

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511

Matthew V. Topic
c/o Jason Leopold (Buzzfeed Inc.)
311 North Aberdeen, 3rd Floor
Chicago, IL 60607

December 4, 2020

Reference: ODNI Case No: DF-2019-00321; Civil Case No: 1:20-cv-00572

Mr. Topic:

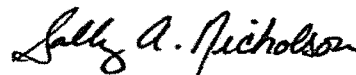
This letter responds to Mr. Leopold's Freedom of Information Act (FOIA) request dated and received by the Information Management Office on 26 September 2019 (Enclosure 1), in which he requested *"A copy of the criminal referrals (plural) sent to the Department of Justice Criminal Division by the Intelligence Community Inspector General and/or any other government agency or official mentioning or referring to a potential campaign finance violation by President Donald Trump. This referral was based on a whistleblower complaint a person in the intelligence community filed with the ICIG. This whistleblower alleged President Trump abused "his office for personal gain" by asking the president of Ukraine during a phone call to investigate a political rival."*

Mr. Leopold's request was processed in accordance with the FOIA, 5 U.S.C. § 552, as amended. Four documents responsive to the request were located. Upon review, we have determined that the documents (Enclosures 2a, 2b, 2c and 2d), can be released in part to you, on behalf of Mr. Leopold, with the following FOIA exemptions:

- (b)(1) – which applies to information that is currently and properly classified pursuant to Executive Order 13526, Section 1.4 (c), (d).
- (b)(3) – which applies to information exempt from disclosure by statute, specifically: 50 U.S.C. § 3024 (i)(1), which protects information pertaining to intelligence sources and methods.
- (b)(5) – which applies to information that concerns communications within or between agencies which are protected by legal privileges.
- (b)(6) – which applies to records which, if released, would constitute a clearly unwarranted invasion of the personal privacy of individuals.

We have completed our processing of your FOIA requests. If you have any questions, you may contact Attorney Christopher Healy of the Department of Justice at (202) 514-8095 or Christopher.Healy@usdoj.gov.

Sincerely,



Sally A. Nicholson
Chief, Information Review
& Release Group
FOIA Public Liaison
Information Management Office

Enclosures

August 12, 2019

(U) CLASSIFIED APPENDIX

(U) Supplementary classified information is provided as follows:

(U) Additional information related to Section II

~~(TS)~~ (b)(1), (b)(3) According to multiple White House officials I spoke with, the transcript of the President's call with President Zelenskyy was placed into a computer system managed directly by the National Security Council (NSC) Directorate for Intelligence Programs. This is a standalone computer system reserved for codeword-level intelligence information, such as covert action. According to information I received from White House officials, some officials voiced concerns internally that this would be an abuse of the system and was not consistent with the responsibilities of the Directorate for Intelligence Programs. According 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.

(U) Additional information related to Section IV

(b)(1), (b)(3)



(b)(1), (b)(3) I would like to expand upon two issues mentioned in Section IV that might have a connection with the overall effort to pressure the Ukrainian leadership. As I do not know definitively whether the below-mentioned decisions are connected to the broader efforts I describe, I have chosen to include them in the classified annex. If they indeed represent genuine policy deliberations and decisions formulated to advance U.S. foreign policy and national security, one might be able to make a reasonable case that the facts are classified.

- (b)(1), (b)(3) I learned from U.S. officials that, on or around 14 May, the President instructed Vice President Pence to cancel his planned travel to Ukraine to attend President

(b)(1), (b)(3)



Zelenskyy's inauguration on 20 May; Secretary of Energy Rick Perry led the delegation instead. According to these officials, it was also "made clear" to them that the President did not want to meet with Mr. Zelenskyy until he saw how Zelenskyy "chose to act" in office. I do not know how this guidance was communicated, or by whom. I also do not know whether this action was connected with the broader understanding, described in the unclassified letter, that a meeting or phone call between the President and President Zelenskyy would depend on whether Zelenskyy showed willingness to "play ball" on the issues that had been publicly aired by Mr. Lutsenko and Mr. Giuliani.

- (S) (b)(1), (b)(3) On 18 July, an Office of Management and Budget (OMB) official informed Departments and Agencies that the President "earlier that month" had issued instructions to suspend all U.S. security assistance to Ukraine. Neither OMB nor the NSC staff knew why this instruction had been issued. During interagency meetings on 23 July and 26 July, OMB officials again stated explicitly that the instruction to suspend this assistance had come directly from the President, but they still were unaware of a policy rationale. As of early August, I heard from U.S. officials that some Ukrainian officials were aware that U.S. aid might be in jeopardy, but I do not know how or when they learned of it.

Enclosure 2b

UNCLASSIFIED

August 12, 2019

The Honorable Richard Burr
Chairman
Select Committee on Intelligence
United States Senate

The Honorable Adam Schiff
Chairman
Permanent Select Committee on Intelligence
United States House of Representatives

Dear Chairman Burr and Chairman Schiff:

I am reporting an "urgent concern" in accordance with the procedures outlined in 50 U.S.C. §3033(k)(5)(A). This letter is UNCLASSIFIED when separated from the attachment.

In the course of my official duties, I have received information from multiple U.S. Government officials that the President of the United States is using the power of his office to solicit interference from a foreign country in the 2020 U.S. election. This interference includes, among other things, pressuring a foreign country to investigate one of the President's main domestic political rivals. The President's personal lawyer, Mr. Rudolph Giuliani, is a central figure in this effort. Attorney General Barr appears to be involved as well.

- Over the past four months, more than half a dozen U.S. officials have informed me of various facts related to this effort. The information provided herein was relayed to me in the course of official interagency business. It is routine for U.S. officials with responsibility for a particular regional or functional portfolio to share such information with one another in order to inform policymaking and analysis.
- I was not a direct witness to most of the events described. However, I found my colleagues' accounts of these events to be credible because, in almost all cases, multiple officials recounted fact patterns that were consistent with one another. In addition, a variety of information consistent with these private accounts has been reported publicly.

I am deeply concerned that the actions described below constitute "a serious or flagrant problem, abuse, or violation of law or Executive Order" that "does not include differences of opinions concerning public policy matters," consistent with the definition of an "urgent concern" in 50 U.S.C. §3033(k)(5)(G). I am therefore fulfilling my duty to report this information, through proper legal channels, to the relevant authorities.

- I am also concerned that these actions pose risks to U.S. national security and undermine the U.S. Government's efforts to deter and counter foreign interference in U.S. elections.

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To the best of my knowledge, the entirety of this statement is unclassified when separated from the classified enclosure. I have endeavored to apply the classification standards outlined in Executive Order (EO) 13526 and to separate out information that I know or have reason to believe is classified for national security purposes.¹

- If a classification marking is applied retroactively, I believe it is incumbent upon the classifying authority to explain why such a marking was applied, and to which specific information it pertains.

I. The 25 July Presidential phone call

Early in the morning of 25 July, the President spoke by telephone with Ukrainian President Volodymyr Zelenskyy. I do not know which side initiated the call. This was the first publicly acknowledged call between the two leaders since a brief congratulatory call after Mr. Zelenskyy won the presidency on 21 April.

Multiple White House officials with direct knowledge of the call informed me that, after an initial exchange of pleasantries, the President used the remainder of the call to advance his personal interests. Namely, he sought to pressure the Ukrainian leader to take actions to help the President's 2020 reelection bid. According to the White House officials who had direct knowledge of the call, the President pressured Mr. Zelenskyy to, inter alia:

- initiate or continue an investigation² into the activities of former Vice President Joseph Biden and his son, Hunter Biden;
- assist in purportedly uncovering that allegations of Russian interference in the 2016 U.S. presidential election originated in Ukraine, with a specific request that the Ukrainian leader locate and turn over servers used by the Democratic National Committee (DNC) and examined by the U.S. cyber security firm CrowdStrike,³ which initially reported that Russian hackers had penetrated the DNC's networks in 2016; and
- meet or speak with two people the President named explicitly as his personal envoys on these matters, Mr. Giuliani and Attorney General Barr, to whom the President referred multiple times in tandem.

¹ Apart from the information in the Enclosure, it is my belief that none of the information contained herein meets the definition of "classified information" outlined in EO 13526, Part 1, Section 1.1. There is ample open-source information about the efforts I describe below, including statements by the President and Mr. Giuliani. In addition, based on my personal observations, there is discretion with respect to the classification of private comments by or instructions from the President, including his communications with foreign leaders; information that is not related to U.S. foreign policy or national security—such as the information contained in this document, when separated from the Enclosure—is generally treated as unclassified. I also believe that applying a classification marking to this information would violate EO 13526, Part 1, Section 1.7, which states: "In no case shall information be classified, continue to be maintained as classified, or fail to be declassified in order to: (1) conceal violations of law, inefficiency, or administrative error; [or] (2) prevent embarrassment to a person, organization, or agency."

² It is unclear whether such a Ukrainian investigation exists. See Footnote #7 for additional information.

³ I do not know why the President associates these servers with Ukraine. (See, for example, his comments to *Fox News* on 20 July: "And Ukraine. Take a look at Ukraine. How come the FBI didn't take this server? Podesta told them to get out. He said, get out. So, how come the FBI didn't take the server from the DNC?")

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The President also praised Ukraine's Prosecutor General, Mr. Yuriy Lutsenko, and suggested that Mr. Zelenskyy might want to keep him in his position. (Note: Starting in March 2019, Mr. Lutsenko made a series of public allegations—many of which he later walked back—about the Biden family's activities in Ukraine, Ukrainian officials' purported involvement in the 2016 U.S. election, and the activities of the U.S. Embassy in Kyiv. See Part IV for additional context.)

The White House officials who told me this information were deeply disturbed by what had transpired in the phone call. They told me that there was already a "discussion ongoing" with White House lawyers about how to treat the call because of the likelihood, in the officials' retelling, that they had witnessed the President abuse his office for personal gain.

The Ukrainian side was the first to publicly acknowledge the phone call. On the evening of 25 July, a readout was posted on the website of the Ukrainian President that contained the following line (translation from original Russian-language readout):

- "Donald Trump expressed his conviction that the new Ukrainian government will be able to quickly improve Ukraine's image and complete the investigation of corruption cases that have held back cooperation between Ukraine and the United States."

Aside from the above-mentioned "cases" purportedly dealing with the Biden family and the 2016 U.S. election, I was told by White House officials that no other "cases" were discussed.

Based on my understanding, there were approximately a dozen White House officials who listened to the call—a mixture of policy officials and duty officers in the White House Situation Room, as is customary. The officials I spoke with told me that participation in the call had not been restricted in advance because everyone expected it would be a "routine" call with a foreign leader. I do not know whether anyone was physically present with the President during the call.

- In addition to White House personnel, I was told that a State Department official, Mr. T. Ulrich Brechbuhl, also listened in on the call.
- I was not the only non-White House official to receive a readout of the call. Based on my understanding, multiple State Department and Intelligence Community officials were also briefed on the contents of the call as outlined above.

II. Efforts to restrict access to records related to the call

In the days following the phone call, I learned from multiple U.S. officials that senior White House officials had intervened to "lock down" all records of the phone call, especially the official word-for-word transcript of the call that was produced—as is customary—by the White House Situation Room. This set of actions underscored to me that White House officials understood the gravity of what had transpired in the call.

- White House officials told me that they were "directed" by White House lawyers to remove the electronic transcript from the computer system in which such transcripts are typically stored for coordination, finalization, and distribution to Cabinet-level officials.

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- Instead, the transcript was loaded into a separate electronic system that is otherwise used to store and handle classified information of an especially sensitive nature. One White House official described this act as an abuse of this electronic system because the call did not contain anything remotely sensitive from a national security perspective.

I do not know whether similar measures were taken to restrict access to other records of the call, such as contemporaneous handwritten notes taken by those who listened in.

III. Ongoing concerns

On 26 July, a day after the call, U.S. Special Representative for Ukraine Negotiations Kurt Volker visited Kyiv and met with President Zelenskyy and a variety of Ukrainian political figures. Ambassador Volker was accompanied in his meetings by U.S. Ambassador to the European Union Gordon Sondland. Based on multiple readouts of these meetings recounted to me by various U.S. officials, Ambassadors Volker and Sondland reportedly provided advice to the Ukrainian leadership about how to “navigate” the demands that the President had made of Mr. Zelenskyy.

I also learned from multiple U.S. officials that, on or about 2 August, Mr. Giuliani reportedly traveled to Madrid to meet with one of President Zelenskyy’s advisers, Andriy Yermak. The U.S. officials characterized this meeting, which was not reported publicly at the time, as a “direct follow-up” to the President’s call with Mr. Zelenskyy about the “cases” they had discussed.

- Separately, multiple U.S. officials told me that Mr. Giuliani had reportedly privately reached out to a variety of other Zelenskyy advisers, including Chief of Staff Andriy Bohdan and Acting Chairman of the Security Service of Ukraine Ivan Bakanov.⁴
- I do not know whether those officials met or spoke with Mr. Giuliani, but I was told separately by multiple U.S. officials that Mr. Yermak and Mr. Bakanov intended to travel to Washington in mid-August.

On 9 August, the President told reporters: “I think [President Zelenskyy] is going to make a deal with President Putin, and he will be invited to the White House. And we look forward to seeing him. He’s already been invited to the White House, and he wants to come. And I think he will. He’s a very reasonable guy. He wants to see peace in Ukraine, and I think he will be coming very soon, actually.”

IV. Circumstances leading up to the 25 July Presidential phone call

Beginning in late March 2019, a series of articles appeared in an online publication called *The Hill*. In these articles, several Ukrainian officials—most notably, Prosecutor General Yuriy Lutsenko—made a series of allegations against other Ukrainian officials and current and former U.S. officials. Mr. Lutsenko and his colleagues alleged, inter alia:

⁴ In a report published by the Organized Crime and Corruption Reporting Project (OCCRP) on 22 July, two associates of Mr. Giuliani reportedly traveled to Kyiv in May 2019 and met with Mr. Bakanov and another close Zelenskyy adviser, Mr. Serhiy Shefir.

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- that they possessed evidence that Ukrainian officials—namely, Head of the National Anticorruption Bureau of Ukraine Artem Sytnyk and Member of Parliament Serhiy Leshchenko—had “interfered” in the 2016 U.S. presidential election, allegedly in collaboration with the DNC and the U.S. Embassy in Kyiv;⁵
- that the U.S. Embassy in Kyiv—specifically, U.S. Ambassador Marie Yovanovitch, who had criticized Mr. Lutsenko’s organization for its poor record on fighting corruption—had allegedly obstructed Ukrainian law enforcement agencies’ pursuit of corruption cases, including by providing a “do not prosecute” list, and had blocked Ukrainian prosecutors from traveling to the United States expressly to prevent them from delivering their “evidence” about the 2016 U.S. election;⁶ and
- that former Vice President Biden had pressured former Ukrainian President Petro Poroshenko in 2016 to fire then Ukrainian Prosecutor General Viktor Shokin in order to quash a purported criminal probe into Burisma Holdings, a Ukrainian energy company on whose board the former Vice President’s son, Hunter, sat.⁷

In several public comments,⁸ Mr. Lutsenko also stated that he wished to communicate directly with Attorney General Barr on these matters.⁹

The allegations by Mr. Lutsenko came on the eve of the first round of Ukraine’s presidential election on 31 March. By that time, Mr. Lutsenko’s political patron, President Poroshenko, was trailing Mr. Zelenskyy in the polls and appeared likely to be defeated. Mr. Zelenskyy had made known his desire to replace Mr. Lutsenko as Prosecutor General. On 21 April, Mr. Poroshenko lost the runoff to Mr. Zelenskyy by a landslide. See Enclosure for additional information.

⁵ Mr. Sytnyk and Mr. Leshchenko are two of Mr. Lutsenko’s main domestic rivals. Mr. Lutsenko has no legal training and has been widely criticized in Ukraine for politicizing criminal probes and using his tenure as Prosecutor General to protect corrupt Ukrainian officials. He has publicly feuded with Mr. Sytnyk, who heads Ukraine’s only competent anticorruption body, and with Mr. Leshchenko, a former investigative journalist who has repeatedly criticized Mr. Lutsenko’s record. In December 2018, a Ukrainian court upheld a complaint by a Member of Parliament, Mr. Boryslav Rozenblat, who alleged that Mr. Sytnyk and Mr. Leshchenko had “interfered” in the 2016 U.S. election by publicizing a document detailing corrupt payments made by former Ukrainian President Viktor Yanukovich before his ouster in 2014. Mr. Rozenblat had originally filed the motion in late 2017 after attempting to flee Ukraine amid an investigation into his taking of a large bribe. On 16 July 2019, Mr. Leshchenko publicly stated that a Ukrainian court had overturned the lower court’s decision.

⁶ Mr. Lutsenko later told Ukrainian news outlet *The Babel* on 17 April that Ambassador Yovanovitch had never provided such a list, and that he was, in fact, the one who requested such a list.

⁷ Mr. Lutsenko later told *Bloomberg* on 16 May that former Vice President Biden and his son were not subject to any current Ukrainian investigations, and that he had no evidence against them. Other senior Ukrainian officials also contested his original allegations; one former senior Ukrainian prosecutor told *Bloomberg* on 7 May that Mr. Shokin in fact was not investigating Burisma at the time of his removal in 2016.

⁸ See, for example, Mr. Lutsenko’s comments to *The Hill* on 1 and 7 April and his interview with *The Babel* on 17 April, in which he stated that he had spoken with Mr. Giuliani about arranging contact with Attorney General Barr.

⁹ In May, Attorney General Barr announced that he was initiating a probe into the “origins” of the Russia investigation. According to the above-referenced OCCRP report (22 July), two associates of Mr. Giuliani claimed to be working with Ukrainian officials to uncover information that would become part of this inquiry. In an interview with *Fox News* on 8 August, Mr. Giuliani claimed that Mr. John Durham, whom Attorney General Barr designated to lead this probe, was “spending a lot of time in Europe” because he was “investigating Ukraine.” I do not know the extent to which, if at all, Mr. Giuliani is directly coordinating his efforts on Ukraine with Attorney General Barr or Mr. Durham.

UNCLASSIFIED

- It was also publicly reported that Mr. Giuliani had met on at least two occasions with Mr. Lutsenko: once in New York in late January and again in Warsaw in mid-February. In addition, it was publicly reported that Mr. Giuliani had spoken in late 2018 to former Prosecutor General Shokin, in a Skype call arranged by two associates of Mr. Giuliani.¹⁰
- On 25 April in an interview with *Fox News*, the President called Mr. Lutsenko's claims "big" and "incredible" and stated that the Attorney General "would want to see this."

On or about 29 April, I learned from U.S. officials with direct knowledge of the situation that Ambassador Yovanovitch had been suddenly recalled to Washington by senior State Department officials for "consultations" and would most likely be removed from her position.

- Around the same time, I also learned from a U.S. official that "associates" of Mr. Giuliani were trying to make contact with the incoming Zelenskyy team.¹¹
- On 6 May, the State Department announced that Ambassador Yovanovitch would be ending her assignment in Kyiv "as planned."
- However, several U.S. officials told me that, in fact, her tour was curtailed because of pressure stemming from Mr. Lutsenko's allegations. Mr. Giuliani subsequently stated in an interview with a Ukrainian journalist published on 14 May that Ambassador Yovanovitch was "removed...because she was part of the efforts against the President."

On 9 May, *The New York Times* reported that Mr. Giuliani planned to travel to Ukraine to press the Ukrainian government to pursue investigations that would help the President in his 2020 reelection bid.

- In his multitude of public statements leading up to and in the wake of the publication of this article, Mr. Giuliani confirmed that he was focused on encouraging Ukrainian authorities to pursue investigations into alleged Ukrainian interference in the 2016 U.S. election and alleged wrongdoing by the Biden family.¹²
- On the afternoon of 10 May, the President stated in an interview with *Politico* that he planned to speak with Mr. Giuliani about the trip.
- A few hours later, Mr. Giuliani publicly canceled his trip, claiming that Mr. Zelenskyy was "surrounded by enemies of the [U.S.] President...and of the United States."

On 11 May, Mr. Lutsenko met for two hours with President-elect Zelenskyy, according to a public account given several days later by Mr. Lutsenko. Mr. Lutsenko publicly stated that he had told Mr. Zelenskyy that he wished to remain as Prosecutor General.

¹⁰ See, for example, the above-referenced articles in *Bloomberg* (16 May) and OCCRP (22 July).

¹¹ I do not know whether these associates of Mr. Giuliani were the same individuals named in the 22 July report by OCCRP, referenced above.

¹² See, for example, Mr. Giuliani's appearance on *Fox News* on 6 April and his tweets on 23 April and 10 May. In his interview with *The New York Times*, Mr. Giuliani stated that the President "basically knows what I'm doing, sure, as his lawyer." Mr. Giuliani also stated: "We're not meddling in an election, we're meddling in an investigation, which we have a right to do... There's nothing illegal about it... Somebody could say it's improper. And this isn't foreign policy - I'm asking them to do an investigation that they're doing already and that other people are telling them to stop. And I'm going to give them reasons why they shouldn't stop it because that information will be very, very helpful to my client, and may turn out to be helpful to my government."

UNCLASSIFIED

Starting in mid-May, I heard from multiple U.S. officials that they were deeply concerned by what they viewed as Mr. Giuliani's circumvention of national security decisionmaking processes to engage with Ukrainian officials and relay messages back and forth between Kyiv and the President. These officials also told me:

- that State Department officials, including Ambassadors Volker and Sondland, had spoken with Mr. Giuliani in an attempt to "contain the damage" to U.S. national security; and
- that Ambassadors Volker and Sondland during this time period met with members of the new Ukrainian administration and, in addition to discussing policy matters, sought to help Ukrainian leaders understand and respond to the differing messages they were receiving from official U.S. channels on the one hand, and from Mr. Giuliani on the other.

During this same timeframe, multiple U.S. officials told me that the Ukrainian leadership was led to believe that a meeting or phone call between the President and President Zelenskyy would depend on whether Zelenskyy showed willingness to "play ball" on the issues that had been publicly aired by Mr. Lutsenko and Mr. Giuliani. (Note: This was the general understanding of the state of affairs as conveyed to me by U.S. officials from late May into early July. I do not know who delivered this message to the Ukrainian leadership, or when.) See Enclosure for additional information.

Shortly after President Zelenskyy's inauguration, it was publicly reported that Mr. Giuliani met with two other Ukrainian officials: Ukraine's Special Anticorruption Prosecutor, Mr. Nazar Kholodnytskyy, and a former Ukrainian diplomat named Andriy Telizhenko. Both Mr. Kholodnytskyy and Mr. Telizhenko are allies of Mr. Lutsenko and made similar allegations in the above-mentioned series of articles in *The Hill*.

On 13 June, the President told *ABC's* George Stephanopoulos that he would accept damaging information on his political rivals from a foreign government.

On 21 June, Mr. Giuliani tweeted: "New Pres of Ukraine still silent on investigation of Ukrainian interference in 2016 and alleged Biden bribery of Poroshenko. Time for leadership and investigate both if you want to purge how Ukraine was abused by Hillary and Clinton people."

In mid-July, I learned of a sudden change of policy with respect to U.S. assistance for Ukraine. See Enclosure for additional information.

ENCLOSURE: Classified appendix

Enclosure 2c

~~TOP SECRET~~ (b)(1), (b)(3)



INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY
WASHINGTON, D.C. 20511

September 4, 2019

VIA HAND DELIVERY

Mr. Stacey R. Moy
Deputy Assistant Director
Counterintelligence Division
Federal Bureau of Investigation
935 Pennsylvania Avenue, NW
Suite 4012, Room 4026
Washington, D.C. 20535

Dear Deputy Assistant Director Moy:

(b)(1),
(b)(3) On behalf of the Office of the Inspector General of the Intelligence Community (ICIG), pursuant to 28 U.S.C. § 535, the ICIG is formally referring allegations received from an individual (hereinafter, the "Complainant") regarding, among other things, alleged violations of law related to a telephone call on July 25, 2019, between President Donald J. Trump and Ukrainian President Volodymyr Zelenskyy. This referral is a follow-up to my secure telephone call on August 27, 2019, with FBI Director Christopher A. Wray's Chief of Staff, Paul B. Murphy, during which I provided to Mr. Murphy a summary of the Complainant's allegations. This is also a follow-up to your telephone call with the ICIG's Principal Deputy Inspector General, Robin C. Ashton, on August 29, 2019, concerning this matter.

(U) On Monday, August 12, 2019, the Complainant submitted the Complainant's allegations to the ICIG pursuant to 50 U.S.C. § 3033(k)(5)(A), which permits an individual in the Intelligence Community "who intends to report to Congress a complaint or information with respect to an urgent concern [to] report such complaint or information" to the ICIG. The term "urgent concern" is defined, in relevant part, as:

(b)(1),
(b)(3) (This document is ~~TOP SECRET~~ (b)(3) upon removal of enclosures)

Classified By: (b)(3), (b)(6)
Derived From: Multiple Sources
Declassify On: 25X1, 20691231

~~TOP SECRET~~ (b)(1), (b)(3)

A serious or flagrant problem, abuse, violation of law or Executive order, or deficiency related to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.¹

(U//FOUO) As part of the Complainant's report to the ICIG of information with respect to the alleged "urgent concern," the Complainant included a letter addressed to The Honorable Richard Burr, Chairman, U.S. Senate Select Committee on Intelligence, and The Honorable Adam Schiff, Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence (hereinafter, the "Complainant's Letter"). The Complainant's Letter referenced a separate, Classified Appendix containing additional information pertaining to the alleged "urgent concern." Attached hereto is a copy of the Complainant's Letter, addressed to Chairmen Burr and Schiff, and the Classified Appendix. To the best of my knowledge, the Complainant's Letter and Classified Appendix have not been transmitted to Chairmen Burr and Schiff (or any other Member or staff of the congressional intelligence committees).

(U//FOUO) The Complainant's identity is known to me. The Complainant has not waived confidentiality as to the Complainant's identity at this time. The Complainant has also retained an attorney with respect to this matter, and the identity of the Complainant's attorney is known to me.

(b)(1),
(TS, (b)(3) According to the Complainant's allegations, "the President of the United States is using the power of his office to solicit interference from a foreign country in the 2020 U.S. election," which "includes, among other things, pressuring a foreign country to investigate one of the President's main domestic political rivals." Complainant's Letter at p. 1. More specifically, the Complainant alleged, among other things, that President Donald J. Trump, during a telephone call with Ukrainian President Volodymyr Zelenskyy on July 25, 2019, "sought to pressure the Ukrainian leader to take actions to help the President's 2020 election bid," *id.* at p. 2, which, if true, might violate U.S. campaign finance and other criminally enforceable laws.

(U//FOUO) In response to the Complainant's information concerning the alleged "urgent concern," the ICIG took certain actions. The ICIG conducted a preliminary review of the Complainant's allegations, which included, among other things, interviewing the Complainant and other individuals with information related to the alleged "urgent concern." Based on the ICIG's preliminary review, I determined that there are reasonable grounds to believe that the allegations relating to the urgent concern "appear credible."² If true, such allegations might violate laws that prohibit a foreign national, directly or indirectly, from making a contribution or donation of money or other things of value, or to make an express or implied promise to make a contribution or

¹ (U) 50 U.S.C. § 3033(k)(5)(G)(i).

² (U) *Id.* at § 3033(k)(5)(B).

~~TOP SECRET~~ (b)(1), (b)(3)

donation, in connection with a Federal, State, or local election.³ Similarly, U.S. laws prohibit a person from soliciting, accepting, or receiving such a contribution or donation from a foreign national, directly or indirectly, in connection with a Federal, State, or local election.⁴ In addition, a conspiracy to engage in such illegal conduct might violate other criminally enforceable laws.⁵

(U//~~FOUO~~) On August 26, 2019, the ICIG submitted an access request and document hold notice to the Executive Office of the President concerning documents related to the alleged "urgent concern." Attached hereto is a copy of the ICIG's access request and document hold notice.

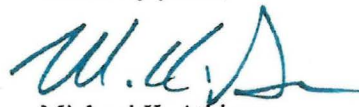
(U//~~FOUO~~) In addition, the ICIG has learned that the Complainant's information has been referred by other authorities to the Department of Justice's Criminal Division for appropriate review consistent with 28 U.S.C. § 535. As a result, I am copying Assistant Attorney General Brian A. Benczkowski on this letter.

(U//~~FOUO~~) (b)(3), (b)(5), (b)(6)



(U) If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely yours,



Michael K. Atkinson
Inspector General of the
Intelligence Community

Cc: Assistant Attorney General Brian A.
Benczkowski, U.S. Department of Justice,
Criminal Division (w/enclosures) (via
Hand Delivery)

Paul B. Murphy, Chief of Staff to the
Director, Federal Bureau of Investigation
(w/enclosures) (via Hand Delivery)

Enclosures: Complainant's Letter; Classified Appendix; and
Access Request and Document Hold Notice

³ (U) See, e.g., 52 U.S.C. § 30121(a)(1)(A).

⁴ (U) *Id.* at § 30121(a)(2).

⁵ (U) See 18 U.S.C. § 371.

~~TOP SECRET~~ (b)(1), (b)(3)

Enclosure 2d

~~TOP SECRET~~/(b)(1), (b)(3)



INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY
WASHINGTON, D.C. 20511

August 26, 2019

DOCUMENT ACCESS REQUEST AND DOCUMENT HOLD NOTICE

VIA EMAIL (JEisenberg (b)(3), (b)(6))

Pat Cipollone, White House Counsel
c/o John Eisenberg, Assistant to the President,
Deputy Counsel to the President, and Legal Advisor
to the National Security Council
Office of the White House Counsel
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20510

Dear Mr. Cipollone:

(TS) (b)(1), (b)(3) On behalf of the Office of the Inspector General of the Intelligence Community (ICIG), we are requesting access to and preservation of any documents or information related to a telephone call between President Donald J. Trump and Ukrainian President Volodymyr Zelenskyy on July 25, 2019, and alleged related efforts to solicit, obtain, or receive assistance from foreign nationals in Ukraine, directly or indirectly, in connection with a Federal election (the "subject matter").

(U) The ICIG is authorized, among other things, to receive and investigate "complaints or information from any person concerning the existence of an activity within the authorities and responsibilities of the Director of National Intelligence constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety." See 50 U.S.C. § 3033(g)(3). The ICIG also has the authority to administer and investigate allegations of an alleged "urgent concern" related to, among other things, "[a] serious or flagrant problem, abuse, violation of law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within

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the responsibility and authority of the Director of National Intelligence involving classified information.” *Id.* at § 3033(k)(5)(G)(i). The ICIG “shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials that relate to the programs and activities with respect to which the [ICIG] has responsibilities under this section.” *Id.* at 3033(g)(2)(C).¹ In addition, the ICIG “shall have access to any employee, or any employee of a contractor, of any element of the intelligence community needed for the performance of the duties” of the ICIG. *Id.* at 3033(g)(2)(B).

(U//~~FOUO~~) Pursuant to 50 U.S.C. § 3033(k)(5), the ICIG received a report of an alleged urgent concern regarding the subject matter. The ICIG has determined, and has notified the Acting Director of National Intelligence of its determination, that the information with respect to the urgent concern “appears credible,” as set forth in 50 U.S.C. § 3033(k)(5)(B). In making that determination, the ICIG determined that the alleged urgent concern “relat[ed] to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence.” *Id.* at § 3033(k)(5)(G)(i). Further, the ICIG has notified the Acting Director of National Intelligence that the ICIG will conduct and/or participate in an official investigation of the subject matter, pursuant to 50 U.S.C. § 3033(g)(3).

(U//~~FOUO~~) As part of its official investigation, the ICIG requests that, on or before September 30, 2019, the Executive Office of the President provide the ICIG with access to all records related to the subject matter.

(U//~~FOUO~~) In connection with the ICIG’s official investigation of the subject matter, the Executive Office of the President, including but not limited to the National Security Council and the Office of Management and Budget (collectively, the “EOP”), is required to preserve records, documents, or other information in its possession, custody, or control that may be potentially relevant to the subject matter. The document access request and document hold notice should only be shared with employees, detailees, and contractors who may have potentially responsive documents or who will be involved with the implementation or supervision of the document access request and document hold notice (collectively, “EOP personnel”). Please inform EOP personnel that this document access request and document hold notice is confidential and is not to be shared outside of the EOP without the ICIG’s prior consent.

(U//~~FOUO~~) This document hold notice provides you with additional guidance regarding the EOP’s obligations to preserve records and other information potentially relevant to the subject matter and should be distributed to the relevant EOP personnel as discussed below.

¹ (U) By law, “[u]nless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines approved by the Attorney General and the Director of National Intelligence.” 50 U.S.C. § 3024(b).

(U//~~FOUO~~) The type of information to be preserved pursuant to this document hold notice shall include all documents, records, data, correspondence, notes, recordings, emails, texts, instant messages, and other materials (whether official or unofficial, original or duplicative, drafts or final, or partial or complete versions) that may relate to the subject matter. The obligation extends to all potentially relevant documents or materials, including electronically stored information. In addition, the EOP should preserve any and all information regardless of whether the information may ultimately be withheld as privileged, or ultimately determined to be unreasonably burdensome to produce. EOP's obligation to preserve documents related to this investigation supersedes any existing statutory or regulatory document retention schedule or policy.

(U//~~FOUO~~) EOP's responsibility to preserve evidence potentially relevant to the subject matter continues until the EOP is notified that the document hold notice is lifted. To the extent that EOP's records retention policy or any other such policy otherwise directs or permits the disposition of information (including in electronic form) that is potentially relevant to this investigation, if any exists, those policies should be suspended until we have discussed further.

(U//~~FOUO~~) The relevant time frame for this matter is January 1, 2019, to the present.

(U//~~FOUO~~) As you are aware, the determination of what information may be potentially relevant is based upon its content and substance and generally does not depend on the type of medium on which the information exists. The aforementioned information may exist in various forms, including paper records, hand-written notes, drafts, telephone log entries, telephone recordings, email and other electronic communication (including voicemail, texts, and instant messages), word processing and other electronic documents, including but not limited to drafts, spreadsheets, databases, calendars, telephone logs, electronic address books, internet usage files, and network access information in their original format, including those items on unclassified, classified, and compartmented systems. Recordings and documents should be maintained in their original or native format (e.g., Word documents should be preserved as Word documents, along with related metadata, rather than in paper form). If there is any doubt as to whether any particular information should be retained, please preserve the information until we have discussed.

(U//~~FOUO~~) When implementing this document hold notice, it is not sufficient to simply notify all EOP personnel of this document hold notice and expect that they will then retain and produce all information related to the subject matter. Rather, affirmative steps must be taken to ensure that EOP personnel comply with this document hold notice and that the related information is retained. Accordingly, we request that the EOP take the following actions to preserve electronic data and information in all its forms that may be related to the subject matter:

- Work with the ICIG to identify all EOP personnel who may have information related to the subject matter;
- Issue a written notification to all EOP personnel who have information related to the subject matter, as well as information technology personnel capable of preserving any such materials that are maintained in electronic form. Identified personnel should

acknowledge their receipt and understanding of their preservation obligations. Please confirm when all custodians have acknowledged the document hold notice;

- Establish a procedure for preserving documents for departing EOP personnel who are subject to the document hold notice. EOP must take steps to ensure that documents are not lost when these EOP personnel depart or transfer positions;
- Where possible, all EOP personnel should be encouraged to properly segregate potentially relevant documents to ensure that they are not inadvertently destroyed (*e.g.*, by operation of an electronic system or according to prior record retention policies) and to facilitate ease of retrieval if production of those documents becomes necessary. Because it is essential that documents are not inadvertently altered or lost in this process, we advise that the EOP provide appropriate guidance to EOP personnel given the IT systems and other procedures in place; and
- Periodically reissue the document hold notice instructions to all potentially affected EOP personnel to remind them of these ongoing obligations.

(U//~~FOUO~~) While we appreciate that these requirements can be burdensome, these actions must be taken because failure to meet document preservation obligations may result in various sanctions being imposed by a court against individual EOP personnel or the EOP. Further, because this document hold notice is part of an official investigation, intentional failure to meet the obligations may result in charges for obstruction of justice.

(U) We thank you for your assistance on this important matter. If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely yours,



Michael K. Atkinson
Inspector General of the
Intelligence Community

cc: The Honorable Joseph Maguire (via hand delivery)