

Congress of the United States
Washington, DC 20515

October 4, 2019

The Honorable John Michael Mulvaney
Acting Chief of Staff to the President
The White House
1600 Pennsylvania Ave, N.W.
Washington, D.C. 20500

Dear Mr. Mulvaney:

Pursuant to the House of Representatives' impeachment inquiry, we are hereby transmitting a subpoena that compels you to produce documents set forth in the accompanying schedule by **October 18, 2019**.

This subpoena is being issued by the Committee on Oversight and Reform under the Rules of the House of Representatives in exercise of its oversight and legislative jurisdiction and after consultation with the Permanent Select Committee on Intelligence and the Committee on Foreign Affairs. 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 others at 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 national security by pressing Ukraine to interfere with our 2020 election and by withholding security assistance provided by Congress to help Ukraine counter Russian aggression, as well as any efforts to cover up these matters.

During a press conference on Wednesday, President Trump was asked if he would cooperate with the House impeachment inquiry. He responded, "I always cooperate."² President Trump's claim is patently false. The White House has refused to engage with—or even respond to—multiple requests for documents from our Committees on a voluntary basis. After nearly a month of stonewalling, it appears clear that the President has chosen the path of defiance, obstruction, and cover-up.

¹ See Letter from Chairman Jerrold Nadler, Committee on the Judiciary, to Chairman Adam B. Schiff, Permanent Select Committee on Intelligence; Chairwoman Maxine Waters, Committee on Financial Services; Chairman Elijah E. Cummings, Committee on Oversight and Reform; and Chairman Eliot L. Engel, Committee on Foreign Affairs (Aug. 22, 2019).

² *Trump Says He 'Always' Cooperates While Railing Against Impeachment Inquiry*, The Hill (Oct. 2, 2019) (online at <https://thehill.com/homenews/administration/464087-trump-says-he-always-cooperates-while-railing-against-impeachment>).

On September 9, 2019, the Committees sent a letter to White House Counsel Pat Cipollone requesting that the White House produce documents relating to the Committees' investigation by September 16, 2019.³ The White House did not produce any documents by the requested date, did not send any reply letter, and did not acknowledge receipt of the request.

On September 24, 2019, the Committees sent a follow-up letter warning that the Chairmen would be forced to consider compulsory process if the White House continued to ignore our request. The Committees set a new deadline of September 26, 2019, for the White House to produce these documents.⁴ Again, the White House failed to comply and did not acknowledge receipt of our follow-up letter.

Today, President Trump stated that he plans to send a letter to House Speaker Nancy Pelosi, and press reports indicate that the letter will relay the White House's refusal to cooperate with the impeachment inquiry until there is a House vote on the floor.⁵

A vote of the full House is not required to launch an impeachment inquiry, and there is no authority for the White House to make this claim. There is no such requirement in the Constitution or in the House Rules.⁶

Nor does precedent support this claim. On the contrary, "In the House various events have been credited with setting an impeachment in motion."⁷ In the case of President Nixon, for example, the Judiciary Committee had been investigating charges of impeachment for months before the House voted to open an inquiry.⁸ In 1974, the Judiciary Committee had already "been conducting an investigation into the charges of impeachment against President Nixon" and had "hired special counsel for the impeachment inquiry."⁹ During the 1980s, the House investigated three federal judges, and no resolution explicitly authorizing an impeachment investigation was

³ 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 Pat Cipollone, White House Counsel (Sept. 9, 2019) (online at https://intelligence.house.gov/uploadedfiles/ele_schiff_cummings_letter_to_cipollone_on_ukraine.pdf).

⁴ 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 Pat Cipollone, White House Counsel (Sept. 24, 2019) (online at https://intelligence.house.gov/uploadedfiles/2019-09-24.eec_engel_schiff_to_cipollone-wh_re_potus_ukraine.pdf).

⁵ The White House, *Remarks by President Trump Before Marine One Departure* (Oct. 4, 2019) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-marine-one-departure-68/). See also *Trump Demands Full House Vote on Impeachment Before Complying with Lawmakers*, NPR (Oct. 4, 2019) (online at www.npr.org/2019/10/04/767205170/trump-demands-full-house-vote-on-impeachment-before-complying-with-lawmakers).

⁶ U.S. Constitution, Art. I, § 2, cl. 5; § 5, cl. 2.

⁷ Jefferson's Manual § 603, H. Doc. No. 114-192, at 319 (2017).

⁸ Deschler Ch. 14 § 15, at 2171-72 (Parliamentarian's Note) (prior to adopting the H. Res. 803, 93rd Cong.).

⁹ *Id.*

proposed or agreed to in the House.¹⁰ Speaker Pelosi has confirmed that an impeachment inquiry is underway, and it is not for the White House to say otherwise.

Even if an impeachment inquiry were not underway, the entire House of Representatives voted on the floor on January 9, 2019, to adopt its Rules, which provide the Oversight Committee with its own independent oversight and legislative jurisdiction to investigate these matters—including authority to issue subpoenas to the White House.¹¹

Specifically, under House Rule X, the Oversight Committee is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time.” In addition, House Rule X, clause 3(i) specifically charges the Committee with conducting oversight of “the operation of Government activities at all levels, **including the Executive Office of the President.**” Finally, Rule X, clause 4 provides: “The findings and recommendations of the committee in such an investigation shall be made available to any other standing committee having jurisdiction over the matter involved.”

The Oversight Committee has used its authority repeatedly under both Republican and Democratic Chairmen to obtain documents from the White House. For example, during an investigation of the Administration of President George W. Bush involving violations of the Presidential Records Act, the Oversight Committee obtained more than 20,000 pages of internal emails and other documents from the White House and the National Archives and Records Administration. The Oversight Committee also interviewed or received written answers to questions from six current or former White House officials as part of that investigation.¹²

The Oversight Committee has also obtained public testimony from numerous White House officials under both Democratic and Republican Administrations, including:

- Charles Ruff, Counsel to the President, Clinton Administration;
- Beth Nolan, Counsel to the President, Clinton Administration;
- Dimitri Nionakis, Associate Counsel to the President, Clinton Administration; and
- James Knodell, Director of White House Office of Security, George W. Bush Administration.¹³

¹⁰ Cf. H. Rept. No. 101-36, at 13-16 (1989) (Nixon); H. Rept. No. 100-810, at 9-10 (1988) (Hastings); H. Rept. No. 99-688, at 3-7 (1986) (Claiborne).

¹¹ Clerk of the House of Representatives, *Rules of the House of Representatives One Hundred Sixteenth Congress* (Jan. 11, 2019) (online at <https://rules.house.gov/sites/democrats.rules.house.gov/files/documents/116-House-Rules-Clerk.pdf>).

¹² Memorandum from Democratic Staff to Members of the Committee on Oversight and Government Reform, *Supplemental Information for Full Committee Hearing on White House E-mails* (Feb. 26, 2008) (online at <https://bit.ly/2Z4Z2pC>).

¹³ Committee on Government Reform and Oversight, *Hearings on White House Compliance with Committee Subpoenas*, 105th Cong. (Nov. 6-7, 1997) (H. Rept. 105-61); Committee on Government Reform, *Hearings on Missing White House E-Mails: Mismanagement of Subpoenaed Records*, 106th Cong. (Mar. 23, 2000, Mar. 30, 2000, May 3, 2000, and May 4, 2000) (H. Rept. 106-179); Committee on Oversight and Government


We deeply regret that President Trump has put us—and the nation—in this position, but his actions have left us with no choice but to issue this subpoena.

Please contact staff for the Committee on Oversight and Reform at (202) 225-5051 to arrange for the production of documents.

Sincerely,



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform



Adam Schiff
Chairman
House Permanent Select Committee
on Intelligence



Eliot L. Engel
Chairman
House Committee on Foreign Affairs

Enclosure

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

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

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