attention to this request. As provided in 5 U.S.C. § 552(a)(6)(E)(ii)(I), I look forward to your response within ten business days.

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii) and 36 C.F.R. § 1250.56(a)(1)-(2), we request a waiver of all fees associated with processing this records request. Disclosure of the records we request is in the public interest because, for the reasons stated above, they are likely to contribute significantly to public understanding of government operations and activities.

Disclosure of these records is in no way associated with any commercial interest of ours. Rather, we are requesting these documents to fulfill our constitutional duties as Senators, which require us to understand DOJ operations and activities. We are therefore entitled to a fee waiver.

Sincerely,



Kamala D. Harris
United States Senator



Sheldon Whitehouse
United States Senator



Richard Blumenthal
United States Senator

CC: Douglas Hibbard, Chief, Initial Request Staff, Office of Information Policy, Department of Justice

United States Senate
WASHINGTON, DC 20510

October 10, 2019

The Honorable Brian Benczkowski
Assistant Attorney General
Criminal Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Assistant Attorney General Benczkowski:

We request an explanation of the Department's decision that "no further action was warranted" in connection with President Trump's July 25 call with Ukraine President Volodymyr Zelensky.

As you know, an August 12 whistleblower complaint alleged that President Trump was "using the power of his office to solicit interference from a foreign country in the 2020 election." The Intelligence Community Inspector General confirmed that the complaint was "credible" and of "urgent concern."

The Justice Department instructed the Director of National Intelligence not to provide Congress with the whistleblower complaint, as is required by law. [50 U.S.C. § 3033(k)(5)(C)]. Instead, the Office of Legal Counsel (OLC) advised the DNI that the "appropriate action" was to refer the matter to the Department's Criminal Division. We understand that the CIA General Counsel had also referred the whistleblower's allegations to the Criminal Division for investigation.

After the White House released a memorandum of President Trump's July 25 call with Ukraine President Zelensky, the Department of Justice issued a brief press statement that the Criminal Division had concluded that "there was no campaign finance violation" and "no further action was warranted."

It is not clear to what extent, in reaching this decision, the Criminal Division consulted with the Department's Public Integrity Section, as is required in all matters involving the "corruption of the election process." [Justice Manual § 9-85.210].

It is also unclear whether the Criminal Division referred the matter to the Federal Election Commission (FEC), in accordance with a memorandum of understanding that requires the Department to do so “as promptly as possible,” even if the Justice Department determined not to pursue the matter. [43 Fed. Reg. 5441].

On its face, the White House memorandum of the July 25 call raises significant questions, including what was done following the call to follow through on the President’s requests. Since this matter involves allegations about the President’s conduct, and given this President’s stated belief that he has the “absolute right to do what I want to do with the Justice Department,” it is important to ensure that the Department has acted in an objective, independent manner in declining even to investigate this matter.

We therefore ask that you provide the following information no later than October 24:

1. What Department components and individuals were consulted prior to the Department’s concluding that “no further action was warranted”?
2. What evidence did the Department consider beyond the summary of the July 25 call, if any?
3. Did the Department refer the matter to the FEC as required?
4. Did the Department consider whether President Trump or any other individuals, including but not limited to other Executive Branch officials and Rudy Giuliani, violated any statutes other than 52 U.S.C. § 30121 in connection with the conduct described in the whistleblower complaint?
5. What role did OLC play in the Department’s decision that “there was no campaign finance violation” and “no further action was warranted”?
6. Did OLC evaluate whether the whistleblower complaint implicated potential criminal violations before OLC concluded that the complaint should be referred to the Criminal Division rather than forwarded to Congress?

Thank you for your prompt attention to this request.

Sincerely,



DIANNE FEINSTEIN
Ranking Member



PATRICK LEAHY
United States Senator



RICHARD J. DURBIN
United States Senator



SHELDON WHITEHOUSE
United States Senator



AMY KLOBUCHAR
United States Senator



CHRISTOPHER A. COONS
United States Senator



RICHARD BLUMENTHAL
United States Senator



MAZIE K. HIRONO
United States Senator



CORY A. BOOKER
United States Senator



KAMALA D. HARRIS
United States Senator

cc: The Honorable Lindsey O. Graham
Chairman, Senate Committee on the Judiciary

Rabbitt, Brian (OAG)

From: Rabbitt, Brian (OAG)
Sent: Friday, October 25, 2019 5:54 PM
To: Payne, William (Sasse)
Cc: Boyd, Stephen E. (OLA); Escalona, Prim F. (OLA)
Subject: RE: Letter from Sen. Sasse to Gen. Barr
Attachments: Letter from Sasse to Barr 10-25-19.pdf

Will,

Received. Thanks, and have a nice weekend.

BR

Brian C. Rabbitt
Chief of Staff & Sr. Counselor to the Attorney General
U.S. Department of Justice
T: (202) 514-3893
M: (b)(6)
Brian.Rabbitt@usdoj.gov

From: Payne, William (Sasse) (b)(6)
Sent: Friday, October 25, 2019 5:46 PM
To: Rabbitt, Brian (OAG) <brrabbitt@jmd.usdoj.gov>
Subject: Letter from Sen. Sasse to Gen. Barr

?Brian,

Attached is a letter to General Barr from Senator Sasse. Please acknowledge receipt.

Best,

Will

William R. Payne
Chief Counsel to Sen. Ben Sasse
U.S. Senate Committee on the Judiciary
(b)(6)
(202) 224-(b)(6)

United States Senate

WASHINGTON, DC 20510

October 25, 2019

The Hon. William P. Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear General Barr,

As you are aware, Mr. Rudy Giuliani holds no formal position in government and serves as a personal attorney for the President. Mr. Giuliani has publicly acknowledged that he represents other clients in addition to the President. The full extent of his other clients—including whom he represents, what he does on their behalf, and who pays for it—is unclear. Nevertheless, various reporting indicates that Mr. Giuliani has played a significant role in formulating and carrying out various aspects of the administration's policy, including foreign policy.

This arrangement creates the potential for disturbing conflicts of interest, including the possibility that official United States government policy is being driven by hostile foreign actors acting contrary to our nation's interests.

In light of these revelations, I write to you today with several urgent questions:

1. Is the Department of Justice aware of what clients Mr. Giuliani represents?
2. Are any of Mr. Giuliani's clients foreign governments, foreign leaders, foreign business interests, or their representatives?
3. Is Mr. Giuliani's representation of any of his clients paid—directly or indirectly—by foreign governments, foreign leaders, foreign business interests, or their representatives?
4. Was the Department of Justice's conduct in any ongoing investigation influenced by Mr. Giuliani on behalf of any of his clients?
5. Are Mr. Giuliani's activities consistent with all applicable federal law?

Please respond in writing within one week. If you have any questions, please contact my Chief Counsel via his direct line at (202) 224-(b)(6).

Sincerely,

A handwritten signature in blue ink that reads "Ben Sasse". The signature is written in a cursive style with a long horizontal stroke at the end of the word "Sasse".

Ben Sasse
United States Senator

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Thursday, October 24, 2019 10:38 AM
To: Megan L. Greer (OLA) (mlgreer@jmd.usdoj.gov)
Subject: FW: Tweet by Kamala Harris on Twitter
Attachments: 10.23.2019 FOIA Request to William Barr.pdf

FYSA

From: Hankey, Mary Blanche (OLA)
Sent: Thursday, October 24, 2019 10:37 AM
To: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>; Boyd, Stephen E. (OLA) (b)(6); Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: RE: Tweet by Kamala Harris on Twitter

The letter.

From: Escalona, Prim F. (OLA) <pfescalona@jmd.usdoj.gov>
Sent: Wednesday, October 23, 2019 6:17 PM
To: Boyd, Stephen E. (OLA) (b)(6); Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Subject: Tweet by Kamala Harris on Twitter

Kamala Harris (@SenKamalaHarris)

10/23/19, 11:28 AM

. @SenBlumenthal, @SenWhitehouse and I just sent a FOIA request to AG Barr demanding information about political interference from the White House or Rudy Giuliani in DOJ investigations. A few phrases we're looking for:

quid pro quo
Giuliani
Bill Taylor
Pompeo & Ukraine
Burisma

[Download](#) the Twitter app

Prim Escalona
202.353.5566

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Wednesday, October 23, 2019 3:50 PM
To: DOJ Correspondence (SMO); Lasseter, David F. (OLA)
Cc: Kenneth E. Kellner (OLA) (kkellner@jmd.usdoj.gov); Megan L. Greer (OLA) (mlgreer@jmd.usdoj.gov)
Subject: RE: Senators' Letter to AG Barr
Attachments: 10.23.19 Letter to AG Barr.pdf

Please assign to Ken.

Megan FYSA.

From: DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Sent: Wednesday, October 23, 2019 3:37 PM
To: Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>; Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>
Subject: FW: Senators' Letter to AG Barr
Importance: High

Good afternoon

Pls provide assignment guidance. Thanks.

From: Aronson, Alex (Judiciary-Dem) (b)(6)
Sent: Wednesday, October 23, 2019 10:23 AM
To: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; DOJ Correspondence (SMO) <Ex_DOJCorrespondence@jmd.usdoj.gov>
Cc: Songer, Erica (Judiciary-Dem) (b)(6); Patrie, Aparna (Judiciary-Dem) (b)(6); Wunder, Nick (Harris) (b)(6); Gaeta, Joe (Whitehouse) (b)(6)
Subject: Senators' Letter to AG Barr

Dear Ms. Johnson,

Please find attached correspondence from Senators Whitehouse, Blumenthal, Harris, and Coons, to Attorney General Barr. Please confirm receipt at your convenience. Paper copy to follow.

Best,

Alex Aronson
Senior Counsel
Senator Sheldon Whitehouse
Senate Committee on the Judiciary
(b)(6)

United States Senate

WASHINGTON, DC 20510

October 23, 2019

The Honorable William Barr
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Attorney General Barr:

In light of the torrent of news reports calling into question the Department of Justice's ("the Department" or "DOJ") independence from political bias and pressure, we write to inquire about the status of the Department's policy of limiting communications between DOJ personnel and representatives of the White House regarding pending or contemplated criminal and civil matters.

The Department has long recognized that its own judgments must be impartial and insulated from political influence, and that its investigatory and prosecutorial powers must be exercised free from partisan considerations. To those ends, the Department has long maintained policies restricting communications between the White House and Department officials relating to pending or contemplated criminal and civil investigations or cases. These restrictions were first formally imposed in 1978, following the Watergate scandal, by Attorney General Griffin Bell, who instituted procedures to insulate the Department from political influence.¹ The restrictions were relaxed during the George W. Bush administration by Attorney General John Ashcroft,² later tightened again by Attorney General Alberto Gonzales,³ and further strengthened during the Obama administration by Attorney General Eric Holder.⁴ At the beginning of this administration, Attorney General Sessions reaffirmed and left in place the 2009 Holder memorandum, which, to our knowledge, remains the operative Department policy. Further, in January 2017, under former White House Counsel Donald McGahn, the Trump White House issued its own contacts policy, restricting White House communications with Department personnel regarding ongoing or contemplated cases or investigations.

¹ An Address by the Hon. Griffin B. Bell, Attorney General of the United States, Before Department of Justice Lawyers (Sept. 6, 1978), available at <https://www.justice.gov/sites/default/files/ag/legacy/2011/08/23/09-06-1978b.pdf>.

² Memorandum for Heads of Department Components and United States Attorneys re: Communications with the Executive Office of the President (May 4, 2006), available at <https://www.justice.gov/sites/default/files/ag/legacy/2009/02/10/ag-050406a.pdf>.

³ Memorandum for Heads of Department Components and United States Attorneys re: Communications with the White House (Dec. 19, 2007), available at <https://www.justice.gov/sites/default/files/ag/legacy/2008/04/15/ag-121907.pdf>.

⁴ Memorandum for Heads of Department Components, All United States Attorneys re: Communications with the White House and Congress (May 11, 2009), available at [https://www.justice.gov/oip/foia-library/communications with the white house and congress 2009.pdf/download](https://www.justice.gov/oip/foia-library/communications%20with%20the%20white%20house%20and%20congress%202009.pdf/download).

Even with these policies in place, however, numerous instances of communications between the White House and the Department have come to light suggesting that the proper procedures are not being followed. For example, during his time as Chief of Staff to Attorney General Sessions, Matthew Whitaker reportedly “frequently spoke by phone with both [President] Trump and Chief of Staff John Kelly,” and “on many of those phone calls nobody else was on the phone except for the President and Whitaker, or only Kelly and Whitaker.”⁵ On those calls, Mr. Whitaker reportedly “privately provided advice to the president ... on how the White House might be able to pressure the Justice Department to investigate the president’s political adversaries.”⁶ According to some reports, Mr. Whitaker “was seen by Department officials as a partisan and a White House spy.”⁷ He was also reportedly known as the “West Wing’s eyes and ears” and someone who was “counseling the White House on how the President and his aides might successfully pressure Sessions and [former Deputy Attorney General] Rosenstein to give in to Trump’s demands.”⁸

These reported inappropriate contacts with Mr. Whitaker were not isolated. We have seen reports of numerous other communications that appear to violate DOJ and White House policy, from the White House seeking a meeting with then-Acting Solicitor General Jeffrey Wall to discuss a sensitive matter involving Trump donor Steve Wynn,⁹ to President Trump directing former economic advisor Gary Cohn to pressure DOJ into blocking the AT&T-Time Warner merger, which the Department later attempted to do.¹⁰ Indeed, Special Counsel Mueller’s report itself details how the President “pushed back on the DOJ contacts policy,” saying “words to the effect of, ‘You’re telling me that Bobby and Jack [Kennedy] didn’t talk about investigations? Or Obama didn’t tell Eric Holder who to investigate?’”¹¹

Recently, questions have arisen about the White House’s role in the Department’s decision to open an antitrust investigation into Ford, Volkswagen, Honda, and BMW, after the automakers reached a deal with California to voluntarily follow the state’s fuel economy

⁵ Murray Waas, *Exclusive: Trump Loyalist Matthew Whitaker Was Counseling the White House on Investigating Clinton*, VOX (Nov. 9, 2018), available at <https://www.vox.com/policy-and-politics/2018/11/9/18080656/matthew-whitaker-trump-hillary-clinton-sessions-attorney-general>.

⁶ *Id.*

⁷ Adam Goldman & Edward Wong, *Trump Installs a Critic of the Mueller Investigation to Oversee It*, THE NEW YORK TIMES (Nov. 7, 2018), available at <https://www.nytimes.com/2018/11/07/us/politics/whitaker-mueller-trump.html>.

⁸ Katie Benner & Maggie Haberman, *Matthew Whitaker, a Trump Loyalist, Is Seen as Ascendant Amid Rosenstein Chaos*, THE NEW YORK TIMES (Sept. 26, 2018), available at <https://www.nytimes.com/2018/09/26/us/politics/matthew-whitaker-justice-department.html>.

⁹ Sam Stein, Lachlan Markay & Betsy Swan, *White House Intervened in Case of Trump’s Casino Pal Steve Wynn*, DAILY BEAST (Jan. 1, 2019) available at <https://www.thedailybeast.com/white-house-intervened-in-trumps-casino-pal-steve-wynns-case>.

¹⁰ Avery Anapol, *Trump directed Gary Cohn to pressure DOJ to block AT&T-Time Warner deal: report*, THE HILL (Mar. 4, 2019), available at <https://thehill.com/homenews/administration/432431-trump-directed-gary-cohn-to-pressure-justice-dept-to-block-att-time>.

¹¹ Report on the Investigation into Russian Interference in the 2016 Presidential Election, Special Counsel Robert S. Mueller, III, Vol. II, p. 51 (March 2019).

standards. President Trump was reportedly “blindsided” and “enraged” by the deal.¹² Then, as interest in the agreement increased among other automakers, a senior Trump advisor reportedly “summoned” Toyota, Fiat Chrysler, and General Motors to the White House, pressuring them to abide by the Trump Administration’s proposed lower standards.¹³ Moreover, one week after President Trump issued a flurry of tweets castigating the “foolish executives” of the “politically correct Automobile Companies,” the Department announced its probe.¹⁴ In the wake of these outbursts, and in the absence of any readily apparent predication for such an investigation, the Department’s decision to launch this antitrust probe raises obvious questions about whether the Department’s independent law enforcement function has been coopted by the White House in the name of political retribution.

Revelations about your own involvement and the involvement of your Department in matters of personal and political interest to the President are also deeply concerning. In the memorandum transcript of the July 25 call between President Trump and President Zelenskyy of Ukraine, President Trump explicitly references you a number of times, and says that he will direct you to contact the President of Ukraine to follow up on investigations of American citizens and political opponents.¹⁵ President Trump has openly and publicly expressed a desire for such investigations, and his support for such investigations taking place. Any action you or your Department have taken in response to a directive by the President on these matters raises serious concerns and highlights the precise reason for the need to maintain DOJ independence from political interference.

This month, Bloomberg News reported the troubling news that in 2017, President Trump “pressed then-Secretary of State Rex Tillerson to help persuade the Justice Department to drop a criminal case against an Iranian-Turkish gold trader who was a client of Rudy Giuliani.”¹⁶ And last week, The New York Times reported that Mr. Giuliani met recently with Criminal Division Assistant Attorney General (AAG) Brian Benczkowski to discuss “a foreign bribery case for a client that Mr. Giuliani described as ‘very, very sensitive.’”¹⁷ It should go without saying that any attempts by the President to pressure the Department into using its law enforcement discretion to help his political allies would be highly improper. Likewise, if Mr. Giuliani has used his role as President Trump’s personal lawyer to influence the Department’s handling of criminal cases against his other clients, that would be alarming.

¹² Coral Davenport and Hiroko Tabuchi, *Trump’s Rollback of Auto Pollution Rules Shows Signs of Disarray*, THE NEW YORK TIMES (Aug. 28, 2019), available at <https://www.nytimes.com/2019/08/20/climate/trump-auto-emissions-rollback-disarray.html>.

¹³ *Id.*

¹⁴ Donald J. Trump (@realdonaldtrump), Twitter (April 21, 2019, 6:38 AM), <https://twitter.com/realdonaldtrump/status/1164169890917433346?lang=en>.

¹⁵ Memorandum of Telephone Conversation with President Zelenskyy of Ukraine, Declassified by order of the President on Sept. 24, 2019 (July 25, 2019), <https://www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf>.

¹⁶ Nick Wadhams, Saleha Mohsin, Stephanie Baker & Jennifer Jacobs, *Trump Urged Top Aide to Help Giuliani Client Facing DOJ Charges*, BLOOMBERG (Oct. 9, 2019), available at <https://www.bloomberg.com/news/articles/2019-10-09/trump-urged-top-aide-to-help-giuliani-client-facing-doj-charges>.

¹⁷ Kenneth P. Vogel, Michael S. Schmidt & Katie Benner, *Giuliani Mixes His Business With Role as Trump’s Lawyer*, THE NEW YORK TIMES (Oct. 18, 2019), available at <https://www.nytimes.com/2019/10/18/us/politics/giuliani-business.html>.

At your confirmation hearing, you were asked whether, if confirmed, you intended to maintain the DOJ-White House contacts policy established by the 2009 Holder memo. You replied that you had “looked through the existing regime and [your] instinct [was] to keep it, maybe even tighten it up a little bit more.”¹⁸ We write today to follow up on this exchange and seek an update on the status of the Department’s policy limiting communications with the White House, including your efforts to enforce that policy.

Earlier this year, we introduced the Security from Political Interference in Justice Act of 2019 (S. 1915/H.R. 3380), which would complement the Department’s internal policy by increasing transparency in the relationship between DOJ and the White House. In broad strokes, the bill would require the logging and periodic disclosure of communications between White House and DOJ staff pertaining to specific cases or investigations. In 2007, a substantially identical bill was reported out of the Senate Judiciary Committee by a 14-2 bipartisan vote. It is important to highlight that this bill would not proscribe or prohibit any communications between the White House and the Department of Justice. It would instead provide for more transparency around those communications and thereby reassure the public and reduce potentially baseless speculation as to the nature and intent of those communications.

Congress has a strong legislative interest in obtaining information about this issue, particularly in light of public statements and news reports, such as those described above, revealing efforts by the Trump administration to influence the Department’s civil and criminal law enforcement. Therefore, as we work to develop this bill and other potential legislation on this issue, we respectfully request your response to the following questions:

General questions:

1. Does the May 11, 2009, Holder memo limiting communications with the White House and Congress remain in effect?
2. Have you made any changes to the policy set forth in the Holder memo, or do you contemplate making any changes? If you have issued a new or modified policy, please produce it. If you are contemplating making changes, please describe them.
3. Under the Holder memo, how does the Department treat “unofficial” or “private” communications between Department employees and the White House?
4. Assuming it remains in effect, how does the Department enforce the limitations set forth in the Holder memo?
5. Since your confirmation as Attorney General, has the Department identified any violations of the policy set forth in the Holder memo? How were those violations identified and dealt with?
6. Since your confirmation as Attorney General, what disciplinary actions, if any, have been taken as a result of violations of the Holder memo?

¹⁸ Nomination of William P. Barr to be Attorney General of the United States, Hearing before the U.S. Senate Committee on the Judiciary, (Jan. 15, 2019) (Testimony of William P. Barr).

Questions regarding specific White House contacts:

7. What communications, if any, has the Department had with the White House concerning the Department's antitrust probe into the four automakers' agreement regarding California emissions standards? Please describe any efforts by the President, any employee of the White House, or any adviser to the President (either official or unofficial) to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding any investigation into Ford Motor Company, Honda Motor Company, BMW AG, or Volkswagen AG relating to any agreements or discussions with the California Air Resources Board regarding California vehicle emissions standards.
8. What communications did Matthew Whitaker have with the White House when he served as Chief of Staff to Attorney General Sessions? Please describe any efforts by the President, any employee of the White House, or any adviser to the President (either official or unofficial) to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding potential or actual investigations into the President's political adversaries, including but not limited to Hillary Clinton.
9. What communications, if any, did then-Acting Solicitor General Jeffrey Wall have with the White House regarding then-Republican National Committee finance chairman Steve Wynn and legal issues surrounding Wynn Resorts? Please describe any efforts by the President, any employee of the White House, or any adviser to the President (either official or unofficial) to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding matters involving Mr. Wynn.
10. What communications, if any, did the Department have with the White House concerning the AT&T-Time Warner merger? Please describe any efforts by the President, any employee of the White House, or any adviser to the President (either official or unofficial) to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding the Department's eventual challenge of that merger.
11. What communications, if any, did the Department have with the White House concerning investigations discussed during the President's July 25 phone call with the Ukrainian President? Please describe any efforts by President Trump, any employee of the White House, or any adviser to the President (either official or unofficial) to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding matters discussed by President Trump during the July 25 phone call, including potential investigations into the President's political adversaries.
12. What communications, if any, did the Department have with the White House or any of its envoys concerning the Department's prosecution of Reza Zarrab? Please describe any efforts by the President, any employee of the White House, or any adviser to the President (either official or unofficial) to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding matters involving Mr. Zarrab.
13. Who and what were the subject of AAG Benczkowski's recent meeting with Rudy Giuliani regarding the "foreign bribery case for a client that Mr. Giuliani described as

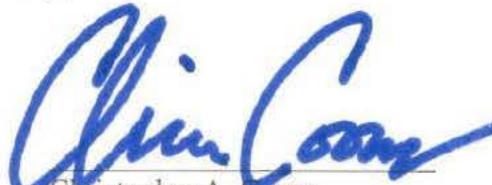
'very, very sensitive.'"? Please also describe any efforts by Mr. Giuliani to offer an opinion, provide information, inquire into deliberation, or otherwise exert influence over the Department of Justice regarding this matter.

Maintaining the Department's independence and integrity is more critical than ever. Accordingly, it is our hope that you will follow through with your instinct to maintain and enforce applicable Department policies. We appreciate your prompt attention to this matter. Please respond by November 25, 2019; you may direct your correspondence to (b)(6) - Alex Aronson, Erica Songer, Aparna Patrie, and Nick Wunder

Sincerely,



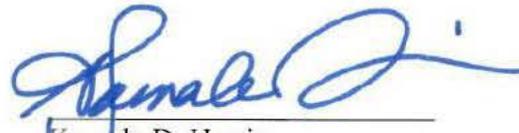
Sheldon Whitehouse
United States Senator



Christopher A. Coons
United States Senator



Richard Blumenthal
United States Senator



Kamala D. Harris
United States Senator

Boyd, Stephen E. (OLA)

From: Boyd, Stephen E. (OLA)
Sent: Monday, October 7, 2019 1:52 PM
To: Greer, Megan L. (OLA)
Cc: Lasseter, David F. (OLA); Hankey, Mary Blanche (OLA); Reuss, Alexis (OLA)
Subject: Re: New House Subpoenas to OMB, DOD

Rgr, thanks for summarizing/sending.

SB

Sent from my iPhone

On Oct 7, 2019, at 1:29 PM, Greer, Megan L. (OLA) <mlgreer@jmd.usdoj.gov> wrote:

The House has just issued subpoenas to OMB and DOD. The subpoenas were issued by HPSCI, and the cover letters were signed by Chairmen Schiff, Cummings, and Engel. Like the requests sent to VP Pence and Giuliani, the deadline for today's subpoenas is next Tuesday, October 15.

Two of the requests relate directly to the AG/Department, both of which mirror prior requests/subpoenas:

DOD Request 2(b): "Communications between or among current or former officials of [the Department of Justice] relating to the July 25, 2019, telephone conversations"; and

DOD Request 9/OMB Request 5: "Opinions, advice, counsel, approvals, or concurrences provided by OMB, the National Security Council (NSC), the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine."

Megan L. Greer
Office of Legislative Affairs
202.353.9085 office
(b)(6) mobile

<omb_subpoena_schedule_10-07-19_hpsci.pdf>
<dod_subpoena_schedule_10-07-19_hpsci.pdf>
<2019-10-07.eec_engel_schiff_to_vought-omb_re_subpoena.pdf>
<2019-10-07.eec_engel_schiff_to_esper-dod_re_subpoena.pdf>

Boyd, Stephen E. (OLA)

From: Boyd, Stephen E. (OLA)
Sent: Monday, October 7, 2019 1:34 PM
To: O'Callaghan, Edward C. (ODAG); Rabbitt, Brian (OAG); Engel, Steven A. (OLC)
Subject: Fwd: New House Subpoenas to OMB, DOD
Attachments: omb_subpoena_schedule_10-07-19_hpsci.pdf; ATT00001.htm; dod_subpoena_schedule_10-07-19_hpsci.pdf; ATT00002.htm; 2019-10-07.eec_engel_schiff_to_vought-omb_re_subpoena.pdf; ATT00003.htm; 2019-10-07.eec_engel_schiff_to_esper-dod_re_subpoena.pdf; ATT00004.htm

FYSA

Sent from my iPhone

Begin forwarded message:

From: "Greer, Megan L. (OLA)" <mlgreer@jmd.usdoj.gov>
To: "Boyd, Stephen E. (OLA)" (b)(6), "Lasseter, David F. (OLA)" <dlasseter@jmd.usdoj.gov>, "Hankey, Mary Blanche (OLA)" <mhankey@jmd.usdoj.gov>
Cc: "Reuss, Alexis (OLA)" <alreuss@jmd.usdoj.gov>
Subject: New House Subpoenas to OMB, DOD

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DOD Request 9/OMB Request 5: "Opinions, advice, counsel, approvals, or concurrences provided by OMB, the National Security Council (NSC), the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine."

Megan L. Greer
Office of Legislative Affairs
202.353.9085 office
(b)(6) mobile

Congress of the United States
Washington, DC 20515

October 7, 2019

VIA U.S. AND ELECTRONIC MAIL

The Honorable Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Esper:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 15, 2019**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.¹ Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

In September 2018, Congress appropriated \$250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.² In its Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of

¹ See Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at <https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf>).

² Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013(2018).

Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.³

On February 28 and May 23, 2019, Under Secretary of Defense for Policy John C. Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.⁴ The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing \$250 million in security cooperation funds to Ukraine.⁵

According to multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."⁶

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."⁷ Officials at the Departments of State and Defense reportedly were "puzzled and alarmed" after learning about the White House's directive. Defense Department officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.⁸

³ Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

⁴ Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at <https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf>).

⁵ Department of Defense, *Press Release: DOD Announces \$250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

⁶ *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

⁷ *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html).

⁸ *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

On July 25, 2019, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public, President Trump urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.⁹

According to the record, immediately after President Zelensky mentioned his desire to obtain Javelin missiles, President Trump stated, “I would like you to do us a favor though.” He also stated, “I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it.” He also said:

There’s a lot of talk about Biden’s son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.¹⁰

In August 2019, Senator Ron Johnson was informed by Gordon Sondland, the U.S. Ambassador to the European Union, that if Ukraine would “get to the bottom of what happened in 2016—if President Trump has that confidence, then he’ll release the military spending.” Senator Johnson stated: “At that suggestion, I winced.” He also stated: “My reaction was: Oh, God. I don’t want to see those two things combined.”¹¹

As you are aware, the Impoundment Control Act of 1974 authorizes the President to withhold the obligation of funds only “(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law.” The President is required to submit a special message to Congress with information about the proposed deferral of funds.¹²

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: “This funding is critical to the accomplishment of U.S. national security objectives in Europe.”¹³

⁹ The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

¹⁰ *Id.*

¹¹ *Trump, in August Call with GOP Senator, Denied Official’s Claim on Ukraine Aid*, Wall Street Journal (Oct. 4, 2019) (online at www.wsj.com/articles/trump-administration-used-potential-meeting-to-pressure-ukraine-on-biden-texts-indicate-11570205661).

¹² 2 U.S.C. § 684.

¹³ Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, House Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

The funds designated for the Ukraine Security Assistance Initiative are vital to the long term viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin’s continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.¹⁴

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: “These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests.”¹⁵

On September 9, 2019, the Committees on Intelligence, Foreign Affairs, and Oversight wrote to the White House requesting documents related to “the actual or potential suspension of security assistance to Ukraine.”¹⁶ The White House never responded this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.¹⁷

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was “very actively involved in advocating the aid,” he “was not given an explanation” about

¹⁴ Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-letter-urging).

¹⁵ Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, House Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

¹⁶ Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

¹⁷ *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."¹⁸

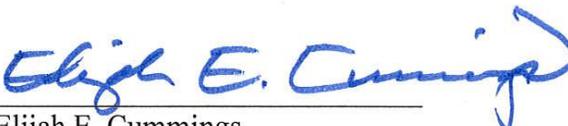
The enclosed subpoena demands documents that are necessary for the Committees to examine this sequence of these events and the reasons behind the White House's decision to withhold critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,


Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence


Eliot L. Engel
Chairman
House Committee on Foreign Affairs


Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

¹⁸ *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (online at <https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay>).

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Mark T. Esper, in your capacity as Secretary of Defense, are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession or control referring or relating to:

1. President Trump's April 21, 2019, and July 25, 2019, telephone conversations with Ukrainian President Volodymyr Zelensky, including but not limited to:
 - a. Any recordings, transcripts, notes (including electronic and hand-written notes), summaries, and draft versions of the official "Memorandum of Telephone Conversation";
 - b. All preparatory memoranda and materials including the full presidential call package and any addenda; and
 - c. The identity of all individuals who listened to, participated in, assisted in preparation for, transcribed, took notes during, reviewed the call record or transcript, or received information about the April 21, 2019, and July 25, 2019, telephone conversations;
2. Communications between or among current or former officials of the following entities relating to the July 25, 2019, telephone conversation:
 - a. The White House, including the White House Counsel's Office, the National Security Council (NSC), the Office of the Vice President (OVP), the Office of Management and Budget (OMB), or the White House Situation Room;
 - b. The Department of Justice (DOJ);
 - c. The Department of State (DOS);
 - d. The Department of Energy (DOE);
 - e. Agencies in the Intelligence Community (IC); and
 - f. The Department of Defense (DOD).
3. Any of the following meetings or potential meetings:
 - a. Any request, suggestion, or proposal for a telephone call, meeting, visit, or other communication involving President Trump and President Zelensky;

- b. A meeting at the White House on May 23, 2019, involving President Trump, Energy Secretary Rick Perry, former Ambassador Kurt Volker, and/or Ambassador Gordon Sondland;
 - c. President Zelensky's inauguration on May 20, 2019, in Kyiv, Ukraine, including but not limited to President Trump's decision not to attend and to send Energy Secretary Rick Perry to lead the U.S. delegation instead of Vice President Pence;
 - d. A meeting on or about July 10, 2019, at the White House between Ukrainian officials Andriy Yermak and Oleksander Danylyuk and U.S. government officials, including Energy Secretary Rick Perry, former National Security Advisor John Bolton, former Ambassador Kurt Volker, and Ambassador Gordon Sondland, including the proposed or actual participation of Vice President Mike Pence and/or President Trump in the meeting, and any notes or memoranda related to the meeting that were provided to you or your office;
 - e. A potential meeting between President Trump and President Zelensky in Warsaw, Poland on about September 1, 2019, including President Trump's decision to cancel his attendance;
 - f. Meetings and communications between U.S. officials, including but not limited to Vice President Mike Pence, Energy Secretary Rick Perry, and Senior Advisor Jared Kushner, and President Zelensky and other Ukrainian government officials in Warsaw, Poland on or about September 1, 2019;
 - g. Secretary Pompeo's September 17, 2019, call with the Ukrainian Foreign Minister Prystayko;
 - h. Vice President Pence's September 18, 2019, call with President Zelensky; and
 - i. A meeting between President Trump and President Zelensky during the United Nations General Assembly on or about September 25 2019, including but not limited to any discussion of their July 25, 2019, phone call, as well as any preparatory memoranda and materials generated for the meeting; any notes, readouts, summaries of the same; and any follow-up directives and guidance formally or informally issued to NSC staff, as well as relevant departments and agencies, either formally or informally;
4. Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph DiGenova, Victoria Toensing, Vitaly Pruss, or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, and/or any U.S. persons or entities;

5. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing of foreign assistance of any kind, including security assistance, to Ukraine for fiscal year 2019, including communications among or between individuals in the White House, OMB, OVP, DOD, DOS , DOE, United States Agency for International Development (USAID), ODNI, or agencies in the IC;
6. The timing, content, and manner for communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;
7. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS , DOE, USAID, ODNI or the IC, including funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);
8. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including transmitting a “special message” to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;
9. Opinions, advice, counsel, approvals, or concurrences provided by OMB, NSC, the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;
10. The rate of obligations or expenditure for foreign assistance of any kind provided by DOD, DOS, DOE, USAID, or IC agencies to Ukraine, including the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;
11. Any delegation or revocation of apportionment authority involving OMB political or career officials;
12. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019, among others;
13. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision; and

14. Meetings, calls, or other engagements with Ukrainian officials regarding potential or actual delays in the provision of funding or implementation of U.S. foreign assistance, including security assistance, to Ukraine.

Congress of the United States
Washington, DC 20515

October 7, 2019

VIA U.S. AND ELECTRONIC MAIL

The Honorable Russell T. Vought
Acting Director
Office of Management and Budget
725 17th Street, N.W.
Washington, D.C. 20503

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce the documents set forth in the accompanying schedule by **October 15, 2019**.

This subpoena is being issued by the Permanent Select Committee on Intelligence under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Committee on Foreign Affairs and the Committee on Oversight and Reform. The subpoenaed documents shall be collected as part of the House's impeachment inquiry and shared among the Committees, as well as with the Committee on the Judiciary as appropriate.¹ Your failure or refusal to comply with the subpoena, including at the direction or behest of the President or the White House, shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against you and the President.

The Committees are investigating the extent to which President Trump jeopardized U.S. national security by pressing Ukraine to interfere with our 2020 election and by withholding military assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

In September 2018, Congress appropriated \$250 million to the Department of Defense for the Ukraine Security Assistance Initiative for fiscal year 2019.² In its Committee report authorizing the appropriation, the Senate Committee on Armed Services wrote:

The committee remains deeply concerned by the continuing aggression of Russia and Russian-led separatist forces in Ukraine. The committee welcomes the delivery of Javelin Missiles and Javelin Command Launch Units to Ukraine, which sends a strong

¹ See Letter from Jerrold Nadler, Chairman, Committee on the Judiciary, to Adam B. Schiff, Chairman, Permanent Select Committee on Intelligence; Maxine Waters, Chairwoman, Committee on Financial Services; Elijah E. Cummings, Chairman, Committee on Oversight and Reform; and Eliot L. Engel, Chairman, Committee on Foreign Affairs (Aug. 22, 2019) (online at <https://judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/FiveChairsLetter8.22.pdf>).

² Department of Defense and Labor, Health and Human Services, and Education Appropriations Act, 2019 and Continuing Appropriations Act, 2019, Pub. L. No. 115-245 at § 9013(2018).

signal of the United States' commitment to the defense of allies and partners. The committee continues to emphasize the importance of providing security assistance and intelligence support, including defensive lethal assistance, to the Government of Ukraine to build its capacity to defend its sovereignty and territorial integrity.³

On February 28 and May 23, 2019, Under Secretary of Defense for Policy John C. Rood notified Congressional chairs that the Department of Defense intended to release large tranches of this military aid to Ukraine.⁴ The Congressional committees approved the defense assistance shortly after each notification. On June 18, 2019, the Defense Department announced that it was finalizing \$250 million in security cooperation funds to Ukraine.⁵

According to multiple press reports, at some point in July 2019, President Trump ordered Acting Chief of Staff and Office of Management and Budget (OMB) Director Mick Mulvaney to freeze the military aid to Ukraine, and Mr. Mulvaney reportedly conveyed the President's order "through the budget office to the Pentagon and the State Department, which were told only that the administration was looking at whether the spending was necessary."⁶

According to press reports, "Administration officials were instructed to tell lawmakers that the delays were part of an 'interagency process' but to give them no additional information."⁷ Officials at the Departments of State and Defense reportedly were "puzzled and alarmed" after learning about the White House's directive. Defense Department officials reportedly "tried to make a case to the White House that the Ukraine aid was effective and should not be looked at in the same manner as other aid," but "those arguments were ignored." State and Defense Department officials reportedly contacted Congress to inform them of the freeze imposed by the White House.⁸

On July 25, 2019, President Trump had a telephone call with President Volodymyr Zelensky of Ukraine. According to the record of the call that has now been made public,

³ Senate Committee on Armed Services, *Report to Authorize Appropriations for Fiscal Year 2019 for Military Activities of the Department of Defense and for Military Construction, to Prescribe Military Personnel Strengths for Such Fiscal Year, and for Other Purposes* (Sen. Rpt. 115-262) (June 5, 2018) (online at www.govinfo.gov/content/pkg/CRPT-115srpt262/html/CRPT-115srpt262.htm).

⁴ Letter from John C. Rood, Under Secretary for Policy, Department of Defense, to Congressional Chairmen (May 23, 2019) (online at <https://assets.documentcloud.org/documents/6430088/Pentagon-Letter-On-Ukraine-Aid.pdf>).

⁵ Department of Defense, *Press Release: DOD Announces \$250M to Ukraine* (June 18, 2019) (online at www.defense.gov/Newsroom/Releases/Release/Article/1879340/dod-announces-250m-to-ukraine/).

⁶ *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

⁷ *Trump Ordered Hold on Military Aid Days Before Calling Ukrainian President, Officials Say*, Washington Post (Sept. 23, 2019) (online at www.washingtonpost.com/national-security/trump-ordered-hold-on-military-aid-days-before-calling-ukrainian-president-officials-say/2019/09/23/df93a6ca-de38-11e9-8dc8-498eabc129a0_story.html).

⁸ *Trump Said to Have Frozen Aid to Ukraine Before Call with Its Leader*, New York Times (Sept. 23, 2019) (online at www.nytimes.com/2019/09/23/us/politics/trump-un-biden-ukraine.html).

President Trump urged the Ukrainian President to launch an investigation into former Vice President Biden immediately after the Ukrainian President inquired about the status of the U.S. military assistance, including his desire to procure U.S.-manufactured Javelin missiles.⁹

According to the record, immediately after President Zelensky mentioned his desire to obtain Javelin missiles, President Trump stated, “I would like you to do us a favor though.” He also stated, “I would like to have the Attorney General call you or your people and I would like you to get to the bottom of it.” He also said:

There’s a lot of talk about Biden’s son, that Biden stopped the prosecution and a lot of people want to find out about that so whatever you can do with the Attorney General would be great. Biden went around bragging that he stopped the prosecution so if you can look into it... It sounds horrible to me.¹⁰

In August 2019, Senator Ron Johnson was informed by Gordon Sondland, the U.S. Ambassador to the European Union, that if Ukraine would “get to the bottom of what happened in 2016—if President Trump has that confidence, then he’ll release the military spending.” Senator Johnson stated: “At that suggestion, I winced.” He also stated: “My reaction was: Oh, God. I don’t want to see those two things combined.”¹¹

As you are aware, the Impoundment Control Act of 1974 authorizes the President to withhold the obligation of funds only “(1) to provide for contingencies; (2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or (3) as specifically provided by law.” The President is required to submit a special message to Congress with information about the proposed deferral of funds.¹²

On August 30, 2019, Chairman Adam Smith and Ranking Member Mac Thornberry of the House Committee on Armed Services wrote a letter to Mr. Mulvaney requesting information regarding why military assistance to Ukraine was being withheld and when it would be released. They wrote: “This funding is critical to the accomplishment of U.S. national security objectives in Europe.”¹³

On September 3, 2019, a bipartisan group of Senators—including Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson—wrote a letter requesting

⁹ The White House, *Memorandum of Telephone Conversation* (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

¹⁰ *Id.*

¹¹ *Trump, in August Call with GOP Senator, Denied Official’s Claim on Ukraine Aid*, Wall Street Journal (Oct. 4, 2019) (online at www.wsj.com/articles/trump-administration-used-potential-meeting-to-pressure-ukraine-on-biden-texts-indicate-11570205661).

¹² 2 U.S.C. § 684.

¹³ Letter from Chairman Adam Smith and Ranking Member Mac Thornberry, House Committee on Armed Services, to Mick Mulvaney, Director, Office of Management and Budget (Aug. 30, 2019).

that OMB release the military assistance to Ukraine that the Trump Administration was withholding:

The funds designated for the Ukraine Security Assistance Initiative are vital to the viability of the Ukrainian military. It has helped Ukraine develop the independent military capabilities and skills necessary to fend off the Kremlin's continued onslaughts within its territory. In fact, Ukraine continues to fight daily on its eastern border against Russia-backed separatists in the provinces of Donetsk and Luhansk, and over 10,000 Ukrainian soldiers and civilians have lost their lives in this war. U.S.-funded security assistance has already helped turn the tide in this conflict, and it is necessary to ensure the protection of the sovereign territory of this young country, going forward.¹⁴

On September 5, 2019, Chairman Eliot L. Engel and Ranking Member Michael McCaul of the House Committee on Foreign Affairs wrote a letter to OMB urging the Trump Administration to lift its hold on security assistance funds to support Ukraine, writing: "These funds, which were appropriated by Congress as Foreign Military Financing and as part of the Ukraine Security Assistance Initiative and signed into law by the President, are essential to advancing U.S. national security interests."¹⁵

On September 9, 2019, the Committees on Intelligence, Foreign Affairs, and Oversight wrote to the White House requesting documents related to "the actual or potential suspension of security assistance to Ukraine."¹⁶ The White House never responded this request. However, two days later, on September 11, 2019, the White House released its hold on the military assistance to Ukraine.¹⁷

On September 24, 2019, Senate Majority Leader Mitch McConnell stated that, although he was "very actively involved in advocating the aid," he "was not given an explanation" about why it was being withheld, even though he talked to the Secretary of Defense and the Secretary of State. He stated: "I have no idea what precipitated the delay."¹⁸

¹⁴ Letter from Senators Rob Portman, Jeanne Shaheen, Dick Durbin, Richard Blumenthal, and Ron Johnson, to Mick Mulvaney, Director, Office of Management and Budget (Sept. 3, 2019) (online at www.portman.senate.gov/newsroom/press-releases/portman-shaheen-lead-bipartisan-ukraine-caucus-leadership-letter-urging).

¹⁵ Letter from Chairman Eliot L. Engel and Ranking Member Michael McCaul, House Committee on Foreign Affairs, to Mick Mulvaney, Director, and Russell Vought, Acting Director, Office of Management and Budget (Sept. 5, 2019).

¹⁶ Letter from Chairman Eliot L. Engel, House Committee on Foreign Affairs, Chairman Adam Schiff, House Permanent Select Committee on Intelligence, and Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Secretary Mike Pompeo, Department of State (Sept. 9, 2019) (online at https://foreignaffairs.house.gov/_cache/files/a/d/ad1e0561-2252-4f7c-97ad-f649db558c83/1F587BDDA9087BEDDEE8D45A8F92C370.test.ele-schiff-cummings-letter-to-sec-pompeo-on-ukraine-002-.pdf).

¹⁷ *Trump Administration Backs Off Hold on Ukraine Military Aid*, Politico (Sept. 12, 2019) (online at www.politico.com/story/2019/09/12/trump-administration-ukraine-military-aid-3825755).

¹⁸ *McConnell: 'I Was Not Given an Explanation' for Ukraine Aid Delay*, The Hill (Sept. 24, 2019) (online at <https://thehill.com/homenews/senate/462828-mcconnell-i-was-not-given-an-explanation-for-ukraine-aid-delay>).

The enclosed subpoena demands documents that are necessary for the Committees to examine this sequence of these events and the reasons behind the White House's decision to withhold critical military assistance to Ukraine that was appropriated by Congress to counter Russian aggression.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 to arrange for the production of documents.

Sincerely,



Adam B. Schiff
Chairman
House Permanent Select Committee
on Intelligence



Eliot L. Engel
Chairman
House Committee on Foreign Affairs



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform

Enclosures

cc: The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform

SCHEDULE

In accordance with the attached Definitions and Instructions, you, Russell Vought, in your capacity as Acting Director of the Office of Management and Budget (OMB), are hereby required to produce, for the time period from January 1, 2019, to the present, all documents and communications in your custody, possession, or control referring or relating to:

1. The actual or potential withholding, freezing, reviewing, delaying, deferring, directing, impounding, or releasing foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to communications among or between individuals in the White House, OMB, the Office of the Vice President (OVP), the Department of Defense (DOD), the State Department (DOS), the Department of Energy (DOE), the United States Agency for International Development (USAID), or agencies in the Intelligence Community (IC);
2. The timing, content, and manner of communicating to Congress information regarding the status of foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to written Congressional notifications of foreign assistance, briefings, or any communications referring or relating to information that should or should not be conveyed and any reasons for the decision;
3. Proposed or actual apportionments or re-apportionments, including footnotes, specifically withholding obligation of foreign assistance of any kind to Ukraine by DOD, DOS, DOE, USAID, or the IC, including but not limited to the withholding of funds appropriated for the Ukraine Security Assistance Initiative by section 9013 of the Department of Defense Appropriations Act, 2019 (Division A of Public Law 115-245), and for amounts available during fiscal year 2019 within the Foreign Military Financing Program account(s);
4. Deferrals or rescissions of any funding appropriated for foreign aid to Ukraine, including but not limited to transmitting a “special message” to the House of Representatives, the Senate, and the Comptroller General as required by the Impoundment Control Act of 1974;
5. Opinions, advice, counsel, approvals, or concurrences provided by OMB, the National Security Council (NSC), the White House, DOJ, DOD, or DOS on the legality of using apportionments to withhold or defer the obligation of congressionally appropriated funds to Ukraine;
6. The rate of obligation or expenditure for foreign assistance of any kind provided by DOD, State, DOE, USAID, or IC agencies to Ukraine, including but not limited to the obligational status and agency capacity for timely execution under all proposed policy options of all such assistance;
7. Any delegation or revocation of apportionment authority involving OMB political or career officials;

8. Planned or actual interagency meetings related to foreign assistance of any kind, including security assistance, to Ukraine, including but not limited to documents sufficient to show the identities of all officials who attended interagency meetings on July 18, 2019, July 23, 2019, July 26, 2019, and July 31, 2019; and
9. The decision announced on or about September 11, 2019, to provide appropriated foreign aid to Ukraine for fiscal year 2019, including but not limited to any notes, memoranda, documentation or correspondence related to the decision.

Boyd, Stephen E. (OLA)

From: Boyd, Stephen E. (OLA)
Sent: Wednesday, October 2, 2019 1:08 PM
To: Relfe, Mitch
Subject: Re: Quick Question

The Inspector General from the Intelligence Community and, I believe, the Department of State have been involved in various ways, but to my knowledge the DOJ's IG has not.

On Oct 2, 2019, at 1:03 PM, Relfe, Mitch (b)(6) wrote:

One follow up question from the boss – has the DOJ inspector general released a public report on this?

Mitch Relfe | Legislative Director & Counsel | Congressman Bradley Byrne
119 Cannon House Office Building | Washington, DC 20515 | (b)(6)

From: Relfe, Mitch
Sent: Wednesday, October 2, 2019 10:02 AM
To: Boyd, Stephen E. (OLA) (b)(6)
Subject: RE: Quick Question

Thank you sir!

Mitch Relfe | Legislative Director & Counsel | Congressman Bradley Byrne
119 Cannon House Office Building | Washington, DC 20515 | (b)(6)

From: Boyd, Stephen E. (OLA) (b)(6)
Sent: Wednesday, October 2, 2019 10:00 AM
To: Relfe, Mitch (b)(6)
Subject: Re: Quick Question

Sure, see below, which was attributed to the Department's spokesperson:

Ukraine Statement

The Attorney General was first notified of the President's conversation with Ukrainian President Zelensky several weeks after the call took place, when the Department of Justice learned of a potential referral. The President has not spoken with the Attorney General about having Ukraine investigate anything relating to former Vice President Biden or his son. The President has not asked the Attorney General to contact Ukraine – on this or any other matter. The Attorney General has not

communicated with Ukraine – on this or any other subject. Nor has the Attorney General discussed this matter, or anything relating to Ukraine, with Rudy Giuliani.

A Department of Justice team led by U.S. Attorney John Durham is separately exploring the extent to which a number of countries, including Ukraine, played a role in the counterintelligence investigation directed at the Trump campaign during the 2016 election. While the Attorney General has yet to contact Ukraine in connection with this investigation, certain Ukrainians who are not members of the government have volunteered information to Mr. Durham, which he is evaluating.

Referral Statement

In August, the Department of Justice was referred a matter relating to a letter the Director of National Intelligence had received from the Inspector General for the Intelligence Community regarding a purported whistleblower complaint. The Inspector General's letter cited a conversation between the President and Ukrainian President Zelensky as a potential violation of federal campaign finance law, while acknowledging that neither the Inspector General nor the complainant had firsthand knowledge of the conversation. Relying on established procedures set forth in the Justice Manual, the Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted. All relevant components of the Department agreed with this legal conclusion, and the Department has concluded the matter.

Sent from my iPhone

On Oct 2, 2019, at 9:55 AM, Relfe, Mitch (b)(6) wrote:

Hey Stephen,

I hope you are doing well! Sorry to bother you with something so small but Bradley is looking for a copy of the statement that Justice gave on the Ukraine call. Specifically, the one quoted by several media outlets: "All relevant components of the department agreed with this legal conclusion, and the department has concluded the matter," said the Justice Department. Can you help us out here?

Mitch

Mitch Relfe

Legislative Director & Counsel
Representative Bradley Byrne (AL-01)
119 Cannon Building Washington, DC 20515

(b)(6)

Sent from my iPhone

Boyd, Stephen E. (OLA)

From: Boyd, Stephen E. (OLA)
Sent: Wednesday, October 2, 2019 11:39 AM
To: Greer, Megan L. (OLA)
Cc: Lasseter, David F. (OLA); Hankey, Mary Blanche (OLA)
Subject: Re: HOGGR Draft Subpoena to WH

Thanks for sending these update. Very helpful.

Sent from my iPhone

On Oct 2, 2019, at 11:26 AM, Greer, Megan L. (OLA) <mjgreer@jmd.usdoj.gov> wrote:

Attached is the HOGGR memo and draft WH subpoena, which the Committee intends to issue on Friday 10/4. The memo explains that the Committee will not hold a business meeting or mark-up in advance of issuing the subpoena.

Two of the subpoena's requests relate directly to the AG/Department:

Request 3(b): [Communications between or among any of the following referring or relating in any way to the July 25, 2019, telephone conversation] Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr and Assistant Attorney General John Demers; and

Request 8: All meetings or communications between any current or former White House officials, employees, or detailees, including President Trump, and Attorney General William Barr or any other Department of Justice official or employee, relating to the investigations described in paragraph 7 [Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or any U.S. persons or entities].

Megan L. Greer
Office of Legislative Affairs
202.353.9085 office
(b)(6) mobile

<2019-10-02.COR WH Subpoena Memo and Schedule.pdf>

Hankey, Mary Blanche (OLA)

From: Hankey, Mary Blanche (OLA)
Sent: Wednesday, October 2, 2019 11:31 AM
To: Greer, Megan L. (OLA)
Subject: RE: HOCR Draft Subpoena to WH

Thanks.

From: Greer, Megan L. (OLA) <mlgreer@jmd.usdoj.gov>
Sent: Wednesday, October 2, 2019 11:26 AM
To: Boyd, Stephen E. (OLA) (b)(6); Lasseter, David F. (OLA) <dlasseter@jmd.usdoj.gov>; Hankey, Mary Blanche (OLA) <mhankey@jmd.usdoj.gov>
Subject: HOCR Draft Subpoena to WH

Attached is the HOCR memo and draft WH subpoena, which the Committee intends to issue on Friday 10/4. The memo explains that the Committee will not hold a business meeting or mark-up in advance of issuing the subpoena.

Two of the subpoena's requests relate directly to the AG/Department:

Request 3(b): [Communications between or among any of the following referring or relating in any way to the July 25, 2019, telephone conversation] Current or former employees or officials of the Department of Justice, including but not limited to Attorney General William "Bill" Barr and Assistant Attorney General John Demers; and

Request 8: All meetings or communications between any current or former White House officials, employees, or detailees, including President Trump, and Attorney General William Barr or any other Department of Justice official or employee, relating to the investigations described in paragraph 7 [Efforts by any current or former member of the Trump Administration or Rudolph ("Rudy") W. Giuliani, Igor Fruman, Lev Parnas, Semyon ("Sam") Kislin, Joseph diGenova, Victoria Toensing, Vitaly Pruss or any of their associates, to induce, compel, petition, press, solicit, request, or suggest that current or former Ukrainian government officials, politicians, or other persons or entities associated with or acting in any capacity as a representative, agent, or proxy for any such individuals, investigate matters related to Burisma Holdings Ltd., Paul Manafort, Hunter Biden, Joseph Biden, the Democratic National Committee, Hillary Clinton, or any U.S. persons or entities].

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Boyd, Stephen E. (OLA)

From: Boyd, Stephen E. (OLA)
Sent: Thursday, September 26, 2019 5:03 PM
To: Parmiter, Robert
Subject: statement

The following was released by Kerri Kupec, spokesperson for the Department of Justice:

Ukraine Statement

The Attorney General was first notified of the President's conversation with Ukrainian President Zelensky several weeks after the call took place, when the Department of Justice learned of a potential referral. The President has not spoken with the Attorney General about having Ukraine investigate anything relating to former Vice President Biden or his son. The President has not asked the Attorney General to contact Ukraine – on this or any other matter. The Attorney General has not communicated with Ukraine – on this or any other subject. Nor has the Attorney General discussed this matter, or anything relating to Ukraine, with Rudy Giuliani.

A Department of Justice team led by U.S. Attorney John Durham is separately exploring the extent to which a number of countries, including Ukraine, played a role in the counterintelligence investigation directed at the Trump campaign during the 2016 election. While the Attorney General has yet to contact Ukraine in connection with this investigation, certain Ukrainians who are not members of the government have volunteered information to Mr. Durham, which he is evaluating.

Referral Statement

In August, the Department of Justice was referred a matter relating to a letter the Director of National Intelligence had received from the Inspector General for the Intelligence Community regarding a purported whistleblower complaint. The Inspector General's letter cited a conversation between the President and Ukrainian President Zelensky as a potential violation of federal campaign finance law, while acknowledging that neither the Inspector General nor the complainant had firsthand knowledge of the conversation. Relying on established procedures set forth in the Justice Manual, the Department's Criminal Division reviewed the official record of the call and determined, based on the facts and applicable law, that there was no campaign finance violation and that no further action was warranted. All relevant components of the Department agreed with this legal conclusion, and the Department has concluded the matter.

Stephen E. Boyd
Assistant Attorney General
U.S. Department of Justice
Washington, D.C.

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