

PERMANENT SELECT COMMITTEE ON INTELLIGENCE,
joint with the
COMMITTEE ON OVERSIGHT AND REFORM
and the
COMMITTEE ON FOREIGN AFFAIRS,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

DEPOSITION OF: LAURA KATHERINE COOPER

Wednesday, October 23, 2019

Washington, D.C.

The deposition in the above matter was held in Room HVC-304, Capitol Visitor Center, commencing at 2:58 p.m.

Present: Representatives Schiff, Himes, Sewell, Carson, Speier, Quigley, Swalwell, Heck, Maloney, Demings, Krishnamoorthi, Stefanik, and Ratcliffe.

Also Present: Representatives Cicilline, Kelly, Rouda, Jordan, Meadows, Wright, McCaul, Perry, Roy, and Zeldin.

[REDACTED]

For the COMMITTEE ON OVERSIGHT AND REFORM:

[REDACTED]

For the COMMITTEE ON FOREIGN AFFAIRS:

[REDACTED]

For LAURA COOPER:

DANIEL LEVIN, ESQ.
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THE CHAIRMAN: The House Parliamentarian will be delivering a statement about the House rules, stating that any Members that remain will be in violation of the House rules.

We've already dispensed with enough time of this witness, so I'm going to forego my opening statement. I would urge the minority to do the same so we can begin the questioning.

Mr. Goldman, you are recognized.

MR. GOLDMAN: Thank you, Mr. Chairman.

This is a deposition of Laura Cooper conducted by the House Permanent Select Committee on Intelligence, pursuant to the impeachment inquiry announcement by the Speaker of the House on September 24th.

Ms. Cooper, we apologize to you for the 5-hour delay as a result of some unauthorized Republican Members being present, but we appreciate that you are here today and that you waited to take your testimony.

If you could, please state your full name and spell it for the record.

MS. COOPER: My name is Laura Katherine Cooper, L-a-u-r-a, Katherine, K-a-t-h-e-r-i-n-e, Cooper, C-o-o-p-e-r.

MR. GOLDMAN: Thank you. Along with other proceedings in furtherance of the inquiry, this deposition is part of a joint investigation led by the Intelligence Committee, in coordination with the Committees on Foreign Affairs and Oversight and Reform. In the room today are majority and minority staff from all three committees.

This is a staff-led deposition, but members, of course, may ask questions during their allotted time, as has been the case in every deposition since the inception of this investigation.

My name is Daniel Goldman. I'm the Director of Investigations for the HPSCI majority staff. And I want to do some brief introductions right now. To my right is Nicolas Mitchell, Senior Investigative Counsel for HPSCI. Mr. Mitchell will be doing the bulk of the questioning today for the majority.

And I'll now ask my counterparts on the minority staff to introduce themselves.

MR. CASTOR: Steve Castor, Republican staff of the Oversight Committee.

[REDACTED]

[REDACTED]

[REDACTED]

MR. GOLDMAN: This deposition will be conducted entirely at the unclassified level. However, we are in HPSCI secure spaces, and in the presence of staff with appropriate security clearances. It is the committee's expectation that neither questions asked of you nor answers provided by you will require discussion of any information that is currently, or at any point, could be properly classified under Executive Order 13526. You are reminded that EO-13526 states that, quote, "In no case shall information be classified, continue to be maintained as classified, or fail to be declassified," unquote, for the purpose of concealing any violations of law or preventing

embarrassment of any person or entity.

If any of our questions can only be answered with classified information, please inform us of that and we will adjust accordingly.

Today's deposition is not being taken in executive session, but because of the sensitive and confidential nature of some of the topics and materials that will be discussed, access to the transcript of the deposition will be limited to the three committees in attendance. Under the House deposition rules, no Member of Congress, nor any staff member can discuss the substance of the testimony that you provide today.

You and your attorney will have an opportunity to review the transcript at a later date.

Before we begin, I would like to go over the ground rules for this deposition. We will be following the House regulations for depositions, which we have previously provided to your counsel. The deposition will proceed as follows: The majority will be given one hour to ask questions. Then the minority will be given one hour. Thereafter, we will alternate back and forth between majority and minority in 45-minute rounds until questioning is complete. We will take periodic breaks, but if you need a break at any time, please let us know.

Under the House deposition rules, counsel for other persons or government agencies may not attend. You are allowed to have an attorney present during this deposition, and I see that you have brought one.

At this time, if counsel could please state his appearance for the record.

MR. LEVIN: Daniel Levin.

MR. GOLDMAN: There is a stenographer taking down everything that is said in order to make a written record of the deposition. For the record to be clear, please wait until each question is completed before you begin your answer, and we will endeavor to wait until you finish your response before asking the next question.

The stenographer cannot record nonverbal answers, such as shaking your head, so it is important that you answer each question with an audible verbal answer. We ask that you give complete replies to questions, based on your best recollection. If a question is unclear, or you are uncertain in your response, please let us know. And if you do not know the answer to a question or cannot remember, simply say so.

You may only refuse to answer a question to preserve a privilege recognized by the committee. If you refuse to answer a question on the basis of privilege, staff may either proceed with the deposition or seek a ruling from the chairman on the objection. If the chair overrules any such objection, you are required to answer the question.

Finally, you are reminded that it is unlawful to deliberately provide false information to Members of Congress or staff. It is imperative that you not only answer our questions truthfully, but that you give full and complete answers to all questions asked of you. Omissions may also be considered as false statements.

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As this deposition is under oath, Ms. Cooper, would you please stand and raise your right hand to be sworn.

Do you swear or affirm that the testimony you are about to give is the whole truth and nothing but the truth?

MS. COOPER: I do.

MR. GOLDMAN: Thank you.

The record will reflect that the witness has been sworn, and you may be seated. With that, Ms. Cooper, if you have any opening remarks, now would be the time.

MS. COOPER: Thank you. I look forward to answering your questions. I do not have any opening remarks.

MR. GOLDMAN: I'll now yield to Mr. Mitchell for the majority's 1-hour round.

EXAMINATION

BY MR. MITCHELL:

Q Good afternoon, ma'am. Would you please state your title.

A My title is Deputy Assistant Secretary of Defense for Russia, Ukraine, Eurasia.

Q Can you just generally describe your duties and responsibilities?

A My portfolio spans first Russia, and the Russia portfolio includes current events, current policy towards Russia, as well as long-term strategy on Russia for the Department of Defense.

I also cover a number of countries that are former states of the Soviet Union, particularly Ukraine, also Georgia. I also cover

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Azerbaijan and Armenia as well as Moldova and Belarus.

Finally, in terms of the regional part of my portfolio, I also handle the countries of the Western Balkans. So this includes Bosnia-Herzegovina, Albania, Croatia, Serbia, North Macedonia, and Montenegro, and Kosovo. And then, finally, I handle the conventional arms control portfolio for the Department of Defense.

Q Today we're going to be focusing primarily on Ukraine-related issues. What percentage of your portfolio would you say, or how much time do you spend on Ukraine-related matters?

A So I would say it fluctuates over time, but up to 25 percent.

Q And within the Ukraine portfolio, in that 25 percent of the time, what types of matters are you working on within Ukraine?

A So my primary focus is on building a strong relationship with Ukrainian Ministry of Defense and Ukrainian Armed Forces, and building the capacity of the Ukrainian Armed Forces to resist Russian aggression. So, as part of that, I oversee DOD's security assistance to Ukraine.

Q I think we're going to get into more detail during the course of this deposition, but can you just generally describe whether you have any interactions, specifically in connection with the Ukrainian portfolio, with members of the Department of State?

A Absolutely. I talk with my State Department counterparts quite frequently about Ukraine and, really, the whole range of my portfolio.

Q And what about OMB, specifically with regard to Ukraine?

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A I do not routinely interact with OMB, although over the course of the summer, participated in a couple of meetings with OMB, perhaps more than a couple -- I'd have to double-check the number -- and had one phone conversation with an official from OMB over this past summer. But that would not be typical of my position.

Q What about National Security Council, again, for the Ukraine-related matters?

A So for Ukraine-related matters, I correspond, or speak quite frequently, at least weekly, with NSC counterparts.

Q And that's a matter of routine. Is that right?

A That's just routine.

Q And is that because you coordinate with the National Security Council regarding U.S. policy with regard to Ukraine as well as other geographic regions?

A Absolutely.

Q What about the Office of the Vice President?

A It has been quite some time that I have interacted with the Office of the Vice President. And it has depended over time on particular staff members and their interest in my portfolio and what the Defense Department is working on.

I actually cannot recall any instances within the past, say, 6 months to a year of direct interaction with one person from the Office of the Vice President, but it's important to note that the Office of the Vice President is usually present at interagency policy meetings.

Q Like the ones that you were describing that took place during

the course of this summer?

A Yes, that is correct.

Q And, again, we'll get into more detail a little bit later. What about White House counsel?

A I have not had any direct interactions that I can recall with White House counsel in the foreseeable past, although I would not be surprised if they were participating, at least by sitting in on some of these interagency meetings, but I can't really recall anything that they've said in these meetings recently.

Q And what about direct contact with Ukrainian officials?

A So, I have relatively frequent direct contact with Ukrainian officials. I cochair a Bilateral Defense Consultation Forum every year to 18 months, and in the lead-up to those meetings, have contacts with Ministry of Defense officials.

I also tend to receive visiting parliamentarians from Ukraine. When they come to Washington, they'll stop by the Pentagon and see me.

Those are just examples.

Q And do you have any contacts with Ukrainian officials about security assistance specifically?

A With the Ministry of Defense, my consultations relate to setting priorities for security assistance and progress in implementing security assistance.

Q So I think today we're going to focus on two different types of security assistance to Ukraine. The first is the DOD-administered Ukraine Security Assistance Initiative, which I understand is USAI,

as well as the state-administered Foreign Military Financing, which is FMF.

A Uh-huh.

Q Can you just generally describe those two different programs for us?

A Certainly. I would first start by, of course, noting the obvious of the different oversight authority. State Department is in the lead when it comes to FMF. So for FMF, the Defense Department is playing an implementing role and a coordinating role with respect to policy, whereas the Ukraine Security Assistance Initiative is a DOD authority. So we are in the lead for the policy and the implementing, and the State Department is in a coordinating role. But both -- both authorities allow us to support Ukrainian Armed Forces in defending themselves against Russian aggression.

Q And so what types of things does Ukraine get from this U.S. security assistance? And you can talk about it both as to USAI as well as to FMF.

A Sure. So for me, I probably can't give you a very comprehensive list just off the top of my head, and I'm certainly more familiar with the Ukraine Security Assistance Initiative. But just to give an example of some of the things that we included in the USAI package for this year was a very wide range of capabilities, ranging from night vision goggles and vehicles to counter-battery radars, sniper rifles. Those are just -- medical equipment. Those are just some examples of the kinds of things that were included in this year's

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Ukraine Security Assistance Initiative package.

The most notable item that we funded through FMF in the recent past, although this is going back beyond this year's tranche of money, was the Javelin anti-armor system, which we used FMF to fund.

Q Was that in 2017?

A I'd have to double-check the date. I believe it was.

Q Were you involved in that FMF funding for Javelins in 2017?

A So -- yes. I was involved in the interagency process that resulted in the decision and then the implementation of it.

Q Again, we'll have more questions about that later. Do other countries also provide economic and security assistance to Ukraine, just like the U.S.?

A There are a number of other countries that provide both economic and security assistance.

Q Including the EU?

A I actually am not familiar with the EU as an institution, but a number of EU member states, I am familiar with their particular contributions. The EU funds tend to be on the economic side; and because I focus on defense and security, I'm less familiar with those.

Q What about the amounts of assistance provided by the U.S. versus other European countries, for example, are you familiar with those numbers?

A I couldn't give you the specific numbers, but the U.S. -- the U.S. contributions are far more significant than any individual country. Whether the collective contributions outweigh the U.S., I

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don't have that figure.

Q Now, you indicated earlier that the security assistance is used by Ukraine to thwart Russian aggression, correct?

A Correct.

Q How important is security assistance to Ukrainians?

A Security assistance is vital to helping the Ukrainians be able to defend themselves.

Q Can you explain a little bit more?

A Well, if you go back to 2014, when Ukraine found itself under attack by Russia, the state of the Ukrainian Armed Forces was significantly less capable than it is today, and that capability increase is largely the result of U.S. and allied assistance.

And now what you see is a Ukrainian armed force that is able to better deter Russian aggression, and you've seen a drop in the kinetic action, although not -- not a complete lack of hostilities, certainly. We still have casualties on a regular basis.

Q So the security assistance that's provided by the U.S. is within the Ukrainians' national interest, obviously. Is that right?

A Absolutely.

Q And what about within the U.S. national interest?

A It is also within the U.S. national interest to provide security assistance to Ukraine.

Q Given this is an unclassified interview, with that constraint in mind, can you explain how it's within the U.S. national security interest to provide this aid to Ukraine?

A Ukraine, and also Georgia, are the two front-line states facing Russian aggression. In order to deter further Russian aggression, we need to be able to shore up these countries' abilities to defend themselves. That's, I think, pure and simple, the rationale behind our strategy of supporting these countries. It's in our interest to deter Russian aggression elsewhere around the world.

Q And would you also agree that the U.S. security assistance to Ukraine is also helpful to Europe as a whole with regard to thwarting any sort of Russian aggression?

A Absolutely.

Q In 2018 and 2019, has Ukrainian security assistance received bipartisan support?

A It has always received bipartisan support, in my experience.

Q And that's both in the House and the Senate?

A Absolutely, in my experience.

Q And what about at the interagency level?

A I have witnessed, even in the recent past, overwhelming consensus in favor of providing Ukraine security assistance.

Q And when you say "within the recent past," you mean even over the course of this year?

A Even over the course of the summer.

Q Can you describe your own involvement in USAI and FMF matters?

A Sure. I mean, I think the first part is with the process of defining what the requirements are for the Ukrainian Armed Forces,

and looking at what authorities and what resources we can use to support those requirements.

So, in my role, I'm receiving input from the field, from European Command, and from our team at the U.S. Embassy in Kyiv as to the requirements; and then, I am overseeing a team that's putting together a package -- packages, really -- to support their needs via FMF and via Ukraine Security Assistance Initiative.

I delve into much greater detail with respect to Ukraine Security Assistance Initiative than I do with FMF, because of my responsibility as a defense official.

MR. HECK: Mr. Mitchell, on behalf of the elderly at this end of the table, myself included, could I respectfully request you both eat your mics? We're really having difficulty hearing.

MS. COOPER: This is better? I apologize.

BY MR. MITCHELL:

Q But with regard to FMF, you also have some exposure and some knowledge of that program as well, based on your role and responsibilities at DOD?

A Absolutely.

Q In layman's terms and perhaps at a high level, can you generally describe the relevant milestones for USAI funding from appropriation all the way through to obligation of the funds, at a high level?

A Certainly. I will attempt to do so. Because USAI -- there are two pieces that I'll discuss, the conditionality piece, and the

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actual allocation of resources.

The conditionality piece relates to the NDAA provision that requires that half of the funding be conditioned on Ukraine making sufficient progress in defense reforms. So that part of the process involves my office very closely.

At the beginning of the year, when we know how much funding we will be receiving, we take stock of Ukraine's reform needs, and develop a set of criteria that we want to use to gauge progress in defense reform.

Last year, I delivered that set of broad criteria to the Ukraine Defense Ministry in December, when I visited them.

Q So this is after Congress has done the --

A This is after.

Q -- authorization and the appropriation, correct?

MR. LEVIN: Let him finish the question.

BY MR. MITCHELL:

Q So this is after Congress has authorized and appropriated the funds, correct?

A Correct, correct.

So at that point, we convey to the Ukrainians our expectations for reform, and we support them in the reform process, so that later in the year we will be able to certify the reforms.

Q So there is engagement with the Ukrainians during this stage. Is that correct?

A Yes, there is engagement with the Ukrainians throughout this

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stage.

Q Is there also -- are there also interagency meetings here in the United States during this phase as well?

A Yes. And if I could correct the notion of a phase, these are really parallel processes, but they occur over the span of the entire year. So we're having conversations internal to the Defense Department with the Ukrainians and across the interagency about defense reform, and about what our expectations are for progress in defense reform from the moment that we outline those conditions -- in this case, last year it was in December -- all the way through to the point that we actually certify to the U.S. Congress that we believe Ukraine has made sufficient progress.

So we discuss our assessment of progress. We discuss what the conditions should be, and then we discuss what the assessment of progress is internal to the Defense Department, but also with our interagency colleagues.

And then, in parallel with that, we work the actual process of identifying the specific equipment requirements and specific funding needs. And when we are prepared with the precise packages, we notify the U.S. Congress, and we do that in two tranches, because of the conditionality requirement.

So the first tranche, this past year, we notified in the spring, I can't recall the exact date off the top of my head; and then the second tranche was notified in May.

Q And the notification process that you're describing, these

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are Congressional Notifications, also sometimes called CNs. Is that correct?

A Yes.

Q Does DOD give the CN to OMB before it goes to Congress?

A No. There's a different process for DOD than there is for State with the FMF process.

Q Can you describe that difference?

A So State Department -- my understanding from State Department colleagues and from this past summer is that OMB actually has to approve the Congressional Notification before it comes over to the Hill.

That is not the case for Ukraine Security Assistance Initiative. We certainly coordinated this conditionality defense reform language and the assistance content with our interagency colleagues, but there was no requirement for DOD to run the Congressional Notification through OMB.

Q All right. So once DOD gives the CN to Congress, is there a -- it sounds like you want to say something.

A State Department. Oh, once DOD gives the USAI?

Q Correct.

A Okay.

Q Once DOD gives USAI CN to Congress, what happens next?

A Well, there's a particular waiting period. I want to say 15 days, but you may correct me if I have that wrong. And then we are able to obligate funding after that period of time.

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In the case of this past year, I recall that for the late May notification of tranche two, HAC-D had some questions. I don't remember the exact nature of the questions, but I remember they had some questions. So it kind of -- it took us past that 15-day mark. But after that point, we were able to go ahead and start obligating funding.

Q I think, again, we'll get into some detail as to what happened during the course of 2019, but --

MR. ROY: May I ask, who had questions? I didn't understand that acronym.

MR. MITCHELL: HAC-D.

MR. ROY: Oh, thanks. I didn't hear you.

BY MR. MITCHELL:

Q So after the 15 days have elapsed or Congress green lights or clears the CN, what happens after that?

A The Defense Department starts to obligate funding, and that's the purview -- the lead for that is Defense Security Cooperation Agency.

Q Are you involved in that process?

A I am a step removed from the actual process of obligating funding.

Q And OMB does apportionments as well. Is that right?

A That is correct.

Q And what do you know about OMB's role in doing apportionments?

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A Well until this past summer, I didn't know anything about it, but I will -- I can say that my understanding as a policy official -- and I'm not a comptroller -- is that OMB essentially gives permission for the flow of funding and can provide, you know, specific guidance about that flow of funding.

Q So before DOD can put moneys onto contract or obligate the funds, OMB needs to do an apportionment?

A That is my understanding.

Q Now, you mentioned, during this period prior to the CN, there's a lot of work that's done on your end to make sure that Ukraine is meeting the various institutional requirements, reform requirements. Can you describe what those are?

A Yes. I want to emphasize that, from my perspective as a DOD official managing Ukraine security assistance, we appreciate the provision in the NDAA that calls for defense reform progress, and it allows us to have a very practical tool to encourage defense reform.

The language in the NDAA is not specific to exact reforms that must be accomplished but, rather, is a broad call for reform. So we elect, internal to the Defense Department and in consultation with interagency colleagues, to come up with loose benchmarks that we can then describe to the Ukrainian Ministry of Defense and monitor progress toward.

In the past year, the benchmarks were different from what they will be for the next year, because we're always looking at what the next important set of reforms would be.

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So I can give you a quick example. This past year, we were looking at a few things. We were looking at progress on command and control reform. We were looking at a commitment to pursue defense industry reform. We were looking to the Ukrainian Government to pass a law that would enable government-to-government procurement. This would enable them to use our FMS system. And these are examples of some of the benchmarks.

The year before, it had just been one broad category. We wanted them to codify in law, their law on national security, the key reforms that they would need to take to become NATO interoperable.

So each year it's different, depending on what we think are the most important steps, but also the most practical steps to advance reform.

Q Were there anticorruption benchmarks within the last year?

A So all of these relate to anticorruption. Thank you for raising that. The FMS law, as we loosely call it, the law that allows them to do government-to-government procurement, will enable significant anticorruption efforts, because it will break the stranglehold that Ukroboronprom has on government procurement and allow for a truly competitive environment for government purchases. So that's one example of how these reforms are intrinsic with anticorruption.

MR. SWALWELL: Do you mind spelling that?

MS. COOPER: Ukroboronprom? Okay, let me write it down.

MR. MITCHELL: Usual spelling.

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MS. COOPER: Okay. Sometimes it's called UOP for short. It's U-k-r-o-b-o-r-o-n-p-r-o-m.

BY MR. MITCHELL:

Q And who determines whether these benchmarks have been met?

A So that is a question for interagency assessment informed by a number of things, to include my own judgment, to include the judgment of the U.S. Embassy team, to include the judgment of our key advisers on defense reform. General Dayton, retired General Dayton, is our senior adviser on defense reform.

So we're pulling in all the views of the key experts on Ukraine defense, and coming up with a consensus view, and then we run that up the chain in the Defense Department, to ensure we have approval. And in this case, in May of this year, it was Under Secretary of Defense for Policy, John Rood, who provided the certification to Congress, but that was after coordination with the State Department.

Q So the consensus view that you're describing ultimately results in the certification and the CN that was by John Rood this year. But prior to that, is there memorialization of how Ukraine has met the various different benchmarks when you float it up the chain?

A The only memorialization that I'm recalling at this moment that is in one document is, in fact, the package for the Congressional Notification, although it's fair to say on each of these individual reforms, we have a lot of correspondence back and forth with the field and within the interagency about progress throughout the course of the year.

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Q And how long have you personally been involved in USAI?

A Since I took my position as principal director for the Russia, Ukraine, Eurasia Office back in 2016.

Q So since 2016, during your tenure, has Ukraine always met the required benchmarks in order to receive USAI funds?

A Yes. We're only talking about 2 years, though.

Q And would you agree or disagree that Ukraine has generally made forward progress, again, over the course of your tenure when you have been monitoring these benchmarks?

A Yes. I see significant forward progress.

Q Now, you mentioned that USAI funds come in two different tranches. Is that right?

A That is correct, although we divide it into two different tranches, based on a number of practical considerations. One is the long lead time for certain equipment items. So the items that we notify earlier in the year tend to be those that have a very long lead time for actually getting them on contract.

And the other is because of this conditionality provision, we want to allow the year to play out so that Ukraine can continue to make these reforms before we come back with the second notification.

Q What do you mean by items that require significant lead time?

A I am not a procurement expert, but my -- the advice that I have received from Defense Security Cooperation Agency is that, you know, some items, particularly those that are higher technology -- the Javelin, for instance, that was something that was procured via FMF,

to take advantage of that longer lead time. So I think it depends on the specific contracting process.

[Majority Exhibit No. 1
was marked for identification.]

BY MR. MITCHELL:

Q I'm going to hand you exhibit 1. It's a multipage document, but I'm really only going to focus on the first page here. Do you recognize this document?

A Yes. I think it's our first -- it's our first Congressional Notification. Yes.

Q And what's the date of this particular CN?

A Well, strangely, it has two -- it has two dates on it, so I'm not sure which is the authoritative date. My recollection is that it was, you know, closer to March, but --

Q And those two dates are February 28th, 2019, and March 5th, 2019?

A Yes, that is correct, on the document anyway.

Q And were you involved in putting together this particular CN?

A Yes, I approved it on its way up.

Q And this is signed by Under Secretary of Defense John Rood, correct?

A Correct.

Q What was his role in preparing or evaluating the CN and the package that goes behind it?

A So, as the final signature authority, he reviewed the recommendations of his staff, and I would be one of his key advisers on this.

Q Acting Assistant Under Secretary of Defense Katie Wheelbarger, what is her role?

A I'll just correct her title. It's the Acting Assistant Secretary of Defense for International Security Affairs. She is the official in the chain of command in between me and Under Secretary Rood. Now, there is also a Deputy Under Secretary of Defense for Policy who is in between ASD Wheelbarger and Under Secretary Rood.

Q And what's that person's name?

A Well, that position is in an acting capacity right now. For the most of the past year, that position was occupied by David Trachtenberg, the DUSDP position.

Q And what was Ms. Wheelbarger's role with regard to this March CN?

A So, the normal procedure would have been for her to review this on its way to Under Secretary Rood. I can't tell you for certain whether she, in fact, reviewed this exact package, but she, you know, reviewed a number of Ukraine-related actions.

Q And earlier, you indicated there was a 15-day window for Congress to act. Do you know what happened during that 15-day window for the March CN?

A I cannot recall anything significant.

Q So, to the best of your recollection, that --

A That's just my recollection.

Q So, to the best of your recollection, the CN was cleared by Congress?

A That was -- so as I recall it -- again, my memory could be faulty -- the only questions that we received that caused a delay were for the May notification. This one, I don't recall any specific questions, but there could have been.

Q Are you aware that there was the first round of Presidential elections in Ukraine at the end of March of 2019?

A Absolutely.

Q Do you know whether those Presidential elections affected the clearing of this March CN?

A I do not recall any actual hindrance and, you know, that -- I just don't recall any.

Of course, the other thing I would say is, you know, at the time we were pretty focused on the elections themselves, not necessarily on this. So I'm not -- I'm just not sure.

Q Do you know whether the Department of Defense put any funds onto contract with regard to this first tranche?

A Well, ultimately, yes.

Q Prior to September of this year?

A Prior to September? I don't have the specific information on each case and when each case was obligated. All I can say is my understanding is that by -- by July timeframe we had started to obligate, but I don't know which specific items. And --

Q So those obligations could have gone to the first tranche or the second tranche?

A At my level, you know, I personally was not tracking exactly which item was obligated. I was merely looking for progress, and the assurance that we would be able to obligate everything by the end of the fiscal year.

Q And do you know how much money had been obligated by this July time period, whether it's the first or the second tranche?

A I don't. It wasn't very much, though. I know that much, again, because the process for obligating funding, my understanding of it from our experts is that it just takes quite some time. So because of the earlier notification, this notification reflected a lot of long lead time items, they were only just starting to be in the window in which we'd be obligating by midsummer.

Q Now, you indicated, I believe earlier, that the first tranche does not require the certification for the benchmarks. Is that correct?

A So the requirement is to certify half. So it -- you know, we decided to present a notification of half, and then wait to certify the progress for the second half.

I'm trying to be careful to not mischaracterize the actual NDAA provision, but, you know, I trust that we can refer to that specifically as needed.

[Majority Exhibit No. 2
was marked for identification.]

BY MR. MITCHELL:

Q I'm going to hand you exhibit 2. Do you recognize this document?

A Yes, I do.

Q And what is it?

A So this is the second notification document, and this is the document that, you know -- that describes the certification of sufficient progress on defense reform. So in addition to notifying the specific equipment items, this document also describes the certification process.

Q Can you point us to that certification in this document?

A So if you -- if you look at the bottom paragraph, that describes -- it says, "the primary methodology used to inform this certification." That paragraph gives you a more detailed background on what I described to you earlier.

And at the very top of the letter, it outlines that the government of Ukraine has taken substantial actions to make defense institutional reforms for the purpose of decreasing corruption, increasing accountability, and sustaining improvements of combat capability. And that is the crux of the certification right there.

Q And you just quoted from the very first sentence of this letter?

A I did. If you look at the first sentence and then you look at the bottom paragraph, together that's kind of the discussion about certification.

Q And you indicated that the Department of State played a coordinating role with regard to USAI. Is that correct?

A Yes, that is correct.

Q So would this certification have been done in coordination with the Secretary of State as well?

A I can tell you that we coordinated it with the State Department, but I do not know which official -- which official at the State Department coordinated. It was in coordination with the Secretary of State.

But just as Under Secretary Rood was signing for the Secretary of Defense, I just don't know if it was Secretary Pompeo or if it was an official who had been delegated the responsibility.

Q All right. But suffice to say that this certification memorializes that Ukraine had met all the necessary anticorruption requirements as well as other benchmarks that you described earlier under U.S. law in order to obtain this second tranche of USAI funding?

A That is correct.

Q And what was the total amount of the two tranches?

A The total amount was 250.

Q \$250 million?

A Yes. I'm sorry.

Q Now, you indicated that there may have been some delay with regard to the 15-day clearing period. Is that right?

A That is my recollection.

Q But it eventually was cleared by Congress?

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A It was eventually cleared. And by mid June, we had announced it and were moving out on it.

Q Okay. And when you say, "by mid June, we had announced it," are you referring to the June 18th public release by the Department of Defense?

A That is exactly what I'm referring to. Thank you.

Q Were you involved, in any way, in the issuance of that public release?

A Yes. I coordinated on the content of it.

Q And when you say "coordinated on the content," does that mean -- what does that mean?

A So that means -- so in this case, I believe that my staff helped draft it, in consultation with our public affairs staff. Then they provided me with the draft for review, and I approved it.

Q And that release essentially said that the Department of Defense was planning on providing \$250 million to Ukraine in security cooperation funds for training, equipment, and advisory efforts to build the capacity of Ukraine's Armed Forces. Is that consistent with your recollection of the release?

A That would be the gist of it.

Q And what was the -- I guess, what was the effect of this release on June 18th by DOD?

A Well, one effect was that the Ukraine Embassy and the Ukraine Government thanked us for making that public. They had been looking for a public acknowledgement of the assistance, not because this was

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unusual, just they appreciate it when allies publicly note what kind of support we're providing Ukraine.

So that was an immediate reaction. We got a thank you phone call from the -- my staff did, anyway -- from the Ukraine Embassy; and our team in Kyiv, in the Defense Attache Office, heard appreciation.

But the second potential effect -- and I want to be clear that I am speculating here -- was that a few days later, we got a question from my chain of command forwarded down from the chief of staff, I believe, from the Department of Defense, asking for follow-up on a meeting with the President.

And it said, there are three questions. I believe it was -- I think it was three questions for follow-up from this meeting, no further information on what the meeting was.

And the one question was related to U.S. industry. Did U.S. -- is U.S. industry providing any of this equipment?

The second question that I recall was related to international contributions. It asked, what are other countries doing, something to that effect.

And then the third question, I don't recall -- I mean, with any of these I don't recall the exact wording, but it was something to the effect of, you know, who gave this money, or who gave this funding?

So when my office responded to these questions, we speculated that perhaps someone in the White House had seen our press release and then seen an article that came out after the press release. And the article that came out afterwards had a headline that could have been a little

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bit misleading, because the headline said something like, you know, U.S. gives 250 million to Ukraine, something that didn't explain this is equipment and it's, you know, U.S. industry and all that sort of thing.

So, again, I'm speculating here a little bit, but we did get that series of questions just within a few days after the press release and after that one article that had the headline.

Q Who was this email from? You mentioned the chief of staff.

A Yes. It came through a number of people before it reached my desk. I don't recall exactly how many people. But it came from the chief of staff to the Secretary of Defense, in our building, anyway.

Q And prior to your office responding to these series of questions, did you seek any further clarity on who was asking these questions or what these questions were about?

A So I think we asked. You know, we asked our various front offices, do you have any more insight? Do you have any more detail? Did this come from that news article? You know, we kind of asked, but nobody that we spoke with -- and it was -- to my recollection, this is just front office staff as opposed to conversations among principals. No one had any additional insight. So we, you know, dutifully responded to that email with some fact sheets.

Q Was there a response to your response?

A I never received a response.

Q Prior to the issuance of this June 18th DOD statement, was there any talk of a potential hold on USAI or FMF funding?

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A No. And just to be clear, I'm not suggesting that there was talk on or about June 18th of a hold. All that I received at my level was that series of questions, and then we responded to those questions and, frankly, just moved on with the normal process.

Q So when you received those questions, the first thing that popped in your mind was not that this was a potential hold coming down the pike?

A Not at all.

Q Okay. When you said chief of staff, what did you mean by that?

A There's a position in the Secretary of Defense's front office. Eric Chewning is the current incumbent.

Q But you indicated that you thought this might come from the White House. Did I mishear you?

A No. The way the email was phrased, it said follow-up from POTUS meeting, so follow-up from a meeting with the President. So, you know, I'm thinking that the questions were probably questions from the President. That's how I interpreted that subject line.

Q Did you ever get any more clarity on what this POTUS meeting was?

A I never did.

Q This response that you sent back, this email, how was it communicated back to the White House, if you know?

A I do not know how it was communicated back to the White House.

Q So when was the first time that you learned that there was

a hold on USAI funds?

THE CHAIRMAN: Well, for clarity, so you get this email. And I think we've talked about two different chiefs of staff, which might be a bit confusing. There's the chief of staff at the Defense Department and then there's a chief of staff of the President.

MS. COOPER: Yes.

THE CHAIRMAN: Did the emails seem to originate from the chief of staff of the President?

MS. COOPER: No, sir. The email originated from the chief of staff to the Secretary of Defense, but it --

THE CHAIRMAN: Chief of staff of the President or chief of staff of the Defense Department?

MS. COOPER: Of the Defense Department.

THE CHAIRMAN: Okay.

MS. COOPER: But it did refer to follow-up from a meeting with the President.

THE CHAIRMAN: So somebody had to communicate from the White House to the chief of staff of the Defense Department?

MS. COOPER: Yes, or someone would have to have been in a meeting with the President and come out of that meeting and told the chief of staff to the Defense Department, here are some questions that came out of that meeting.

THE CHAIRMAN: And I think you gave us your best recollection of the questions. Can you tell us what your answers were?

MS. COOPER: Yes, sir, but only partially, because I just -- it

was a volume of information that we provided, so I simply don't recall.

But in terms of U.S. industry, what we were able to delineate in careful detail, working with the Defense Security Cooperation Agency, was that, you know, the vast majority of companies that are providing equipment under the Ukraine Security Assistance Initiative are U.S. companies. So we were able to give a list of U.S. companies that are involved in this.

And in terms of burden-sharing, we were able to highlight the role of this group of five nations that forms the Multinational Joint Commission, co-chaired by EUCOM and the Ukrainians, but with the participation of the U.K., Canada, Lithuania, Poland, and I'm sorry, I forget -- oh, the United States. We're the fifth.

And so this particular group, not only do the countries in this group participate in the process of identifying requirements for Ukraine security assistance, each individual country is contributing training or equipment to the Ukrainian Armed Forces.

So in this particular fact sheet, we were able to describe that. I don't recall the specific content that we provided related to broader assistance beyond that specific security assistance domain.

THE CHAIRMAN: And I'm sorry, what was the third question that you received?

MS. COOPER: So the question was -- this is the one that was the trickiest for me to remember the phrasing, because it was kind of strange phrasing. It was something along the lines of who provided this funding, or where did this funding come from? So, for that, we

just answered that this was, you know, supported -- this was provided by the U.S. Congress and that USAI has strong bipartisan support.

THE CHAIRMAN: And when you sent back all the answers to these three questions, you got no response?

MS. COOPER: That is correct.

THE CHAIRMAN: And you had no reason to believe that there was going to be a hold on the funding, but you obviously responded to the questions anyway?

MS. COOPER: Absolutely, sir. It would be routine for us to respond to any question that comes down from the Secretary, and certainly any question that would come down from the President. That's relatively unusual, and we always respond as quickly as we can.

THE CHAIRMAN: Back to Mr. Noble -- Mitchell.

BY MR. MITCHELL:

Q This response that you provided, was it by email?

A The response to these questions from follow-up from the meeting? Yes, it was via email.

Q And were there also attachments to that email?

A Yes, sir.

Q Have you recently been asked to gather documents that may be responsive to a congressional subpoena?

A So the way that the Department of Defense is handling the requests for information, both for the subpoena but also a number of Freedom of Information Act requests, as I have seen it from where I sit, is to have the Joint Service Provider, we call it JSP, our IT

professionals, do a document pull.

So we have been asked to not remove anything. The vast majority of our documents are electronic. We keep almost no paper records anymore of anything. So the fact that the IT staff are pulling these documents behind the scenes means that we as individuals, or I personally, have not had to take any specific action.

Q Without getting into any communications that you may have had with your attorney on this topic, prior to you coming in today, did you review any documents that might be relevant to your testimony?

A Yes. I refreshed my memory on some prior emails.

Q Okay. And was the email that you just described responding to these questions one of the emails that you reviewed?

A Yes, it was.

Q So it is -- that email is still in existence, as far as you understand?

A Absolutely. It's my belief that all of the Department of Defense documents should be still in existence.

Q Now, you indicated that the request, these three questions came about a couple of days, I believe, after this June 18th DOD announcement. Is that right?

A It was shortly thereafter. I would say it was probably within a week. So I can't -- that I'm not sure of the exact timeframe, but within a week.

Q Okay. And can you recall approximately when the response was sent back?

A It certainly would have been within a week, but I can't -- I can't tell you the exact date, but we normally are required to respond very rapidly to questions from the Secretary or the President.

Q So likely sometime between June 18th and the end of June?

A Yes, that's my recollection.

Q Okay. When did you first learn that USAI funds were potentially going to be held?

A So I probably first learned in the middle of July. There was a meeting, an interagency meeting that I sent my deputy to. It was a routine Ukraine policy meeting. And the person chairing it, it was the director for Ukraine at the NSC, not the senior director. So I sent my deputy.

And I recall that after that meeting -- and I got, you know, I got a readout from the meeting -- there was discussion in that session about the -- about OMB saying that they were holding the Congressional Notification related to FMF. And the language that came out, as I recall, was something we were trying to parse the meaning of, because we -- I say "we." My deputy heard in the meeting, and my staff subsequently tried to clarify, a statement about, you know, the guidance being to hold -- it was more broadly applicable, was the phrase I remember hearing, that the guidance was more broadly applicable. But we tried to clarify, there's no guidance for DOD at this time. Is this correct? And they did not have specific guidance for DOD at the time.

So at that point, we were concerned, because this notion that there was guidance that was broadly applicable to Ukraine security

assistance was a source of concern, but the only specific was related to that Congressional Notification for FMF.

[3:58 p.m.]

BY MR. MITCHELL:

Q And who was the deputy that you sent in your stead?

A [REDACTED], she's my principal director.

Q Okay. And was this the July 18th sub PCC?

A That's correct.

Q But you did not participate --

A I did not participate -- no, I participated in the subsequent meetings, but not that one.

Q Okay. But you indicated that you saw a readout of it?

A Yes, that's correct.

Q Where did that readout come from?

A So for most of these meetings there are two readouts. One is the readout that the person who is attending the meeting prepares. So we routinely memorialize all of our written notes into an electronic record. So I received that readout from my staff. And then the other readout from these meetings is the summary of conclusions that the NSC staff prepares, and it usually comes out a bit later after the meeting.

Q Okay. That's also known as a SOC?

A Correct.

Q Okay. Did you see both this readout from [REDACTED] as well as the SOC?

A Yes, that's correct.

Q Okay. Was there any discrepancies between the two?

A Well, the NSC summary of conclusions is typically much less

detailed than, you know, the notes that we memorialize. So there was lack of corresponding detail, but I did not see any that I recall, any substantive discrepancies.

Q Okay. Have you looked at these two specific documents in preparation for your testimony here today?

A Yes.

Q Okay. Do they still exist as well?

A Yes.

Q Okay. What form are the notes that Ms. Sendak took? In other words, are they in a memo, or an email, handwritten?

A They are in an email. And that's our routine practice from all of our key meetings, whether they be internal, or with foreign partners, or with interagency, we write up a summary and we email it to the pertinent people in the office and if appropriate we send it up the chain.

Q Okay. And did the summary that you read, as well as the SOC, mention OMB's statement about the hold on FMF?

A It described something along those lines, but I -- I don't recall the exact wording. And I'm not sure -- I'm not sure it said OMB, it might have said something that was more just there is, you know, a hold.

Q Okay. Well based on your conversations with people who were actually in the room, do you know who made that statement at this July 18th sub PCC?

A So my understanding is it was an OMB representative, but I

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don't know who.

Q Okay. Do you know who chaired that meeting?

A Since I wasn't there, I don't want to give you absolute certainty, but typically the sub PCC would be chaired by the director and in this case that's Alex Vindman.

Q Was there any other DOD representative at this meeting?

A I'm not sure. Routinely we have a joint staff representative, but I'm not sure if there was one at this particular meeting.

Q Okay. Now you indicated there was some, that there was confusion on your part as to what effect this hold might have on USAI?

A Yes, that's correct.

Q And you sought further clarification or your staff did?

A Yes.

Q Following this meeting?

A Yes. And they didn't really receive clarification.

Q Okay. Who did they seek clarification from?

A I don't know for sure, but I believe NSC staff, were the primary conduit, because we don't have routine counterpart interaction with OMB directly.

Q Okay. Based on your review of the summary and the SOC, was there any reason provided for the hold during that July 18th meeting?

A I don't recall any reason being provided at the July 18th meeting.

Q Okay. And similarly during your follow-up it sounds like

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no reason was provided then either?

A No. Although very quickly, there was a meeting at the next level up where we had another discussion about security assistance.

Q Okay. And that's the July 23rd, PCC meeting?

A That's correct.

Q I think my time is up. So we'll stop there and I will yield.

THE CHAIRMAN: 1 hour to majority -- minority, excuse me.

BY MR. CASTOR:

Q Was this extremely unusual?

A May I ask for clarification? What aspect?

Q The funds were held without explanation.

A So the way the process played out over the course of the summer was very --

Q No. I'm just talking about the 7/18 meeting.

A It was unusual.

Q Okay. And were you unable to get any additional information from NSC --

A No.

Q -- shortly after the meeting?

A No, we did not get clarification.

Q What did you do to try to get that clarification?

A We called around to NSC, to State. Those are our usual colleagues.

Q And who did you call?

A So I personally don't recall whether I called or it was my --

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Q Sure. --

A -- my staff, but it would be the same people who were participating in the meeting. So the NSC directorate involved is very small. You have Tim Morrison as the senior director, and you have Alex Vindman as the director and those are the two key figures. And at the State Department there is a Ukraine desk and I don't know all of them, but my staff correspond with them, and would have called over to them, but my counterpart is George Kent.

Q And eventually did you get any information about the source of the hold?

A So the issue started to clarify a little bit on the 23rd at that -- at that PCC meeting. There in that meeting I recall I was advocating for the release of the FMF, because I still wasn't sure if our funds were actually at risk. But there again the OMB representative, again I do not -- this particular meeting I'm not sure who it was.

I believe I was participating via SVTC, but I'm not quite sure. But in that meeting again there was just this issue of the White House chief of staff has conveyed that the President has concerns about Ukraine and Ukraine security assistance. That was how it was conveyed in the meeting on the 23rd.

So I walked away from the meeting on the 23rd thinking okay, we know that this is, you know, a larger issue. But I still didn't have any specific direction with respect to USAI. That came after that meeting, the official direction from OMB to the DOD comptroller who

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then informed me was -- I'm pretty sure it was on the 25th of July that we got the apportionment notice for USAI.

And then the very next day, the 26th was the meeting that I was the backbencher for with the deputies' level. And there it was, to me anyway in my experience, it was the first time it was stated very clearly what -- that yes, it is FMF and USAI are both affected by this hold and that it relates to the President's concerns about corruption. And that is what in that meeting Mike Duffey from OMB said.

Q And the President is authorized to have these types of holds placed. Correct?

A Well, I'm not an expert on the law, but in that meeting immediately deputies began to raise concerns about how this could be done in a legal fashion because there was broad understanding in the meeting that the funding -- the State Department funding related to an earmark for Ukraine and that the DOD funding was specific to Ukraine security assistance.

So the comments in the room at the deputies' level reflected a sense that there was not an understanding of how this could legally play out. And at that meeting the deputies agreed to look into the legalities and to look at what was possible.

Q Okay. So is it fair to say the deputies thought the President was not authorized to place a hold on these funds?

A They did not use that term, but the expression in the room that I recall was a sense that there was not an available mechanism to simply not spend money that has been in the case of USAI already

notified to Congress. And in the case of the FMF that was earmarked for Ukraine. So the senior leaders were expressing that they didn't see how this was legally available, but they didn't use the terminology that you've described.

Q Okay. And you participated in person at the deputies' meeting --

A Yes.

Q -- as the backbencher?

A Yes.

Q Who was in that meeting to the extent that you can recall.

A Whew. Well it was chaired by Charlie Kupperman and John Rood was the DOD principal. I believe it was Under Secretary Hale for the State Department, but I'm not 100 percent sure. Mike Duffey was the OMB rep, he was sitting in the back, as a backbencher. And I'm just not recalling the other agency representation.

Q Okay. What was on the agenda for that day other than this topic?

A So with all of the Ukraine meetings within that week timeframe, there was a focus on the elections and on the new President Zelensky team. There was a consensus in all of these meetings that this was a government that had a lot of promise, that was tackling corruption, and that we needed to support this government with security assistance.

The, you know, planned agenda I don't recall the specific details, but certainly the deputies' discussion I recall that while the sub PCC

and the PCC we might not have fully realized what was happening with security assistance, by the time of the deputies meeting because the hold had also been placed on DOD -- the discussion was I believe very much dominated by the security assistance topic.

Although each member went around to talk about how important it was and how they assessed the future in Ukraine based on the recent election results.

Q And between 7/18 and 7/26 had you had any personal conversations with NSC?

A I don't recall any specific conversation, but also I -- you know, I participate in lots of meetings with them.

Q Okay.

A So I just -- You know, I don't recall any specifics, but that doesn't mean that there weren't any.

Q Were you aware by the 26th of the President's deep rooted concerns about corruption in the Ukraine?

A No. So by the 26th, all I had to go on was that the President is concerned about corruption in Ukraine and somehow therefore we were holding security assistance. So the conversation at the deputies, a lot of the members were saying, you know, corruption. Yes, it's been an issue. Yes, it's a concern. Yes, there's a long way to go, but we're on the right path, you know, we can move forward. So it felt like a conversation where people were trying to explain how corruption shouldn't be a concern.

Q And the sub PCC and PCC in the deputies' meeting is the

ordinary structure of meetings when these issues come up. Is that correct?

A That is the routine progression. Although, we have a lot more sub PCC meetings and a lot more PCC meetings than we have deputies meetings. This is the only -- gosh the only deputies meeting that I can even recall on Ukraine in recent memory.

Q Okay.

A So we don't have routine deputies' level meetings.

Q Okay. So Ukraine was the topic of the meeting.

A Yes. It was only focused on Ukraine.

Q Okay.

A And it was set up following the PCC discussion.

Q Okay.

A As far as I recall, I don't think it had been previously on the calendar.

Q So it was a meeting that was enabled by this --

A Yes.

Q -- situation?

A Yes.

Q Is there a better term?

A I can't think of one.

Q Okay. What was the next crucial date after the 7/26 meeting?

A So after the 7 -- the deputies level meeting, I recall participating in another PCC level meeting and it was on I believe the 31st of July. And on that meeting it was very much a follow up,

but -- well, I can pause there. Do you want me to describe the meeting?

Q Sure.

A Okay. So the meeting on the 31st, the expectation I think at least of my participation in the meeting was that we would talk about security assistance, but the agenda that was prepared by the NSC was largely focused on just routine Ukraine business, post election follow up. Those sorts of issues.

So it wasn't -- security assistance was not actually an explicit agenda item, but because we had left the deputies without clarity on the legally available mechanisms, this was a topic that I raised at the PCC. And I shared with the PCC my understanding that for USAI, not speaking to FMF -- I left that for the State Department -- but for USAI, my understanding was that there were two legally available mechanisms should the President want to stop assistance.

And the one mechanism would be Presidential rescission notice to the Congress and the other mechanism, as I understood it and articulated it in that meeting was for the Defense Department to do a reprogramming action. But I mentioned that either way, there would need to be a notification to Congress.

Q And did that occur?

A That did not occur.

Q How soon was that notification to Congress supposed to have occurred?

A I'm not sure when it would have supposed to have occurred. I think the way I understand these provisions is that if you reach a

point where you cannot obligate the funding that the Congress has appropriated by the end of the fiscal year, once you reach that point, that is the point where you have to make that decision about what legally available mechanism you would use. And since we had not reached that point on July 20 -- July 31st.

Q Okay. So it wasn't yet time to notify Congress. Is that right?

A It wasn't yet time that we would be required.

Q Okay. Did you --

A As I understand it.

Q Did you feel at that point Congress ought to have been notified?

A So at that point I wanted to ensure that we could actually obligate the funding. And I was very much hoping that the explanations that the principals would provide the President, that this understanding, this new understanding perhaps of what legally available mechanisms were out there would create a decision to resume the funding. And I persisted in that hope for many, many days thereafter.

Q And there were other avenues to convince the President or the person in the White House that was behind this decision such as through the NSC, right?

A Well, certainly the NSC always has the ability to elevate within their chain. Out of the deputies' meeting the recommendation was to, you know, first kind of figure out these legal issues with

respect to the security assistance topics specifically.

And then there were other topics, but they get into classified information so I'm not going to discuss them here. But with respect to the security assistance topic it was, you know, we have to look at the legalities and then let's elevate to principals. So the deputies agreed to elevate to the principals' level, but there was never a formal meeting of the principals to my knowledge on this topic.

Q Do you know if the National Security Council was trying to work it on their end, briefing the President on the environment of corruption, briefing the President on the new political environment in the Ukraine after the parliamentary elections?

A My sense is that yes -- my sense is that all of the senior leaders of the U.S. national security departments and agencies were all unified in their -- in their view that this assistance was essential, that we could work with the government of Ukraine to tackle corruption, and they were trying to find ways to engage the President on this. But I don't have any specific knowledge of the actual engagements if -- with the President.

Q Okay. Did you or anyone on your staff try to communicate with Lieutenant Colonel Vindman or Director Morrison to find out what they were doing on their end, whether this was a genuine issue that needed to be addressed or whether they thought there was some maneuverability on their end?

A So we absolutely engaged them many times. And my sense is that both Tim -- Tim Morrison and Alex Vindman understood the

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importance of obligating the security assistance and, you know, the only knowledge that I have about kind of Tim Morrison's personal engagement on this is that he did express to me that he was working very hard to set up a phone call between the President and President Zelensky. And he presented it as it was a helpful thing.

Q Okay. So to the best of your understanding, the National Security Council was trying to set up the phone call between the Presidents?

A To the best of my knowledge.

Q That occurred on July 25th?

A Again, to the best of my knowledge, but I wasn't directly involved in any of that.

Q Did you get any readouts at any point of what happened on the 7/25 call?

A I never got a readout. I don't think I know anyone in DOD who got a readout on that call.

Q Okay. So the first time you learned about the developments on that call was when it became public in September?

A Yes, that's correct. When it was released to the public, that was the first time I had seen that content.

Q Okay. And during the 7/18 timeframe to 7/31 is where we currently are in the timeline, you never heard anything from Mr. Morrison or Lieutenant Colonel Vindman that there was a call between the Presidents?

A Well, I'm not sure that's accurate. I think that -- I think

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I was aware that there would be a call and that perhaps there was a call, but no content.

Q Okay. Was there any information communicated from NSC that the President's concern about corruption was a part of the call?

A I got no readout on the call.

Q Okay. So then maybe we could just go back to the deputies' meeting on July 31st. What happened next?

A No the deputies was --

Q July 31st?

A No, July 31st was the PCC.

Q Okay. The deputies meeting was the --

A The 26th.

Q 26th, I'm sorry. And then you went back to the PCC?

A Yes. That's correct.

Q On the 31st?

A Yes.

Q I'm sorry, I'm sorry. What happened next?

A So after the 31st, the focus of my office in Ukraine, we were working on a lot of other things at the same time, but on Ukraine specifically was trying to figure out how could we get the funds released, what -- you know, what were the process mechanisms that would be appropriate. And just practically speaking, how long could we delay obligation and still be able to obligate the entirety of the funding prior to September 30th.

So there were a number of kind of queries going back and forth

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between my staff, the comptroller's staff, and the Defense Security Cooperation Agency to try to figure out what to do and what was happening.

We also had the under secretary of defense for policy was engaging at his level. So the same comments that I made at the, you know, at the PCC level, he shared those same concerns with Charlie Kupperman, because there wasn't another deputies' meeting planned so this was a point-to-point communication about these two available mechanisms, the rescission or the reprogramming just to make sure that everyone was on the same page.

And in the meantime, OMB was issuing these apportionment notices. So it is probably worth me just saying a word about this now, because it gets very confusing in the timeline. Over the entirety of, you know, the period of time from when we got the first notice in July to when the funds were released and we could begin obligating again on September 12th, there were eight separate apportionment notices, but I personally wasn't aware of each one as it came in. I would hear after the fact.

And I would hear based on me talking to my comptroller colleagues saying are you still under guidance to not spend? Can we spend? So in these apportionment notices in the early ones, during this period of time this late July, early August period of time going out to I think August 6th, I believe, something around there, the apportionment notice said in it that this pause in funding -- and I'm not quoting verbatim obviously, but basically it said that the pause in funding would allow for an interagency process and would not effect the ultimate program

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execution.

In DOD we were trying to figure out if that was -- you know, how long that would be true. And over the course of the month of August we were, you know, trying to figure this out. It's not a science to know exactly how long it takes to obligate various projects, so that was a big part of sort of the day-to-day back and forth.

Q So the mind-set was let's figure out if we can still do this. And then if we're not going to do it, then how do we legally effectuate that?

A That's right.

Q And so did you ever get to the point where you started the rescission process or the reprogramming?

A Not to my knowledge.

Q Okay.

A We did get to a point though where the Department -- and I don't know who precisely, but the comptroller was most engaged with OMB as the natural counterparts. The Department of Defense had made sufficiently clear to OMB that we had passed the point where there would not be impact to program execution that in -- later in August that caveat in the apportionment footnote about not affecting the execution disappeared.

So at some point there was an understanding that we had conveyed an understanding that we were, you know, we were getting to the point where we're not going to be able to do all of this by the end of the fiscal year, and at least at the -- I don't know who issues

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apportionment notes at the OMB, but whoever does remove that to reflect that understanding.

Q Okay. So from that point forward to September 12th, everyone involved was hopeful that this would get resolved?

A Yes. Although I have to say after probably about, I don't know, August 20th or so we were really losing hope because we knew that we weren't going to be able to obligate everything by the end of the fiscal year so we were concerned about the actual program impacts.

Q Okay. And were you ultimately able to obligate everything?

A So by the end of the fiscal year we ultimately obligated -- it was upwards of 80 percent and, you know, thanks obviously to the Congress we got the language in the continuing resolution that thankfully will enable us to obligate all of the funding ultimately.

Q Okay. What was the next key event after the 31st?

A So the next --

Q Other than the apportionment notices, which I got that.

A So I'm probably forgetting things, but --

Q It's okay.

A -- the thing I personally remember is my only conversation with OMB because it's not a routine thing for me to be calling OMB. But in that July 31st meeting, I had expressed that, you know, because there are only two legally available options and we do not have direction to pursue either, after the apportionment notice expires, which was roughly August 6th, I think it was either the 5th or the 6th, something around there. After it expires, I said the Department would

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have to start obligating the funds.

And Tim Morrison reported that to Mike Duffey at OMB. And Mike Duffey said something like, I don't know what she's talking about or he needed clarification somehow. And so Tim asked me to call Mike Duffey to explain what I'm talking about with this deadline of August 6th or 5th.

And so I called -- you know, I corresponded with email with Mike Duffey and then he called me. And I just explained to him kind of what I explained to you that, you know, at a certain point we won't be able to obligate and that, you know, the guidance that we're under it's only to a certain point. And, you know, we finished the conversation, I kind of explained my piece.

He wanted more information on the precise nature of how long does it take to obligate, and how many cases, and that sort of thing. And I'm not a comptroller, so I referred him to the comptroller and to DSCA. And it was my understanding that throughout the month of August there were many such conversations where OMB was trying to see if we could push, you know, keep planning to obligate, but keep pushing the obligations until later in the year and still complete them. Comptroller was trying to figure out if that was possible. Defense Security Cooperation Agency was trying to figure out, you know, what -- what is possible. And along the way, Defense Security Cooperation Agency was expressing doubt that they could do it.

Q And so this conversation was before the 5th or the 6th of August?

A Yeah, the conversation was -- yeah, it was probably very close to the 5th or the 6th, it was probably like the 5th, it was pretty close to the deadline.

Q And what was the next key event? Do you remember?

A Some kind of -- I'm drawing a blank. I'm thinking of things that happened much later at the end of August. It did kind of go a little bit dark where we weren't getting guidance, we weren't --

Q Were there any other PCC meetings?

A I can't recall any formal additional meetings that were, you know, specific formal meetings on Ukraine.

Q The deputies' meeting you described and the PCC and the sub PCC, this is all relating to Ukraine?

A Yes.

Q So there's a whole set of meetings, there was a whole infrastructure of interagency communications when something of this sort occurs?

A Yes. And just to kind of describe the process a little bit, it is absolutely routine to have meetings at the level of kind of my deputy or even at my level on Ukraine to check in on major events. We were doing the same sort of thing in the spring when they were having their Presidential election. And we just meet on a reasonably routine basis. So that's all very typical. It is less typical to have meetings above our level unless there's a major policy decision.

Q Had anyone at the NSC or anyone else communicated to you about this effort relating to Mr. Giuliani and his nontraditional form of

diplomacy?

A So the only conversations about Giuliani related to material that was in the press.

Q Okay.

A In no meetings that, you know, no meeting that I've attended do I recall a specific discussion about Giuliani.

Q Okay.

A There were certainly informal conversations within the national security community about whether or not he played a pivotal role in the recall of Ambassador Yovanovitch. So that was definitely a topic of conversation just informally, me and State Department, and NSC, and other counterparts in the kind of May, June timeframe as she was recalled surprisingly.

With respect to this other -- I forget how you described it.

Q Nontraditional form of diplomacy?

A Nontraditional form of diplomacy. My personal interaction was only with Ambassador Kurt Volker. So on about August 20th he visited me and this was not unusual because he was -- he was working on the peace negotiations and peace process. So we were actually supporting him in terms of developing concepts for potential peacekeeping operations, you know, military -- how the military relates to the possible political settlement so I had met with him many, many times previously.

But towards the end of August when he met with me for what, you know, I thought was going to be you know just a routine touch base on

Ukraine, but also I thought it was going to be a strategizing session on how do we get this security assistance released knowing that we both -- we both wanted the funding released.

So in that meeting he did mention something to me that, you know, was the first about somehow an effort that he was engaged in to see if there was a statement that the government of Ukraine would make that would somehow disavow any interference in U.S. elections and would commit to the prosecution of any individuals involved in election interference. And that was about as specific as it got.

Q Okay. Did he indicate to you that if that channel he was working was successful it might lift this issue?

A Yes.

Q Okay. Had you known Ambassador Volker before?

A Yes, yes. I basically met him for the first time kind of in person when he was appointed -- shortly after he was appointed in this role on Ukraine.

Q Okay and your dealings with him had already been professional and he's somebody of integrity --

A Yes.

Q -- to your knowledge?

A Yes absolutely.

Q And he's very knowledgeable about the issues in the Ukraine, correct?

A Yes.

Q He has a lot of relationships with Ukrainians?

A Absolutely.

Q Were there any other, we're talking about the 5th or the 6th and the apportionment notices, and then you indicated that things went a little dark and you didn't have a specific recollection of another milestone event. Was the Volker meeting -- was there anything in between the Volker meeting and the 5th or the 6th when you were communicating with Mike Duffey?

A So part of it is that I was also on vacation for a week so I don't recall. And we were preparing for a major round of briefings on Russia within the Department. So some of it is just I had a lot on my plate. There might have been things on Ukraine but I just don't remember during that period of time. That's not what I recall.

Q The news I think the word used yesterday was I think leaked out about the hold on the assistance?

A Yes, yes.

Q On the 29th?

A Yes. Actually, yes.

Q Does that help you recall any events in that timeframe?

A So the other -- the other kind of theme during that time period was -- that was when various folks in the Department started to get phone calls from industry. And the firm I referenced earlier all of these U.S. firms that were implementing USAI they were getting concerned.

So during that timeframe, I don't remember exact dates but it was kind of mid- to late August, a number of people my front office, in

the Assistant Secretary office just the staff we're getting phone calls from industry. I received a call from the Chamber of Commerce.

So before the kind of press broke on it, we were hearing that there were signs of concern. And from my part, I think -- I think I started to get questions from staff from congressional staff probably, you know, it was around that timeframe. It was late August, late August. And so I had prepared, and my staff had prepared here draft responses. There wasn't much we could say other than OMB has placed a hold on this and we, you know, sent those replies up -- up the chain. And I never -- I never got authorization to be able to send anything over here, and then you did start to see the news break.

Q And once the news broke, did that change the environment in the PCC world? Were there any other interactions with that group?

A Well, I think --

Q Once the news broke I think Senators started calling the White House and there started to be other external forces affecting the situation. Is that fair to say?

A I think that's fair to say and I mean I want to emphasize that throughout this whole summer the people that work for me, the people that I work with at the Department of Defense were trying to get the funding released and were hopeful that we would get the funding released.

As it got to be very late in the game, we were worried not from a question of external pressure being brought to bear, certainly we were hopeful that someone could advise the President and explain why

this was so important and that he would be persuaded. But we started to seem very concerned just from the timing, because we were worried that we simply couldn't -- we wouldn't have enough time to obligate all the money.

Q During this timeframe, did you have any communications with Ukrainians?

A I would have to say I'm sure I did, but I don't recall --

Q About this?

A But not about this. No, no, I did not speak with them about this. And no Ukrainians raised this issue with me or my team.

Q Okay. So to the best of --

A To my knowledge, to my knowledge.

Q To the best of your knowledge, they didn't know that this funding was possibly being held up until --

A Oh, that's not what I'm saying.

Q Okay. What are you saying?

A So I personally was not -- sorry, I apologize. I did not mean to be interrupting you.

So I personally did not have Ukrainian ministry -- I deal with the ministry of defense, none of them raised this issue with me.

But I knew from my Kurt Volker conversation and also from sort of the alarm bells that were coming from Ambassador Taylor and his team that there were Ukrainians who knew about this.

Q Okay.

A They just weren't talking to me.

Q Okay. What did you know that the Ukrainians knew? Did Volker communicate that to you?

A Well, Ambassador Volker described talking to an adviser to President Zelensky about making such a statement, making a statement, you know, disavowing election interference. And the way he described the statement I understood it to be a discussion that wasn't going to occur in the future, but that had occurred in the past. That was my understanding.

Q Do you know if that statement was built around another -- another activity such as a White House meeting?

A So I know that there were two specific things that the Government of Ukraine wanted during this timeframe and the one was a visit by -- a hosted visit at the White House. And the other was Ukraine security assistance, but I do not know --

Q Okay.

A -- which issue was being tracked with the other.

Q Okay. Okay. But you don't have any firsthand knowledge that the Ukrainians knew --

A I --

Q -- that the assistance was on hold, you had just heard that?

A Yes.

Q Okay. To your knowledge, when do you believe the Ukrainians became aware that the assistance had been subject to a hold? Was it before the Volker meeting on August 20th?

A I'm not sure precisely, because I can't recall when some of

the conversations with our embassy in Kyiv occurred.

Q Okay. What were your communications with the embassy during this time period on this topic?

A Well, my staff were mostly the folks communicating with our defense attache office. I can't recall specifically, but it was fairly routine. We have email communications with the embassy that are fairly routine.

Q Okay. And what was the general information you were getting from the embassy?

A The embassy was expressing clearly and consistently that we needed to get the security assistance funds released and that this would cause a major major challenge in our relationship in the Ukraine security, and that the President had sent an invite to President Zelensky much earlier, I want to say May, it might have been May or June timeframe, and that the fact that the President hadn't followed up on that was causing a lot of concern. Those were the consistent themes from our embassy.

Q Okay. After the Volker meeting, what was the next key event that you remember?

A Well, we were hopeful this whole time that Secretary Esper and Secretary Pompeo would be able to meet with the President and just explain to him why this was so important and get the funds released.

And you know, from a variety of I think mostly scheduling reasons both Secretary Esper and Secretary Pompeo had different trips in August and were out of town at different times.

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I never learned that the meeting took place until the end of August, and I don't remember the exact date, but the end of August there was an email that I received that was from the Secretary Esper down to -- I'm not sure who he addressed it to, but I got a copy of it and it -- it said -- it referenced the President somehow that there was a meeting with the President or some discussion, and he said, no -- no decision on Ukraine.

Next step is a Vice President meeting with Zelensky in Warsaw. And he included a note in there about holding on any memo that the Department would send to OMB on this matter pending the Vice President meeting. And that's the entirety of what I saw. I tried to seek additional context, but I did not receive additional context.

Q Did you receive feedback or a readout from the Vice President's meeting in Warsaw?

A I only got very fragmentary so I did not get a coherent readout. Originally Secretary Esper was supposed to join but his travel got changed.

Q When did this environment start to change? Like when did you get a sense that the aid would be released? Was that on the 12th or --

A It was the 11th.

Q Okay.

A And it really came quite out of the blue.

Q It was abrupt?

A It was quite abrupt. We got -- I believe we got an email.

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I think it came from again the Secretary of Defense's chief of staff so Eric Chewning. And it just said, OMB has lifted the hold and then we could start obligating on the 12th, which was I think the last apportionment expired.

Q Okay. Were there any other milestone events that we haven't discussed that are material and relevant to the facts that you have firsthand information about?

A I can't think of any.

Q Okay. You indicated that no formal effort was expended for the rescission or reprogramming of these moneys?

A I'm not sure what that means. The formal --

Q You didn't begin the rescission -- the rescission process did not begin, did it?

A To my knowledge, no.

Q And the reprogramming effort did not begin?

A Again, to my knowledge, no. The people who'd have prepared the actual paperwork probably would have been in comptroller so.

Q Right. But you had no awareness that that was --

A No, no awareness.

Q So to the best of your knowledge, everyone was hopeful that this would lift?

A I don't know about everyone. I can't speak for everyone. I was hopeful until we got to the point where DSCA was telling us we can't spend all of this. And because I didn't understand any other mechanism than to obligate the money by the end of the year, I don't

think anyone had thought of -- no one I spoke with had thought of the idea of the Congress doing, you know, another authorization essentially.

No one in DOD that I talked to was talking about that as a mechanism. So once we got that point where DSCA was telling us they didn't think they could do it, that's when the hope in my team was really starting to wane.

MR. CASTOR: Okay. We have about 15 minutes and I'd like to pivot this to some of our members.

Mr. Jordan?

MR. ZELDIN: I just want to follow up on a couple of items you just discussed with Mr. Castor.

When you stated that you knew that Ukraine wanted a White House visit, how did you know that?

MS. COOPER: I would have to think about all the different ways that I heard that. I know I heard it from Ambassadors Chaly, their Ambassador here. I know I heard it from other personnel in the Ukrainian ministry of defense, but not necessarily the minister himself, and certainly our embassy reported it quite regularly in our routine meetings. So those are a few of the places where I know that this was a desire.

MR. ZELDIN: The hold on aid you said you knew that Ukraine knew it from information received from Ambassador Volker and Taylor. Is that right?

MS. COOPER: I know that they knew about it based on what

Ambassador Volker and Ambassador Taylor told me, not that those two were the sources.

MR. ZELDIN: Correct.

MS. COOPER: I don't know what that source of information was --

MR. ZELDIN: Do you recall the first time that either of them told you that Ukraine knew there was a hold on aid?

MS. COOPER: I don't recall specifically when. I mean I know that I met with Ambassador Volker on August -- on or about August 20th, so that's a specific -- I didn't talk to him, you know, routinely about this throughout the summer.

MR. ZELDIN: Then you stated that Ambassador Volker mentioned something about a statement. Correct?

MS. COOPER: Yes.

MR. ZELDIN: But did he say anything at that time about Ukraine knowing that there was a hold on aid?

MS. COOPER: I don't recall if he specifically said that, but the entire conversation started with a discussion on the need to lift the hold on aid and the fact that if this hold did not get lifted, it would be very damaging to the relationship.

MR. ZELDIN: I understand that and in your conversations with Kyiv as well that they are communicating that they wanted the hold to be released. I'm trying to understand how you concluded that Ukraine knew that there was a hold on aid.

MS. COOPER: The context for the discussion that I had with Ambassador Volker related specifically to the path that he was pursuing

to lift the hold would be to get them to make this statement, but the only reason they would do that is because there was, you know, something valuable. But no, I don't know if he specifically said who --

MR. ZELDIN: Well, it's significant because you're -- it's one thing if you believe that they knew and it's another thing if you actually were told that Ukrainians knew. Are you are guessing that you think Ukraine would have known based on what you heard or did they actually tell you Ukraine knew?

A So again, the conversation with Ambassador Volker because it related to the security assistance needing to be lifted and the importance of that, and he was relating conversations he had had with Ukraine officials. It could have been my inference, yes, a very strong inference that there was some knowledge on the part of the Ukrainians.

Later, when you get into early September, at that point there were -- I'm confident that there were staff level questions coming in from lower level officials in the Ukrainian ministry of defense to our team in Kyiv and to my team. But that was right before the hold was lifted so no, I cannot pinpoint a specific time in August.

MR. ZELDIN: And are you aware Ambassador Taylor was here to testify yesterday, correct?

MS. COOPER: Yes, it was in the media.

MR. ZELDIN: His opening statement was in the media. Are you aware of that?

MS. COOPER: Yes, but I have not been focused on other people's testimony, to be honest.

MR. ZELDIN: That's fine. I just want to confirm, you haven't read Ambassador Taylor's opening statement?

MS. COOPER: I saw some media reporting about it.

MR. ZELDIN: Did you read anything Ambassador Taylor said with regards to Ukraine, not knowing of aid as of August 27th?

MS. COOPER: I did not read that, no.

MR. ZELDIN: Now any other holds on -- to any other countries or other accounts that you're aware of anywhere in the world over the course of the last several months or is Ukraine the only hold on any payments through the Secretary of Defense?

MS. COOPER: Since I only handle my region, I can't speak to the other regions. I just don't know.

MR. ZELDIN: So there might be holds in -- to other countries and other types of accounts that -- in other parts of the world that you are just not aware of?

MS. COOPER: I simply don't know.

MS. STEFANIK. Ms. Cooper, in your answer to Mr. Castor's questions you referenced conversations with congressional staff after the July 31st PCC. When approximately were those conversations?

MS. COOPER: I'd have to go back. I might have misspoke, but I did not have any conversations with congressional staff.

MS. STEFANIK. Congressional staff reached out to you, you said.

MS. COOPER: Yes. So this was via legislative affairs so there were questions that were sent in by various congressional staff, and then I saw what the questions were and I had my staff prepare a response,

and then coordinate it internally, which is a routine process, and then I sent that up saying, you know --

MS. STEFANIK. And which committees were those staff members from, which committees?

MS. COOPER: I'm pretty sure it was Senate side, but I don't remember the specifics. And there were more that I didn't -- I didn't see all the incoming, I saw what we prepared to go out.

MS. STEFANIK. Okay. Thank you.

MR. MEADOWS: So let me come back to the obligated, unobligated funds. One, thank you for your service. And it is refreshing to have people who are experts on their topic, and so I want to just say thank you for that.

So your staff, they didn't -- they didn't know that unobligated funds well typically that happens, end of fiscal year there's always unobligated funds and there was -- they were not aware of not only what happened in this case, but it had happened previously. Is that correct?

MS. COOPER: No, sir. My staff and I am aware that there are frequently unobligated funds at the very end of the year. What we were worried about in this case was that, you know, the bulk of the funds or a significant amount of funding would be unobligated. So absolutely we do understand that, you know, sometimes you can't actually obligate everything. And I believe last year USAI did not have 100 percent obligation.

MR. MEADOWS: Right. Of course that was a year -- so you came

in in 2016.

MS. COOPER: Correct.

MR. MEADOWS: So prior to you getting there, I mean there was about the 90 percent of the appropriated funds were obligated, but the rest were not, but every year there have been unobligated funds. Would you agree with that?

I mean you may not have knowledge, but would it surprise you that every year there are unobligated funds based on what is appropriated versus what is obligated.

MS. COOPER: Sir, that would not surprise me.

MR. MEADOWS: And so how often would you directly talk to Ukrainian counterparts like the defense minister, et cetera, because I was trying -- you acted like you had a pretty regular dialogue with your counterparts, Ukrainian counterparts.

And I am not talking just on this issue, just in general.

[4:58 p.m.]

MS. COOPER: My --

MR. MEADOWS: And I'm not talking just on this issue, just in general.

MS. COOPER: In general, so I talk to Ukrainians relatively frequently. But my actual minister of defense, deputy minister of defense counterparts, that would be more, you know, every few months. And it's not always the minister, it might be the deputy, if that makes sense.

MR. MEADOWS: So when you say you talk to Ukrainians, you're talking to Ukrainians in Ukraine, not Ukrainians here?

MS. COOPER: Well, also Ukrainians visiting here. So when there's --

MR. MEADOWS: I guess, I'm trying to -- so let me be a little clearer then. I'm looking for contacts with Ukrainians that have contacts with Ukrainian Government. How often does that happen for you?

MS. COOPER: I mean, it certainly varies depending on the time of year, not a lot in August, but every few weeks at least.

MR. MEADOWS: Okay. So in those conversations every few weeks, what you're saying is in your conversations, this issue of the defense appropriations being held up was not something that was raised directly with you. Is that correct?

MS. COOPER: Correct.

MR. MEADOWS: Okay. I'll yield back.

MR. PERRY: Steve, is there time?

MR. CASTOR: There's time. We have about 4 minutes.

MR. PERRY: All right. Ma'am, thanks for your testimony. Right here. I'm curious about the 31 July PCC meeting as follow-up. You were talking about a meeting prior when you were looking into the legal -- the legality of the hold, and under what provisions that could happen. You, at the time, were aware of rescission and reprogramming. Is that correct or not correct?

MS. COOPER: So my personal knowledge on rescission and reprogramming was not existent prior to doing some research in the context of this discussion, if that's what you're getting at.

MR. PERRY: Okay. That's fine. And based on your understanding now, who would initiate either one, rescission or reprogramming, and what would your part in either one of those be?

MS. COOPER: So, again, I'm not the budget expert, so I might have an inaccurate understanding, but my understanding of the rescission piece is that it would have to be the President; and that the reprogramming piece, that's the Department of Defense, so, you know, it's my sense that the comptroller executes that. I find it, you know, unlikely that they would execute without the permission of the senior leadership of the Department. But for my office, we would be coordinating on that. So if it's Ukraine, I would see it, but if it's some other program, I would have no awareness of it.

MR. PERRY: And do you know when you would get notice of said action, rescission, or reprogramming? When would you get notice if

those, in fact, were occurring, going to occur, so ordered, et cetera?

MS. COOPER: I don't know, because I also don't know that that's a routine thing for this account, so, yeah.

MR. PERRY: Okay. All right. Thank you. I yield.

MR. JORDAN: Secretary, in your -- I think you earlier said you were getting the information from both Tim and Alex. Is that Mr. Morrison and Mr. Vindman?

MS. COOPER: Yes, that's correct.

MR. JORDAN: Okay. And I think you indicated that they had both said that they were working hard on setting up a phone call. Was that the phone call between President Trump and President Zelensky?

MS. COOPER: Yes. Just to be clear, the only person who I recall specifically mentioning to me working on the phone call was Tim Morrison. I do not recall Alex Vindman ever telling me that.

MR. JORDAN: Okay. Then in your August 5, August 6, when you had your conversation with Mr. Duffy, I think you said you spoke to Mr. Morrison prior to that?

MS. COOPER: Yes. It was Tim Morrison who actually put me in touch with Mike Duffy.

MR. JORDAN: So Tim called you and said that you should call and talk with Mr. Duffy?

MS. COOPER: He emailed me and said -- he said that he was trying to explain to Mike Duffy some of the points that I had made in the meeting, and that I referenced this kind of deadline, and that he didn't know what that was referring to, so he asked me to talk to him. So

that's why the contact took place.

MR. JORDAN: Thank you.

THE CHAIRMAN: Okay. The time of the minority has already expired. Let's take a 10- or 15-minute break and then we'll resume.

MS. COOPER: Okay.

[Recess.]

THE CHAIRMAN: Okay. Let's go back on the record.

I just have a couple of questions before I hand it back to Mr. Mitchell. In the first meeting where you described -- a question was raised about what are the legally available mechanisms to actually suspend this aid, or hold this aid, did someone raise that issue in a different -- using different terminology as in, is this lawful? Can this be done lawfully? Is this a violation of law?

MS. COOPER: So that was in the deputies' meeting that that first conversation that I recall arose, and I don't remember that exact phraseology being used. But, I mean, there were many affirmative statements that the Congress has appropriated this, we need to obligate it.

THE CHAIRMAN: Under the law?

MS. COOPER: Again, I don't remember that exact phrase, but yes.

THE CHAIRMAN: Now, I think you said that as a result of the delay in the program execution that you got to a point of no return with at least part of the funding, where it would not be obligated in time pursuant to what Congress had appropriated. Is that right?

MS. COOPER: So based on the information that I was receiving from

the people implementing the program, by late August, we felt -- they felt that they would not be able to obligate all of the funding. And this understanding was actually reflected in a change in the apportionment footnotes.

So in the original apportionment footnotes, OMB reflected that it would not impact timely execution of the funding, but -- and I wish I could recall for you the exact date, but mid- to late August, they changed the footnote. It actually probably would have been right about August 20. They changed the phrasing, and they didn't include that sentence that said that it would not impact the timely execution.

THE CHAIRMAN: And I think you said that at that point, or maybe soon thereafter, it became clear that fully a fifth of the funding would not be available to be obligated because of the delay. Is that right?

MS. COOPER: So I received different estimates at different points in time of what would be possible. And at one point, in August, DSCA actually thought it would be, you know, well over \$100 million that would not be -- that there would not be time to obligate. They ended up being able to do a lot more than their earlier warnings, but we were quite concerned about the ability to execute.

THE CHAIRMAN: So at one point, then, the delay that had been occasioned by the President's order could have cost Ukraine \$100 million that would not be obligated in that year?

MS. COOPER: So just to be clear, sir, the estimate at the time was that it would cost at least that amount of money, but that was an estimate. And then, you know, the professionals of the Department of

Defense were able to essentially make up for lost time, is my perspective, and were able to do a lot more.

THE CHAIRMAN: But it's fair to say, at that point, it put \$100 million of aid at risk?

MS. COOPER: That was my view at the time.

THE CHAIRMAN: Ultimately, because the Defense Department officials were able to do workarounds, it reduced the impact down to about 20 percent, I think you said?

MS. COOPER: It was less than that. I think we were able to obligate, I want to say, 88 percent by the end of the year.

THE CHAIRMAN: So that still meant that tens of millions of dollars you were not going to be able to obligate. Is that right?

MS. COOPER: Well, yes, and the reason that we can obligate it at this point is because of congressional action, because --

THE CHAIRMAN: Right. But before the Congress took action, as a result of the delay, it was going to cost Ukraine tens of millions of dollars in military assistance. Is that right?

MS. COOPER: Roughly. That assumes that we would have been able to, you know, obligate the full amount, which sometimes there are challenges with that.

THE CHAIRMAN: And but for the effort of Congress to step in and pass a new law, Ukraine would have lost out on that military support at least in that fiscal year?

MS. COOPER: Yes, that's correct.

THE CHAIRMAN: Mr. Mitchell.

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BY MR. MITCHELL:

Q Sticking with the same theme, Mr. Meadows was asking you a series of questions about whether it was unusual for there to be unobligated funds at the end of a fiscal year that couldn't be spent, and I think your answer was, no, that happens. That's not infrequent. Is that correct?

A That's correct. I think it's just a matter of the order of magnitude.

Q Okay. So I want to understand a little bit more the order of magnitude. So in your experience in the ordinary course, are we talking 1, 2, 3 percent of funds that are unobligated at the end of a fiscal year?

A I can't answer that, because I just -- I do policy oversight, but I'm not looking that closely at program execution, and I just don't have the range of experience.

Q Okay. Are you aware that that percentage, whatever that percentage is, is typically unobligated because of unpredictable events? For example, salaries change or the number of individuals who receive those salaries don't come to fruition; and as a result of that, those funds are not obligated in time?

A So, yes. I think that in my limited experience, and from my conversations with DSCA, some of the reasons that we have historically been unable to obligate the entirety of the funding would be through such unpredictable factors, to include, you know, price changes and equipment.

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Q Okay. But here, those unpredictable factors were not the ones that prevented 12 percent of USAI funding from being obligated at the end of the fiscal year. Is that correct?

A To my understanding, I don't know any of those factors came into play.

Q Your understanding is that there was a hold that was put in place, correct?

A Yes, that's correct.

Q That delayed the obligation of funds --

A Yes.

Q -- for some certain time period, correct?

A Yes, correct.

Q All the way through September 11?

A Exactly. September 12 is when we began obligating again.

Q And as a result of that, the window for obligating the remaining funds was dramatically shortened. Is that correct?

A That's correct.

Q And it was because of that shortened window that 12 percent of those funds could not be obligated by the end of the fiscal year, and that Congress, as a result, had to change the law to extend the 1-year funding mechanism that is USAI. Is that right?

A That is my understanding.

Q I want to understand a little bit more this August 6 date that you were testifying to earlier that I think you mentioned -- correct me if I'm wrong -- but that you mentioned the

July 31 PCC meeting. Is that right?

A Yes.

Q And then you also had a subsequent conversation with Mr. Duffey about this date?

A That's correct.

Q Can you explain the relevance of August 6?

A So there were a few factors that came into play, but the main issue was that the original apportionment guidance from OMB had that expiration date on it. And what I explained at the PCC, and subsequently to Mike Duffey, was that we would not be able to continue to hold obligation either, you know, past the point where the apportionment footnote ended, because that was -- the OMB direction was until a certain date, but also, that we would not be able to hold past the point where continuing to hold would not allow us to obligate the funds by the end of the fiscal year, again, unless there was specific direction to reprogram or, you know, some other specific action with the Congress.

Q And was that based on communications that you had with DSCA?

A So the communications with DSCA about what the date would be were an active, ongoing set of conversations throughout the month of August. At the point that you were referring to, at the beginning of August, at that point, we didn't fully know what that date was. We weren't sure. We felt a sense of uncertainty about how much time we would need to obligate.

But in that first week of August, this information was still very

fresh that there was a hold, and DSCA hadn't really done all the calculations to figure out, you know, kind of what's the last possible date.

I was simply telling Mike Duffey that, you know, we have this August 6 date, and beyond that date we don't have any guidance. The only thing we have is this piece of guidance that says, you know, hold until the 6th, and we would need to look at what the last possible date would be.

Q Okay. And, again, the genesis for the August 6 date -- perhaps I missed it -- was what?

A So -- and this is my secondhand understanding. So my secondhand understanding on this was that OMB wanted to communicate the President's direction to hold the assistance, and in consultation with the DOD comptroller they realized that the way to do this would be via an apportionment, this, you know, piece of guidance about the flow of funds that would tell us to hold.

At the time, I think the August 6 date was fairly arbitrary, to be honest. I think it was trying to put something down on paper that would reflect there will be some kind of a policy process, there will be some kind of a discussion with the President. You know, we'll give a date that allows for a process to play out. But, you know, we won't go much beyond that because DOD's signaling right away was, you know, we're concerned about this. But all of this is from me. It was secondhand that I was discussing this.

Q DOD was concerned about all this because the concern was that

not all the funds would be able to be obligated past August 6. Is that correct?

A Yes. And it was -- I mean, so DOD was concerned about the obligation of funds. Policy, my team, we were also concerned about any signal that we would send to Ukraine about a wavering in our commitment. And that's another reason why, I mean, we did not want for this to be a big public discussion, you know, if we were about to get it turned back on again because we didn't want to signal any lack of support.

Q Why would that be a problem for Ukraine?

A So, I mean, the first and easiest way to answer that is by looking at the peace process. They are trying to negotiate a peace with Russia, and if they are seen as weak, and if they are seen to lack the backing of the United States for their Armed Forces, it makes it much more difficult for them to negotiate a peace on terms that are good for Ukraine.

Q Okay. So it would weaken an ally, that being Ukraine. Is that correct?

A It would weaken strategic partner.

Q And it would potentially strengthen or embolden Russia?

A That is correct.

Q I'm going to hand you three exhibits, exhibits 3, 4, and 5.

[Majority Exhibits Nos. 3, 4, and 5
were marked for identification.]

THE CHAIRMAN: I just want to mention to the witness, we don't

mean to be Rude. We have votes. So members are going to vote, but the deposition will continue through the staff. Thank you.

MS. COOPER: Okay. Thank you, sir.

BY MR. MITCHELL:

Q All right. So, ma'am, do you have those documents in front of you?

A I do have the documents in front of me.

Q And do these look like the three apportionments, the first one, exhibit No. 3 is undated, and it's just the footnotes. Do you have that one in front of you, ma'am?

A I do.

Q Okay. Put that one to the side for just a second.

The next one, exhibit No. 4, you'll see a signature page on the first page. Do you see that?

A Uh-huh.

Q What was the date of the signature?

A So the date appears to be July 25.

Q Okay. And who's it signed by?

A Mark Sandy.

Q Do you know who Mark Sandy is, other than the fact that it says deputy associate director for national security programs?

A Yes. I don't know Mark Sandy.

Q Okay. Is it your understanding that Mark Sandy is a person at OMB?

A I actually don't know Mark Sandy, so I actually don't even

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know what his title is.

Q All right. If you look at page 2 of exhibit No. 4, and I'll turn your attention to footnote A4. Do you see that? I'll just read it. It says: "Amounts apportioned but not yet obligated as to the date of this reapportionment for the Ukraine security assistance initiative are not available for obligation until August 5, 2019, to allow for an interagency process to determine the best use of such funds."

And then it continues: "Based on OMB's communication with DOD on July 25, 2019, OMB understands from the Department that this brief pause in obligations will not preclude DOD's timely execution of the final policy determination."

And then last sentence, "DOD may continue its planning and casework for the initiative during this period."

Was this the footnote that you were referring to earlier?

A So I want to clarify that I never saw the actual full document, so this is the first time I am seeing that. But the language in here is the language that I saw. So it was -- the language was provided to me but not the formal document.

Q Okay. This is the language that you were testifying about earlier?

A Yes, this is exactly what I was discussing earlier.

Q Okay. And this particular one says, August 5, 2019. We've been talking about August 6 to date, but do you see those two things as --

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A I think it's the same thing. So sometimes we would be talking about the date where we would resume obligation. Just earlier in this conversation, someone mentioned September 11, and I said, oh, September 12. It depends on what you're referring to, the date that you can resume obligation or the date that the footnote expired, so I think it's the same thing.

Q And the second half of that same sentence says, "to allow for an interagency process to determine the best use of such funds."

Now, this particular document was signed on July 25, which was prior to the deputies' meeting, as well as prior to the PCC meeting on the 31st. Is that correct?

A That's correct.

Q So there was an interagency process occurring during this time period?

A That is correct.

Q The next sentence also says, "based on OMB's communication with DOD on July 25, 2019." What communication is this footnote referring to?

A So I can't say for sure, but the communication that was occurring throughout this period tended to be between OMB and the DOD comptroller. And then DOD comptroller would relay pertinent pieces of information to me or obtain, you know, policy input from me.

Q Okay. Let's go to exhibit 5. This particular apportionment, who is it signed -- well, what's the date of it?

A The date is August 6.

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Q And who's it signed by?

A Mike Duffey. Michael Duffey.

Q And, again, who is Michael Duffey?

A So Michael Duffey, I do know, works at OMB. It says here his title is associate director for national security programs. I did not know that prior to reading it, but Mike Duffey was the individual from OMB who was in the deputies' meeting that I referenced earlier.

Q And also the individual that you spoke to after that deputies' meeting?

A Exactly, that's correct.

Q And I think you testified that you spoke with him on August 6. Is that right?

A If I said that, I am not certain of the exact date. It was right around the same time period, but it was prior to the expiration of the footnote. So it probably actually was August 5, or even the 4th, but, yeah. So he would have approved this after he had spoken with me.

Q Okay. And the footnote on page 2 of exhibit No. 5, you'll see is very similar to the last one we just read except for the date changes to August 12, 2019. Do you see that?

A Yes. Yes.

Q Do you know how they came up with August 12, 2019?

A I do not. They did ask for input about, you know, how much time it would take, how quickly DSCA would be able to obligate the funds. To my knowledge, DSCA and policy did not provide a definitive answer

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to give a definitive date.

Q Okay. And sometime after this apportionment, you indicated that this footnote changed?

A Yes. So, in late August, I think on or about August 20, I think that was the next footnote actually, that is when it changed, and it took out that part about timely execution. I don't recall if it took out a part about a policy process. I don't recall either way.

Q Okay. And why did that -- why was it changed?

A My understanding is it changed because at that point, OMB recognized that there was a risk in not being able to obligate the funding. Prior to that point, OMB never formally acknowledged that they thought there was a risk.

Q Okay. Do you know why the person who was signing these apportionments changed from July 25 to August 6?

A I don't know.

Q Was there a policy or interagency review process that was being conducted in August?

A There was no policy review process that I participated in or knew of.

Q The last meeting that you were aware of was July 31?

A Yes, that's correct.

Q Are you aware of whether DOD conducted any sort of review -- other than the interagency process that you described, any sort of review of USAI funding during the July, August, or beginning of September time period?

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A I know of no such review. The only three types of assessments, or reviews, that we -- that I personally participated in or that I know the DOD participated in, were, one, to look at the degree to which Ukraine had made sufficient progress in meeting defense reform and anticorruption goals consistent with the NDAA. We completed that review and provided the certification letter that we discussed earlier.

Q So that was -- just to be clear, that was prior to May?

A That was May, yes. I'm just trying to be very clear. Prior to May, we completed that review. There was the second query that I received regarding USAI that occurred after the press release in June, but the only thing that we did there was summarize readily available information regarding firms and international contributions. But I just want to be clear, we did provide information on that.

And then the third are these meetings that occurred in the interagency. But I would not use the term "review" to describe any of them because they were all just routine business.

Q Okay. You indicated that at the July 26 deputies' meeting, Mike Duffey said that there was a hold both on FMF and USAI and that it relates to the President's concerns about corruption. Is that right?

A Correct.

Q Okay. But DOD did not conduct any sort of review following this statement about whether Ukraine was making any sort of progress with regard to its anticorruption efforts in July or August or beginning of September. Is that right?

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A That is correct.

Q Okay. And that's because, as a matter of process and law, all of those events took place precertification, pre-May?

A That is correct. And in the interagency discussions, DOD participants affirmed that we believed sufficient progress has been made.

Q Okay. And it wasn't just DOD participants who believed that these funds should flow to Ukraine during these interagency meetings, correct?

A That's correct. It was unanimous with the exception of the statements by OMB representatives, and those statements were relaying higher level guidance.

Q And that's the case for all four interagency meetings?

A That's correct.

Q Did you ever learn what Mike Duffey meant by "corruption" when he made this statement at the July 26 deputies' meeting?

A No.

Q Have you seen the July 25 call transcripts involving President Trump and President Zelensky?

A I saw them when they were publicly released.

Q Okay. Do you now have any understanding of what the President's concerns were with regard to corruption on July 26, the day after his call with President Zelensky?

A I think I have the same interpretation of anyone reading it for the first time. I don't have any direct knowledge beyond what's

actually in that transcript and what he states himself.

Q You testified earlier that -- I believe, correct me if I'm wrong -- that you did not personally have any conversations with Ukrainian officials about the hold during this July, August time period?

A No, I had no conversations with the Ukrainians.

Q Are you aware of anyone within the Department of Defense having conversations with Ukrainians about the hold during the July, August, beginning of September time period?

A I'm not aware of specific instances, but I would just recall that we have a team in Embassy Kyiv that are DOD representatives under Ambassador Bill Taylor. So, you know, it would be very hard for me to discern conversations that the embassy side might have had versus the defense attache side.

Q Okay. And I believe you testified earlier that you were in constant communication, or regular communication --

A Right.

Q -- with the defense attache in Kyiv. Is that right?

A Yes. To be --

Q Or your staff.

A -- completely accurate, my staff, but --

Q And was security assistance a topic that they would have discussed?

A Absolutely. Throughout this entire period of time, our team in Kyiv was acutely aware of the hold and was expressing serious

concerns to us.

Q How were those concerns conveyed to you? Were they by email or some other form of communication?

A So to me, it was kind of in-person. So I don't know whether there were emails to my staff. I would imagine there probably were, and I would imagine there were probably emails, you know, within various DOD components, because everyone focused on implementing the security assistance.

You know, they were engaged in, as I said before, this discussion of how long can we hold off, and so there were multiple DOD offices. But that is not to say that any of these would have necessarily been talking to the Ukrainians. I have no evidence of that.

Q So you testified earlier that you were involved in the sale of javelins back in 2017, 2018. Is that correct?

A That's correct.

Q Just generally, without going into too much detail, what was your involvement in that program back then?

A So I've been in my current office since kind of the end of the Obama administration, and obviously transitioned into the Trump administration. And there was a policy hold in the Obama administration on providing defensive lethal assistance to Ukraine, widespread, you know, bipartisan support for this, but within the administration there had been a restriction.

So with the advent of the new administration, I participated in a series of policy discussions with the intent of making the case that

we should provide defensive lethal assistance beginning with the javelin system but not necessarily exclusive to that system.

Q And that decision actually came to fruition; in other words, there was a decision made by this administration, the Trump administration to provide that lethal assistance to Ukraine, correct?

A That's correct.

Q And on --

A And so --

Q Go ahead.

A And so at this point, we have both provided assistance via security assistance, via FMF, as I said earlier, the javelin system, but now, the Government of Ukraine is seeking to purchase also. I referred earlier to that new law that they have that allows them to do government-to-government procurement, and they are seeking to use that mechanism to procure javelin.

Q Okay. So on December 22, 2017, the State Department announced that it approved a license for the export of these javelins to Ukraine. Are you generally aware of that?

A Yes.

Q And did you discuss -- presumably you had discussions with Ukraine officials about this fact?

A Yes. I mean, that -- I've had discussions with them about this going back many, many months, over a year.

Q Okay. Do you know what the anticipated timeline was for finalizing the transfer of those javelins to Ukraine after that

announcement in December of 2017?

A I don't recall. At one point I knew, but I just -- I don't recall.

Q The DSCA didn't publicly announce State's approval of these FMF sales to Ukraine until March 1 of 2018. Are you aware of that?

A I don't remember the timeline at all.

Q So you're not aware of whether there was a delay in the release of these funds for the purchase of the javelins?

A No, I'm not aware.

Q Okay. You don't recall any discussions --

A I don't recall.

Q You don't recall any discussions about that at the time?

A I don't recall.

Q Are you aware that in, approximately the same time period, March or April of 2018, the Ukrainian authorities abruptly stopped four investigations related to Paul Manafort?

A I'm not aware.

MR. MITCHELL: All right. We're going to go ahead and yield our time to the minority.

BY MR. CASTOR:

Q I'll confess, normally the Paul Manafort question comes from this side of the room.

I would also like to note the defensive lethal assistance that was authorized and implemented in the new administration had bipartisan support, something that possibly Democrats liked about the Trump

administration?

A Well, I have to say that normally, I really enjoy coming up to the Hill to talk about Ukraine, because there is bipartisan support, and, you know, the javelin decision is something that I am personally proud of.

Q Okay. The unobligated funds that ultimately -- there were provisions in the NDAA that allowed the money to be subsequently spent, right?

A Yes.

Q And do you know when those funds were ultimately expended? Like, how long did it take to work its way through?

A I'm not tracking the specific details of the implementation timeline, but my understanding is we're still in the process of doing this.

Q Okay. It's still --

A It's ongoing.

Q Okay. And that's not unusual when something gets extended via the NDAA?

A I have never heard of something being extended via the NDAA in this manner. When it first came up as a possibility that we would not be able to expend the funds beyond the end of September, we were asking amongst ourselves, you know, what would be the possibility here. And it didn't seem like anyone knew that this was a typical thing. So we were grateful when the Congress acted.

Q Okay. Was there any discussion about recertifying the funds

after the new government established itself in Ukraine?

A I can't recall any such discussion, in part because the new government was, pretty early on, embraced in terms of its anticorruption and reform agenda. You know, we had really been struggling at times to bring the previous government along, so the fact that the new government was, you know, proceeding in such a positive fashion, albeit in early days, I just don't recall anyone raising that as an issue.

Q What exactly was done to evaluate the corruption environment in Ukraine as part of this process?

A So, the specifics that we used to evaluate the NDAA criteria, if that's what you're talking about, related specifically to significant progress in defense reform. In the certification letter, we outline the specific areas, including things like sufficient progress on command-and-control reform, a whole host of reforms that relate to improving Ukraine's NATO interoperability, and, also, tackling corruption in, say, Ukraine defense industry. But at the end of the letter, it states that significant challenges remain, and this will be a multiyear effort.

Q Do you have any knowledge of some of the corruption allegations involving the oligarchs in the Ukraine?

A Well, certainly, I hear about some of these. There's open source and other reporting on these issues.

Q Are you familiar with the company, Burisma?

A So I want to be clear, I was not familiar with this company

until the spate of reporting. So it is not something that I have encountered in my role as a defense official. It's something that I've seen in media.

Q The oligarch that has control of Burisma, Mykola Zlochevsky, is that a name you're familiar with?

A It is not.

Q And I apologize if my pronunciation is not perfect. He was a former ecology minister. Have you read any of the open-source stories about him or some of the investigations that Burisma was involved with?

A I have not read much detail at all.

Q Okay. But you're generally familiar there were some investigations into Burisma for various things? I mean, I can represent to you, money laundering, and tax evasion, things of that sort.

A I have no level of personal knowledge or detail on these.

Q Okay. Did you have any knowledge about any other companies in the Ukraine that were subject to corruption allegations, or any other oligarchs?

A No. So my focus has been on the defense industry. So I am familiar with a number of allegations in the defense industry, and that is why we have a specific program of defense industry reform. And as part of the certification process last year, we were just starting our program under former Secretary of the Navy, Don Winter, will be our senior adviser on this. So we had them sign up to, you know, we're

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committed to this.

And since then, we've been able to have Secretary Winter go out and start to develop a program. But we're at the early stages of dealing with defense industry reform, and we have kind of a step-wise approach. It starts with the legislation that I talked about earlier, and it will be a multiyear effort.

Q Okay. But the allegation that Ukraine is beset with corruption is not something that is controversial, right?

A We absolutely understand that there is a significant amount of corruption in Ukraine, and that's why we have programs designed to counter that corruption.

Q In December 2015, the Vice President, Vice President Biden, had some subsequently well-publicized remarks about his efforts to get a prosecutor general in the Ukraine fired by the -- Prosecutor General Shokin. Do you have any awareness of that story?

A No. That was prior to my time on the account.

Q Okay. But since you've been on the account, have you followed the news reporting about Vice President Biden's efforts to get Shokin removed?

A I have seen media reporting on this, but I have no direct knowledge.

Q He was captured on video at a Wall Street Journal -- or The Wall Street Journal pushed out some video of him recounting the demand that he made in the Ukraine in December of 2015 relating to Shokin. Have you ever seen that video?

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A No.

Q Have you seen reporting about the comments he made?

A I've seen reporting on this general topic, but I don't recall seeing the specifics that you're talking about.

Q You know, essentially, he indicated that there was approximately \$1 billion in loan guarantees at issue, and that if, you know, Shokin wasn't removed, the loan moneys would be withheld. And the question I have is whether -- if that were to come to fruition, if those loan moneys were to be withheld, would that go through the same interagency process?

A It's very hard to respond to a hypothetical like that because, I mean, I don't know enough about the details to really even be able to make a judgment.

Q Okay. You mentioned Acting Assistant Secretary Katie Wheelbarger this morning. We're scheduled to speak with her, I think, in subsequent days. What can you tell us about her involvement in these events?

A So she is my immediate supervisor in the absence of -- I mean, she's in an acting capacity. So it's, you know, one person filling two roles. But I have to note, her portfolio is vast. It's the whole world except for Asia.

So she -- over the summer, if you think about the past summer, we've had Iran issues, she's the lead on that; we've had a lot going on in Syria, you know, not just the recent developments, but earlier; Venezuela is in her portfolio as well.

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So she is the person who, you know, I route all of my papers through, but if she's on travel, she doesn't see the piece of paper. Somebody else pushes it on up the chain in her absence. So it's actually very hard for me to recall what specific meetings or events she would know about, and which ones she wouldn't, and she was not in any of those interagency meetings that we were discussing earlier.

Q Okay. So you're not aware, as we sit here today, what value she would add to this discussion?

A It's very hard for me to ever say that my boss would not add value. You know, she's a terrific leader and has, you know, a ton of broad knowledge. But on the specifics -- the specific questions that you have asked me, I just -- I don't know that she would --

Q Okay. She's not going to have firsthand factual information about these --

A Not any -- I mean, none of the specific things that I talked to you about, it just -- I mean, broadly, she has been following Ukraine like she follows everything else in her portfolio. But, again, because she wasn't in the specific meetings, I think it's less firsthand information.

Q You've never had any communications with the President about this issue?

A I've never had any communications with the President, period.

Q Acting Chief of Staff, Mick Mulvaney?

A No, sir.

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Q And your only interactions with the National Security Council have been the ones you've discussed with --

MR. LEVIN: Relating to this topic.

BY MR. CASTOR:

Q Relating to this topic, sir.

A Relating specifically to this topic, to my recollection, yes.

Q So Tim Morrison, Alexander Vindman?

A Yes.

Q Before that, Fiona Hill?

A Yes, absolutely.

Q And what can you tell us about any communications you had with Fiona Hill relating to this topic, although she -- her last day was July 19?

A So I haven't talked to her about the topic of the suspension of the assistance, because it all played out after she had left.

Q Did you ever have any communications with her about this diplomacy that was ongoing with Rudy Giuliani?

A Well, I heard her remarks on multiple occasions that there was a separate track handling foreign policy. I don't recall her specifying Giuliani by name; but she did multiple times express concern that there was kind of a parallel process to the one that she was handling.

Q And what did she tell you? Like, how did she characterize it? I think you said she had concerns?

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A She had concerns. And, I mean, the way she characterized it was the challenge of managing and, you know, coordinating an interagency process when there are those who work outside of that process and have engagements with foreign officials that, you know, people inside the process are unaware of.

Q Did you ever have any communications with State Department officials about this non-traditional diplomacy that was occurring?

A So I heard several concerns related to what was described as pressure that was brought to bear on Ambassador Yovanovitch. And I never heard anything specific about, you know, any actions that she was, you know, asked to take or had taken. But several, you know, other State Department staff would -- you know, pointed to the Giuliani visit to Ukraine, which was reported in open source as being a source of friction and a source of tension. But it never got -- I never got any more details than that.

Q And who at the State Department related to Ukraine do you spend -- do you communicate with most of the time?

A So it's either now-Ambassador Taylor in the field, or George Kent, or Phil Reeker, typically.

Q And do you recall any specific conversations with George Kent or Phil Reeker relating to the holdup in the aid?

A Oh, I can't think of any specifics, but we definitely discussed concerns that we needed to figure out how to get the aid released, and that we didn't, you know -- we thought it was very important to restore the assistance.

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Q Did Kent ever mention to you this Rudy Giuliani channel that was in existence?

A I can't recall any specifics. He did lament the treatment of Ambassador Yovanovitch.

Q Okay. How about with Phil Reeker?

A With Phil Reeker, I recall him mentioning how Ambassador Sondland was playing a large role in a number of issues, not just Ukraine, but he didn't express it as necessarily entirely negative.

Q Okay. During this time period, how many conversations would you estimate you had with Phil Reeker?

A That is very hard.

Q About this topic.

A Oh, about this topic?

Q Yes.

A Oh, about this topic, I don't know, I would have to guess, about a handful, probably.

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[6:15 p.m.]

BY MR. CASTOR:

Q And do you remember anything remarkable about any of these conversations? Did you think that he was somebody that was trying to solve the problem, or was it more just sharing information? Did he have an active role in this?

A So, I mean, my impression of Ambassador Reeker's role is that he has a very broad portfolio, and is, you know, on travel a good deal. So I think he has tried to be, you know, as helpful as he can to, you know, releasing the Ukraine security assistance and FMF funds. But I don't -- I haven't noticed a specific role that he has played in the process.

Q How about Ambassador Sondland? Have you ever had conversations with him?

A No, I've never had conversations with him or met him.

Q Okay. You only heard of him?

A I've heard of him.

Q Us, too.

A And if I could make one correction there in the sense that I attended the EUCOM, European Command Chief of Mission Conference last spring. It's possible that he was there, but I don't -- I didn't meet him in a sense that I don't -- he could have been at that conference.

Q The whistleblower complaint was made public on September 26th, which was a day after the call transcript was made public on the 25th. Was that the first time you had seen or heard about the

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whistleblower transcript or, I'm sorry, the whistleblower complaint?

A Yes. It was the first time I had seen the whistleblower complaint, although, obviously, many of the points therein are -- you know, track with some of what I have shared with you.

Q From any of your discussions with U.S. Government officials, did you have any awareness that a whistleblower complaint of this sort was in the offing?

A No.

Q Okay. Are you aware of [REDACTED]?

A [REDACTED]

[REDACTED]

[REDACTED].

Q Okay. Have you ever had any communications [REDACTED] [REDACTED]?

[REDACTED]

[REDACTED].

Q About the issues, though, that we're discussing here today?

A Not these issues specifically, no. [REDACTED]

[REDACTED].

Q Your appearance here today, the Department instructed you initially not to participate in a voluntary setting. Is that correct?

A They instructed me yesterday not to participate. I'm not sure if it said a voluntary setting, that part of the phrase.

Q What was your understanding of the direction the Department provided to you?

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MR. LEVIN: Well, to the extent it involves discussions with me, I'd instruct her not to answer. You got the letter.

MR. CASTOR: We do?

MR. LEVIN: The committee has the letter.

MR. BITAR: If you could speak into the mic.

MR. LEVIN: I would instruct her not to answer to --

MR. CASTOR: I got that part. Yeah. I'm not trying to ask you about attorney-client --

MR. LEVIN: I think the letter has been sent out, so you should have a copy.

MR. CASTOR: This was yesterday, I guess, this letter. We can make it exhibit number 6.

[Minority Exhibit No. 6
was marked for identification.]

BY MR. CASTOR:

Q So exhibit 6 is a letter dated October 22nd to Dan Levin from -- who signed it? Do we know who signed it? I apologize. I was occupied yesterday in another event of this sort.

A The letterhead is the Deputy Secretary of Defense letterhead.

Q Okay. Okay. So what was your understanding of the direction that the Department gave you about participating?

MR. LEVIN: Again, to the extent it's based on discussions with me, I'd instruct her not to answer. I mean, the letter speaks for itself.

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MR. CASTOR: Okay. Is this the sum total of the communications you had from the Department about appearing today?

MR. LEVIN: Yes, it is.

MR. CASTOR: So you didn't have any discussions with the Office of General Counsel officials or anybody like that?

MR. LEVIN: I mean, discussions -- I'm sorry.

BY MR. CASTOR:

Q But just about your appearance here. Just trying to understand did they try to block your testimony or --

A Again, I think the letter reflects what the Department's action has been.

Q Okay.

A I think it kind of summarizes it.

Q In any event, you're appearing today under subpoena?

A That is correct.

Q Okay. And are you concerned that there will be repercussions at the Department for your testimony here today?

A I would hope that I shouldn't be concerned about such matters.

Q Okay. And so you're not?

A I don't think that's an accurate statement either.

Q Okay. You are concerned?

A This is a challenging environment. And for a civil servant who is just trying to fulfill my obligations, this is -- this is challenging in both respects. Getting a letter like that, getting a

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subpoena. But, you know, I'm confident that I'll be able to continue to serve, and I'll be very happy to get back to the work that we do in my office.

Q Who first notified you that they were -- that the committee was inviting you to appear today? Did the letter come to you directly, or did it come through Leg Affairs or the Office of General Counsel?

A The original letter came through Leg Affairs.

Q And what type of guidance did they give you?

A None initially.

Q They just --

A It came in on a Friday night, though.

Q Okay.

A And I was supposed to appear the following week, and it was Columbus Day on Monday. So there wasn't a lot of time for them to --

Q Okay.

A -- you know, engage that much.

MR. CASTOR: Okay. I yield back.

MR. MITCHELL: We are not going to start another 45-minute round, but we might have a couple minutes of questions. So I think what we'll do, with your agreement, is if we go 2 minutes, you guys can go 2 minutes as well.

MR. CASTOR: I don't anticipate any additional questions. I mean, there might be follow-up, but I hope we're not going to keep track of the minutes or seconds. I want to --

MR. LEVIN: We'll keep track of that.

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MR. MITCHELL: With that understanding.

BY MR. MITCHELL:

Q You testified earlier on July 31st that you made the statement at the PCC meeting -- and I tried to write down what you said. I think you said that it was your understanding that for USAI funds there were two legally available mechanisms, the first being -- well, what were they?

A So the two mechanisms, as I understand them, and as I related, are first to have a rescission. And this was a Presidential-level action. And the second is for the Department of Defense to do a reprogramming action. And both require notification to Congress.

Q And I believe Mr. Meadows asked you some questions about this, and you indicated that there was no congressional notification as to either. Is that correct?

A Not to my knowledge.

Q Prior to the July 31st PCC meeting, were you in communication with anyone from DOD legal?

A Yes.

Q And you testified earlier that you weren't an expert in the rescission or DOD programming, just generally. Is that right?

A That is correct.

Q But the statement that you made on this July 31st PCC wasn't based on your limited knowledge of these two programs, it was based on a conversation that you had with DOD legal?

MR. LEVIN: Can we leave it as it followed a conversation she had

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with DOD legal? I'm just trying not to get her in trouble back at the Department, in terms of --

MR. GOLDMAN: I think it's understood, but I don't think we're asking her to share the contents of the conversation that she had, but we are asking whether or not her statement relied on advice from DOD legal, which we don't think would fall under the privilege.

MR. LEVIN: I think it's a yes or no.

MS. COOPER: What was the question? The question was, did it rely on advice, is that the question?

BY MR. GOLDMAN:

Q Did your understanding of the appropriate -- the two proper legal mechanisms to divert funding rely on a conversation that you had with DOD legal?

A Yes.

Q I'll just follow up with one question. Sorry. And, to your knowledge, the Department of Defense did not endeavor to do any work on a potential Presidential rescission?

A To my knowledge, no.

Q Would you know if that were to happen, or would you know if that were happening?

A In normal circumstances, if it relates to the country that I'm handling, or the programs that I oversee, yes, in normal circumstances.

Q And what about DOD reprogramming?

A Again, in normal circumstances, that type of an action would

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have to be coordinated with the regional policy office, and that would be my office.

Q Were you aware of whether any reprogramming efforts by DOD were either being undertaken or directed to be undertaken?

A I was not aware of any such efforts.

Q So, to your knowledge, the only legal ways to adjust funding provided by Congress were not being pursued in relation to USAI?

A I just want to caveat that, that those legally available means relate to the question of whether or not all the funds can be obligated by the end of the fiscal year. So as long as the funds can be obligated, you do not have to avail yourself of these mechanisms.

You can have a hold in spending. It's once you get to the point where it's clear that you cannot obligate all the funds by the end of the fiscal year that those two mechanisms, one of the two would have to be used.

Q Because otherwise, you'd be in violation of the Impoundment Control Act. Is that right?

A That is my understanding, yes.

MR. GOLDMAN: We yield. Does minority have any questions?

MR. CASTOR: No.

MR. GOLDMAN: All right. Mr. Bitar?

MR. BITAR: So just prior to adjourning, I'd like to just underscore something. I'd like to underscore something that the chairman would have said at the opening, but due to the disruption, he was not able to.

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So, first, I'd like to apologize on behalf of the committees for the disruption that occurred. But finally, with prior witnesses he has said the following, and I think this is very apt in light of what you -- the questions you answered at the end, which is to underscore that Congress will not tolerate any reprisal, threat of reprisal, or attempt to retaliate against any U.S. Government official for testifying before Congress, including you or any of your colleagues.

It is disturbing that the Defense Department, in coordination with the White House, sought to prohibit Department employees, including you, from cooperating with the inquiry and with Congress and have tried to limit what they can say. This is unacceptable. Thankfully, consummate public servants like you have demonstrated remarkable courage in coming forward to testify and tell the truth.

With that, we're adjourned. Thank you.

MS. COOPER: Thank you.

[Whereupon, at 6:29 p.m., the deposition was concluded.]

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