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WHISTLEBLOWER DISCLOSURE

Thursday, September 26, 2019

U.S. House of Representatives,

Permanent Select Committee on Intelligence,

Washington, D.C.

The committee met, pursuant to call, at 9:11 a.m., in Room 2154, Rayburn House Office Building, the Honorable Adam Schiff (chairman of the committee) presiding.

Present: Representatives Schiff, Himes, Sewell, Carson, Speier, Quigley, Swalwell, Castro, Heck, Welch, Maloney, Demings, Krishnamoorthi, Nunes, Conaway, Turner, Wenstrup, Stewart, Stefanik, Hurd, and Ratcliffe.

The Chairman. The committee will come to order.

Without objection, the chair reserves the right to recess the hearing at any time.

The Presidential oath of office requires the President of the United States to do two things: faithfully execute his or her office, and protect and defend the Constitution. That oath, of course, cannot be honored if the President does not first defend the country. If our national security is jeopardized, if our country is left undefended, the necessity to faithfully execute the office becomes moot. Where there is no country, there is no office to execute.

And so the duty to defend the Nation is foundational to the President's responsibilities, but what of his second responsibility, to defend the Constitution, what does that really mean? The Founders were not speaking, of course, of a piece of parchment. Rather, they were expressing the obligation of the President to defend the institutions of our democracy; to defend our system of checks and balances that the Constitution enshrines; to defend the rule of law, a principle upon which the idea of America was born that we are a Nation of laws, not men. If we do not defend the Nation, there is no Constitution; but if we do not defend the Constitution, there is no Nation worth defending.

Yesterday, we were presented with the most graphic evidence yet that the President of the United States has betrayed his oath of office, betrayed his oath to defend our national security, and betrayed his oath to defend our Constitution; for yesterday, we were presented with a record of a call between the President of the United States and the President of Ukraine in which the President, our President, sacrificed our national security and our Constitution for his personal political benefit.

To understand how he did so, we must first understand just how overwhelmingly

dependent Ukraine is on the United States, militarily, financially, diplomatically, and in every other way, and not just on the United States, but on the person of the President.

Ukraine was invaded by its neighbor, by our common adversary, by Vladimir Putin's Russia. It remains occupied by Russian irregular forces in a long simmering war. Ukraine desperately needs our help, and for years, we have given it, and on a bipartisan basis. That is until 2 months ago, when it was held up inexplicably by President Trump.

It is in this context, after a brief congratulatory call from President Trump to President Zelensky on April 21, and after the President's personal emissary Rudy Giuliani made it abundantly clear to Ukrainian officials, over several months, that the President wanted dirt on his political opponent, it is in this context that the new President of Ukraine would speak to Donald Trump over the phone on July 25.

President Zelensky, eager to establish himself at home as a friend of the President of the most powerful Nation on earth, had at least two objectives: get a meeting with the President, and get more military help.

And so what happened on that call? Zelensky begins by ingratiating himself, and he tries to enlist the support of the President. He expresses his interest in meeting with the President and says his country wants to acquire more weapons from us to defend itself.

And what is the President's response? Well, it reads like a classic organized crime shakedown. Shorn of its rambling character and in not so many words, this is the essence of what the President communicates: "We've been very good to your country, very good. No other country has done as much as we have. But you know what, I don't see much reciprocity here. I hear what you want. I have a favor I want from you, though. And I'm going to say this only seven times so you better listen good. I want you to make up dirt on my political opponent, understand, lots of it, on this and on that.

"I'm going to put you in touch with people, not just any people. I'm going to put you in touch with the Attorney General of the United States, my Attorney General, Bill Barr. He's got the whole weight of the American law enforcement behind him. And I'm going to put you in touch with Rudy. You're going to love him, trust me. You know what I'm asking, and so I'm only going to say this a few more times in a few more ways. And by the way, don't call me again, I'll call you when you've done what I asked."

This is, in sum and character, what the President was trying to communicate with the President of Ukraine. It would be funny if it wasn't such a graphic betrayal of the President's oath of office. But as it does represent a real betrayal, there is nothing the President says here that is in America's interests, after all. It is, instead, the most consequential form of tragedy, for it forces us to confront the remedy the Founders provided for such a flagrant abuse of office: impeachment.

Now, this matter would not have come to the attention of our committee or the Nation's attention without the courage of a single person, the whistleblower. As you know, Director Maguire, more so than perhaps any other area of government, since we deal with classified information, the Intelligence Committee is dependent on whistleblowers to reveal wrongdoing when it occurs when the agencies do not self-report, because outside parties are not allowed to scrutinize your work and to guide us.

If that system is allowed to break down, as it did here, if whistleblowers come to understand that they will not be protected, one of two things happen: serious wrongdoing goes unreported; or whistleblowers take matters into their own hands and divulge classified information to the press, in violation of the law and placing our national security at risk.

This is why the whistleblower system is so vital to us, and why your handling of

this urgent complaint is also so troubling. Today, we can say for the first time since we have released this morning the whistleblower complaint that you have marked unclassified, that the substance of this call is a core issue, although, by no means, the only issue raised by the whistleblower's complaint, which was shared with the committee for the first time only late yesterday.

By law, the whistleblower complaint which brought this gross misconduct to light, should have been presented to this committee weeks ago and by you, Mr. Director, under the clear letter of the law, and yet, it wasn't.

Director Maguire, I was very pleased when you were named Acting Director. If Sue Gordon was not going to remain, I was grateful that a man of your superb military background was chosen, a Navy SEAL for 36 years, and Director of the National Counterterrorism Center since December 2018. Your credentials are impressive.

And in the limited interactions that we have had since you became director of NCTC, you have struck me as a good and decent man, which makes your actions over the last month all the more bewildering. Why you chose not to provide the complaint to this committee, as required by law; why you chose to seek a second opinion on whether "shall" really means "shall" under the statute; why you chose to go to a department led by a man, Bill Barr, who himself is implicated in the complaint and believes that he exists to serve the interests of the President, not the office itself, mind you, or the public interest, but the interests of the person of Donald Trump; why you chose to allow the subject of the complaint to play a role in deciding whether Congress would ever see the complaint; why you stood silent when an intelligence professional under your care and protection was ridiculed by the President, was accused of potentially betraying his or her country, when that whistleblower, by their very act of coming forward, has shown more dedication to country, more of an understanding of the President's oath of office than the

President himself. We look forward to your explanation.

Ranking Member Nunes.

Mr. Nunes. I thank the gentleman. I want to congratulate the Democrats on the rollout of their latest information warfare operation against the President, and their extraordinary ability to once again enlist the mainstream media in their campaign. This operation began with media reports from the prime instigators of the Russia collusion hoax, that a whistleblower is claiming President Trump made a nefarious promise to a foreign leader. The released transcript of that call has already debunked that central assertion. But that didn't matter. The Democrats simply moved the goalpost and began claiming that there doesn't need to be a quid pro quo for this conversation to serve as the basis for impeaching the President.

Speaker Pelosi went further when asked earlier if she would put brakes on impeachment if the transcript turned out to be benign. She responded, quote: "So there you go. If the whistleblower operation doesn't work out, the Democrats" -- we have candidates, quote, "we have many candidates for impeachable offenses." That was her quote. So there you go. If the whistleblower operation doesn't work out, the Democrats and their media assets can always drum up something else.

And what other information has come to light since the original false report of a promise being made? We've learned the following: The complaint relied on hearsay evidence provided by the whistleblower. The Inspector General did not know the contents of the phone call at issue. The Inspector General found the whistleblower displayed arguable political bias against Trump. The Department of Justice investigated the complaint and determined no action was warranted. The Ukrainian President denies being pressured by President Trump.

So once again, the supposed scandal ends up being nothing like what we were

told, and once again, the Democrats, their media mouthpieces and a cabal of leakers are ginning up a fake story with no regard to the monumental damage they're causing to our public institutions and to trust in government, and without acknowledging all the false stories they propagated in the past, including countless allegations the Trump campaign colluded with Russia to hack the 2016 election. We're supposed to forget about all those stories, but believe this one.

In short, what we have with this story line is another Steele dossier. I'll note here that in the Democrats' mania to overturn the 2016 elections, everything they touch gets hopelessly politicized. With the Russia hoax, it was our intelligence agencies, which were turned into a political weapon to attack the President.

And now today, the whistleblower process is the casualty. Until about a week ago, the need to protect that process was a primary bipartisan concern of this committee. But if the Democrats were really concerned with defending that process, they would have pursued this matter with a quiet, sober inquiry, as we do for all whistleblowers. But that would have been useless for them. They don't want answers; they want a public spectacle. And so, we've been treated to an unending parade of press releases, press conferences, and fake news stories.

This hearing itself is another example. Whistleblower inquiries should not be held in public at all, as our Senate counterparts, both Democrats and Republicans, obviously understand. Their hearing with Mr. Maguire is behind closed doors. But, again, that only makes sense when your goal is to get information, not to create a media frenzy.

The current hysteria has something else in common with the Russia hoax. Back then, they accused the Trump campaign of colluding with Russians when the Democrats themselves were colluding with Russians in preparing the Steele dossier.

Today, they accuse the President of pressuring Ukrainians to take actions that would help himself or hurt his political opponents, and yet, there are numerous examples of Democrats doing the exact same thing. Joe Biden bragged that he extorted the Ukrainians into firing a prosecutor who happened to be investigating Biden's own son. Three Democratic Senators wrote a letter pressuring the Ukrainian general prosecutor to reopen the investigation into former Trump campaign officials.

Another Democratic Senator went to Ukraine and pressured the Ukrainian President not to investigate corruption allegations involving Joe Biden's son. According to Ukrainian officials, the Democratic National Committee contractor, Alexandra Chalupa, tried to get Ukrainian officials to provide dirt on Trump associates, and tried to get the former Ukrainian President to comment publicly on alleged ties to Russia. Ukrainian official, Sergiy Leschenko, was the source for Nellie Ohr, wife of Department of Justice official Bruce Ohr, as she worked on the anti-Trump operation conducted by Fusion GPS, and funded by the Democrats. And, of course, Democrats on this very committee negotiated with people who they thought were Ukrainians in order to obtain nude pictures of Trump.

People can reasonably ask why the Democrats are so determined to impeach this President, when in just a year, they'll have a chance. In fact, one Democratic Congressman, one of the first to call for Trump's impeachment, gave us the answer when he said, quote, "I'm concerned that if we don't impeach the President, he will get reelected," unquote.

Winning elections is hard, and when you compete you have no guarantee you'll win, but the American people do have a say in this, and they made their voices heard in the last Presidential election. This latest gambit by the Democrats to overturn the people's mandate is unhinged and dangerous. They should end the entire dishonest,

grotesque spectacle and get back to work solving problems, which is what every member of this committee was sent here to do. Judging by today's charade, the chances of that happening any time soon are zero to none.

I yield back.

The Chairman. I thank the gentleman.

Director, would you rise for the oath and raise your right hand. Do you solemnly swear or affirm that the testimony you will give today shall be the truth, the whole truth, and nothing but the truth, so help you God?

Acting Director Maguire. I do.

TESTIMONY OF HON. JOSEPH MAGUIRE, ACTING DIRECTOR OF NATIONAL INTELLIGENCE, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

The Chairman. Thank you. You may be seated. The record will reflect that the witness has been duly sworn.

Director Maguire, would you agree that the whistleblower complaint alleges serious wrongdoing by the President of the United States?

Acting Director Maguire. Mr. Chairman, the whistleblower --

The Chairman. Actually, I apologize, Director. Let me recognize you for your opening statement, and you may take as much time as you need.

Acting Director Maguire. Thank you very much, Mr. Chairman.

Chairman Schiff, Ranking Member Nunes, and members of the committee, good morning. I'd like to begin by thanking the chairman and the committee for agreeing to postpone this hearing for 1 week. This provided sufficient time to allow the executive branch to successfully complete its consultations regarding how to accommodate the committee's request.

Mr. Chairman, I've told you this on several occasions, and I would like to say this publicly: I respect you. I respect this committee, and I welcome and take seriously the committee's oversight role.

During my confirmation process to be the Director of the National Counterterrorism Center, I told the Senate Select Committee on Intelligence that congressional oversight of the intelligence activities is critical and essential to successful operations with the Intelligence Community. Having served as the Director of the National Counterterrorism Center for 8 months, and as the Acting Director of National

Intelligence for the past 6 weeks, I continue to believe strongly in the role of congressional oversight.

As I pledged to the Senate, I pledge to you today that I will continue to work closely with Congress while I am serving either in this capacity, as Acting Director of National Counterterrorism, or when I return to the National Counterterrorism Center, to ensure you are fully and currently informed of intelligence activities to facilitate your ability to perform your oversight of the Intelligence Community.

The American people expect us to keep them safe. The Intelligence Community cannot do that without this committee's support. Before I turn to the matter at hand, there are a few things I would like to say. I am not partisan, and I am not political. I believe in a life of service and I am honored to be a public servant. I served under eight Presidents while I was in uniform. I have taken the oath to the Constitution 11 times, the first time when I was sworn into the United States Navy in 1974, and nine times during my subsequent promotions in the United States Navy. Most recently, former Director Dan Coats administered the oath of office last December when I became the Director of the National Counterterrorism Center.

I agree with you, the oath is sacred. It's a foundation of our Constitution. The oath to me means not only that I swear true faith and allegiance to that sacred document, but more importantly, I view it as a covenant I have with my workforce that I lead and every American that I will, well and faithfully, discharge the duties of my office.

I come from a long line of public servants who have stepped forward even in the most difficult times and austere times to support and defend our country. When I took my uniform off in July of 2010, it was the first time in 70 years that an immediate member of my family was not wearing the cloth of the Nation.

As a Naval Special Warfare officer, I had the honor of commanding at every level

in the SEAL community. It was, at times, very demanding, but the rewards of serving in America's special operations community more than make up for the demands.

After my retirement, I was fortunate to work for a great private sector firm. I left the business world after 3 years to lead a nonprofit charity. Some question why I would leave a promising business career to run a charity. The answer was quite simple: It was another opportunity to serve. I led a foundation dedicated to honoring the sacrifice of our fallen and severely wounded special operators. The foundation I led enabled hundreds of children of our fallen to attend college. It was extremely meaningful and rewarding.

In the winter of 2018, I was asked by former Director Dan Coats to return to government service to lead the National Counterterrorism Center. This request was totally unexpected, and was not a position I sought, but then again, it was another opportunity to serve my country. In particular, I knew that many of the young sailors and junior officers that I had trained 20 years earlier were now senior combat veterans deploying and still sacrificing. I decided if they could continue to serve, returning to government service was the very least I could do.

And now, here I am sitting before you as the Acting Director of National Intelligence. With last month's departure of Dan Coats and Sue Gordon, two exceptional leaders and friends, I was asked to step into their very big shoes, and lead the Intelligence Community until the President nominates and the Senate confirms the next Director of National Intelligence.

I accepted this responsibility because I love this country. I have a deep and profound respect for the men and women of our Intelligence Community, and the mission we execute every day on behalf of the American people.

Throughout my career, I have served and led through turbulent times. I have

governed every action by the following criteria: It must be legal, it must be moral, and it must be ethical. No one can take an individual's integrity away. It can only be given away. If every action meets those criteria, you will always be a person of integrity. In my nearly four decades of public service, my integrity has never been questioned until now.

I am here today to unequivocally state that as Acting DNI, I will continue the same faithful and nonpartisan support in a manner that adheres to the Constitution and the laws of this great country as long as I serve in this position for whatever period of time that may be. I want to make it clear that I have upheld my responsibility to follow the law every step of the way in the matter that is before us today.

I want to also state my support for the whistleblower and the rights and the laws. Whistleblowing has a long history in our country, dating back to the Continental Congress. This is not surprising because, as a Nation, we desire for good government. Therefore, we must protect those who demonstrate courage to report alleged wrongdoing, whether on the battlefield or in the workplace. Indeed, at the start of ethics training in the executive branch each year, we are reminded that public service is a public trust and, as public servants, we have a solemn responsibility to do what's right, which includes reporting concerns of waste, fraud, and abuse, and bringing such matters to the attention of Congress under the Intelligence Community Whistleblower Protection Act.

I applaud all employees who come forward under this Act. I am committed to ensuring that all whistleblower complaints are handled appropriately and to protecting the rights of whistleblowers.

In this case, the complainant raised a matter with the Intelligence Community Inspector General. The Inspector General is properly protecting the complainant's identity and will not permit the complainant to be subject to any retaliation or adverse

consequences for communicating the complaint to the Inspector General.

Upholding the integrity of the Intelligence Community and the workforce is my number one priority. Throughout my career, I relied on the men and women of the Intelligence Community to do their jobs so I could do mine, and I can personally attest that their efforts saved lives.

I would now like to turn to the complaint and provide a general background on how we got to where we are today. On August 26, the Inspector General forwarded a complaint to me from an employee in the Intelligence Community. The Inspector General stated that the complaint raised an urgent concern, a legally defined term under Whistleblower Protection Act that has been discussed at length in our letters to the committee on September 16 and 17.

Before I turn to the discussion about whether the complaint meets the definition of urgent concern, I first want to talk about an even more fundamental issue. Upon reviewing the complaint, we were immediately struck by the fact that many of the allegations in the complaint are based on a conversation between the President and another foreign leader. Such calls are typically subject to executive privilege.

As a result, we consulted with the White House Counsel's Office, and we were advised that much of the information in the complaint was, in fact, subject to executive privilege, a privilege that I do not have the authority to waive. Because of that, we were unable to immediately share the details of the complaint with this committee, but continued to consult with the White House counsels in an effort to do so.

Yesterday, the President released the transcripts of the call-in question and, therefore, we are now able to disclose the details of both complaint and the Inspector General's letter transmitting to us. As a result, I have provided the House and Senate Intelligence Committees with the full unredacted complaint, as well as the Inspector

General's letter.

Let me also discuss the issue of urgent concern. When transmitting a complaint to me, the Inspector General took the legal position that because the complaint alleges matters of urgent concern, and because he found the allegations to be credible, I was required, under the Intelligence Community Whistleblower Protection Act, to forward the complaint to our oversight committees within 7 days of receiving it.

As we have previously explained in our letters, urgent concern is a statutorily defined term. To be an urgent concern, the allegations must, in addition to being classified, assert a flagrant serious problem, abuse, or violation of law, and relate to the funding, administration, or operation of an intelligence activity within the responsibility of the Director of National Intelligence.

However, this complaint concerns conduct by someone outside the Intelligence Community unrelated to funding, administration, or operation of an intelligence activity under my supervision. Because the allegation on its face did not appear to fall in the statutory framework, my office consulted with the United States Department of Justice Office of Legal Counsel, and included -- we included the Inspector General in those consultations.

After reviewing the complaint and the Inspector General's transmittal letter, the Office of Legal Counsel determined that the complaint's allegations do not meet the statutory requirement definition concerning legal urgent concern, and found that I was not legally required to transmit the material to our oversight committee under the Whistleblower Protection Act. An unclassified version of that Office of Legal Counsel memo was publicly released. As you know, for those of us in the executive branch, Office of Legal Counsel opinions are binding on all of us.

In particular, the Office of Legal Counsel opinion states that the President is not a

member of the Intelligence Community, and the communication with the foreign leader involved no intelligence operation or activity aimed at collecting or analyzing foreign intelligence.

While this OLC opinion did not require transmission of the complaint to the committees, it did leave me with the discretion to forward the complaint to the committee. However, given the executive privilege issues I discussed, neither the Inspector General nor I were able to share the details of the complaint at the time.

When the Inspector General informed me that he still intended to notify the committees of the existence of the complaint, Mr. Chairman, I supported that decision, to ensure the committees were kept as informed as possible as this process moved forward.

I want to raise a few other points about the situation we find ourselves in. First, I want to stress that I believe that the whistleblower and the Inspector General have acted in good faith throughout. I have every reason to believe that they have done everything by the book, and followed the law, respecting the privileged nature of the information and patiently waiting while the executive privilege issues were resolved.

Wherever possible, we have worked in partnership with the Inspector General on this matter. While we have difference of opinions on the issue of whether or not it is urgent concern, I strongly believe in the role of the Inspector General. I greatly value the independence he brings and his dedication and his role in keeping me and the committees informed of matters within the Intelligence Committee.

Second, although executive privilege prevented us from sharing the details of the complaint with the committee until recently, this does not mean that the complaint was ignored. The Inspector General, in consultation with my office, referred this matter to the Department of Justice for investigation.

Finally, I appreciate that in the past, whistleblower complaints may have been

provided to the Congress regardless of whether they were deemed credible or satisfied the urgent concern requirement. I am not familiar with any prior instances where a whistleblower complaint touched on such complicated and sensitive issues, including executive privilege. I believe that this matter is unprecedented.

I also believe that I handled this matter in full compliance with the law at all times, and I am committed to doing so, sir. I appreciate the committee providing me this opportunity to discuss this matter and the ongoing commitment to work with the Congress on your important oversight role.

Thank you very much, sir.

[The statement of Acting Director Maguire follows:]

***** COMMITTEE INSERT *****

The Chairman. Thank you, Director.

Would you agree that the whistleblower complaint alleges serious wrongdoing by the President of the United States?

Acting Director Maguire. The whistleblower complaint involved the allegation of that. It is not for me and the Intelligence Community to decide how the President conducts his foreign policy or his interaction with leaders of other countries, sir.

The Chairman. Well, I'm not asking you to opine on how the President conducts foreign policy. I'm asking you whether, as the statute requires, this complaint involved serious wrongdoing in this case by the President of the United States, an allegation of serious wrongdoing by the President of the United States. Is that not the subject of this complaint?

Acting Director Maguire. Yes, that is the subject of the allegation of the complaint. And two things, Mr. Chairman --

The Chairman. And let me ask you about that. The Inspector General found that serious allegation of misconduct by the President credible. Did you also find that credible?

Acting Director Maguire. I did not criticize the Inspector General's decision on whether or not it was credible. My question was whether or not it meets the urgent concern and the 7-day timeframe that would follow when someone was notified.

The Chairman. My question, Director --

Acting Director Maguire. I have no question in his judgment that he considers it a serious matter. The issue that I dealt with --

The Chairman. And you would concur, would you not, Director, that this complaint alleging serious wrongdoing by the President was credible?

Acting Director Maguire. It's not for me to judge, sir. What my --

The Chairman. It is for you to judge, apparently. I mean, I agree it's not for you to judge. You shall provide it to Congress. But, indeed, you did judge whether this complaint should be provided to Congress. Can we at least agree that the Inspector General made a sound conclusion that this whistleblower complaint was credible?

Acting Director Maguire. That is correct. That is in the cover letter that's been provided to the committee. I believe that's also made public, the decision and the recommendation by the Inspector General that, in fact, the allegation was credible.

The Chairman. Can we also agree that it was urgent that if the President of the United States was withholding military aid to an ally even as you received the complaint, and was doing so for a nefarious reason, that is, to exercise leverage over the President of Ukraine to dig up manufactured dirt on his opponent, can we agree that it was urgent while that aid was being withheld?

Acting Director Maguire. There are two things.

The Chairman. I'm talking about delay, the common understanding of what "urgent" means, because the Inspector General said this was urgent, not only in the statutory meaning, this was urgent, as everyone understands that term. Can we agree that it was urgent?

Acting Director Maguire. It was urgent and important. But my job, as the Director of National Intelligence, was to comply with the Whistleblower Protection Act, and to adhere to the definition of urgent concern, which is a legal term.

The Chairman. And to adhere to the meaning of the term "shall."

Acting Director Maguire. Yes, sir.

The Chairman. In this case, you sought a second opinion on whether "shall" really means "shall" by going to the White House?

Acting Director Maguire. No, sir. There were two things, as I said in my statement: One, it appeared that it also had matters of executive privilege. I am not authorized, as the Director of National Intelligence, to waive executive privilege.

The Chairman. And at any time over the last month that you held this complaint, did the White House assert executive privilege?

Acting Director Maguire. Mr. Chairman, I have endeavored --

The Chairman. I think that's a yes-or-no question. Did they ever assert executive privilege?

Acting Director Maguire. They were working through the executive privilege procedures, and deciding whether or not to exert executive privilege.

The Chairman. So they never exerted executive privilege, is that the answer?

Acting Director Maguire. Mr. Chairman, if they did, we would not have released the letters yesterday and all the information that has been forthcoming.

The Chairman. Now, the first place you went was to the White House. Am I to understand that from your opening statement? It wasn't to the Department of Justice. The first place you went for a second opinion was to the White House?

Acting Director Maguire. I did not go for a second opinion. The question was, is the information contained here subject to executive privilege, not whether or not it met urgent concern.

The Chairman. And so the first place you went for advice as to whether you should provide the complaint, as the statute requires, to Congress, was the White House?

Acting Director Maguire. I am not authorized, as the Director of National Intelligence, to provide executive privileged information. I think it is prudent, as a member of the executive branch, to check to ensure that, in fact, it does not --

The Chairman. I'm just asking about the sequencing here. Did you first go to

the White House to determine whether you should provide a complaint to Congress?

Acting Director Maguire. No, sir. That was not the question. The question was whether or not it has executive privilege, not whether or not I should send it on to Congress.

The Chairman. Is the first party you went to outside of your office to seek advice, counsel, direction, the White House?

Acting Director Maguire. I have consulted with the White House counsel, and eventually, we also consulted with the Department of Justice Office of Legal Counsel.

The Chairman. And my question is, did you go to the White House first?

Acting Director Maguire. I went to the Office of Legal Counsel for advice, yes, sir.

The Chairman. Well, I'm asking which you went to first. Did you go to the Department of Justice Office of Legal Counsel first, or did you go to the White House first?

Acting Director Maguire. I went to the office -- excuse me. My team, my office went to the Office of Legal Counsel first to receive whether or not the matter in the letter and in the complaint might meet the executive privilege. They viewed it and said, We've determined that it appears to be executive privilege.

And until executive privilege is determined and cleared, I did not have the authority to be able to send that forward to the committee. I worked with the Office of Legal Counsel for the past several weeks to get resolution on this. It's a very deliberate process.

The Chairman. Well, Director, I'm still trying to understand the chronology. So you first went to the Office of Legal Counsel, and then you went to White House counsel?

Acting Director Maguire. We went -- excuse me, and then to the -- repeat that, please, sir.

The Chairman. I'm just trying to understand the chronology. You first went to

the Office of Legal Counsel, and then you went to the White House counsel?

Acting Director Maguire. No, no, no, sir. No, sir. No. We went to the White House first to determine -- to ask the question --

The Chairman. That's all I want to know is the chronology. So you went to the White House first. So you went to the subject of the complaint for advice first about whether you should provide the complaint to Congress?

Acting Director Maguire. There were issues within this, a couple of things: One, it did appear that it has executive privilege. If it does have executive privilege, it is the White House that determines that. I cannot determine that, as the Director of National Intelligence.

The Chairman. But in this case, the White House, the President is the subject of the complaint. He's the subject of the wrongdoing. Were you aware when you went to the White House for advice about whether evidence of wrongdoing by the White House should be provided to the Congress, were you aware that the White House counsel has taken the unprecedented position that the privilege applies to communications involving the President when he was President, involving the President when he wasn't President, involving people who never served in the administration, involving people who never served in the administration, even when they're not even talking to the President, were you aware that that is the unprecedented position of the White House, the White House you went to for advice about whether you should turn over a complaint involving the White House?

Acting Director Maguire. Mr. Chairman, as I said in my opening statement, I believe that everything here in this matter is totally unprecedented. And that is why my former Directors of National Intelligence forwarded them to you, whether or not it met urgent concern or whether it was serious. This was different. And to me, it just

seemed prudent to be able to check and ensure, as a member of the executive branch, before I sent it forward.

The Chairman. I just have a couple of questions and I'm going to turn it over to the ranking member, and he may consume as much time as I did.

The second place you went to was the Justice Department, and you went to that Department headed by a man, Bill Barr, who is also implicated in the complaint. And you knew that when you went to the Department of Justice for an opinion, correct, that Bill Barr was mentioned in the complaint?

Acting Director Maguire. Mr. Chairman, I went to the Office of Legal Counsel in consultation with the IC IG -- he was a part of that -- to receive whether or not this met the criteria.

The Chairman. Yes, but that IC IG vehemently disagreed with the opinion of the Bill Barr Justice Department, did he not?

Acting Director Maguire. He still considered it a matter of urgent concern. However, as you know, opinions from Department of Justice Office of Legal Counsel are binding on all of us in the executive branch.

The Chairman. Well, let me ask you this: Do you think it's appropriate that you go to a department run by someone who's the subject of the complaint to get advice -- or who is a subject of the complaint or implicated in the complaint, for advice as to whether you should provide that complaint to Congress? Did that conflict of interest concern you?

Acting Director Maguire. Mr. Chairman, when I saw this report and complaint, immediately I knew that this was a serious matter. It came to me, and I just thought it would be prudent to ensure --

The Chairman. I'm just asking if the conflict of interest concerned you?

Acting Director Maguire. Well, sir, I have to work with what I've got, and that is the Office of Legal Counsel within the executive branch. I had no other --

The Chairman. But what you also had was a statute that says "shall," and even then, you said you had the discretion to provide it but did not.

Acting Director Maguire. Because it did not meet the matter of urgent concern, that took away the 7-day timeline. I have endeavored to work with the Office of Legal Counsel in order to get the material to you, which you had provided to you yesterday.

Now, I have to tell you, Chairman, it is not, perhaps, at the timeline that I would have desired, or you, but the Office of Legal Counsel has to make sure they make prudent decisions. And yesterday, when the President released the transcripts of his call with the President of the Ukraine, then they could no longer -- executive privilege no longer applied, and that is when I was free to be able to send the complaint to the committee.

The Chairman. Director, you don't believe the whistleblower is a political hack, do you?

Acting Director Maguire. I don't know who the whistleblower is, Mr. Chairman, to be honest with you. I've done my utmost to make sure that I protect his anonymity.

The Chairman. That doesn't sound like much of a defense of the whistleblower here, someone you found did everything right. You don't believe the whistleblower is a political hack, do you, Director?

Acting Director Maguire. I believe that -- as I said before, Mr. Chairman, I believe the whistleblower is operating in good faith and has followed the law.

The Chairman. Well, they couldn't be in good faith if they were acting as a political hack, could they?

Acting Director Maguire. Mr. Chairman, my job is to support and lead the entire Intelligence Community. That individual works for me. Therefore, it is my job to make

sure that I support and defend that person.

The Chairman. You don't have any reason to accuse them of disloyalty to our country or suggest they're beholden to some other country, do you?

Acting Director Maguire. Sir, absolutely not. I believe that the whistleblower followed the steps every step of the way. However, the statute was one in this situation involving the President of the United States, who is not in the Intelligence Community, or matters underneath my supervision, did not meet the criteria for urgent concern.

The Chairman. I'm just asking about the whistleblower right now.

Acting Director Maguire. I think the whistleblower did the right thing. I think he followed the law every step of the way, and we just got stuck --

The Chairman. Then why, Director, when the President called the whistleblower a political hack and suggested that he or she might be disloyal to the country, why did you remain silent?

Acting Director Maguire. I did not remain silent, Mr. Chairman. I issued a statement to my workforce telling and committing, my commitment to the whistleblower protection, and ensuring that I would provide protection to anybody within the Intelligence Community who comes forward. But the way this thing was flowing out, I didn't think it was appropriate for me to be making a press statement so that we counter each other every step of the way.

The Chairman. I think it was not only appropriate, but there's nothing that would have given more confidence to the workforce than hearing you publicly say no one should be calling this professional, who did the right thing, a hack, or a traitor, or anything else. I think that would have meant a great deal to the workforce.

Mr. Nunes, you are recognized.

Mr. Nunes. Welcome, Mr. Director. It's a pleasure to have you here. And

you're going to be part of a charade of legal word games. They're going to try to get you to say something that can be repeated by the media that is here that wants to report this story.

I just want to get one thing straight, because one of the quotes they're going to use from you is you saying that this was a credible complaint. That will be used and spun as your saying that it was true. And I want to give you an opportunity to -- you have not investigated the veracity or the truthfulness of this complaint?

Acting Director Maguire. That is correct, Ranking Member. The determination on credible was made by the IC Inspector General. He made the determination that it is credible, and he also made the determination of urgent concern.

My question was not -- I did not question his judgment there. The question I had was, does, in fact, this allegation of wrongdoing meet the criteria, the statutory criteria of urgent concern? And the other issue, as I said, complicated things, did, in fact, the allegations within this whistleblower complaint involve executive privilege.

Mr. Nunes. Thank you for clarifying that. Have you ever -- you mentioned it a little bit in your testimony, but have you ever or are you aware of any former DNIs who have testified about whistleblower complaints in the public?

Acting Director Maguire. Not to my knowledge, Ranking Member. I do not know.

Mr. Nunes. Are you aware of any cases like this that were put into the spotlight? Would this be the way to handle it out in the public like this?

Acting Director Maguire. I am not aware of any, but I want to say, once again, I believe that the situation we have and why we're here this morning is because this case is unique and unprecedented.

Mr. Nunes. So why are cases normally not handled out in the public?

Acting Director Maguire. All the other cases that came before, either this committee or the Senate committee, whether or not they met the criteria of urgent concern, were forwarded because they involved members of the Intelligence Community who were, in fact, in organizations underneath the DNI's authority and responsibility.

This one just didn't come that way because it involved a member -- an individual who was not a member of the Intelligence Community or an organization underneath the authority of the DNI. So this one is different from all others in the past that I am aware of.

Mr. Nunes. So I want to get into how this all got out in the public over the last -- this has basically been an orchestrated effort over 2 weeks. We were first told about it a week and a half ago, and we were told very specifically that the whistleblower did not want to get any of this information out. They didn't want it to leak out.

So there are only a few potential groups of people that would have known about this complaint, you and your people within your office --

Acting Director Maguire. Yes, sir.

Mr. Nunes. -- the people within the Inspector General's office, and the whistleblower and whoever that whistleblower gave this information to.

So what I'm trying to ascertain is, how would it run in all the mainstream media outlets? How did they -- even though they got a lot of it wrong, but they had the basics of it, that it involved the President of the United States talking to a foreign leader. So did anybody, you or anybody in your office, leak this to The Washington Post or NBC News?

Acting Director Maguire. Ranking member, I lead the Intelligence Community. We know how to keep a secret. As far as how that got into the press, I really do not know, sir. I just know that it's all over the place and, as you said, it's been reported by

different media for the past several weeks. Where they get their information from, I don't know.

Mr. Nunes. So that is --

Acting Director Maguire. But it was not from the Intelligence Community, from me, or from my office.

Mr. Nunes. Thank you, Director. So this is not the first time this has happened to this President. That happened with a call between the Mexican President, the Australian Prime Minister. So it's happened twice before that pieces of transcripts leaked out. And, of course, this time it was leaked out again and the President, thankfully, he was able to put this out because of the actions of this -- of the situation, as you said, that's unprecedented.

Is it normal for the President of the United States to have their conversations leak out? This is the third time.

Acting Director Maguire. I would have to leave that to the White House to respond to that, Ranking Member, but to me, the President of the United States' conversation with any other head of state I would consider privileged conversation.

Mr. Nunes. But clearly, I mean, those conversations are being captured by the intelligence agencies. So --

Acting Director Maguire. Not necessarily, sir. I mean, if the President of the United States --

Mr. Nunes. Well, I should say this: They're captured and then disseminated, captured and disseminated to the intelligence agencies.

Acting Director Maguire. I have to be careful in this open hearing about, you know, how I respond to that. The Intelligence Community and the National Security Agency, obviously, you know, they collect things that -- to protect --

Mr. Nunes. I just want to make sure, because I'm just -- I mean, are we just going to -- foreign leaders, we might as well just have either the President of the United States not talk to foreign leaders, or we should just -- or let's publish all the transcripts, because that's what's happening here.

Acting Director Maguire. Ranking Member --

Mr. Nunes. And somebody is leaking this, and it's likely coming from the agencies that you oversee.

Acting Director Maguire. Ranking member, no, that -- sir --

Mr. Nunes. I mean, I'm not saying that -- you don't know, but we had the transcript of the Mexican President, the Australian Prime Minister, and now contents of a call with the Ukrainian President leak out.

Acting Director Maguire. Ranking Member, the allegation in the whistleblower complaint was that there were about 12 people who listened in on the conversation, members of the National Security Council and others. And then others were briefed from State Department as well of the transcripts, because they have an area responsibility and a region responsibility, then they would be informed on the interaction.

So there were a number of people from the White House briefed on the call. This would not be something that --

Mr. Nunes. Well, I'm quite sure of this: The White House probably didn't leak this out.

Acting Director Maguire. I wouldn't say the White House, but there are individuals within the White House that may or may not. I don't know. But it would not be from an intelligence intercept, I will say that.

Mr. Nunes. Right. I'm not -- I'm just saying the dissemination, the dissemination of these calls is supposed to be sacred, right? And it is important for the

State Department and the appropriate agencies to get. I'm not saying that's all the intelligence agency.

But when a President talks to a foreign leader, it's confidential. Those contents are confidential. There could be some facts of that conversation that you do want to get to the appropriate agency, not just the IC. I want to be clear about that. But this is now the third time. I'm not aware of this ever happening before, of contents of calls like this getting out.

Acting Director Maguire. I really don't know, Ranking Member. I'm not aware. I don't have the numbers. It just seems to me, though, that it is unprecedented. And I would also say I think that the decision by the President yesterday to release the transcripts of his conversation with the President of the Ukraine is probably unprecedented as well.

Mr. Nunes. Well, I appreciate you being here and have fun. Be careful what you say, because they're going to use these words against you.

Acting Director Maguire. Well, I tell you what, Ranking Member, either way, I'm honored to be here and I'm honored to be leading the Intelligence --

Mr. Nunes. And I appreciate your service to this country for a long time and I'm sure we'll be talking again soon, hopefully not in the public, hopefully behind closed doors like this is supposed to be done.

Acting Director Maguire. Thank you very much, Ranking Member.

Mr. Nunes. I yield back.

The Chairman. Mr. Himes.

Mr. Himes. Thank you, Mr. Chairman.

Director Maguire, thank you for being here, and thank you for your profound service and the service of your family to this country.

Director, what I find bewildering about this whole conversation is that we are not sitting here today, and the American public is not aware of the allegations of the President asking for a favor of investigation into his political opponent. We're not aware of the murky decision to withhold aid. We're not aware of Mr. Giuliani's apparent establishment of a personal State Department. We are not aware of a possible retaliation against a U.S. Ambassador.

None of this happens, but for the decision of your Inspector General, Michael Atkinson, a man who was appointed by President Trump and confirmed by a Republican Senate to come to this committee 7 days after the complaint was required by law to be transmitted to us. It was his decision, personal decision, not the kaleidoscope of fantabulistic conspiracy theories the ranking member thinks is happening here; but it was the decision of Michael Atkinson, an appointee of this President, to come to this committee, following not advice from you or any law, but following his own conscience. Without his decision to do this, none of this is happening, correct?

Acting Director Maguire. I applaud Michael's -- the way he has done this. He has acted in good faith. He has followed the law every step of the way. The question is, Congressman, does it -- did it or did it not meet the legal definition --

Mr. Himes. No, sir, I asked a very different question, which was, without his decision -- it's a simple question. Without his decision, none of this is happening. Is that correct?

Acting Director Maguire. Well, we got to back up to the whistleblower as well. So --

Mr. Himes. Okay. And I should have noted that the whistleblower also deserves the same accolades that Mr. Atkinson does.

Director, were you ever advised by the White House not to provide this complaint

to Congress for any reason?

Acting Director Maguire. No, Congressman.

Mr. Himes. Okay. And as I understand it, the opinion was that you were not obligated to convey -- despite the very clear wording of the law, to convey the complaint to Congress. So the decision was taken to defy a subpoena of this Congress, the subpoena of September 17th to turn over the complaint. Who made the decision to defy that subpoena of September 17th?

Acting Director Maguire. Congressman, urgent concern --

Mr. Himes. Sir, I'm asking a very simple question. Who made the decision to defy the congressional subpoena? Somebody said, we will not abide by the subpoena, and I'd like to know who that somebody was.

Acting Director Maguire. Congressman, nobody did. I endeavored, once we no longer had urgent concern with the 7-day timeline, to work to get the information to the committee. What I needed to do was to get -- work through the executive privilege hurdles with the Office of Legal Counsel at the White House.

Although this was the most important issue to me, you know, the White House has got quite a few other issues that they were dealt with. I would have liked to have had -- as I said to the chairman, that perhaps this moved a little faster than it did, but this is a very deliberate process, and finally, you know, it came to a head yesterday.

So, you know, when I received the information on the 26th of August, we had 7 days, based on the Whistleblower Protection Act. All we did was lose those 7 days. It may have taken longer than we would have liked, or you would have liked, but you have the information.

Mr. Himes. Sir, so I'm focused on the subpoena.

Acting Director Maguire. Yes, sir.

Mr. Himes. Sir, so I'm focused on the subpoena.

Acting Director Maguire. Yes, sir.

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[10:10 a.m.]

Mr. Himes. The subpoena's on your desk. It's a subpoena of the Congress of the United States. It's pretty clear in what it asks for. You're saying that a decision was never taken not to comply with that subpoena and yet somehow it wasn't complied with. Again, I'm looking for the decisionmaking process to ignore a legal congressional subpoena.

Acting Director Maguire. Congressman, I did not ignore. I dealt with the chairman of this committee and asked to have one more week to be able to do what I needed to do to get this information released. He was gracious enough and this committee was also very supportive. It wasn't something that it was ready to go, but I was committed, fully committed to this committee and to the chairman to get that information, and I finally was able to provide that yesterday.

Mr. Himes. Okay. Thank you, Director.

Director, did you or your office ever speak to the President of the United States about this complaint?

Acting Director Maguire. Congressman, I'm the President's intelligence officer. I speak with him several times throughout the week.

Mr. Himes. Sir, let me repeat my question. Did you ever speak to the President about this complaint?

Acting Director Maguire. My conversations with the President, because I'm the Director of National Intelligence, are privileged, and it would be inappropriate for me, because it would destroy my relationship with the President in intelligence matters, to

divulge any of my conversations with the President of the United States.

Mr. Himes. But just so we can be clear for the record, you are not denying that you spoke to the President about this complaint.

Acting Director Maguire. What I'm saying, Congressman, is that I will not divulge privileged conversation that I have as the Director of National Intelligence with the President of the United States.

Mr. Himes. Has the White House instructed you to assert that privilege?

Acting Director Maguire. No, sir. As just a member of the executive committee -- I mean executive branch -- as a member of the National Security Council, and also the Homeland Committee, and that's, you know, I just have to maintain the discretion and protect the conversation with the President of the United States.

Mr. Himes. Thank you, Director. I appreciate that answer. Apparently the clock is broken, but I will yield back the balance of my time.

Acting Director Maguire. Thank you, Congressman.

The Chairman. Mr. Conaway.

Mr. Conaway. Thank you, Mr. Chairman.

Admiral, thank you for being here. You and I are at competitive disadvantage because neither one of us are lawyers. That may be a badge of honor for some of us.

Do you have lawyers on your staff, sir?

Acting Director Maguire. I do, Congressman.

Mr. Conaway. And your lawyers have looked at this urgent concern definition thoroughly and have given you advice?

Acting Director Maguire. Yes, Congressman.

Mr. Conaway. If the black letter law was so clear in black letter, how is it that we have got different attorneys giving you and I different opinions? That's a rhetorical

question with respect to this issue.

Just to clarify, Mike Atkinson was in our group and in front of us last week, did a very good job of telling us what he did, what he didn't do. We now know for sure what it is that he was able to do.

As part of his investigation he did not request records of the call from the President, and the reason he did is he cited the difficulty of working through all of that would have probably meant that he couldn't comply with the 14-day timeframe. So even he did not try to overrun the White House's executive privilege over the conversation that the President had with President Zelensky.

He also said in his letter, "I am determined" -- this is quoting Michael -- "I also determined that there were reasonable grounds to believe that information relating to the urgent concern appeared credible."

Now, that's a different statement than flat out it's credible, which is, again, a rhetorical statement.

Is there anything in statute from your lawyers in advising you that says that the determination of urgent concern lies the solely with the IC IG?

Acting Director Maguire. No, sir, I was never advised by my legal counsel to that effect.

Mr. Conaway. All right. Has the, to your knowledge, has the Justice Department ever weighed in to say that the fact that DNI can't make a separate decision with respect to the 7-day process, that the matter is not of urgent concern, as your team decided?

Acting Director Maguire. The matter of urgent concern is a legally defining term. It's pretty much either yes or no.

Mr. Conaway. Well, apparently that's not the case, Admiral, because the IG said

it was and you're saying it's not under that legal definition because it involved the President. Last time I checked, you're pretty familiar with chains of command, I know, he's not in -- you're not -- he's not in your chain of command, you're in his chain of command.

So for very definite reasons that appear to be credible it doesn't meet the statutorily urgent concern definition with respect to the whistleblower protections of the IG, and your team made that call. The inspector general made a different call.

Acting Director Maguire. No, sir. My team did not make the decision. It was the Department of Justice Office of Legal Counsel that made the determination that it was not urgent concern. All we wanted to do was just check and see.

And to me it just seemed prudent with the matter at hand right now to be able to just make sure that in fact it did. And when it didn't, I want to say once again, I endeavored to get that information to this committee.

Mr. Conaway. Okay, sir. Just to clarify the role that the inspector general had with respect to the Department of Justice. I heard you say that he was involved in the conversations, allowed to make his case, but also said you give him the letter -- gave the Justice Department the letter.

What was his exact involvement in making his case to the Justice Department to his decision? Was he actually there physically or his lawyers there? What was that?

Acting Director Maguire. To the best of my knowledge, the IC IG's transmittal letter, as well as the complaint from the whistleblower, were forwarded to the Office of Legal Counsel for their determination. I believe that that is what they based their opinion on.

Mr. Conaway. Okay. So you don't think he had a --

Acting Director Maguire. If I'm incorrect, I will come back to the committee and

correct that, sir.

Mr. Conaway. Okay, appreciate that.

You're in a tough spot. I appreciate your long, storied history. I apologize if your integrity was insulted. That happens in this arena a lot, sometimes justified and most of the time not, and yours, insult to your integrity, was not justified.

The fact that we are differences of opinion, when we start losing those differences of opinion, we start to attack each other, call each other names and those kinds of things. And so my experience is when you've got a legal matter, I've got lawyers that I pay, you've got lawyers you pay. I typically stick with the lawyers that I'm paying.

And so you have good legal advice on this issue in a really tough spot, wanting to make sure that this whistleblower was protected, but at the same time that if in fact there was something awry here, that it would get the full airing that it's clearly getting.

So thank you for your service.

And I yield back.

Acting Director Maguire. Thank you very much, Congressman.

The Chairman. Ms. Sewell.

Ms. Sewell. Thank you, Mr. Chairman.

And, Director Maguire, thank you so much for being here.

I want to turn to what I fear may be one of the most damaging long-term effects of this whistleblower episode and that is the chilling effect that it will have on others in government who may witness misconduct, but now may be afraid to come forward to report it.

Sir, I'm worried that government employees and contractors may see how important this situation has played out and decide it's not worth putting themselves on the line. The fact that a whistleblower followed all of the proper procedures to report

misconduct and then the Department of Justice and the White House seems to have weighed in to keep the complaint hidden is problematic, sir.

I want to know whether or not you see how problematic this will be in having a chilling effect on members of the IC that you are sworn to represent and ostensibly protect.

Acting Director Maguire. Congresswoman, I think that's a fair assessment. I don't disagree with what you've said. I have endeavored to transmit to the Intelligence Community my support to whistleblowers, and I'm quite sure that for at least 2 hours this morning there are not many people in the Intelligence Community who are doing anything that's productive besides watching this.

Ms. Sewell. Right. And so my concern I think is a valid one, that in fact what has happened with this whistleblower episode will have a chilling effect.

I just also want to ask you, have you given direction to this whistleblower that he can in fact -- or he or she can in fact come before Congress?

Director, when the President called the whistleblower a political hack and suggested that he or she was potentially disloyal to the country, you remained silent. I'm not sure why, but I also think that that also adds to the chilling effect.

The statute seems pretty clear that you shall -- everybody has a role to play, the process seems pretty clear, and part of it also includes you directing the whistleblower of his or her protected rights.

Can you confirm that you've directed that whistleblower that he or she can come before Congress?

Acting Director Maguire. Well, Congresswoman, there are several questions there.

One, I do not know the identity of the whistleblower.

Two, now that the complaint has come forward, we are working with his counsel in order to be able to provide them with security clearance.

Ms. Sewell. So, sir, I think it's pretty -- my question is pretty simple. Can you assure this committee and the American public that the whistleblower is authorized to speak to the committee with the full protections of the Whistleblower Act? Can you confirm that? That's a yes-or-no question.

Acting Director Maguire. Right now I'm working through that with the chair. And to the best of ability I believe the chair was asking to have the whistleblower come forward. And I'm working with counsel, with the committee to support that request.

Ms. Sewell. Can you assure the American public that the end result will be that the whistleblower will be able to come before this committee and Congress and have the full protections of the whistle -- after all, what is the whistleblower statute for if not to provide those full protections against retaliation, against litigation?

Acting Director Maguire. Congresswoman, I'm doing everything to endeavor to support that.

The Chairman. Will the gentlewoman yield?

Ms. Sewell. Yes.

The Chairman. Director, do I have your assurance that once you work out the security clearances for the whistleblower's counsel that that whistleblower will be able to relate the full facts, within his knowledge, that concern wrongdoing by the President or anyone else, that he or she will not be inhibited in what they can tell our committee, that there will not be some minder from the White House or elsewhere sitting next to them telling them what they can answer or not answer? Do I have your assurance that the whistleblower will be able to testify fully and freely and enjoy the protections of the law?

Acting Director Maguire. Yes, Congressman.

The Chairman. Thank you.

I yield back to the gentlewoman.

Ms. Sewell. So, Mr. Director, I also wanted to understand what you're going to do to try to ensure the trust of the employees and contractors that you represent, to assure the American people that the whistleblower statute is in fact being properly adhered to and that no further efforts would be to obstruct an opportunity for a whistleblower who has watched misconduct to actually get justice.

Acting Director Maguire. Congresswoman, supporting and leading the men and women of the Intelligence Community are my highest priority. I don't consider that they work for me. As the Director of National Intelligence, I believe that I serve --

Ms. Sewell. Well, sir, I just want to say and go on record as being very clear --

Acting Director Maguire. Yes, ma'am.

Ms. Sewell. -- that this will have a chilling effect. And that is exactly not what the statute was intended for. It was intended for transparency. It was intended also to give the whistleblower certain protections. And I think the American people deserve that.

Thank you.

Acting Director Maguire. Thank you, Congresswoman.

The Chairman. Mr. Turner.

Mr. Turner. Director, thank you for being here.

Acting Director Maguire. Morning, Congressman.

Mr. Turner. Thank you for your service. And the clarity at which you have described the deliberations that you went through in applying the laws with respect to this complaint is incredibly admirable in the manner in which you've approached this.

Now, I've read the complaint, and I've read the transcript of the conversation with

the President and the President of the Ukraine. Concerning that conversation, I want to say to the President: This is not okay. That conversation is not okay. And I think it's disappointing to the American public when they read the transcript.

I can say what else it is not: It is not what's in the complaint. We now have the complaint and the transcript and people can read that the allegations of the complaint -- in the complaint are not the allegations of the subject matter of this conversation.

What else it's not, it's not the conversation that was in the chairman's opening statement. While the chairman was speaking I actually had someone text me: Is he just making this up? And, yes, he was, because sometimes fiction is better than the actual words or the text.

But luckily the American public are smart and they have the transcript. They have read the conversation. They know when someone's just making it up.

Now, we've seen this movie before. We've been here all year on litigating impeachment long before the July 25 conversation happened between the President and the President of Ukraine. And we've heard the clicks of the cameras in this Intelligence Committee's room where we've not been focusing on the issues of the national security threats, but instead of the calls for impeachment, which is really an assault on the electorate not just this President.

Now, the complaint we now have, Mr. Director, is based on hearsay. The person who wrote it says: I talked to people and they told me these things. The American public has the transcript and the complaint so they have the ability to compare them.

What's clear about the complaint is it's based on political issues, Mr. Director. He's alleging or she is alleging that the actions of the President were political in nature.

Now, that's my concern about how this is applied to the whistleblower statute.

The whistleblower statute is intended to better provide those in the Intelligence Community an opportunity to come to Congress when they are concerned about abuses of powers and laws, but it's about the Intelligence Community. It's about abuse of surveillance, about the abuse of the spy mechanisms that we have.

This is about actually the product of surveillance. Someone has been -- had access to surveillance that related the President's conversations that has brought this forward to us.

I would like for you to turn for a moment and tell us your thoughts of the whistleblower process and the concerns as to why it has to be there so that the Intelligence Community can be held accountable and we can have oversight. Because it certainly wasn't there for oversight of the President. It was there for oversight for the Intelligence Community. So if you could describe your thoughts on that.

And then I was very interested in your discussion on the issue of executive privilege, because there's been much made of the fact the law says on the whistleblower statute that you shall. Clearly you have a conflict of laws when you have both the executive privilege issue and the issue of the word "shall."

So first, could you tell us the importance of the whistleblower statute with respect to accountability of the Intelligence Community and our role of oversight there, and then your process, your effects of being stuck in the middle where you have these conflict of laws, Mr. Director?

Acting Director Maguire. Congressman, the Intelligence Community Whistleblower Protection Act is to apply to the Intelligence Community. And then it pertains to financial, administrative, or operational activities within the Intelligence Community under the oversight and responsibility of the Director of National Intelligence.

It does not allow a member of the Intelligence Community to report any

wrongdoing that comes from anywhere in the Federal Government.

And so with that, I do believe that that is about -- the Intelligence Whistleblower Protection Act was the best vehicle that the whistleblower had to use.

It came to me and discussion with our IC IG, who is a colleague, and the determination was made by the -- well, that he viewed that it was in fact credible and that it was a matter of urgent concern. And I just thought it would be prudent to have another opinion.

I have worked with lawyers my whole career, whether it was the rule of armed conflict, admiralty claims, or rules of engagement, or just the Uniform Code of Military Justice. And I have found that different lawyers have different opinions on the same subject.

We have nine Justices of the Supreme Court. More often than not the opinions are 5-4. That doesn't mean that five are right and four are wrong. There are differences of opinion.

But when this matter came to me, I have a lot of life experience, I realized the importance of the matter that is before us this morning. And I thought that it would be prudent for me to ensure that in fact it met that statute before I sent it forward in compliance with the Whistleblower Protection Act.

And I hope that responds to your question, sir.

Mr. Turner. I yield back.

The Chairman. As an aside, I want to mention that my colleague is right on both counts. It's not okay, but also my summary of the President's call was meant to be at least part in parody. The fact that that's not clear is a separate problem in and of itself.

Of course the President never said, if I -- if you don't understand me, I'm going to say it seven more times. My point is that's the message that the Ukraine President was

receiving in not so many words.

Mr. Carson.

Mr. Carson. Thank you, Chairman Schiff.

Thank you, Director Maguire, for your service.

Director Maguire, this appears to be the first Intelligence Community whistleblower complaint that has ever, ever been withheld from Congress. Is that right, sir?

Acting Director Maguire. Congressman Carson, I believe that it might be. And once again, I said in my statement it is in fact, as far as I'm concerned, unprecedented.

Mr. Carson. It is unprecedented, sir. Do you know why it's unprecedented? I think it's because the law that Congress, that this very committee drafted, really couldn't be clearer. It states that upon receiving such an urgent complaint from the Inspector General, you, the Director of National Intelligence, quote, "shall," end quote, forward it to the Intel Committees within 7 days, no ifs, ands, or buts.

And even when the IG has found complaints not to be an urgent concern or even credible, your office has consistently and uniformly still transmitted those complaints to the Intelligence Committees. Is that right, sir?

Acting Director Maguire. Congressman Carson, in the past, even if they were not a matter of urgent concern or whether they were not credible, they were forwarded. But in each and every instance prior to this it involved members of the Intelligence Community who were serving in organizations underneath the control of the DNI. This one is different because it did not meet those two criteria.

Mr. Carson. Director, does executive privilege, sir, in your mind or laws that regulate the Intelligence Community preempt or negate even the laws that safeguard the security of America's democratic elections and her democracy itself, sir?

Acting Director Maguire. No, Chairman Carson, it does not.

Mr. Carson. Yet notwithstanding, Director, this unambiguous mandate and the consistent practice of your office, that you withheld this urgent complaint from Congress at the direction of the White House and the Justice Department, you followed their orders instead of the law. And if the Inspector General had not brought this complaint to our attention, you and the Trump administration might have gotten away with this unprecedented action.

Sir, you released a statement yesterday affirming your oath to the Constitution and your dedication to the rule of law. But I'm having trouble understanding how that statement can be true in light of the facts here. Can you explain that to us, sir?

Acting Director Maguire. Congressman Carson, a couple of things. The White House did not, did not direct me to withhold the information. Neither did the Office of Legal Counsel. That opinion is unclassified and has been disseminated.

The question came down to urgent concern, which is a legal definition. It doesn't mean, is it important, is it timely? Urgent concern met the certain criteria that we've discussed several times here. So it did not. And all that did, sir, was then just take away the 7 days.

Now, as I said before, just because it was not forwarded to this committee does not mean that it went unanswered. The IC IG and the Justice Department referred it to the Federal Bureau of Investigation for investigation.

So this had not been -- and that is working while I was endeavoring to get the executive privilege concerns addressed so that it can then be forwarded. It was not stonewalling. I didn't receive direction from anybody. I was just trying to work through the process and the law the way it is written.

I have to comply with the way the law is, not the way some people would like it to

be. And if I could do otherwise, it would have been much more convenient for me, Congressman.

Mr. Carson. And lastly, Director, as you sit here today, sir, do you commit to providing every single whistleblower complaint intended for Congress to the Intelligence Committees as required by the statute, sir?

Acting Director Maguire. If it's required by the statute, Congressman Carson, yes, I will

Mr. Carson. That's good to know, sir. And I certainly hope so, because I think the unprecedented decision to withhold this whistleblower complaint from Congress, I think it raises concerns, very serious concerns for us and for me, and I think that we need to get to the bottom of this.

I yield the balance of my time, Chairman. Thank you.

Acting Director Maguire. Thank you, Congressman Carson.

Mr. Carson. Thank you.

The Chairman. How much time does the gentleman have remaining? Twenty seconds? Okay.

Director, you were not directed to withhold the complaint. Is that your testimony?

Acting Director Maguire. Yes, that is absolutely true.

The Chairman. So you exercised your discretion to withhold the complaint from the committee?

Acting Director Maguire. I did not, sir. What I did was I delayed it, because it did not meet the statutory definition of urgent concern. And I was working through --

The Chairman. And, Director, you're aware, you spent a lot of time focusing on the definition of urgent concern, you're aware that the practice of your office has been

that regardless of whether the complaint meets the definition of urgent concern, regardless of whether the Inspector General finds it credible or uncredible, the complaint is always given to our committee. You are aware that's the unbroken practice since the establishment of your office and the Inspector General. Are you aware of that?

Acting Director Maguire. Chairman, every previous whistleblower complaint that was forwarded to the Intelligence Committees involved a member of the Intelligence Community and an organization under which the Director of National Intelligence had authority and responsibility.

The Chairman. But you're aware that the past practice has been -- we're talking about urgent concern here -- that whether you or the Inspector General or everybody else believes it meets the statutory definition, the past practice has always been to give it to this committee. You're aware of that, right?

Acting Director Maguire. I am aware that that is unprecedented.

The Chairman. Okay.

Acting Director Maguire. And with that, sir, I agree, this has never happened before, but again, this is a unique situation.

The Chairman. But you, Director, made the decision, you made the decision to withhold it from the committee for a month when the White House had made no claim of executive privilege, when the Department of Justice said, You don't have to give it to them, but you can, you made the decision not to.

Acting Director Maguire. Not true, sir. What the Office of Legal Counsel said, that it does not meet the legal definition of urgent concern.

The Chairman. So it said you're not required. It didn't say you cannot provide it, it said you're not required to. That is, if you don't want to, we're not going to force you, you're not required. But it didn't say you can't. Am I right?

Acting Director Maguire. What it allowed me, and I said that in my opening statement, but even so, it was referred to the FBI for investigation, and I was endeavoring to get the information to you, Mr. Chairman, but I could not forward it as a member of the executive branch without executive privileges being addressed.

And I feel that the White House counsel was doing the best that they could in order to get that. And it took longer than I would have liked, that's for sure, but that came to a conclusion yesterday with the release of the transcripts. And because the transcripts were released, then no longer was there a situation of executive privilege and I was then free to send both the Inspector General's cover letter and the complaint to you.

The Chairman. Dr. Wenstrup.

Acting Director Maguire. But at no time was there any intent on my part, sir, ever to withhold the information from you as the chair, this committee or the Senate Intelligence Committee.

The Chairman. Well, Director, I wish I had the confidence of knowing that but for this hearing, but for the deadline that we were forced to set with this hearing, that we would have been provided that complaint, but I don't know that we would have ever seen that complaint.

Dr. Wenstrup.

Dr. Wenstrup. Thank you, Mr. Chairman.

Thank you, Mr. Maguire, for being here today.

You know, I think it's a shame that we started off this hearing with fictional remarks, the implication of a conversation that took place between a President and a foreign leader, putting words into it that did not exist, there are not in the transcript. And I will contend that those were intentionally not clear.

And the chairman described it as parody, and I don't believe that this is the time or the place for parody when we are trying to seek facts, nor do those that were involved with the conversation agree with the parody that the chairman gave us.

And, unfortunately, today many innocent Americans are going to turn on their TV and the media is only going to show that section of what the chairman had to say. But I'm also glad to know that many Americans have seen this movie too many times and they're tired of it.

But let me get to some questions, sir, if I can. Let's go to the word "credible." Credible does not mean proven true or factual. Would that be correct in this situation?

Acting Director Maguire. I find no fault in your logic, Congressman.

Dr. Wenstrup. Okay. So the interpretation it was credible. But also, was that decision made by the IG before seeing the transcript of the conversation?

Acting Director Maguire. I believe that the IC IG conducted to the best of his ability the investigation. And he found to his ability that based on the evidence and discussing it with the whistleblower, that he thought that in fact it was credible.

Dr. Wenstrup. But the IG didn't necessarily have the transcript of the conversation?

Acting Director Maguire. He did not. No, he did not.

Dr. Wenstrup. Okay. Okay. That's my question.

So to another point. One of issues that arose out the Russia investigation last Congress was the question over the latitude provided to the U.S. President to conduct foreign affairs. In 2017, I asked then CIA Director Brennan how he viewed statements made by President Obama to Russian President Medvedev regarding having more flexibility to negotiate after his 2012 election. And President Medvedev replied that he would transmit the information to Vladimir and then Medvedev stood with President

Obama.

That was in an opening hearing. Director Brennan wouldn't entertain my question and insisted on not answering due to the fact that the conversation was between the heads of government. That's what he said. He further claimed he was avoiding getting involved in political partisan issues.

Which brings me to a similar question related to this whistleblower complaint. One, you said this executive privilege is unwaiverable, and I think that's kind of consistent what CIA Brennan was implying.

Acting Director Maguire. Congressman, only the White House and the President can waive executive privilege. The President exerts executive privilege and only the White House and the President can waive that.

Dr. Wenstrup. Director Brennan gave me the impression then that that was like that's the rule, that's the law, so I'm going to have to go with that. But do you believe the President's entitled to withhold his or her communications from Congress if the conversation is used in a whistleblower case?

Acting Director Maguire. I think that the President when he conducts diplomacy and deals with foreign heads of state, he has every right to be able to have that information be held within the White House and the executive branch.

And if -- yesterday I think the transmission of the call is unprecedented, and it's also I think that other future leaders when they interact with our head of state might be more cautious in what they say and reduce the interaction that they have with the President because of that release.

Dr. Wenstrup. So we may need to change our process here, because I guess if a decision regarding executive privilege, maybe it should be made prior to submitting the communication to Congress.

Acting Director Maguire. Well, either that, I believe that this committee wrote the law, and based on what we're doing today, perhaps it needs to be relooked. I don't know. I leave that to the legislative branch.

Dr. Wenstrup. So also, if we may need to change process, the 14 days, that might be kind of tough to adhere to. So I think maybe this is special circumstance, unprecedented, maybe there should be some leeway in the timeframe instead of the narrow 14 days.

And I don't know if you know, but did you feel or did the IG ever say that they felt rushed to making a decision because of the 14-day process?

Acting Director Maguire. No, Congressman. I believe that he's a very experienced inspector general. He's used to dealing with the 14-day process. And when you work under a timeline like that, he worked with his staff and I think endeavored to the extent, because he was following the statute as he believed it was written.

So I would think that any prudent lawyer would like to have more time to be able to collect the facts and do other things. But Michael Atkinson was under the 14-day timeline and he did the best to his ability to comply with that.

Dr. Wenstrup. Did you feel rushed in any way, sir?

Acting Director Maguire. I did not.

Dr. Wenstrup. Thank you. I yield back.

Acting Director Maguire. Thank you, Congressman.

The Chairman. Ms. Speier.

Ms. Speier. Thank you, Mr. Chairman.

And thank you, Director Maguire, for your extraordinarily long service to our country.

At any point during this process did you personally threaten to resign if the

complaint was not provided to the committee?

Acting Director Maguire. No, Congressman, I did not. And I know that that story has appeared quite a bit. And I issued a statement yesterday --

Ms. Speier. All right. Thank you.

When you read the complaint, were you shocked at all by what read?

Acting Director Maguire. Congressman -- Congresswoman, excuse me -- as I said, I have a lot of life experience. I joined the Navy --

Ms. Speier. I understand your record. Could you just answer it?

Acting Director Maguire. Well, what I mean is I realize -- I realized full well, full and well, the importance of the allegation. And I also have to tell you Congressman -- Congresswoman -- when I saw that I anticipated having to sit in front of some committee some time to discuss it.

Ms. Speier. All right. The complaint refers to what happened after the July 25 conversation between the Ukraine President and the President of the United States. And the White House lawyers ordered other staff to move the transcript from its typical repository to a more secure location in order to lock down -- and that was the term used in the complaint -- all records of the phone call.

Did you -- did that reaction to the transcript seem to you like a recognition within the White House that the call was completely improper?

Acting Director Maguire. Congresswoman, I have no firsthand knowledge of that. All I have is the knowledge that the whistleblower alleges in his allegation, the whistleblower complaint. I don't know whether in fact that is true or not. My only knowledge and situation awareness of that is from the whistleblower's letter.

Ms. Speier. So knowing that the whistleblower appeared to be credible based on the evaluation by the Inspector General, and knowing that that effort was undertaken by

the White House to cover it up, why would you then, as your first action outside of the Intelligence Community, go directly to the White House, to the very entity that was being scrutinized and complained about in the complaint, why would you go there to ask their advice as to what you should do?

Acting Director Maguire. Congresswoman, the allegation that is made by the whistleblower is secondhand information, not known to him or her firsthand.

Ms. Speier. Except, Mr. Maguire, it was determined to be credible. There was an investigation done by the Inspector General.

Let me go on to another issue.

President Trump over the weekend tweeted: It appears that an American spy in one of our intelligence agencies may have been spying on our own President.

Do you believe that the whistleblower was spying on one of our intelligence agencies or spying on the President?

Acting Director Maguire. As I said several times so far this morning, I believe that the whistleblower complied with the law and did everything that they thought, he or she thought was responsible under the Intelligence Community Whistleblower Protection Act.

Ms. Speier. But you did not speak out to protect the whistleblower, did you?

Acting Director Maguire. Congresswoman, I spoke out --

Ms. Speier. Yes or no, sir.

Acting Director Maguire. I did, yes, I did within my own workforce. The thought that there was enough stuff that was appearing out in the press that was erroneous, that was absolutely incorrect. And I didn't think that I needed to respond to every single statement that was out there that was incorrect. So what I did is, my loyalty is to my workforce --

Ms. Speier. All right. Thank you. I appreciate that. Thank you.

Acting Director Maguire. Yes, ma'am.

Ms. Speier. The President on Monday said also: Who is this so-called whistleblower? Who knows the correct facts? Is he on our country's side?

Do you believe the whistleblower is on our country's side?

Acting Director Maguire. I believe that the whistleblower and all employees who come forward in the IC IG to raise concerns of fraud, waste, and abuse are doing what they perceive to be the right thing.

Ms. Speier. So working on behalf of our country.

Are you aware of the fact that whistleblowers within the Federal Government have identified waste, fraud, and abuse of over \$59 billion that has had the effect of benefiting the taxpayers and keeping our country safe as well?

Acting Director Maguire. Congresswoman, I'm not familiar with the dollar value, but having been in the government service for nearly four decades, I am very much aware of the value of the whistleblower program.

Ms. Speier. Thank you.

Let me ask you one final question. Did the President of the United States ask you to find out the identity of the whistleblower?

Acting Director Maguire. I can say, although I would not normally discuss my conversations with the President, I can tell you emphatically no.

Ms. Speier. Has anyone else within the White House or the Department of Justice asked you?

Acting Director Maguire. No, Congresswoman, no.

Ms. Speier. Thank you. I yield back.

Acting Director Maguire. You're welcome, ma'am.

The Chairman. Mr. Stewart.

Mr. Stewart. Mr. Maguire, thank you for being here today. I want you to know the good news is I'm not going to treat you like a child and I'm going to give you a chance to answer your questions if I ask you something.

I want to thank you for your service. And I'd like you to remind me, you said it earlier, how many years of service, of military service, do you have?

Acting Director Maguire. I have 36 years of service in the United States Navy, 34 of those as a Navy SEAL.

Mr. Stewart. Okay. That's great, 36 years, 34 years as Navy SEAL. I had a mere 14 years as an Air Force pilot. I proudly wear these Air Force wings. These are actually my father's Air Force wings. He served in the military as well, as did five of his sons.

And for someone who hasn't served in the military, I don't think they realize how deeply offensive it is to have your honor and integrity questioned. Some on this committee have done exactly that. They've accused you of breaking the law.

And I'm going to read just you one part of many that I could from the chairman: This raises grave concerns that your office, together with the Department of Justice and possibly the White House, have engaged in unlawful efforts to protect the President.

There's others that I could read, as they have sought, I believe, to destroy your character.

So I'm going to give you the opportunity to answer very clearly. Are you motivated by politics in your work or your professional behavior?

Acting Director Maguire. Excuse me, sir, I'm sorry?

Mr. Stewart. Are you motivated by politics in your work or your professional behavior?

Acting Director Maguire. No, Congressman, not at all.

Mr. Stewart. I'm just going to leave it there.

Acting Director McGuire. I am not. I am not political, I am not partisan, and I did not look to be sitting here as the Acting Director of National Intelligence. I thought that there were perhaps other people who would be best and more qualified to do that. But the President asked me to do this, and it was my honor to step up, for however long I'm doing it, to lead and support the Intelligence Community.

Mr. Stewart. Okay. Thank you.

Do you believe that you have followed the laws and policies and precedent in the way you've handled this complaint?

Acting Director Maguire. I do. I know I do.

Mr. Stewart. Have you in any way sought to protect the President or anyone else from any wrongdoing?

Acting Director Maguire. I have not. What I have done is endeavored to follow the law.

Mr. Stewart. Thank you.

Do you believe that you had a legal responsibility to follow the guidance of the Office of Legal Counsel.

Acting Director Maguire. The opinion of the Office of Legal Counsel is binding on the executive branch.

Mr. Stewart. Thank you.

Now, there's been a big deal made about the fact that this is the first whistleblower complaint that has been withheld from Congress. But it's also true, isn't it, that it's the first whistleblower complaint that has -- potentially falls under executive privilege, and it is also the first time that it included information that was potentially outside of the authority of DNI? Is that true?

Acting Director Maguire. To the best of any knowledge, Congressman, that is correct.

Mr. Stewart. Okay. And I will say to my colleagues sitting here, I think you're nuts if you think you're going to convince the American people that your cause is just by attacking this man and by impugning his character, when it's clear that he felt there's a discrepancy, a potential deficiency in the law, he was trying to do the right thing. He felt compelled by the law to do exactly what he did.

And yet the entire tone here is that somehow you're a political stooge who has done nothing but try to protect the President. And I just think that's nuts.

And anyone watching this hearing is surely going to walk away with the clear impression that you are a man of integrity who did what you felt was right, regardless of the questions and the innuendo that is cast by some of my colleagues sitting here today.

I'd like one more thing before I yield my time. I think we can agree that leaks are unlawful and that leaks are damaging. And for heaven sakes, we've seen plenty of that over the last 3 years. And there's a long list of leaks that have had clear implications for our national security, meaningful implications for our national security.

I want to know, do you know who was feeding the press information about this case? And have you made any referrals to the Department of Justice for unlawful disclosures?

Acting Director Maguire. Yes, sir.

Mr. Stewart. Do you know who is feeding information about this case?

Acting Director Maguire. Oh, no, no.

Mr. Stewart. Do you think it would be appropriate to make a referral to the Department of Justice to try to determine that?

Acting Director Maguire. I believe that anybody who witnesses or sees any

wrongdoing should refer any wrongdoing or complaint to the Department of Justice for investigation.

Mr. Stewart. Including investigation about leaks --

Acting Director Maguire. That is correct.

Mr. Stewart. -- of classified information.

Acting Director Maguire. Yes, Congressman, any wrongdoing.

Mr. Stewart. All right. Well, I don't know what time it is, because our clock isn't working. I suppose my time is up.

But I would conclude by emphasizing once again, good luck convincing the American people that this is a dishonorable man sitting here. Good luck convincing the American people that he has done anything but what he thinks is right. And if you think it scores political points with your friends who have wanted to impeach this President from the day he was elected, then keep going down that road.

Acting Director Maguire. Thank you, Congressman.

The Chairman. I would only say, Director, no one has accused you of being a political stooge or dishonorable, no one has said so, no one has suggested that.

Mr. Stewart. You've accused him of breaking the law, Mr. Chairman.

The Chairman. But it is certainly our strong view, and we would hope it would be shared by the minority, that when the Congress says that something shall be done, it shall be done. And when that involves the wrongdoing of the President, it is not an exception to the requirement of the statute.

And the fact that this whistleblower has been left twisting in the wind now for weeks, has been attacked by the President, should concern all of us, Democrats and Republicans, that there was ever allowed to come to be, that allegations this serious and this urgent were withheld as long as they were from this committee. That should

concern all of us.

But no one is suggesting that there is a dishonor here. But nonetheless we are going to insist that the law be followed.

Mr. Stewart. Mr. Chairman, will you yield?

The Chairman. Mr. Quigley.

Mr. Quigley. Thank you, Mr. Chairman.

Thank you, sir, for your service and for being here.

As you know, those in public life who work and deal with other countries -- ambassadors, secretaries of state, many in the intelligence field -- they are vetted. They go for approval before the Senate. They have to get clearance. And you understand the policy reasons for that, correct?

Acting Director Maguire. Yes, Congressman.

Mr. Quigley. Do you have any issues with civilians without approval, without vetting, without clearance taking on those roles?

Acting Director Maguire. Yes, I do, Congressman.

Mr. Quigley. And why would you have those concerns?

Acting Director Maguire. Well, in order to be able to handle sensitive information, whether it be diplomatic or certainly intelligence information, one must be vetted. This is the important part of protecting national security. We just can't bring people in and automatically wave a magic wand to put holy water on them to give them a security clearance. It is a matter of vetting.

For me to come back into government, the FBI went back for 15 years in my background, examined all of my financial records, to make sure that I was in fact worthy of having an intelligence clearance.

And we do the same thing with the Intelligence Community. Everybody who is

subject or everybody who is privileged to have access to intelligence information is a sacred trust. The American people expect us to keep them safe, as I said earlier. In order to do that we need to ensure that any person who has access to this sensitive information of the United States has been thoroughly vetted to ensure that they are able to handle that information.

Mr. Quigley. It's not just the intel issues, it's the issues of national policy, that people have an official role that they carry out on behalf of the United States and we know what their role is, correct?

Acting Director Maguire. Yes, Congressman.

Mr. Quigley. What is your understanding right now of what Mr. Giuliani's role is?

Acting Director Maguire. Mr. Congressman, Congressman Quigley, I respectfully just refer to the White House to comment on the President's personal lawyer.

Mr. Quigley. Okay. So, so far what I've gleaned is you see that he's his personal lawyer. We read in the complaint, we read in this modified transcript he's mentioned five times. Your reaction to the fact that this civilian without any of this vetting has played this role?

Acting Director Maguire. No, sir. All I'm saying is that I know what the allegations are. I'm not saying that the allegations are true, and that's where the committee --

Mr. Quigley. Well, I don't think there is any question of the credibility of the complaint that's in the transcript. The President mentions and speaks highly of Mr. Giuliani: a highly respected man, he was the mayor of New York, a great mayor, I would like him to call you, I will ask him to call you along with the Attorney General.

Your reaction to a civilian dealing with these? In the complaint it talks about our national security. The Inspector General talks about this as the highest responsibility

among those that the DNI has. And, obviously, Mr. Giuliani is playing this role.

To your knowledge, does he have security clearance?

Acting Director Maguire. I don't know. Congressman Quigley, I'm neither aware or unaware whether or not Mr. Giuliani has a security clearance.

Mr. Quigley. Before this all happened, were you aware of his role or understanding what his role was, doing what you do?

Acting Director Maguire. Congressman Quigley, my only knowledge of what Mr. Giuliani does, I have to be honest with you, I get from TV and from the news media. I am not aware of what he does in fact for the President.

Mr. Quigley. Are you aware of any communication by Mr. Giuliani and your office about how he should proceed with this role, given the classified nature, the national security implications that are in the complaint, that are in the transcript, and the role that he is playing?

Acting Director Maguire. Well, I have read the transcripts just as you have, so my knowledge of his activity in there is just limited to the conversation that the President had with the President of Ukraine.

Mr. Quigley. So we respect your role. And while we have differences of opinion, we continue to respect your integrity and your honor. But we have this vast amount of experience you have and we need to understand how it plays juxtaposition with the complaint.

I'm reading: An OMB official informed departments and agencies that the President earlier that month had issued instructions to suspend all U.S. security assistance to Ukraine.

Your reaction to that?

Acting Director Maguire. Congressman Quigley, I think that anything that has to

do with the President's lawyer and these matters should be referred to the White House and the President for that.

Mr. Quigley. Well, no, I'm just reading the complaint.

Acting Director Maguire. I lead and I support the Intelligence Community and the 17 different departments and agencies underneath my leadership. I do not lead the President and I have no authority or responsibility over the White House.

Mr. Quigley. But you're aware with all your experience of the fact that we have this relationship with Ukraine, that they are dependent upon us, and this complaint doesn't concern you? You can't say that publicly that it concerns you?

Acting Director Maguire. There's a lot of things that concern me, I'm the Director of National Intelligence. And this one here, though, I just have to defer back to the conversation that the President had is his conversation. How the President of the United States wants to conduct diplomacy is his business. And it's not whether or not I approve it or disapprove of it, that is the President's business on how he wants to conduct that, sir.

Mr. Quigley. The issue is whether it commits a crime and that bothers you.

The Chairman. The time of the gentleman has expired.

Director, you may complete your answer if you wish.

Acting Director Maguire. Excuse me, sir?

The Chairman. If you wanted to respond, you may.

Acting Director Maguire. No, I'm fine. Thank you, Chairman.

The Chairman. Ms. Stefanik.

Ms. Stefanik. Thank you, Mr. Maguire. Thank you for being here. We appreciate your life of public service.

My question relates to, prior to the transmission on August 26 from the IG to the

DNI, were there any conversations that you had with the IG, prior to August 26, related to this matter?

Acting Director Maguire. Congresswoman, there's been a lot that's happened in the last several weeks. As far as the timeline is concerned, I think that -- I'd like to take that and get back to you and give you a full chronology, if I may, on the actual timeline of events.

Ms. Stefanik. That would be very helpful to this committee in terms of, if there were any preliminary conversations, what was discussed, and if there was any action taken as a result of those conversations.

I want to turn to the complaint itself, which is made public for the American public to read. And let me preface this by saying that I greatly appreciate your statement that you believe the whistleblower is operating in good faith. I think that's very important for Americans to hear.

But on page one -- and I'm not going to improvise for parody purposes like the chairman of this committee did, I'm going to quote it directly -- on page one the complaint reads, quote, "I was not a direct witness to most of the events described."

This seems like a very important line to look into, and I think the American public will have questions in particular about that line.

So my question to you is, for the record, did the IG fully investigate the allegations into this complaint at this time? Has the IG fully investigated the allegations in this complaint?

Acting Director Maguire. As I said earlier, Congresswoman, I believe that the Intelligence Community Inspector General did a thorough investigation with the 14-day timeframe that he had, and under that timeline, to the best of his ability, made the determination that it was both credible and urgent. I have no reason to doubt that

Michael Atkinson did anything but his job.

Ms. Stefanik. Sure. So when you talk about a full investigation, were the veracity of the allegations in the complaint looked into? There were many references to White House officials. Do you know if the IG spoke with those White House officials? Do you know if he investigated again the truthfulness of these allegations? Or was it a preliminary investigation?

Acting Director Maguire. Congresswoman, I'd have to defer to the IG to respond to you on that. But all I do know, although I do not know the identity of the whistleblower, I do know that Michael Atkinson had in fact discussed this with the whistleblower and found his complaint to be credible.

As far as who else he spoke with, I am unaware of what went on in Michael Atkinson's investigation into this matter.

Ms. Stefanik. So as of today the only individual that we know that the IG spoke with is the complainant, is the author and the whistleblower?

Acting Director Maguire. Congresswoman, what I'm saying is I'm unaware who else Michael Atkinson may have spoken to. I'm just unfamiliar with his investigative process and everybody that he spoke to in this regard.

Ms. Stefanik. Thank you for the answer on the record.

Again, for the American public, they are going to have many questions as they read this complaint today. And because on page one it says, no direct knowledge, I think it's very important that we conduct -- that we have questions answered for individuals that do have direct knowledge.

And with that, I yield back.

Acting Director Maguire. Thank you, Congresswoman.

The Chairman. Mr. Swalwell.

Mr. Swalwell. Thank you.

Mr. Maguire, do you agree that the definition of a coverup is an attempt to prevent people from discovering a crime?

Acting Director Maguire. I'd say that's close. I mean, I'm sure there's others wouldn't. But I don't disagree with that, sir.

Mr. Swalwell. And in the whistleblower's complaint, the whistleblower alleges that immediately after the President's call with the President of Ukraine on July 25, White House lawyers moved quickly to direct White House officials to move electronic transcripts from one computer system, where it was normally stored, to a secret classified information system. Is that right?

Acting Director Maguire. Congresswoman -- excuse me, sir. I apologize.
Congressman --

Mr. Swalwell. Is that what was alleged in the whistleblower complaint?

Acting Director Maguire. Congressman --

Mr. Swalwell. Yes or no?

Acting Director Maguire. Sir, all I know is that is the allegation.

Mr. Swalwell. I'm asking you that. That's what's alleged.

Acting Director Maguire. That's the allegation.

Mr. Swalwell. And you read that allegation, and the first people that you go to after you read that allegation are the White House lawyers who are telling the White House officials who see this transcript and move it into a secret compartmentalized system. Those are the first people you go to.

Acting Director Maguire. Well, let's say a couple of things. One --

Mr. Swalwell. Is that a yes or no?

Acting Director Maguire. Yes, but --

Mr. Swalwell. Okay. I'm going to keep going here.

So you get this complaint the Inspector General says urgent, credible. You have no wiggle room to not go to Congress. And instead you send your concern to the subject of the complaint, the White House.

So did the White House tell you after you sent your concern about privilege, did they tell you to go to the Department of Justice next?

Acting Director Maguire. We -- my -- my team, my counsel, in consultation with the Intelligence Community Inspector General, went to the Office of Legal Counsel.

Mr. Swalwell. So --

Acting Director Maguire. And we were not directed to do that. We --

Mr. Swalwell. And, Mr. Maguire, you said that this did not involve ongoing intelligence activities. However, the whistleblower says that this is not the first time that the President's transcripts with foreign leaders were improperly moved to an Intelligence Community covert system. Is that a part of allegation?

Acting Director Maguire. I believe that's in the letter, and I will let the letter speak for itself, sir.

Mr. Swalwell. Well, what can also speak for itself is that if a transcript with a foreign leader is improperly moved into an Intelligence Community classification system, that actually would involve your responsibilities. Is that right?

Acting Director Maguire. Not necessarily. That is -- I do not -- it is not underneath my authority and responsibility. And once again, this is an allegation that has been made. Does not necessarily mean that that is a true statement.

Mr. Swalwell. And the allegation was determined to be urgent and credible by the Inspector General. Is that right?

Acting Director Maguire. Yes, it was.

Mr. Swalwell. So would you also want to know, though, considering that you are the Director of National Intelligence and transcripts are being moved into a secret intelligence system, whether other transcripts perhaps, maybe the President's phone calls with Vladimir Putin with MBS of Saudi Arabia or Erdogan of Turkey or Kim Jong-un, would you want to know if those were also being improperly moved because the President is trying to cover up something?

Acting Director Maguire. Congressman, how the White House, the Office of the -- the Executive Office of President and the National Security Council conduct their business is their business.

Mr. Swalwell. Well, it's actually your business to protect America's secrets. Is that right?

Acting Director Maguire. It's all of ours, this committee as well.

Mr. Swalwell. And if there is coverup activity because the President is working improperly with a foreign government, that could compromise America's secrets. Is that right?

Acting Director Maguire. Congressman, there is an allegation of a coverup. I'm sure an investigation and before this committee might lend credence or disprove that. But right now all we have is an allegation for secondhand information from a whistleblower.

Mr. Swalwell. The Department --

Acting Director Maguire. I have no knowledge of whether or not that is true and accurate statement.

Mr. Swalwell. The Department of Justice opinion you relied upon said that you are not responsible for preventing foreign election interference. Is that right? That was in the opinion.

Acting Director Maguire. What the Office of Legal Counsel did was over 11 pages --

Mr. Swalwell. No, they said --

Acting Director Maguire. -- an opinion defining and explaining their justification for it not complying with urgent --

Mr. Swalwell. Are you responsible for preventing election interference?

Acting Director Maguire. Election interference --

Mr. Swalwell. By a foreign government.

Acting Director Maguire. Congressman, election interference --

Mr. Swalwell. I hope you this answer is yes or no. Are you responsible for preventing election interference?

Acting Director Maguire. Election interference is a top priority --

Mr. Swalwell. Boy, I really hope you know the answer to this question.

Acting Director Maguire. It is a top priority of the Intelligence Community.

Mr. Swalwell. Is it your priority, though?

Acting Director Maguire. Yes, it is.

Mr. Swalwell. Okay. So this complaint also alleges a shakedown with a foreign government by the United States President involving a rogue actor, as Mr. Quigley pointed out, who has no clearance, no authority under the United States, and an effort by the White House to move the transcript of this call to a secret system. Is that right? That's at least what's alleged.

Acting Director Maguire. Congressman, I believe that election security is my most fundamental priority. However, this complaint focused on a conversation by the President with another foreign leader, not election security.

Mr. Swalwell. I yield back. Thank you.

Acting Director Maguire. Thank you, Congressman.

RPTR BRYANT

EDTR ROSEN

[11:10 a.m.]

The Chairman. And if that conversation involved the President requesting help in the form of intervention in our election, is that not an issue of interference in our election?

Acting Director Maguire. Chairman, once again, this was sent to the Federal Bureau of Investigation --

The Chairman. I understand that, but you're not suggesting, are you, that the President is somehow immune from the laws that preclude a U.S. person from seeking foreign help in a U.S. election, are you?

Acting Director Maguire. What I am saying, Chairman Schiff, is that no one, none of us is above the law in this country.

The Chairman. Mr. Hurd.

Mr. Hurd. Thank you, Chairman.

Admiral, it's a pleasure to be here with you. I tell all my friends all the time that I've gotten more surveillance as a Member of Congress than I did as an undercover officer in the CIA, and I think you've gotten more arrows shot at you since you've been DNI than you did in your almost four decades on the battlefield.

A specific question: The letter that's contained in the whistleblower package is actually dated August 12th. And I recognize this may be a better question to be asking the IC IG. That letter is dated August 12th, and it's to the chairman of the Senate Select Committee on Intelligence, and to the chairman of this committee. Do you know if the whistleblower provided that letter to those two chairmen concurrently with the IC IG?

Acting Director Maguire. No, Congressman. As I said earlier, I believe that the whistleblower and the IC IG acted in good faith and followed the law every step of the way.

Mr. Hurd. Good copy. We've talked about the way the law on the whistleblower statute says you shall share if it's decided to be an urgent concern. However, best practices has always been to share regardless of whether that urgent concern.

Do you see any reason, negative impact on the Intelligence Community if that legislation was changed to say all whistleblower complaints should be shared with the committees?

Acting Director Maguire. That is correct. In addition to that, Congressman, I mean, let's just say the allegation was made against a member of this committee. You know, members of this committee, although you are the Intelligence Committee, are not members of the Intelligence Community and, as the DNI, I have no authority or responsibility over this committee.

Mr. Hurd. But my question is, do you think that if every whistleblower complaint that was brought to the Intelligence Community Inspector General was always shared with this committee, would that have any impact on intelligence equities? And I ask that because I don't know why when the statute was written that it did didn't say all should be shared rather than only urgent concern. And my question to you, as the head of the Intelligence Community, do you think if we changed that law, would it have impact on intelligence equities?

Acting Director Maguire. I don't think that a law could be changed to cover all things that might possibly happen. I think we have a good law. I think it is well-written. However, as I said, Congressman, this is unprecedented and this is a

unique situation. Why this one is -- this is why we're sitting here this morning.

Mr. Hurd. Sure. And I hope we're not in this position again. However, if we do find ourselves in this position again, I want to make sure that there's not any uncertainty in when information should be shared to this committee.

Was the ODNI, under you or under your predecessor, aware of an OMB decision to suspend Ukrainian aid, as was alleged in this complaint?

Acting Director Maguire. As far as I am concerned personally, Congressman, no, I have no knowledge of that. And I am unaware if anybody within the ODNI is aware of that. I just don't know the answer to that.

Mr. Hurd. When -- and I apologize for a lot of these legal questions that may be best directed at somebody else, but I feel like you have a perspective. When does OLC, Office of Legislative --

Acting Director Maguire. Legal Counsel.

Mr. Hurd. -- Legal Counsel, excuse me, guidance override laws passed by Congress?

Acting Director Maguire. The Office of Legal Counsel does not override laws passed by Congress. What it does is it passes legal opinion for those of us who are in the executive branch. And the Office of Legal Counsel, legal opinion is binding to everyone within the executive branch.

Mr. Hurd. Good copy. And I have two final questions, and I'm going to ask them together to give you the time to answer --

Acting Director Maguire. Yes, sir.

Mr. Hurd. -- them both. What is your assessment of how intelligence operations in general are going to be impacted by this latest episode? And when I say "episode," I'm referring to the media circus, the political circus, the technical issues that

are related to this whistleblower revelation. You alluded to it in some of your previous questions, but I would like your assessment on how this could impact intelligence operations in the future.

And I do believe this is your first time testifying to Congress in your position, right? And I would welcome in the end -- I know this is a little off topic -- what do you see our greatest challenges and threats to this country, as the Director of National Intelligence?

Acting Director Maguire. Well, let me answer the latter part of that. I think that the greatest challenge that we face is not necessarily from a kinetic strike with Russia or China or Iran or North Korea. I think the greatest challenge that we do have is to make sure that we maintain the integrity of our election system.

We know right now that there are foreign powers who are trying to get us to question the validity on whether or not our elections are valid. So first and foremost, I think that protecting the sanctity of our election within the United States, whether it be national, city, State and local, is perhaps the most important job that we have with the Intelligence Community.

Outside of that, we do face significant threats. I'd say number one is not necessarily kinetic, but cyber. This is a cyber world. We talk about whether or not the great competition is taking place with Russia and China, and we are, you know, building ships and weapons to do that; but in my estimation, the great competition with these countries is taking place right now and is doing that in the cyber realm.

Mr. Hurd. Admiral, my time is I think running out, but the broader implications on intelligence operations of this current whistleblower situation.

Acting Director Maguire. Well, I will tell you, in light of this, I clearly have a lot of work as the leader of this community to do -- to reassure my -- to reassure, you know, the Intelligence Community that, in fact, you know, that I am totally committed to the

whistleblower program.

And I am absolutely, absolutely committed to protecting the anonymity of this individual as well as making sure that Michael Atkinson, who is our IC IG, continues to be able to do his job unfettered. But I think that, with that, I certainly have to be proactive in my communications with my team.

Mr. Hurd. Mr. Chairman, I yield back the time I may or may not have.

The Chairman. Mr. Castro.

Mr. Castro. Thank you, Chairman.

Thank you, Director Maguire, for your testimony today. I want to say thank you also to the whistleblower for having the courage and the bravery to come forward on behalf of the Nation. Thank you to Mr. Atkinson also, the Inspector General, for his courage in coming forward to Congress.

You mentioned that you believe that the whistleblower's report is credible, that the whistleblower is credible, that the whistleblower acted in good faith. You've had a chance now as we have, and I believe the American people have, had an opportunity to review both the whistleblower complaint and the transcript that was released of the phone call between the President of the United States and the President of the Ukraine. You've read both documents by now, haven't you?

Acting Director Maguire. Yes, Congressman.

Mr. Castro. Would you say that the whistleblower's complaint is remarkably consistent with the transcript that was released?

Acting Director Maguire. I would say that the whistleblower's complaint is in alignment with what was released yesterday by the President.

Mr. Castro. Okay. I want to read you a quick section of both to underscore exactly how accurate and consistent this complaint is. On page 2 of the whistleblower's

complaint, the whistleblower says: "According to the White House officials who had direct knowledge of the call, the President pressured Mr. Zelensky to," and then there's a few bullet points. The first one says, "initiate or continue an investigation into the activities of former Vice President Joseph Biden and his son Hunter Biden"; and the third bullet point, "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."

In the transcript that was released on page 4 of the first paragraph into what looks like the third sentence, President Trump says: "The former ambassador from the United States, the woman, was bad news, and the people she was dealing with in the Ukraine were bad news, so I just want to let you know that. The other thing, 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," et cetera.

Do you have reason to doubt what the whistleblower has brought forward?

Acting Director Maguire. Getting back into Michael Atkinson's determination on whether or not it was credible or urgent concern. As the DNI, it is not my place to ensure that it is credible. That is the IC IG's job, as the inspector. He has determined that it is credible.

My only trouble was that, in fact, it involved someone who is not in the Intelligence Community, or in an organization under which I have authority and responsibility. Outside of that --

Mr. Castro. Director Maguire, you agree that it involved intelligence matters, it involved an issue of election interference, it involved an investigation of U.S. persons, including a former Vice President. If you had knowledge, or the CIA had knowledge that

a government was going to investigate or drum up an investigation against a former Vice President, would that not -- that wouldn't qualify as an intelligence matter? Would that qualify as an intelligence matter, yes or no?

Acting Director Maguire. Well, I don't mean to say -- that's kind of a hypothetical question, sir.

Mr. Castro. I don't think it's hypothetical. That's exactly what's in the transcript. That's what he's asking for.

Acting Director Maguire. What the complaint, the complaint --

Mr. Castro. But that's what the President is asking the President of the Ukraine to do. He's asking the President of the Ukraine to investigate a former Vice President of the United States. Does that qualify as an intelligence matter that the CIA would want to know?

Acting Director Maguire. The conversation was by the President to the President of the Ukraine, as you know. And it is his -- I am not --

Mr. Castro. But, Mr. Maguire, I understand, but that cannot be -- that cannot be an ultimate shield against transparency. It can't be an ultimate shield against accountability. The President is not above the law.

One thing that you haven't told us is if your office, or if the Inspector General is not able to investigate, then who is able to investigate?

Acting Director Maguire. Congressman Castro, once again, sir, as I mentioned several times so far, although it did not come to the committee, the complaint was referred to the Judicial Department for criminal investigation. This was not swept under the rug.

Mr. Castro. I have one more question for you. Why did your office think you should appeal the IG's determination about, quote/unquote, "urgent concern" to DOJ?

That has never been done before. It's never been done before.

Acting Director Maguire. This is unprecedented in that in the past, there has never been a matter that the Inspector General has investigated that did not involve a member of the Intelligence Community or an organization that the Director of National Intelligence --

Mr. Castro. One last point I would make with respect to -- you keep saying the President is not part of the Intelligence Community. I believe he is. The President, you agree, has the ability to declassify any single intelligence document. Do you agree that's true?

Acting Director Maguire. The President has original classification authority.

Mr. Castro. Then how is that person outside of the Intelligence Community?

Acting Director Maguire. He is the President of the United States, above the entire executive branch.

Mr. Castro. Thank you.

Acting Director Maguire. Thank you, Congressman.

The Chairman. Mr. Ratcliffe.

Mr. Ratcliffe. Thank you, Chairman.

Admiral, good to see you.

Acting Director Maguire. Good to see you again, sir.

Mr. Ratcliffe. You served in the Navy 36 years, you commanded SEAL Team 2, and you retired as Vice Admiral of the Navy, correct?

Acting Director Maguire. That is correct, Congressman.

Mr. Ratcliffe. All right. And despite the fact that after that service, you became acting DNI 23 days after the Trump-Zelensky call, and 4 days after the whistleblower made his or her complaint, you were subpoenaed before this committee after being

publicly accused of committing a crime, correct?

Acting Director Maguire. Yes, Congressman.

Mr. Ratcliffe. Chairman Schiff wrote a letter on September 13th accusing you of being part of a, quote, "unlawful cover-up," and then the Speaker of the House took it one step further. She went on national TV and said not once but twice that you broke the law, that you committed a crime. She said: The Acting Director of National Intelligence blocked him, meaning the IC IG, from disclosing the whistleblower complaint. This is a violation of the law.

You were publicly accused of committing a crime. You were also falsely accused of committing a crime. As you have so accurately related, you were required to follow not just an opinion of what the law is, but the opinion from the Justice Department, an 11-page opinion about whether or not you were required by law to report the whistleblower complaint, correct?

Acting Director Maguire. That is correct, Congressman Ratcliffe.

Mr. Ratcliffe. And that opinion says: "The question is whether such a complaint falls within the statutory definition of urgent concern that the law requires the DNI to forward to the Intelligence Committee. We conclude that it does not." Did I read that accurately?

Acting Director Maguire. Yes.

Mr. Ratcliffe. I better have, right? That's an opinion not from Bill Barr, that's an opinion from the Department of Justice ethics lawyers, not political appointees, but career officials that serve Republicans and Democrats, the ethics lawyers at the Department of Justice that determined that you did follow the law. So you were publicly accused, you were also falsely accused, and yet here today, I haven't heard anything close to an apology for that. Welcome to the House of Representatives with

Democrats in charge.

Let me turn to the matter that we're here for. A lot of talk about this whistleblower complaint. The question is at this point, given what we have, why all the focus on this whistleblower. The best evidence of what President Trump said to President Zelensky is a transcript of what President Trump said to President Zelensky.

I'm not casting aspersions on the whistleblower's good faith or their intent, but a secondhand account of something someone didn't hear isn't as good as the best evidence of what was actually said. And to that point, despite good faith, the whistleblower is, in fact, wrong in numerous respects.

And I know everyone is not going to have time to read the whistleblower's complaint, but the whistleblower says that, I am deeply concerned, talking about the President, that there was a serious or flagrant problem, abuse, or violation of the law.

The whistleblower then goes on to say, I was not a direct witness to the events described. However, I found my colleagues' accounts of this to be credible. And then talking about those accounts of which this whistleblower complaint is based on, the whistleblower tells us the officials that I spoke with told me, and I was told that, and I learned from multiple U.S. officials that, and White House officials told me that, and I also learned from multiple U.S. officials that. In other words, all of this is secondhand information. None of it is firsthand information.

The whistleblower then goes on to cite additional sources besides those second-hand information. Those sources happen to include mainstream media. The sources that the whistleblower bases his complaints on include The Washington Post, The New York Times, Politico, The Hill, Bloomberg, ABC News and others. In other words, much like the Steele dossier, the allegations in the whistleblower's complaints are based on third-hand mainstream media sources rather than firsthand information.

The whistleblower also appears to allege crimes not just against the President, but says with regard to this scheme to solicit interference from a foreign country in the 2020 election that, quote, "the President's personal lawyer, Mr. Rudolph Giuliani, is a central figure in this effort, and Attorney General Barr appears to be involved as well." But buried in a footnote a couple of pages later, the whistleblower admits, "I do not know the extent to which, if at all, Mr. Giuliani is directly coordinating his efforts on Ukraine with Attorney General Barr." The Attorney General does know, because he issued a statement yesterday saying there was no involvement.

My point in all of this is, again, the transcript is the best evidence of what we have. And so that the American people are very clear, what that transcripts relates is legal communications. The United States is allowed to solicit help from a foreign government in an ongoing criminal investigation, which is exactly what President Trump did in that conversation. So if the Democrats are intent on impeaching the President for lawful conduct, then be my guest.

I yield back.

Acting Director Maguire. Thank you, Congressman Ratcliffe.

The Chairman. Mr. Heck.

Mr. Heck. Thank you, Mr. Chairman.

Director, thank you for being here, sir. Thank you very much for your service. I want to step back a little bit and kind of put into perspective I think what's at stake here. Obviously, yesterday the White House released the transcript of that July 25th conversation between President Trump and President Zelensky. And we now know that this phone call was, indeed, a part of the whistleblower complaint.

Yesterday, the chair at a press conference characterized the President's conversation in that call as a shakedown of the Ukrainian leader. He was not suggesting

that it was a shakedown for either information or money, but instead, it was a shakedown for help to win a Presidential election which is coming up next year.

So now let's press rewind to May 7th of this year, when FBI Director Christopher Wray testified before the United States Senate that -- and I'm quoting now -- "any public official, or member of any campaign, should immediately report to the FBI any conversations with foreign actors about 'influencing or interfering with our election.'" Director Wray is, of course, the top cop in the United States of America.

You agree with Director Wray, do you not, sir?

Acting Director Maguire. Congressman Heck, I do not disagree with Director Wray and --

Mr. Heck. Is that the same thing as you agree with him, sir?

Acting Director Maguire. Yes.

Mr. Heck. Okay, thank you. Let me go on.

Acting Director Maguire. Once again, it was referred to the FBI.

Mr. Heck. Let me fast-forward. Was it referred to the FBI by the President, who actually engaged in the conversation?

Acting Director Maguire. The --

Mr. Heck. No, it was not. Let me fast-forward to June 13th -- that's 5 weeks in advance of that -- when the chair of the Federal Elections Commission made the following statement. Follow me, please. "Let me make something 100 percent clear to the American public, and anyone running for public office. It is illegal for any person to accept, solicit, or receive anything of value from a foreign national in connection with a U.S. election. This is not a novel concept. Election intervention from foreign governments has been considered unacceptable since the beginnings of our Nation."

Do you agree with the FEC Chair Weintraub, Mr. Director?

Acting Director Maguire. I agree that our elections are sacred and we -- any interference from an outside source is just not what we want to do.

Mr. Heck. And to solicit or accept it is illegal?

Acting Director Maguire. I don't know about that. I'm not a lawyer, sir. I don't mean to be evasive, but I can't --

Mr. Heck. So you think it is okay for a public official to solicit, or it may be okay? You do not know the law in this regard. You think it may be okay for a candidate or an elected official to solicit foreign interference in our election? I cannot believe you're saying that. You're not really saying that, right?

Acting Director Maguire. I'm not saying that, Congressman Heck, at all.

Mr. Heck. So we should note that the FEC chair was prompted to say this because it was just literally -- literally the day before that the President of the United States sat at the Resolute desk in the most iconic room in the United States, the Oval Office, and said that FBI Director Wray was wrong. You're obviously disagreeing with that.

He also said that he would consider accepting foreign help. And, of course, yesterday we learned that the President did, in fact, did, in fact, do exactly that, solicited that help.

Director, whether it's this President or any president, do you believe it is okay for the President of the United States to pressure a foreign country into helping him or her win an election?

Acting Director Maguire. Congressman Heck, I believe that no one is above the law, and we've discussed what we think applies to the law.

Mr. Heck. So it is illegal to solicit --

Acting Director Maguire. No, I can't answer that. Once again, sir --

Mr. Heck. I can't reconcile your two statements. Is it okay for a President to pressure -- any President to pressure a foreign government for help to win an election?

Acting Director Maguire. It is unwarranted. It is unwelcome. It is bad for the Nation to have outside interference of any foreign power.

Mr. Heck. Thank you. And by extension, it would be equally unacceptable to extort that assistance as well?

Acting Director Maguire. I mean, all I know is that I have the transcripts as you have. I have the whistleblower complaint as you have. And --

Mr. Heck. I wasn't referring to the whistleblower complaint. But if any President were to do this -- and I accept your answer -- I think it's unacceptable, Director.

Acting Director Maguire. Yes, sir.

Mr. Heck. I think it's wrong, and I think we all know it. I think we were taught this at a very young age. And there is a voice within most of us -- unfortunately, evidently not all of us -- that suggests that it is wrong. It is illegal, and it is wrong. And I thank you, sir.

And with that, I yield back.

Acting Director Maguire. Congressman, if I may just answer, once again --

Mr. Heck. I've run out of time.

The Chairman. Director, you may answer. Director, go ahead. Feel free to respond.

Acting Director Maguire. Once again, it was referred to the Federal Bureau of Investigation.

Mr. Heck. Not by the President.

Acting Director Maguire. No, by this office --

Mr. Heck. Right.

Acting Director Maguire. -- and by the office of -- and by the IC IG.

Mr. Heck. Director Wray said that any candidate or elected official should immediately report it. He didn't say that the Director of ODNI should report it, although you should and you did, thank you, but the person involved did not do what Director Wray said should occur, period.

Acting Director Maguire. Thank you, Congressman.

Mr. Heck. Thank you, sir.

The Chairman. Mr. Welch.

Mr. Welch. Thank you.

Director, I want to say thank you. There's nobody in this room who can claim to have served their country longer and more valiantly than you. And I heard in your opening remarks that your family before you has been committed to this country, and I say thank you.

Second, I appreciated your candor when in your opening statement, you acknowledged that the whistleblower acted in good faith.

And third, I appreciated your acknowledgement that the Inspector General also acted in good faith and according to his view of the law.

And I want to say this: When you said you were in a unique position, that's an understatement. You got a complaint involving the President of the United States and also the United States Attorney General. I disagree with some of the decisions you made, but I have no doubt, whatsoever, that the same sense of duty that you applied in your long and illustrious career guided you as you made these decisions. So thank you for that.

But I want to ask a few questions about the extraordinary document that came to your attention. The DNI has jurisdiction over foreign interference in our elections,

correct?

Acting Director Maguire. That is correct.

Mr. Welch. And, of course, you're aware, as we all are, of the Mueller Report and his indictments against 12 foreign nationals, Russians who actively interfered in our election, correct?

Acting Director Maguire. I have read the report, yes, Congressman.

Mr. Welch. So it's just a huge responsibility that your agency has, correct? And in this case, because of the two things you mentioned, that the President is the one person that's above the Intelligence Community and your sense about executive privilege, you did not forward the complaint to us, correct?

Acting Director Maguire. I did not -- yes, Congressman Welch, because I was still working with the White House --

Mr. Welch. No, I understand that. You've been very clear on that. But let me just ask a hypothetical, just to show the dilemma that you were in. Let's say a U.S. Senator who is well-connected, or a private citizen really well-connected, had access to, and had a conversation as a result of that with a foreign -- the leader of a foreign country and asked that person for a favor, the U.S. Senator let's say, of providing dirt on a political opponent. Is that something that you would see that should be forwarded to this committee?

Acting Director Maguire. Congressman, I don't mean to be disrespectful, but it's very difficult to answer hypothetical questions. I'm not sure I understand.

Mr. Welch. Well, I won't make it hypothetical. Let's say instead of being a conversation between the President and the President of Ukraine, it was a U.S. Senator who, let's say, was the head of the Foreign Relations Committee and was asking for the foreign leader --

Acting Director Maguire. I understand, sir.

Mr. Welch. So would you forward that to our committee?

Acting Director Maguire. Sir, that would not be -- once again, I think I mentioned that a little bit earlier in our conversation, that the United States Senator is not a member of the Intelligence Community, and the Director of National Intelligence does not have the authority and responsibility for the U.S. Senate. So any wrongdoing in that regard should be referred to the Department of Justice for criminal investigation.

Mr. Welch. Well, I'd respectfully disagree with you, because obviously, that would be a solicitation by that U.S. Senator for interference in our elections, and that's in your jurisdiction, correct?

Acting Director Maguire. Well, election interference is, indeed, yes, Congressman Welch.

Mr. Welch. Okay.

Acting Director Maguire. But once again, Congressman, although it is, as far as what the legal responsibility to do, in compliance with the Intelligence Reform Act, the Whistleblower Protection Act, it does not -- the statute does not allow for that to be done.

Mr. Welch. Well, I disagree with that.

Acting Director Maguire. Yes, sir.

Mr. Welch. But here's the dilemma that you were in and we're in, but we're going to now be able to follow up because executive privilege, if it existed, was waived. Under your approach, as you saw it, it means that no one would be investigating the underlying conduct, because in this case, executive privilege applies or may apply; and number two, the President who had the conversation is above the law. So that's a dilemma for our democracy, is it not?

Acting Director Maguire. The complaint was sent to the Federal Bureau of Investigation, totally disregarding any concern for executive privilege.

Mr. Welch. But the Federal Bureau of Investigation never did a follow-up investigation, right?

Acting Director Maguire. I believe that they have concluded the investigation. I'm not sure. In addition to being involved with this matter here, I also have other pressing matters as the Director. I apologize.

Mr. Welch. And the Justice Department, led by Mr. Barr, who is a subject of the complaint, is the Department that provided the opinion that there is no action to be taken.

Acting Director Maguire. I believe that the Attorney General was mentioned in the complaint, not necessarily a subject of the complaint, sir.

Mr. Welch. He was mentioned.

Acting Director Maguire. Yes, sir.

Mr. Welch. All right. I yield back. Thank you.

Acting Director Maguire. Congressman Welch, thank you, sir.

Mr. Welch. Thank you.

The Chairman. Mr. Maloney.

Mr. Maloney. Director Maguire, what was your first day on the job?

Acting Director Maguire. My first day on the job was Friday the 16th of August. And I think I set a new record in the administration for being subpoenaed before any --

Mr. Maloney. You had a heck of a first week, didn't you, sir?

Acting Director Maguire. Got that much going for me, sir.

Mr. Maloney. The complaint is dated August 12th. Whatever else you've done right in your career, sir, your timing has got to be something you worry about.

Acting Director Maguire. Congressman, I think that Dan Coats' timing is better than mine.

Mr. Maloney. Sir, look, there's been a lot of talk here today about the process. I just want to just summarize a couple of things, if that's okay.

Acting Director Maguire. Yes, sir.

Mr. Maloney. So in your first couple days on the job, sir, you're hit with this complaint. And it says that the President of the United States pressured a foreign leader to help him investigate a political opponent, and that political opponent's son, in fact, that that President asked the foreign leader to work with a private citizen, Mr. Giuliani, and the Attorney General of the United States, Bill Barr, on that scheme. The President, at that time, not in dispute, was withholding \$391 million of assistance, holding that over that Ukrainian President's head. That Ukrainian President raises in the conversation U.S. military assistance, Javelins, defensive weapons. He's got Russian troops in his country. The wolf is at the door. The President asks for a favor, complains about Ukrainian reciprocity. Not getting enough from you. That's what reciprocity is, right? We got to get something from you if we're giving something to you. He names the political opponents by name, the Bidens. The Ukrainian President says he'll do it and he'll do the investigation.

That's what you're hit with. And you're looking at that complaint that in the second paragraph, alleges serious wrongdoing by the President of the United States, and the first thing you do is go to the President's men at the White House, and women, and say, should I give it to Congress?

And in the second paragraph of that complaint, sir, it also suggests the Attorney General could be involved, and the second thing you do is go to the Attorney General's people at the Justice Department and ask them if you should give it to Congress.

Sir, I have no question about your character, I've read your bio. I have some questions about your decision and the judgment in those decisions. Do you see any conflicts here?

Acting Director Maguire. Congressman Maloney, I have a lot of leadership experience. I do. And, as you said, it came to me very early on in this, the fact that I was just -- I am the Acting DNI, and I was still using Garmin to get to work, that this came to my attention involving the President of the United States, and the important matter of this.

In the past, as I said before, I have always worked with legal counsel. Because of the magnitude and the importance of this decision, I just -- sir, as a Naval officer for years, I just thought it would be prudent --

Mr. Maloney. I understand the prudent part.

Acting Director Maguire. I also want to say, sir, if I may, my life would have been a heck of a lot simpler without becoming the most famous man in the United States --

Mr. Maloney. I don't doubt that at all, sir. My question, sir, is when you were considering prudence, did you think it was prudent to give a veto power over whether the Congress saw this serious allegation of wrongdoing to the two people implicated by it? Is that prudent?

Acting Director Maguire. I have to work with the situation as it is, Congressman Maloney. Only the White House can determine or waive executive privilege. There is no one else to go to. And as far as a second opinion, my only avenue of that was to go to the Department of Justice Office of Legal Counsel.

Mr. Maloney. And you understand, sir, that if unchallenged by your own Inspector General, your decision, that prudence, would have prevented these serious allegations from ever reaching the Congress.

Quick question: In response to Mr. Himes, I think you left the door open that you spoke to the President of the United States about this whistleblower complaint. Sir, did you speak personally to the President of the United States at any time about this complaint?

Acting Director Maguire. Congressman, once again, I am the President's intelligence officer. I speak to the President -- I cannot say one way or --

Mr. Maloney. Mr. Director, I know you speak to the President a lot. It's a simple question, sir. Did you speak to him about this whistleblower complaint, yes or no?

Acting Director Maguire. Congressman Maloney, my conversation with the President of the United States is privileged.

Mr. Maloney. So you're not denying that you spoke to the President? I'm not asking for the content, sir. I don't want the content. Did you or did you not speak to the President about this whistleblower complaint?

Acting Director Maguire. I speak to the President about a lot of things, and anything that I say to the President of the United States in any forum is privileged and confidential.

Mr. Maloney. I'm not asking for the content. Are you denying that you spoke to the President?

Acting Director Maguire. I am just telling you once again, I speak to the President and anything I say to the President is confidential.

Mr. Maloney. Thank you, sir.

Acting Director Maguire. Sir, that's the way it is.

Mr. Maloney. I understand. Thank you.

The Chairman. And, Director, you understand we're not asking you about your

conversations with the President about national security, about foreign policy, about the National Counterterrorism Center. We just want to know did you discuss this subject with the President? You can imagine what a profound conflict of interest that would be.

Did you discuss this subject, this whistleblower complaint with the President? You can say, I did not discuss it with him, if that's the answer. That doesn't betray any privilege. And you can say, I did discuss it with him, but I'm not going to get into the content of those conversations. That question you can answer.

Acting Director Maguire. Chairman Schiff, once again, you know, my conversation, no matter what the subject is, with the President of the United States is privileged conversation between the Director of National Intelligence and the President.

The Chairman. Mrs. Demings.

Mrs. Demings. Thank you so much, Mr. Chairman.

And Director Maguire, thank you for being here with us today. Thank you for your service.

Acting Director Maguire. Good morning, Congresswoman.

Mrs. Demings. I know you said that you took your first oath in 1974.

Acting Director Maguire. Yes, ma'am.

Mrs. Demings. That's a long time, but a long time to be proud of the service. I took my first oath in 1984, when I was sworn in as a law enforcement officer. And I thank you so much for saying that public service is a sacred trust, because regardless of the circumstances or who's involved, public service is a sacred trust.

I've had an opportunity as a law enforcement officer -- I'm a Member of Congress now -- but to investigate internal cases involving other personnel. I've had an opportunity to investigate numerous other cases, criminal cases, and never once, just for the record, Director Maguire, did I ever go to the suspect or the defendant or the

principal in those cases to ask them what I should do in the case.

There's been a lot of talk this morning, the whole discussion, the whole reason why we're here centers around the U.S. relationship with Ukraine. I think you would agree that Ukraine is very dependent on the United States, in terms of assisting them in defending themselves. Could you, based on your many years of experience in the military, and now in your new position, talk a little bit about that relationship and how important it is for the United States to assist Ukraine if they're ever going to be able to defend themselves?

Acting Director Maguire. Yes, Congresswoman. I think that the United States has been extremely supportive of Ukraine. I would say that they are relying on us, as they rely on other people in Europe. And I would also say that the United States is probably paying more of their fair share for the support of Ukraine than the others.

The threats are real for the Ukrainian people, and the stake of freedom and democracy is also -- even though it's in the Ukraine, is also very much of a concern of ours.

Mrs. Demings. So, based on that, you would say Ukraine probably could never get there without the support and the assistance of the United States, or from the United States of America?

Acting Director Maguire. I would say that if others were willing to step up and support, they might be able to get there.

Mrs. Demings. But they are not. We're there. And so, I think you've said it would be difficult for Ukraine to meet that goal of defending themselves without our support. Correct?

Acting Director Maguire. I would say it would be a challenge, yes, Congresswoman.

Mrs. Demings. This complaint outlines a scheme by the President of the United States -- and I'm not really sure what to call Rudy Giuliani these days, what his role is. Maybe he's the new fixer. I'm not sure. But either way, it involves a scheme to coerce Ukraine, this country that you say is so very dependent on the United States, to defend themselves, to coerce Ukraine into assisting the President's reelection efforts in 2020.

In the report from your Inspector General, the memo that was sent to you, it says on July 18th, the Office of Management and Budget official informed the 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 the 23rd of July and the 26th of July, OMB officials again stated explicitly that the instruction to suspend this assistance had come directly from the President, but they were not -- but they were still unaware of a policy rationale. So the 23rd, 26th. On the 18th, this issue first came up where the President was rescinding or suspending that assistance that you said Ukraine so desperately depends on.

Director Maguire, we deal in what's reasonable here, and I believe your Inspector General included that in the report, because this whole issue is about Ukraine's position, relationship with the United States, their dependency on the United States, and the President's efforts to coerce Ukraine into engaging in an illegal and improper investigation.

Do you believe that's why your Inspector General added that about suspending their support to Ukraine?

Acting Director Maguire. I think that Michael Atkinson found it to be credible, and he viewed that it was a matter of urgent concern to forward to this committee.

Mrs. Demings. Do you think it's reasonable for the American people and for this committee on both sides to believe that there is a correlation, or a nexus, between the President suspending the aid and the conversation that took place on the follow-up conversation?

Acting Director Maguire. Yes, Congresswoman, that is the allegation that is made. And I did not have access to the transcripts. My only information was the IC IG's cover letter and the allegation, whistleblower allegation. The other information coming to light yesterday, as released by the President, changes things in a different light.

Mrs. Demings. Mr. Chairman, may I just ask one more just quickly, one more quickly?

The Chairman. Without objection.

Mrs. Demings. My understanding is that the attorney -- the Inspector General is a career intelligence person. He's worked in the Department of Justice. He's received numerous awards for outstanding exemplary performance. Did you have any reason to deny or not believe his conclusions in every area of this report that he was directly involved in?

Acting Director Maguire. Congresswoman, Michael Atkinson is a valued and trusted colleague. I respect him tremendously. The question came down to, as we just over and over again, urgent concern, and whether or not the Intelligence Community Whistleblower Protection Act, as written, allows me to forward it to this committee. That's where I got stuck, ma'am, and I'm sorry.

Mrs. Demings. Thank you, Director.

Acting Director Maguire. Thank you, Congresswoman.

The Chairman. Mr. Krishnamoorthi.

Mr. Krishnamoorthi. Mr. Maguire, thank you so much for your service to our

country and thank you for your patriotism. I want to ask you a couple questions about the time surrounding July 25th to the time that you came into office as DNI. As you know, the phone call between President Trump and the Ukrainian President happened on July 25th of this year, correct?

Acting Director Maguire. I believe July 25th, I believe, sir.

Mr. Krishnamoorthi. At least one of them happened on July 25th. At that time, the DNI was Dan Coats, and his deputy was Sue Gordon. As you know, the whistleblower claim was filed on August 12th of this year, and then you took office on August 16th, 4 days later.

Acting Director Maguire. Yes, sir.

Mr. Krishnamoorthi. Prior to taking your new job or since, did you discuss the July 25th call or the whistleblower complaint with DNI Coats?

Acting Director Maguire. I wouldn't have taken the job if I did. No, sir.

Mr. Krishnamoorthi. And how about with Sue Gordon?

Acting Director Maguire. No, not at all. I don't believe -- to the best of my ability, I do not think that either Director Coats or Principal Deputy Sue Gordon have any sense whatsoever about this whistleblower complaint or that Michael Atkinson had it.

Mr. Krishnamoorthi. Before your current role, did you discuss Ukraine with President Trump?

Acting Director Maguire. No, Congressman. I haven't discussed -- I haven't discussed Ukraine with anybody, let me put it to you that way.

Mr. Krishnamoorthi. You haven't discussed Ukraine with anybody in your current role as the Acting DNI?

Acting Director Maguire. Well, as we -- intelligence reports, you know, we've got about 190 countries out there, so whatever the President's daily brief is and matters that

pertain to that. But as far as intelligence equities in that region right now, this has just not been something that has come to my attention in the 6 weeks that I've been the acting DNI.

Mr. Krishnamoorthi. Now, turning to the whistleblower and the Inspector General, you don't know the identity of the whistleblower, right?

Acting Director Maguire. Congressman, I do not. And I've made it my business to make sure that I do not.

Mr. Krishnamoorthi. Correct. And you don't know his political affiliation, obviously?

Acting Director Maguire. I do not. I do not know this individual.

Mr. Krishnamoorthi. Or her political affiliation? And, of course, you believe that the whistleblower was operating in good faith?

Acting Director Maguire. I do.

Mr. Krishnamoorthi. And without bias?

Acting Director Maguire. I don't know about that. I do not know about that. I do believe that the --

Mr. Krishnamoorthi. But you have no reason to believe that he or she was acting with bias, correct?

Acting Director Maguire. I just believe that the whistleblower was acting in good faith.

Mr. Krishnamoorthi. But you have no reason to believe that the person was biased?

Acting Director Maguire. I would not know whether biased or not biased, sir. I just don't know.

Mr. Krishnamoorthi. And, of course, you will do everything you can to protect

the whistleblower from any attempts to retaliate against him or her, correct?

Acting Director Maguire. I will not permit the whistleblower to be subject to any retaliation or adverse consequences for going to the IG. I am absolutely committed to that, yes.

Mr. Krishnamoorthi. And unlike the whistleblower, you do know the Inspector General, obviously.

Acting Director Maguire. Yes. I hold him in high esteem.

Mr. Krishnamoorthi. And like the whistleblower, he also operated in the highest faith, right?

Acting Director Maguire. I believe that Michael Atkinson, yes, yes.

Mr. Krishnamoorthi. And interestingly, Mr. Atkinson was actually appointed by President Donald Trump, right?

Acting Director Maguire. Yes, he was. He's a Presidential appointee.

Mr. Krishnamoorthi. And what lends real credibility to the whistleblower's complaint is the fact that Mr. Atkinson, an appointee of the President, would actually bring forward a complaint against his boss, and that's something that is especially courageous. What I want to hear from you is that you will also do everything you can to protect Mr. Atkinson from potential retaliation.

Acting Director Maguire. Congressman, absolutely.

Mr. Krishnamoorthi. Very good. Now, the White House released a memorandum of telephone conversation from the July 25th, 2019 call, right?

Acting Director Maguire. I believe that was what was transmitted yesterday morning, sir.

Mr. Krishnamoorthi. And they call that a TELCON in the jargon of these memoranda. Is that right?

Acting Director Maguire. I'm unfamiliar -- this is the first time I've ever seen the transcript of a Presidential conversation with a foreign leader.

Mr. Krishnamoorthi. Okay. Have you been --

Acting Director Maguire. TELCON would be short for telephone conversation, though.

Mr. Krishnamoorthi. Exactly. And have you been a party to a conversation between the President and a foreign leader on a phone call?

Acting Director Maguire. When I am in the office to provide the intelligence brief to the President, some foreign head of state might call in. The President may either ask us to leave or just stay there for a brief call from time to time. Yes, sir.

Mr. Krishnamoorthi. And there are note takers who actually scribble down furiously what's being said on those calls.

Acting Director Maguire. If they are note takers, they would not be in the Oval Office with us. They might be listening somewhere else, sir.

Mr. Krishnamoorthi. Like from the situation room?

Acting Director Maguire. Right. Or I don't know, but somewhere within the White House.

Mr. Krishnamoorthi. And within this particular situation, maybe more than a dozen people were on the phone call.

Acting Director Maguire. That's the allegation, yes, Congressman.

Mr. Krishnamoorthi. And they were all taking notes, presumably?

Acting Director Maguire. If they're good public servants, yes, Congressman.

Mr. Krishnamoorthi. And were you ever a party to a call where the notes that you took were then given to someone at the White House for keeping?

Acting Director Maguire. I have never been party to any call other than my own.

I would take notes for my own, at my level or as the Director of National Counterterrorism Center; but I have never been privy to a conversation with the President where I would be involved in taking notes. It would just be happenstance. I happened to be there, and he felt comfortable enough to leave me for a brief conversation; but it's not anything that I would be in that office, particularly for that matter.

Mr. Krishnamoorthi. Thank you for your service.

Acting Director Maguire. Thank you, Congressman, very much. Thank you.

The Chairman. I'd now like to recognize the ranking member for any final questions that he would have.

Mr. Nunes. Thank you, Mr. Chair.

Mr. Maguire, I just want to thank you for your attendance here today. Congratulations for surviving legal word challenge charade today. I expect, hopefully, we'll see you behind closed doors like this is supposed to be done.

And I would just urge my colleagues on the other side of the aisle, if they would like to impeach the President, they need to go to the floor of the House and actually call for a vote. The Intelligence Committee is not an appropriate place to try Articles of Impeachment. So there is a process in the Constitution that I would advise you all follow.

In the meantime, Director Maguire, I want to apologize to you for being accused of crimes that you have not committed. It's totally inappropriate behavior for anyone to accuse someone that's served four decades like you. I hope you do not have to go through this any longer.

With that, I yield back the balance of my time.

Acting Director Maguire. Thank you, Ranking Member. I appreciate it, sir.

The Chairman. Director, I have a few more questions. Just to follow up, because I thought I heard you say a moment ago that you had no communication with the President on the subject of Ukraine. Did I understand you to say that?

Acting Director Maguire. I have not particularly had any conversation with anyone on the subject of Ukraine that didn't deal with the matter that we have right now in regard to the whistleblower complaint.

So not particularly with the Office of Legal Counsel as far as mentioning Ukraine, or as far as the Justice Department. All I did was send the documents forward. The allegations are in there, and I'd just let the documents speak for themselves.

The Chairman. So you're saying that you did not have any conversation on the subject of Ukraine that did not involve this complaint?

Acting Director Maguire. That is correct, sir. I mean, I've been the Acting DNI for 6 weeks. I have --

The Chairman. I'm just trying to understand, because that is suggestive that you did have a conversation involving the complaint with the President.

Acting Director Maguire. No, no, no. That is not what I said.

The Chairman. Okay. Director, you mentioned early on when we were on the subject of what the Inspector General was able to investigate or not investigate, whether the President is within the Intelligence Community or subject to the Intelligence Community. And, by the way, the statute doesn't require that the subject of the complaint be within the Intelligence Community. It requires the whistleblower to be an employee or detailee. It doesn't require that the subject, the person complained of be an employee of the Intelligence Community.

But you have adopted an interpretation by the Justice Department that essentially says the President is above the Director. Therefore, the President is not subject to the

jurisdiction of the Director. Therefore, it doesn't meet the definition of urgent concern. Therefore, the Inspector General is done. The Inspector General can't investigate anymore.

That's the Inspector General's reading of the Department opinion, that he is no longer allowed to investigate this. Is that your reading as well?

Acting Director Maguire. Chairman, not necessarily the President, but the allegation has to relate to the funding, administration, or operation of an intelligence activity within the responsibility and the authority of the Director of National Intelligence.

The Chairman. I'm just trying to get to whether the President is somehow beyond the reach of the law.

Acting Director Maguire. No, sir. No person in this country is beyond the reach of the law.

The Chairman. Well, that's the way it should be, but I'm trying to figure out whether that's the way it is as a practical fact.

The Inspector General believes that, based on the opinion that you requested of the Department of Justice, he is no longer allowed to look into this, because it doesn't meet the definition of urgent concern because it involves the President. Is that your understanding of the Department opinion as well, that the Inspector General no longer has jurisdiction to look into this?

Acting Director Maguire. It is my understanding that both the Inspector General and I, and my team, are waiting for -- we were waiting for the resolution of executive privilege to be determined. It is now no longer executive privilege. I'm not sure exactly what the statute has as far as what Michael can do. But we also are looking for a way -- now, executive -- if I did not send it forward, as you know, under urgent concern within the 7 days, then the statute would allow the whistleblower to come to you and still

be protected.

The Chairman. Director --

Acting Director Maguire. But because -- we are accommodating.

The Chairman. My point is this: The Department of Justice has said, because this doesn't meet the statutory definition, because this involves the President, the Inspector General has no jurisdiction to investigate.

Now, if this Inspector General has no jurisdiction to investigate because the President is above the agency, no Inspector General has jurisdiction to investigate. That is the effect of that opinion. Do you disagree?

Acting Director Maguire. I believe that the opinion was based on the reading of the statute, and whether or not the situation here is compliant and comes underneath the statute. The Office of Legal Counsel opinion was that, based on the criteria that you're required to have in order to support this legal statute, it does not. And it also said that, because of that, it is not a matter of the Intelligence Community. But once again he said --

The Chairman. That's --

Acting Director Maguire. -- however, you may go forward, and I have.

The Chairman. That's the key issue, Director. Because it involves the President, it does not involve the Intelligence Community. That is the sum and substance. And the effect of that is the Inspector General has told us that he no longer has jurisdiction to investigate, and by the logic of that opinion, nor does any other Inspector General.

Now, as you point out, this was referred to the Justice Department. It was referred to the FBI and Justice Department. That Department, under Bill Barr, and with breathtaking speed, decided there's nothing to see here, decided that we don't believe that this constitutes a violation of the campaign finance laws and, therefore, we're not

authorizing an investigation. The FBI is not authorized to investigate any of this, any of this.

So the IGs can't do it. According to the Department of Justice, the FBI can't do it, because it doesn't meet their threshold that makes it worthy of investigation. So at this point, only this committee and this Congress is in a position to investigate.

And I want to ask you, going to the whistleblower complaint, whether you believe these allegations are worthy of investigation? The whistleblower says, 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. You would agree that should be investigated, would you not?

Acting Director Maguire. Chairman, the horse has left the barn. You have all of the information. You have the whistleblower complaint. You have the letter from the IC IG. You have the Office of Legal Counsel opinion --

The Chairman. Yes, but --

Acting Director Maguire. -- and you have --

The Chairman. Yes, we do. But would you agree that if there's a serious and credible --

Acting Director Maguire. I feel confident there is going to be an investigation.

The Chairman. You agree there should be an investigation?

Acting Director Maguire. I believe that it is a matter to be determined by the chair and this committee.

The Chairman. Well, I'm asking you, as a career military officer, someone who I greatly respect and I admire your service to the country, do you believe if there is a credible allegation by a whistleblower, corroborated by apparently 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 election, do you believe that should be investigated?

Acting Director Maguire. I don't believe it is corroborated by other folks. The whistleblower says that he spoke or she spoke to about a dozen other people. This is secondhand information. I'm not criticizing the whistleblower.

The Chairman. Yes, but the Inspector General took those 2 weeks, as you well told us, to corroborate that information. Now, we don't know which, if any, of these officials the Inspector General spoke to, and found it credible, and you've told us that you have no reason to believe otherwise. Am I right?

Acting Director Maguire. I have no reason to doubt a career Inspector General lawyer in his determination of whether or not it was credible. That is something for Michael to determine.

The Chairman. And let me ask you this: The whistleblower also says, "Over the past 4 months, more than half a dozen U.S. officials informed me of various facts related to this effort to seek foreign interference." You would agree that we should speak to those half a dozen U.S. officials, would you not?

Acting Director Maguire. I think that you have all the material that the committee needs, and I think it's up to the committee how they think they need to proceed.

The Chairman. Well, I'm asking your opinion, as the head of our intelligence agencies, do you think that we should talk to those other people and find out whether the whistleblower is right?

Acting Director Maguire. My responsibility is to get you the whistleblower letter, the complaint, and the information released. I have done my responsibility. That is on the shoulders of the legislative branch and this committee --

The Chairman. Let me ask you this, Director: The whistleblower also says, "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."

You would agree if there's a credible allegation along those lines that we should investigate it?

Acting Director Maguire. I agree that if there was election interference. The complaint is not about election interference. It was about a classified confidential diplomatic conversation --

The Chairman. Involving election interference by the President, sought by the President. That doesn't take it out of the realm of seeking foreign assistance. It makes it all the more pernicious. Wouldn't you agree?

Acting Director Maguire. As I said, I don't disagree with the IG IC's assessment that it was a credible matter.

The Chairman. The whistleblower further says, "Namely, he," the President, "sought to pressure the Ukrainian leader to take actions to help the President's 2020 reelection bid." You would agree that that should be investigated?

Acting Director Maguire. Not necessarily, sir. I mean, as far as -- it was investigated by the Federal Bureau of Investigation.

The Chairman. No, it wasn't.

Acting Director Maguire. Yes, it went to the --

The Chairman. The Department of Justice concluded that this wouldn't violate the election laws. Now, no one can understand how they could reach that conclusion after the 2 years we went through, but nonetheless, they didn't authorize the FBI to investigate it. You would agree someone should investigate this, wouldn't you?

Acting Director Maguire. I referred it. If I didn't, I would not have referred it to

the Justice Department and to the FBI.

The Chairman. Then I'm glad that we're in agreement.

The whistleblower says, "They told me that there was already discussion ongoing with the White House lawyers about how to treat the call because of the likelihood, in officials retelling, they had witnessed the President abuse his office for personal gain."

You would agree that that should be investigated, wouldn't you?

Acting Director Maguire. All I know is that that's the allegation, Chairman.

The Chairman. Right. And it's credible and, therefore, should be investigated, right?

Acting Director Maguire. Well, again, it is hearsay secondhand information. It should come to this committee for further investigation.

The Chairman. Thank you.

Acting Director Maguire. And, I mean, you have it. You have the documents.

The Chairman. I just wanted to confirm that we're in agreement that you think the committee should investigate it.

The whistleblower also says, "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." This is the whistleblower citing the Ukrainian readout.

You would agree that if the Ukrainian readout when they're talking about corruption cases is talking about investigating Biden and his son, and that that has held back -- the failure to do that has held back cooperation between our two countries, that should be investigated, right? That's of a national security dimension?

Acting Director Maguire. Chairman Schiff, I don't agree with any of that. I did not agree that it should be investigated. What I said was that I complied with my

requirement to send you the documents to this committee, and that it is up to the chair, the ranking member, and the committee members to decide what to do with that information. I'm in no position to tell the chair or the committee to do an investigation or not do an investigation.

RPTR DEAN

EDTR CRYSTAL

[12:10 p.m.]

The Chairman. Okay. I find it remarkable that the Director of National Intelligence doesn't think credible allegations of someone seeking foreign assistance in a U.S. election should be investigated.

Let me ask you this. The whistleblower further says, "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 the records of the phone call."

Do you have any reason to believe that the whistleblower's allegation there is incorrect?

Acting Director Maguire. I have no idea whether it is correct or incorrect, sir.

The Chairman. Someone should find out, though, right?

Acting Director Maguire. Excuse me?

The Chairman. Someone should find out if it is correct, though, shouldn't they?

Acting Director Maguire. I don't know if that is an incorrect allegation. I mean, I just do not know.

Again, that is the work -- that is the business of the executive branch of the White House and the Office of the White House --

The Chairman. Well, corruption is not the business -- or it shouldn't be -- of the White House or anyone in it.

Acting Director Maguire. No, but what the White House decides to do with their privileged communications and information I believe is the business of the White House.

The Chairman. Do you believe that's true, even if that communication involves

crime or fraud?

Acting Director Maguire. Any crime or fraud --

The Chairman. I'm sure you're aware that there's an exception to any claim of privilege, that privilege can't be used to conceal crime or fraud.

Acting Director Maguire. As I said before, any crime or fraud or instances of wrongdoing should be referred to the Justice Department for investigation, as I did.

The Chairman. The whistleblower further alleges that White House officials told the whistleblower they were directed by White House lawyers to remove the electronic transcript that is of the call from the computer system in which such transcripts are typically stored. And instead, it was loaded into a separate electronic system that is used -- otherwise used to store and handle classified information of a specially sensitive nature.

"One White House official described this act as an abuse of this electronic system...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" -- and we should find out, shouldn't we?

Acting Director Maguire. Chairman Schiff, when I received the letter from Michael Atkinson on the 26th of August, he concurrently sent a letter to the Office of White House Counsel asking the White House counsel to control and keep any information that pertained to that phone call on the 25th.

It was a lengthy letter. Michael would be able to address it better. But I do believe that the IC IG -- I know that the IC IG has sent a letter to the White House counsel requesting that they keep all of that information.

The Chairman. But you would agree that if there's a credible allegation from this credible whistleblower that White House officials were moving these records into a

system that was not designed for that purpose in an effort to cover up essentially potential misconduct that ought to be looked into. You would agree with that, wouldn't you?

Acting Director Maguire. To the best of my knowledge, when this allegation came forward, this whistleblower complaint on the 12th of August, I have no idea what the timeline was as far as whether or not the White House, the National Security Council, or anybody involved in that conversation, what they did with the transcripts, where they put them. I just have absolutely no knowledge nor the timeline of that, Chairman. It is not something that would be under my authority or responsibility.

The Chairman. The whistleblower makes a series of allegations involving Mr. Giuliani, cites a report in The New York Times about his planned trip to Ukraine to press the Ukrainian Government to pursue investigations that would help the President in his 2020 reelection bid.

You would agree that if the President was instructing his personal lawyer to seek, again, foreign help in a U.S. Presidential election, that that would be improper. I believe Mueller described such efforts to seek foreign assistance as unethical, unpatriotic, and very possibly criminal. Would you agree with Director Mueller that to seek foreign assistance that way would be unethical, unpatriotic, and very possibly a violation of law?

Acting Director Maguire. I believe that Mr. Giuliani is the President's personal lawyer, and whatever conversation that the President has with his personal lawyer, I would imagine would be by client-attorney privilege. I'm in no position to criticize the President of the United States on how he wants to conduct that and I have no knowing of what Mr. Giuliani does or does not do.

The Chairman. Let me ask you about the last couple allegations of the whistleblower.

"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 Zelensky's inauguration on 20 May; Secretary of Energy Rick Perry lead the delegation instead.

"According to these officials, it was also made clear to them that the President did not want to meet with Mr. Zelensky until he saw how Zelensky, quote, 'chose to act,' unquote, 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 a broader understanding, described in the unclassified letter, that a meeting or phone call with the President and President Zelensky would depend on whether Zelensky showed the willingness to play ball."

Do you know whether Mr. Pence, Vice President Pence's trip was pulled because of an effort to find out first whether Ukraine was willing to play ball?

Acting Director Maguire. Chairman Schiff, no, I do not. I have no knowledge of any of that until this information came to me from the IC IG. I have absolutely no situation awareness or no knowledge of any of those facts.

The Chairman. Would you agree that if the Vice President's trip was canceled in order to put further pressure on Ukraine to manufacture dirt on Mr. Biden, that that would be unethical, unpatriotic, and potentially a crime?

Acting Director Maguire. I do not know why the Vice President of United States did not do that. I do know what the allegation was within the whistleblower complaint, and I don't know whether that allegation is accurate or not, Mr. Chairman.

The Chairman. Finally, the whistleblower says, "On July 18, an Office of Management and Budget 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."

Senator McConnell said the other day that he spoke with the Secretary of Defense and Secretary of State and he didn't know why the instruction had been given. Doesn't that strike you as suspicious, Director, that no one on the National Security Staff, no one in the senior leadership apparently of the party here in Congress that had approved the aid understood why the President was suspending aid? Doesn't that strike you as just a little suspicious?

Acting Director Maguire. Chairman Schiff, I'm just unaware, to be honest with you, how those decisions are made, and that then once again, I just have no situation awareness of what happened with withholding of the funding from OMB.

The Chairman. As a military man, if this military aid was withheld from an ally that is fighting off Putin's Russia and it was done so to be used as leverage to get dirt in a U.S. political campaign, don't you think that should be investigated?

Acting Director Maguire. I have no reason to believe, I do not understand, I have no situation awareness if that was withheld or why it was withheld, Mr. Chairman.

The Chairman. Well, I can tell you, we are going to find out.

Director, I want to thank you for your attendance today. I want to thank you again for your service. As my colleague underscored, Mr. Welch, and I completely share his sentiment, no one has any question about your devotion to the country, no one has any question about your acting in good faith. I want to make that very clear. I think you're a good and honorable man.

Like my colleagues, I don't agree with the decisions you made. I agree with the Inspector General's view of the law. And I'm deeply concerned about the message this has sent to other whistleblowers about whether this system really works. If the subject of a complaint can stop that complaint from getting to Congress, then the most serious

complaints may never get here.

And I want to thank the whistleblower for their courage. They didn't have to step forward. Indeed, we know from the whistleblower complaint there are several others that have knowledge of many of the same events.

And I would just say to those several others that have knowledge of those events, I hope that they, too, would show the same kind of courage and patriotism that this whistleblower has shown. We are dependent on people of good faith to step forward when they see evidence of wrongdoing. The system won't work otherwise.

And I have to say to our friends in Ukraine who may be watching just how distressing it is that as their country fights to liberate itself from Russian oppression, as it fights to root out corruption in their own country, that what they would be treated to by the President of the United States would be the highest form of corruption in this country; that the President of the United States would be, instead of a champion of democracy and human rights and the rule of law, would instead be reinforcing a message with the new Ukrainian President, who was elected to root out corruption, that instead the message to that President would be: You can use your Justice Department, just call Bill Barr. You can use our Justice Department to manufacture dirt on an opponent, that that's what democracy is. You can use foreign assistance, military assistance, vital assistance as a lever to get another country to do something unethical.

The idea that a fellow democracy, a struggling democracy, would hear those messages from the President of the United States, I just want to say to the people of Ukraine: We support you in your fight with Russia. We support you in your struggle for democracy. We support you in your efforts to root out corruption. And what you are witnessing and what you are seeing in the actions of this President is not democracy. It is the very negation of democracy.

This is democracy, what you saw on this committee is democracy, as ugly as it can be, as personal as it can be, as infuriating as can be. This is democracy. This is democracy.

I thank you, Director. We are adjourned.

Acting Director Maguire. Thank you very much, Mr. Chairman.

[Whereupon, at 12:21 p.m., the committee was adjourned.]