

U.S. House of Representatives

Committee on the Judiciary

December 6, 2019

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

Washington, DC 20515-6216
One Hundred Sixteenth Congress

Dear Chairman Nadler:

In 1998, you joined your Democratic colleagues in stating that in an impeachment inquiry the President deserves not only the presumption of innocence and the right to confront witnesses, but “due process quadrupled.” You stated:

[T]he Majority position represents a breathtaking denial of the President's right to the presumption of innocence and his right to confront any witnesses making accusations against him. Although the Committee is not bound as a matter of House Rules to provide these protections, we believe it is incumbent upon the Committee to provide these basic protections. As Rep. Barbara Jordan (D-TX) observed during the Watergate inquiry, impeachment not only mandates due process, but of [sic] ‘due process quadrupled.’¹

Chairman Schiff failed to provide those protections during his phase of this “impeachment inquiry.” Rather than “due process quadrupled,” he provided zero due process to the President. We hope that changes now that the “impeachment inquiry” has finally come to the Judiciary Committee—the committee that historically has handled the entire impeachment process in the House of Representatives.

Thus far, the only witnesses Chairman Schiff has permitted to testify publicly are those he has previously vetted and approved in a private deposition setting. He did not permit Republicans or the President to call any additional witnesses. We hope that will change. To provide context and transparency about the underlying facts at issue in this “impeachment inquiry,” the American people deserve to hear from the following witnesses in the Judiciary Committee:

1. **Chairman Adam Schiff.** There is no indication the Judiciary Committee will hold any hearings with fact witnesses, and instead, will have to rely on a report written by Chairman Schiff and his staff. As the author of the Intelligence Committee report and the chief prosecutor for the House, it is imperative that Chairman Schiff testify before this committee and entertain questions from duly elected Members of Congress. At a minimum, he should testify about his report, just as Special Counsel Robert Mueller and Independent Counsel Ken Starr testified to this Committee about their reports.
2. **The anonymous whistleblower whose complaint initiated this “impeachment inquiry.”** As you stated in 1998, the President should be afforded the opportunity to

¹ H.R. Rep. 105-830, 105th Cong. 126 at 264-265 (1998).

confront his accusers. The anonymous whistleblower is the accuser who initiated this impeachment process. Moreover, the Inspector General of the Intelligence Community reported that the whistleblower had a bias against President Trump.² And public reporting suggests he or she worked closely with Vice President Biden³ and coordinated his or her complaint with Chairman Adam Schiff or his staff.⁴ The President and the public deserve to learn about these interactions. Additionally, it is important to the American people to hear definitively how the whistleblower developed his or her information, to whom the whistleblower may have fed the information and how treatment of classified information may have led to the false narrative being perpetrated by the Democrats during this process. This testimony can be conducted in a way that does not reveal the identity of the whistleblower.

3. **All individuals relied upon by the anonymous whistleblower in drafting his or her complaint.** The whistleblower's complaint suggests the whistleblower received accounts of President Trump's July 25 phone call and associated information from "more than half a dozen" sources.⁵ These sources provided information that does not match the testimony from witnesses before the Intelligence Committee, especially as it relates to whether the President conditioned a face-to-face visit or U.S. military assistance on announcing or opening investigations. The whistleblower's complaint alleged that most, if not all, of these individuals had firsthand information related to the whistleblower's claims, making their testimony particularly relevant to the American public.
4. **The Intelligence Community employee who spoke with Lieutenant Colonel Alexander Vindman about President Trump's July 25 phone call.** During his public testimony, Lt. Col. Vindman testified that he shared details of President Trump's July 25 call with two individuals outside of the White House: Department of State Deputy Assistant Secretary George Kent, and "an individual in the Intelligence Community."⁶ Lt. Col. Vindman, with the support of his lawyer and Chairman Schiff, declined to identify that individual because it might reveal the identity of the whistleblower, even though both Lt. Col. Vindman and Chairman Schiff claim not to know the identity of the whistleblower.⁷ Because neither Chairman Schiff nor Lt. Col.

² Memorandum Opinion for the General Counsel Office of the Director of National Intelligence, 43 Op. Off. Legal Counsel at *4 (Sept. 3, 2019) (slip opinion).

³ Arden Farhi & Kathryn Watson, "Whistleblower had 'prior working relationship' with current 2020 Democrat, source says," CBS News, Oct. 9, 2019, *available at* <https://www.cbsnews.com/news/the-whistleblower-complaint-whistleblower-had-prior-working-relationship-with-current-2020-democratic-candidate/>.

⁴ Julian E. Barnes et al., "Schiff Got Early Account of Accusations as Whistle-Blower's Concerns Grew," NY TIMES, Oct 2, 2019, *available at* <https://www.nytimes.com/2019/10/02/us/politics/adam-schiff-whistleblower.html>.

⁵ See letter to Richard Burr, Chairman, S. Sel. Comm. on Intel., & Adam Schiff, Chairman, H. Perm. Sel. Comm. on Intel. (Aug. 12, 2019).

⁶ U.S. House of Rep. Permanent Select Comm. on Intelligence, Impeachment Inquiry: Ms. Jennifer Williams and Lt. Col. Alexander Vindman, Hr'g Tr. at 58-59 (November 19, 2019).

⁷ *Id.*; U.S. House of Rep. Permanent Select Comm. on Intelligence, Impeachment Inquiry: Amb. William B. Taylor and Mr. George Kent, Hr'g Tr. 17:23-25 (November 13, 2019).

Vindman know who the whistleblower is, identifying who in the Intelligence Community Lt. Col. Vindman spoke with would not reveal the identity of the whistleblower. Hearing from this individual would bring transparency to the process, afford fairness to the accused, and provide the American people with critical facts underlying the current allegations.

5. **Devon Archer, former board member of Burisma Holdings.** Burisma has a reputation for corruption, as confirmed by nearly all witnesses who have testified in this “impeachment inquiry.” Mr. Archer is Hunter Biden’s long-term business partner and served as a board member of Burisma Holdings with Mr. Biden. Mr. Archer’s experience with Burisma will shed light on the nature and extent of Ukraine’s private-sector corruption generally, and at Burisma specifically. Additionally, according to public reports, Mr. Archer has donated over \$40,000 to political candidates and PACs.⁸ Members of this Committee should have the opportunity to probe whether those funds derived from a corrupt Ukrainian company—in this case, Burisma—whose founder is currently under investigation for embezzlement of state funds.⁹ This information bears directly on President Trump’s longstanding skepticism of the country.
6. **Hunter Biden, former board member of Burisma Holdings.** As noted above, Burisma has a reputation for corruption and has been subject to multiple anticorruption investigations. According to public reports, Hunter Biden was recruited to sit on its board to improve its public image at the time when his father, Vice President Joe Biden, was the Obama Administration’s point person for Ukraine policy.¹⁰ Mr. Biden was paid a substantial sum without having any obvious qualifications. Multiple Democrat-invited witnesses testified during this “impeachment inquiry” that this created at least the appearance of impropriety.¹¹ Mr. Biden’s experience with Burisma will help the public understand the nature and extent of corruption at Burisma and in Ukraine. Again, this information bears directly on President Trump’s longstanding skepticism of the country.
7. **Nellie Ohr, former contractor for opposition research firm Fusion GPS.** In a 2018 interview with the House Judiciary and Oversight Committees, Ms. Ohr stated that Fusion GPS used information from sources in Ukraine to compile the now infamous “Steele Dossier,” which was used by the FBI to spy on President Trump’s

⁸ OpenSecrets.org, Devon Archer, *available at* <https://www.opensecrets.org/search?q=devon+archer&type=donors>.

⁹ Zhegulev, Ilya, “Ukraine widens probe against Burisma founder to embezzlement of state funds,” Reuters, November 20, 2019, *available at* <https://www.reuters.com/article/us-usa-trump-impeachment-burisma/ukraine-widens-probe-against-burisma-founder-to-embezzlement-of-state-funds-idUSKBN1XU2N7>.

¹⁰ Kenneth Vogel & Iuliia Mendel, “Biden Faces Conflicts of Interest Questions that are Being Promoted by Trump and Allies,” NY TIMES, May 1, 2019, *available at* <https://www.nytimes.com/2019/05/01/us/politics/biden-son-ukraine.html>.

¹¹ See e.g., U.S. House of Rep. Permanent Select Comm. on Intelligence, Impeachment Inquiry: Mr. George Kent, Hr’g Tr. 94-95 (November 13, 2019) & Amb. Marie Yovanovitch, Hr’g Tr. 134-136 (Nov. 15, 2019).

2016 presidential campaign.¹² Given President Trump's documented belief that Ukrainians meddled in the 2016 election, which forms the basis for a reasonable desire for Ukraine to investigate potential election meddling by Ukrainians, Ms. Ohr is a relevant fact witness who will help the public more fully understand the facts and circumstances surrounding involvement by Ukrainians in the 2016 election.

8. **Alexandra Chalupa, former Democratic National Committee (DNC) staffer.** During the 2016 U.S. presidential election, Alexandra Chalupa, a former DNC staffer and contractor, worked with the Ukrainian Embassy in Washington, D.C. to obtain political dirt on then-candidate Trump's campaign.¹³ Ms. Chalupa admitted to providing anti-Trump dirt to the DNC and the Hillary Clinton campaign, and to discussing that dirt with then-Ukrainian Ambassador to the United States Valeriy Chaly.¹⁴ Given President Trump's documented belief that Ukrainians meddled in the 2016 election, Ms. Chalupa is a relevant fact witness who will help the public understand the basis for President Trump's belief that Ukrainians meddled in the 2016 presidential election. And Ms. Chalupa herself has stated publicly that she is "on a mission to testify."¹⁵

On November 20, the *New York Times* editorial board called on Congress "to hear from more witnesses before an impeachment vote."¹⁶ We expect you to follow this reasonable advice by calling each of the witnesses listed above to testify before this Committee to ensure a full evaluation of the facts and to cure the procedural and fairness defects injected into these proceedings by Chairman Schiff. We also expect you to call all the witnesses, if any, requested by the President. That will be necessary to ensure at least a modicum of fairness and due process is afforded to the President, and, more importantly, the American electorate.

With the exception of Chairman Schiff, we request that you immediately issue subpoenas to compel the testimony of the individuals listed above pursuant to H. Res. 660, Section 4(c).¹⁷ We reserve the right to request additional witnesses, if necessary, as more facts come to light.

Sincerely,

¹² Transcribed Interview of Nellie Ohr, House Comm. on the Jud. & House Comm. on Oversight and Gov. Reform, Wash., D.C., at 113-115 (Oct. 19, 2018).

¹³ Kenneth Vogel & David Stern, "Ukrainian Efforts to Sabotage Trump Backfire," POLITICO, Jan. 11, 2017, available at <https://www.politico.com/story/2017/01/ukraine-sabotage-trump-backfire-233446>.

¹⁴ See Ltr. from Hon. Devin Nunes et al, Ranking Member, House Perm. Select Comm. on Intel., to Hon. Adam Schiff, Chairman, House Perm. Select Comm. on Intel. (Nov. 9, 2019) (discussing the role of Ms. Chalupa in the 2016 election).

¹⁵ Natasha Bertrand and Kyle Cheney, "'I'm on a mission to testify': Dem Ukraine activist eager for impeachment cameo," POLITICO, Nov. 12, 2019, available at <https://www.politico.com/news/2019/11/12/alexandra-chalupa-testify-impeachment-069817>.

¹⁶ The Editorial Board, "Sondland Has Implicated the President and His Top Men," NY TIMES, Nov. 20, 2019, available at <https://www.nytimes.com/2019/11/20/opinion/sondland-impeachment-hearings.html>.

¹⁷ See H. Res. 660, Sec. 4(c)(1).

A handwritten signature in blue ink, reading "Doug Collins". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Doug Collins
Ranking Member