

# U.S. House of Representatives

## Committee on the Judiciary

Washington, DC 20515-6216  
One Hundred Sixteenth Congress

November 21, 2019

The Honorable Jerrold Nadler  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Nadler:

Today, we write to request that you obtain all documents and information from Chairman Schiff pursuant to House Resolution 660 and its accompanying procedures. The so-called impeachment inquiry unfolding before the House Permanent Select Committee on Intelligence (“Intelligence Committee”) at the direction and discretion of Chairman Adam Schiff will soon arrive in the House Committee on the Judiciary (“this Committee”), according to the impeachment resolution passed and supported solely by Democrats.<sup>1</sup> Without all documents and materials considered by the Intelligence Committee, this Committee will be unable to fulfill its obligation to the American people to carefully consider a matter as dire as removing a duly elected president.

As we are confident you will agree, this Committee will only be able to conduct a fulsome examination of the facts when all Committee members have had sufficient opportunity to review all of the materials. After the suspect handling of these proceedings by the Intelligence Committee, this Committee will only be able to restore some sensibility to this process by conducting its portion of this inquiry in a fair and objective manner.

### **I. Chairman Schiff Has Conducted a Lopsided Inquiry; You Must Balance the Process**

Chairman Schiff has engaged in an assault on the already one-sided process. Based on the publicly available transcripts, it appears Chairman Schiff has worked in concert with select disgruntled bureaucrats to withhold evidence from Intelligence Committee Republicans, this Committee, and the American people. He has cut off Republican questioning and instructed witnesses not to answer Republicans’ questions.<sup>2</sup> For example, during the deposition of Lt. Col. Vindman, the minority sought answers to relevant questions related to *basic* facts (e.g., who, what, when, why, etc.) regarding Colonel Vindman’s actions after the July 25 phone call

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<sup>1</sup> See H.R. Res. 660, 116<sup>th</sup> Cong. (as passed by the House by a vote of 232-196 with only Democrats voting in favor and both Democrats and Republicans voting against).

<sup>2</sup> Cite cutting off female Republicans

between President Trump and President Zelensky.<sup>3</sup> Chairman Schiff refused to allow the witness to answer.<sup>4</sup> Similarly, on Tuesday, November 19, 2019, during the public hearing, Chairman Schiff refused to allow Republicans to ask basic questions of Colonel Vindman. And on November 15, 2019, Chairman Schiff either cut off or refused to entertain parliamentary inquiries by Representative Elise Stefanik and Representative Mike Conaway.<sup>5</sup>

Given these tactics, we are concerned that Chairman Schiff has not released all underlying evidence gathered during his investigation. In order to correct this and other procedural flaws and inequities, we urge you to conduct the proceedings in this Committee with an even-handed approach. Additionally, we request that you require Chairman Schiff to provide this Committee all materials and evidence obtained by the Intelligence Committee prior to or since July 25, 2019, when Intelligence Committee staff reportedly initially communicated with the whistleblower.

## **II. History Demands that this Committee Fully Consider the Evidence and Facts**

In modern history, this Committee solely handled impeachment proceedings. They were open, they were deliberative, and the President and his counsel were invited “to attend all executive session and open committee hearings.”<sup>6</sup> It is undisputed that, during the impeachment of President Clinton, this Committee held at least five days of public hearings to examine the constitutional standards as well as testimony from witnesses requested by President Clinton.<sup>7</sup>

According to contemporaneous reporting on the Clinton impeachment process, then-Independent Counsel Ken Starr turned over voluminous amounts of evidence. The *Washington Post* reported:

On a day dreaded at the White House since the Lewinsky investigation began in January, two government vans containing Starr's 445-page report and 36 sealed boxes of grand jury material -- two sets of 18 boxes each -- arrived at the Capitol at 4 p.m., culminating an unprecedented eight-month probe that has explored the most intimate details of Clinton's life and forced him to admit that he lied to the nation.<sup>8</sup>

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<sup>3</sup> See Letter from Hon. Doug Collins, Ranking Member, H. Comm. on the Judiciary to Hon. Jerrold Nadler, Chairman, H. Comm. on the Judiciary (Nov. 18, 2019) (citing various points, during the Col. Vindman's deposition during which the witness refused to answer without citing a privilege).

<sup>4</sup> *Id.*

<sup>5</sup> *Hearing on the Impeachment Inquiry of President Donald J. Trump: Hearing Before H. Permanent Select Comm. on Intelligence*, available at <https://www.youtube.com/watch?v=LrL2q9IfnnQ&feature=youtu.be>, 116<sup>th</sup> Cong. (Nov. 13, 2019).

<sup>6</sup> H.R. Rep. No. 105-830, Sec. II, at page 25 (1998).

<sup>7</sup> *Id.*

<sup>8</sup> Peter Baker & Susan Schmidt, *Starr Submits Report to House*, WASH. POST (Sept. 10, 1998).

Constitutional scholars, even Democratic scholars, who participated directly in the impeachment of President Clinton, are baffled by current Democrats' staking their hope of impeachment "on a barely developed evidentiary record and cursory public hearings[.]"<sup>9</sup> As Professor Turley wrote:

The contrast with the Nixon impeachment is so concerning in the current context. In the Nixon impeachment, public opinion shifted after months of public hearings and testimony. The evidentiary record showed that Nixon knew of criminal acts and sought to conceal them. The result was a deeply developed evidentiary record . . .<sup>10</sup>

This rush to impeach a president is anomalous. The impeachments of district court judges (i.e., *not the President of the United States*) have virtually always taken well over a year of investigation and consideration and have included the hiring of dedicated staffs and committee resources to properly handle the grueling investigative work and solemnity impeachment demands. In contrast, this majority is attempting to impeach the President in approximately two months, in an apparent attempt to be done by the December holiday break so that the Senate can conduct a trial before the Iowa caucuses. The fairness of the impeachment process should not be sacrificed at the altar of a few Democratic senators' campaign schedules.

### **III. Evidence Chairman Schiff Should Transmit to this Committee**

In light of how Chairman Schiff is conducting the impeachment process and pursuant to Section III of H. Res. 660, all materials in the custody of the Intelligence Committee should be transmitted immediately to this Committee, including but not limited to the following materials:

- Unaltered transcripts – Chairman Schiff must provide unedited and un-redacted versions of all transcripts of depositions, transcribed interviews, and other interactions between the Intelligence Committee, including but not limited to, any agent, consultant, or staff and any witness or potential witness. If no transcript was taken during these interactions, the Intelligence Committee must provide the name(s) of any participant(s), date(s), and summary of the interaction.
- Any and all text messages, including but not limited to WhatsApp messages, in the custody of the Intelligence Committee.
- Any and all documents provided to the Intelligence Committee by "whistleblowers," government employees, journalists, or anonymous sources, including any classified information.<sup>11</sup>

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<sup>9</sup> Jonathan Turley, *Are Democrats Building a Collapsible Impeachment?*, THE HILL, November 13, 2019.

<sup>10</sup> *Id.*

<sup>11</sup> Please note, the Judiciary Committee has the capability to store classified information as well as a secure setting to review such information.

Texts and classified materials are routinely discussed in the transcripts released and it is the minority's expectation that all such materials in the custody of the Intelligence Committee will be transmitted to this Committee.

#### IV. Conclusion

We would like to thank you in advance for your commitment to taking whatever steps are necessary to cure the bias injected into this inquiry by Chairman Schiff. As you said earlier this month, it is important to allow the minority and the President the chance to *fully* participate in this process, ask appropriate questions, and be afforded due process rights at the committee-stage of these proceedings.<sup>12</sup> We hope these were not mere platitudes and you will require the same of Chairman Schiff. As now-Speaker Pelosi said in 1998:

In the investigation of the president, **fundamental principles which Americans hold dear -- fairness, privacy, checks and balances -- have been seriously violated and why?** Because we are here today because the Republicans in the House are paralyzed with hatred of President Clinton. ... Until the Republicans free themselves of that hatred, our country will suffer.<sup>13</sup>

This Committee owes truth and fairness to the American people, who have been presented with only a carefully-curated panel of public witnesses by Chairman Schiff. Any further attempts by Chairman Schiff to delay Republicans' access to these materials for his own tactical advantage will only serve to undermine *this* Committee's consideration of the facts and shall constitute evidence of your denial of fundamental fairness and due process. We are certain you agree with Speaker Pelosi: This Committee's process must be fair and preserve due process for the executive branch, with which the House and Senate are co-equal.

The list provided in Section III, above, is subject to amendment if any new information, from testimony or other evidence, comes forward. If this process is truly an inquiry—and not a prosecution by Democrats with predetermined outcomes—all meaningful evidence must be brought forward. We will consider any effort to prevent the production of evidence—even that which may shed unfavorable light on misdeeds by Democratic presidential candidates—as constituting obstruction of a legitimate congressional inquiry. Under House Resolution 660, we also reserve the right to call witnesses before this Committee at the appropriate time(s).

If Democrats are determined to overturn the results of the 2016 election, the process should be fair to the President and the people who elected him. If not, you can be sure Republicans will

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<sup>12</sup> Hon. Jerrold Nadler Interview with Chris Hayes, MSNBC, November 8, 2019 (1:50).

<sup>13</sup> David Montanaro, *Nancy Pelosi on Bill Clinton's Impeachment in 1998: 'Republicans Are Paralyzed with Hatred'* (Sept. 25, 2019).

The Honorable Jerrold Nadler  
November 21, 2019  
Page 5

routinely protest these inequities. We look forward to your response(s) to this letter and to my letters of November 12, 14, and 18.

Sincerely,

A handwritten signature in black ink that reads "Doug Collins". The signature is written in a cursive, flowing style.

Doug Collins  
Ranking Member