



Permanent Select Committee
on Intelligence
U.S. House of Representatives

September 9, 2020

Mr. Brian Murphy
C/o Mark Zaid, Esq.
Mark S. Zaid, P.C.
1250 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036

Dear Mr. Zaid:

The House Permanent Select Committee on Intelligence (“Committee”) requests the testimony of your client, Mr. Brian Murphy, in response to the whistleblower reprisal complaint filed on his behalf on September 8, 2020 with the Office of Inspector General of the Department of Homeland Security (“DHS”).

The whistleblower reprisal complaint depicts a sustained and disturbing pattern of misconduct by senior Trump Administration officials within the White House and DHS, and regarding the activities of DHS’s Office of Intelligence and Analysis (“I&A”)—an element of the U.S. Intelligence Community which Mr. Murphy led from May of this year until August, when he was reassigned to DHS’s Management Directorate, and where he previously served as Principal Deputy Under Secretary beginning in March 2018. The complaint alleges repeated violations of law and regulations, abuses of authority, attempted censorship of intelligence analysis, and improper administration of an intelligence program related to Russian efforts to influence the U.S. elections.

Such allegations fall squarely within the unique oversight and legislative jurisdiction of the Committee and relate directly to the Committee’s ongoing investigation and oversight of activities undertaken by I&A, including during Mr. Murphy’s tenure. The Committee therefore requests Mr. Murphy’s appearance at **10:00 AM on Monday, September 21, 2020** for a deposition pursuant to subpoena.

The Committee, in particular, seeks Mr. Murphy’s testimony regarding specific events and protected disclosures described in the attached complaint, including:

- **Improper Administration of an Intelligence Program and Abuse of Authority regarding Russian Influence:** The complaint states that Mr. Murphy “made several protected disclosures between March 2018 and August 2020 regarding a repeated pattern of abuse of authority, attempted censorship of intelligence analysis and improper administration of an intelligence program related to Russian efforts to influence and undermine United States interests. The relevant officials at issue were Secretary [Kirstjen] Nielsen and Messrs. [Chad]

Wolf, [Kenneth] Cuccinelli, [Miles] Taylor, and Acting Deputy Director for the Office of the Director of National Intelligence, Kash Patel.”¹

The complaint asserts that, in mid-May 2020, and while purporting to serve as Acting Secretary of Homeland Security, Mr. Chad Wolf “instructed Mr. Murphy to cease providing intelligence assessments on the threat of Russian interference in the United States, and instead start reporting on interference activities by China and Iran. Mr. Wolf stated that these instructions specifically originated from White House National Security Advisor Robert O’Brien. Mr. Murphy informed Mr. Wolf he would not comply with these instructions, as doing so would put the country in substantial and specific danger.”²

In addition, the complaint states that DHS’s Chief of Staff directed Mr. Murphy on July 7, 2020, to “cease any dissemination of an intelligence notification regarding Russian disinformation efforts until Mr. Murphy had spoken with Mr. Wolf.” Per the complaint, Mr. Wolf told Mr. Murphy the next day, on July 8, 2020, that “the intelligence notification should be ‘held’ because it ‘made the President look bad.’ Mr. Murphy objected, stating that it was improper to hold a vetted intelligence product for reasons for political embarrassment. In response, Mr. Wolf took steps to exclude Mr. Murphy from relevant future meetings on the subject. The draft product was eventually completed without Mr. Murphy’s involvement and was made public in a leak to the media by unknown individuals. It is Mr. Murphy’s assessment that the analysis in the leaked ‘completed draft’ attempts to place the actions of Russia on par with those of Iran and China in a manner that is misleading and inconsistent with the actual intelligence data.”³

According to the complaint, the details of the protected disclosures outlined by Mr. Murphy’s complaint involve classified information pertaining to “improper administration of an intelligence program” and abuse of authority.⁴ The complaint states that Mr. Murphy is “more than amenable to making a classified presentation on this information – whether verbally or in writing” – under appropriate circumstances.⁵ The Committee will expect Mr. Murphy to testify to this and any other classified matters during the deposition.

- **Improper Administration of an Intelligence Program with respect to the Homeland Threat Assessment:** The complaint states that distribution of a Homeland Threat Assessment (HTA) report was “prohibited due to concerns raised by Messrs. Wolf and Cuccinelli regarding how the HTA would reflect upon President Trump. Two sections were specifically labeled as concerns: White Supremacy and Russian influence in the United States.”⁶

¹ Mr. Brian Murphy, Whistleblower Reprisal Complaint, Submitted to the Department of Homeland Security Office of Inspector General, September 8, 2020, p. 10.

² *Id.* at p. 12.

³ *Id.* at pp. 12-13.

⁴ *Id.* at pp. 10-12.

⁵ *Id.* at pp. 10.

⁶ *Id.* at p. 13.

The complaint specifically alleges that “Mr. Cuccinelli stated that Mr. Murphy needed to specifically modify the section on White Supremacy in a manner that made the threat appear less severe, as well as include information on the prominence of violent ‘left-wing’ groups.”⁷

In early July 2020, according to the complaint, “Mr. Wolf relayed the concerns previously outlined by Mr. Cuccinelli regarding the sections on White Supremacy and Russian influence. Mr. Wolf asked for a copy of the HTA so it could be reviewed by policy officials, and so that information regarding the ongoing unrest in Portland, Oregon, could be added into the HTA. Mr. Wolf asked Mr. Murphy if he would accept his edits. Mr. Murphy responded that he would not concur with any edits that altered the underlying intelligence in the HTA, as any such action would constitute an abuse of authority and improper administration of an intelligence program.”⁸ The complaint further alleges that, on September 3, 2020, Mr. Murphy “learned the new draft was provided to Mr. Wolf, who had ordered the HTA to be redesigned with the policy office completing the revisions. It is Mr. Murphy’s assessment that the final version of the HTA will more closely resemble a policy document with references to ANTIFA and ‘anarchist’ groups than an intelligence document as originally formulated by DHS I&A.”⁹

- **Improper Administration of an Intelligence Program regarding ANTIFA:** The complaint states that, “[d]uring multiple meetings between the end of May 2020 and July 31, 2020, Mr. Murphy made protected disclosures to Messrs. Wolf and Cuccinelli regarding abuse of authority and improper administration of an intelligence program with respect to intelligence information on ANTIFA and ‘anarchist’ groups operating throughout the United States. On each occasion, Mr. Murphy was instructed by Mr. Wolf and/or Mr. Cuccinelli to modify intelligence assessments to ensure they matched up with the public comments by President Trump on the subject of ANTIFA and ‘anarchist’ groups.”¹⁰
- **Perjured Testimony and Abuse of Authority:** The complaint also details potential violations of federal law, including false statements before Congress, as well as abuses of authority and improper administration of an intelligence program regarding border security and asylum matters. The complaint alleges that then-Secretary of Homeland Security Kirstjen Nielsen provided in congressional testimony on December 20, 2018 and March 6, 2019, inaccurate and highly inflated claims of known or suspected terrorists entering the United States through the southwest border, which the complaint states constituted a “knowing and deliberate submission of false material information.”¹¹

The Committee has a longstanding oversight interest in this matter. In early January 2019, as one of the Committee’s first acts during the 116th Congress, the Committee requested any and all intelligence that would corroborate statements by Trump Administration officials about the scale of the purported “terrorist” threat at the southern border, which White House

⁷ *Id.* at p. 13.

⁸ *Id.* at p. 14.

⁹ *Id.* at p. 14.

¹⁰ *Id.* at pp. 14-15.

¹¹ *Id.* at p. 6.

and DHS officials claimed in justifying declaring a national emergency.¹² More than two months later, the Committee received an incomplete response from DHS and the Office of the Director of National Intelligence — although the information they did provide, if accurate, contradicted the assertions that such a dire terrorist threat existed.

The complaint also alleges that Mr. Cuccinelli sought to modify in December 2019 I&A intelligence reports regarding conditions in Guatemala, Honduras, and El Salvador to “outlin[e] high levels of corruption, violence, and poor economic conditions in the three respective countries,” and that Mr. Cuccinelli “expressed frustration with the intelligence reports, and he accused unknown “deep state intelligence analysts” of compiling the intelligence information to undermine President Donald J. Trump’s (“President Trump”) policy objectives with respect to asylum.”¹³

According to the complaint, “[n]otwithstanding Mr. Murphy’s response that the intelligence reports’ assessments were consistent with past assessments made for several years, Mr. Cuccinelli ordered Messrs. Murphy and [then-Under Secretary for I&A David] Glawe to identify the names of the “deep state” individuals who compiled the intelligence reports and to either fire or reassign them immediately. After the meeting [in December 2019], Mr. Murphy informed Mr. Glawe that Mr. Cuccinelli’s instructions were illegal, as well as constituted an abuse of authority and improper administration of an intelligence program. Mr. Murphy also informed Mr. Glawe he would not comply with the instruction to fire or reassign the alleged “deep state” officials based on nothing more than perceived political differences, and that Mr. Murphy would report the matter to DHS OIG if improper actions were taken to do so.”¹⁴

Should you have any questions in advance of Mr. Murphy’s deposition, please contact Committee staff at (202) 225-7690. The Committee will follow up regarding compulsory process and the necessary arrangements for this deposition.

Sincerely,



Adam B. Schiff
Chairman

Enclosure: Whistleblower Reprisal Complaint, Submitted to the Department of Homeland Security Office of Inspector General (September 8, 2020)

CC: The Honorable Devin Nunes, Ranking Member

¹² Letter from Chairman Adam B. Schiff to Acting Chief of Staff Michael Mulvaney, Director of National Intelligence Dan Coats, and DHS Under Secretary for Intelligence and Analysis David J. Glawe, January 11, 2019, available at: https://intelligence.house.gov/uploadedfiles/chm_letter_southern_border_january_11_2019.pdf

¹³ Mr. Brian Murphy, Whistleblower Reprisal Complaint, Submitted to the Department of Homeland Security Office of Inspector General, September 8, 2020, p. 9.

¹⁴ *Id.* at pp. 9-10.