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One Hundred Sixteenth Congress  
U.S. House of Representatives  
Committee on Foreign Affairs  
2170 Rayburn House Office Building  
Washington, DC 20515  
[www.foreignaffairs.house.gov](http://www.foreignaffairs.house.gov)

August 17, 2020

The Honorable Michael R. Pompeo  
Secretary  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

Dear Mr. Secretary:

On July 31, 2020, I issued a subpoena for thousands of pages of records, most of which the Department of State has already provided to two Republican-led Senate committees, related to the Foreign Affairs Committee's investigation of politicized misuse of State Department resources. Your response, relayed in an August 7 letter from the acting Assistant Secretary for Legislative Affairs, amounted to an unacceptable blanket refusal to provide anything required by my duly authorized subpoena. The Department's letter ignores the Constitution, misrepresents the holdings of the Supreme Court, and makes no effort to refute the assertion that you have politicized the State Department's response to Congressional oversight in ways that betray the public trust and may well be illegal.<sup>1</sup> Compliance with the subpoena by turning over the records described therein to the Committee on Foreign Affairs is mandatory and must occur without further delay.

In its refusal to comply with the subpoena, the Department claims falsely that I "have not indicated that HFAC has opened an investigation into the same matters being investigated by the two Senate committees, or indeed any investigation into any other matters for which these documents would be pertinent." On the contrary, my May 21, 2020 letter to you stated clearly that I was seeking records because of my concerns over "what appears to be a partisan misuse of Department of State resources to assist Senate Republicans in a political smear of Democratic

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<sup>1</sup> See Donald K. Sherman, *State's Selective Cooperation with Congress Raises Legal Questions that Demand Answers*, Just Security, May 29, 2020 (online at: <https://www.justsecurity.org/70467/states-selective-cooperation-with-congress-raises-legal-questions-that-demand-answers/>).

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presidential nominee and former Vice President Joe Biden.” Numerous staff-level communications in this timeframe reiterated the request in the context of that investigation. And the committee’s announcement of the July 31 subpoena stated that I was issuing it “as part of the committee’s investigation of [your] apparent use of Department of State resources to advance a political smear of former Vice President Joe Biden.”

To state once more, this committee is investigating your own conduct. That’s been clear for months. Your attempt to distract from that reality is as unconvincing as it is self-serving.<sup>2</sup> Furthermore, it isn’t up to the Department of State to determine how Congress defines and carries out its constitutionally-mandated oversight responsibilities. Indeed, the Foreign Affairs Committee’s investigation into your apparent politicization of Department’s resources constitutes congressional oversight of the most fundamental legitimacy and importance. It is directly relevant to threats against the integrity of our upcoming presidential election.

The Senate probe, by two committees without primary jurisdiction over the State Department, to which the Department has rushed out more than 16,000 pages of documents, is a transparent effort to smear Vice President Biden in the months before the election. Chairman Johnson has flatly said as much. Speaking to a Minneapolis radio station, the Senator said of his investigation, “I would think it would certainly help Donald Trump win reelection and would certainly be pretty good evidence about not voting for Vice President Biden.”<sup>3</sup> He also clearly laid out his expectations that, because he and the President are both Republicans, executive branch agencies would be willing collaborators in this smear effort, saying “You’d think with a Republican president, they’d be more responsive to the Republican head of a Senate committee.” In the case of the State Department, it seems that Senator Johnson was right.

To make matters worse, Congressional leaders have already warned that both the House and the Senate “appear[] to be the target of a concerted foreign interference campaign, which seeks to launder and amplify disinformation in order to influence congressional activity, public debate, and the presidential election in November.”<sup>4</sup> Just this month, our own Office of the Director of National Intelligence went on to say that one of the sources of that Russian

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<sup>2</sup> The Department distorts the holding of *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019 (2020) in its refusal to comply with the subpoena. That case, which laid out a framework for determining the enforceability of Congressional subpoenas seeking personal information of the President from third parties, has no bearing on the enforceability of the July 31, 2020 subpoena issued to the Department seeking agency records that have already been produced to the Senate.

<sup>3</sup> Justice & Drew Radio Program, posted August 11, 2020: <https://player.fm/series/justice-drew-1611408/hour-3-subpeonas-primary-day>

<sup>4</sup> Letter from Speaker Pelosi, Leader Schumer, Chairman Schiff and Chairman Warner to FBI Director Wray, July 13, 2020 (online at: [https://intelligence.house.gov/uploadedfiles/20200713\\_big\\_4\\_letter\\_to\\_fbi\\_director\\_wray\\_-\\_defensive\\_briefing\\_signed.pdf](https://intelligence.house.gov/uploadedfiles/20200713_big_4_letter_to_fbi_director_wray_-_defensive_briefing_signed.pdf)).

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disinformation is “pro-Russia Ukrainian parliamentarian Andriy Derkach,”<sup>5</sup> a known associate of President Trump’s personal lawyer, Rudy Giuliani.<sup>6</sup> Despite warnings that the two Senate committees “risk[] laundering Russian disinformation into the United States through the Senate ahead of the 2020 presidential election,” the Committees have accepted such information from at least one Ukrainian source, Andrii Telizhenko,<sup>7</sup> while Derkach alleges he has provided additional information to the committees.<sup>8</sup>

By producing State Department records only to the Senate as part of this investigation, which may already be soiled by Russian interference, but refusing to honor a lawful subpoena to produce them to the State Department’s committee of jurisdiction, you may intentionally or unintentionally be enabling these Russian efforts to interfere in the upcoming election. If the Department’s efforts here were truly above-board and in the national interest, you would not hesitate to provide the House Foreign Affairs Committee with the full collection of records you have produced to the Senate.

The Department’s arguments have no merit and my subpoena remains in effect. Please produce these documents by 5 PM on Friday, August 21 or the Committee will be forced to consider other measures to obtain compliance.

Sincerely,



ELIOT L. ENGEL  
Chairman

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<sup>5</sup> Office of the Director of National Intelligence, Press Release: *Statement by NCSC Director William Evanina: Election Threat Update for the American Public*, August 7, 2020.

(online at: <https://www.dni.gov/index.php/newsroom/press-releases/item/2139-statement-by-ncsc-director-william-evanina-election-threat-update-for-the-american-public>).

<sup>6</sup> David L. Stern and Robyn Dixon, *Ukraine lawmaker seeking Biden probe meets with Giuliani in Kyiv*, Washington Post, December 5, 2019 (online at: [https://www.washingtonpost.com/world/europe/ukraine-lawmaker-seeking-biden-probe-meets-with-giuliani-in-kyiv/2019/12/05/ead06eae-175b-11ea-80d6-d0ca7007273f\\_story.html](https://www.washingtonpost.com/world/europe/ukraine-lawmaker-seeking-biden-probe-meets-with-giuliani-in-kyiv/2019/12/05/ead06eae-175b-11ea-80d6-d0ca7007273f_story.html)).

<sup>7</sup> Kenneth P. Vogel and Nicholas Fandos, *Senate Panel Delays Subpoena Vote Over Concerns About Ukraine Witness*, N.Y. Times, March 11, 2020 (online at: <https://www.nytimes.com/2020/03/11/us/politics/senate-subpoena-ron-johnson-ukraine.html>).

<sup>8</sup> Paul Sonne, Karoun Demirjian and David L. Stern, *Senate Republicans advance Ukraine probe aimed at Biden despite foreign interference concerns*, Washington Post, August 5, 2020 (online at: [https://www.washingtonpost.com/national-security/senate-republicans-advance-ukraine-probe-aimed-at-biden-despite-foreign-interference-concerns/2020/08/05/6eb3718e-d503-11ea-b9b2-1ea733b97910\\_story.html](https://www.washingtonpost.com/national-security/senate-republicans-advance-ukraine-probe-aimed-at-biden-despite-foreign-interference-concerns/2020/08/05/6eb3718e-d503-11ea-b9b2-1ea733b97910_story.html)).