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: JOHN MICHAEL "MICK" MULVANEY

Friday, November 8, 2019
Washington, D.C.

The deposition in the above matter was held in Room HVC-304,
Capitol Visitor Center, commencing at 9:07 a.m.
Present: Representative Schiff.
Appearances:

For the PERMANENT SELECT COMMITTEE ON INTELLIGENCE:

For the COMMITTEE ON OVERSIGHT AND REFORM:
MR. GOLDMAN: This is the deposition of Acting Chief of Staff Mick Mulvaney.

It is 9:07 a.m. Mr. Mulvaney was subpoenaed to appear at 9:00 a.m. He is not here. At the request of the chairman, we will recess until 11:30.

[Recess.]
[11:34 a.m.]

THE CHAIRMAN: We will now begin today's proceeding. This is the
continuation of a deposition of John Michael "Mick" Mulvaney, Acting
Chief of Staff to the President.

This deposition is being conducted by the House Permanent Select
Committee on Intelligence, in coordination with the Committees on
Foreign Affairs and Oversight and Reform, pursuant to the impeachment
inquiry announced by the Speaker of the House on September 24, 2019,
and affirmed by House Resolution 660 on October 31, 2019.

On Wednesday, November 5th, 2019, the committees sent a letter
to Mr. Mulvaney requesting that he voluntarily appear for a deposition
today, November 8, as part of this inquiry.

On November 6th, the White House Counsel's Office acknowledged
receipt of the deposition request on Mr. Mulvaney's behalf, but neither
Mr. Mulvaney nor White House Counsel substantively responded to the
request.

Because the committees never received any substantive response,
on November 7, the Intelligence Committee issued a duly authorized
subpoena to Mr. Mulvaney commanding his appearance this morning.

Despite his legal obligations to comply, Mr. Mulvaney is not
present here today and has therefore defied a duly authorized
congressional subpoena.

This morning, in an email received at 8:59 a.m., 1 minute before
the deposition was supposed to commence, Mr. Mulvaney's personal
attorney indicated that, quote, "Mr. Mulvaney will not be attending

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the deposition today," unquote, based upon a letter received from White
House Counsel and an accompanying opinion from the Department of
Justice's Office of Legal Counsel that Mr. Mulvaney is purportedly
absolutely immune from compelled congressional testimony.

According to the White House Counsel's letter, based upon the OLC
opinion, quote, "The President directed Mr. Mulvaney not to appear to
the committee's scheduled deposition," unquote.

Neither Congress nor the courts recognize a blanket absolute
immunity as a basis to defy a congressional subpoena. Mr. Mulvaney
and the White House, therefore, have no legitimate legal basis to evade
a duly authorized subpoena.

The President's direction to Mr. Mulvaney to defy our subpoena
can, therefore, only be construed as an effort to delay testimony and
obstruct the inquiry, consistent with the White House Counsel's letter
dated October 8, 2019.

Furthermore, to the extent the White House believes that an issue
could be raised in Mr. Mulvaney's deposition that might implicate a
valid claim of privilege, the White House could seek to assert that
privilege with the committee in advance of the deposition. To date,
as has been the case in every other deposition as part of this inquiry,
the White House has not done so.

As Mr. Mulvaney was informed when the Intelligence Committee
served the subpoena on him and the White House Counsel, the committees
may consider his noncompliance with the subpoena as evidence in a future
contempt proceeding. His failure or refusal to appear, moreover,
shall constitute evidence of obstruction of the House's impeachment inquiry and may be used as an adverse inference against the President.

The subpoena remains in full force.

The committees reserve all of their rights, including the right to raise this matter at a future Intelligence Committee proceeding at the discretion of the chair of the committee.

Mr. Mulvaney's nonappearance today adds to the growing body of evidence of the White House seeking to obstruct the House's impeachment inquiry. It also flies in the face of historical precedent. Even absent impeachment proceedings, congressional committees have deposed senior White House officials, including Chiefs of Staff, such as President Clinton's Chiefs of Staff, Mack McLarty and Erskine Bowles.

I am therefore entering into the record for the impeachment inquiry the following documents:

Exhibit 1 is the committees' November 5, 2019, letter to Mr. Mulvaney requesting his voluntary appearance at the deposition.

Exhibit 2 is the Intelligence Committee's subpoena to Mr. Mulvaney, which was served on Mr. Mulvaney and the White House Counsel on November 7th.

Exhibit 3 is the correspondence received from Mr. Mulvaney's personal counsel at 8:59 a.m. this morning, including the letter from White House Counsel and accompanying OLC opinion.

[Majority Exhibit No. 1 was marked for identification.]
THE CHAIRMAN: Mr. Mulvaney's role in facilitating the White
House's obstruction of the impeachment inquiry does not occur in a
vacuum. Over the past several weeks, we have gathered extensive
evidence of the President's abuse of power related to pressuring
Ukraine to pursue investigations that would benefit the President
personally and politically and jeopardize national security in doing
so.

Some of that evidence has revealed that Mr. Mulvaney was a
peripient witness to misconduct by the President and may have had a
role in certain actions under investigation. The evidence shows that
Mr. Mulvaney may have coordinated with U.S. Ambassador to the European
Union Gordon Sondland, Rudy Giuliani, and others to carry out President
Trump's scheme to condition a White House meeting with President
Zelensky on the Ukrainians' pursuit of investigations of the Bidens,
Burisma Holdings, and purported Ukrainian interference in the 2016 U.S.
Presidential election.

In addition, evidence suggests that Mr. Mulvaney may have played
a central role in President Trump's attempt to coerce Ukraine into
launching his desired political investigations by withholding nearly
$400 million in vital security assistance from Ukraine that had been
appropriated by Congress.

At a White House press briefing on October 17, 2019, Mr. Mulvaney
admitted publicly that President Trump ordered the hold on Ukraine security assistance to further the President's own personal political interests rather than the national interest.

Specifically, in discussing the reasons President Trump ordered the hold, Mr. Mulvaney stated, quote, "Did [President Trump]" -- in brackets -- "also mention to me in passing" -- [sic] -- "in pass the corruption related to the DNC server? Absolutely. No question about that. But that's it, and that's why we held up the money."

Shortly thereafter, Mr. Mulvaney engaged in the following colloquy with a reporter:

So the demand for an investigation into the Democrats was part of the reason that he ordered to withhold funding to Ukraine?

Answer: The lookback to what happened in 2016 --

Question: The investigation into Democrats.

Answer: -- certainly was part of the thing he was worried about in corruption with that nation. And that is absolutely appropriate.

And withholding the funding?

Yeah. Which ultimately then flowed. By the way, there was a report that we were worried that the money wouldn't -- that if we didn't pay out the money, it would be illegal, okay? It would be unlawful. That is one of those things that has the little shred of truth in it that makes it look a lot worse than it really is.

Question: But to be clear, what you described is a quid pro quo.

It is: Funding will not flow unless the investigation into the Democratic server happens as well.
Answer: We do that all the time with foreign policy. And I have news for everybody: Get over it. There's going to be political influence in foreign policy.

Because Mr. Mulvaney has refused to testify today, I am entering into the record Mr. Mulvaney's own admissions at the October 17 press conference as exhibit 4.

[Majority Exhibit No. 4 was marked for identification.]

THE CHAIRMAN: Based on the record of evidence gathered to date, we can only infer that Mr. Mulvaney's refusal to testify is intended to prevent the committees from learning additional evidence of President Trump's misconduct and that Mr. Mulvaney's testimony would corroborate and confirm other witnesses' accounts of such misconduct. If the White House had evidence to contest those facts, they would allow Mr. Mulvaney to be deposed.

Instead, the President and the White House are hiding and trying to conceal the truth from the American people. Given the extensive evidence the committees have already uncovered, the only result of the stonewalling is to buttress the case for obstruction of this inquiry. And, with that, in the absence of any Republican Members, I yield to the minority counsel.

MR. CASTOR: I'd just like to state that Mr. Mulvaney got the subpoena last night, I think, at 6:30. He subsequently hired personal counsel.

He's a Chief of Staff to the President of the United States. You
know, these things aren't always able to come together as quickly as, 
you know, 6:30 at night to 9:00 in the morning. So this is probably 
one of those instances when more time might be productive. 

And I'd also note that the statement that you mentioned on October 
17th was followed up with a subsequent statement by Mr. Mulvaney 
clarifying his remarks. 

THE CHAIRMAN: I thank the counsel. 

I would just note that the explanation you've offered for 
Mr. Mulvaney's absence is not the explanation Mr. Mulvaney offered. 
He didn't ask for more time, didn't say he needed more time to find 
counsel. He said, instead, he was relying on instructions from the 
White House and an OLC opinion that he attached. 

And, with that, this will conclude the deposition proceedings, 
and we are adjourned. 

[Whereupon, at 11:42 a.m., the deposition was concluded.]