

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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March 1, 2019

Mr. Pat Cipollone
Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Cipollone:

On January 23, 2019, the Committee launched an in-depth investigation of the security clearance process at the White House and Transition Team in response to grave breaches of national security at the highest levels of the Trump Administration. On that day, I sent a detailed letter to you setting forth the basis for the investigation, describing the numerous breaches of the security clearance system identified to date, and making requests for documents and interviews.¹

In that letter, I also noted that General John Kelly, President Donald Trump's former Chief of Staff, conceded that there are major "shortcomings" with the White House's security clearance process. He warned that the White House "should—and in the future, must—do better," and he stated that "now is the time to take a hard look at the way the White House processes clearance requests."²

Since I sent my letter on January 23, I have been negotiating in good faith—and in private—to try to obtain the information the Committee needs to conduct its investigation. However, over the past five weeks, the White House has stalled, equivocated, and failed to produce a single document or witness to the Committee. The White House has refused to commit to providing any information regarding the security clearance of any specific White House official, and the President has asserted no constitutional privilege to withhold this information from Congress.

On January 31, 2019, you sent a response letter that seemed to completely disregard the

¹ Letter from Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, Counsel to the President, The White House (Jan. 23, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-01-23.EEC%20to%20Cipollone-WH%20re%20Security%20Clearances.pdf>).

² Memorandum from General John F. Kelly, Chief of Staff, to Don McGahn, Counsel to the President, et al., The White House (Feb. 16, 2018) (online at <http://apps.washingtonpost.com/g/documents/politics/read-kellys-memo-of-proposed-changes-to-white-house-security-clearance-process/2777/>).

Committee's detailed January 23 letter setting forth the basis for this investigation. You wrote:

It would assist this office in providing information to the Committee if you could help us understand how your regulatory needs depend upon receiving the particular information you seek.³

In an effort to further explain the Committee's investigation, on February 11, 2019, I sent a private follow-up letter referencing back to my January 23, 2019, letter's detailed description of the allegations relating to at least nine high-level White House officials, including the current and former National Security Advisors and the President's Senior Advisor and son-in-law, Jared Kushner. These incidents indicate repeated, significant, and ongoing abuses of the security clearance system, which exists to protect our nation's most sensitive information in a nonpartisan and even-handed manner. The letter described additional media reports that two White House career officials recommended against granting Mr. Kushner and others security clearances, but were overturned by a politically-appointed manager, and the apparent retaliation against one of those career employees. The letter also set forth the Committee's longstanding jurisdiction over these matters and provided numerous examples of congressional precedent for obtaining this kind of information from the White House.⁴

On February 25, 2019, you sent a response challenging House Rule X setting forth the Committee's jurisdiction; objecting to Congress' authority to "second-guess the wisdom of any specific grant or denial of a security clearance;" and misstating Congress's authority to investigate and legislate on matters concerning national security and security clearances. Your letter committed to nothing but allowing Committee staff to review, but not obtain, documents relating to the White House security clearance "process." Your letter also objected to the Committee seeking to contact General Kelly, who left the White House at the end of last year. Your letter also asserted that "the White House has provided to Congress the information requested under section 4 of the SECRET Act"—by providing a publicly-available, five-page memorandum that was drafted three months before the bill was passed.⁵

Over the course of the past several weeks, I have spoken with you personally, and Committee staff have spoken with your office on multiple occasions, but you continue to refuse to produce any of the documents and witnesses we requested.

³ Letter from Pat Cipollone, Counsel to the President, The White House, to Chairman Elijah E. Cummings, House Committee on Oversight and Reform (Jan. 31, 2019) (<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-01-31%20Cipollone%20to%20EEC%20re%20Security%20Clearances.pdf>).

⁴ Letter from Chairman Elijah E. Cummings, House Committee on Oversight and Reform, to Pat Cipollone, Counsel to the President, The White House (Feb. 11, 2019) (https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-02-11.EEC%20to%20Cipollone-WH%20re%20Security%20Clearances_0.pdf).

⁵ Letter from Pat Cipollone, Counsel to the President, The White House, to Chairman Elijah E. Cummings, House Committee on Oversight and Reform (Feb. 25, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2019-02-25%20Cipollone%20to%20EEC%20re%20Security%20Clearances.pdf>).

Today, I am writing in light of grave new reports that—just eight days after the Committee launched this investigation—President Trump may have falsely claimed that he played no role in the security clearance process.

On February 1, 2019, the *New York Times* published an interview with President Trump one day earlier. In his interview, the President claimed that he played no role in decisions relating to the security clearance of his son-in-law, Mr. Kushner, and never communicated about this issue with his chief of staff, General Kelly:

HABERMAN: Did you tell General Kelly or anyone else in the White House to overrule security officials? The career veterans—

TRUMP: No. I don't think I have the authority to do that. I'm not sure I do.

HABERMAN: You do have the authority to do it.

TRUMP: But I wouldn't. I wouldn't do it.

HABERMAN: O.K.

TRUMP: Um, Jared is a good—

HABERMAN: You never —

TRUMP: I was never involved with the security. I know that he—you know, just from reading—I know that there was issues back and forth about security for numerous people, actually. But I don't want to get involved in that stuff.

HABERMAN: O.K. Why would you want to—why stay out? You do have the authority to—

TRUMP: I don't know. I just don't—I just, I never thought it was necessary. I also know him. He's a very solid person, and I just can't imagine he would have—I guess even, Ivanka, they, they, I heard that, uh, something with Jared and Ivanka—

HABERMAN: Mhm.

TRUMP: But, uh, I don't believe I've ever met any of the national security—of the people that would do clearances. Um, and there'd be nothing wrong, I don't think, with me calling them up to the Oval Office and say, "Hey give these people, you know, clearances"—

HABERMAN: You just told me—[inaudible]

TRUMP: Yeah, yeah, so there, I, I mean, I take back the other—I didn't, I was answering a little bit different question. Uh, I have the right to do it, but I never thought it was necessary, Maggie. I never thought it was necessary.

HABERMAN: And you didn't direct General Kelly or anyone like that to do it?

TRUMP: No. And, and frankly, I never thought it was necessary to do so.⁶

Yesterday, however, the *New York Times* issued a report directly contradicting these claims by the President. It stated:

President Trump ordered his chief of staff to grant his son-in-law and senior adviser, Jared Kushner, a top-secret security clearance last year, overruling concerns flagged by intelligence officials and the White House's top lawyer, four people briefed on the matter said.

Mr. Trump's decision in May so troubled senior administration officials that at least one, the White House chief of staff at the time, John F. Kelly, wrote a contemporaneous internal memo about how he had been "ordered" to give Mr. Kushner the top-secret clearance.

The White House counsel at the time, Donald F. McGahn II, also wrote an internal memo outlining the concerns that had been raised about Mr. Kushner—including by the C.I.A.—and how Mr. McGahn had recommended that he not be given a top-secret clearance.⁷

If true, these new reports raise grave questions about what derogatory information career officials obtained about Mr. Kushner to recommend denying him access to our nation's most sensitive secrets, why President Trump concealed his role in overruling that recommendation, why General Kelly and Mr. McGahn both felt compelled to document these actions, and why your office is continuing to withhold key documents and witnesses from this Committee.

For these reasons, I am now writing a final time to request your voluntary cooperation with this investigation. I ask that you begin producing all responsive documents immediately, and I request that you begin scheduling transcribed interviews with each witness identified by the Committee. Please provide your response to the Committee by March 4, 2019.

If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

⁶ *Excerpts from Trump's Interview with the New York Times*, New York Times (Feb. 1, 2019) (online at www.nytimes.com/2019/02/01/us/politics/trump-interview-transcripts.html).

⁷ *Trump Ordered Officials to Give Jared Kushner a Security Clearance*, New York Times (Feb. 28, 2019) (online at www.nytimes.com/2019/02/28/us/politics/jared-kushner-security-clearance.html).

Mr. Pat Cipollone
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Thank you for your prompt attention to this matter.

Sincerely,



Elijah E. Cummings
Chairman

cc: The Honorable Jim Jordan, Ranking Member