



THE SECRETARY OF STATE
WASHINGTON

August 7, 2020

The Honorable
Eliot Engel, Chairman
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to the subpoenas you issued to four Department personnel on August 3, after the Committee rejected more than a dozen good faith accommodation offers from the Department that would have provided you with information and testimony relevant to your investigation into the President's replacement of Steve Linick as State Department Inspector General.

The Department of State has repeatedly made clear that it would seek to accommodate the Committee's stated interest in reviewing the President's replacement of Inspector General Linick and examining certain matters that had been reviewed by his office. Yet over the past three months, for reasons that cannot be readily explained, the Committee has:

- Refused to hold an open, on-the-record hearing under reasonable parameters for your Members to address this important matter in front of the American people;
- Rejected or ignored multiple briefing offers intended to address Members' questions concerning Mr. Linick's removal and additional, unrelated topics of interest to the Committee; and
- Repeatedly declined Deputy Secretary of State Stephen Biegun's numerous attempts to arrange a phone call with you to discuss the Department's efforts to accommodate the Committee's requests.

The series of offers made by the Department are more than generous, and they would provide a vast amount of pertinent information related to the stated objective of your investigation. And the Committee has an obligation to entertain those offers as part of the constitutionally-mandated accommodation process. As an historical matter, we are not aware of any prior case in which the Committee has worked harder seemingly to avoid receiving proffered information from the Department. Absent any other explanation, we are left with the conclusion that the Committee does not actually want to receive information from the Department, much less have the truth fully aired in a public hearing, but that instead, you are content with pursuing bogus "investigations" behind closed doors and requiring the Department to expend an inordinate amount of time and resources making accommodation offers that the Committee never had any intention of seriously considering.

Despite the Committee's egregious record of refusing to seek a mutually acceptable compromise—negotiations that are required by the Constitution—you still have an opportunity as soon as next week—not in late August or September—to hear directly from the Department officials whose testimony you have sought on-the-record. Specifically, Under Secretary of State for Management Brian Bulatao, Acting Legal Adviser Marik String, Assistant Secretary Clarke Cooper, and Deputy Assistant Secretary Mike Miller are willing and prepared to appear as soon as Thursday, August 13 from 9:00 a.m. until 12:00 p.m. for a classified session and an on-the-record hearing with Members of your Committee and the House Committee on Oversight and Reform (HCOR). Under Secretary Bulatao is the only Department official among them with direct knowledge of the reasons for my recommendation that the President remove the former Inspector General, yet we have included additional witnesses you requested as part of this additional accommodation to demonstrate our commitment to compromise. Mr. Bulatao and the other requested witnesses will appear and unambiguously refute your baseless accusations and provide full transparency before the elected Representatives of the American people.

Furthermore, let me express how outrageous it is for you to suggest that the Department is “stonewalling” any investigation into the President’s replacing of Steve Linick. For the past three months, you have refused every offer and attempt by the Department to reach a mutually agreeable accommodation to provide you with the information you purport to seek. Here are but a few examples:

- On May 28, the Department offered to arrange a discussion for Members of the Committee with Under Secretary Bulatao and proposed a senior-level engagement with you to find a mutual accommodation to respond to your requests for information and transcribed interviews with Department officials. You rejected the briefing and refused Deputy Secretary Biegun’s repeated requests for a phone call.
- On June 11, I offered for Under Secretary Bulatao to testify at a public hearing on June 22 or 23 to accommodate your demand that his engagement be on the record. I respectfully requested that you let Deputy Secretary Biegun know if you wanted to afford your Members this opportunity by returning his phone call. You again refused to return or take the Deputy Secretary’s call.
- On July 10, we expanded our proposal to include HCOR as part of our offer for Under Secretary Bulatao to testify in a public hearing before both Committees, and we offered a classified session beforehand to share pertinent information that has not yet been in the public record concerning the removal of Mr. Linick. You refused to expand the hearing to include HCOR and rejected our proposal to schedule a classified session beforehand, which would have provided Committee Members with additional information concerning the removal of Mr. Linick.
- Consistent with the Deputy Secretary’s commitment to you, the Department then expedited its review of the draft OIG report on the May 2019 emergency arms sales certification and offered to arrange a Member briefing with the Assistant Secretary for Political-Military Affairs, a Deputy Assistant Secretary for Political-Military Affairs, and

the Acting Legal Adviser as soon as the report was finalized. This briefing offer has not been accepted as satisfying the Committee's information request.

- On July 31, with regard to the Committee's request to speak with Toni Porter in relation to Department resources used to support the Office of the Secretary, the Department offered a briefing with appropriate officials who, unlike Ms. Porter, actually have responsibility for the approval of resources and can speak authoritatively on such matters. In addition, we offered to further discuss the appropriate manner in which Ms. Porter could potentially address any outstanding questions that remained. Moreover, in offering testimony by the Under Secretary for Management, the Department has also provided an opportunity to ask the senior-most management official of the Department questions about any resource management issues. This additional, good faith accommodation offer also has not been accepted. It is also important to note that Ms. Porter has no involvement in or knowledge about the Secretary's decision to recommend to the President to remove Mr. Linick as State Department Inspector General.
- On July 16 and July 31, the Department's Bureau of Legislative Affairs and Office of the Legal Adviser offered to engage in extensive discussions with your staff over the phone to narrow the remaining differences. Your staff refused or ignored both offers.

In sum, despite your assurance on June 10 stating that if State Department officials want to refute Mr. Linick's account, they will be given the opportunity to do so, the Committee has rejected or ignored more than twelve written accommodation offers for briefings, hearings, or other sharing of information since May 28. Collectively, the Department's substantial offers have provided a very clear means for obtaining the information you seek from every relevant individual whom the Committee has sought. Had you accepted these offers, the Committee could have received the very information you claim to seek over two months ago.

On July 30, I testified publicly before the Senate Foreign Relations Committee that I was not aware of the purported "investigation" involving allegations of misuse of government resources described by Mr. Linick when I made my recommendation to the President. Furthermore, Deputy Secretary of State Stephen Biegun confirmed in his June 11 letter to you that neither he, nor former Deputy Secretary Sullivan, Under Secretary Bulatao, Executive Secretary Kenna, nor any other State Department official ever discussed with me any such "investigation" before the President removed the Inspector General from his position on May 15.

Although you have rejected the Department's repeated offers of accommodation, you have issued subpoenas for depositions that would purport to exclude agency counsel. However, as you well know, such subpoenas are not constitutionally valid. *See* Department of Justice, Office of Legal Counsel, *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. __ (May 23, 2019) ("Congressional subpoenas that purport to require agency employees to appear without agency counsel are legally invalid and are not subject to civil or criminal enforcement."). Because a Committee hearing or executive session would satisfy all of the Committee's information needs, and because the Committee may not constitutionally exclude agency counsel from a deposition, the Department has instructed the subpoenaed Department employees not to appear for the noticed depositions, until a mutually

acceptable accommodation can be reached. In that regard, we have offered, yet again, another accommodation, set forth above.

Finally, despite the supposed importance of the investigation to Members of the Committee, it has become increasingly apparent and concerning that few, if any, Members are willing to invest their own time in actually pursuing it. During a recent transcribed interview with a former Department employee, not a single Member of Congress asked the individual any questions during the course of a four-hour interview. In addition, the junior staff members conducting this investigation have to date engaged in a disturbing pattern of behavior. Here are just some examples:

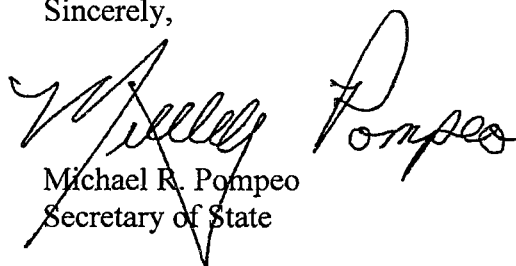
- Your staff threatened one of our career foreign service officer employees with a subpoena to compel testimony, after she had already publicly committed to appearing voluntarily and the Committee had already issued a notice to Members announcing the individual's appearance.
- Your staff's reliance on inaccurate references to prior witness testimony and unconfirmed press accounts, which are presented as facts, deeply undermines the integrity of the proceeding and is contrary to the most basic of investigatory principles. For example, despite Mr. Linick testifying on June 3 that "I really don't know why I was terminated...And I really don't want to speculate", your staffer unprofessionally misled another witness during a July 24 transcribed interview by clearly misstating excerpts of Mr. Linick's interview to validate his own conjecture as to the reasons for Mr. Linick's removal.
- Your staff-drafted August 3 press release announcing subpoenas inaccurately asserted that Mr. Linick testified that Under Secretary for Management Bulatao bullied him in an attempt to stop one of his pending reviews involving the Arms Export Control Act. Yet, Mr. Linick himself testified "...I don't take disagreement as an effort to pressure or change in that sense...If we got the facts wrong, we want to know that. So we're very interested in the Department's perspective...[T]here is always opportunity for healthy exchange, and we want that. But I've never felt pressured unduly to change any of my findings or conclusion"; he stated further that "[the Under Secretary] didn't say stop our work."
- The Committees released cherry-picked excerpts from a July 24 transcribed interview with a former State Department official, rather than simply releasing the entire transcript, demonstrating once again the Committees' greater interest in scoring political points than transparent, fact-finding oversight.

Mr. Chairman, the Courts have found that congressional investigations conducted solely for the "personal aggrandizement of the investigators or to 'punish' those investigated are indefensible." *Watkins v. United States*, 354 U.S. 178, 187 (1957). The Committee's actions during this accommodation process demonstrate an unfortunate resistance to facts and a preference only for cheap headlines that place a harmful burden on Department resources and the time of its personnel, whom you are saddling with entirely needless legal expenses. Therefore, I have directed Department officials to prioritize hearing and briefing requests for other Committees

and Members who continue to adhere to good-faith efforts of accommodation and who treat all Department employees with the professionalism and respect they deserve.

If you are truly serious about understanding why I recommended to the President to replace Steve Linick, I hope you will accept the Department's latest offer for a public, on-the-record hearing. I am prepared to discuss this issue further with you at your convenience. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Michael R. Pompeo". The signature is written in a cursive style with a large, prominent "P" at the end.

Michael R. Pompeo
Secretary of State

Cc:

The Honorable
Michael McCaul, Ranking Member
Committee on Foreign Affairs
U.S. House of Representatives
Washington, DC 20515

The Honorable
Carolyn B. Maloney, Chairwoman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, DC 20515

The Honorable
James Comer, Ranking Member
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