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November 4, 2019

VIA EMAIL

The Honorable Adam B. Schiff
Chairman
House Permanent Select Committee on Intelligence
The Capitol (HVC-304)
Washington, D.C 20515
[REDACTED]

The Honorable Carolyn B. Maloney
Acting Chairwoman
House Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, D.C. 20515
[REDACTED]

The Honorable Eliot L. Engel
Chairman
House Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 2051
[REDACTED]

Re: Subpoena for Deposition of Michael Ellis

Dear Chairman Schiff, Acting Chairwoman Maloney and Chairman Engel:

We represent Mr. Michael Ellis. As you are aware, Mr. Ellis is Special Assistant to the President, Senior Associate Counsel to the President and Deputy Legal Advisor to the National Security Council.

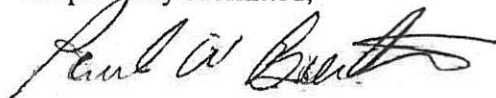
We are in receipt of the subpoena from the United States House of Representatives served last night by email (November 3, 2019 at 9:20 p.m.) requesting Mr. Ellis to appear for deposition testimony some seventeen hours later (today, November 4, 2019 at 2 p.m.). Furthermore, Mr. Ellis was first informed of the Committees' interest in voluntary deposition testimony on October 30, 2019. Since that time, we have been engaged in ongoing discussions with Committee staff regarding the many legal issues raised by this request. Given this timeline and the responsibilities

of Mr. Ellis's positions, the notice provided by the subpoena is patently unreasonable and creates an undue burden on Mr. Ellis.

Moreover, as previously explained to Committee staff, Mr. Ellis has been directed by the White House not to appear for this deposition as noticed. This direction is based on an opinion from the United States Department of Justice, Office of Legal Counsel, stating that the failure to permit relevant Executive Branch agency counsel to attend any deposition of Mr. Ellis would not allow for sufficient protection of relevant privileges and would therefore render any subpoena constitutionally invalid. This is particularly true with respect to Mr. Ellis who, as Senior Associate Counsel to the President and Deputy Legal Advisor to the National Security Council, would have participated in numerous communications covered by multiple privileges. As an Executive Branch employee, Mr. Ellis is required to follow this direction.

We note that the Committee could readily avoid the problem raised by this subpoena by allowing Mr. Ellis to receive the assistance of agency counsel in any deposition. Mr. Ellis remains respectful of the lawful powers of the United States House of Representatives and, as a lawyer and member of the bar, remains willing to comply with a subpoena issued under lawfully valid terms and conditions, or any other resolution of this dispute between the Executive Branch and the Congress.

Respectfully submitted,



Paul W. Butler

cc: The Honorable Michael McCaul, Ranking Member
House Committee on Foreign Affairs

The Honorable Devin Nunes, Ranking Member
House Permanent Select Committee on Intelligence

The Honorable Jim Jordan, Ranking Member
House Committee on Oversight and Reform