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# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

GABRIELLE D'ADAMO SINGER, STAFF DIRECTOR  
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October 16, 2019

The Honorable David S. Ferriero  
Archivist of the United States  
U.S. National Archives and Records Administration  
8601 Adelphi Road  
College Park, MD 20740

Dear Mr. Ferriero:

On September 25, 2019, the White House released a memorandum roughly transcribing a July 25, 2019 call between President Donald Trump and Ukrainian President Volodymyr Zelensky.<sup>1</sup> During the course of this conversation, President Zelensky thanked President Trump for the aid and support provided by the United States to Ukraine, and President Trump asked that Ukraine investigate allegations involving a potential political rival in the 2020 Presidential election.

I am deeply alarmed by President Trump's requests during this call and actions reportedly taken to suspend congressionally appropriated military and security aid for Ukraine approximately one week prior to this call.<sup>2</sup> I am further troubled by allegations in a whistleblower complaint, released publicly on September 26, 2019, that the White House attempted to "lock down" records of President Trump's July 25, 2019 call. This disclosure received a preliminary review from the Intelligence Community Inspector General (IG), who determined it appeared credible and met the definition of an "urgent concern."<sup>3</sup>

The whistleblower complaint alleges that a "word for word transcript" of the call was not stored on a computer system typically used for such records but instead moved to "a standalone computer system," managed by the National Security Council Directorate for Intelligence Programs, that is "reserved for codeword-level intelligence information."<sup>4</sup> A senior White House official has since confirmed that the memorandum of the telephone conversation was stored on this more secure system.<sup>5</sup> The whistleblower complaint states that this move was made at the

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<sup>1</sup> Memorandum of Telephone Conversation, Telephone Conversation with President Zelenskyy of Ukraine (July 25, 2019) (Declassified by order of the President Sept. 24, 2019).

<sup>2</sup> *Trump ordered hold on military aid days before calling Ukrainian president, officials say*, Washington Post (Sept. 23, 2019) ([https://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](https://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)).

<sup>3</sup> Letter from Michael K. Atkinson, Inspector General of the Intelligence Community, to Joseph Maguire, Acting Director of National Intelligence (Aug. 26, 2019).

<sup>4</sup> Letter to Chairman Richard Burr, Senate Select Committee on Intelligence, and Chairman Adam Schiff, House Permanent Select Committee on Intelligence (Aug. 12, 2019) ([https://intelligence.house.gov/uploadedfiles/20190812\\_-\\_whistleblower\\_complaint\\_unclass.pdf](https://intelligence.house.gov/uploadedfiles/20190812_-_whistleblower_complaint_unclass.pdf)) (hereinafter "Letter to Chairmen Burr and Schiff")

<sup>5</sup> *White House Says Lawyers Directed Moving Ukraine Transcript to Highly Secure System*, CNN (Sept. 27, 2019) (<https://www.cnn.com/2019/09/27/politics/donald-trump-ukraine-transcript-white-house/index.html>).

direction of “White House lawyers,” and recent reporting indicates that this move may have been made at the direction of Deputy White House counsel John A. Eisenberg.<sup>6</sup> The whistleblower complaint further states that, “[a]ccording to White House officials I spoke with, this was ‘not the first time’ under this Administration that a Presidential transcript was placed into this codeword-level system solely for the purpose of protecting politically sensitive—rather than national security sensitive—information.”<sup>7</sup>

The White House has since confirmed that the transcript of the call with President Zelensky was stored on this highly classified computer system.<sup>8</sup> Subsequent reporting indicates that other phone calls—including conversations between the President and President Vladimir Putin of Russia, the Saudi Royal family, and President Xi Jinping of China—may have been stored there as well.<sup>9</sup>

The role of the National Security Council and of the classification process is to protect national security, not personal or political interests. An attempt to “lock down” official documents using systems established solely for codeword-level intelligence information would be a misuse of critical national security systems and resources available to the White House. As stated in Executive Order 13526, which remains in effect under the current Administration, information should never be classified in order to “conceal violations of law, inefficiency, or administrative error” or “prevent embarrassment to a person, organization, or agency.”

In order to ensure that the American people have all the facts, and to determine whether the White House has complied with all relevant laws and policies pertaining to the classification and storage of the President’s official communications, please respond to the following no later than October 30, 2019:

1. The Presidential Records Act of 1978, as amended, establishes public ownership of all Presidential records. Please provide any guidance that has been issued by NARA to the current Administration pertaining to the Presidential Records Act.
2. The Presidential Records Act allows the President to dispose of Presidential records only if the records “no longer have administrative, historical, informational, or evidentiary value” and the President has first consulted with—and obtained a written response from—the Archivist.<sup>10</sup> Please state whether, in accordance with the Presidential Records Act, as amended, you have been notified of any removal or loss of records related to the information described above.

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<sup>6</sup> Letter to Chairmen Burr and Schiff; *White House Is Said to Open Internal Review of Ukraine Call*, New York Times (Oct. 15, 2019) (<https://www.nytimes.com/2019/10/15/us/politics/white-house-review-ukraine.html>).

<sup>7</sup> Letter to Chairmen Burr and Schiff.

<sup>8</sup> *White House Says Lawyers Directed Moving Ukraine Transcript to Highly-Secure System*, CNN (Sept. 27, 2019) (<https://www.cnn.com/2019/09/27/politics/donald-trump-ukraine-transcript-white-house/index.html>).

<sup>9</sup> *White House Classified Computer System Is Used to Hold Transcripts of Sensitive Calls*, New York Times (Sept. 27, 2019) (<https://www.nytimes.com/2019/09/27/us/politics/nsc-ukraine-call.html>). *Trump Says China’s Xi Should Start Investigating the Bidens*, Bloomberg (Oct. 3, 2019) (<https://www.bloomberg.com/news/articles/2019-10-03/trump-says-china-s-xi-should-start-investigating-the-bidens>).

<sup>10</sup> 44 U.S.C. §2203(c)-(e).

The Honorable David S. Ferriero  
October 16, 2019  
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I appreciate your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Gary C. Peters". The signature is written in a cursive style with a horizontal line underneath it.

Gary C. Peters  
Ranking Member  
Senate Committee on Homeland Security  
and Governmental Affairs