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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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October 16, 2019

Mr. Pat Cipollone
White House Counsel
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. Cipollone:

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.¹ 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.² 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."³

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."⁴ A senior White House official has since confirmed that the memorandum of the telephone conversation was stored on this more secure system.⁵ The whistleblower complaint states that this move was made at the

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

² *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).

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

⁴ 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) (hereinafter "Letter to Chairmen Burr and Schiff")

⁵ *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.⁶ 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.”⁷

The White House has since confirmed that the transcript of the call with President Zelensky was stored on this highly classified computer system.⁸ 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.⁹

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. Please state what steps you are taking to preserve all records and communications on both government and non-governmental devices—including, without limitation, written, electronic, audio, video, transcription, or other information and including all memorandums, meeting notes, emails, texts, chat logs, records of phone calls, messages on encrypted messaging applications, and others—related to President Trump’s July 25, 2019 call with President Zelensky, President Trump’s alleged instruction to Vice President Pence to cancel his planned visit to Ukraine to attend President Zelensky’s inauguration, Energy Secretary Rick Perry’s delegation trip to attend President Zelensky’s inauguration on May 20, 2019, and any instructions or other communication from Office of Management and Budget employees or officials regarding any suspension or delay in U.S. security assistance for Ukraine.

⁶ 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>).

⁷ Letter to Chairmen Burr and Schiff

⁸ *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>).

⁹ *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>).

- a. Please explain what steps you are taking to ensure that the described actions are conducted in accordance with the Presidential Records Act, as amended, the Federal Records Act, as amended, other applicable laws, Congressional requests, and an October 3, 2019 court order from the U.S. District Court for the District of Columbia.¹⁰
 - b. If any information has been altered, destroyed, modified or removed, please indicate the record, the basis for such action, and whether the Archivist of the United States has been notified.
 - c. Please also provide all records schedules related to the above requested information.
2. Please confirm whether there exists a “word for word transcript” of President Trump’s July 25, 2019 conversation with President Zelensky, or a recording or other transcription, other than the Memorandum of Telephone Conversation for the President’s July 25, 2019 call, as declassified on September 24, 2019 and publicly released on September 25, 2019. If separate recording(s) or transcript(s) exist, please provide a copy of such recording(s) or transcript(s).
 3. Please provide a list of all White House personnel who have been delegated original classification authority with respect to classifying Presidential communications.
 4. Please provide the Classification Guide that defines the classification policy and procedures for derivative classification of Presidential communications.
 5. Please identify all individuals involved in the decision to store records of President Trump’s July 25, 2019 call with President Zelensky on a computer system managed by the National Security Council Directorate for Intelligence Programs and intended for codeword-level intelligence information, including who directed the move. If a written request was made, please provide a copy of the written request.
 6. Please provide the date on which the memorandum of the July 25, 2019 call with President Zelensky was saved in the system identified in question 5 above.
 7. Please confirm whether the President, the Vice President, the Acting White House Chief of Staff, the National Security Advisor, or the Director of National Intelligence were aware that records of the President’s July 25, 2019 call with President Zelensky were stored on the system identified in question 5 above. If so, please provide the date on which each individual became aware of such storage.

¹⁰ *Judge Orders White House to preserve records of Trump’s dealings with foreign leaders*, Politico (Oct. 5, 2019) (<https://www.politico.com/news/2019/10/05/judge-trump-records-foreign-leaders-031255>).

8. Recent reporting indicates that the White House may have opened a review into the storage of records of the July 25, 2019 call on the system identified in question 5 above.¹¹ Please confirm whether a review has been initiated and, if so:
 - a. Please provide the expected timeline, scope, and purpose of the review, including any written records or communications establishing or directing such review;
 - b. Please identify who directed, who is conducting, and who will receive the results of this review.
 - c. Once the review is completed, please provide the full findings, any recommendations, and any actions taken as a result of the review.

9. Please provide any written policies, protocols, or other guidance relating to the type of information to be stored on the National Security Council's shared classified computer system as compared to the codeword-level intelligence information system managed by the National Security Council Directorate for Intelligence Programs. If these policies, protocols, or guidance were changed under the current Administration, please provide the date of any such changes and provide all prior versions of such documents.

10. Please provide a log of each of the President's calls with foreign leaders and, for each call, identify the classification level and the computer system(s) used to store records of the call. For each call stored on the codeword-level intelligence information system managed by the National Security Council Directorate for Intelligence Programs:
 - a. Please identify the general nature of each record and confirm the reason for storage in this, rather than another, computer system.
 - b. Please provide all records pertaining to any conversation where the reason for such storage differs from protecting the national security interests of the United States, as determined by the National Security Advisor.

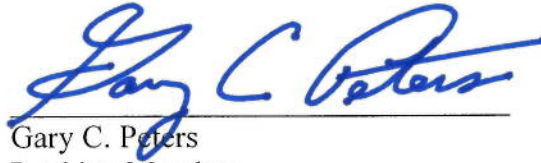
Please send all unclassified material directly to the Committee. If any of the responsive documents contain classified information, please segregate all unclassified material, provide all unclassified information directly to the Committee, and provide a classified addendum to the Office of Senate Security.

I appreciate your prompt attention to this matter.

¹¹ *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>).

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Sincerely,



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

CC: The Honorable Mick Mulvaney, Acting White House Chief of Staff
CC: The Honorable Robert O'Brien, National Security Advisor
CC: The Honorable David S. Ferriero, Archivist of the United States