



## **Excerpts from Joint Deposition**

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**Conducted on October 23, 2019**

**House Permanent Select Committee on Intelligence**  
**House Committee on Oversight and Reform**  
**House Committee on Foreign Affairs**

- A: *But towards the end of August when [Volker] met with me for what, you know, I thought was going to be you know just a routine touch base on Ukraine, but also I thought it was going to be a strategizing session on how do we get this security assistance released knowing that we both—we both wanted the funding released. So in that meeting he did mention something to me that, you know, was the first about somehow an effort that he was engaged in to see if there was a statement that the government of Ukraine would make that would somehow disavow any interference in U.S. elections and would commit to the prosecution of any individuals involved in election interference. And that was about as specific as it got.*
- Q: *Okay. Did he indicate to you that if that channel he was working was successful it might lift this issue?*
- A: *Yes.*

**Providing critical security assistance to Ukraine serves U.S. national security in order to “deter Russian aggression elsewhere around the world.” (Page 16-17)**

- Q: How important is security assistance to Ukrainians?
- A: Security assistance is vital to helping the Ukrainians be able to defend themselves.
- Q: Can you explain a little bit more?
- A: Well, if you go back to 2014, when Ukraine found itself under attack by Russia, the state of the Ukrainian Armed Forces was significantly less capable than it is today, and that capability increase is largely the result of U.S. and allied assistance. And now what you see is a Ukrainian armed force that is able to better deter Russian aggression, and you’ve seen a drop in the kinetic action, although not—not a complete lack of hostilities, certainly. We still have casualties on a regular basis.
- Q: So the security assistance that’s provided by the U.S. is within the Ukrainians’ national interest, obviously. Is that right?
- A: Absolutely.
- Q: And what about within the U.S. national interest?
- A: It is also within the U.S. national interest to provide security assistance to Ukraine.
- Q: Given this is an unclassified interview, with that constraint in mind, can you explain how it’s within the U.S. national security interest to provide this aid to Ukraine?
- A: Ukraine, and also Georgia, are the two front-line states facing Russian aggression. In order to deter further Russian aggression, we need to be able to shore up these countries’ abilities to defend themselves. That’s, I think, pure and simple, the rationale behind our strategy of supporting these countries. It’s in our interest to deter Russian aggression elsewhere around the world.

**The Department of Defense (DOD) was “concerned” that delaying security assistance to Ukraine would weaken “a strategic partner” and make it “much more difficult for them to negotiate a peace on terms that are good for Ukraine.” (Page 95-96)**

- Q: DOD was concerned about all this because the concern was that not all the funds would be able to be obligated past August 6. Is that correct?
- A: Yes. And it was—I mean, so DOD was concerned about the obligation of funds. Policy, my team, we were also concerned about any signal that we would send to Ukraine about a wavering in our commitment. And that’s another reason why, I mean, we did not want for this to be a big public discussion, you know, if we were about to get it turned back on again because we didn’t want to signal any lack of support.
- Q: Why would that be a problem for Ukraine?
- A: So, I mean, the first and easiest way to answer that is by looking at the peace process. They are trying to negotiate a peace with Russia, and if they are seen as weak, and if they are seen to lack the backing of the United States for their Armed Forces, it makes it much more difficult for them to negotiate a peace on terms that are good for Ukraine.

Q: Okay. So it would weaken an ally, that being Ukraine. Is that correct?

A: It would weak an [sic] strategic partner.

Q: And it would potentially strengthen or embolden Russia?

A: That is correct.

**The Department of Defense, in coordination with the interagency, certified in May 2019 that Ukraine met the anti-corruption benchmarks set by the Pentagon to make it eligible to receive security assistance. (Page 24-25, 26-27, 34)**

A: Yes. I want to emphasize that, from my perspective as a DOD official managing Ukraine security assistance, we appreciate the provision in the NDAA that calls for defense reform progress, and it allows us to have a very practical tool to encourage defense reform. The language in the NDAA is not specific to exact reforms that must be accomplished but, rather, is a broad call for reform. So we elect, internal to the Defense Department and in consultation with interagency colleagues, to come up with loose benchmarks that we can then describe to the Ukrainian Ministry of Defense and monitor progress toward. In the past year, the benchmarks were different from what they will be for the next year, because we're always looking at what the next important set of reforms would be. So I can give you a quick example. This past year, we were looking at a few things. We were looking at progress on command and control reform. We were looking at a commitment to pursue defense industry reform. We were looking to the Ukrainian Government to pass a law that would enable government-to-government procurement. This would enable them to use our FMS [U.S. Foreign Military Sales] system. And these are examples of some of the benchmarks. The year before, it had just been one broad category. We wanted them to codify in law, their law on national security, the key reforms that they would need to take to become NATO interoperable. So each year it's different, depending on what we think are the most important steps, but also the most practical steps to advance reform.

...

Q: And who determines whether these benchmarks have been met?

A: So that is a question for interagency assessment informed by a number of things, to include my own judgment, to include the judgment of the U.S. Embassy team, to include the judgment of our key advisers on defense reform. General Dayton, retired General Dayton, is our senior adviser on defense reform. So we're pulling in all the views of the key experts on Ukraine defense, and coming up with a consensus view, and then we run that up the chain in the Defense Department, to ensure we have approval. And in this case, in May of this year, it was Under Secretary of Defense for Policy, John Rood, who provided the certification to Congress, but that was after coordination with the State Department.

...

Q: But suffice to say that this certification memorializes that Ukraine had met all the necessary anticorruption requirements as well as other benchmarks that you described earlier under U.S. law in order to obtain this second tranche of USAI [Ukraine Security Assistance Initiative] funding?

A: That is correct.

**OMB informed the Department of Defense and other agencies during a meeting in July that the “funds were held without explanation,” and the Pentagon “did not get clarification.” (Page 44-45, 48-49, 49-50)**

Q: Okay. When did you first learn that USAI funds were potentially going to be held?

A: So I probably first learned in the middle of July. There was a meeting, an interagency meeting that I sent my deputy to. It was a routine Ukraine policy meeting. And the person chairing it, it was the director for Ukraine at the NSC, not the senior director. So I sent my deputy. And I recall that after that meeting—and I got, you know, I got a readout from the meeting—there was discussion in that session about the—about OMB saying that they were holding the Congressional Notification related to FMF [State Department Foreign Military Financing program].

...

Q: Okay. Now you indicated there was some, that there was confusion on your part as to what effect this hold might have on NSAI [sic]?

A: Yes, that’s correct.

Q: And you sought further clarification or your staff did?

A: Yes.

Q: Following this meeting?

A: Yes. And they didn’t really receive clarification.

Q: Okay. Who did they seek clarification from?

A: I don’t know for sure, but I believe NSC staff were the primary conduit, because we don’t have routine counterpart interaction with OMB directly.

Q: Okay. Based on your review of the summary and the SOC [Summary of Conclusions], was there any reason provided for the hold during that July 18th meeting?

A: I don’t recall any reason being provided at the July 18th meeting.

...

Q: Was this extremely unusual?

A: May I ask for clarification? What aspect?

Q: The funds were held without explanation.

A: So the way the process played out over the course of the summer was very—

Q: No. I’m just talking about the 7/18 meeting.

A: It was unusual.

Q: Okay. And were you unable to get any additional information from NSC—

A: No.

Q: —shortly after the meeting?

A: No, we did not get clarification.

Q: What did you do to try to get that clarification?

A: We called around to NSC, to State. Those are our usual colleagues.

**At a meeting on July 23, 2019, OMB told agencies that “the White House chief of staff has conveyed that the President has concerns about Ukraine and Ukraine security assistance,” and “immediately deputies began to raise concerns about how this could be done in a legal fashion.” (Page 50-52)**

A: So the issue started to clarify a little bit on the 23rd at that—at that PCC [Policy Coordination Committee] meeting. There in that meeting I recall I was advocating for the release of the FMF, because I still wasn’t sure if our funds were actually at risk. But there again the OMB representative, again I do not—this particular meeting I’m not sure who it was. I believe I was participating via SVTC [Secure Video Teleconference], but I’m not quite sure. But in that meeting again there was just this issue of the White House chief of staff has conveyed that the President has concerns about Ukraine and Ukraine security assistance. That was how it was conveyed in the meeting on the 23rd. So I walked away from the meeting on the 23rd thinking okay, we know that this is, you know, a larger issue. But I still didn’t have any specific direction with respect to USAI. That came after that meeting, the official direction from OMB to the DOD comptroller who then informed me was—I’m pretty sure it was on the 25th of July that we got the apportionment notice for USAI. And then the very next day, the 26th was the meeting that I was the backbencher for with the deputies’ level. And there it was to me anyway in my experience it was the first time it was stated very clearly what—that yes, it is FMF and AUSI [sic] are both affected by this hold and that it relates to the President’s concerns about corruption. And that is what in that meeting Mike Duffey from OMB said.

Q: And the President is authorized to have these types of holds placed. Correct?

A: Well, I’m not an expert on the law, but in that meeting immediately deputies began to raise concerns about how this could be done in a legal fashion because there was broad understanding in the meeting that the funding—the State Department funding related to an earmark for Ukraine and that the DOD funding was specific to Ukraine security assistance. So the comments in the room at the deputies’ level reflected a sense that there was not an understanding of how this could legally play out. And at that meeting the deputies agreed to look into the legalities and to look at what was possible.

**“[A]ll of the senior leaders of the U.S. national security departments and agencies were all unified in their—in their view that this assistance was essential.” (Page 58-59)**

Q: Do you know if the National Security Council was trying to work it on their end, briefing the President on the environment of corruption, briefing the President on the new political environment in the Ukraine after the parliamentary elections?

A: My sense is that yes—my sense is that all of the senior leaders of the U.S. national security departments and agencies were all unified in their—in their view that this assistance was essential, that we could work with the government of Ukraine to tackle corruption, and they were trying to find ways to engage the President on this.

**After President Trump froze the security assistance, the Department of Defense did not conduct an additional assessment of Ukraine’s anti-corruption efforts because “DOD participants affirmed that we believed sufficient progress has been made.” (Page 102-104)**

- Q: Okay. You indicated that at the July 26 deputies’ meeting, Mike Duffey said that there was a hold both on FMF and USAI and that it relates to the President’s concerns about corruption. Is that right?
- A: Correct.
- Q: Okay. But DOD did not conduct any sort of review following this statement about whether Ukraine was making any sort of progress with regard to its anticorruption efforts in July or August or beginning of September. Is that right?
- A: That is correct.
- Q: Okay. And that’s because, as a matter of process and law, all of those events took place precertification, pre-May?
- A: That is correct. And in the interagency discussions, DOD participants affirmed that we believed sufficient progress has been made.
- Q: Okay. And it wasn’t just DOD participants who believed that these funds should flow to Ukraine during these interagency meetings, correct?
- A: That’s correct. It was unanimous with the exception of the statements by OMB representatives, and those statements were relaying higher level guidance.
- Q: And that’s the case for all four interagency meetings?
- A: That’s correct.
- Q: Did you ever learn what Mike Duffey meant by “corruption” when he made this statement at the July 26 deputies’ meeting?
- A: No.

**During an inter-agency meeting on July 31, 2019, “there were many affirmative statements that the Congress has appropriated this, we need to obligate it,” and the Department of Defense explained the only legal options to withhold the funds were a presidential “rescission notice” to Congress or a “reprogramming action.” (Page 56-57, 87-88, 127)**

- A: So the meeting on the 31st, the expectation I think at least of my participation in the meeting was that we would talk about security assistance, but the agenda that was prepared by the NSC was largely focused on just routine Ukraine business, post election follow up. Those sorts of issues. So it wasn’t—security assistance was not actually an explicit agenda item, but because we had left the deputies without clarity on the legally available mechanisms, this was a topic that I raised at the PCC. And I shared with the PCC my understanding that for USAI, not speaking to FMF—I left that for the State Department—but for USAI, my understanding was that there were two legally available mechanisms should the President want to stop assistance. And the one mechanism would be Presidential rescission notice to the Congress and the other mechanism, as I understood it and articulated it in that meeting was for the Defense Department to do a reprogramming action. But I mentioned that either way, there would need to be a notification to Congress.
- Q: And did that occur?

A: That did not occur.

...

Q: In the first meeting where you described—a question was raised about what are the legally available mechanisms to actually suspend this aid, or hold this aid, did someone raise that issue in a different—using different terminology as in, is this lawful? Can this be done lawfully? Is this a violation of law?

A: So that was in the deputies' meeting that that first conversation that I recall arose, and I don't remember that exact phraseology being used. But, I mean, there were many affirmative statements that the Congress has appropriated this, we need to obligate it.

Q: Under the law?

A: Again, I don't remember that exact phrase, but yes.

...

Q: Did your understanding of the appropriate—the two proper legal mechanism to divert funding rely on a conversation that you had with DOD legal?

A: Yes.

...

Q: So, to your knowledge, the only legal ways to adjust funding provided by Congress were not being pursued in relation to USAI?

A: I just want to caveat that, that those legally available means relate to the question of whether or not all the funds can be obligated by the end of the fiscal year. So as long as the funds can be obligated, you do not have to avail yourself of these mechanisms. You can have a hold in spending. It's once you get to the point where it's clear that you cannot obligate all the funds by the end of the fiscal year that those two mechanisms, one of the two would have to be used.

Q: Because otherwise, you'd be in violation of the Impoundment Control Act. Is that right?

A: That is my understanding, yes.

**In August 2019, the Department of Defense assessed that the President's freeze on security assistance to Ukraine put at risk "well over \$100 million." (Page 88-90, 90)**

Q: Now, I think you said that as a result of the delay in the program execution that you got to a point of no return with at least part of the funding, where it would not be obligated in time pursuant to what Congress had appropriated. Is that right?

A: So based on the information that I was receiving from the people implementing the program, by late August, we felt—they felt that they would not be able to obligate all of the funding. And this understanding was actually reflected in a change in the apportionment footnotes. So in the original apportionment footnotes, OMB reflected that it would not impact timely execution of the funding, but—and I wish I could recall for you the exact date, but mid- to late August, they changed the footnote. It actually probably would have been right about August 20. They changed the phrasing, and they didn't include that sentence that said that it would not impact the timely execution.

- Q: And I think you said that at that point, or maybe soon thereafter, it became clear that fully a fifth of the funding would not be available to be obligated because of the delay. Is that right?
- A: So I received different estimates at different points in time of what would be possible. And at one point, in August, DSCA actually thought it would be, you know, well over \$100 million that would not be—that there would not be time to obligate. They ended up being able to do a lot more than their earlier warnings, but we were quite concerned about the ability to execute.
- Q: So at one point, then, the delay that had been occasioned by the President’s order could have cost Ukraine \$100 million that would not be obligated in that year?
- A: So just to be clear, sir, the estimate at the time was that it would cost at least that amount of money, but that was an estimate. And then, you know, the professionals of the Department of Defense were able to essentially make up for lost time, is my perspective, and were able to do a lot more.
- Q: But it’s fair to say, at that point, it put \$100 million of aid at risk?
- A: That was my view at the time.

**On August 20, 2019, Ambassador Kurt Volker was engaged in “an effort to see if there was a statement that the government of Ukraine could make” in order to lift President Trump’s hold on the security assistance. (Page 68-69)**

- A: With respect to the other—I forget how you described it.
- Q: Nontraditional form of diplomacy?
- A: Nontraditional form of diplomacy. My personal interaction was only with Ambassador Kurt Volker. So on about August 20th he visited me and this was not unusual because he was—he was working on the peace negotiations and peace process. So we were actually supporting him in terms of developing concepts for political peacekeeping operations, you know, military—how the military relates to the possible political settlement so I had met with him many, many times previously. But towards the end of August when he met with me for what, you know, I thought was going to be you know just a routine touch base on Ukraine, but also I thought it was going to be a strategizing session on how do we get this security assistance released knowing that we both—we both wanted the funding released. So in that meeting he did mention something to me that, you know, was the first about somehow an effort that he was engaged in to see if there was a statement that the government of Ukraine would make that would somehow disavow any interference in U.S. elections and would commit to the prosecution of any individuals involved in election interference. And that was about as specific as it got.
- Q: Okay. Did he indicate to you that if that channel he was working was successful it might lift this issue?
- A: Yes.



**Based on her conversations with Ambassador Volker and Ambassador Bill Taylor, Ms. Cooper understood that Ukrainian officials were aware that the security assistance had been frozen as of August 2019—before that fact was publicly reported. (Page 72-73, 79-80)**

A: But I knew from my Kurt Volker conversation and also from sort of the alarm bells that were coming from Ambassador Taylor and his team that there were Ukrainians who knew about this.

Q: Okay.

A: They just weren't talking to me.

Q: Okay. What did you know that the Ukrainians knew? Did Volker communicate that to you?

A: Well, Ambassador Volker described talking to an adviser to President Zelensky about making such a statement, making a statement, you know, disavowing election interference. And the way he described the statement I understood it to be a discussion that wasn't going to occur in the future, but that had occurred in the past. That was my understanding.

Q: Do you know if that statement was built around another—another activity such as a White House meeting?

A: So I know that there were two specific things that the Government of Ukraine wanted during this timeframe and the one was a visit by—a hosted visit at the White House. And the other was Ukraine security assistance, but I do not know—

Q: Okay.

A: —which issue was being tracked with the other.

...

A: The context for the discussion that I had with Ambassador Volker related specifically to the path that he was pursuing to lift the hold would be to get them to make this statement, but the only reason they would do that is because there was, you know, something valuable. But no, I don't know if he specifically said who—

Q: Well, it's significant because you're—it's one thing if you believe that they knew and it's another thing if you actually were told that Ukrainians knew. Are you guessing that you think Ukraine would have known based on what you heard or did they actually tell you Ukraine knew?

A: So again, the conversation with Ambassador Volker because it related to the security assistance needing to be lifted and the importance of that, and he was relating conversations he had had with Ukraine officials. It could have been my inference, yes, a very strong inference that there was some knowledge on the part of the Ukrainians.