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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
FACSIMILE (202) 225-3974
MINORITY (202) 225-5051

<http://oversight.house.gov>

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MEMORANDUM

October 9, 2012

To: Democratic Members of the Committee on Oversight and Government Reform

Fr: Democratic Staff

Re: Hearing on “The Security Failures of Benghazi”

On Wednesday, October 10, 2012, at 12:00 p.m., in room 2154 of the Rayburn House Office Building, the Committee will hold a hearing to examine the recent attack against the temporary U.S. compound in Benghazi, Libya that killed Ambassador J. Christopher Stevens and three other Americans. This memo provides background on the attack, the political and security situation in Libya, recent cuts to embassy security funding, and various allegations relating to the lead-up to, and aftermath of, the attack.

This memo describes only a limited amount of information that has been provided to the Committee because Chairman Issa and his staff have declined to make full information available to Democratic Members. In addition, since the Committee has not received any classified briefings about the attack as part of its investigation, this summary is based on public reports and non-classified information. The memo addresses the following topics:

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I. THE ATTACK ON THE DIPLOMATIC POST IN BENGHAZI

On September 11, 2012, Ambassador Christopher Stevens, State Department official Sean Smith, and former Navy SEALs Glen Doherty and Tyrone Woods were killed during an attack on a temporary diplomatic post and annex compound in Benghazi, Libya. Ambassador Stevens was the first U.S. Ambassador to have been killed in the line of duty since 1979.

Ambassador Stevens reportedly traveled to Benghazi to attend the opening of an education and cultural facility.¹ It appears that at about 10:00 p.m., an assault was launched against the Benghazi compound.² According to one press report, “a brigade of Libyan security forces arriving on the scene had battled the attackers in the streets as well.”³

As fire spread inside the compound, Ambassador Stevens and Mr. Smith reportedly became separated from other U.S. personnel, who made their way to the annex compound located approximately a half-mile away.⁴ A Libyan militia called the “February 17 Brigade” reportedly responded to the attack and supported the evacuation of U.S. personnel.⁵ A few hours later, however, a larger group reportedly launched a second assault against the annex compound, killing the two former Navy SEALs, Mr. Doherty and Mr. Woods.⁶

It is unclear precisely how many attackers were involved, although one press account reported that “[s]ome 120 assailants firing assault rifles and rocket-propelled grenades stormed the consulate on the evening of Sept. 11 and then attacked a consulate annex where 25 to 30 U.S. personnel had taken refuge.”⁷

The body of Ambassador Stevens was retrieved from a local hospital where members of the February 17 Brigade apparently took him after discovering him in the compound. Both he and Mr. Smith reportedly died from smoke inhalation.⁸

¹ Congressional Research Service, *Attack on U.S. Interim Offices in Benghazi* (Oct. 3, 2012).

² *Id.*

³ *Anger Over a Film Fuels Anti-American Attacks in Libya and Egypt*, New York Times (Sept. 11, 2012).

⁴ Congressional Research Service, *Attack on U.S. Interim Offices in Benghazi* (Oct. 3, 2012); Department of State, *Press Conference with Victoria Nuland* (Sept. 14, 2012).

⁵ *Id.*

⁶ *Id.*

⁷ *State Department Delay Cited in Seeking Pentagon Protection of FBI Agents in Libya*, McClatchy (Oct. 4, 2012) (online at www.mcclatchydc.com/2012/10/04/170624/state-department-delay-cited-in.html).

⁸ Congressional Research Service, *Attack on U.S. Interim Offices in Benghazi* (Oct. 3, 2012).

II. THE POLITICAL SITUATION IN LIBYA

In the spring of 2011, a wave of political change spread across the Middle East in response to decades of oppression, corruption, and human rights violations by longstanding dictators and their governments.⁹ This so-called “Arab Spring” invigorated citizens to use protests, and often violence, to bring about change in order to gain basic liberties.¹⁰ Motivated by recent developments in Egypt and Tunisia, Libyans pressed their government for reform, seeking political rights in their government and a constitution.¹¹

In March 2011, President Obama appointed Christopher Stevens as special representative to the Libyan National Transitional Council (NTC). His mission was “to establish a U.S. diplomatic outpost in Benghazi, the cradle of the revolution and a stronghold of the forces that were pressing to end the Qadhafi regime after the dictator’s 41 years in power.”¹² He described this transitional period as “a time of great excitement as the Libyan people first experienced freedom,” but “also a time of significant trepidation for what might come next.”¹³

As Mr. Stevens stated, “My mandate was to go out and meet as many members of the leadership as I could in the Transitional National Council. I’ve gone around with our small team and tried to get to know other people in the society there.”¹⁴ According to Mr. Stevens:

[T]he Libyans were genuinely grateful to the United States for supporting their aspirations for freedom, as demonstrated by the greeting the team received. The Libyans had hoisted British, French, Qatari and American flags at Freedom Square, the vast area in front of the Benghazi courthouse.¹⁵

On October 20, 2011, Libyan rebels located and executed long-time dictator Muammar al Gaddafi.¹⁶ The NTC took control of the central government and prepared for the country’s first democratic election in nearly half a century.¹⁷ In May 2012, Mr. Stevens returned as the U.S.

⁹ *Demystifying the Arab Spring*, Foreign Affairs (May/June 2011).

¹⁰ *Id.*

¹¹ Congressional Research Service, *Libya: Transition and U.S. Policy* (Sept. 14, 2012) (RL33142).

¹² *Mission to a Revolution*, State Magazine (Dec. 2011) (online at www.state.gov/documents/organization/178204.pdf).

¹³ Senate Committee on Foreign Relations, *Hearing on Pending Nominations*, 112th Cong. (Mar. 20, 2012).

¹⁴ *Mission to a Revolution*, State Magazine (Dec. 2011) (online at www.state.gov/documents/organization/178204.pdf).

¹⁵ *Id.*

¹⁶ Congressional Research Service, *Libya: Transition and U.S. Policy* (Sept. 14, 2012) (RL33142).

¹⁷ *Id.*

Ambassador to Libya, establishing formal relations with the new government. Given his earlier assignment, Ambassador Stevens reportedly felt that “Benghazi was like his home.”¹⁸

III. THE SECURITY SITUATION IN LIBYA

Specific information on security capabilities and vulnerabilities for any diplomatic post is typically not disclosed publicly. Nonetheless, it is widely known that Libya faced internal security challenges since the fall of Gaddafi in October 2011. The security posture and security arrangements for the Benghazi mission would have depended on the State Department’s assessment of local security conditions.¹⁹

Based on public reports, the Benghazi compound was a temporary post with external security provided by armed local militias, specifically the February 17 Brigade; an unarmed, static local guard force; a physical buffer from walls to the compound; and a security presence inside the compound.²⁰

By treaty, the United States relies on host countries to “take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.”²¹ With respect to protecting the Ambassador, a host country commits to “take all appropriate steps to prevent any attack on his person, freedom or dignity.”²²

Since it was a temporary facility, the Benghazi compound reportedly lacked certain security features, such as bulletproof glass and reinforced doors.²³ In May 2012, the State Department reportedly contracted for local guard security through the British firm Blue Mountain Group.²⁴ The company reportedly held a certificate from the Libyan government that

¹⁸ *In Libya, Security Was Lax Before Attack that Killed U.S. Ambassador, Officials Say*, Washington Post (Sept. 29, 2012).

¹⁹ Congressional Research Service, *Attack on U.S. Interim Offices in Benghazi* (Oct. 3, 2012).

²⁰ *Id. See also House Committee Says Requests for More Security for US Diplomats in Libya Were Denied*, Washington Post (Oct. 2, 2012).

²¹ Vienna Convention on Consular Relations, 596 U.N.T.S. 261 (Apr. 24, 1963).

²² Vienna Convention on Diplomatic Relations, 500 U.N.T.S. 95 (Apr. 18, 1961).

²³ Congressional Research Service, *Attack on U.S. Interim Offices in Benghazi* (Oct. 3, 2012); *In Libya, Security Was Lax Before Attack that Killed U.S. Ambassador, Officials Say*, Washington Post (Sept. 29, 2012); *Ambassador Stevens Killed at Site with No Marines*, Politico (Sept. 12, 2012).

²⁴ *Feds Hired British Security Firm to Protect Benghazi Consulate*, Wired Danger Room (Sept. 17, 2012) (online at www.wired.com/dangerroom/2012/09/contractors-benghazi).

few other firms possessed, allowing it to operate inside the country.²⁵ It appears that Blue Mountain Group used a small, local Libyan guard force to provide “high risk static guarding,” which included operating access equipment and screening incoming vehicles.²⁶

In May and August, militants attacked facilities used by the International Committee of the Red Cross in Benghazi, after which it suspended operations there.²⁷ On June 10, 2012, a convoy carrying the British Ambassador to Libya was attacked, injuring two bodyguards. The incident reportedly led the British Foreign Office to close its Benghazi consulate.²⁸

IV. CUTS TO EMBASSY SECURITY FUNDING

During an interview on CNN last week, Chairman Issa described the purpose behind the Committee’s investigation. He stated:

[W]e’re doing it not just for what is a done and sad situation in Libya, but because with the Arab Spring going on around the Arab world, the question is what are we doing in these other countries? Will we be ready or could this happen again?²⁹

Since gaining the majority in 2011, House Republicans have voted to reduce embassy security funding by approximately half a billion dollars below the amounts requested by the Obama Administration. Although the Senate has been able to restore a small portion of these funds, the final appropriations enacted by Congress in the previous two Fiscal Years have been far below the amounts requested by the Administration for embassy security, and far below the levels enacted in Fiscal Year 2010, the last year Democrats controlled the House.

There are two primary funding accounts for embassy security. The first is the Worldwide Security Protection (WSP) account, which supports staffing, core functions of the worldwide local guard program, high threat protection needs, security technology, armored vehicles, and

²⁵ *Security Firms Hustle in Lawless Libya*, United Press International (Dec. 9, 2011) (online at www.upi.com/Business_News/Security-Industry/2011/12/09/Security-firms-hustle-in-lawless-Libya/UPI-75871323450621).

²⁶ Blue Mountain Group, *Services* (online at www.bluemountaingroup.co.uk/services) (accessed Oct. 3, 2012); Department of State, *Press Conference with Victoria Nuland* (Sept. 14, 2012).

²⁷ *Red Cross Attacked with Rockets, Grenades in Libya*, Reuters (Aug. 5, 2012).

²⁸ Letter from Rep. Darrell Issa, Chairman, House Committee on Oversight and Government Reform, and Rep. Jason Chaffetz, Chairman, Subcommittee on National Security, Homeland Defense, and Foreign Operations, to Hillary Rodham Clinton, Secretary, Department of State (Oct. 2, 2012); *UK Embassy Convoy Attacked in Benghazi*, The Tripoli Post (June 12, 2012) (LexisNexis 2012).

²⁹ *Erin Burnett OutFront*, CNN (Oct. 2, 2012) (online at <http://transcripts.cnn.com/TRANSCRIPTS/1210/02/ebo.01.html>).

facility protection.³⁰ The second is the Worldwide Security Upgrades portion of the Embassy Security, Construction and Maintenance (ESCM) account, which funds maintenance, support, construction, and security upgrades to State Department facilities around the world.³¹

In the previous two Fiscal Years—2011 and 2012—House Republicans have voted to cut the Administration’s requests for these two embassy security budget accounts by approximately \$459 million. For Fiscal Year 2011, House Republicans cut the Administration’s requests by more than \$127 million. Specifically, the Administration requested \$1.56 billion for WSP and \$824 million for ESCM, but House Republicans reduced these to \$1.461 billion for WSP and \$796 million for ESCM.

More significantly, for Fiscal Year 2012, House Republicans cut the Administration’s request for these two accounts by more than \$330 million. The Administration requested \$1.7 billion for WSP and \$938 million for ESCM, but House Republicans reduced these to \$1.56 billion for WSP and \$755 million for ESCM.

The chart below sets forth the cuts approved by House Republicans to the Administration’s embassy security funding requests in these two accounts.

HOUSE CUTS TO EMBASSY SECURITY FUNDING (in millions of dollars)									
	FY 2011			FY 2012			FY 2011 and 2012 (Combined)		
	Admin. Request	House	Reduction	Admin. Request	House	Reduction	Admin. Request	House	Reduction
WSP	\$1,560.7	\$1,461.0	-\$99.7	\$1,704.3	\$1,556.9	-\$147.4	\$3,265.0	\$3,017.0	-\$248.0
ESCM (WSU)	\$824.2	\$796.4	-\$27.8	\$938.2	\$755.05	-\$183.15	\$1,762.4	\$1,551.45	-\$210.95
Totals	\$2,384.9	\$2,257.4	-\$127.5	\$2,642.5	\$2,311.95	-\$330.55	\$5,027.4	\$4,568.45	-\$458.95

Due to relatively small increases by the Senate before the bills were passed, the final amounts enacted by Congress for these two accounts were \$2.29 billion for Fiscal Year 2011 and \$2.37 billion for Fiscal Year 2012, for a total of \$4.66 billion. This was \$88.25 million higher

³⁰ Department of State, *Congressional Budget Justification Volume 1: Department of State Operations Fiscal Year 2013* (Feb. 13, 2012) (online at www.state.gov/documents/organization/181061.pdf).

³¹ Congressional Research Service, *State, Foreign Operations Appropriations: A Guide to Component Accounts* (Jan. 11, 2012) (R40482).

than House Republican levels, but still \$370.7 million lower than levels requested by the Administration.³²

In contrast, for Fiscal Year 2010, the last year an appropriation was passed while Democrats controlled both the House and Senate, Congress funded these two embassy security accounts at \$2.43 billion—higher than in Fiscal Years 2011 or 2012—with \$1.586 billion for WSP and \$847.3 million for ESCM.

As the Center for American Progress has reported:

[E]ven more inexcusable are the repeated and deep cuts made to embassy security and construction. Thousands of our diplomatic personnel are serving overseas in facilities that do not come close to meeting the minimal requirements for security established by the so-called Inman commission's report on overseas diplomatic security to President Ronald Reagan's secretary of state more than two decades ago.³³

Commentators have noted the inconsistency of those who criticize embassy security after voting to cut funding for it: "it's a bit rich to complain about a lack of US security personnel at diplomatic missions on the one hand, while actively working to cut the budget to pay for US security personnel at diplomatic missions on the other."³⁴

Nevertheless, House Republicans have pledged to make even deeper cuts. For example, Budget Committee Chairman Paul Ryan's budget would drastically reduce all discretionary spending programs, including at the State Department. According to the Congressional Budget Office (CBO), Chairman Ryan's budget would impose reductions in discretionary spending and mandatory spending apart from Social Security and major mandatory health care programs "from 12 percent of GDP in 2010 to about 6 percent in 2021." CBO noted, however, that "[n]o proposals were specific that would generate that path."³⁵

Similarly, former governor and current presidential candidate Mitt Romney has pledged that, "by the end of my first term, I will bring federal spending as a share of GDP down from last

³² Congressional Research Service, *State, Foreign Operations, and Related Programs: FY2011 Budget and Appropriations* (Apr. 22, 2011) (R41228).

³³ Center for American Progress, *Diplomats, National Security, and the House Budget* (Sept. 18, 2012) (online at www.americanprogress.org/issues/budget/news/2012/09/18/38352/diplomats-national-security-and-the-house-budget).

³⁴ *Libya Attack: Congressman Casting Blame Voted to Cut Diplomatic Security Budget*, Christian Science Monitor (Oct. 5, 2012) (online at www.csmonitor.com/World/Backchannels/2012/1005/Libya-attack-Congressmen-casting-blame-voted-to-cut-diplomatic-security-budget).

³⁵ Congressional Budget Office, *Long-Term Analysis of a Budget Proposal by Chairman Ryan* (Apr. 5, 2011) (online at www.cbo.gov/sites/default/files/cbofiles/ftpdocs/121xx/doc12128/04-05-ryan_letter.pdf).

year's staggering 24.3 percent to 20 percent or below.”³⁶ According to one analysis, “if federal spending were cut by four percentage points of GDP (approximately \$600 billion) immediately, that would represent cutting about \$1 for every \$6 dollar spent,” including at the State Department.³⁷

V. ALLEGATIONS THAT THE DEPARTMENT REFUSED ADDITIONAL SECURITY REQUESTS

On October 2, 2012, Chairman Issa and Chairman Chaffetz sent a public letter to Secretary of State Clinton relating to the Benghazi attack. This letter was sent less than 12 hours after Committee staff conducted an interview with a State Department Regional Security Officer named Eric Nordstrom who had been stationed in Tripoli until approximately two months before the attack. His statements were not confirmed before the letter was sent, and the State Department was not given an opportunity to respond before the allegations were made public.

The primary allegation in the letter was that U.S. officials stationed in Libya had made “repeated requests for increased security in Benghazi,” but that they were “denied these resources by officials in Washington.”³⁸ The letter stated that the Benghazi attack was “the latest in a long line of attacks on Western diplomats and officials.” After describing 13 security incidents against various Western targets beginning in April 2012, the letter concluded: “Put together, these events indicated a clear pattern of security threats that could only be reasonably interpreted to justify increased security for U.S. personnel and facilities in Benghazi.”

According to the letter, the Benghazi post was targeted twice previously: on April 6, 2012, when former Libyan security contractors reportedly “threw a small IED” over the wall of the compound, and on June 6, 2012, when attackers detonated an explosive device that created a hole in the outer perimeter wall that one individual reportedly described as “big enough for forty men to go through.”³⁹

With respect to specific requests for additional security, Mr. Nordstrom made the following assertions during his interview with Committee staff:

- He stated that Ambassador Patrick Kennedy, the Under Secretary of State for Management, issued a “decision memo” in December 2011 requiring that the

³⁶ *Mitt Romney Pitches Smaller Government: Is His Target Realistic?*, Christian Science Monitor (Oct. 4, 2012) (online at www.csmonitor.com/USA/DC-Decoder/2012/1004/Mitt-Romney-pitches-smaller-government-Is-his-target-realistic).

³⁷ *Id.*

³⁸ Letter from Rep. Darrell Issa, Chairman, House Committee on Oversight and Government Reform, and Rep. Jason Chaffetz, Chairman, Subcommittee on National Security, Homeland Defense, and Foreign Operations, to Hillary Rodham Clinton, Secretary, Department of State (Oct. 2, 2012).

³⁹ *Id.*

Benghazi post be manned with five Diplomatic Security agents, but that it usually had only three or four;

- He stated that he sent two cables to State Department headquarters in March and July 2012 requesting additional Diplomatic Security agents for Benghazi, but that he received no responses;
- He stated that Charlene Lamb, the Deputy Assistant Secretary for International Programs, wanted to keep the number of U.S. security personnel in Benghazi artificially low; and
- He stated that Deputy Assistant Secretary Lamb believed the Benghazi post did not need any Diplomatic Security Special Agents because there was a residential safe haven to fall back to in an emergency, but that she thought the best course of action was to assign three agents.⁴⁰

In addition to Mr. Nordstrom, Chairman Issa has invited another witness to testify at the hearing, Lt. Col. Andy Wood, who reportedly led a 16-member Special Forces security team in Libya. According to press accounts, Lt. Col. Wood's military team, which was stationed in Tripoli, was scheduled to leave Libya in August, but he stated that "U.S. officials on the ground wanted them to be extended."⁴¹

Lt. Col. Wood stated that, in addition to objecting to the scheduled departure of the military team from Tripoli, U.S. officials in Libya objected to the scheduled departure of "a six-member State Department elite force called a 'mobile security deployment team'." According to this press report:

Wood tells CBS News and congressional investigators that U.S. diplomatic personnel in Libya repeatedly requested that security details be extended, but the State Department in Washington, D.C.—which he calls "Main State"—denied those requests.⁴²

According to the press report, Lt. Col. Wood stated:

We tried to illustrate that to "State Main," to show them how dangerous and how volatile, and just unpredictable that whole environment was over there. So to decrease security in the face of that really is, I just ... it's ... it's just unbelievable.⁴³

⁴⁰ House Committee on Oversight and Government Reform, Interview of Eric Nordstrom (Oct. 1, 2012).

⁴¹ *Congress to Probe Security Flaws for Libya Diplomats*, CBS News (Oct. 5, 2012) (online at www.cbsnews.com/8301-18563_162-57527150/congress-to-probe-security-flaws-for-libya-diplomats).

⁴² *Id.*

⁴³ *Id.*

Chairman Issa has refused multiple requests to make Lt. Col. Wood available to speak with Democratic Members or staff prior to the hearing on Wednesday. In addition, although Republican staff provided an email address for Lt. Col. Wood after he appeared on CBS Evening News, Lt. Col. Wood has failed to respond to any inquiries from Democratic staff.

VI. ALLEGATIONS THAT THE ADMINISTRATION MISLED THE PUBLIC ABOUT THE ATTACK

Republicans have accused Administration officials of misleading the American public by initially reporting that the attack in Benghazi appeared to be spontaneous rather than a deliberate act of terrorism. The Office of the Director of National Intelligence has explained that these statements were based on evolving assessments of the attack by the Intelligence Community.

Most Republican accusations have targeted a statement made by Susan Rice, the U.S. Ambassador to the United Nations, explaining that the Intelligence Community's initial assessment within the first week of the attack was that it began spontaneously during protests in Egypt and elsewhere throughout the Middle East. She stated:

Our current best assessment, based on the information that we have at present, is that, in fact, what this began as, it was a spontaneous—not a premeditated—response to what had transpired in Cairo.⁴⁴

In testimony before the Senate on September 19, 2012, Matthew Olsen, the Director of the National Counterterrorism Center, described the attack for the first time as “a terrorist attack on our embassy.” He reiterated, however, that the Administration did not have “specific intelligence that there was sufficient advanced planning or coordination for this attack.”⁴⁵

Soon after these statements, on September 25, 2012, four Republican Senators sent a letter to Ambassador Rice arguing that her statements were “inconsistent with the facts.”⁴⁶ The following day, the Chairman of the House Committee on Homeland Security, Rep. Peter King, called on Ambassador Rice to resign, stating that “somebody has to pay the price for this.”⁴⁷

⁴⁴ *Ambassador Susan Rice: Libya Attack Not Premeditated*, ABC News (Sept. 16, 2012) (online at <http://abcnews.go.com/blogs/politics/2012/09/ambassador-susan-rice-libya-attack-not-premeditated>).

⁴⁵ *What Obama Administration Has Said About Libya Attack*, CNN (Oct. 1, 2012) (online at http://articles.cnn.com/2012-10-01/politics/politics_libya-attack-statements_1_libya-attack-actionable-intelligence-benghazi).

⁴⁶ Letter from Senators John McCain, Lindsey Graham, Kelly Ayotte, and Ron Johnson to Susan Rice, U.S. Ambassador to the United Nations (Sept. 25, 2012) (online at http://lgraham.senate.gov/public/index.cfm?FuseAction=PressRoom.PressReleases&ContentRecord_id=03b0bcac-01d0-fe00-0e28-6bb3a31ca513&Region_id=&Issue_id=).

⁴⁷ *US Intel Agency: A ‘Deliberate and Organized Terrorist Attack’ in Libya*, The Hill (Sept. 29, 2012) (online at www.thehill.com/blogs/defcon-hill/policy-and-strategy/259287-intel-agency-assessment-of-libya-attack-revised-due-to-new-information).

Rep. Marsha Blackburn stated on Fox News that the Administration's initial statements about the attack were "probably more serious than Watergate."⁴⁸ Senator John McCain told CNN: "It was either willful ignorance or abysmal intelligence to think that people come to spontaneous demonstrations with heavy weapons, mortars, and the attack goes on for hours."⁴⁹

On September 28, 2012, the Office of the Director of National Intelligence issued a statement explaining that the Intelligence Community had revised its assessment as it obtained additional information. It stated:

As we learned more about the attack, we revised our initial assessment to reflect new information indicating that it was a deliberate and organized terrorist attack carried out by extremists.⁵⁰

It also explained that earlier statements by Administration officials were based on earlier assessments by the Intelligence Community. It stated:

In the immediate aftermath, there was information that led us to assess that the attack began spontaneously following protests earlier that day at our embassy in Cairo. We provided that initial assessment to executive Branch officials and members of Congress, who used that information to discuss the attack publicly and provide updates as they became available. Throughout our investigation we continued to emphasize that information gathered was preliminary and evolving.⁵¹

Before news broke of the killing of four Americans at the U.S. consulate in Benghazi, presidential candidate Mitt Romney issued a statement criticizing the Obama Administration for "sympathizing" with the attackers. He stated:

I'm outraged by the attacks on American diplomatic missions in Libya and Egypt and by the death of an American consulate worker in Benghazi. It's disgraceful that the Obama

⁴⁸ *Gingrich, GOP Tell Romney to Make Libya a Campaign Issue*, Washington Post (Oct. 1, 2012) (online at www.washingtonpost.com/blogs/blogpost/post/gingrich-gop-tell-romney-to-make-libya-a-campaign-issue/2012/10/01/be87e554-0be5-11e2-a310-2363842b7057_blog.html).

⁴⁹ *McCain Calls Obama 'Inept' and 'Ignorant' in Reaction to Libya Attack*, The Hill (Sept. 30, 2012) (online at www.thehill.com/video/sunday-shows/259353-mccain-obama-inept-and-ignorant-in-reaction-to-libya-attack).

⁵⁰ Office of the Director of National Intelligence, *Statement by the Director of Public Affairs for the Director of National Intelligence* (Sept. 28, 2012) (online at www.dni.gov/files/documents/Newsroom/Press%20Releases/ODNI_Benghazi_Statement_9.28.2012.pdf).

⁵¹ Office of the Director of National Intelligence, *Statement by the Director of Public Affairs for the Director of National Intelligence* (Sept. 28, 2012) (online at www.dni.gov/files/documents/Newsroom/Press%20Releases/ODNI_Benghazi_Statement_9.28.2012.pdf).

Administration's first response was not to condemn attacks on our diplomatic missions, but to sympathize with those who waged the attacks.⁵²

Governor Romney was referring to a statement issued by the U.S. Embassy in Cairo on September 11, 2012, "condemning the continuing efforts by misguided individuals to hurt the religious feelings of Muslims."⁵³ The Embassy's statement, however, was issued prior to the attacks in Benghazi, and Governor Romney was widely criticized for politicizing the death of a U.S. Ambassador and three American citizens based on inaccurate facts.⁵⁴

VII. THE STATE DEPARTMENT'S RESPONSE

The State Department has been cooperating fully with the Committee's investigation. It has agreed to all requests for hearing witnesses, it has offered additional hearing witnesses beyond those requested, it has promptly organized transcribed interviews with Department officials, it has been collecting documents sought by the Committee, and it has offered additional briefings for Committee staff.

On October 3, 2012, Secretary Clinton sent a letter committing to full cooperation with the Committee's investigation. She wrote:

We look forward to working with the Congress and your Committee as you proceed with your own review. As you know, we have already begun working with your Committee. We are committed to a process that is as transparent as possible, respecting the needs and integrity of the investigations underway. We will move as quickly as we can without forsaking accuracy.⁵⁵

Secretary Clinton also explained that she established an Accountability Review Board (ARB) to investigate "whether our security systems and procedures in Benghazi were adequate, whether those systems and procedures were properly implemented, and any lessons learned that may be relevant to our work around the world."⁵⁶ Secretary Clinton has appointed as Chairman retired U.S. Ambassador Thomas Pickering and as Board members Admiral Michael Mullen, Catherine Bertini, Richard Shinnich, and Hugh Turner.⁵⁷

⁵² *Romney's Political Pretzel Over Libya*, CNN (Sept. 12, 2012) (online at <http://politicalticker.blogs.cnn.com/2012/09/12/romneys-political-pretzel-over-libya/>).

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Letter from Hillary Rodham Clinton, Secretary of State, to Rep. Darrell E. Issa, Chairman, House Committee on Oversight and Government Reform (Oct. 3, 2012).

⁵⁶ *Id.*

⁵⁷ Department of State, *Convening of an Accountability Review Board to Examine Circumstances Surrounding the Deaths of Personnel Assigned in Support of the U.S. Government Mission to Libya in Benghazi, Libya on September 11, 2012*, 77 Fed. Reg. 60741 (Oct. 4, 2012) (public notice).

This Board investigation is required by the Omnibus Diplomatic Security and Antiterrorism Act of 1986, which was signed into law after the 1983 bombings of U.S. facilities in Beirut.⁵⁸ The Board will have 60 days to submit its conclusions to Secretary Clinton, unless it requests additional time.⁵⁹ In her letter, Secretary Clinton wrote:

I intend to share the ARB's findings and our response with the Congress, and would encourage you to withhold any final conclusions about the Benghazi attack until the committee can review the ARB's findings.⁶⁰

VIII. THE COMMITTEE'S PARTISAN INVESTIGATION

Although Chairman Issa has claimed publicly that "we are pursuing this on a bipartisan basis," the Committee's investigation into the attack in Benghazi has been extremely partisan.⁶¹ The Chairman and his staff failed to consult with Democratic Members prior to issuing public letters with unverified allegations, concealed witnesses and refused to make one hearing witness available to Democratic staff, withheld documents obtained by the Committee during the investigation, and effectively excluded Democratic Committee Members from joining a poorly-planned congressional delegation to Libya.

In addition, apparently House Speaker John Boehner has excluded the Oversight Committee from a classified briefing being held today that will include Republican and Democratic Members from eight other House committees and subcommittees, including the Committees on Appropriations, Armed Services, Foreign Affairs, the Judiciary, and Intelligence.

A. Failure to Consult with Democratic Committee Members

Chairman Issa failed to consult with any Democratic Committee Members prior to sending public letters with unverified allegations based on information obtained during the Committee's investigation.

Ranking Member Cummings expressed to Chairman Issa on multiple occasions his desire to conduct this investigation in a bipartisan manner to obtain the facts about the attack and identify potential vulnerabilities that must be addressed. Chairman Issa recognized publicly that Ranking Member Cummings has been helpful to the investigation. For example, when the

⁵⁸ Department of State, *Press Conference with Victoria Nuland* (Sept. 14, 2012).

⁵⁹ Department of State, *Convening of an Accountability Review Board to Examine Circumstances Surrounding the Deaths of Personnel Assigned in Support of the U.S. Government Mission to Libya in Benghazi, Libya on September 11, 2012*, 77 Fed. Reg. 60741 (Oct. 4, 2012) (public notice).

⁶⁰ Letter from Hillary Rodham Clinton, Secretary of State, to Rep. Darrell E. Issa, Chairman, House Committee on Oversight and Government Reform (Oct. 3, 2012).

⁶¹ *Erin Burnett OutFront*, CNN (Oct. 2, 2012) (online at <http://transcripts.cnn.com/TRANSCRIPTS/1210/02/ebo.01.html>).

Chairman sought assistance in arranging a meeting with Eric Nordstrom, the State Department official previously stationed in Libya, Ranking Member Cummings provided it. As Chairman Issa stated in a recent interview on CNN:

To be honest, Mr. Cummings was helpful when I called him and asked for this interview with the regional security officer, and he helped make it happen the same day.⁶²

Despite Ranking Member Cummings' assistance, Chairman Issa did not consult with him or any Democratic Committee Members before publicizing some of the unverified allegations obtained by the Committee during that interview. Instead, he rushed to send a public letter to the State Department within hours of the interview.

When asked why he did not consult with the Ranking Member before making this information public, Chairman Issa stated: "In this case, there wasn't time to meet our statutory requirements, our rule requirements."⁶³ There is no statute, House rule, or Committee rule that prevents the Chairman from consulting with the Ranking Member about a letter he plans to make public that includes information the Committee obtained from a witness during an official Committee investigation.

In contrast to the Chairman's partisan approach, on the Senate side, all 19 members of the Committee on Foreign Relations—Democrats and Republicans alike—consulted and signed a joint letter to the Department of State on September 27, 2012, requesting information relating to the attack in Libya.⁶⁴

B. Concealing Documents and Witnesses

Contrary to House Rules, the Chairman and his staff refused to provide copies of documents obtained by the Committee during this investigation and concealed witnesses, preventing the minority from questioning these witnesses directly in order to gain a more complete understanding of their views and to vet the accuracy of claims made by Chairman Issa.

In their letter to the State Department on October 2, 2012, Chairmen Issa and Chaffetz stated that they have in their possession "information provided to the Committee by individuals with direct knowledge of events in Libya."⁶⁵ During an appearance on CNN, Chairman Issa

⁶² *Erin Burnett OutFront*, CNN (Oct. 2, 2012) (online at <http://transcripts.cnn.com/TRANSCRIPTS/1210/02/ebo.01.html>).

⁶³ *Id.*

⁶⁴ Letter from Chairman John Kerry, Senate Foreign Relations Committee, et al., to Thomas Nides, Deputy Secretary for Management and Resources, Department of State (Sept. 27, 2012).

⁶⁵ Letter from Rep. Darrell Issa, Chairman, House Committee on Oversight and Government Reform, and Rep. Jason Chaffetz, Chairman, Subcommittee on National Security, Homeland Defense, and Foreign Operations, to Hillary Rodham Clinton, Secretary, Department of State (Oct. 2, 2012).

stated: “We got it from whistleblowers.”⁶⁶ Similarly, Chairman Chaffetz stated that “he has obtained documents and conducted interviews with whistleblowers.”⁶⁷

Despite multiple requests, Republican staff refused to provide copies of these documents. This appears to violate House rule XI clause 2(e), which provides that Committee records are the property of the House and that each Member “shall have access thereto,” as well as House rule X clause 9(g), which provides that minority staff “shall be accorded equitable treatment with respect to ... the accessibility of committee records.”

With respect to Lt. Col. Wood, the Chairman and his staff concealed their interaction with him until last Friday, when he appeared on the CBS Evening News and Chairman Issa announced that he would testify at tomorrow’s hearing.⁶⁸ Despite multiple requests by Ranking Member Cummings and Democratic staff, Chairman Issa and the Republican staff have refused to make Lt. Col. Wood available in order to prepare Committee Members for the hearing.⁶⁹

Although a Chairman or Committee staff initially may wish speak privately with whistleblowers at the outset of an investigation to determine what information they are willing and able to provide, they have no right to conceal that information or those individuals from the minority after using the information publicly or calling the individual to testify at a public hearing. Doing so certainly would not be considered “bipartisan.”

C. Partisan Congressional Delegation to Libya

Chairmen Issa and Chaffetz effectively excluded Democratic Committee Members and staff from joining a congressional delegation to Libya last weekend by concealing the trip until less than 24 hours before it was scheduled to leave.

Republican staff did not inform the minority until last Thursday that a delegation would be departing the next day, Friday, October 5, 2012, for Tripoli. Due to this inadequate notice, no Democratic Members or staff were able to join. Since Department of Defense officials report that they were first contacted by Republican staff about this delegation last Monday, October 1, 2012, this appears to be a deliberate effort to exclude Democratic Committee Members from this delegation.

⁶⁶ *Erin Burnett OutFront*, CNN (Oct. 2, 2012) (online at <http://transcripts.cnn.com/TRANSCRIPTS/1210/02/ebo.01.html>).

⁶⁷ *Libya Cable Detailed Threats*, Daily Beast (Oct. 8, 2012) (online at www.thedailybeast.com/articles/2012/10/08/exclusive-libya-cable-detailed-threats.html).

⁶⁸ *Questions Over Security in Libya*, CBS Evening News (Oct. 5, 2012) (online at www.cbsnews.com/video/watch/?id=7424528n&tag=showDoorLeadStoriesAreaMain;ENLeadHero).

⁶⁹ *See also Libya Embassy Staff Told “To Do With Less”?*, CBS News (Oct. 8, 2012) (online at www.cbsnews.com/video/watch/?id=7424742n); *Security Dwindled Before Deadly Libyan Consulate Attack*, CBS Evening News (Oct. 8, 2012) (online at www.cbsnews.com/8301-18563_162-57528335/security-dwindled-before-deadly-libyan-consulate-attack/).

Based on a copy of the itinerary provided to the minority staff, it also appears that this delegation was hastily and inadequately planned. The itinerary did not identify a single U.S. government official, Libyan official, or other individual the Committee planned to interview during the entire delegation. In fact, the itinerary listed as the sole Committee activity in Libya: “TBD.”

D. Speaker’s Refusal to Allow Oversight Committee in Classified Briefing

Later today, the State Department is scheduled to provide a classified briefing organized by House Speaker John Boehner’s office relating to the attack in Benghazi. Although multiple other committees and subcommittees have been invited to participate, the Oversight Committee has not. As of the writing of this memo, the minority is not aware of any classified briefings provided to the Oversight Committee about the attack in Benghazi during the Committee’s entire investigation.

One significant reason to participate in this briefing would be to assist Members in identifying classified information, the disclosure of which could increase risks to national security. Members have an obligation to protect classified information even if it may have been referred to or reported publicly by others.

Another significant risk in moving ahead with immediate public hearings without first receiving a classified briefing is the potential danger to the ongoing FBI investigation into the Benghazi attack. According to U.S. News and World Report:

While the House Intelligence Committee dissects the details of the attack in Benghazi, Libya that left four dead, including Ambassador Christopher Stevens, as they become available, the House Committee on Oversight and Government Reform barrels ahead.

It’s a distinction that leaves many across the Capitol uneasy. While the Intelligence Committee stays in contact with State Department officials and waits for the FBI to determine how the consulate was attacked, the oversight committee has begun investigating on its own whether the Obama administration responded effectively to security concerns in Libya. . . .

The fast pace and lack of clarity surrounding the attacks leads some to wonder if Republican Chairman Rep. Darrell Issa and his majority are prioritizing election-year gains over uncovering the truth behind the violence in Libya.⁷⁰

⁷⁰ *Democrats Fear Partisanship in Libya Probe; Republicans in Congress Forge Ahead with Inquiry as FBI Investigates in Benghazi*, U.S. News and World Report (Oct. 4, 2012) (online at www.usnews.com/news/articles/2012/10/04/unease-on-capitol-hill-about-oversight-committees-libya-focus).

IX. WITNESSES

Eric Nordstrom
Regional Security Officer
Department of State

Lt. Col. Andrew Wood
Utah National Guard, U.S. Army

Charlene R. Lamb
Deputy Assistant Secretary for International Programs
Department of State

Ambassador Patrick F. Kennedy
Under Secretary for Management
Department of State