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Permanent Select Committee

on Intelligence

U.S. House of Representatives December 6, 2019

The Honorable Michael Pence Vice President of the United States The White House 1650 Pennsylvania Avenue, N.W. Washington, D.C. 20503

Dear Mr. Vice President:

Pursuant to the House of Representatives' impeachment inquiry, I write to request that the Office of Vice President, or other relevant classification authority within the Executive Office of the President, declassify any classified material contained in the supplemental written submission ("Supplemental Submission") of Jennifer Williams, your Special Advisor for Europe and Russia, which she submitted to the Permanent Select Committee on Intelligence ("Committee") on November 26, 2019. The Supplemental Submission contains additional information concerning your September 18, 2019 telephone call with President Volodymyr Zelensky of Ukraine. The Committee believes that the information in Ms. Williams' Supplemental Submission is relevant to the impeachment inquiry and should not be classified.

On November 7, 2019, Ms. Williams appeared for a deposition before the Committee, pursuant to subpoena. At her deposition, Ms. Williams testified about the general contents of your telephone calls with President Zelensky on April 23 and September 18, 2019.¹ Neither she, her counsel, nor the Office of the Vice President asserted at the time that the contents of those calls were classified. The Committee subsequently released publicly the transcript of Ms. Williams' deposition testimony.

On November 19, 2019, Ms. Williams appeared at a public hearing before the Committee, pursuant to subpoena. At the hearing, Ms. Williams again testified publicly about your April 23 call with President Zelensky.² In response to a question about your September 18 call, however, counsel to Ms. Williams informed the Committee that "the Office of the Vice President has taken the position that the September 18 call is classified." As a result, counsel stated that with respect to that call, he would "refer the committee to the public record, which includes Ms. Williams' November 7th testimony, which has been publicly released, as well as the

¹ Williams Dep. Tr. at 16-17 (describing April 23 call); id. at 156-57 (describing September 18 call) (online at https://intelligence.house.gov/uploadedfiles/williams_final_version_with_letter.pdf).

² Vindman-Williams Hearing Tr. at 14, 134.

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public readout of that call, which has previously been issued by the White House.³ Counsel stated that he had "advised Ms. Williams not to answer further questions about that call in an unclassified setting."⁴ The Committee requested that Ms. Williams provide a classified supplemental written submission detailing any additional information she possessed regarding the September 18 call.⁵ Ms. Williams agreed to do so.

In accordance with relevant regulations and procedures for handling classified information, Ms. Williams provided the classified Supplemental Submission to the Committee on November 26. In an unclassified cover letter to the Submission, counsel for Ms. Williams explained that "[i]n preparation for the November 19 hearing, Ms. Williams reviewed certain materials that caused her to recall additional information about the September 18 call" that "she wished to disclose to the Committee for the sake of completeness."⁶ Counsel stated that "the Office of the Vice President had informed Ms. Williams' counsel that certain portions of the September 18 call, including the additional information Ms. Williams remembered, were classified."⁷

Having reviewed the Supplemental Submission, the Committee strongly believes that there is no legitimate basis for the Office of Vice President to assert that the information contained therein relating to your September 18 call with President Zelensky is classified.⁸ As an initial matter, the Committee reminds you that Executive Order 13526 states that, "In no case shall information be classified, continue to be maintained as classified, or fail to be declassified" for the purpose of concealing any violations of law or preventing embarrassment of any person or entity.⁹ The Office of the Vice President's decision to classify "certain portions" of the September 18 call—including the additional information that Ms. Williams remembered after her deposition and indicated she wished to convey to the Committee as part of the impeachment inquiry—cannot be justified on national security or any other legitimate grounds we can discern.

You have stated repeatedly that you have "no objection" to the release of the *full* transcripts of your April 23 and September 18 calls. On October 9, when asked by a reporter whether you would release transcripts of your phone calls with President Zelensky, you responded, "I'd have no objection to that," adding that you were "discussing that with White

3 Id. at 23-24.

4 Id. at 24.

5 Id. at 24.

⁶ Letter from Justin Shur, Counsel to Jennifer Williams, to Chairman Adam Schiff and Ranking Member Devin Nunes, House Permanent Select Committee on Intelligence (Nov. 26, 2019).

7 Id.

⁸ Based upon representations by Ms. Williams' counsel, it is the Committee's understanding that the Office of the Vice President is already familiar with the additional information regarding the September 18 call contained in Ms. Williams' Supplemental Submission. Should you nevertheless require a copy of the Supplemental Submission for review, the Committee stands ready securely to transmit a copy to your Office.

⁹ Executive Order 13526. Classified National Security Information (Dec. 29, 2009) (online at: www.govinfo.gov/content/pkg/CFR-2010-title3-vol1/pdf/CFR-2010-title3-vol1-eo13526.pdf).

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House counsel as we speak."¹⁰ Approximately one month later, on November 7—after apparently having consulted with White House counsel—you reaffirmed during an interview on Fox Business that you still "have no objection at all" to the release of the details of your calls with President Zelensky.¹¹ Your willingness to release the transcripts of your calls with President Zelensky necessarily means that you do not believe there is anything contained therein that would cause any harm to U.S. national security if publicly disclosed. It also renders your Office's continued classification of "certain portions" of the September 18 call, including the information in Ms. Williams' Supplemental Submission, contradictory of your public avowals in favor of transparency.

Moreover, the White House has already declassified and released publicly the summaries of President Trump's April 21¹² and July 25¹³ phone calls with President Zelensky. Ms. Williams testified that when preparing you for your calls with President Zelensky, she took care to ensure that you were briefed on topics that President Trump had raised during his recent conversations with President Zelensky so that you could reinforce any messages conveyed relevant to advancing U.S. foreign policy goals in Ukraine.¹⁴ To the extent that the President's and your calls with President Zelensky covered similar topics and issues, and the President determined that declassifying the records of his calls would not cause any harm to U.S. national security, declassifying the Supplemental Submission containing Ms. Williams' additional recollections of your September 18 call therefore would also not pose any threat to U.S. national security.

This conclusion is confirmed by the Committee's review of the Supplemental Submission in conjunction with the White House public readout summarizing your September 18 call¹⁵ and Ms. Williams' deposition testimony concerning the content of the September 18 call.¹⁶ Nothing therein indicates that Ms. Williams' Supplemental Submission should be classified, particularly in light of the White House's release of the summaries of President Trump's calls with President Zelensky.

¹⁰ The White House, Remarks by Vice President Pence in a Press Gaggle in Waukee, IA (Oct. 9, 2019) (online at <u>www.whitehouse.gov/briefings-statements/remarks-vice-president-pence-press-gaggle-waukee-ia/</u>).

¹¹ Pence: I Don't Object To Releasing My Call Transcripts With Zelensky, Fox Business (Nov. 7, 2019) (online at

www.realclearpolitics.com/video/2019/11/07/pence_i_dont_object_to_releasing_my_call_transcripts_with_zelensky .html).

¹² The White House, Memorandum of Telephone Conversation (Apr. 21, 2019) (online at https://assets.documentcloud.org/documents/6550349/First-Trump-Ukraine-Call.pdf).

¹³ The White House, Memorandum of Telephone Conversation (July 25, 2019) (online at www.whitehouse.gov/wp-content/uploads/2019/09/Unclassified09.2019.pdf).

¹⁴ Williams Dep. Tr. at 17-18.

¹⁵ The White House, Readout of Vice President Mike Pence's Phone Call With the President of Ukraine (Sept. 18, 2019) (online at <u>www.whitehouse.gov/briefings-statements/readout-vice-president-mike-pences-phonecall-president-ukraine/</u>).

¹⁶ Williams Dep. Tr. at 156-57.

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Finally, it bears noting that the transcripts of your April 23 and September 18 calls with President Zelensky themselves fall within the scope of a document request that the Committee sent to the Office of the Vice President on October 4, 2019 as part of the impeachment inquiry. To date, your Office has failed to produce a single piece of paper to the Committee pursuant to that request. I would again urge you to comply with the Committee's request and produce these call summaries and all other responsive documents.

Accordingly, I request that the Office of the Vice President, or other relevant classification authority within the Executive Office of the President, declassify Ms. Williams' Supplemental Submission. We kindly request a response no later than **December 11, 2019**.

Please contact staff for the Permanent Select Committee on Intelligence at (202) 225-7690 with any questions regarding this request.

Sincerely

Adam B. Schiff Chairman House Permanent Select Committee on Intelligence

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

> Mr. Pat A. Cipollone, Esq. Counsel to the President