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REVIEWS OF THE BENGHAZI ATTACKS AND UNANSWERED QUESTIONS

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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REVIEWS OF THE BENGHAZI ATTACKS AND UNANSWERED QUESTIONS

Thursday, September 19, 2013

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
WASHINGTON, D.C.

The committee met, pursuant to call, at 9:40 a.m., in Room 2154, Rayburn House Office Building, Hon. Darrell E. Issa [chairman of the committee] presiding.

Present: Representatives Issa, Mica, Duncan, McHenry, Jordan, Chaffetz, Walberg, Lankford, Amash, Gosar, Meehan, DesJarlais, Gowdy, Farenthold, Hastings, Lummis, Woodall, Massie, Collins, Meadows, Bentivolio, DeSantis, Cummings, Maloney, Norton, Tierney, Clay, Lynch, Connolly, Speier, Cartwright, Pocan, Duckworth, Davis, and Grisham.

Staff Present: Ali Ahmad, Communications Advisor; Brien A. Beattie, Professional Staff Member; Molly Boyl, Parliamentarian; Lawrence J. Brady, Staff Director; Daniel Bucheli, Assistant Clerk; Caitlin Carroll, Deputy Press Secretary; John Cuaderes, Deputy Staff Director; Adam P. Fromm, Director of Member Services and Committee Operations; Linda Good, Chief Clerk; Frederick Hill, Director of Communications and Senior Policy Advisor; Mitchell S. Kominsky, Counsel; Jim Lewis, Senior Policy Advisor; Mark D. Marin, Director of Oversight; John Ohly, Professional Staff Member; Ashok M. Pinto, Deputy Chief Counsel, Investigations; Susanne Sachsman Grooms, Minority Chief Counsel; Jennifer Hoffman, Minority Communications Director; Chris Knauer, Minority Senior Investigator; Julia Krieger, Minority New Media Press Secretary; Elisa LaNier, Director of Operations; Jason Powell, Minority Senior Counsel; Dave Rapallo, Minority Staff Director; Daniel Roberts, Minority Staff Assistant/Legislative Correspondent; and Valerie Shen, Minority Counsel.

Chairman ISSA. The committee will come to order.

The Oversight Committee exists to secure two fundamental principles. First, Americans have a right to know that the money Washington takes from them is well spent. And second, Americans deserve an efficient, effective government that works for them.

Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, for what they know is important for how they decide. And in fact, our job is to work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the Federal bureaucracy. This is our mission.

I now would ask unanimous consent to read into the record statements from two witnesses who will not be available, but family of the victims of the 9/11 attack on Benghazi.

Without objection so ordered.

First, a letter from Kate Doherty Quigley. And she says in a letter to the ranking member and myself, thank you for your invitation to participate in the committee's September 19, 2013, hearing concerning the attacks on the U.S. facility on September 11, 2012, during which four Americans, including my brother, Glen Doherty, was killed. I am unable to do so but submit for the committee's consideration the following questions concerning events that led to my brother's death in particular. I ask that because I am unaware of the answers these questions have been provided. First, my understanding is that it took 8 hours for the rescue team from Tripoli to travel 200 miles to reach their destination in Benghazi, that there were no dedicated transportation assets in place and that the team received no help getting through barriers like the Benghazi airport and checkpoints in that city.

If this is correct, why was it so given the urgency of the mission, recognizing the difficulty of what ifs, and that is the way it is written, I nevertheless, ask, if those conditions were so, had been different would the outcome have been less tragic? Secondly, Glen lived his life to the fullest and took pride in teaching others how to be their best. Glen died serving with men he respected protecting the freedoms we enjoy as Americans and doing something he loved.

He is an American hero to those who did not know him, but for those of us who did know him, he is a best friend who leaves behind a giant hole in our hearts. My thanks go out to those in Congress and the administration who strive to learn what mistakes were made that night so that U.S. personnel can be better protected in the future. And it is signed Kate Doherty Quigley.

Chairman ISSA. Secondly, a letter that is signed from Chris Stevens' family. Chris Stevens died in the service of his country. He died doing what he loved most, working to build bridges of understanding and mutual respect between the people of the United States and the people of the Middle East and North Africa.

He was loved by many more Libyans than those who hated him for being an American. A few dozen fanatics penetrated his compound, but more than 30,000 people in Benghazi demonstrated in protest over his death. Chris was successful because he embodied the traits that have always endeared Americans to the world, a commitment to democratic principles and respect for others regardless of race, religion or culture.

Chris regarded and liked each person he met as an individual. He respected their views whether or not he agreed. One of his friends told us a tale that reflects his success on a small scale. Picnicking in the Libyan countryside, they met a local family. Chris immediately greeted them and suggested that they be photographed together. The young son of the patriarch of the family suspicious and negative toward Americans, refused to participate. So Chris continued chatting with the others. When it was time to leave, the initially suspicious son presented Chris with a bouquet

of flowers. "This is because you were so respectful to my father," he said.

Chris was not willing to be the kind of diplomat who would strut around in fortified compounds. He amazed and impressed Libyans by walking the streets with the lightest of escorts, sitting in sidewalk cafes chatting with passersby. There was a risk to being accessible. He knew it, and he accepted it.

What Chris would never have accepted was the idea that his death would be used for political purposes. There was security shortcomings no doubt. Both internal and outside investigations have identified and publicly disclosed them. Steps are being taken to prevent their recurrence. Chris would not have wanted to be remembered as a victim. Chris knew and accepted that he was working under dangerous circumstances. He did so just as so many of our diplomats and development professionals do every day. Because he believed the work was vitally important, he would have wanted the critical work he was doing to build bridges of mutual understanding and respect, the kind of work that made him literally thousands of friends and admirers across the broader Middle East to continue.

So rather than engage in endless recrimination, his family is working to continue building bridges he so successfully began. One year ago this week, in response to tremendous outpouring of support from around the world, we launched the J. Christopher Stevens fund. The mission of the fund is to support activities that build bridges between the people of the United States and those of the broader Middle East.

This was the mission to which Chris dedicated his life. We are grateful to each contribution received from friends and family, from the government of Libya and from people near and far moved by Chris and his story.

In the coming weeks and months, we will launch a number of innovative programs and initiatives. The focus of our activity is on young people, both here in America and across the Middle East and North Africa.

Chris served in the Peace Corps in Morocco, and his death was felt acutely by the Peace Corps family. Last year in response to numerous queries from returned Peace Corps volunteers during Peace Corps Week, we encouraged returned volunteers to fan out across America and speak with youth about their experience abroad. We are now working with the Peace Corps to expand their reach into schools and communities across the country.

The Center for Middle East Studies at the University of California, Berkeley, where Chris studied as an undergraduate, announced on September 11th, the Ambassador J. Christopher Stevens Memorial Fund for Middle East Studies. Endowed by the J. Christopher Stevens Fund, our purpose is to encourage and inspire students in Middle Eastern and North African scholarship.

In Piedmont, California, where Chris spent his teen years, the Piedmont unified school district board of education has voted to name the Piedmont High School library the Ambassador Christopher Stevens Memorial Library.

Chris was inspired by Piedmont high school's motto, "achieve the honorable."

Later this year, together with a coalition of public and private partners, we will launch the J. Christopher Stevens virtual exchange initiative. This initiative will embrace the power of technology to fuel the largest ever increase in people-to-people exchanges between the United States and the broader Middle East, vastly increasing the number and diversity of youth who have a meaningful cross-cultural experience as part of their formative education and reaching over 1 million youth by 2020.

Later this year the University of California Hastings College of the Law from which Chris graduated in 1989, will host the Ambassador J. Christopher Stevens Symposium. The event will emphasize law and public policy as used in the practice to advance global understanding and peace principles to which Chris was committed.

There have been more awards bestowed and honors given to Chris' memory, than we would ever have thought possible. But as we have said before, we have received letters from thousands of people all over the world who were touched by Chris' example. His openness touched a cord in their hearts. Chris would have wanted to be remembered for that. Thank you. The family of Chris Stevens.

And without objection, they will both be placed in the Record.

Chairman ISSA. Briefly in my opening statement, today, we want to both do our job as constitutional officers and be very cognizant of the wishes of the family. We will hear on the second panel from additional family members. Like the first, they both want answers to questions, and they want Chris's memory to be one of his diplomacy and his service. They don't want this to be a political football.

The committee's primary obligation as the Oversight and Reform Committee is to do oversight leading to meaningful reform.

Last week marked the 12th anniversary of the September 11th attack on the United States. It marked the 1-year anniversary of the terrorist attack on the diplomatic facility in Benghazi. The attack cost Americans their lives, Ambassador Christopher Stevens, State Department information officer Sean Smith, and two American security officers, former U.S. Navy SEAL, Tyrone Woods and Glen Doherty.

Today, we honor their memories and the heroic service to our Nation. We recognize also the family members of the fallen who are with us today are those who truly experience that loss firsthand.

Last October, Secretary Hillary Clinton convened the Accountability Review Board, or ARB, as required by law to examine the facts and circumstances surrounding the hideous attacks and the report findings and recommendations. The ARB report was delivered to Congress on December 18, 2012. While the ARB made some important findings, it also raised serious additional questions.

First, the ARBs structure, along with the State Department culture, raises questions about the extent to which it can be independent. Although it is a meaningful document, this committee has not been able to receive the background information or were the rerecorded notes sufficient to allow for a true review of the review?

As we convene this hearing, the committee down the hall, the Foreign Affairs Committee, has authored significant reforms in the form of legislation. Part of what we will do here today is to continue fueling the discovery process for that purpose.

In preparation for today's hearing, the staff has prepared approximately a 100-page report which is entitled "Benghazi Attacks, Investigative Update Interim Report on the Accountability Review Board."

I ask unanimous consent it now be placed in the record.

It raises important questions on the review board process. Today our panel includes distinguished former government officials who know firsthand how important this process is, and who dedicated their lives to this public service. And we thank you for being here today.

Any criticism of the accountability review process or the law passed by Congress in 1986 that created it, should be cast on Congress and the process that they were asked to do and not to the individuals who headed this. I believe that to the extent that the ARB was currently and traditionally used, it has done its job. Our criticism today is was it the appropriate investigation? Was it complete? Did it have the processes necessary to do a thorough review? Did it have the authority to go beyond the State Department? Was the record such that it could be reviewed and reviewed again as many tragic and large investigations will?

I think we all understand that if the attack 12 years ago on 9/11/2001 had been reviewed through the accountability review process, it would not have been sufficient for the American people. Therefore, our investigation today and the subject of this hearing is to look at what could be done, what was done, what was learned through the ARB. And I want to thank Ambassador Pickering and Admiral Mullen personally for their work. They made many reform suggestions. My understanding is all of them have been accepted. My understanding, further, is acceptance and implementation can be different.

In particular, one of the questions that will not be answered today but undoubtedly will be asked is if four individuals were held accountable and in testimony, at least one was recommended for firing, why is it none lost a day's pay and all are back on the job? That is a question for the current administration and not one for this panel.

Additionally, we are joined by Director Sullivan and Todd Keil. Their review is a second review, and it is broader in nature than Benghazi. And it is important because one thing that America learned from the attacks on 9/11, 2012 is that, in fact, the system failed the people who were in that compound in Benghazi.

Without a doubt, there are problems with in how decisions are made for security of our various diplomatic facilities throughout the world. I look forward particularly in that Director Sullivan has firsthand knowledge of primary protection of an individual, such as an Ambassador or the President of the United States, but he also understands that compounds and facilities, both preplanned and ad hoc such as a hotel the President might be staying in, have to be taken as they are but made to work.

That for me says a lot about the nature of our diplomatic facilities throughout the world. Diplomatic compounds that are Inman compliant need not be looked at in any great additional detail. They are, in fact, set back, they are, in fact, fortresses.

The only thing that needs to happen in Inman-compliant facility is for the rules and the procedures to be followed for them to be extremely secure. But the vast majority of consulates, offices, USAID facilities and the like throughout the world are not Inman compliant. In fact, our investigation has shown that a great many exceptions occur every day, if you will, waivers to what is supposed to be. Often this comes in the form of defining a facility in a way different than what it actually is. And a multi country office has a different standard than a consulate or an embassy, but if, in fact, principal officers are there and the risk of attack is high, they must be looked at in that sense.

So I for one believe that this interim report closes—and I hope it really will—the chapter on the service of Ambassador Pickering and Admiral Mullen because I believe their service, although limited to the rules of the ARB, has been honorable, and they have done the best they could under the rules that Congress gave them in 1986.

And with that, I'm going to ask unanimous consent that my entire opening statement be placed in the record since I used so much time for the earlier reading. And I yield back and I recognize the ranking member for his opening statement.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I want to begin by recognizing Mrs. Patricia Smith, and Mr. Charles Woods who are here to testify about their sons who were killed in Benghazi, Sean Smith and Tyrone Woods.

Nobody can fully comprehend the anguish they are suffering. I know from my own experience that losing someone so young and so promising is one of the most difficult things we ever experience in life.

Sadly, there are now other mothers and fathers, husbands and wives, sisters and brothers who are also grieving after the shootings this week at the Washington Navy Yard less than a mile from this very room. Our hearts go out to those families as well.

In addition, although Ambassador Stevens' family was not able to attend today, and the Doherty—they sent a written statement, as did Glen Doherty's sister, and Mr. Chairman, I'm very, very pleased and I thank you for not only reading their statements into the record, but making sure that they are part of the record.

I look forward to hearing that testimony, and I hope we can learn more about who these very brave individuals were. I want to learn about their hopes and their dreams and their service to our country.

I believe our goal at today's hearing should be to honor them as heroes, because that is exactly what they were. They believed in this Nation and they devoted their lives to protecting it.

There are other ways our Nation should honor these men. First, we must hunt down those responsible and bring them to justice. Progress on this front may not always be visible to the public, but as our Nation demonstrated in the relentless worldwide 10-year pursuit of Osama bin Laden, the United States does not forget. We never forget. And I believe I speak for the entire committee when I say that our commitment to this goal is bipartisan and unwavering.

Another way to honor their memories is to obtain information about what happened in Benghazi. Chairman Issa issued a report earlier this week that provided some new information but, unfortunately, he chose not to work with any Democratic committee members. So today I offer him my own report that I would like to provide to the committee and the witnesses.

As this report explains, our goal was to supply detailed information in response to some of the specific questions that have been raised relating to the attack. Our report is based on the review of tens of thousands of pages of classified and unclassified documents, 16 transcribed interviews, and one deposition.

Our report provides new details about the intense and terrifying week last September when events at embassies and consulates around the world put U.S. personnel on hair trigger alert for days. These included events not only in Benghazi, but also in Khartoum, Sana'a, Karachi, Lahore and Islamabad where crowds of thousands marched, set fires and breached United States compounds repeatedly.

Mr. Chairman, I ask that our report be made part of the record.

Chairman ISSA. Without objection so ordered.

Mr. CUMMINGS. Thank you.

Another critical way we should honor the memories of these heroes is by implementing the recommendations and reforms that were put forth to improve the security of our diplomatic and military forces around the world. This is so important. This is the committee on Oversight and Government Reform, reform is so, so vital, particularly at this moment.

I hope we can all agree on a bipartisan basis that we should implement these recommendations as effectively and as efficiently as possible.

On this point, Ambassador Pickering explained to the committee during his deposition that because of his own personal and professional bond with Ambassador Stevens, he viewed his service on the Accountability Review Board as "a debt of honor."

He said, "Chris gave me two wonderful years of his life in supporting me in very difficult circumstances." He also said, "I owed him his family and the families of the others who died the best possible report we could put together."

However Ambassador Pickering also said he was deeply concerned that although the previous ARBs were "excellent in their recommendations, the follow-through had dwindled away."

Ladies and gentlemen, we cannot let that happen under our watch. This is our watch. We are in charge now, and we must make the, we must never let a report like this sit on some shelves collecting dust, and then 10, 12 years from now we are going through the same process again. As I have said many times, we are better than that.

I would like to make one final point. And let me go back to Admiral Mullen. I want to thank both of you for your service. The chairman said this is not any kind of an attack on you all, it is concerned about the breadth of the report and things like that. But I know that you gave a phenomenal amount of your time and I want to thank both of you. But I don't want to just thank you for today. I want to thank you for what you have done for your entire lives,

for your entire lives, giving your blood, your sweat, your tears to make life better for us so that we could sit here and do what we do. And I appreciate that.

Ambassador Pickering, in my 37 years of practicing law, I have never heard such compelling testimony. I just so happened to sit in at your deposition, and when you told us why you did this, and why it was so important that it be excellently done and completely done, and I will never forget the things you said. And I really thank you for that.

There have been some extremely serious accusations that the ARB was a "whitewash" and a "coverup." Some said "it doesn't answer any real questions." And that is "the sole function, the sole function was to insulate Hillary Clinton."

When I hear those kinds of statements and then I read the depositions and I listen to you, Ambassador Pickering, you know, I got to tell you, those kinds of statements upset me. Because I think that they are so unfair. And we are better than that.

So let me respond as directly as I can. Based on all of the evidence obtained by this committee, this Benghazi review was one of the most comprehensive ARB reviews ever conducted. I have seen no evidence, none whatsoever, to support these reckless accusations. To the contrary, witness after witness told the committee that the ARBs report was "penetrating, specific, critical, very tough, and the opposite of a whitewash."

Finally, one reason I requested today's hearing 4 months ago was to give Ambassador Pickering and Admiral Mullen an opportunity to respond directly to these unsubstantiated accusations. I'm glad they are finally being given that opportunity.

Our Nation owes them and the other board members profound thanks for their dedication and for their service. With that, Mr. Chairman, I yield back.

Chairman ISSA. I thank the gentleman.

All members will have 7 days to submit opening statements for the record, and we will now recognize our first panel.

As previously noted, Ambassador Thomas R. Pickering served as chairman of the U.S. Department of State's Accountability Review Board for Benghazi. Ambassador Pickering has had a long and distinguished career as a diplomat. He has served in an unprecedented number of ambassadorships: Jordan, Nigeria, El Salvador, Israel, India, Russia, and the United Nations.

Not to be any less distinguished, Admiral Michael G. Mullen, U.S. Navy retired, served as the vice chairman of the ARB. Admiral Mullen is a retired four-star Navy admiral who served two terms as the chairman of the joint chiefs of staff, the highest rank of any officer in the Armed Forces. Mr. Mark Sullivan served as chairman of the independent panel on best practices, and is the former director of the United States Secret Service, a role in which he and I worked together on a number of tough issues, and I respect your participation here today.

The Honorable Todd M. Keil served as a member of the independent panel on best practices and is the former assistant secretary for infrastructure protection at the United States Department of Homeland Security.

Welcome all. Pursuant to our rules would you please rise raise your right hand to take the oath.

Do you solemnly swear or affirm the testimony you will give today will be the truth, the whole truth and nothing but the truth? Please be seated.

Let the record reflect that all witnesses answered in the affirmative.

As I said before, this hearing in our private meeting, this is an important hearing and one in which each of your testimonies are extremely important. Your entire written statements will be placed in the record. Use as close to 5 minutes as you can for your opening. I'm not going to have a heavy gavel if you have additional words you have to say, but I would like to allow as much time for questions as possible.

Ambassador.

STATEMENT OF AMBASSADOR THOMAS R. PICKERING

Ambassador PICKERING. Mr. Chairman, thank you very much and ranking minority member Mr. Cummings, thank you very much. It's an important opportunity to appear before you today for this important matter.

It's been a special honor for me to work with Admiral Mullen and indeed the other members of the Accountability Review Board on this very pressing important and significant issue.

If I may, and I don't want to extend beyond the limits of my brief with you, Mr. Chairman, I would hope that our report will also appear in the record in an appropriate fashion.

Chairman ISSA. The entire report will be placed in the record.

Ambassador PICKERING. Thank you, sir. The loss of four brave individuals is devastating to our country and most especially to their families. We sympathize with them, with Mrs. Smith and Mr. Woods and all of them in their loss.

The board met pursuant to a statute. The questions the board was to respond to under the statute are the extent to which the incident was security related; whether the security systems and security procedures were adequate; whether the security systems and security procedures were properly implemented; the impact of intelligence and information availability; such other facts and circumstances which may be relevant to the appropriate security management of U.S. missions abroad; and finally, with regard to personnel, whenever the board finds reasonable cause to believe that an individual has breached the duty of that individual, the board should report that finding to appropriate Federal agency or instrumentality.

The board met almost continuously for 2–1/2 months. The group worked collegially and intensively and after extensive activities outlined in my testimony, reached unanimous conclusions which are reflected in the report. The board conducted about 100 interviews beginning with key personnel who were on the ground during the events in Benghazi. It further reviewed many thousands of pages of documents and viewed hours of video. It was provided with the fullest cooperation by the Department of State and all elements of the U.S. Government.

The key findings of the board include the following:

The attacks were security related, involving the use of armed force against U.S. personnel at two facilities. Responsibility for the loss of life and other damage rests completely with the terrorists who carried out the attacks. Systemic failures and leadership and management deficiencies at senior levels within two bureaus of the Department of State resulted in a security posture at the special mission in Benghazi that was inadequate for the mission and grossly inadequate to deal with the attacks.

Notwithstanding the proper implementation of security systems and procedures and the remarkable heroism shown by American personnel, those systems and the Libyan response fell short in the face of the attacks which began with the penetration of the mission by dozens of armed attackers. The board found that U.S. intelligence provided no immediate specific tactical warning of the attack. Known gaps existed in the U.S. Intelligence Community's understanding of the extremist militias in Libya and the potential threat that they posed to U.S. interests, although some threats were known to exist.

The board found that certain senior officers within two bureaus of the State Department demonstrated a lack of proactive leadership and management ability in their responses to security concerns posed by the Benghazi special mission attack given the deteriorating threat environment and the lack of reliable host country, Libyan, protection. The board did not find reasonable cause to determine that any individual U.S. Government employee breached his or her duty.

Recommendations. The Department of State should urgently review the balance between risk and presence. We did not agree that no presence was an appropriate answer in most cases. The basis for review should include a defined, attainable, priority mission, clear-eyed assessment of the risks and costs, commitment of sufficient resources to mitigate risks, and constant attention to changes in the situation, including when to leave and perform the mission from a distance.

The Department should reexamine the diplomatic security organization and management. The Department should organize a panel of outside independent experts to identify best practices and regularly assist the Diplomatic Security Bureau in evaluating U.S. security in high risk and high threat posts, and indeed I'm delighted that Mr. Sullivan and Mr. Keil are with us who prepared that report.

The Secretary should require an action plan on dealing with the use of fire as a weapon. Recalling the incomplete construction recommendations of the Nairobi and Dar Es Salaam ARB, the Department should work with the Congress to restore the capital cost sharing program in its full capacity adjusted for inflation to about $2.2 billion for fiscal year 2015 in a 10-year program to address outstanding needs in high-risk, high-threat areas.

While intelligence capabilities have improved post 2001, there is no certainty of warning information. More attention needs to be given to generally deteriorating threat situations. Key trends need to be identified early to sharpen risk calculations.

The board recognizes that poor performance does not ordinarily constitute a breach of duty that would serve as a basis for discipli-

nary action, but instead needs to be addressed by the performance management system of the State Department. However, the board is of the view that findings of unsatisfactory leadership performance by senior officials in the case of Benghazi should be a potential basis for discipline recommendations by future ARBs and would recommend a revision of Department of State regulations or amendment of the relevant statute to this end.

In conclusion, Mr. Chairman, it was an honor to be called again for government service on the Benghazi ARB. Many have said that our report would either advocate mere reinforcement of fortress embassies or closing down our presence. No conclusion like that could be farther from the truth. We recognize that perfection and protection is not possible and that fine and good men and women will still come forward to serve their country and risk their lives on the front-lines of danger. We should continue to do all that we can to protect them as they go about such challenging tasks. That was the sole purpose of our report, and it was produced with a deep sense that we had to get it right, politics, elections, personal controversy and all other external factors aside.

I am aware that no report will ever be perfect but I am proud of this one which has been seen by many as clear, cogent and very hard hitting, as it should be.

New information is always welcome. I feel that this report is still on the mark, free of coverup and political tilt and will personally welcome anything new which sheds light on what happened and that helps us to protect American lives and property in the future.

Finally, I recognize that we are a government of branches and checks and balances. I have always respected the Congress and the tasks it must assume to make our Nation great. I appear today against the backdrop of those beliefs. We will not always agree. But let us always agree that the national interests, the best interests and welfare of the American people, are the criteria against which we serve.

Thank you, Mr. Chairman, and I very much look forward to your questions.

Chairman ISSA. Thank you.

[Prepared statement of Ambassador Pickering follows:]

Testimony by Thomas R. Pickering,
Chairman of the Benghazi Accountability Review Board
Before the House Committee on Oversight and Government Reform
September 19, 2013, 10:00 a.m.

Chairman Issa, Ranking Member Cummings, and Members of the Committee:

Thank you for the opportunity to appear before you in this important matter. In light of your interests, I want to address in my testimony today three major areas: the role and proceedings of the Benghazi Accountability Review Board (ARB) from October 5, 2012 to December 17, 2012, the major findings of the ARB, and its recommendations. I will end with a short personal conclusion.

The events of the night of September 11 - September 12, 2012 resulted in the loss of 4 brave Americans and the wounding of several others. Ambassador J. Christopher Stevens was among them, the first American Ambassador to be killed in the line of duty for nearly 25 years. We all felt a special sense of grief and involvement in response to this destructive attack on our colleagues and that motivated the Board to work as effectively and rapidly as was possible under the circumstances. Ambassador Stevens and I were close colleagues in the late 1990s when we worked together for 2 years.

The loss of these individuals is devastating to our country and, most especially, their families. We sympathize with them in their loss.

The Board and its Proceedings

The Board met pursuant to a statute: US Code Title 22, Chapter 58, subchapter III, Section 4831 Accountability Review Boards, and at the call, under that statute, of the Secretary of State.

The statute provides that "... in the case of serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission abroad, ... the Secretary of State shall convene an Accountability Review Board..."

Under the statute, the ARB is charged with addressing certain questions clearly designed to understand what happened and on that basis address recommendations for seeking to reduce, avoid, and, where possible, prevent such instances from occurring in the future.

The questions under the statute are:

(1) The extent to which the incident with respect to which the Board was convened was security related;
(2) Whether the security systems and security procedures at that mission were adequate;
(3) Whether the security systems and security procedures were properly implemented;
(4) The impact of intelligence and information availability; and
(5) Such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.

The Board is asked to include recommendations as appropriate "...to improve the security and efficiency of any program or operation which the Board has reviewed."

Finally, with regard to personnel, "[w]henever the Board finds reasonable cause to believe that an individual... has breached the duty of that individual..." the Board should report that finding to the appropriate Federal agency or instrumentality.

* * *

The Board met almost continuously for two and a half months. Its membership included Admiral Mike Mullen, USN (ret) and former Chairman of the Joint Chiefs of Staff as Vice Chairman; Ms. Catherine Bertini, professor at the Maxwell School of Syracuse University and former United Nations Under Secretary General for Management; Mr. Richard Shinnick, a retired Foreign Service officer with a distinguished career in administration, management, overseas buildings, security issues and a former 15-year member of the New York City Fire Department - all appointed by the Secretary of State; and Mr. Hugh Turner, a retired senior intelligence officer with experience in North African issues, appointed under the statute by the Director of National Intelligence.

The group worked collegially and intensively and, after extensive activities outlined below, reached unanimous conclusions reflected in a report. It included 29 recommendations, all of which have been accepted for implementation both by Secretary Hillary R. Clinton and by her successor in office, Secretary John Kerry. That implementation, I understand, is now on-going by the State Department with the assistance of the Congress on a number of recommendations.

The report was prepared in two forms, a slightly longer classified report and an unclassified report, which has been released to the public.

The Board conducted about 100 interviews, beginning with key personnel who were on the ground during the events in Benghazi. It further reviewed many thousands of pages of documents and viewed hours of video, including security surveillance footage and Predator drone footage of portions of the events in Benghazi as they took place. It was provided with the fullest cooperation by the Department of State and all elements of the US Government. It interviewed experts from outside the government, and in a few cases officials of international organizations and foreign governments. The cooperation we received was exemplary and we are grateful for it.

* * *

In addition, we worked closely with the Federal Bureau of Investigation and the Department of Justice who, pursuant to their statutory responsibilities, are carrying out the criminal investigation of the matter.

The Board was supported by a small staff drawn from several offices of the Department of State which served to assist the Board in its inquiries and review and who maintained the objectivity and interest which it is clear the statute and the action of past Boards required. We continue to express our admiration and thanks to them for the long hours, excellent research,

useful advice and unlimited devotion to the full and successful completion of the task. The Board and the staff shared an unalloyed commitment to doing all they could to find the answers and make appropriate recommendations to avoid any future loss of life or property.

The Findings[1]

1. The attacks were security related, involving the use of armed force against US personnel at two facilities. Responsibility for the loss of life and other damage rests completely with the terrorists who carried out the attacks. The attacks were unprecedented in their scale and intensity. There was no protest prior to the attacks.

2. Systemic failures and leadership and management deficiencies at senior levels within two bureaus of the Department of State resulted in a security posture at the special mission in Benghazi that was inadequate for the mission and grossly inadequate to deal with the attacks.

   Security was not seen as a "shared responsibility" in Washington, resulting in stove-piped decisions on policy and security.

   The short-term and transitory nature of the special mission facility resulted in temporary staff assignments of 40 days or less, which diminished institutional knowledge, continuity, and mission capacity.

   Overall, the number of State security officers assigned to Benghazi before and during the attack was inadequate despite requests for additional staff.

   The insufficient state of the Benghazi platform was at variance with established security standards regarding both perimeter and interior security. It was under-resourced with respect to security equipment, despite efforts to establish some upgrades.

   The uncertain future of the special mission and its "non-status" as a temporary, residential facility made resource allocations difficult and left responsibility with field / working level people with scarce resources.

   In the weeks leading up to the attack, the response to a deteriorating situation was inadequate at all three levels – Benghazi, the Embassy at Tripoli and Washington.

   Dependence on the local authorities, the traditional bedrock for diplomatic security, was limited to poorly armed and unreliable local militia members. This dependence was misplaced.

   All were aware of the September 11 anniversary of the events of 2001 in the US and there were no credible reports of a threat. Ambassador Stevens took the date into account by not

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[1] Numbers key to statutory questions, above.

venturing outside the facility that day.

Ambassador Stevens decided to visit independently of Washington, in accord with standard practice. Several factors including commitments in Tripoli drove the timing. Travel and security plans for the trip were not shared widely in Tripoli among US Embassy personnel. The declining security situation was not seen by Ambassador Stevens as a factor. His position as the leading US government expert on Benghazi caused Washington to give unusual deference to his judgments on those issues.

Communication, cooperation and coordination among Washington, Tripoli and Benghazi functioned collegially at the working level but were constrained by a lack of transparency, responsiveness and leadership at senior levels. There was confusion in the Department over who was ultimately responsible and empowered to make decisions that involved both policy and security considerations.

3. Notwithstanding the proper implementation of security systems and procedure and the remarkable heroism shown by American personnel, those systems and the Libyan response fell short in the face of the attacks which began with the penetration of the mission by dozens of armed attackers.

   The Board found the response by both the armed and unarmed Libyan guards to be inadequate. There is little evidence that the armed guards offered any meaningful resistance or moved to summon expeditious help from their fellow militia members.

   The Board found the Libyan government's response to be profoundly lacking on the night of the attacks, reflecting both weak capacity and the near absence of central government influence and control in Benghazi.

   The Libyan government did facilitate help from government-aligned militia, supporting the US evacuation to the airport on the morning of September 12 and provided a military C-130 aircraft to evacuate US personnel and the bodies of the deceased.

   The Board determined that the US personnel on the ground acted with courage and a readiness to risk their lives to protect their colleagues in a nearly impossible situation. The Board believes that every effort was made to rescue and recover Ambassador Stevens and Sean Smith.

   The interagency response was timely and appropriate. There was not enough time for US military assets to have made a difference.

4. The Board found that US intelligence provided no immediate, specific tactical warning of the attack. Known gaps existed in the US intelligence community's understanding of extremist militias in Libya and the potential threat they posed to US interests, although some threats were known to exist.

5. The Board found that certain senior officials within two bureaus of the Department demonstrated a lack of proactive leadership and management ability in their responses to security concerns posed by the Benghazi special mission given the deteriorating threat environment and the lack of reliable host country protection. The Board did not find reasonable cause to determine that any individual US government employee breached his or her duty.

Key Recommendations

The board provided recommendations in six areas: Overarching Security Considerations; Staffing High Risk, High Threat Posts; Training and Awareness; Security and Fire Safety Equipment; Intelligence and Threat Analysis; and Personnel Accountability. The bulk of the recommendations (24 of 29) appear in the unclassified report and will be considered in this testimony. The Board was struck by a number of factors, including the degree to which many of the considerations underlying and motivating our recommendations echoed the recommendations of some of the 19 preceding Accountability Review Board reports (all of which we reviewed carefully): the difficulties in determining risk, the relationship between risk and policy imperatives and the problems of dealing with significant uncertainties in these equations, and finally the degree to which habit, conditioning, and long periods without tragedy or catastrophe conditions the human mind to lose sight of or lack an appreciation of the potential for the re-occurrence in some form or other of those significant contingencies.

Overarching Security Considerations:

1. The State Department must strengthen security for personnel and platforms beyond traditional reliance on host country protection in high risk, high threat posts (defined as posts in countries with high levels of political violence and terrorism, governments with a weak capacity to protect, or platforms which fall well below established standards). The Department should urgently review the balance between risk and presence. We did not agree no presence was an appropriate answer in most cases. The basis for a review should include a defined, attainable, priority mission; clear eyed assessment of the risks and costs; commitment of sufficient resources to mitigate risks; and constant attention to changes in the situations including when to leave and perform the mission from a distance.

2. The Department should re-examine the Diplomatic Security (DS) organization and management, especially regarding span of control for security planning for overseas missions. The Board welcomed the appointment of a new DS senior official to look after high risk, high threat posts.

3. The Ambassador carries full and direct responsibility for security in the field and thus risk management for the country in which he or she serves. Each regional Assistant Secretary in Washington should have corresponding responsibility in support of the Ambassador. Regional bureaus need to augment their personnel and attention to this duty.

4. The Department should organize a panel of outside, independent experts to identify best practices and regularly assist DS in evaluating US security in high risk, high threat posts.

5. The Department should develop minimum security standards for occupancy of high risk, high threat posts and seek greater funding for upgrades to such posts.

6. Before opening high risk, high threat posts, the department should establish a multi-bureau support cell residing in the regional bureau whose purpose is to secure funding, including for physical security measures, staffing of security and management personnel and providing equipment.

7. The Nairobi – Dar es Salaam ARB of January 1999 called for co-location of all newly constructed State Department and other US government facilities. Where they are in the same metropolitan area, this should be carried out unless a waiver has been approved.

8. The Secretary should require an action plan on dealing with the use of fire as a weapon, including taking immediate steps to deal with urgent issues. The report should include a review of training in this area for all employees.

9. The Department should revise its guidance to insure that tripwires trigger action and not merely serve as threat indicators.

10. Recalling the incomplete construction recommendations of the Nairobi – Dar es Salaam ARB, The Department should work with the Congress to restore the Capital Cost Sharing Program to its full capacity adjusted for inflation to about $2.2B for fiscal 2015 in a ten-year program to address outstanding needs in high risk, high threat areas. It should also work with the Congress to expand utilization of Overseas Contingency Operations funding to meet emerging vulnerabilities.

11. The Board supports the Department's initiative to expand the Marine Security Guard program, including funding for more Marine guards as well as additional flexibilities in its implementation.

Staffing High Risk, High Threat Posts

12. The Board supports increased DS staffing and for Mobile Security Deployment Teams to meet critical needs.

13. Assignments to high risk, high threat posts of key security and other personnel should be for a minimum of one-year. For less critical people, it should be for a minimum of 120 days. The Board suggests a review with an eye to using authorities to assign temporary personnel to such posts for a longer period of time, including retirees in "When Actually Employed" status.

14. The Board also suggests a review of staffing at such posts to assure engagement of adequate Locally Employed Staff and adequate management support, with a particular

focus on interpreters and translators.

15. With a heavy focus continuing on the Middle East, the Department should enhance on-going efforts to upgrade language training, especially in Arabic, for all employees, including from DS, and seek greater resources to do so.

16. A panel of senior, experienced DS agents should revisit high level threat training, especially regarding internal defense and fire survival as well as Ambassadorial protective details.

17. The Diplomatic Security Training Center and the Foreign Service Institute should design a joint course in high level threat training for both DS and regular Foreign Service officers at the mid-level. They should consider all US government and other best practices and the training should be mandatory for assignment to high risk, high threat posts.

Security and Fire Safety Equipment

18. Adequate equipment should be provided for safe havens in both upgraded Inman facilities and non-Inman buildings.

19. With technical advancements in non-lethal deterrents, the Department should ensure that it procures such deterrents and trains rapidly for their use.

20. DS should upgrade surveillance cameras at high risk, high threat posts for greater resolution, nighttime visibility and better monitoring capability.

Intelligence and Threat Analysis

21. While intelligence capabilities have improved post-2001, there is no certainty of warning information. More attention needs to be given to generally deteriorating threat situations. Key trends need to be identified early to sharpen risk calculations.

22. The DS Office of Intelligence and Threat Analysis should report directly to the DS Assistant Secretary and support all DS components, regional Assistant Secretaries, and Ambassadors with threat analysis.

Personnel accountability

23. The Board recognizes that poor performance does not ordinarily constitute a breach of duty that would serve as a basis for disciplinary action, but instead needs to be addressed by the performance management system. However, the Board is of the view that findings of unsatisfactory leadership performance by senior officials in the case of Benghazi should be a potential basis for discipline recommendations by future ARBs and would recommend a revision of Department regulations or amendment of the relevant statute to this end.

24. The Board believes the courage and integrity shown by those on the ground in Benghazi and particularly the DS agents and the Annex team who defended their fellow employees, the Tripoli response team, those in Benghazi and Tripoli who cared for the wounded and the many who served in Benghazi in the difficult months leading up to the attacks should be recognized for their exceptional valor and performance in the highest ideals of government service.

Conclusion

It was an honor to be called upon once again for government service on the Benghazi ARB. I am grateful for the opportunity. And even more, I am grateful for the expectation that what we did together will help in avoiding loss of life, property and esteem for our people, our country and our government in the future.

After 45 years in government service, it is realistic to understand that, although global challenges are growing and pitfalls have become more prominent, the world, despite its obvious disillusionment and frustrations with the United States, still looks to us for leadership. That is in part because we have a first class Foreign Service and the strength, both military and economic, as well as the values and principles to which they look, especially in times of crises.

Many have said our report will either advocate mere reinforcement of fortress embassies or closing down our presence. No conclusion like that could be farther from the truth. We recognize that perfection in protection is not possible and that fine and good men and women will still come forward to serve their country and risk their lives on the front lines of danger. We should continue to do all we can to protect them as they go about such challenging tasks. That was the sole purpose of our report and it was produced with a deep sense that we had to get it right - politics, elections, personal controversy and all other external factors aside.

* * *

I am aware that no report will ever be perfect. But I am proud of this one which has been seen by many as clear, cogent and very hard hitting - as it should be. New information is always welcome. I feel that this report is still on the mark, free of cover up and political tilt, and will personally welcome anything new which sheds light on what happened and that helps us to protect American lives and property in the future.

Finally, I recognize that we are a government of branches and checks and balances. I have always respected the Congress and the tasks it must assume to make our nation great. I appear today against the backdrop of those beliefs. We will not always agree, but let us always agree that the national interest, the best interests and welfare of the American people, are the criteria against which we serve.

Chairman ISSA. Admiral Mullen.

STATEMENT OF ADMIRAL MICHAEL G. MULLEN

Admiral MULLEN. Mr. Chairman and Mr. Cummings, before addressing the subject of this hearing, both my wife Deborah who is here with me today, and I want to express our deepest sympathies to the families of those killed and the tragedy earlier this week. As a Navy family ourselves, those lost were part, were our shipmates and family members in the truest sense of the word, and their dedication, service to our country and sacrifice will never be forgotten.

And Chairman Issa and Ranking Member Cummings and distinguished members of the committee, thank you for the opportunity to testify today. And I hope my testimony will be helpful to the committee as it investigates the tragic events that occurred in Benghazi, Libya on September 11th and 12, 2012.

Shortly after those events, I was asked by then Secretary of State to serve as the vice chair of the Accountability Review Board, established to examine the attacks on the special mission compound and annex in Benghazi. The board was ably led by Ambassador Thomas Pickering and included three other highly qualified, respected members with expertise in various areas relevant to this review.

The board members took our responsibilities very seriously and we worked diligently to fulfill our obligations to determine the facts and make recommendations as to how best to avoid similar tragedies in the future.

From the beginning, the State Department emphasized that it wanted full transparency about what happened in Benghazi and what led to those events. We had unfettered access to State Department personnel and documents. There were no limitations. We received the full cooperation of all witnesses and every State Department office. We interviewed everyone we thought it was necessary to interview. We operated independently, and we were given freedom to pursue the investigation as we deemed necessary.

This independence was particularly important to me. I would not have accepted this assignment had I thought that the board's independence would be compromised in any way.

The board interviewed more than 100 individuals, reviewed thousands of pages of documents and reviewed hours of video footage. We determined, as stated in the Board's report, "that responsibility for the tragic loss of life, injuries and damage to U.S. facilities and property rests solely and completely with the terrorists who perpetrated the attack." The board did find multiple serious State Department shortcomings which exacerbated the impact of the terrorist attack. We also concluded that there was nothing the U.S. military could have done to respond to the attack on the compound or to deter the subsequent attack on the annex. The actions of our military, which moved many assets that night, were fully appropriate and professional.

In total, the board made 29 recommendations, 24 of which were unclassified. I stand by those recommendations. One of the Board's recommendations led to the establishment of the best practices

panel which Mr. Sullivan and Mr. Keil will detail today. Most of the Board's recommendations were designed to be implemented at State Department facilities worldwide in order to keep diplomatic personnel safe and secure everywhere they serve, especially in areas where they face great personal risk because our Nation needs them there.

The State Department may implement our recommendations as it sees fit, and I understand that it has accepted and plans to implement them all.

The Board's recommendations with respect to the shortcomings of State Department personnel have been given much attention. Because of the courageous and ultimate sacrifices made by Ambassador Stevens, Sean Smith, Glen Doherty and Tyrone Woods, the board meticulously reviewed the conduct of all State Department employees with direct responsibilities for security at the Benghazi special mission compound.

We assigned blame at the level where we thought it lay. That is what the ARBs statute intended, operational accountability at the level of operational responsibility.

The House report that originally adopted the ARB statute admonished that "In the past, determining direct programmatic and personal accountability for serious security failures had been weak, often higher senior officials have ultimately accepted responsibility for operational failure in circumstances where they had no direct control."

The ARB statute permits a board only to make findings and recommendations. Any implementation of those recommendations must be done by the State Department. It is not an adjudicative process or body.

As to personnel, the statute speaks only to recommendations that individuals be disciplined. As set forth by Congress in the ARB statute that governed the Board's deliberations, discipline requires a finding that an individual breached his or her duties. The board came to understand this as a very high legal standard going well beyond negligence that requires affirmative misconduct or willful ignorance of responsibilities.

Furthermore, discipline is a formal term meaning complete removal or demotion, removal from or demotion within, the Federal service. Other forms of significant administrative action such as removal from a position or reassignment are not considered formal discipline.

The board has encouraged Congress to consider whether to amend the ARB statute so that unsatisfactory leadership performance by senior officials in relation to the security incident under review should be a potential basis for discipline recommendations by future ARBs.

After careful review, the board found that no individual engaged in misconduct or willfully ignored his or her responsibilities, and thus we did not find reasonable cause to believe that an individual breached his or her duty. However the board did find that two individuals demonstrated a lack of proactive leadership and management ability that significantly contributed to the precarious security posture of the Benghazi compound.

The board recommended that the Secretary of State remove those two individuals from their positions. The board also concluded that the performance and leadership of two other individuals fell short of expectations but did not recommend any specific personnel action.

Following our report, all personnel decisions were made by the State Department.

I have the greatest admiration for the service and the and the sacrifice of Ambassador Stevens, Sean Smith, Glen Doherty and Tyrone Woods. They were patriots and heroes in every sense of the word. They died dedicating their lives to our country. I have heartfelt sympathy for the families of these brave men. We should never forget their sacrifice. I believe we should honor them by doing everything in our power to ensure that the lessons learned from Benghazi never have to be learned again. The board's report was issued in that spirit and with that goal.

I look forward to your questions.

Chairman ISSA. Thank you, Admiral.

[Prepared statement of Admiral Mullen follows:]

STATEMENT OF ADMIRAL MICHAEL G. MULLEN
BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

SEPTEMBER 19, 2013

Chairman Issa, Ranking Member Cummings, and Distinguished Members of the Committee, thank you for the opportunity to testify today. I hope my testimony will be helpful to the Committee as it investigates the tragic events that occurred in Benghazi, Libya on September 11-12, 2012.

Shortly after those events, I was asked by the then-Secretary of State to serve as Vice Chair of the Accountability Review Board (ARB) established to examine the attacks on the Special Mission Compound and Annex in Benghazi. The Board was led by Ambassador Thomas Pickering and included three other highly qualified, respected members with expertise in various areas relevant to its review. The Board members took our responsibilities very seriously, and we worked diligently to fulfill our obligations to determine the facts and make recommendations as to how best to avoid similar tragedies in the future.

As set forth in the Board's Report of December 18, 2012, in accordance with the ARB statute, the Secretary of State asked us to examine "whether the attacks were security related; whether security systems and procedures were adequate and implemented properly; the impact of intelligence and information availability; whether any other facts or circumstances in these cases may be relevant to appropriate security management of U.S. missions worldwide; and, finally, whether any U.S. government employee or contractor, as defined by the Act, breached her or his duty."[1]

From the beginning, the State Department emphasized that it wanted full transparency about what happened in Benghazi and what led to those events. We had unfettered access to State Department personnel and documents. There were no limitations. We received the full cooperation of all witnesses and of every State Department office. We interviewed everyone we thought it necessary to interview. We operated independently and were given freedom to pursue the investigation as we deemed necessary. This independence was particularly important to me. I would not have accepted this assignment had I thought that the Board's independence would be compromised in any way.

The Board interviewed more than 100 individuals, reviewed thousands of pages of documents, and reviewed hours of video footage. We determined, as stated in the Board's Report, "that responsibility for the tragic loss of life, injuries, and damage to U.S. facilities and property rests solely and completely with the terrorists who perpetrated the attack."[2] The Board did find multiple, serious State Department shortcomings, which exacerbated the impact of the terrorist attack.

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[1] Benghazi ARB Report at *1, December 18, 2012; *see also* 22 U.S.C. § 4834(a).
[2] Benghazi ARB Report at *4.

We also concluded that there was nothing the U.S. military could have done to respond to the attack on the Compound or to deter the subsequent attack on the Annex. The actions of our military, which moved many assets that night, were fully appropriate and professional. The military could not have moved assets into Benghazi the night of the attack in a timely enough way to have made a difference.

In total, the Board made 29 recommendations, 24 of which were unclassified. I stand by those recommendations, which cover a wide array of significant topics:

- increasing and more closely monitoring the level of security at our facilities overseas;
- ensuring adequate staffing of high risk, high threat posts;
- improving the training and awareness of State Department employees;
- expanding access and availability of security and fire safety equipment at our overseas facilities;
- improving the gathering and dissemination of relevant intelligence and threat analysis; and
- personnel accountability.

One of the Board's recommendations led to the establishment of the Best Practices Panel, which Mr. Sullivan and Mr. Keil will detail today. Most of the Board's recommendations were designed to be implemented at State Department facilities worldwide in order to keep diplomatic personnel safe and secure everywhere they serve, especially in areas where they face great personal risk because our Nation needs them there. The State Department may implement our recommendations as it sees fit. I understand that it has accepted and plans to implement all of them.

The Board's recommendations with respect to the shortcomings of State Department personnel have been given much attention. Because of the courageous and ultimate sacrifices made by Ambassador Stevens, Sean Smith, Glen Doherty, and Tyrone Woods, the Board meticulously reviewed the conduct of all State Department employees with direct responsibilities for security at the Benghazi Special Mission Compound. We assigned blame at the level where we thought it lay. This is what the ARB statute intended: operational accountability at the level of operational responsibility. The House Report originally adopting the ARB statute admonished that "[i]n the past, determining direct programatic [*sic*] and personal accountability for serious, security failures had been weak. Often, higher senior officials have ultimately accepted responsibility for operational failure in circumstances where they had no direct control."[3]

The ARB statute permits a board only to make findings and recommendations.[4] Any implementation of those recommendations must be done by the State Department. As to personnel, the statute speaks only to recommendations that individuals be "disciplined." As set forth by Congress in the ARB statute that governed the Board's deliberations, "discipline" requires a finding that an individual "breached" his or her duties. Although this concept may seem straightforward, the Board came to understand that this is in fact a very high legal standard,

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[3] House Report No. 99-494 at *10, 1986 U.S.C.C.A.N. 1865, 1876, March 12, 1986. The House said that "[a] system must be established to ensure that requisite security advice is accepted and acted upon not only by Ambassadors and chiefs of missions, but by all senior officers, including Assistant Secretaries and their deputies in Washington." *Id.*

[4] *See* 22 U.S.C. § 4834(c).

going well beyond negligence, that requires affirmative misconduct or willful ignorance of responsibilities.[5] Furthermore, I learned through my service on the Board that "discipline" is a formal term meaning firing or demotion within the civilian personnel system. And that definition of "firing" means removal from the Federal Service. Other forms of significant administrative action, such as removal from a position or reassignment, are not considered formal "discipline" under the ARB statute and relevant personnel rules. Consistent with the Board's Report, I would encourage Congress to consider whether to amend the ARB statute so that "unsatisfactory leadership performance by senior officials in relation to the security incident under review should be a potential basis for discipline recommendations by future ARBs."[6]

Given the bounds of the existing statutory and regulatory regime and after careful review, the Board found that no individual "engaged in misconduct or willfully ignored his or her responsibilities, and thus we did not find reasonable cause to believe that an individual breached his or her duty."[7] However, the Board did find that two individuals "demonstrated a lack of proactive leadership and management ability" that significantly contributed to the precarious security posture of the Benghazi Compound.[8] The Board recommended that the Secretary of State remove those two individuals from their positions. The Board also concluded that the performance and leadership of two other individuals fell short of expectations but did not recommend the imposition of any specific personnel action as to them. Following our Report, all personnel decisions were made by the State Department. I understand that it reassigned all four individuals to different positions.

I have the highest admiration for the service and sacrifice of Ambassador Stevens, Sean Smith, Glen Doherty, and Tyrone Woods. They were patriots and heroes in every sense of the word. They died doing what they dedicated their lives to. I have the greatest sympathy for the families of these brave men. I believe we should honor and respect their service and dedication by doing everything in our power to ensure that the lessons learned from Benghazi never have to be learned again. The Board's Report was issued in that spirit and with that goal.

I look forward to your questions.

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[5] Benghazi ARB Report at *39.
[6] *Id.* at *12.
[7] *Id.* at *39.
[8] *Id.* at *7.

Chairman ISSA. Mr. Sullivan.

STATEMENT OF MARK J. SULLIVAN

Mr. SULLIVAN. Good morning, Chairman Issa, Ranking Member Cummings, and distinguished members of this committee thank you for asking Todd Keil and I to appear here today.

The shootings at the Navy Yard which occurred earlier this week in our Nation's Capital, remind us all of the vulnerabilities and diversified threats we face every day whether in our own backyard or on foreign soil.

My thoughts and prayers are with the victims, their families and loved ones.

In any environment where uncertainty permeates, one certainty we share is the necessary collaborative effort that is needed in our country to ensure the safety and security of all American lives. It is also a necessary certainty that we honor and protect the memories of those citizens who have been lost as a result of violent attacks with dignity and respect.

As a Federal agent for almost 35 years, my life has been and continues to be dedicated to contributing to improving America's security. From May 2006 through February, 2013, I had the honor of serving as director of the United States Secret Service under both Presidents Bush and Obama.

As director, I learned and understood the importance of having clear lines of authority in an organizational structure concerning security matters. I have also learned that things don't also go as planned. And when they don't, it is vital to implement lessons learned in an effort to prevent them from happening again.

Mr. Chairman, I consider it an honor to have served with the panel members Todd Keil, Richard Manlove, Raymond Mislock, Jr., Timothy Murphy, and staff, Erica Lichliter and Stephanie Murdoch.

Our panel shares a combined experience of almost 170 years of security and law enforcement expertise.

The panel's report reflects the independent views of the panel based upon the members' best professional judgment, experience and analysis of best practices informed by interviews, travel and research.

It was a pleasure to serve with the other panel members, and I appreciate their professionalism and hard work. I would also like to acknowledge and thank the hundreds of people interviewed in the course of drafting this report from the U.S. Government, private sector, international organizations and foreign governments.

The best practice panel was the result of the Accountability Review Board for Benghazi, which recommended that the Department of State establish a panel of outside independent experts with experience in high risk, high threat areas to support the Bureau of Diplomatic Security, identified best practices from other agencies and countries and evaluate United States security platforms in high-risk, high-threat posts.

Our report provides 40 recommendations in 12 different areas. In the panel's opinion, these recommendations, if adopted and implemented, will further strengthen the Department's ability to protect

its personnel and work more safely on a global platform to achieve American foreign policy goals and objectives.

The 12 areas of recommendations are organization and management, accountability, risk management, program criticality and acceptable risks, planning and logistics, lessons learned, training and human resources, intelligence, threat analysis and security assessments, programs resources and technology, host nations and guard forces capability enhancement, regular evaluation, and change management, leadership, communications and training.

The best practices panel looked across a wide spectrum of private government and nongovernmental organizations to identify effective measures to enhance the Department's ability to ensure a safe and secure environment for employees and programs.

Not surprisingly, the panel found that many institutions, including governments, refer to diplomatic security as the gold standard for security and seek to model their services after diplomatic security. Nevertheless, any organization must continuously evolve and improve to adjust with a fluid and dynamic environment.

The panel's view is that its recommendations should be realistic, achievable and measurable.

The findings and the recommendations of the ARB as well as the recommendations of other Department of State reports and management studies were reviewed in the context of the panel's own independent assessments and observations of the Department's security-related operations. Best practices were then identified to address shortcomings and provide mechanisms for further consideration by the Department.

Among one of the most important of the recommendations is the creation of an under secretary For diplomatic security. It should be noted that this structural recommendation is not new and was suggested in earlier report 14 years ago following the east Africa embassy bombings. The way forward should be characterized by cooperative efforts that will provide a framework which will enhance the Department's ability to protect Americans. To be effective we must be innovative so that we ensure institutions adapt and evolve to meet changing security requirements and needs.

Finally, I would like to take this opportunity to thank the Department of State in particular, overseas post that hosted panel visits and the Bureau of Diplomatic Security For the outstanding support provided to the panel during our endeavor.

Thank you for your time, chairman, ranking member and we look forward to any questions you may have.

Chairman ISSA. Thank you.

[Prepared statement of Mr. Sullivan follows:]

Testimony of Mark Sullivan

Chairman, The Independent Panel on Best Practices

Committee on Oversight and Government Reform
"Reviews of the Benghazi Attack and Unanswered Questions"
Thursday, September 19th, 2013
9:30 AM in Room 2154 of the Rayburn House Office Building (RHOB)

Good morning Chairman Issa, Ranking Member Cummings and all the Members of this Committee. Thank you for asking Todd Keil and I to appear here today.

The shootings at the Navy Yard, which occurred this week in our nation's Capital reminds us of the vulnerabilities and diversified threats we face every day, whether it be in our own backyard or on foreign soil. My thoughts and prayers are with the victims, their families and loved ones.

In an environment where uncertainty permeates, one certainty we share is the necessary collaborative effort that is needed in our country to ensure the safety and security of all American lives. It is also a necessary certainty that we honor and protect the memories of those citizens who have been lost as a result of violent attacks with dignity and respect.

As a federal agent for almost thirty-five years, my life has been and continues to be dedicated to contributing to improving America's security. From May 2006 – February 2013, I had the honor of serving as Director of the United States Secret Service (USSS) under both Presidents Bush and Obama. As Director, I learned and understood the importance of having clear lines of authority in an organizational structure concerning security matters. I have also learned that

things don't always go as planned, and when they don't it is vital to implement lessons learned in an effort to prevent them from happening again.

Mr. Chairman, I consider it an honor to have served with the Panel Members, Todd Keil, Richard Manlove, Raymond Mislock, Jr., Timothy Murphy; and Staff, Erika Lichliter and Stephanie Murdoch. Our Panel shares a combined experience of almost 170 years of security and law enforcement expertise. The Panel's report reflects the independent views of the Panel, based upon the members' best professional judgment, experience and analysis of best practices informed by interviews, travel and research. It was a pleasure to serve with the other Panel Members and I appreciate their professionalism and hard work. I would also like to acknowledge and thank the hundreds of people interviewed in the course of drafting this report from the U.S. Government, private sector, international organizations and foreign governments.

The Best Practices Panel was the result of The Accountability Review Board (ARB) for Benghazi, which recommended that the Department of State establish a Panel of outside independent experts with experience in high-risk, high threat areas to support the Bureau of Diplomatic Security, identify best practices from other agencies and countries, and regularly evaluate United States security platforms in high risk, high threat posts. Our report provides forty recommendations in twelve different areas.

In the Panel's opinion, these recommendations – if adopted and implemented – will further strengthen the Department's ability to protect its personnel and work more safely on a global platform to achieve American foreign policy goals and objectives.

The twelve areas of the recommendations are:

1) Organization and Management;
2) Accountability;
3) Risk Management;
4) Program Criticality and Acceptable Risk;
5) Planning and Logistics;
6) Lessons Learned;
7) Training and Human Resources;
8) Intelligence, Threat Analysis, and Security Assessments;
9) Programs, Resources and Technology;
10) Host Nations and Guard Forces Capability Enhancement;
11) Regular Reevaluation; and
12) Change Management – Leadership, Communications and Training.

The Best Practices Panel looked across a wide spectrum of private, government and non-governmental organizations to identify effective measures to enhance the Department's ability to ensure a safe and secure environment for employees and programs. Not surprisingly, the Panel found that many institutions – including governments – refer to Diplomatic Security as the "Gold Standard" for security and seek to model their services after Diplomatic Security. Nevertheless, any organization must continuously evolve and improve to adjust with a fluid and dynamic environment. The Panel's view was that its recommendations should be realistic, achievable and measureable. The findings and recommendations of the ARB, as well as the recommendations

of other Department of State reports and management studies, were reviewed in the context of the Panel's own independent assessment and observations of the Department's security-related operations. Best practices were then identified to address shortcomings and provide mechanisms for further consideration by the Department.

Among the most important of the recommendations is the creation of an Under Secretary for Diplomatic Security. It should be noted that this structural recommendation is not new and was suggested in an earlier report fourteen-years ago following the East Africa Embassy bombings.

The way forward should be characterized by cooperative efforts that can provide a framework which will enhance the Department's ability to protect Americans. To be effective, we must be innovative so that we insure institutions adapt and evolve to meet changing security requirements and needs.

Finally, I would like to take this opportunity to thank the Department of State, in particular overseas posts that hosted Panel visits and the Bureau of Diplomatic Security, for the outstanding support provided to the Panel during our endeavor.

Thank you for your time and I look forward to any questions you might have.

Chairman ISSA. Mr. Keil, I understand you do not have an opening statement. Would you like to say a few words? The gentleman is recognized.

STATEMENT OF TODD KEIL

Mr. KEIL. Thank you, Chairman Issa, Ranking Member Cummings, and distinguished members of the committee for inviting Director Sullivan and me to testify today about our independent panel report on best practices in the aftermath of the tragic events that occurred in Benghazi, Libya.

Our panel is committed to identifying best practices from throughout the U.S. Government, the private sector, nongovernmental organizations and foreign governments which can improve the security of U.S. diplomatic facilities abroad and enhance the safety of Department of State and foreign affairs agency personnel not only in high-risk areas, but globally. We identified 40 recommendations to achieve this goal.

Importantly, the panel affirmed what we already knew based on our professional experience that the men and women of the State Department's diplomatic security service are truly dedicated public servants, and amongst the best in service to our great Nation. Every day around the world they face extreme challenges, unpredictable risks and unknown events but still provide a safe and secure environment for the conduct of U.S. foreign policy, and they do so with distinction.

As we stated repeatedly throughout our report, best practices will not save lives unless they are resourced, implemented and followed, not just accepted.

As Director Sullivan stated, almost 14 years ago, a number of very similar recommendations were made after systematic failures were recognized as a result of the east Africa embassy bombings, and little has been accomplished by the Department of State since then to improve its approach to security even after approval by then-Secretary of State Albright to elevate the Bureau of diplomatic security and make other enhancements.

Now is the time for the Department of State, with the support of Congress, to finally institutionalize some real, meaningful and progressive change. The Department of State owes it to those people who have given their lives in service to our country and to those employees who continue to serve our country in some very dangerous locations around the world. Thank you very much, Mr. Chairman.

Chairman ISSA. Thank you.

I will now recognize myself and I will go in reverse order.

Mr. Keil, at the current time, isn't it true that both the facilities sufficiency and the sufficiency of diplomatic security rise to Under Secretary Kennedy, effectively he is the Under Secretary for Diplomatic Security at this time under the current structure isn't that true?

Mr. KEIL. Sir, as we traveled around the world as part of our panel research——

Chairman ISSA. No. No. Mr. Keil please. I have a very short time. You first start by saying yes or no.

Mr. KEIL. Yes.

Chairman ISSA. So he is, in fact, in a position where he—the pyramid rises to him, your recommendation and the recommendation 14 years ago is that he be relieved of diplomatic security, and that be placed in the separate Under Secretary position, is that correct?

Mr. KEIL. Correct.

Chairman ISSA. Wouldn't that create, by definition, a situation in which somebody would be responsible for the hardware, the facilities, including Inman compliance and somebody else would be responsible for the bodies and the support.

Have you considered that? And how would we or the Foreign Affairs Committee structure that briefly?

Mr. KEIL. Yes, we did consider that and, sir, currently there is integration between overseas buildings operations and the Bureau of Diplomatic Security.

Chairman ISSA. But they all report to Under Secretary Kennedy?

Mr. KEIL. They all report to Under Secretary Kennedy.

Chairman ISSA. And wasn't the failure in Benghazi both a failure to have the facility sufficient and a failure to have sufficient physical security in the way of armed personnel? Weren't those both failures that rose to one under secretary?

Mr. KEIL. Yes, sir.

Chairman ISSA. Okay. And that doesn't mean I disagree with the findings now or 14 years ago, but clearly, there was somebody who had both halves of it and both failed.

My ranking member told Politico that we should listen carefully to the Ambassador and the Admiral, and I did, and Admiral, I think I heard you correctly clearly saying that you had limitations in what the ARB mandate was including that your limitations are you can't really, under the ARB, look at policy deficiencies and that by definition, you were mandated to look at the lowest level of operational failure, not the highest level of policy failure, is that true?

Admiral MULLEN. I think that policy, policy adjustments or policy issues were well within our mandate. What I talked about in my opening statement is the constraint was in the discipline——

Chairman ISSA. Okay. So finding fault had to go to the lowest level, even though you looked at policy failures.

Admiral MULLEN. Finding fault had to go to the appropriate level.

Chairman ISSA. Okay. Well, the decision to extend the facility for another year with limited protection and not meeting Inman or close to Inman standards was a decision made by Under Secretary Kennedy. So did you consider that policy error, the error to be there with insufficient fiscal and human resources, as a policy decision or only that someone lower was responsible?

Admiral MULLEN. Actually, I think the decision, the memo, I think to which you are referring——

Chairman ISSA. The August memo.

Admiral MULLEN. —Mr. Chairman, that Under Secretary Kennedy signed in December of 2011——

Chairman ISSA. Yes, December 2011.

Admiral MULLEN. —was the result of a process inside the State Department took everybody into consideration and was approved to

extend it. And I think that was pretty clear to everybody. It wasn't the establishment of the—of the special mission compound——

Chairman ISSA. No. We understand that. We actually had—we actually had testimony that there was—there were under consider on September 11th of extending it permanently. But the decision to keep them there and the reduction in the assets to protect it occurred and was decided on in December 2011.

Admiral MULLEN. The failure, Mr. Chairman, was not in the establishment or that memo. It was in the execution of what was laid out in that memo to include the requisite number of security personnel, which were rarely there over the course of the next year.

Chairman ISSA. Okay. So whoever is responsible for not having enough security personnel is the person who failed.

Admiral MULLEN. Correct. That is actually where we ended up focusing the investigation, the review.

Chairman ISSA. The final point I want to make sure I get out is you had a mandate under of the ARB. You've said essentially that the changes in what the mandate are welcome and you believe, both of you, I understand, believe that some changes to the ARB to make it more able to do more will be necessary. I pretty well heard that, that what the Foreign Affairs Committee is considering, not the specific legislation, but considering changes is something both of you welcome, having gone through this process.

Admiral MULLEN. I think it is important. Yes, sir. I think where—for the lessons that we learned, absolutely. I think its independence is critical, as well as the anonymity of those who come to the table to—to make statements so that those statements are made in the spirit of where we're trying to go, and they don't feel limited.

Chairman ISSA. And when I heard you, you said that the—both of you said that the administration, the Secretary and so on made your job easy because you had full access to a hundred witnesses and the attempt was to have full transparency.

Admiral MULLEN. Correct.

Chairman ISSA. Do you think that Congress should have that same option? In other words, since the State Department has not made one of those witnesses you interviewed first available, meaning people in Benghazi who are fact witnesses, none have been made available. As a matter of fact, even the names have been, to the greatest extent possible, withheld from this committee, do you believe that is appropriate, or do you believe that we should have access to fact witnesses as we review the process?

Admiral MULLEN. Mr. Chairman, I think that is—and I have been in government a long time—that is something that historically, certainly in this case, has to be worked out between the Congress and the executive branch.

Chairman ISSA. Admiral, if something like the Cole attack occurred again today and Congress said we wanted to speak to people who were on the deck of that ship today, would you believe that we should have a right to speak to those people in order to understand the facts on the ground that day?

Admiral MULLEN. I don't—I—I honestly——

Chairman ISSA. I am asking from your experience.

Admiral MULLEN. I understand that. I don't——

Chairman ISSA. And a DOD framework.

Admiral MULLEN. I don't know what would limit you to do that, quite frankly.

Chairman ISSA. I am in the process of issuing subpoenas because the State Department has not made those people available, has played hide and go seek, is now hiding behind a thinly veiled statement that there is a criminal investigation. As you know, there was a criminal investigation on the Cole, any time Americans are killed abroad. So the answer, quite frankly, is we are not being given the same access that you had or Mr. Sullivan and his team had. And that is part of the reason that this investigation cannot end until the State Department gives us at least the same access that they gave your board.

And, with that, I recognize the ranking member for his questions.

Wait a second. Just one second. I apologize. I do have to make a technical correction, if you don't mind. It has come to our attention that there is a typo on page 25 of the majority staff report that has led to some misunderstanding about what Admiral Mullen told the committee about a conversation with Cheryl Mills. We have made a technical correction in our report to clarify that portion. The report will be—correctly identifies Admiral Mullen's testimony as referring to Charlene Lamb's interview. The report includes the full text of Admiral Mullen's testimony, and the testimony speaks for itself. And the full transcript of the interview will be made available on our Web site immediately. And it should be clear that the typo was unintentional and has been corrected.

And I now recognize the ranking member.

Mr. CUMMINGS. First of all, I want to thank the chairman for addressing the last issue. That fact came out in our memo, by the way. And we made it clear that that was not correct.

Admiral Mullen, as the former Chairman of the Joint Chiefs of Staff, you were the military expert on the ARB. Is that correct?

Admiral MULLEN. Correct.

Mr. CUMMINGS. Over and over again, during the past year, Republican Members of Congress, including several members of this committee, have impugned the integrity of our military forces and their leadership by suggesting that they withheld assistance on the night of the attacks for political reasons.

Admiral Mullen, if you look on page 23 of our report, there is an excerpt from your interview with the committee in which you said this, and I will quote, quote it for you, it says, "I personally reviewed, and as the only military member of the ARB, I personally reviewed all the military assets that were in theater and available."

Admiral Mullen, in your review, did you have access to all military information, data, and people necessary to evaluate the military—the military's response.

Admiral MULLEN. I did.

Mr. CUMMINGS. And I understand from your interview transcript that you conducted this examination not once but twice. Is that correct?

Admiral MULLEN. First time, Mr. Cummings, was to—actually with all members of the ARB, we went to the Pentagon to review

it in detail. And then the second time, I went back by myself when this became an issue that there were certainly questions being raised about, I went back again to verify and validate what I had done before. And I found nothing different in that the military response, the military did everything they possibly could that night. They just couldn't get there in time.

Mr. CUMMINGS. So, just to be clear, you have 40 years of experience in the military and achieved the highest ranks. You had access to all the information and personnel you thought were necessary to investigate the interagency response on the night of the attack and you personally reviewed everything twice. Do I have that right?

Admiral MULLEN. Correct.

Mr. CUMMINGS. You told the committee during your interview: "I concluded after a detailed understanding of what had happened that night that, from outside Libya, that we'd done everything possible that we could." Is that right?

Admiral MULLEN. Correct.

Mr. CUMMINGS. Can you explain from your perspective what it means for the military to have done: "everything possible." What I am getting at is, did the military really try everything?

And I ask this for the families who want to know that the country their loved ones served did everything they could do for them.

Admiral MULLEN. Mr. Cummings, I worked for two Presidents. The direction you get from a President in a situation like that is "Do everything you can." It's all the guidance that you need. Secretary Panetta and General Dempsey both testified to the specifics along the lines of—in testimony early February along the lines of what I found when I reviewed this on two occasions. It is our—it is—it goes to our core, when people are in trouble, to do everything we possibly can to help them out. And there were many forces that moved that night, including a Special Operations force in Europe that ended up on a base in Southern Europe, a large Special Operations force from the United States, which moved under direction as soon as—as soon as they were given orders; a group of Marines that essentially were sent in from Spain into Tripoli the next day. It literally became—this is not something you can just wish to happen instantly. There is a lot of planning, preparation, as rapidly—to do it as rapidly as one can do it.

And, if I may, I will just—there has been great discussion given to fast movers: Could you get a jet over Benghazi because there are jets in Europe? We have—our readiness condition at that—on that particular night, there were no planes sitting at the ready. So it is 2:00 in the morning. There are no planes on alert. It is 2 and a half to 3 hours to fly there. Tanker support is 4 hours away. You need host nation support for where they are to get permission to fly, particularly combat-ready jets, out of that country. You have got to go get the bomb racks. You have got to stet the munitions together. You have got to plan the mission. There are a tremendous number of details that have to go on. You have to bring the pilots in, pre-brief them, et cetera. Takes hours and hours and hours to do if you are not sitting at the ready when this happened.

What has happened since then that I have been briefed on is the Defense Department, the Pentagon has adjusted readiness of forces

in certain parts of the world to respond. We are not big enough in the military to—and—Ambassador Pickering will I am sure echo this—we are not big enough in the military to be everywhere around the world to respond to where every embassy is that might be high risk. We have to take risks and figure that out.

Mr. CUMMINGS. So, Admiral, what do you say in response to those members who continue to this day to imply that the military somehow fell down on the job?

Admiral MULLEN. They didn't fall down on the job, and I just completely disagree with that view.

Mr. CUMMINGS. Now, Ambassador Pickering, I see you shaking your head. Would you comment? I have about a minute left.

Ambassador PICKERING. I think the point that has just been made by Admiral Mullen is very important. We have over 270 consulates and embassies around the world in some very isolated and strange places. The responsibility for their primary security rests with the host country. Where that does not exist, as it did in Benghazi, it falls back on us to do it. The report we provided you and others provides the recommendations to deal with those particular cases. We are not able to count on the U.S. military, as Admiral Mullen said, always being positioned to come in short notice to deal with those issues, so we must do better on the ground.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

Chairman ISSA. Thank you.

Now recognize Mr. Mica for his questions.

Mr. MICA. Thank you, Mr. Chairman.

And many Americans have been waiting for this hearing. As I go back to my district, Admiral and Ambassador and others, I can't tell you how many times people have said, don't let Benghazi and what happened there be swept under the table.

Unfortunately, the ranking member mentioned this, that in my district and the vast majority of Americans feel that your report was a whitewash; he said whitewash or cover-up. But that's what people feel. And they feel their government let them down. They feel that American public servants were lost there. And now the review is—doesn't really address anything. Nobody has been fired. Nobody has been dismissed. No one has been arrested for the murders. I can't tell you how frustrating this is. Do you understand where the American public is coming from, Admiral Mullen.

Admiral MULLEN. Mr. Mica, I understand what you are saying with respect to that.

Chairman ISSA. Would you please put the mic a little closer, Admiral?

Admiral MULLEN. Sorry. I understand what you are saying.

Mr. MICA. I am just tell you how my people feel. So they want us to get to this.

Then you look at who was interviewed, for example, you just got through, Admiral Mullen, saying that we seek direction from the President. You sought direction, and the President had to do this.

Admiral MULLEN. Mr. Mica, that was what the military——

Mr. MICA. I know——

Admiral MULLEN. —got from the President in terms of response.

Mr. MICA. But the military is the one that could have saved the day. And the Secretary of State—when you don't have a—and for

14 years now haven't had an under secretary of security, which was recommended. So someone was in charge. Mr. Keil said he felt Kennedy or someone was in charge. But again, no one held accountable to this date. That is the way Congress feels and the American people feel.

I tend to differ with you—I am not the greatest military strategist, but Mr. Issa and I were, in January, we were at least at one post. I know of at least three other posts, we could have launched an attack. The attack started at 9:45. We might not have been able to save the first two, the ambassador and his colleague, but the Seal should never have died. It was 9:45. It was a 5:15 to 5:30 when they died. You testified a few minutes, 2 and a half to 3 hours. There is no reason that we couldn't launch from at least three locations I visited and been told that we have in place people monitoring the situation, particular and specifically in Africa and North Africa. And if we are not, shame on us.

Admiral MULLEN. What I said was 10 to 20 hours to get there.

Mr. MICA. That should not be the case.

Admiral MULLEN. That is the way it was that——

Mr. MICA. And I was advised as a Member of Congress, when I visited and sat down at one of those locations, that we could launch almost immediately to rescue American personnel or American citizens in danger. So there is something wrong there.

Then, again, investigating people above. It is all below the lower level, of which nobody—a couple people temporarily moved, all with pay and to other positions. You didn't interview the Secretary of State. She appointed four out of the five members. Is that correct? Of the board.

Admiral MULLEN. She did.

Mr. MICA. Yes. And it looks like a—sort of an inside job of investigation. The Department of State looking at the Department of State. And you had difficulty—again, you testified you didn't have difficulty, Mr.—Admiral Mullen, but two witnesses interviewed by the committee testified that ARB member Richard Shennick told them that it was difficult process, that the board was having a tough time obtaining details or context. Another witness stated, I said, "Dick, how is the ARB going?" And Dick said, "Ray, it is going slow; we are not getting any details, we are not getting any context."

Admiral MULLEN. Well, we got lots of details and lots of context.

Mr. MICA. Yes. But we are the Congress of the United States, and we aren't getting that. You just heard the chairman, the delay. We can't get access to witnesses. I had somebody come up to me another day, I don't know if it is true, they say they are—they are conducting lie detector tests of some of these people to see if they have talked to us. This is the stuff that is going on out there that American people feel that justice is not prevailing in this case.

Again, you didn't—you didn't investigate—okay. You didn't go to Clinton. How about the Deputy Secretary, William Burns? Was he interviewed?

Ambassador PICKERING. We talked to both Mr. Burns and Mr. Nides, both Deputy Secretaries of State. At the time that we got to them, as it was with Secretary Clinton, we had very clear evidence, full and complete to our information, that the authority, the

responsibility, the accountability rested with the people we identified.

Mr. MICA. They are not on the list, unfortunately, the ARB.

Finally, when Secretary Clinton testified, she said, I talked to the President at the end of the day, but had been in constant communication with the National Security Advisor, I guess it was Tom Donilon at the time, the staff told me. Did you interview Tom Donilon?

Ambassador PICKERING. We did not because we saw no evidence he made any of the decisions that we and the board were asked by the Congress to investigate with respect to the security. And we followed the precepts that Admiral Mullen has just outlined for you not to go for the people who didn't make the decisions but to go, following the will of Congress, to the people who made the decisions. And indeed, we went to the people who reviewed those decisions.

Chairman ISSA. I thank the gentleman.

Mr. MICA. Secretary wasn't involved. I must be on another planet. Thank you.

Chairman ISSA. The gentleman's time has expired.

We now go to the gentleman from Massachusetts, Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman. First of all, thank all of the witnesses, not just for being here today but for your service in relation to the panels that you recently filed reports with.

Look, Admiral, I don't pretend at least as a member here to know better about what could have been done than somebody who served in the military with as long and as distinguished a career as you did. And no matter how many bases I visit, I don't think I will pretend that I have more knowledge or experience or ability than you do. So I am going to accept your word that you reviewed, not once but twice, all of the possibilities that were there and finally came to the conclusion that everything that could be done would be done. I think it is important for the families to know that. We shouldn't be surprised that some people in the public are confused because there have been misstatements plastered all over the place, on TV, and not retracted even when they are shown to be absolutely wrong. So there would be some confusion out there on that basis.

But the chairman's staff report that was released earlier this week concluded that the ARBs independence is undermined and that board members had actually perceived—put that in quotes—"conflicts of interest."

Admiral Mullen and Ambassador Pickering, that is a very serious charge that challenges the integrity of the unanimous report but also challenges fundamentally your own integrity. I want to give you each an opportunity to respond to those allegations. But first, I want to again acknowledge that you both served our Nation for decades in some of the most senior positions in your fields. You have served Republican and Democratic Presidents alike, and you have won so many awards and promotions, respectively, that if I listed them all here, it would eat up the rest of my time. You agreed to volunteer months of your time to serve on this ARB.

So, Admiral Mullen and Ambassador Pickering, can each of you explain why you agreed to serve on the board.

Ambassador PICKERING. As the ranking minority member made clear and as my testimony in my deposition, which is available to everybody, made clear, I served first because the Secretary of State asked me to take on a tough job. And I have been doing that for my life, and my sense of service to my country said this is not something that I should turn down, anyway, anyhow.

Secondly, I made it very clear that Chris Stevens gave me 2 years of help and service as Undersecretary of State. And I had a personal debt of honor to Chris to take this on.

Thirdly, I felt very strongly that we needed quickly to know what went wrong and then how to fix it. And that was the function of the ARB. And I believe we carried out to the best of our ability that particular function.

Finally, I had no sense anywhere that there was any conflict of interest. I have spent 42 years in the State Department. I knew many of the officers concerned. I have to tell you full, fair, and free, this was not an exercise in any personal sense of debt or obligation to any of those people. And I believe that the comments on the report that it was hard-hitting, that it called the shots the way it should have, in my view, is the best summation of what we tried to do, free of political influence, free of conflict, and I am proud of the report, sir.

Admiral MULLEN. I served, first of all, because I was asked to do it, Mr. Tierney.

Secondly, we lost four great Americans that night. I have certainly in the last 10 years or so been with so many of those in uniform as well as those who serve in the State Department around the world in some very, very difficult posts. And I thought I could, certainly with my experience, contribute from the professional standpoint and particularly from the military perspective on what happened that night and wanted to be able to do that. In its—at its core, it's still who I am, which is a servant of this country. And when asked to go do that, it was pretty easy to say yes.

Mr. TIERNEY. Thank you.

You know, the ARB staff comments were made by the Republican staff report they said: "Under Secretary for Management Patrick Kennedy supervised the selection of the Benghazi ARB staff. This placed the staff in a position in which their duties required them to evaluate the performance of supervisors, colleagues, and friends."

Ambassador Pickering, how do you respond to the notion that the selection of staff created inappropriate conflict of interest?

Ambassador PICKERING. My understanding of the role of Secretary Kennedy was that he made clear he did not participate. That seemed to have been an error somewhere. And that testimony, I think, is now in the minority report.

I think, secondly, my judgment of the staff performance was that I saw no hint of any favoritism or preference. I saw a staff that worked many extra hours, that looked very carefully at all the issues, that did extraordinary research for us, was highly responsible to us.

But in every case, Mr. Tierney, we all reviewed the final report many times. We each made contributions, and the unanimous view

of this five-member panel is they took full responsibility and approved every word of that report.

Mr. TIERNEY. Ambassador, then the chairman's report also raises questions about your recommendation of board member Catherine Bertini. Do you in any way believe that your recommendations of Catherine Bertini created a conflict of interest, and can you explain who she is and why you recommended her as a board member?

Ambassador PICKERING. No. I was asked in the course of an early discussion who I thought might usefully serve on the board from outside the State Department. And I gave a list of names to Under Secretary Kennedy, who was accumulating those for Secretary Clinton. Large number of the people that I put on the list were not selected. Catherine Bertini was selected. She had, in my view, an outstanding reputation. She ran the World Food Programme, a multibillion dollar enterprise of the U.N. She was Under Secretary General of the U.N. for Management. She has a distinguished record as a professor of public policy. And I knew, in fact, that her own political background was on the opposite side to the party in power.

Mr. TIERNEY. Thank you, sir.

Yield back.

Chairman ISSA. When the staff report talked about conflicts, isn't it true that there were no true outsiders? There were no advocates for the families. There were no people whose service outside of government could have caused them to be skeptical. But, in fact, each of you—and, Ambassador, you said you had no conflict. Well, at the same time, you talked about 42 years in the organization you were overseeing.

If we looked at the bank failures of 2007 and brought Jamie Diamond in to head the board, some might say that there was an inherent conflict because of his experience and life.

Wouldn't you agree that, in fact, your makeup was a makeup of people like Admiral Mullen, who was responsible for the policy, ultimately, just before he left as Chairman of the Joint Chiefs that had no response to this 9/11 attack, and of course, you had years of viewing things through an ambassador's eyes.

Ambassador PICKERING. Mr. Chairman, with greatest respect, this was not a "gotcha" investigative panel. The responsibilities were to provide recommendations to see that we do our best never to let this happen again.

Would you choose—put it this way, someone with no experience to come in and investigate and carry forward the work? We used to, years ago, elect military officers. We stopped that a long time ago. I suspect that brain surgery was one of the most early professionalized occupations in the world. Why would you choose a panel of people who knew nothing about the responsibilities, nothing about how and in what way they were carried out? The value of this panel was that three were from outside, and only two of us were from inside, hopefully to give precisely the cross current of controversy, discussion, questioning, and examination that you yourself just expressed the hope that we had. We, sir, had that.

Chairman ISSA. I appreciate that.

Obviously, this was not a "gotcha" panel because nobody was "gotcha'd," Admiral.

Ambassador PICKERING. I would with great respect say we gave four names to the Secretary of State that we believed were failing in their senior leadership and management responsibilities.

Chairman ISSA. So it is your testimony today that something should have happened; they should not be on the job, not having lost a day's pay.

Ambassador PICKERING. We made recommendations that two of those people be removed from their job——

Chairman ISSA. So people should have been fired that have not been fired.

Ambassador PICKERING. Fired is a discipline. It is a different set of circumstances. I cannot respond for the Secretary of State and what he or she is——

Chairman ISSA. But wouldn't you agree, there was no accountability?

Ambassador PICKERING. No, there was accountability. Of course. And we identified it.

Mr. LYNCH. On a point of order. Are we going to balance out the time?

Chairman ISSA. To be honest, the gentleman went over. I was trying to make this quick.

Mr. Duncan is now recognized.

Mr. DUNCAN. Thank you, Mr. Chairman.

And earlier, you commended Ambassador Pickering and Admiral Mullen. I want to commend you and your staff for the very thorough way that you have attempted to get the full story of this Benghazi situation in an instant.

Let me—let me just mention—say this. Ever since some well publicized embassy bombings in 1998 and then again after the events of 9/11, the Congress has approved whopping increases, many, many billions of extra and additional funding for embassy security around the world. Yet the ARB report found that: "Embassy Tripoli did not demonstrate strong and sustained advocacy with Washington for increased security for Special Mission Benghazi."

I would like to ask Ambassador Pickering or Admiral Mullen, how did you come to that conclusion? Were there specific documents that led you to that statement or——

Ambassador PICKERING. Yes, Mr. Duncan.

It was a combination of documents and personal interviews with the people who made the recommendations.

Mr. DUNCAN. Admiral Mullen. Okay.

Admiral MULLEN. I would agree with Ambassador Pickering said.

Mr. DUNCAN. The—your report says, on page 4, that; "Systematic failures and leadership and management deficiencies at senior levels within two bureaus of the State Department resulted in a special mission security posture that was inadequate for Benghazi and grossly inadequate to deal with the attack."

What—what were the systematic failures and leadership that you are talking about in that statement?

Ambassador PICKERING. Briefly, sir, a constant churn in personnel, including security personnel, with an average stay time in Benghazi of 40 days or less, and, as well, differential and uncertain

and then sometimes negative attitudes towards security physical improvements of the post are two examples.

Admiral MULLEN. I would add to that, sir, that it is—the application of resources over time, whether it was from inside the security branch of the State Department or inside the buildings branch. The training of personnel before they went for the right kind of high-threat training. The physical upgrades that had been sought. And it is because the rotations were occurring, so quickly, the continuity of achieving those physical upgrades, the stovepipes that no leader, no leader—and we focused on the key leaders in our report—saw fit to cross to make things happen from a leadership perspective. So there wasn't active interventionist kind of leadership. And we particularly focused on the people with the knowledge in security who actually were making the decisions. So it was—as well as knowledge in the area, so that would be the NEA bureau as well.

Mr. DUNCAN. You said not—the knowledge that was available. And several people and the chairman just talked about how no one has been held accountable in the way that most American people would consider accountability in this situation.

And, Admiral Mullen, in your interview with the committee, you were asked about a man named Ray Maxwell. And you said, "Nobody had the picture like he did."

Admiral MULLEN. Ray Maxwell was in a position in the—in the NEA bureau where his whole portfolio were these four countries in the Maghreb, including Libya. As was stated earlier, there was a—there was a tremendous amount of instability throughout the Middle East, not just the demonstrations but clearly the evolution of what had happened in Egypt and Syria as well. So as you net down and you have the Assistant Secretary Jones, who is very focused on the whole region, to include those crises, and you come down under her, the individual with, from my perspective, the focus, the knowledge, the portfolio, the day-to-day focus, was Mr. Maxwell.

And I was, quite frankly, taken back significantly that he had, from my perspective, removed himself from those responsibilities in terms of what was going on in Libya. I was shocked, actually, based on his interview.

Mr. DUNCAN. I had to slip out briefly to another committee. Maybe you have already answered this. But were you surprised or shocked that he or some—or any of these other three people, the top four that have been removed, that they—that no one was fired?

Admiral MULLEN. We have talked about the constraints of the law. And that—those are very real constraints. And if I could, oftentimes this gets equated—Chairman, you brought up the Cole. So this gets equated to the military. So when we have a military commander that fails we, quote-unquote, "fire" them. What that really is in essence is we move him or her out of that job. They are not dismissed from the Federal service, unless you get into the criminal—unless they go through the criminal proceedings, and they are dismissed as a result of a court-martial. So there is this mismatch of the perception of you fire people in the military all the time. What you really do is you move them out of a job. They still are in the Federal service.

Mr. DUNCAN. So you don't fire them in the way they would be fired in the private sector.

Admiral MULLEN. Where they are no longer part of the organization, no, sir.

Chairman ISSA. Will the gentleman yield?

Mr. DUNCAN. Yes, sir.

Chairman ISSA. Isn't it true in the military you would get an adverse OER. You would never be promoted again, in all likelihood, and your career would be over. And in an up-or-out basis, you have a limited time before you are going to be forced out. And if you are a second, first lieutenant, you are going to be forced out before you are eligible for retirement. So in the military, isn't there a level of ultimate accountability in which your career is over and you know it at that moment?

Admiral MULLEN. Absolutely. And I would let Ambassador Pickering speak to how that works in the State Department.

Ambassador PICKERING. I think there is an exact parallel. Exact parallel. If you are removed from a job, particularly under the circumstances that have to do with something like Benghazi, your future career is, in my view, finished.

Chairman ISSA. Thank you.

Mr. Lynch.

Mr. LYNCH. Thank you, Mr. Chairman, and ranking member. I want to thank the panelists for helping us with our work. To begin, I want to offer my prayers and condolences to the Stevens family, the Smith family, the Woods, and Doherty families for their loss. I think we can only hope that their grief and the burden that they now carry might be lightened a little bit by knowing that it is shared by so many across this Nation and perhaps by knowing the high regard with which our government holds the breadth of their family's service and the depth of their sacrifice. Also, as has been mentioned, I think it is important that we remember these four individuals were among our Nation's very best, who accepted great personal risk to do a very dangerous job. And in that sense, I think it somehow diminishes their memory to think of them as victims. Far from it. These four men, I think it is better to honor them and their memories by recalling that they—they were very dedicated patriots. They are American heros. They trained long and hard, and they prepared long and hard. And with extreme bravery, they went out—they went out to meet the challenges that they—that they faced. And they loved doing so on behalf of this country.

Now, Admiral Mullen, in your interview with the committee, you said that during an unfolding crisis like this, the President is likely to tell their military leaders to; "do everything possible to respond." And this is—this is basically the direction they need to start moving assets forward and formulating a response. Is that basically your testimony?

Admiral MULLEN. That is my experience with two Presidents.

Mr. LYNCH. Okay. Terrific. Did it happen in this case?

Admiral MULLEN. Yes.

Mr. LYNCH. Did you find that the Defense Department, the State Department, and the intelligence community engaged quickly after the President gave them the green light?

Admiral MULLEN. As rapidly as they possibly could.

Mr. LYNCH. Okay.

Ambassador Pickering, the committee had the opportunity to interview—our committee had the opportunity to interview Jake Sullivan, the former director of policy, planning, at the State Department. And he told us—this is a rather lengthy quote, but he told us that Secretary Clinton and other senior officials were heavily engaged on the night of the attacks. And let me read you what he said exactly: "Secretary Clinton was receiving reports of what was happening, and she made a series of phone calls as a result of that and gave direction to Pat Kennedy, to Diplomatic Security, to Beth Jones, to do everything possible with respect to our own resources and with respect to Libyan resources to try respond to this situation. She was deeply engaged. She not only was receiving regular reports and updates, but she was proactively reaching out. She spoke with Director Petraeus. She spoke with the National Security Advisor on more than one occasion. She participated in the Secure Video Teleconference System, and she made other phone calls that night. And from the time she first learned of it, Secretary Clinton was the—this was the only thing that she was focused on."

So, Ambassador Pickering, are Mr. Sullivan's statements consistent with what you found regarding interagency response.

Ambassador PICKERING. Yes, they are consistent with what we heard principally from Mrs. Jones and from Undersecretary Kennedy from their perspectives and what we heard and what the committee heard and what the public heard from Gregory Hicks, who was in charge of Tripoli after the death of Ambassador Stevens.

Mr. LYNCH. Very good. And were State Department officials immediately engaged as the attacks unfolded?

Ambassador PICKERING. They were, sir, in multiple ways and through multiple channels.

Mr. LYNCH. And, in your opinion, did they do everything that they could to—they could that night.

Ambassador PICKERING. I believe they did.

Mr. LYNCH. Okay. My time has gone short. But, Admiral Mullen and Ambassador Pickering, I have followed both of your careers. They are—your reputation is impeccable and your service to this country has been in the highest standards of State Department and Defense Department. I just want to say I think at times you have been treated unfairly and that your body of work and diligence has not been appreciated by some. And I just think that you are owed a debt of gratitude for your years of public service, number one, and also your diligence and your energy and honesty and integrity during this whole process. I just want to thank you.

And I yield back the balance of my time.

Mr. CHAFFETZ. [presiding.] I thank the gentleman.

Now recognize the gentleman from Ohio, Mr. Jordan, for 5 minutes.

Mr. JORDAN. Thank you, Mr. Chairman.

Admiral Mullen, in your testimony, your written testimony today, you—fourth paragraph, you say, "We operated independently, were given freedom to pursue the investigation as we deemed necessary."

In your interview with the committee staff, transcribed interview, the committee asked you, "The ARB is supposed to be set up as an independent review board. Did you have any questions about

the independence of the board?" Your response, "From my perspective, the most important descriptive characteristic of it was that it would be independent." Is that all accurate?

Admiral MULLEN. Correct.

Mr. JORDAN. Okay. In that same interview with committee staff, you were asked, "Did you update the State Department in the course of the ARB?" You replied: "Shortly after we interviewed Ms. Lamb, Charlene Lamb, I initiated a call to Ms. Mills to give hear heads-up because at this point Ms. Lamb was on the list to come over here to testify."

Now, the "over here to testify," is that in reference to when Ms. Lamb testified in front of this committee?

Admiral MULLEN. In October.

Mr. JORDAN. In October. Yes, sir.

Admiral MULLEN. Yes, sir.

Mr. JORDAN. And this Ms. Mills you refer to here, is this the same Ms. Mills who is Cheryl Mills, chief of staff and counselor to the Secretary of State?

Admiral MULLEN. It is.

Mr. JORDAN. All right. And this is the same Ms. Mills that Greg Hicks testified when he was in front of the committee last spring that, when she calls, you take her call. It is a call you don't always want to get, but it is one you always take. That is the same Cheryl Mills we are talking about?

Admiral MULLEN. I accept that that is what you say——

Mr. JORDAN. Okay. Later in that same response to the committee's question about you updating the State Department in the course of the ARB, you said this: "So, essentially, I gave Ms. Mills, Cheryl Mills, chief of staff, counselor to the Secretary of State, a heads up. I thought that her appearance, Charlene Lamb, could be a very difficult appearance for the State Department."

Admiral MULLEN. Correct.

Mr. JORDAN. Now, here is what I am wondering. My guess is a lot of people are wondering. If this is so independent, why are you giving the State Department a heads up about a witness coming in front of this committee?

Admiral MULLEN. We had just completed—within a day or two of that phone call, the——

Mr. JORDAN. So you had a phone call with Ms. Mills? Is that what we are talking about?

Admiral MULLEN. Yes. I mean, I think that is what my statement said.

Mr. JORDAN. Okay.

Admiral MULLEN. But, no, we had just completed the interview with Ms. Lamb. And as someone who——

Mr. JORDAN. That raises an important question.

Admiral MULLEN. Could I answer your question?

Mr. JORDAN. Yes, you can.

Admiral MULLEN. So my—as someone having run a department and spent many, many times trying, as a leader of a department, to essentially——

Mr. JORDAN. Let me ask—my time is winding down.

Admiral MULLEN. To—let me answer this, would you, please?

Mr. JORDAN. Well, let me ask you this, because this is important. The ARB was formed on October 3rd; correct?

Admiral MULLEN. Correct.

Mr. JORDAN. All right. Charlene Lamb came in front of this committee October 10th.

Admiral MULLEN. Correct.

Mr. JORDAN. Seven days later.

Admiral MULLEN. Right.

Mr. JORDAN. So why was she one of the first people you interviewed?

Admiral MULLEN. She was——

Mr. JORDAN. Why not——

Admiral MULLEN. She was one of the first people interviewed because she was the one in control of Diplomatic Security decisions.

Mr. JORDAN. Okay. How did you know she was on the list? Who told you she was testifying in front of Congress?

Admiral MULLEN. It was public knowledge that she was——

Mr. JORDAN. That is not usually made public until 2 days before.

Admiral MULLEN. Well, by the time I knew it——

Mr. JORDAN. So what day did you interview Charlene Lamb? Do you know?

Admiral MULLEN. Between the 3rd and the 10th.

Mr. JORDAN. Okay. Then when did you talk to Cheryl Mills? Right after that?

Admiral MULLEN. No, not right after that. I would say within 24 hours and specifically to give her a heads up that I didn't think that Charlene Lamb would be a witness at that point in time that would represent the department well, specifically. And I had run a department, worked a lot, worked a lot historically to get the best——

Mr. JORDAN. But, again, we have been told that this—the ARB is an independent review. In fact, you said it. You have said it twice.

Admiral MULLEN. Correct.

Mr. JORDAN. You said it in front of the committee staff; you said it in your statement today.

Admiral MULLEN. Correct.

Mr. JORDAN. And yet within a week, within a week, you are giving the counselor to the Secretary of State a heads up about a witness who you think is not going to be good witness when it comes in front of the committee investigating.

You know what else happened between October 3rd and October 10th? Congressman Chaffetz, sitting in the chair, went to Libya. And on that trip, for the first time, under what Greg Hicks testified in front of this committee last spring, State Department, Cheryl Mills, sent a staff lawyer on that trip. And Greg Hicks testified first time in all his years of diplomatic service where that lawyer was instructed to be in every single meeting Jason Chaffetz had with Greg Hicks. That also happened. Did you and Cheryl Mills talk about that?

Admiral MULLEN. No.

Mr. JORDAN. That also—and Greg Hicks also testified that when there was a meeting at a classified level that this staff lawyer was not eligible to attend, he got a phone call quickly thereafter from

Cheryl Mills saying why in the world did you let this meeting take place where this lawyer couldn't be in that meeting?

Admiral MULLEN. I had nothing to do with——

Mr. JORDAN. Same Cheryl Mills in that same time frame you are giving a heads up to, and yet we are supposed to believe this report is independent.

Admiral MULLEN. I actually rest very comfortable that it is independent.

Mr. JORDAN. Let me ask you one last question because my time is out. Did Cheryl Mills—two last questions, if I could, Mr. Chairman.

Did Cheryl Mills get to see this report before it went public?

Admiral MULLEN. We had a draft report when it was wrapped up. We specifically briefed the Secretary of State for a couple of hours and Ms. Mills was in the room.

Mr. JORDAN. So both Cheryl Mills and Hillary Clinton got to see this report before it went public?

Admiral MULLEN. The report was submitted to her. The Secretary of State made a decision——

Mr. JORDAN. So before December 18——

Admiral MULLEN. —to release it.

Mr. JORDAN. —they both got to see it.

If I could, one last question. Let me just ask this, Admiral Mullen. So if an inspector general—if you learned that an inspector general in the course of an investigation informed its agency leadership that a witness scheduled to testify before Congress would reflect poorly on the agency, would you have concerns about an inspector general doing the same thing you did?

Admiral MULLEN. The intent of——

Mr. JORDAN. No, that is yes or no. If an inspector general did what you guys did, would you have concerns about that?

Admiral MULLEN. The intent of what I did was to give the leadership in the State Department a heads up with respect to Ms. Mills. That was——

Mr. CUMMINGS. Mr. Chairman——

Mr. JORDAN. —see the final report until it went public.

Mr. CHAFFETZ. The gentleman's time has expired.

Mr. CUMMINGS. I would ask that our witness—that Mr. Connally be given the same amount of time.

Mr. CHAFFETZ. Absolutely.

Mr. CONNOLLY. I thank the chair.

And I thank the ranking member.

I welcome the panel.

And I do want to say to family members my—I have heartache for your loss. I just lost three constituents at the Navy Yard last week. I am old enough to remember Lebanon, where our embassy was bombed not once, but twice. I lost a good friend in that embassy bombing in the early 1980s. Of course, we also lost our Marine Amphibious Unit. Well over a hundred lives were lost.

I don't remember, Mr. Pickering, an ARB at that time. Was there an ARB?

Ambassador PICKERING. No. It was before ARBs became a practice, Mr. Connally.

Mr. CONNOLLY. Right. So we lost our embassy, dozens of deaths. We lost the MAU at the Beirut airport with over a hundred deaths of young Marines. I don't remember any investigation. I don't remember any charges. I don't remember the Democrats exploiting Ronald Reagan's management of that incident. We understood it was a national tragedy, and we tried to come together.

I say to all four of you, I deeply regret the tone of this hearing. But it is typical, unfortunately, of all too many of the so-called investigations into Benghazi where apparently there is an agenda. And the agenda isn't getting at the truth; it is getting at somebody. In fact, the chairman used the word "gotcha." Seems to be regret there wasn't enough "gotcha." So we are going to make up for it by getting you and trying to besmirch the reputations, particularly the chairman and co-chairman of this ARB who are among the finest civil servants in their respective fields to serve this country in a generation. I just say to you, there are many who see through that and understand that innuendo and smear and insinuation and badgering aren't going to cloud the truth, that a tragedy occurred, and it occurred because terrorists perpetrated terror.

And we are trying to find out, as you most certainly tried to find out in the ARB, how can we learn from that tragedy? How can we make sure there aren't more grieving families before us? How can we make sure we are better prepared? And I thank you for the courage you have shown, not only in undertaking that investigation but in weathering the partisanship that has clouded this investigation.

Admiral Mullen, speaking of which, in an entirely partisan report leaked to the press, not shared with this side of the committee—which should give you a big, fat hint as to what the intent is—you were the subject of an allegation—follow up on the questioning just now—where, quote, "Mullen put Cheryl Mills on notice in advance of her interview that the board's questions could be difficult for the State Department" under the title that you gave Ms. Mills an inappropriate heads up prior to her ARB interview.

I want to give you an opportunity to respond to that allegation.

Admiral MULLEN. I called, and as I said, I tried to say, I called Ms. Mills, having interviewed—actually the ARB had interviewed Ms. Lamb very early in the process, prior to the first testimony here on the Hill on I think the 10th of October. And I was particularly concerned because I had run a major organization, a couple of them and had always worked to provide the best witnesses to represent the organization on the Hill. And it was very early in the process, as far as what had happened. There were many unknowns. I was concerned about her level of experience. And I expressed that to Ms. Mills and that was it.

Mr. CONNOLLY. You don't think that you gave an inappropriate heads up to Ms. Mills?

Admiral MULLEN. No.

Mr. CONNOLLY. Did you give an inappropriate heads up to Charlene Lamb?

Admiral MULLEN. No. No. I am—and in fact, with respect to the independence piece, it never had an impact.

Mr. CONNOLLY. Ambassador Pickering, do you want to comment on that?

Ambassador PICKERING. I would.

I think there are two issues running here. I think Admiral Mullen has clearly explained what he did and why. I think it had nothing to do with the ARB.

I do think the Republican text which you cited is an error. It had nothing do with testimony by Cheryl Mills before the ARB.

The third point is that I believed from the beginning of the ARB, since we were to report to the Secretary, that it was my obligation as Chairman from time to time to talk to the Secretary through the chief of staff about our progress, about where we were going, about, in fact, the timing of the report, and, in fact, what our expectations were with respect to the timing of conclusion, all of which I believed was in full keeping with our obligation to the Secretary to give the best possible report.

There was no direction. There was no feedback. There was no request to do this, that, or the other thing. And that happened every couple of weeks.

Mr. CONNOLLY. Thank you, Mr. Ambassador.

I have one more minute, and I want to ask just one more question.

Admiral Mullen, one of the things that has seemingly been disproved time and time again but it keeps on coming up as recently our hearing on Benghazi yesterday at the Foreign Affairs Committee, and that is the canard that there was an order to stand down, that somebody gave a command that the military was not to respond. Could you put that allegation to rest? Did that, in fact, happen, or did it not?

Admiral MULLEN. An order to stand down was never given. This specifically refers to the four special operators that were in Tripoli. They had finished at the—at DCM Hicks' direction, supporting movement of American personnel in Tripoli from the embassy compound into a safer place. Having finished that, as every military person, active or retired, would want to do, they want to go to the fight to try to help. He checked, Lieutenant Colonel Gibson checked up his chain of command, which was the Special Operations Command in AFRICOM, and the direction that he got was to hold in place. He was re-missioned then to support the security and the evacuation. And, in fact, only in hindsight, had they gone—and we had a very good understanding of what was going on then with respect to the evacuation—had they actually gotten on an airplane, they would have taken medical capability that was needed out of Tripoli and most likely crossed in route with the first plane that was evacuating Benghazi at the time.

Mr. CONNOLLY. Thank you.

And thank you, Mr. Chairman.

Mr. CHAFFETZ. Thank you.

Gentleman's time has expired. Yields back.

I now recognize any self for 5 minutes.

Stevens, Smith, Woods, and Doherty. God bless them. That is what this is all about. Admiral Mullen, I would like to direct my questions to you.

Within the Department of Defense, was there an after-action review or report that was done and did you read it?

Admiral MULLEN. I am—there always is, and I haven't seen it, no.

Mr. CHAFFETZ. My understanding, Chaffetz there isn't a report. And for you to come to the conclusions that you did without reviewing such report, or if there is a review or is such a review or report is something the committee wants to further explore. It seems odd and mysterious there is no such report and that you would not have reviewed it.

Did you—did the ARB ever talk to Lieutenant Colonel Steven Gibson?

Admiral MULLEN. We did not.

Mr. CHAFFETZ. Did you or anybody in the ARB speak with anybody from the Office of Security Cooperation located at the embassy?

Admiral MULLEN. We were in touch with and spoke with—actually interviewed the defense attache.

Mr. CHAFFETZ. But not within the Office of Security Cooperation.

What about, who is Colonel George Bristol?

Admiral MULLEN. I don't know.

Mr. CHAFFETZ. He is the Commander of Joint Special Operations Task Force Trans-Sahara, directly responsible for the Office of Security Cooperation, and was not interviewed by the ARB.

Did you ever speak with Rear Admiral Richard Landolt, Director of Operations for AFRICOM?

Admiral MULLEN. Not directly, no.

Mr. CHAFFETZ. And nobody within the ARB did as well——

Admiral MULLEN. No. But actually, we were certainly aware of his input, having interviewed—I am sorry—having spoken with the Joint Staff and the Director of Operations on the Joint Staff.

Mr. CHAFFETZ. He was the Director of Operations, AFRICOM, and was not interviewed by the ARB.

Admiral MULLEN. That is different from the Joint Staff. That is——

Mr. CHAFFETZ. Yes. I understand. And he was not interviewed.

The Rear Admiral Brian Losey, do you know who he is?

Admiral MULLEN. I do.

Mr. CHAFFETZ. He is the Commander, Special Operations Command at the time of Benghazi attack. Did you or the ARB interview him?

Admiral MULLEN. We didn't.

Mr. CHAFFETZ. Did you speak with Vice Admiral Charles Joe Leidig, Deputy to the Commander For Military Operations there in AFRICOM.

Admiral MULLEN. We spoke to actually General Ham, who is his boss.

Mr. CHAFFETZ. But all of these people that I—I named off, directly involved in the operations that night, and one of the concerns is you didn't read an after-action report or review; we don't even know if there is one that has been done. All these people are directly involved; they were not engaged in this. What time did——

Admiral MULLEN. I effectively, when I went back, particularly the second time, listened to an after-action report with respect to what happened that night.

Mr. CHAFFETZ. We all know——

Admiral MULLEN. I stand by what they did and what I saw.

Mr. CHAFFETZ. We understand the General Ham was in Washington, D.C. He was not at Stuttgart. He was not in Libya. These people were.

I—what time did the Department of Defense ask Libya for permission for flight clearance?

Admiral MULLEN. Actually, General Ham was involved throughout. They were able to do that globally——

Mr. CHAFFETZ. I understand he was involved, but he was not in Stuttgart. He was not in Libya.

The question is, did the Department of Defense ever ask Libya for permission for flight clearance? I believe the answer is no.

Admiral MULLEN. Which—do I get to answer the questions?

Mr. CHAFFETZ. I am asking if that is——

Admiral MULLEN. What kind of flight clearance are you talking about?

Mr. CHAFFETZ. So that we could fly our military assets over there. We already had permission to fly. The answer is no. Correct?

Admiral MULLEN. Correct. Actually, I take that back. The—the assets that came from Germany, specifically, we received permission to put them——

Mr. CHAFFETZ. That was—let me keep moving. When specifically did the United States military reach out to our NATO partners, given their close proximity, when did that happen?

Admiral MULLEN. Actually, I don't think it did.

Mr. CHAFFETZ. And that is one of the concerns. The Italians had more than 50 Tornadoes less than 35 minutes away from Benghazi. We didn't even ask them. Never even asked why. You presided——

Admiral MULLEN. Mr. Chaffetz.

Mr. CHAFFETZ. There is not a question in there. With all due respect, Admiral.

Next thing. Specifically, when did the United States jets, tankers, whatever you need to do a show of force, when were they called up? When were they put on alert?

Admiral MULLEN. They were specifically looked at as to whether or not they could get there in time, and they couldn't. That was a decision that was made.

Mr. CHAFFETZ. Here is the problem.

Admiral MULLEN. Actually, their readiness status was upgraded.

Mr. CHAFFETZ. You said that no planes were at the ready. That was your testimony in Cairo, Admiral, with all due respect——

Admiral MULLEN. At the time of the attack, Mr. Chaffetz, the readiness status there were no strip alert aircraft ready to go.

Mr. CHAFFETZ. And that is a fundamental problem and challenge, too, I think we have to look at. In Cairo hours earlier the demonstrators had breached a wall, gone over a 12 foot wall, they tore down the American flag they put up an al Qaeda-type flag. It was Libya after the revolution on 9/11, we had been bombed twice prior, the British Ambassador had the assassination attempt and nobody is leaning forward? There is nobody that is that's ready to go? Were the closest assets truly in Djibouti? Is that where the closest assets were?

Admiral MULLEN. Physically in Djibouti? I think it was between Djibouti and other places in Europe.

Mr. CHAFFETZ. Europe actually had more assets that were closer than Djibouti, correct?

Admiral MULLEN. They were not in a readiness condition to respond.

Mr. CHAFFETZ. And that's what we fundamentally do not understand. Did you talk to anybody who did want to move forward? Was there anybody that you came across that did want to engage——

Admiral MULLEN. Everybody in the military wanted to move forward. Everybody in the military wanted to do as much they can. There were plenty of assets moving. It became a physics problem, and it's a time and distance problem. Certainly that is who we are, to try to help when someone is in harm's way.

Mr. CHAFFETZ. And the fundamental problem is they didn't. They didn't get there in time. I'm telling you if you look at Glen Doherty, you look at Lieutenant Tyrone Woods, they ran to the sound of the guns. There were other people that wanted to go. Like Lieutenant Colonel Gibson I wish you or the ARB had spoken to them, because it is an embarrassment to the United States of America that we could not get those assets there in time to help those people. We didn't even try, we didn't ask for permission, we didn't ask for flight clearances, we didn't even stand up the assets we had in Europe. We didn't even try.

Admiral MULLEN. I disagree with what you're saying, Mr. Chairman.

Mr. CHAFFETZ. You just told me that they did not even get to the ready. They were never asked. You presided as the Chairman of the Joint Chiefs when we bombed Libya for months we did so in connection with our NATO partners and you never asked those NATO partners to help and engage that night.

Admiral MULLEN. I actually commanded NATO forces, and the likelihood that NATO could respond in a situation like that was absolutely zero.

Mr. CUMMINGS. Mr. Chairman, I would ask that Ms. Speier be given an extra minute and a half so that she can clear up some of what you just said which we on this side of the aisle consider to be misleading.

Mr. CHAFFETZ. I take exception to the last part, but the gentlewoman is recognized.

Ms. SPEIER. Thank you, Mr. Chairman.

You know, I am so outraged by the conduct of this committee today. There is 83 years worth of service to this country by these two men, and they are being treated shabbily, and I apologize to you for what I find to be just totally unnecessary.

We are trying to get the facts. We are trying to prevent this from happening again, and badgering you does not achieve that goal.

Now let me also point out that there has been a classified briefing, Mr. Chairman, on the whole issue of whether Lieutenant Colonel Gibson was told to stand down. It was an Armed Services Committee subcommittee meeting, I was there at it. There was a press release that was put out by the subcommittee after that classified briefing. And I want to read to you what was posted.

During the attack, Colonel Bristol was traveling in Africa, unreliable communications prohibited him from participating in the at-

tack response beyond an initial conversation with Lieutenant Colonel Gibson and Rear Admiral Losey. Colonel Bristol confirmed to committee that in his role, he gave lieutenant Colonel Gibson initial freedom of action to make decisions in response to the unfolding situation in Benghazi. Lieutenant Colonel Gibson previously testified to the committee that contrary to some reports, he was at no point ordered to stand down but rather to remain in Tripoli to defend the American embassy there in anticipation of possible additional attacks and to assist the survivors of the return from Benghazi. Colonel Bristol confirmed this account of events.

When, I ask, will we ever listen to the facts? This came out of the subcommittee of the Armed Services Committee chaired by a Republican colleague. These are the facts.

Let me move on and ask Admiral Mullen a question as well.

Another allegation has been made by many Republicans including that the military should have sent the F–16s or other fighter planes to fly over Benghazi. I think that was a series of questionings from just prior to mine. Mr. Issa stated on national radio you still have to say why weren't there aircraft and capability headed toward them at flank speed, and the next time this happens can we count on this President and Secretary to actually care about people in harm's way as they are being attacked by al Qaeda elements?

There are some things wrong with this statement. And I don't know where to start but how about this. Do you agree the President of the United States and Secretary of State: "do not care about people in harm's way?"

Admiral MULLEN. I do not agree with that.

Ms. SPEIER. With respect to flying jets over Benghazi, page 32 of our report includes an excerpt from your interview transcript where you explain that these planes would have needed refueling maybe twice en route, is that correct?

Admiral MULLEN. That's correct.

Ms. SPEIER. That is basically the same thing General Dempsey, the current chairman of the Joint Chiefs of Staff said in his testimony 4 months earlier before the Senate Armed Services Committee is that correct?

Admiral MULLEN. That's correct.

Ms. SPEIER. After conducting your own independent review of the military assets, did you reach the same conclusion as General Dempsey?

Admiral MULLEN. I did.

Ms. SPEIER. In fact, on Page 31 of our report, we quote from your interview transcript, there's no one I've ever met in military that wouldn't want to get help there instantly. The physics of it, the reality of it, it just wasn't going to happen for 12 to 20 hours. And I validated that in my review when I went to the Pentagon to look at every single asset that was postured in theater including those jets in Aviano, is that correct?

Admiral MULLEN. Correct.

Ms. SPEIER. So Admiral Mullen, both former Secretary Gates and former Secretary Panetta raised other risk-based concerns about sending aircraft to fly over Benghazi on the night of the attack. Are you familiar with their concerns and do you agree with them?

Admiral MULLEN. I am familiar with their concerns, and you always have to assess the risks in a situation like that. My own experience is that certainly our military is prepared to go into high-risk environments if they're able to do that. There was an awful lot that night back to what we've talk about, that precluded that. It wasn't for lack of the desire to do that or help someone in harm's way.

The other thing I would talk briefly about is the whole issue of the situation under, the circumstances in which Tyrone Woods and Glen Doherty actually gave their lives and in fact, they were killed in a very—they had just relieved two individuals on top of the building. Shortly after that, there were three mortar rounds that landed very accurately in a very short period of time in the middle of the night from a place nobody really knew where that mortar fire was coming from. And that is how they lost their lives in the end.

So even the likelihood that we could have provided some kind of overflight over a long period of time, the likelihood that that would have somehow sorted out that mortar fire is virtually impossible.

Ms. SPEIER.I thank you gentlemen for your service and to the families of those who lost their loved ones.

Mr. CUMMINGS. Would the gentlelady yield 30 seconds?

Ms. SPEIER. Yes. I yield.

Mr. CUMMINGS. Mr. Chaffetz asked you about a number of people that you said you did an interview. Would either of you comment on that? How did you choose who you interviewed?

Admiral MULLEN. I think we both can quickly. We basically, as we started the interview we took, we essentially took the process and those we would interview based on the facts as we uncovered them over time, and did not feel, I did not feel compelled to interview the chain of command in South Africa. I understand that chain of command. I know what happens. I know Losey. I know where he was and I know what they were doing that night. I just didn't feel compelled to do that. And I was very comfortable, as I've said in my opening statement, we interviewed those we thought we needed to interview.

Mr. CHAFFETZ. The gentlewoman's time is expired. We'll now recognize the gentleman from Michigan, Mr. Walberg, for 5 minutes.

Mr. WALBERG. Thank you, Mr. Chairman.

Mr. Sullivan, the ARB report discussed stovepipe to discussions by the State Department regarding decisions on policy and security.

My question to you is what can be done to ensure these security decisions are not stovepiped and that the individuals making the decisions have access to the necessary security information.

Mr. SULLIVAN. Thank you, Congressman. One of the things that we had recommended that I mentioned earlier was to create, to elevate the assistant secretary for diplomatic security to an under secretary level. As I'm sure you know overall, the Secretary is in charge of security for the Department, and that authority is delegated down to the Assistant Secretary. What we found is that that has led to a little bit of some confusion. When we spoke to people in the embassies, to the ambassadors, to the RSOs, to the deputy chief of mission, it seems like the lines of communication, the lines

of authority, accountability are pretty well understood. What we found is at the headquarter level that was not as well understood.

So we believe that by creating this new under secretary, there will be clear lines of authority that the under secretary in our view would be involved in the policy decisions with the under secretaries and we believed that that would go a long way towards creating clearer lines of communication.

Mr. WALBERG. Thank you.

Mr. Keil, the best practices panel found that it is common across many industries to have a hot wash or after action debriefing of key participants in a critical event.

What is the purpose of a hot wash?

Mr. KEIL. Sir, I think, and as Admiral Mullen says that typically happens at the Department of Defense also. It is to gain critical information as quickly as possible before memories start to fade.

Mr. WALBERG. Does State Department have a hot wash?

Mr. KEIL. We did not find any process for after action or hot wash at the State Department.

Mr. WALBERG. So there is no lessons learned process at the Department of State?

Mr. KEIL. We did not find a lessons learned process no.

Mr. WALBERG. In your opinion, what should the Department do to create an effective lessons learned process?

Mr. KEIL. I think they need to do a lessons-learned process from a tactical and strategic perspective, a lessons-learned process within the Bureau of Diplomatic Security and a broader enterprise wide lessons learned process for the Department to gather that critical information as quickly as possible, wrap it back into operations, wrap it back into training.

Mr. WALBERG. Any indication that that's being done?

Mr. KEIL. Not that I know of.

Mr. WALBERG. Thank you. Admiral Mullen, again, with all due respect, and this is a rhetorical question, you've answered it already, but I just wanted to ask this question to bring the context back again, and that question is, why should we not conclude that a heads up, as you indicated, is not a desire to coach a witness or an action, especially in the context of an independent panel such as the ARB?

Admiral MULLEN. The only thing I would say is the intent was to get the best possible witness identified for the State Department.

Mr. WALBERG. Again, with all due respect, again, an independent panel coaching a witness, I don't think we conclude anything else from that.

Admiral MULLEN. Well, I didn't coach—there was no coaching that was ever discussed.

Mr. WALBERG. Ambassador Pickering, why did the board decide not to administer oaths to those testifying before the board?

Ambassador PICKERING. Because no ARB had done that in the past, and we had no reason to believe that we would not get truthful testimony.

Mr. WALBERG. So this was consistent with the practice of previous ARBs?

Ambassador PICKERING. Yes, Mr. Walberg.

Mr. WALBERG. Why were interviews then not recorded or transcribed?

Ambassador PICKERING. Interviews were recorded on the basis that the, if previous ARBs had followed, in addition, it was a pattern that interestingly enough the Federal Bureau of Investigation adopted in its reports as well. We felt it was more than sufficient to record the critical and key points that we would have to take into account in preparing our report on recommendations——

Mr. WALBERG. Could you see a benefit in adopting this practice, especially in the context that this panel has found it almost impossible to get full information on making decisions on our own, regardless of what the other side of the dais says.

Ambassador PICKERING. With deep respect, there is a difference between your access to documents and the question of the type of documents that should be prepared.

Mr. WALBERG. What do you mean by that?

Ambassador PICKERING. I don't believe that transcribed interviews would have created the kind of attitude and approach of give and take which we found with the witnesses, which was particularly useful and relevant. I think that the formal process, in fact, of taking a transcription is, in some ways, inhibiting of the kind of information we were soliciting, the kind of views we wanted to get, and the broad and open character of the kind of approach we were taking.

Mr. WALBERG. Well, I appreciate that, but more importantly, the American public and this panel doesn't feel like we have that access to information necessary to make good decisions about the movement forward, and we talk about stovepipes, we talk about hot washes, and all of these things that are done at other levels of government, other agencies, other industries, and we here have information lacking to us because there is not information that we can read or bring out to the American public.

Chairman ISSA. [presiding.] Mr. Walberg, I will assure you that this committee will not have chummy discussions that are friendly and cordial in lieu of the kind of interviews that we make available on the record. We will continue to use our process even if others thinks that conversations unrecorded are important and I thank the gentleman.

Mr. WALBERG. Mr. Chairman, I appreciate that. I understand that you will do that. We needed that from this panel, and the American public deserves it, and especially the families sitting in this room and not deserve that information. Thank you.

Chairman ISSA. I thank the gentleman. The gentleman from Pennsylvania.

Mr. CUMMINGS. I ask the gentleman be given an extra minute and a half.

Chairman ISSA. The gentleman is recognized.

Mr. CARTWRIGHT. Thank you, Mr. Chairman, thank you Ranking Member Cummings, and thank you, Ambassador Pickering and Admiral Mullen for coming back. Both of you testified at prior proceedings, closed-door deposition, recorded interviews. I had the privilege of helping conduct some of that questioning, and so we've spoken quite a bit at length already and I thank you for coming back again today on this terribly sad chapter in American history.

I'm going to start with you, Ambassador Pickering. In your deposition that you had with the committee, you told us that to the best of your knowledge "no other ARB was so extensive and far reaching in its findings of personal responsibility or personal accountability, or made such far reaching recommendations at such high levels in the State Department."

Now you also told us that in writing this report, you didn't want to "pull any punches" and you felt that "you had a serious obligation under the law and from the Secretary to do that." But you also explained that you were "deeply concerned" that previous ARBs "had been excellent in their recommendations, but that through the follow-through had dwindled away" as you said.

Ambassador Pickering, my understanding that Secretary Clinton immediately adopted all 29 recommendations in the ARB report, and that the State Department is making progress on all of them. Is that true?

Ambassador PICKERING. Yes, Mr. Cartwright, to the best of my knowledge I believe they are. It was testimony I understand yesterday to that effect as well.

Mr. CARTWRIGHT. And Ambassador Pickering, I gather you believe that, if implemented, your recommendations will make U.S. Facilities abroad and the people that serve in them safer?

Ambassador PICKERING. Yes, we believe that is the case, Mr. Cartwright.

Mr. CARTWRIGHT. Would you take a few moments and explain to us how the recommendations will make us safer?

Ambassador PICKERING. They will in the cases of posts, particularly like Benghazi, stop the personnel churn which allowed such deficiencies to develop both in continuity and focus and size of personnel.

We believe they will provide a better system for the decision making with respect to the improvement of physical security by the application of higher standards. We believe that the training programs that we recommend will improve the capacity of both security specialists and non-security specialists to know and understand how to, in fact, operate more effectively. We believe that the serious discrepancy between fire safety preparations and security safe havens illustrated in Benghazi will be ended, and that there will be appropriate equipment to deal with fire safety in safe haven areas.

Those are just a few, Mr. Cartwright, of what I think are the most salient points.

If I could ask permission just to make one brief statement, the chairman just implied that our interviews and our work was not recorded. And the chairman knows and I know that that is not the case.

Mr. CARTWRIGHT. Thank you, Ambassador. And Admiral Mullen, I want to give you a chance to weigh in on this question as well.

Admiral MULLEN. Well the only thing that I would add to that is with the immediate establishment inside the NEA bureau, if somebody at the senior office—the senior individual with respect to diplomatic security with the establishment of a separate the Diplomatic Security Deputy Assistant Secretary specifically focused on high threat posts.

And to Chairman Issa, one of the things that I thought was helpful in your report was this focus on expeditionary diplomacy. And if I were to give you an example of expeditionary diplomacy, it would be in places like Benghazi and quite frankly, in consulates in Iraq and Afghanistan and places like Pakistan that we all need to focus on to make sure that we do all the balance, the need to be there, and be there in a secure way as absolutely possible.

So I actually think that the changes that were recommended will have a substantial impact on how the State Department moves forward, how we move forward as a country in these very difficult times.

It's changed since the ARB of 1998 and 1999. The world has changed and we need to adapt to that and in many ways, in many ways, we have.

Mr. CARTWRIGHT. Well, I thank you for that gentlemen and I yield back.

Chairman ISSA. I thank the gentlemen. And just to make the record clear, Ambassador, we will disagree on what a record is. This committee makes an accurate, verbatim record to the greatest extent possible just as the transcription is being done today which is different than the impressions in a diplomatic note. And I appreciate the fact that the diplomatic service looks at dit notes which are impressions of what was said as a record, and I know it is helpful, but it is a very different standard in investigations and one of the things that this committee is considering and, Mr. Cartwright, I hope that you appreciate it too is that the level of record, of any investigation done of any incident no matter what part of government, needs to be considered for how it will be recorded.

That is not to disparage you or the history of how they've been done. We appreciate, at least I appreciate, that you recorded as per, if you will, your 40-plus years of history and ARBs. What we are viewing and Mr. Walberg was viewing is more how we do it. And I will assure you that if the FBI were investigating the death of four people, they would tend very much to want a very accurate record, which is what we are looking for, Ambassador.

Ambassador PICKERING. Well, they can speak best for themselves but our impression has been that the type of recording they provided to us in connection with their investigation of four dead Americans was very much along the lines that we were preparing for our own use. Admittedly and reasonable people can differ, investigations and reviews sometimes have a different context and a different purpose.

Chairman ISSA. Thank you, Ambassador.

And we now go to the gentleman from Arizona—I'm sorry the gentleman from Oklahoma, Mr. Lankford is there. Mr. Lankford.

Mr. LANKFORD. Thank you. And thank you to all of you.

You've done a tremendous amount of work and a tremendous amount of preparation both for this hearing, but obviously for a lot of the reports and everything that you've done and the hours that you've spent for it, I want you know we appreciate that very much, and what you've taken on, the scope of it.

My line of questioning is just trying to gather a group of facts as we know it at this point, again, to try to zero in on some of the

things you're trying to accomplish what do we do to not have this repeat again in the days ahead.

Would you agree we had an overt dependence on Libyan security that night and the security team that was local that was not sufficient for the task and that we had an overdependence on them at that point? Anyone can answer that.

Ambassador PICKERING. Yes.

Mr. LANKFORD. Would you agree we did not have a sufficient number of our own armed security forces on the ground? We had a larger number before of DOD personnel over there. They were obviously removed, their task as it was done they normalized, as I've heard several folks say, both Charlene Lamb and Ambassador Kennedy said they wanted it normalized, that we did not have a sufficient number of armed security there that night?

Ambassador PICKERING. I believe the answer to that is yes, but your implication that "DOD was anywhere around Benghazi at that time" is a mistake.

Mr. LANKFORD. No, I'm talking about prior to that, were DOD personnel there in August?

Ambassador PICKERING. DOD personnel served a few short periods in Benghazi, but their assignment was in Tripoli, their work was in Tripoli, and their majority was always in Tripoli.

Mr. LANKFORD. Did they travel with the Ambassador when he went to Benghazi or would they have traveled with him?

Ambassador PICKERING. No.

Mr. LANKFORD. Because the testimony that we had received is that they would have assigned some of those folks to travel with the Ambassador——

Ambassador PICKERING. The Ambassador took two Benghazi, two Department of State security agents with him.

Mr. LANKFORD. Right, because they didn't have other folks that were there to be able to travel. Those twelve individuals had already left.

Admiral MULLEN. I think it's really important, this is the SST, I think it's really important to focus on what the SST's mission was, and over the period of time when they were there for many, many months, over that period of time, the vast majority of their mission was training. They did take a couple of forays out to Benghazi, they did make some security recommendations, and from that perspective, they certainly provided some input with respect to security. But my own view is, I think it's a reach to think that they would have been there that night.

Mr. LANKFORD. Fair enough. Did we have adequate diplomatic security there that night?

Ambassador PICKERING. The answer to that I already gave you. No.

Mr. LANKFORD. Thank you for that. The facility, did it meet the standards set, the Inman standards after the 98 the facility in Benghazi?

Ambassador PICKERING. No certainly not. It didn't meet any of the standards that were set for Department of State folks.

Mr. LANKFORD. Do you know how many posts that we had worldwide? At that time? Obviously, that has changed dramatically as

it should. How many posts did we have worldwide at that time that didn't meet that minimum standard?

Ambassador PICKERING. I'm only guessing but somewhere between one-third and up.

Mr. LANKFORD. A third of our posts did not meet the standards at that time?

Ambassador PICKERING. Yes.

Mr. LANKFORD. So 260 or so posts worldwide and you're saying a third of those didn't meet the standard set in 1999?

Ambassador PICKERING. That's my best understanding.

Mr. LANKFORD. Is there a certain——

Ambassador PICKERING. Could I just say, Mr. Lankford, one of our principle recommendations was that the Inman building building program recommended in the Nairobi Dar Es Salaam ARB 10 years before had dwindled away, and that it needed to go back to 10 a year at a cost beginning in 2015 of $2.2 billion a year, and that's in recognition that probably among those that don't meet standards, there are urgent high threat, high-risk posts perhaps that ought to get priority in that program.

Mr. LANKFORD. What about the high-risk posts? How many posts would you consider high risk high threat at that time?

Ambassador PICKERING. At the time of Benghazi, the Department of State with the Department of Defense had an emergency review of 19 posts, including visits to them, which I believe was their judgment about what was high risk, high threat at that time.

Mr. LANKFORD. Is there any special chain of authority to have actual personnel there, any differences in the high risk high threat? Who makes the decision putting personnel there and what the security is there?

Ambassador PICKERING. Yes, there is, and the decisions were made at the place that we identified, the Deputy Assistant Secretary in Diplomatic Security makes the primary decisions, that her bosses are the people who oversee and review that activity.

Mr. LANKFORD. So that would be Charlene Lamb, Patrick Kennedy, would that go up to the Secretary of State's Office who would have to sign off on that?

Ambassador PICKERING. No. And they don't go to the under secretary for management unless there is a dispute and then they do go to him for resolution.

Mr. LANKFORD. You had mentioned before as well that night or Admiral Mullen had actually that night there was no one on the ready to be able to respond militarily.

Admiral MULLEN. Correct.

Mr. LANKFORD. Did you discover if there was a contingency plan? Obviously, we are in a high-risk location, Libya is in a civil war just coming out of that, did you see if there was a contingency plan for a response in case there was an emergency?

Admiral MULLEN. I'm not aware. I don't think there was one, and I'm not aware if there was.

Mr. LANKFORD. Is that something that we should recommend in the days ahead?

Admiral MULLEN. It goes back to available assets and what are you going to focus on and what the priorities are.

Mr. LANKFORD. Sure I would say you take high risk locations. There's a relatively small number that are high-risk locations. Should those locations have a contingency?

Admiral MULLEN. Well, 19 is not a small number when you start talking about forces. So how are you going to make those decisions and distribute your forces? It is a worthy discussion, and I know that the Pentagon and the administration has recalibrated that as a result of Benghazi. But it's not an infinite resource and so you can't get them everywhere.

Ambassador PICKERING. If I could just add, Mr. Lankford, the first line of defense is the local government.

Mr. LANKFORD. Right, which was not sufficient.

Ambassador PICKERING. The second line of defense is our resources in place and those are the things we concentrated our attention on. As you know, the Department of State is assigned an additional number of marines and an additional number of security officers. They've come to you for that support, I hope they get it, I believe it is going ahead.

Mr. LANKFORD. And that was our concern as well that obviously the Libyan militia was not sufficient. We know that clearly now. We didn't have a high enough number of diplomatic security personnel. The facility obviously did not meet the minimum standards. It was listed as a high-risk facility, and we seem to not have a contingency plan. The difficulty is it appears that the individuals that were there were very naked, and we understand our diplomatic personnel around the world always take risks on it, but they seemed to be particularly exposed in this particular location.

Admiral MULLEN. The only other thing I would add to that, and I mentioned this in my closed statement is that it was the deterioration of the numbers and the upgrades over time, over the course of that many months, that essentially did not prepare that Benghazi compound from a deterrent standpoint. But it was very significant, and had we had two or three times the number of people in place that night from a security standpoint, I'm not sure that a mob, a terrorist mob like that that they could have done much, but what we also lost by watching the numbers deteriorate and not upgrading it, we lost any kind of deterrent capability so that the enemy would think twice about whether they would do something like that.

Chairman ISSA. I thank the gentleman. The gentleman's time is expired. And I thank the Admiral for including the portion of this that talks about if you have a strong force, you often don't get attacked, and that may have been ultimately the greatest benefit of additional forces.

We now go to the gentleman from Wisconsin for 5 minutes.

Mr. POCAN. Thank you, Mr. Chairman. And thank you to the witnesses. I appreciate you being here today.

As one of the newer folks around here, I know when I signed up for this, even though I served in the legislature for about 14 years, I knew it wasn't exactly going to be Mr. Smith Goes to Washington, but I also didn't expect Groundhog's Day. And I have to admit I feel a little bit like I'm watching another copy of Groundhog's Day.

We've had I think 12 Congressional hearings on Benghazi, three in this committee that I've been on. There are three this week

alone in the House. I know that I sat through part of a closed deposition with Ambassador Pickering, and for several hours where we asked some questions. We've gone through extensive conversations about Benghazi. And I think sometimes in the bubble that's Washington having just come from outside the bubble, where real people were, before I got elected, I think sometimes it's odd that members, we think that we know more by visiting bases than someone who has been, perhaps, the chairman of the Joint Chiefs of Staffs.

And I guess what my questions specifically are, kind of following off Mr. Cartwright, what I'm most concerned about is what we're doing to make sure this never happens again, to make sure that we are actually honoring the lives of Sean Smith and Tyrone Woods and Glen Doherty and Chris Stevens by making sure that their friends and co-workers and the people who work across the world for us in those 270-plus locations that we talked about don't have to face another Benghazi, and what we can do to make sure of that.

And I think that is, by far, the most important thing that we can do, and I know that Ambassador Pickering you specifically said you want to make sure this never happens again.

And part of what the reports, both reports have outlined there are a number of recommendations, I think one of the areas perhaps that we've been remiss on is Congress, in my opinion, and having come from the outside spending more time out there than here is that we don't talk about what Congress has to do. This Congress has been pretty much failing to get much of anything done.

But I think when you look at the recommendations that came in your report and most recently in the newest report there are specific things that Congress should be doing to make sure that we protect our embassies in other locations across the world, and I think we're remiss in doing that. And I think what our job really should be is rather than poking and poking and hoping to get a gotcha, which I think sometimes happens too often in Congress, let's figure out what we're doing to make sure this never, ever happens again and honor the lives of the people who lost their lives.

So if I can ask specifically, Ambassador Pickering, you talked about the fact that State Department immediately accepted those recommendations, and in the process of implementing them, how about the recommendations you had for Congress recommendation Number 10, have we moved at all on the recommendations that we've had for Congress to make sure that we are protecting our facilities across the world?

Ambassador PICKERING. I believe that on a couple of the recommendations that were made of an emergency character after the visit to the 19 posts I spoke about a minute ago with Mr. Lankford, there have been moves by Congress. It has not been, put it this way, our brief or our responsibility to do the follow-up to the report. There are a number of our recommendations which have to be translated into legislation or legislative proposals. And on that, we rely on the State Department and the budget process to proceed to you so I think that in effect, the Congress in this case is not being asked independently to take initiatives, but hopefully to support the executive branch's recommendations to take our ideas and put them into action.

Mr. POCAN. So by Congress not moving a budget, kind of living on continuing resolutions as we have for the last 4 years, we really haven't had a chance to address the very recommendations that I think you have made in this report.

Ambassador PICKERING. And I don't know, sir, whether these will be sups of 2014, 2015, proposals or not. That really comes beyond our responsibility, and I would hesitate at this stage to try to give you a thought when I don't know.

Mr. POCAN. Thank you. And it's my hope, Mr. Chairman, that at some point as we continue, and I know we will continue to talk about what happened in Benghazi and it's a tragic incident, that we will really focus on, I think what Congress can do best, which is how do we make sure what do we do to make sure nothing happens like this again.

So as much as I know we keep looking backwards, I think there is a reason why our eyes are in the front of our face and not the back of our head, because we actually have to figure what we're doing to make sure that this doesn't happen to those other 270 facilities, so we honor the lives of the four people who lost their lives, and I would hope, and I am hopeful that that's where we'll be moving in the future.

Chairman ISSA. Would the gentleman yield?

Mr. POCAN. Sure, I yield.

Chairman ISSA. I'm sorry you weren't there on the CODEL in January where we actually saw some of the changes that were made post 9/11 in Morocco and Algeria. And I'm sorry you didn't get to see the facility in Lebanon which is, of course, is famously not Inman compliant, but has several hundred people who guard it with armed weapons, including heavy machine guns because there's an awful lot that has to be considered in addition to the question of dollars. But if you're available, along with Ms. Duckworth, I would love to have you go on the next trip to the region and we can begin looking at what recommendations we could help with.

Mr. POCAN. Mr. Chairman, I think that is a great suggestion. I would love to do that. I just looked at what just happened was we looked at what we might do in Syria, and what was one of the first things that happened was we were contacting people in embassies and countries around it putting out warnings to make sure.

So we know there still is an imminent threat out there in certain regions of the world, but what I don't see us doing is addressing that part of what Congress' responsibility, what can we do about it to make sure it doesn't happen again rather than continuing to look backwards. And I'm really looking forward to the conversations we have that are forward looking to make sure we protect our people who work across the world for us.

Chairman ISSA. And one of the challenges we do have, you mentioned Syria, the Ambassador's residence in Syria is basically right on a street with glass windows, and you look out on people going by. And it hasn't been selected historically for an upgrade for a number of reasons, mostly host nation support.

It's one of our challenges. And if you're lucky enough to ever get to Dublin which you'll discover there is that our embassy is on an

intersection of two streets where the windows can be broken inadvertently by a rock being popped up from a truck going by.

So we do have a lot of facilities around the world and the complexity of it is important I think today when we look at a situation in a country that might have been more similar to Afghanistan or Iraq in Benghazi on September 11th, there's a different consideration, and hopefully that is part of what Foreign Affairs will look at in detail. But I look forward to having you on our next trip.

And with that we go to the gentleman from Arizona, Mr. Gosar, Dr. Gosar.

Mr. GOSAR. Thank you. Mr. Sullivan, the best management practice review panel found that many important recommendations made in the 1999 ARB convened after the Nairobi and Dar Es Salaam bombings were not, in fact, implemented. In fact, you wrote this report was largely ignored by the Department and did not receive wide circulation within either the Department or DS at the time.

Many of the senior officials involved before, during and after the Benghazi attacks, including the ARB, held senior positions within the Department prior to and after the 1998 attacks.

At the time, Thomas Pickering was the Under Secretary of Political Affairs, Patrick Kennedy was the Acting Assistant Secretary for Diplomatic Security, Susan Rice was the Assistant Secretary for the Bureau of African Affairs.

What did your best management panel recommend to ensure that the State Department would actually implement the recommendations set forth in your report by the Benghazi ARB?

Mr. SULLIVAN. You know, Congressman, what we thought was that it's really important that this be an enterprise-wide initiative, that everybody has to be involved in this and everybody has to understand what their roles are.

We talked about how important accountability is, and we didn't look at accountability as a negative, we looked at accountability as a positive as an enabler.

So we just felt that, with these recommendations, I can't speak to what happened in the past, but we do believe that this is not just about the office of diplomatic security but it's about department-wide and everybody knowing what their responsibilities are and what their accountability is, and that everybody work on this together. For example, risk management, you know we believed that, you know, having a formalized risk management model is something that is very important, and again, not just for the Department of Diplomatic Security, but also for the whole enterprise.

Mr. GOSAR. Mr. Keil, would you agree with that?

Mr. KEIL. Certainly, Congressman. I think Mr. Sullivan hit on a fundamental issue. We were talking previously about the facility in Benghazi, how high the walls were, if there was any blast resistance, how many agents were there. Those tactical things are important but the fundamental issue comes down to if the State Department does not have a risk management process to determine and make informed decisions, should we be in some of these places with a full understanding of the risk? That's what our panel found.

Mr. GOSAR. So let's go back on, so will regular best management panel evaluations be conducted to ensure that the recommendation

set forth in your report and that the ARB recommendations will be followed?

Mr. KEIL. Right. That is part of the ARB recommendation that created our panel, it called for regular re-evaluation.

Mr. GOSAR. And I guess what I'm coming back to is accountability, right? And part of that accountability could be part of Congress' duty, would it not?

Mr. KEIL. Definitely. Obviously, some of the recommendations are going to take Congressional action.

Mr. GOSAR. And I'm a private sector guy, so this mortifies me what I've just seen here because accountability is very implicit, I mean, you're going to have a stack of attorneys, you're going to have depositions, you're going to have transcripts, and you don't get a go pass go and collect $200 it doesn't work in the private sector.

So from the standpoint of the records that we've been talking about at this ARB, the State Department is withholding those interview summaries that have come out because there are no transcriptions, but there has been a recorded log.

In order for Congress to do its job, we should have access to those, should we not?

Mr. KEIL. I think that's probably a question more for Admiral Mullen and Ambassador Pickering.

Mr. GOSAR. I'm asking you.

Mr. KEIL. Yes, I believe so.

Mr. GOSAR. How do you feel about that, Mr. Sullivan?

Mr. SULLIVAN. I would agree that if these are documents that Congress is entitled to, that they should have them to review as well.

Mr. GOSAR. How about that, Admiral Mullen?

Admiral MULLEN. Again, I have a longstanding history in terms of providing documents when requested, and I think it's something that's got to be worked out between the Hill, the administration——

Mr. GOSAR. No, no, no, no, it doesn't need to be worked out. It's our due diligence, sir. I mean, accountability, I mean, I'm talking to a man who is very accountable, and through his whole lifetime has been that way. And the mantra in this place in this Beltway needs to change. There needs to be accountability. That is why I would hope that you would genuinely come forward and say, absolutely, those records should be turned over.

Admiral MULLEN. I have lived my life focusing on accountability, and I feel very strongly about that.

Mr. GOSAR. I would expect you to say absolutely yes, that those records should be turned over to Congress. I mean, from what I've ever seen and I've ever heard of you, that you would say absolutely, accountability and transparency should be there. And I personally, you, Admiral Mullen, would see it right to turn those records over.

Admiral MULLEN. I have, believe me, I'm right where you think I am with respect to accountability. The issue of the specifics of what's inside that has to be worked out, specifically, with respect to records. I mean, I've been in departments that for reasons, whatever the reason is, they don't provide or take a long time, and I'm

not privy, quite frankly, to the specifics of why those are not being provided right now.

Mr. GOSAR. So you don't like the status quo?

Admiral MULLEN. No, no, I think that what where we were in the ARB was to try to get to the best position we could with respect to accountability, driven by the law, quite frankly——

Mr. GOSAR. I understand but part of that accountability is the oversight of Congress, and part of the oversight of Congress for implementation, because we've seen this timeline of ineptitude of implementing these, actually these discussions from previous actions. And part of that is that we're not getting part of the records to actually have that oversight, because legislative is not just budgets it's also about this——

Chairman ISSA. The gentleman's time has expired.

Admiral MULLEN. I think oversight to ensure implementation and execution in the long term makes a lot of sense.

Chairman ISSA. I thank the Admiral. With that we go to the gentlelady from Illinois, Ms. Duckworth.

Ms. DUCKWORTH. Thank you, Mr. Chairman. Ladies and gentlemen, in the Army, our soldiers live by a creed and a warrior ethos that begins with, I will always place the mission first, I will never accept defeat, I will never quit, and I will never leave a fallen comrade behind.

I believe that all of our personnel in Benghazi and in Tripoli lived, and in the case of our four heroes, laid down their lives as warriors on that day. That said, Admiral Mullen, I think the Navy has something similar to the warrior ethos, but the Navy's version of it.

I want to go back over what we've talked about today, and ask you to just briefly answer my following questions and I'm going to give you some time to speak towards the end.

First as to the allegation that the four-man team in Tripoli was ordered to stand down, there was no such order. The team was directed to provide security and medical assistance in Tripoli. Is that correct?

Admiral MULLEN. That's correct.

Ms. DUCKWORTH. With respect to the allegation that the military could have flown aircraft over Benghazi in a matter of hours, in fact, they would have needed tankers to refuel them and those tankers were many more hours away, is that correct?

Admiral MULLEN. That's correct.

Ms. DUCKWORTH. In terms of the allegations by unidentified person who claims to be a special operator that a European Union command special forces team could have prevented the attacks in Benghazi, that is also incorrect, according to your review and the review of General Dempsey?

Admiral MULLEN. That is incorrect. That is, what you're saying is correct.

Ms. DUCKWORTH. Thank you. Admiral Mullen, I really don't understand this because you know it used to be that when our Nation came under attack, we would rally together and especially, especially around our men and women in uniform. And the allegations that anyone in the military in the uniform on that day would ever do anything other than their very best effort to come to the assist-

ance of the men and women in Benghazi and in Tripoli troubles me.

You yourself have commanded a gasoline tanker, a guided missile destroyer, a guided missile cruiser, you've commanded a cruiser destroyer group and the United States Navy Second Fleet. I would suspect that if you could have personally done anything to get there, you would have yourself based on your extensive military experience.

Admiral MULLEN. I certainly would have.

Ms. DUCKWORTH. Admiral, during your interview, you addressed this exact line of questioning, on page 32 of our report, you explained how these accusations affect our military service members. And this is what you said. "The line of questioning approached here for those of us in the military that we would consider for a second not doing anything we possibly could just stirs us to our bones because that's not who we are. We don't leave anybody behind." Did you say that?

Admiral MULLEN. I did.

Ms. DUCKWORTH. So Admiral, what do you say to those, such as my very passionate colleague from Utah who continue to question the integrity, the professionalism and the motives of our military commanders and our men and women in uniform? You can take as much of my remaining times as you would like.

Admiral MULLEN. One of the things that has been evident in this review and certainly even in Congressional testimony for former members of the military and indeed serving foreign service officers is the, that you see is the frustration with the inability to deliver that night. And I think it's universal. And I can see it in the, along the lines of questioning. And I understand that.

I led a force for many years. No one I ever knew in that force that wouldn't give their life to try to save those four individuals. And including myself. So that every—which is one of the reasons I paid so much attention to what could have happened that night from a military standpoint and looked at it as I indicated twice.

There really was a time distance physics problem that would have prevented us from getting there for what seems to be an extraordinary amount of time. But as I indicated earlier in particular with the F–16s, for example, there are very real requirements in order to do that, not even getting to the point of how do you mitigate the risk. And believe me, the military's willing to go into high-risk places. It just wasn't going to happen in time.

What is, to some degree, a little bit ironic in all of this, is at the compound, we lost two great heroes and we talked tonight, or today about the fact that they weren't very well armed, that the security posture wasn't there at all, as it should be, and I think rightfully so, have criticized that. At the other compound, we actually had a compound that was incredibly well armed, incredibly well defended and yet somehow back to this mortar fire in the middle of the night we lost two people which speaks to the challenge that you have creating security in every circumstance, and those two heroes again were individuals had come from a force that I know well. So there is no one I know in the military that didn't do that night all they could and wouldn't do all they could to save those people.

Ms. DUCKWORTH. Admiral, thank you. Can you say that the military has learned some valuable lessons from that day and is doing a better job now of considering what we should do in the future in terms of our force posture?

Admiral MULLEN. Again, my—as far as posture is concerned, I know that the forces have been repostured, specifically in that part of the world, although I don't know the details and that was a lesson that was learned and put in place immediately after it happened.

Ms. DUCKWORTH. Thank you very much. And again, thank you for your many decades of service.

Chairman ISSA. If the gentlelady would allow me a very quick follow up on what exactly what you're doing.

Admiral, you're aware of the commandant's initiative in Sigonella and its response capability, are you not?

Admiral MULLEN. Yes, sir, I am.

Chairman ISSA. And that would be an example of a direct response where the Marines have taken existing assets, repositioned them for a very different response.

Admiral MULLEN. Yes, but—not but, to what was discussed earlier, particularly with the CR, I have probably too much expertise and history in the budget and programming world that under, there are some new initiatives coming, at least recommended, and at least as best I can recall, you can't start new programs under a CR.

So, for instance, the additional force that the Marine Corps is asking for to create an expanded security force at embassies around the world that has to be funded, and it's got to be funded pretty quickly given the risks that are out there. I don't know if you can do that in a CR, somehow make exception because of the priority of that.

Chairman ISSA. I do know that Chairman McKeon has every intention of trying to make sure there is a regular order where some of these things can be done, and I appreciate it Admiral.

And with that, we go to the gentleman from Pennsylvania, Mr. Meehan.

Mr. MEEHAN. Thank you, Mr. Chairman.

And Admiral, I want to thank you for your distinguished leadership of our military, and Ambassador Pickering, I want to thank you for your long and distinguished career in the best boat and tradition of a Joshua Chamberlain, but I also have responsibility here, and it's in that capacity of oversight that I ask you questions.

And I'll begin my questioning with the legal premise that under the Inman principles it is such an important idea that any variation from the security requirements under Inman require the direct nondelegable commitment by the Secretary, him or herself before it can be changed. Now I realize we are not in an Inman type of circumstance, what we are, in fact, is a different circumstance, but your findings, the board that said the key driver behind the weak security platform was the decisions to treat the Benghazi as a temporary residential facility, even though it was a full-time office facility. Is it not correct that Under Secretary Kennedy made that decision?

Ambassador PICKERING. Yes, he made the decision to continue for a year the facility that then existed at Benghazi. I don't know who made any decisions in the course of the transformation between April, 2010 and December, 2012 from a residence to an office and residence to another building.

Mr. MEEHAN. Let me ask at the time that decision was made, was it in conformance with what we call the overseas security policy board standards?

Ambassador PICKERING. It was not.

Mr. MEEHAN. In fact, your findings were——

Ambassador PICKERING. The building did not meet those standards.

Mr. MEEHAN. That the comprehensive upgrade, the risk mitigation plan did not exist, there wasn't a comprehensive security review conducted by Washington for Benghazi in 2012, that that decision was a flawed process, the decision did not take security considerations adequately into place. And Ambassador Pickering, did you interview Mr. Kennedy?

Ambassador PICKERING. Yes, we interviewed Mr. Kennedy.

Mr. MEEHAN. Did you interview Mr. Kennedy?

Ambassador PICKERING. Yes, I did.

Mr. MEEHAN. Did you keep a transcript of that interview?

Ambassador PICKERING. We have a record of that interview.

Mr. MEEHAN. You have a record of that interview. What is the record of that interview? Is that notes?

Ambassador PICKERING. I'm sorry?

Mr. MEEHAN. Is that notes? What is the record of that interview——

Ambassador PICKERING. The record of that interview is notes.

Mr. MEEHAN. Do you expect that that record will be shared with Congress?

Ambassador PICKERING. That's obviously a question that we've discussed here many times. In my view, it is a longstanding issue between the executive branch and Congress into which I will not get.

Mr. MEEHAN. Now when he—when you asked him questions about this, what were his responses when you asked him about the failure to have a risk mitigation plan or any comprehensive security views and all of those others things which you identified when you asked him those questions what were his responses?

Ambassador PICKERING. The simple answer was he was making, according to his testimony, a decision to continue to occupy the real estate. The responsibilities for providing adequate security rested with the Bureau of diplomatic security.

Mr. MEEHAN. Now do you really believe that his responsibility is only to make a real estate decision and he is placing this down on people below him?

Ambassador PICKERING. I believe that he believed that's the decision he——

Mr. MEEHAN. Well you're the person who is asking him the questions. If he believed—I just cited the fact that even the slightest change on the Inman principles has a direct turnover, I mean, the direct requirement of the Secretary of State herself.

Ambassador PICKERING. The Under Secretary for Management and the Assistant Secretary for Diplomatic Security have different roles and missions. The Assistant Secretary for Diplomatic Security is responsible for providing the security.

Mr. MEEHAN. May I ask, you said that he believed, but do you believe that he had a responsibility to look into those factors?

Ambassador PICKERING. I believe that the Assistant Secretary For Diplomatic Security had that responsibility.

Mr. MEEHAN. What was his responsibility then with respect to all of these kinds of shortcomings?

Ambassador PICKERING. To provide the personnel and the security——

Mr. MEEHAN. But the security was not there. It was not being provided.

Ambassador PICKERING. We found that individual at fault for not having done so, Mr. Meehan.

Chairman ISSA. Would the gentleman yield for just a second. To make the record clear, the Under Secretary was in place the year before and the year before and the year before, so the decision to rent that facility in Benghazi was made under the Under Secretary and the diplomatic security head held accountable reports to the under secretary. So why is this merry-go-round between you and the gentleman from Pennsylvania as to whether the Under Secretary had all the authority in front of him, but rather wants to blame the diplomatic security head who reports to him?

Mr. MEEHAN. Well, may I continue?

Chairman ISSA. Please.

Mr. MEEHAN. I want to continue my line of questioning here in particular, because this is the testimony yesterday of Mr. Kennedy before the Foreign Relations Committee. With respect, this is his words, every day we review the threat levels at all the posts of the world. We reach a point where we believe that the mitigation tools that are available to us cannot lower the threat level down, then we close the posts.

He cites an example. We were in Damascus several years ago, and I concluded that given the situation on the ground of Damascus we could not longer mitigate the risks sufficiently. I went to the Secretary of State, and she instantaneously gave me approval to suspend operations in Damascus and pull our people out.

When you asked him what conversations he had with the Secretary of State with regard to the security at Benghazi, what did he tell you?

Ambassador PICKERING. We did not ask him what conversations he had with respect to the Secretary of State——

Mr. MEEHAN. Why not?

Ambassador PICKERING. —in Benghazi. Because we knew and understood that the decision making with respect to Benghazi took place at the level of the Assistant Secretary for Diplomatic Security——

Mr. MEEHAN. But he just said here in Syria in a parallel situation, he consulted with the Secretary of State with regard to this. Not only did he make decisions as you said not just about real estate, but this is his testimony yesterday that he was the one that was making decisions with regard to the points where we believe

mitigation tools aren't effective. And this was, he was assuming this responsibly. He was using this as his shield that this was, I wanted to demonstrate the things that I have done effectively in the past and therefore, don't hold me accountable.

So I am asking why he is not being held to the same degree of responsibility in a place in which you identify yourself that the security reviews were so deficient in so many ways?

Ambassador PICKERING. Because again, we believed after looking at this, the initial decisions were made in the Bureau of Diplomatic Security and reviewed there——

Mr. MEEHAN. But he is the one who made the initial decisions. It moves up. He is the one that is responsible. He made the decision.

Ambassador PICKERING. Not if there is not a dispute about providing the resources necessary to do this.

Mr. MEEHAN. But Ambassador Pickering, you identified 19 separate circumstances of aspects in which there were threats and other kinds of very serious things and he said he monitors it every day. Now what is the discrepancy?

Why wouldn't that be in his attention? Why would this not be brought to the attention where he makes a decision or as he says, he discusses with the Secretary of State the circumstances of that, of Benghazi?

Ambassador PICKERING. Because we believed that responsibility was lodged in the Assistant Secretary For Diplomatic Security. And it was very clear that's where the decisions were made and were not made.

Mr. MEEHAN. But the decision to continue is—I struggle to understand why you're saying it's down there when he himself says he has these responsibilities and conducts these kinds of things every day.

Ambassador PICKERING. I can only tell you that our full examination of this located the decision making there, under the review of the decision making.

Mr. MEEHAN. I thank you, Ambassador. But I certainly question the conclusion.

Chairman ISSA. I thank the gentleman for his line of questioning. And we now go to the gentlelady from the District of Columbia, Ms. Norton.

Ms. NORTON. Thank you very much, Mr. Chairman, and I want to apologize I had a markup and was not able to hear all the witness testimony. But I understand the question I have had and I think had hung over this entire matter has not been asked, and therefore I'd like to use this opportunity to clarify to get you, Admiral Mullen, and Ambassador Pickering to clarify Secretary Clinton's role.

You certainly did very extensive interviewing, according to your report, over 100 witnesses, thousands of pages, and of course, the Secretary was not interviewed, and that is why I think this has to be clarified.

The majority has used, in every way they can, the presence of Hillary Clinton to somehow point to an elevator that links up with her reading a report? For example, in an earlier hearing, they pointed out that she signed the cable. And the truth came out to

the staff that's on every cable of the Secretary. So we take everything now with a grain of salt. But this is an opportunity to clarify this issue.

We recognize, or at least I recognize, that not every important matter, even one as important as this, will necessarily involve an agency head. But again, her name has been raised over and over again.

So I have to ask you, if you received any evidence that led you to believe that the Secretary should be interviewed, or what did, what is it about your investigation that led you to believe that she should not be interviewed although apparently her name does appear in the report a fair number of times?

Ambassador PICKERING. I think your statement and the question is essentially what we found, no evidence to believe that we had a need to interview the Secretary of State.

Ms. NORTON. And why was that?

Ambassador PICKERING. Because we found, as I just discussed, that the decision making with respect to the security issues were made at lower levels in which we found responsibility.

Ms. NORTON. Now are these levels, let me ask Admiral Mullen, are these security matters, matters that you would not expect to go to the agency head but to be resolved by security?

Ambassador PICKERING. Maybe since I have experience in the State Department, I can answer that question and the answer to that question is no, we would not expect those normally to go to the agency head.

Admiral MULLEN. If I could just pick up on this, and maybe it is a concern that was expressed over here, for agency heads and people that operate at that level, including Mr. Kennedy, quite frankly, they have global responsibilities, and so that, first of all, what we found in execution was this, the decisions with respect to security were delegated. And I think you would, and certainly Secretary Clinton has said she held herself responsible in her own testimony. But when you are running a big organization, you delegate that and then you have principals who work for you that you expect to raise issues of concern against whatever the guidance is or in accordance with whatever guidance, when something happens.

And we found that guidance to and expertise and responsibility resident in the Assistant Secretary for Security.

So in my view, it was his responsibility to raise these issues up the chain of command. And, in fact, the opposite was going on.

His immediate deputy, Ms. Lamb, held all these decisions very, very closely. And in fact, the, per the direction from the statute itself, which directs us at the level decisions were being made, that's where we were. Just to reinforce what Ambassador Pickering said, we found no evidence, no lines to Kennedy or above with respect to these decisions that got made with respect to Benghazi that resulted in the outcome.

Ms. NORTON. And you were very critical in the report of how these decisions were kept and made?

Admiral MULLEN. Exactly.

Ms. NORTON. And I think it is very important. When you call out the name of an official simply because she was present, and in this case, the head of the agency to lay on the record what evidence

there was that she knew about this matter, and here we find that she not only didn't know, but there was an effort to make sure that these security matters were kept where they were.

Now, when you consider that you're dealing with security matters, even if you have very broad experience, that is a sphere unto itself, I don't expect that normally an agency head would second-guess a security official without the same kind of expertise. I do accept your admonition and your criticism of the failure to go up the chain of command. I think you were very forthright on that. But having found that failure, it does seem to me to be unfair and the extremes to, therefore, hold the official who had no knowledge, and from whom knowledge was kept, responsible for the tragedy.

Chairman ISSA. Would the gentlelady yield?

Ms. NORTON. Always glad to yield to the chairman.

Chairman ISSA. I think there is a good point. I don't think you were here earlier when we got into this. We had made it clear that the ARBs inability to deal with policy decisions and other areas outside their jurisdiction, if you will, which include, for example, the Secretary of State's obvious policy decision on normalization, policy decision that was in progress, one of the reasons that we had heard testimony that the Ambassador was in Benghazi was because of the desire by the Secretary to put a permanent mission there.

Now, we've never said and I hope none of our reports will ever say that she made a decision to cut security at the consulate. But, you know, part of the challenge here today in the earlier testimony is that the ARB, as currently structured, has a lot of limitations as to what they can do, including the four people they recommended for adverse action, all of whom are back on the job without losing a day's pay.

Ms. NORTON. Yeah, but that leaves the Secretary's name muddied frankly by this committee. And it just seems to me that we ought to lay to rest that matter never came to her, should have perhaps, don't know, but certainly never came to her. It's almost, Mr. Chairman, like the, an earlier and terribly great tragedy when there was a killing, and of course, the committee sought to go to the Attorney General. I do believe in accountability at the top.

Chairman ISSA. The gentlewoman may remember he was held in contempt for withholding information on lying to Congress that occurred under his watch.

With that, the gentlelady's time is expired. We go to Mr. Gowdy.

Ms. NORTON. I do remember that was one of the most controversial, if not the most controversial decision of this committee.

Chairman ISSA. It wasn't controversial from this side of the dais.

Ms. NORTON. That's right. That's all that can be said for that.

Chairman ISSA. Mr. Gowdy.

Mr. GOWDY. Admiral Mullen, I thank you and the other witnesses for your service. I understand you did an interview of Secretary Clinton. Did you submit written questions to her for her response?

Admiral MULLEN. We did not.

Mr. GOWDY. Was Secretary Clinton aware of the attacks on Western targets in Benghazi leading up to September 11, 2012?

Ambassador PICKERING. I believe our information——

Mr. GOWDY. I'm asking Admiral Mullen.

Admiral MULLEN. I think she was.

Mr. GOWDY. She was aware of the attacks on Western targets? Was she aware that the British ambassador was almost assassinated in Benghazi in the weeks and months leading up to September 11, 2012?

Admiral MULLEN. I can't be positive but I think she was.

Mr. GOWDY. Was she aware of the requests for additional security at the Benghazi facility?

Admiral MULLEN. I would say no.

Mr. GOWDY. Was she aware of a specific request from the Ambassador himself for improved security at that facility?

Admiral MULLEN. We never saw any requests from Ambassador Stevens to——

Mr. GOWDY. That wasn't my question. Was she aware of it?

Admiral MULLEN. We never saw anything that indicated Ambassador Stevens asked for significant upgrade at the facility.

Mr. GOWDY. There has been testimony that he has. My question was was she aware of that? Was the Secretary of State aware of it?

Admiral MULLEN. I don't know the answer to that.

Mr. GOWDY. And here is what I found confounding about that. The 1998 ARB, you start your ARB with a quote from a Spanish American philosopher about history and those who don't study it are doomed to repeat it. And I found that interesting because the 1998 ARB recommended this, the Secretary of State should personally review the security of embassies and other official premises, closing those which are highly vulnerable and threatened.

The Secretary of State, that was the specific recommendation from history. So you can understand, with all due respect to my colleagues who don't want to mention the Secretary of State's name, you can understand my question, did she personally review the security at Benghazi?

Admiral MULLEN. I don't know the—not—all the evidence that we saw indicated no, but I don't know the answer to that.

Mr. GOWDY. Did she personally consider closing the facility in Benghazi, again, given the fact that a panel exactly like the one you cochaired recommended, recommended the Secretary of State personally review it? My question to you is did she?

Admiral MULLEN. I'm not aware that she did.

Mr. GOWDY. So there was no evidence despite a previous recommendation from an ARB just like yours, because what our colleagues on the other side say is let's don't study the past, let's just look forward. You've made recommendations, all is going to be well now, all 30 of them will be implemented, and my point is we had this recommendation. We had it in 1998, that the Secretary of State herself review the facilities and consider closing them if they are not safe.

Admiral MULLEN. I think one of the, and I think we have pulled people out where it wasn't safe over the course of those years.

Mr. GOWDY. But my question, Admiral, is you never interviewed the Secretary of State about whether she, whether she accepted and performed a responsibility given to her by a previous accountability review board.

Admiral MULLEN. Part of our writ was to look at previous accountability review boards. We certainly commented on that, those that had not been implemented. But it was not to test each recommendation against those who were in positions in the current administration.

Mr. GOWDY. I want to read you a quote, and I want to ask you if know the author of that quote, okay? "The independent accountability review board is already hard at work looking at everything, not cherry-picking one story here or one document there, but looking at everything." Do you know who the author of that quote was?

Secretary Clinton.

How could you look at everything when you don't even bother to interview the person who is ultimately responsible for what happens at the State Department?

Admiral MULLEN. I think we've explained that that we found no evidence that she was involved in the decision making and no need, therefore, to do that.

Mr. GOWDY. But I just cited for you it is her responsibility according to an ARB just like yours from 1998, she should personally review it.

Did you ask her whether she was familiar with that previous ARB recommendation?

Admiral MULLEN. We didn't interview her so obviously we didn't ask her.

Mr. GOWDY. I will read you another quote. "Over the last several months, there was a review board headed by two distinguished Americans, Mike Mullen and Tom Pickering who investigated every element of this with this being Benghazi." Do you know the author of that quote.

Admiral MULLEN. No.

Mr. GOWDY. Barack Obama. Did you interview him and ask whether he made any calls to any of our allies in the region and said can you help us? Our guys are under attack.

Admiral MULLEN. We did not.

Mr. GOWDY. Admiral, my colleague, Jason Chaffetz, asked you about Cheryl Mills and a conversation you had with her. And I noted two different times you said you wanted to give her a heads up. And make no mistake she's the lawyer for Hillary Clinton. She used to counsel for the State Department. You wanted to give her a heads up. A heads up about what?

Admiral MULLEN. I specifically said that having interviewed Charlene Lamb and knowing that she was going to appear in Congress that I thought she would not, that she would be a weak witness.

Mr. GOWDY. Were you concerned that she would tell the truth or not tell the truth? When you say not be a good witness, what was your concern?

Admiral MULLEN. I wasn't concerned about whether she would tell the truth or not. That had nothing to do with it.

Mr. CHAFFETZ. [presiding.] The gentleman's time is expired.

Mr. GOWDY. I thought there was a practice of going 2 minutes over. I don't know why I possibly could have thought that based on being here.

Mr. CUMMINGS. I would ask that the gentleman be given another minute because I would like to get an answer to that question myself.

Mr. CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. Thank you. Could you answer his question? The last question.

Mr. CHAFFETZ. Maybe you can repeat the quote.

Mr. GOWDY. My question was a heads up about what? Were you concerned that she would tell the truth or not tell the truth?

Admiral MULLEN. No. That had nothing to do with it. I would never question the integrity of Charlene Lamb.

Mr. GOWDY. Did you think she was just not going to be an effective witness?

Mr. CUMMINGS. Would the gentleman just let him answer?

Mr. GOWDY. I'm trying to help him.

Mr. CUMMINGS. He's been around 40 years in the military, so he knows how to answer questions.

Admiral MULLEN. I explained before, Mr. Gowdy, I had run departments, I had dealt with witnesses who came to Congress and representing the departments that I was in as best we possibly could. The intention of the heads up was to just having sat down with Lamb, it was the first time I had met her in our interview, that I thought there could be better witnesses to represent the Department. It had nothing to do with the ARB.

Mr. GOWDY. Better witnesses from what standpoint?

Admiral MULLEN. At that time and place, with respect to the events which had occurred in Benghazi.

Mr. GOWDY. Admiral, wasn't she a fact witness? I mean, the facts pick the witnesses. I mean the State Department doesn't pick witnesses. The facts pick the witnesses. She was a fact witness, right?

Admiral MULLEN. Right.

Mr. GOWDY. So whether she is good or bad is immaterial. She is a fact witness.

Admiral MULLEN. Again, I approach it from a standpoint of having run a department and many times working to have the Department represented as best as we possibly could. That was it.

Mr. GOWDY. Well, in conclusion, Admiral, let me just say from my previous life, I well understand having bad witnesses. I've had plenty of cases where I wish I could have picked them, but I couldn't. She was a fact witness. The fact that she was not going to be a good fact witness for the State Department to me is immaterial. She's a fact witness.

Mr. CUMMINGS. Will the gentleman yield 1 minute the time that neither one of us have. But just one thing. Will the gentleman yield real quick?

Mr. GOWDY. Sure.

Mr. CUMMINGS. This is the question, and the reason why I want to hear your answer is this, as I listen to you, this has nothing to do with honesty and integrity with regard to what the witness was saying.

Admiral MULLEN. No.

Mr. CUMMINGS. Nothing like that.

Admiral MULLEN. No.

Mr. CUMMINGS. So what did it have to do with? In other words, if somebody, for example, somebody who may not know the facts, may not understand?

Admiral MULLEN. I take Mr. Gowdy's point. She certainly was a fact witness. It was, from my perspective, a judgment that she hadn't done this before. Obviously this was a terribly important issue, and to be able to represent that, particularly early in the process, I thought was very important and that was the sole reason.

Mr. CUMMINGS. I take it that you wanted the best information to come to the ARB?

Admiral MULLEN. Sure—to the Congress. To the Congress. This had nothing to do with the ARB.

Mr. CUMMINGS. All right.

Mr. GOWDY. I yield back.

Mr. CHAFFETZ. Thank you.

I will now recognize the gentlewoman from New York, Mrs. Maloney from New York, for a very generous 5 minutes.

Mrs. MALONEY. Thank you. First of all, I would like to thank the chairman and the ranking member for assembling such a distinguished panel. I particularly want to publicly acknowledge the selfless and distinguished careers of Admiral Mullen and Ambassador Pickering, both of whom have served Republicans and Democratic Presidents and have taken on some of the most challenging and difficult problems and obstacles that our country has faced.

So I want to publicly thank them for their public service and their selfless public service. And I respect your work, and I wish all of my colleagues would likewise respect everything that you have done for our country.

I must say, as the former chair of the women's caucus, I'm particularly sensitive of any efforts to roll back gains for women or any attacks on women. And I find the attacks unusual and consistent against the former Secretary of State, Hillary Clinton. Although the ARB report, which I thought was excellent and there has been little mention of the many fine recommendations that you came forward with to improve the safety of our embassies and our people overseas, and I thank you for that. I understand the State Department has started to implement many of them.

But in your statement I believe, Admiral Mullen, you stated, and I quote from you, there was no official, including the Secretary of State, whose involvement was not reviewed extensively, and do you stand by that statement?

Admiral MULLEN. I do.

Mrs. MALONEY. And I found the report that was issued this week by my colleagues on the other side of the aisle a very partisan staff report on its separate investigation of Benghazi, I found it very partisan because even though you say she had no participation and all evidence shows that, it mentions the former Secretary of State 25 times, 25 times, and not once does the staff report identify any evidence whatsoever to indicate that the former Secretary of State played any role in security-related decisions about the Benghazi special mission compound. And I compliment you for focusing on positives of how we can move forward to make our country safer and better in many ways.

I would like to also point out that there were personal attacks on national television stating that the former Secretary of State lied under oath when she testified before Congress that she did not personally approve of security reductions in Libya. And as proof, the Republicans produced a cable that had her stamped signature on it. So I would like to ask you, Ambassador Pickering, since you have spent a majority of your years in the State Department and serving our country many times overseas, do you believe that because the Department stamps the Secretary's name on this cable that she personally approved it?

Ambassador PICKERING. No. All cables sent out by the State Department are stamped with the Secretary's name.

Mrs. MALONEY. And how many cables a year are sent out would you say?

Ambassador PICKERING. I thought the last estimate was 1.4 million.

Mrs. MALONEY. So that would not say that. And what does the State Department manual say about this?

Ambassador PICKERING. I think it says that all cables should be stamped with the Secretary's name. In the past, they used to stamp with the Acting Secretary's name. That was changed under Secretary Powell. Wherever the Secretary is, she is still Secretary and her name still goes on the cables.

Mrs. MALONEY. Could you mention for the panel the four top recommendations, in your opinion, of the ARB to make our personnel and our professionals and our public servants safer overseas?

Ambassador PICKERING. This is hard with 24 in classified and 29 recommendations. I would center a couple of thoughts on a number that I mentioned in my oral testimony a minute ago; one the notion that we should carry out the Nairobi Dar El Salaam construction program recommended by Admiral Crowe 10, 12 years ago which has dwindled away through inflation, through reductions in budgetary support.

I think those kinds of issues still are very, very important.

I would like to say as well, that I think among the others, and I have highlighted them and if I can, I will just give you a sense of what those might be, that we need better risk management assessments and we laid out some criteria, and Mr. Sullivan's report I think produced clear evidence that there were better ways to do that in the State Department.

My sense is that we can improve intelligence performance, and we suggested a number of ways that we could do that. And I think on the question of personal accountability which has figured here very heavily, I believe we made recommendations that were important with regard to that. And my hope is that the State Department will carry those out. There have been discussions here about that. They go beyond where the ARB is, but our recommendation, as you know, is two be separated from their jobs and two others be reviewed for deficiencies and performance.

Mrs. MALONEY. My time has expired. Thank you.

Mr. CHAFFETZ. Thank you. We will now recognize the gentleman from Kentucky, Mr. Massie, for 5 minutes.

Mr. MASSIE. Thank you, Chairman. I thank the witnesses for coming today.

The brevity as well as the incongruity of statements in the ARBs report begs the question, what was Ambassador Stevens doing in Benghazi? And I apologize for asking this, but it begs to be asked. So let me read a statement from the report. The board found that Ambassador Stevens made the decision to travel to Benghazi independently of Washington.

Now let me read you the testimony of Mr. Hicks when he was here in front of this very committee. I asked him, did you tell the accountability review board about Secretary Clinton's interest in establishing a permanent presence in Benghazi because ostensibly wasn't that the reason the Ambassador was going to Benghazi? Mr. Hicks said this, Yes, I did tell the accountability review board that Secretary Clinton wanted the post made permanent. Ambassador Pickering looked surprised. He looked both ways to the members of the board saying, does the seventh floor know about this? And another factor, Hicks went on to say, was our understanding that Secretary Clinton intended to visit Tripoli in December. I asked him, so Pickering was surprised that this was Ambassador Stevens' mission to establish a permanent facility there. Is that your impression? He said yes.

Were you surprised by his statement?

Ambassador PICKERING. No. I was surprised by the fact that this was a new item of information to us and I wondered how ramified it was understood. Secondly, I made in my deposition a series of statements about the numerous reasons why Ambassador Stevens went.

Mr. MASSIE. I'm short on time. So why wasn't that included in the ARB report, that Secretary Clinton had directed him to go there?

Ambassador PICKERING. She had not, to the best of my knowledge, directed him to go there.

Mr. MASSIE. So you disagree with his testimony in front of your board?

Ambassador PICKERING. I agree that what he had to say was an indication of what the Secretary hoped for.

Mr. MASSIE. Let me go on——

Ambassador PICKERING. I don't think it was a direction from her to go to Benghazi.

Mr. MASSIE. I have very little time. So, I think we all agree that any investigation should include a comprehensive list of survivors and witnesses.

Did you or do you, possess a list of survivors and witnesses, present or observing during the attack in Benghazi?

Ambassador PICKERING. It's in the classified report, all of those people we interviewed.

Mr. MASSIE. Can that report be made available to all the members here?

Ambassador PICKERING. It is made available to all the members here.

Mr. MASSIE. Are you at liberty to say how many of those witnesses or survivors were CIA operatives?

Ambassador PICKERING. No.

Mr. MASSIE. Can you say if any of them were.

Ambassador PICKERING. No.

Mr. MASSIE. You said you had unfettered access to State Department employees. Does that also include the CIA employees?

Ambassador PICKERING. I am not going to go there because that gets us into classified issues.

Mr. MASSIE. Okay. How many people were evacuated from Benghazi immediately following the attacks? You mentioned an airplane that took people out of there.

Ambassador PICKERING. There were two aircraft. I think the first one evacuated 12, and the remainder, and I think that may have been up to another two dozen or so, came on a second aircraft.

Mr. MASSIE. So maybe 36 people?

Ambassador PICKERING. Something in that neighborhood, but that is just a very rough estimate, Mr. Massie.

Mr. MASSIE. How many of those were State Department employees, and how many were military?

Ambassador PICKERING. I can't tell you that exactly. I can tell you that there were, I think, five security officers from the State Department who were evacuated.

Mr. MASSIE. Okay. Do you have a comprehensive inventory of U.S. weapons or small arms that were there or at the annex before and after the attack?

Ambassador PICKERING. I do not have such an inventory.

Mr. MASSIE. Is it true that after the attack, those facilities were left unsecured for quite sometime?

Ambassador PICKERING. They were, but I believe the weapons and some or most of the security material from the State Department facility was evacuated.

Mr. MASSIE. Can you give us a list of what was evacuated?

Ambassador PICKERING. I can't, but I am sure the State Department could.

Mr. MASSIE. Okay. And I have to ask this question because the public wants to know this. Are you aware of any arms that, not by accident but by intention, were being transferred to Turkey or Syria from Libya?

Ambassador PICKERING. No.

Mr. MASSIE. Can you give us—can you make any statements or give us confidence that that was not occurring?

Ambassador PICKERING. I am just not aware of it. I think that I have to say I looked into it, and I am not aware of it.

Mr. MASSIE. Okay. Thank you, I yield back.

Mr. CHAFFETZ. Thank the gentleman.

Now recognize the gentleman from Georgia, Mr. Woodall, for 5 minutes.

Mr. WOODALL. Thank you, Mr. Chairman.

I want to thank everyone on the panel for your service. I am relatively new to the committee, though not as new to public service. We have talked a lot about unfettered access. You all had a role to play. I know the ARB was able to access folks in 10 weeks that this committee hasn't been able to access in almost a year. So much of what we do in public service, for better or for worse, has less to do with the facts and more to do with credibility. Folks have unanswered questions. I always tell my constituents back home, there are more Congressmen in jail for the cover up than there are for the crime. It is that undermining of public trust.

I just want to ask you all because, again, you have all been entrusted with these responsibilities for much longer than I. Understanding a division of government here, executive, legislative, judicial, trying to serve that public trust, Mr. Keil, would you conclude that we could serve that public trust best if this committee could have access to as much information as possible and then dispose of this issue as quickly and thoroughly as possible?

Mr. KEIL. Yes, I do, sir.

Mr. WOODALL. Mr. Sullivan?

Mr. SULLIVAN. Again, sir, I think, and I go back to what Admiral Mullen said, I think this is something between the committee and State Department. I do believe that if these are documents that Congress is entitled to get, then they should receive them. Again, I think that this is something that should be dealt with between the committee and the State Department.

Mr. WOODALL. And with due respect, and I very much appreciate that answer, I actually think it is between the American People and the public servants to whom they entrust the future of the republic——

Mr. SULLIVAN. I would agree.

Mr. WOODALL. —and that is a frustration for me, and I understand if you said——

Mr. SULLIVAN. I would agree with that, too, sir.

Mr. WOODALL. Admiral Mullen?

Admiral MULLEN. We have talked about this several times.

Mr. CHAFFETZ. Can you help us with the microphone there, please?

Admiral MULLEN. Sorry. We have talked about this several times, and certainly I think the whole issue of how a government deals with, you know, this kind of situation I think I told the chairman earlier, I think the oversight is absolutely critical. I have just dealt too much, too many times with the tension between agencies and Capitol Hill on what should be provided and what isn't, and it's not for me or us to decide that today or I don't even think recommend in terms of what is actually going on. I am not even aware of the documents specifically of which you speak.

Mr. WOODALL. It gives me no pleasure to disagree with a public servant of your caliber, but I actually——

Admiral MULLEN. You wouldn't be the first.

Mr. WOODALL. I might not be the first, but candidly, it is less your feelings that we ought to be able to resolve these things that I was interested in and more the absence of the outrage that we can't deal with these things because this process is going to continue. I asked someone the other day, I said, when do we come to an end of this Benghazi investigation? And the answer was, when we can finally get the folks who have the answers to speak with us. Again, you all were able to do it in 10 weeks by your calculations.

Ambassador, I talked to every relevant witness within 10 weeks, and yet we have not been able to do it in a year. And it is less about the powers of this committee. It is more about the duties that we owe the folks back home who still have unanswered questions. I will give you an example of one of those questions. In fact, the gentleman sat right there in the seat that you are sitting in,

Admiral Pickering, it was Mr. Mark Thompson. You all may have dealt with Mr. Thompson professionally, but he said this when he was in that chair, Ambassador. He said, My biography is in the record. He said, We live by a code, and that code says you go after people when they are in peril when they are in the service of their country. We did not have the benefit of hindsight in the early hours, and those people who are in peril in the future need to know that we will go and get them and we will do everything we can to get them out of harm's way. And he concluded with this; he said, That night unfolded in ways that no one could have predicted when it first started, and it is my strong belief then as it is now that we needed to demonstrate that resolve, even if we still had the same outcome. Admiral Mullen, earlier in your testimony, you talked about how we were unable to get to Benghazi fast enough. You talked about bombs on the racks, munitions on the racks of aircraft at the ready.

Admiral MULLEN. I used that as an example. The aircraft weren't at the ready, and what General Dempsey testified to, and I have today certainly and in previous transcription of my statements, we just couldn't get there fast enough. I do resonate completely with what Mr. Thompson said, and every military individual to their core feels the same way, and that is, to the best of the military's ability that night, that is what happened. I looked at every asset, every possibility. It wouldn't, couldn't get there in time.

Mr. WOODALL. In retrospect, it couldn't get there in time. I think the question so many folks back home have on behalf of so many families is, "Can we see the fuel being driven to the runway? Can we see the pilots getting out of bed, can we see the teams being scrambled?" Yes, we have seen some of that, folks arriving the next day, but this is every bit as much about what happens in the future as it was what happened in the past, if not more so, and again, I thank you all for your great public service.

Mr. CHAFFETZ. The gentleman yields back.

We will now recognize the gentlewoman for 5 minutes.

Ms. LUJAN GRISHAM. Mr. Chairman, thank you.

And in the spirit of continuing this conversation, I yield back to Ranking Member Mr. Cummings.

Mr. CUMMINGS. Thank you very much.

I just ask, Mr. Chairman, that I be given the extra minute that Mr. Woodall also had, please.

Mr. CHAFFETZ. Without objection, so ordered.

Mr. CUMMINGS. Ambassador Pickering, sometimes I don't think that the public understands that the State Department is often serving in places that don't offer a lot of options when it comes to facilities. Let me read to you what the executive director of the Bureau of Near Eastern Affairs told the committee in his interview about how the United States ultimately selected the special mission compound in Benghazi for use as a military facility. He said this: The villas were the only things that were available at the time that even met minimal standards. Remember, Chris Stevens had just gotten off a ferry with cars. He had gone back into a hotel. There had been a bomb that went off. We had to find something and something quick, and I mean the Department as a whole had to find something.

Here is the challenge. In the case of Benghazi, you had some very smart people, including Ambassador Stevens, advising the United States Government that we should be in Benghazi, but it sounds like there were not many good options available. Even the hotel where they first tried to locate came under risk of being bombed.

Ambassador Pickering, isn't it the case that, in many parts of the world, State Department officials don't have the best of choices from which to operate a diplomatic post?

Ambassador PICKERING. That is true, Mr. Cummings. On the other hand, we are speaking about April 2010 more or less, and the problem with Benghazi was that there was time to make change and improvements, and we found people at fault for not having taken that time to do the job.

Mr. CUMMINGS. And whose responsibility was that?

Ambassador PICKERING. We believed it was principally in the Bureau of Diplomatic Security, which is charged with oversight and implementation of State Department security.

Mr. CUMMINGS. Ambassador Pickering, I am gathering that we don't want to lock up our people in fortresses, and Ambassador Stevens, who was so loved and appreciated by the people, understood that. Can you tell us in practical terms how your recommendations will help the State Department going forward strike a balance between important policy imperatives and the fact that there are not always a lot of good choices from which to operate?

Ambassador PICKERING. Because, sir, it takes or tries to take into account the special disadvantages that you have mentioned in location, in changing threat situations, and in risk management, and it sees that as a dynamic where not every day can you wander the bazaars, but when you can you should know about it and understand the risks that you are taking. It also means that different locations in cities have different requirements for security. Cars are different than residences, are different than safe havens. And so it provides graduated levels, if I could put it this way, of safety and security over a period of time to individuals who might be in danger. Hopefully, the situation will be in the main the kind of situation that Chris Stevens really was able in a maximum way to take advantage of, but at the same time, it would also be, we hope, the kind of situation that would prevent the death of a Chris Stevens in times when the threat level had increased and the security would be adequate to deal with that, and so it is not all Inman buildings, but for most places, it is nice to have those as what I would call the security anchor for the worst times.

Mr. CUMMINGS. Mr. Sullivan, a key to this seems to be risk mitigation. Can you explain how your best practices panel addressed this issue and explain how a department-wide risk management model would help?

Mr. SULLIVAN. Yes, sir. What we looked at was risk management, and what we found is that, for the most part, risk is dealt with either by experience or intuition, which those two things are extremely important. However, what we're recommending is that there be a more——

Mr. CUMMINGS. Did you say "intuition"?

Mr. SULLIVAN. Yes, sir. Experience, intuition, you know, and background. What we're seeing is there needs to be a more formalized system. As things become, you know, more complicated out there as the threat becomes, you know, more severe, there needs to just be a more formalized risk-management model that would be available not just to the department, not just to DS but to the department as a whole, you know, risk management when it comes to, you know, medical services, risk management when it comes to IT, risk management when it comes to where you're going to put a building, and that would—DS would feed into this risk management model when it comes to, you know, what—how do you mitigate the threat? You know, what is acceptable risk? What is the criticality of the program that you are running? How important is it for that program to run? You know, all of us know that nothing is a hundred percent certain when it comes to eliminating risk. We all know that the minute you step out the door, there is going to be risk, but what we're getting at here is that there be a collaborative effort among everybody in the department to come up with the best way to manage that risk, to come up with mitigation for that risk and make sure we give the safest environment to our diplomats overseas in these high threat areas.

Mr. CUMMINGS. Thank you very much. Thank you.

Chairman ISSA. [presiding.] We now go to the gentleman from North Carolina.

Mr. MEADOWS. Thank you, Mr. Chairman.

Some have argued today that this hearing is just all about politics, and yet I know that I made a promise to some of the family members that are sitting right behind you that I would do everything within my power to make sure that this never happened again, and to that end, there is a bill that Chairman Royce, H.R. 1768 that looks at the ARB and modifying that, of which I with some of my colleagues here are a cosponsor of, and so I want to specifically look at a couple of things that really hopefully will keep us from repeating this tragedy.

And I want to address what is now known as the Cohen memo that was brought forth under Secretary Madeleine Albright. It made some recommendations there. It made a recommendation that we had an under secretary for Diplomatic Security that reported directly to the Secretary.

And Ambassador Pickering, I want to address this question to you, and if you would put a slide up on the screen so that we can know what we are talking about there, if I could ask the committee to do that. But in that, you were copied on a memo, that Cohen memo, because you were the under secretary for political affairs, and it talked about the issue, and I quote, "The issue of the DS," or Diplomatic Security, "reporting to the Secretary of State was controversial with the corporate board."

What is the corporate board?

Ambassador PICKERING. I suppose that Under Secretary Cohen was referring to the group of people on the seventh floor, under secretaries and up, who were close to the Secretary and perhaps some of her personal staff, but I cannot but guess.

Mr. MEADOWS. Okay. Were you a member of that corporate board?

Ambassador PICKERING. From time to time, yes, but not on all issues.

Mr. MEADOWS. Okay. So why was this controversial with that corporate board?

Ambassador PICKERING. I don't know. I personally had some——

Mr. MEADOWS. So you would support that?

Ambassador PICKERING. —reservations about the under secretary proposal.

Mr. MEADOWS. All right. So—because I think the other quote, and I want to quote this as well, There are strong feelings that there were already enough under secretaries and that the under secretary of management should be entrusted to make tradeoff decisions, tradeoff decisions between Diplomatic Security and administrative functions.

You know, when we are talking about the lives of Americans, tradeoff is not a good word. Would you agree with that?

Ambassador PICKERING. I agree. I believe that there is a natural problem in that particular question between the under secretary of political affairs and the under secretary for management, between the political imperative of staying in a post and the security imperative——

Mr. MEADOWS. Okay.

Ambassador PICKERING. —of protecting it or leaving it.

Mr. MEADOWS. Okay. So let's look at this. You had an ARB that was extensive. So this can be to you, Ambassador, and to you, Admiral Mullen. Why was this particular issue not brought up in the ARB when it was clearly recommended when we had a tragedy in East Africa before? Why would you not have addressed this as an issue?

Ambassador PICKERING. We did not, in my view, believe that the deficiencies that we found would be cured by that problem. That was my personal view.

Secondly, that that cure would not solve all issues. It would bifurcate, in my view, things like the sources of——

Mr. MEADOWS. So having one person——

Ambassador PICKERING. Responsibilities for——

Mr. MEADOWS. So having one person in control of Diplomatic Security is not a good idea?

Admiral Mullen, would you agree with that?

Ambassador PICKERING. I believe that one person in control of Diplomatic Security is an excellent idea at the assistant secretary level.

Mr. MEADOWS. Okay. Admiral Mullen?

Admiral MULLEN. I have seen certainly this brought up today, and I'm aware that the panel recommended the same thing. I am not as sanguine immediately on doing this because I don't think you fix it by just bureaucratically making the change.

Mr. MEADOWS. Well, there may not be one fix, but indeed, it was recommended before, and it was thought to be a good idea, and yet here we are 15 years later not doing it.

Admiral MULLEN. Part of the way—part of the way we tried to address that was to look at previous recommendations and implementation, and a lot has changed since 1998, so it may be the right answer. There are some—there are some bureaucratic issues asso-

ciated with this that I am not overly excited about. That doesn't—what it can't do is be put in place and not be integrated in a way with the rest of the State Department.

Mr. MEADOWS. All right. So, for the record, today, each of you, are you for this or against it, this recommendation? For the record, I want both of you to tell me where you are on the record, and creating an under secretary for Diplomatic Security.

Ambassador PICKERING. I am inclined against it because I think the problems it raises are larger than the problems it solves.

Mr. MEADOWS. Okay. Admiral Mullen?

Admiral MULLEN. I am against it until I know a whole lot more about it.

Mr. MEADOWS. Okay. I can see my time is expired, so I will yield back.

Chairman ISSA. Well, before the gentleman yields back, I think Mr. Sullivan and Mr. Keil can speak to their view of this, and, you know, candidly, I will tell you, Mr. Meadows, I am actually with the admiral and the ambassador in that I think Under Secretary Kennedy had both parts of this on his watch. And it was an organizational failure to weigh the two. Maybe it didn't come to his desk, but putting a separate under secretary wouldn't have changed that.

Mr. Sullivan?

Mr. SULLIVAN. Mr. Chairman, thank you.

You know, as the panel looked at this, there were a couple of things that just came to mind, and even here there is debate, I believe, as far as who is in charge of security. So, from that perspective, we believe that by having an under secretary for security that would, you know, eliminate all debate, confusion about who, in fact, was in charge of security.

When we look at the amount of, the breadth and scope of what comes under the under secretary for management, it is just pretty vast, and it is pretty, you know, administration, budget, visa, the Foreign Service Institute, the comptroller, HR, information resource. We thought that was an awful lot for one secretary. You know, I understand the hesitation because of the—this may, you know, just create another bureaucratic layer, and one thing I think is important to understand is, you know, my background, you know, as director, I was a direct report to the Secretary, you know. We had a deputy director from the FBI and, you know, and his background, the deputy—the Director was a direct report to the Attorney General, and I think when you have that type of direct report and it is made clear to everybody, it just lets your internal, and external partners, for that matter, just know the importance of security and where security stands within an organization. But, again, we also understand that there are a lot of other factors that are involved here, and there's a few things that need to be worked out, and I have talked to the current acting assistant secretary, Greg Starr, this is something after the report came out, he wanted to talk to us about in more detail.

Chairman ISSA. Mr. Keil, anything briefly?

Mr. KEIL. Yeah, just quickly. I think when you look at our report, all the aspects of our report are interlinked. The under secretary is the linchpin. You have to go to a risk management model, program criticality and the other aspects of the report. It is not a

standalone. You don't just create an under secretary, and it solves it. It is interlinked, as you read our entire report. It is all interlinked. Interestingly, just one last point, the former assistant secretary for Diplomatic Security, Eric Boswell, testified before your staff, and it is in your committee report. He says, and it is a quote from your committee report, that the under secretary for management was making all the security decisions. That does not integrate well into a risk management model.

Mr. MEADOWS. Thank you, Mr. Chairman.

Chairman ISSA. That was our view.

Admiral MULLEN. Mr. Chairman, could I just add one thing?

Chairman ISSA. Of course, Admiral.

Admiral MULLEN. With this work, which I just saw recently, the intent of what we did in the ARB was to certainly have this but hope that this independent group continues over time to evaluate this issue so that this isn't the last word with respect to these issues.

Chairman ISSA. Well, post-9/11, I think we all know that security is a daily relook and not a one-time relook.

Ambassador?

Ambassador PICKERING. I should just mention because the question of the previous ARB was raised.

Secretary Albright, as a result of that recommendation, met daily with the assistant secretary of state for Diplomatic Security first thing in the morning, and that established a nexus, a chain which neither her—I think none of her three successors kept. I think that may have been an error. I think that in some ways her interest, and put it this way, in no more Nairobi's and no more Dar es Salaams was an important instinct. That wouldn't be solved necessarily by elevating the rank or denigrating the rank. It was solved by a process, and I think that that was a rather good process, and in some ways, I'm sorry it wasn't repeated, but it wasn't extended at the time we looked at the ARB.

Chairman ISSA. Thank you.

Mr. Davis.

Mr. DAVIS. Thank you very much, Mr. Chairman.

And thank you, gentlemen.

Ambassador Pickering, in your deposition you said that no other ARB was so extensive and far-reaching in its findings of personal responsibility or personal accountability or made such far-reaching recommendations at such high levels in the State Department. Is that correct?

Ambassador PICKERING. Yes, I believe it is, sir.

Mr. DAVIS. You further said that you were able to arrive at that conclusion because you had your staff review all of the other ARBs that were reported on to compare how they did their work and what they reported. Is that true?

Ambassador PICKERING. Yes, sir, that's particularly germane to the level and degree of accountability which I believe we assessed.

Mr. DAVIS. Then can you explain how your review of previous ARBs led you to conclude that your ARB was one of the most comprehensive and far-reaching?

Ambassador PICKERING. We reviewed the level at which they fixed responsibility when they did and the degree to which they

discussed that responsibility and the actions that they did recommend or did not recommend with respect to the people involved in those ARBs as a comparator against which to judge what we were recommending.

Mr. DAVIS. Thank you, Mr. Ambassador.

I also understand that a principal reason for doing the review of recommendations is that you felt that previous ARBs had made good recommendations but that the State Department sometimes fell short in implementing them. Is that correct?

Ambassador PICKERING. Yes, we did, and that is correct.

Mr. DAVIS. Then could you tell us what steps that you took with this ARB to ensure that the 29 recommendations you made would, in fact, be implemented?

Ambassador PICKERING. We re-recommended at least one principal unfilled recommendation of a previous ARB which we felt was very germane to our ongoing security posture. That is a construction recommendation involving large amounts of money. We tried to carry that message, Mr. Davis, by starting each chapter of the ARB with a recollection of past recommendations which we believe hadn't been heeded, needed to be reheeded or needed to be reintroduced.

Mr. DAVIS. Then have you been able to follow your recommendations and see how they are being implemented, and if so, what have you found?

Ambassador PICKERING. Only in the press, and so far what we have seen has shown department action in that regard, but I cannot say that that is a satisfactory method of review. It was not in our mandate.

Mr. DAVIS. One senior State Department official interviewed by the committee said that, while serving in Libya, he saw evidence that the ARB recommendations were being implemented. He said; "when I was charge in Tripoli for 6 months, for example, there was a huge number of security upgrades that are underway. Many of them, you know, attributable either directly or indirectly to ARB."

Are you encouraged by this comment?

Ambassador PICKERING. I saw that in the report. I am encouraged by the comment, but we know that, in fact, the first year after the ARB is a time of intense activity, and I worry whether, in fact, this is going to be continued, whether some of the heavy lifting between this branch of government and the executive branch for additional money and proposals for additional funding are going to be followed through. I hope they are. I can say I remain now skeptically optimistic, but I live in hope.

Mr. DAVIS. Thank you very much.

And I have no further questions, Mr. Chairman. I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Michigan, Mr. Bentivolio.

Mr. BENTIVOLIO. Thank you very much, Mr. Chairman.

Gentlemen, thank you very much for your distinguished service. I certainly appreciate it. I am going to be real quick. I only—I have a lot of questions but only 5 minutes to ask them.

Admiral, I especially took note of your distinguished career and that, noticed that you were the captain of several ships or Navy vessels, correct?

Admiral MULLEN. Correct.

Mr. BENTIVOLIO. And on those boats, vessels, ships——

Admiral MULLEN. Ships.

Mr. BENTIVOLIO. Ships, thank you. I am an old Army guy. That you probably created a culture on that ship that had a high degree or those ships that had a high degree of morale, a culture of safety, risk management as we were speaking about, and maintaining a high state of discipline and readiness; is that correct?

Admiral MULLEN. Correct.

Mr. BENTIVOLIO. You probably wouldn't have been promoted to admiral had you not done that. So, rest assured, I have no doubt in my mind that your career is one of the most distinguished I've ever read about. I'm really impressed.

But there's—I want to get back to this risk management. It seems to me, from what I've been hearing all day, there was a lack of it in—well, in the State Department. Did you find that also to be true?

Admiral MULLEN. I've sort of a two-level answer for this.

Mr. BENTIVOLIO. Okay.

Admiral MULLEN. One of the things that most of us that grew up in the military do almost instinctively is risk management, particularly with respect to any kind of combat, and we've been in a lot of combat in the last dozen years. What I have found, and I take, go to my senior position in the Pentagon as the chairman, as the head of the Navy, we're not as good at what I call strategic risk management as I would like to be specifically. And I worked on that when I was a chairman and when I was the head of the Navy in those senior positions. And too often, we're great tactically and not good strategically in many areas.

What I found when we did our, the ARB is there wasn't the existence of certainly a system, systematic risk management program.

Mr. BENTIVOLIO. So you're familiar with the military risk management matrix, correct?

Admiral MULLEN. Yes.

Mr. BENTIVOLIO. Okay. We start at the very top would be extremely high risk, right?

Admiral MULLEN. Well, yeah. I mean, we would look at a combination of what we call likelihood and danger——

Mr. BENTIVOLIO. Okay.

Admiral MULLEN. —or most significant outcome.

Mr. BENTIVOLIO. Well, I'm from the Army and we have low, medium——

Admiral MULLEN. Yeah, yeah.

Mr. BENTIVOLIO. —high, and extremely high risk, and we evaluate just about every task——

Admiral MULLEN. Sure.

Mr. BENTIVOLIO. —including when we go into combat.

Admiral MULLEN. Right.

Mr. BENTIVOLIO. We look at all those. And let's see. Where—the part I'm talking about, and I think we touched on this in earlier questioning, you developed or the military tries to develop a culture around risk management, and I think that's what you're trying to

improve when you talk about discussing this at the Pentagon, right?

Admiral MULLEN. Yes.

Mr. BENTIVOLIO. But I seem to have found absent in the leadership of the State Department. And I was just reading and just to prove your point in how we try to create a culture of safety and evaluating risks at all levels, I have a copy from the manual that is often used in training our first line of leaders, E–5, sergeants, I think. What do you call them in the Navy? E–5s?

Admiral MULLEN. Petty officers.

Mr. BENTIVOLIO. Petty officers, thank you. Petty officer. You have same, similar classes where they learn leadership skills?

Admiral MULLEN. Yes.

Mr. BENTIVOLIO. Including risk management analysis, correct?

Admiral MULLEN. Well, it's certainly included. We certainly have a leadership focus.

Mr. BENTIVOLIO. Right. Thank you.

Mr. Keil, Mr. Sullivan, thank you, and you brought up risk management as well. Are you familiar with—well, it says here, let me read this, leaders and individuals at all levels are responsible and accountable for managing risk. They must ensure that hazards and associated risks are identified and controlled during planning, preparation, and execution of operations. Are you familiar with that?

Mr. KEIL. Yes, sir.

Mr. BENTIVOLIO. Are you familiar with the matrix that I'm talking about, referring to?

Mr. KEIL. Generally, yes, sir.

Mr. BENTIVOLIO. Generally, okay. How would you evaluate, if you got an intelligence report saying that November 16th that the British intel agency has foiled an attack on the Libya's National Transition Council and the British ambassador was about to get assassinated or tried to on February 6 in Syria, and in 2012, the U.S. closed the embassy in Syria, On June 15, 2012, Tripoli, Libya, reporting a string of attacks on Western diplomats and international organizations. If you were going to Libya, how would you evaluate or on that matrix, what would be the level of risk? High, extremely high, medium or low?

Mr. KEIL. I would say extremely high, sir.

Mr. BENTIVOLIO. An extremely high, would you not try to address those things to lower that risk, including worst-case scenarios?

Mr. KEIL. Yes, sir.

Chairman ISSA. The gentleman's time has expired, but you can answer.

Mr. KEIL. Yes, sir, and but it can't just be addressed strategically. It also has to be addressed tactically. You can't separate those two. Too often people are quick to say, Oh, it was the Bureau of Diplomatic Security's responsibility. It doesn't stop there. It's more of a strategic question. It's got to be a whole-of-organization approach to risk management.

Mr. BENTIVOLIO. A culture within the organizations?

Mr. KEIL. Yes, sir.

Mr. BENTIVOLIO. And because of that absence of culture, the captain of this ship, so to speak, probably wouldn't get a very good rating; is that correct?

Mr. KEIL. Yes, sir.

Mr. BENTIVOLIO. And who was the captain of the Department of State at the time?

Mr. KEIL. Secretary of State.

Mr. BENTIVOLIO. And name please?

Mr. KEIL. At that time it was Secretary Clinton.

Mr. BENTIVOLIO. Thank you very much.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Missouri, who has been patiently looking in and out, coming in and out for this very opportunity.

Mr. CLAY. Thank you, Mr. Chairman, for conducting this hearing.

And thank the witnesses for appearing, and hopefully some of our questions are being answered.

And, Mr. Chairman, at this time, I would like to yield to my friend, the husband——

Chairman ISSA. Well, thank you.

Mr. CLAY. The husband of the brilliant Dr. Rockeymoore, Mr. Cummings of Maryland.

Chairman ISSA. Oh, so I was your second choice.

The gentleman is recognized.

Mr. CUMMINGS. Thank you very much. I'll tell my wife you said that.

The ARB assigned accountability to three individuals within the Bureau of Diplomatic Security, the deputy assistant secretary responsible for Libya, her boss, the principal deputy assistant secretary, and the assistant secretary. However, the ARB did not find specific fault with the under secretary for management, Patrick Kennedy, who is the supervisor of the assistant secretary.

The Republican staff report released on Sunday night stated, "The ARB downplayed Kennedy's role in the decisionmaking that led to the inadequate security posture in Benghazi."

Ambassador Pickering, do you agree that you downplayed Under Secretary Kennedy's role?

And Admiral Mullen, would you answer the same question?

Ambassador PICKERING. No. I think that we looked very carefully at this. We have had numerous dialogues about this here this morning. We did not find the pattern of decisionmaking on the part of Secretary Kennedy deficient with respect to security. We did find the pattern of decisionmaking at the deputy assistant secretary level in the Bureau of Diplomatic Security deficient, and we found the review of that pattern by her boss, the assistant secretary, lacked, put it this way, sufficient attention to leadership and management, that it was deficient. We've talked here about that, and I believe that's the best description I can give you of that interrelationship.

Mr. CUMMINGS. Admiral Mullen?

Admiral MULLEN. I would only add that, again, we were guided by the statute that said, Look at who was making the decisions, and that's—it's almost hard to overstate the significance and the

nexus of those decisions being made in the DS Bureau by Lamb and fully supported by her boss, Boswell.

Mr. CUMMINGS. As evidence——

Ambassador PICKERING. Not only to reinforce that, we were specifically admonished under the statute not to take as dispositive the acceptance of responsibility by senior officers who clearly didn't make decisions and, in some cases, were not informed but took that responsibility pro forma as part of their sense of obligation to their department.

Mr. CUMMINGS. As evidence of this allegation, the Republican staff report discusses a memorandum that Under Secretary Kennedy approved in December 2011, extending the special mission for 1 year. The Republican staff report said this; "The document and the testimony show that one of the major contributing factors to this deficiency was the temporary nature of the Benghazi compound authorized by Under Secretary Patrick Kennedy."

Ambassador Pickering, did the Accountability Review Board review the December 2011 memorandum approved by Under Secretary Kennedy?

Ambassador PICKERING. Yes, we did.

Mr. CUMMINGS. Ambassador Pickering, can you explain what role Under Secretary Kennedy had in that memo and why you did not conclude that he was responsible for the specific measures at the temporary facility?

Ambassador PICKERING. He was asked to approve the extension by all of the bureaus concerned, including the Bureau of Diplomatic Security which had responsibility in carrying out that extension to carry out the appropriate security measures. There was not a proposed panoply of security measures which Kennedy was asked to approve. It was part of the process that the Bureau of Diplomatic Security had that responsibility, would take it and carry it out.

Mr. CUMMINGS. Admiral Mullen, do you agree with that?

Admiral MULLEN. I do, and one very specific line item in that memorandum designated the expected number of ARSO's, security agents or officers in Benghazi, and that gets back to, in implementation, where the decisions were made. The failure and accountability was in not meeting that need.

Mr. CUMMINGS. Then, finally, in fact, that memo was approved before it reached the under secretary by both the Bureau of Diplomatic Security and the Bureau of Overseas Building Operations, both of which were responsible for the security at the post. The Republican staff report also finds fault with Under Secretary Kennedy plays a role in approving the decision not to expand—extend the SST, a Defense Department team helping with security in Tripoli, the report states, and this is—I'll close with this, "The decision to end the SST mission in Libya in July 2012 was made by Ambassador Kennedy, albeit based upon a recommendation from Charlene Lamb."

Do you all have a comment on that?

Ambassador PICKERING. Yes, I would just comment that to the best of our knowledge and belief, the continuation of the SST was not also actively supported by Ambassador Stevens, and that played a role as well in the decisionmaking.

Mr. CUMMINGS. I'll yield.

Chairman ISSA. With that we go—go ahead, Admiral.

With that, we go to the gentleman from Florida.

Mr. DESANTIS. Thank you, Mr. Chairman.

Admiral Mullen, just to follow up, there was the discussion about giving the head's up to Cheryl Mills, so what was the purpose of doing that?

Admiral MULLEN. The purpose was to—the purpose was to, having sat through an interview with Ms. Lamb, who answered all questions very honestly—there's been an issue raised today about whether there was any question about her, and there wasn't ever, about Ms. Lamb and her straightforwardness—but the single purpose was very obviously very early in the overall process post-Benghazi, the testimony was having run a large department, I spent a lot of time when I was head of the Navy, as well as chairman, and in previous jobs, but really in those head jobs, that the senior jobs, looking at who should, who would be best qualified for whatever the question was——

Mr. DESANTIS. No, I understand that and I understand——

Admiral MULLEN. And so testified.

Mr. DESANTIS. Sorry to interrupt, but I'm limited on time, and I understand, as a CNO, and I was in the Navy when you were CNO, and I appreciate that, but I guess, you know, you're on this ARB. I just—what is it? Like what interest do you have in who the State Department puts up or not? I understand why, given your Navy position, how you would have done that with the Defense Department.

Admiral MULLEN. Actually, it had nothing, it had nothing to do with ARB, and it had everything to do with a heads up in order to at least give my view that this was going to be a weak witness to an agency head who was working through who was going to appear.

Mr. DESANTIS. Ambassador Pickering, this may, was mentioned previously, but this 1998 ARB recommendation about the Secretary of State personally reviewing the security situation in these outposts and closing some if there is not adequate security, and this was after the East Africa bombings, was that something, because I know you were high in the State Department, was that something that you remember, and did you think that that recommendation made sense?

Ambassador PICKERING. Yes.

Mr. DESANTIS. And so the issue with not submitting interrogatories to Secretary Clinton or not interviewing her about, you know, what determinations did she make with respect to Benghazi, what was the reason for not doing that?

Ambassador PICKERING. I think that we made it clear that, as I said a moment ago, that's, that particular process, which Secretary Albright implemented in her own way of having a daily meeting in the morning with the assistant secretary of security, seems to have dwindled away. It did not exist, and therefore, there was a weakness, in our view, in perhaps pushing issues up that might have attracted the attention of the Secretary, but that was not done.

But that was not, in our view, a fault with the Secretary. It was a fault with the assistant secretary for security, who, if he had that view, should have pushed it up. That was, of course, a decisional

question. We found weaknesses in taking account of a whole series of activities in the region that everybody seemed to live with and not take as a kind of bell ringing in the night that the situation was getting worse and you better take a look at it.

Mr. DESANTIS. And I understand that. I guess my issue is, is, you know, Benghazi and eastern Libya generally, like when I was in Iraq in 2007, there were foreign fighters coming into Iraq from Libya. And we knew when we were conducting operations against Qadhafi that a lot of his opposition was an Islamist opposition. And so it just seems to me that that process breaking down, I understand how that, but this particular area on the eve of 9/11, it just seems to me that there should have been more alarm bells ringing off that would go all the way to the top. And I understand your point about the breakdown, but it just seems to me it would have been helpful to get the Secretary's input on what she did or didn't do proactively, understanding that there may be fault beneath because of the critical nature of that, and so I just want—my final question would be, you know, as you sit here today, and obviously, it would be to both Admiral Mullen and Ambassador Pickering, are you satisfied with the United States Government's response to what happened in Benghazi writ large?

Ambassador PICKERING. No, and I think that our report was designed, sir, to provide a series of recommendations——

Mr. DESANTIS. But what I'm saying is——

Ambassador PICKERING. —on what to do.

Mr. DESANTIS. The response, since you've done the report, are you satisfied with the action that the government's taken, and then, just as somebody, and I know this is outside the purview of your report, but just as an American, and certainly Admiral Mullen, as a distinguished military officer, you know, are you satisfied with what we've done to bring the folks who actually did this to justice?

Ambassador PICKERING. I'm—look, you've got a couple questions here. What was done to follow up the ARB generally through the newspaper reports, I think they are making a serious effort to do it, but I would be happier if I sat down and had a full briefing and then could give you the kind of judgment that I hope you would expect from somebody with experience.

Chairman ISSA. Heck, we'd be happy to get a briefing, too.

Ambassador PICKERING. Yeah, I understand. On the FBI's work, I think that's something you really need to talk to them about. There have been complaints that they aren't moving soon enough, but we all know the difficulty of investigative activities in foreign countries where, in fact, it requires a huge security presence even to go and take a look at the crime scene. And I think there are formidable problems that the FBI faces in being able to provide a rapid response. And I think I understand as well as most. I, certainly as a citizen, I would like to see it instantaneously, but as, I hope, a rational person, I have some understanding of what it is they have to contend with.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Tennessee, Mr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Thank you, gentlemen. I know it's been a long hearing.

There's many lingering questions on Benghazi. One I get asked quite frequently, and I want to get your perspective, Ambassador and Admiral, on this particular issue, and that is the claim by the State Department, the Secretary of State, the intelligence community as to the fact that this attack was the result of a YouTube video. What is your perspective as to why that was propagated for so long?

Ambassador PICKERING. Look, that all happened after the ARB was, in effect, reported. It was not in our line of responsibility, and therefore, I think that principally those investigating criminally are going to have to look for motive and rationale. And I believe, in fact, that, without bucking it too much, that's where the real decisionmaking on what really was motivating the guys will have to take place.

Put it this way: There was an attack on Egypt apparently more directly related to the video that took place on the afternoon before the attack on Benghazi. There is some indication that that attack stimulated interest in Benghazi, only indication.

There are some who have said there is testimony that, in fact, the video was in people's minds.

Mr. DESJARLAIS. Okay. I mean, I think we can all buy that story, sir.

Ambassador PICKERING. But I can't give you a conclusive view because I haven't done the work.

Mr. DESJARLAIS. Okay, I think we can all buy that.

You're an American. You listened to this. You watched the news, and you had to have been a little bit ashamed of the fact that this was propagated for 2 to 3 weeks. I think this is important because we have family that still have not had justice, the justice that Obama went on television and promised we would get; we would catch these people. It's a year later; there's not even been an arrest. And, you know, that's a problem.

And so it goes to the credibility, and I just wanted to get your perspective. I get your talking points, and I know what happened in Egypt, and that story might have held water for, what, maybe 6 hours, but not 3 weeks. But yet, you know, to the American people the credibility of the administration, the State Department and the intelligence community was diminished because they continued to propagate that.

Admiral, do you agree?

Admiral MULLEN. We made very clear early on, and obviously it was almost a month later when——

Chairman ISSA. Admiral, if you would take your mic, please.

Admiral MULLEN. Sorry. We made very clear early on, and obviously, we started a month later, that we thought it was a terrorist attack based on, actually not just based on sort of the public discussion but based on the evidence. And certainly I——

Mr. DESJARLAIS. What do I tell the folks back home?

Admiral MULLEN. I guess the way I would answer the question is to say I understand the question.

Mr. DESJARLAIS. Uh-huh, you understand.

Admiral MULLEN. But it really was outside our purview to get in.

Mr. DESJARLAIS. A lot of people think it was political. I mean, we were 7 weeks from a Presidential election; this was just messy,

and we didn't want to deal with it, but what it did create was a lack of an investigation taking place immediately. It was delayed about 3 weeks, and that's why I bring it up.

But let's get back to something that is more germane to today's hearing. Raymond Maxwell is one of the people selected for accountability. Can you tell me what Raymond Maxwell did to contribute to the inadequate security posture in Benghazi?

Ambassador PICKERING. He told us that he had made a conscious decision not to read the intelligence.

Mr. DESJARLAIS. Okay. And did you look at the testimony of his supervisor, Beth Jones, where she said it's been determined that there was no intelligence they could have told us that this attack was underway; it wasn't material.

Ambassador PICKERING. That was all substantive to our discussion. We did interview Ms. Jones. From what I can see, her subsequent testimony to the committee indicated she was not aware of the fact that her subordinate was not reading the intelligence.

Mr. DESJARLAIS. But in fact, there was evidence that he had not stopped reading all the intelligence.

Ambassador PICKERING. He made a statement to us that led us to believe that he had stopped reading intelligence.

Admiral MULLEN. And he did not clarify it, as it has been clarified I've seen in certain documents.

Ambassador PICKERING. And in every interview, we gave people at the end of the interview the warning and the right, did they have anything more to say to explain their testimony to us?

Mr. DESJARLAIS. Okay. So was Maxwell's finding for accountability directly related to the attack on Benghazi or was the accountability unrelated to the attack?

Ambassador PICKERING. We believe it was related to the security question. If he didn't know the intelligence, he couldn't understand the security problem in full.

Admiral MULLEN. And, sir, just very quickly, from my perspective, in that interview. I mean, again, I was stunned and shocked when I heard him. What it represented to me was a detachment from the responsibilities for Libya and then inside Libya and Tripoli and Benghazi. It was a strong indicator of his detachment, and he as a very senior guy in the State Department, responsible with everything else that was going on in the world, it sort of lay right in front of him.

Mr. DESJARLAIS. Okay, so I'll——

Ambassador PICKERING. And, sir, he said he did this because he didn't want to confuse in public speaking classified and unclassified, while at the same time, he was clearly reading all of the State Department classified material, so this didn't seem to us to be a responsible position or a reasonable position, and I fully support what the admiral said.

Mr. DESJARLAIS. Okay, so you think at this point, he still should be one of the four individuals based on what you know now? This is, of all the things that happened in Benghazi, this is one of the guys that should take the heat?

Ambassador PICKERING. We haven't changed our view. Certainly, I haven't.

Mr. DESJARLAIS. Thank you.

Chairman ISSA. We go to Mrs. Lummis.

Mrs. Lummis, would you yield me about 10 seconds.

Mrs. LUMMIS. Yes, Mr. Chairman.

Chairman ISSA. I just want to make one thing clear in a question. I'm following up on Dr. DesJarlais. You held him accountable because he was derelict in focusing on his responsibility. However, people above him and below him were acutely aware that there had been a series of attacks, including the two on the British ambassador and the like. So the actual attacks and the actual risk was not a question but only the classified information. I just want to make sure that's correct. We've had both of you in depositions on this.

Ambassador PICKERING. I think we believed that his responsibility in the bureau extended to everything taking place in Libya.

Chairman ISSA. So he's part of the culture of not caring enough but, in fact, people above him and below him, including Under Secretary Kennedy, were acutely aware of the growing danger and risk actually occurring in Benghazi?

Ambassador PICKERING. They were not——

Chairman ISSA. That's a yes or no.

Ambassador PICKERING. They were not required to follow, Mr. Chairman, on a daily basis. He had the dot. He made it clear he had the dot, and he was—they were not—these——

Chairman ISSA. Now, look we're aware of the——

Ambassador PICKERING. —his universe to cover.

Chairman ISSA. Admiral—or ambassador, we're not——

Ambassador PICKERING. I love the promotion, keep giving it to me.

Chairman ISSA. No, ambassador is forever, we know that. The fact is that we are not disagreeing that there was a level, a sequence of responsibility.

Ambassador PICKERING. Yes.

Chairman ISSA. So, trust us, we are not saying you were wrong in holding certain people accountable. One of the challenges here, as Dr. DesJarlais said, is, Look, you had absolutely no mandate to deal with the fact that the American people were outright lied to as to the cause of the attack and misled for a long period of time, including on virtually every Sunday talk show. We understand that wasn't your mandate, but neither was your mandate to look at the question of a system, under Under Secretary Kennedy, that did not allow anybody to pull the panic button, but rather, it kept looking for one person who would decide not to do, not to have Benghazi open or to man it with resources they may not have had. Mrs. Lummis, I would ask——

Ambassador PICKERING. Quite the contrary, Mr. Chairman. One of our recommendations was that there ought to be a system, a very simple one, where there were differences of view between the regional bureau supporting the ambassador in the field and Diplomatic Security, that it ought to be resolved by the two assistant secretaries immediately. If it couldn't go there, it should go to Kennedy and his political opposite number in this point, Wendy Sherman. If they couldn't solve it right away, the Secretary. So we believed, in fact, that push up was not taking place, and the principal responsibility, as Admiral Mullen I think explained a while ago,

seemed to be at the level of the people who had the responsibility to push up, who were in a sense covering their decisions.

Chairman ISSA. Thank you.

I would ask unanimous consent the gentlelady have the full 5 minutes. Without objection, so ordered.

Mrs. LUMMIS. Thank you, Mr. Chairman.

I want to follow up on Dr. DesJarlais's and the chairman's line of questioning. You did, as the Accountability Review Board, admit last December that there was no protest prior to the attacks, correct?

Ambassador PICKERING. Correct.

Mrs. LUMMIS. Is it true that there really were video and audio feeds from Benghazi as the attacks unfolded?

Ambassador PICKERING. No. There were video feeds to the tactical center in Benghazi monitored by a DS agent.

Mrs. LUMMIS. And did the——

Ambassador PICKERING. Who had an opportunity to see certain cameras that were put in for precisely that kind of surveillance.

Mrs. LUMMIS. Okay. And so did the DSA agent have an opportunity to communicate what he was seeing on the film to——

Ambassador PICKERING. Yes, he was speaking over the telephone on a regular basis with the DS operations center at the State Department in Washington.

Mrs. LUMMIS. Okay. So that gets it into the chain of command. So that information could have been or should have been available to the President, to the Secretary of Defense, the Secretary of State; is that correct?

Ambassador PICKERING. That particular set of information was shared in the State Department. I don't know to what degree it went beyond the State Department.

Mrs. LUMMIS. So we still don't know why Susan Rice went on those Sunday talk shows when they had the information that this wasn't due to a spontaneous protest and instead said it was.

Ambassador PICKERING. We did not obviously have responsibility for investigating that, so I don't even want to give you an opinion on it.

Mrs. LUMMIS. Okay. Was it an organized terrorist group that attacked?

Ambassador PICKERING. That is something the FBI will have to answer. I can say the following: From my observation of the surveillance camera film, which was spotty, not complete, some of the invaders showed some modicum of organization for a short period of time and some showed a lot of disorganization, but Admiral Mullen is the military expert. I don't know whether he has any comment on that or not.

Admiral MULLEN. I think that's pretty well said. I would say it was a combination.

Mrs. LUMMIS. Okay. Is it true that a former GTMO detainee who knew Ambassador Stevens claimed responsibility for the attack after it happened? Is that true?

Ambassador PICKERING. I believe you're getting into classified intelligence and that we can't take you there now.

Mrs. LUMMIS. Okay. Is it true——

Chairman ISSA. Will the gentlelady suspend?

Mrs. LUMMIS. Yes.

Chairman ISSA. That is not true. That is not classified that they made an overt claim of responsibility. The gentlelady's question had to do with that a group had claimed it. They made a very public claim.

Mrs. LUMMIS. Okay, thanks, Mr. Chairman.

Ambassador PICKERING. Yeah, but—okay.

Mrs. LUMMIS. Is it true that there's documentation that the Muslim Brotherhood and operatives from Egypt were involved in the attack?

Ambassador PICKERING. Our report indicates that one Egyptian organization, which is named in the report, was possibly involved, and I'm not sure. I think that that's in the unclassified. I hope it is.

Mrs. LUMMIS. Okay. If we—is it true that they were seeking to loot surface-to-air missiles that were gathered up at the annex?

Ambassador PICKERING. I can't comment on that.

Mrs. LUMMIS. Okay. Is it possible that they were trying to acquire classified communications codes?

Ambassador PICKERING. I can't comment on that.

Mrs. LUMMIS. Okay. Is it true that they were planning to kidnap the ambassador and it went wrong?

Ambassador PICKERING. I can't comment on that.

Mrs. LUMMIS. Thank you Mr. Chairman I yield back.

Chairman ISSA. Would the gentlelady yield?

Mrs. LUMMIS. I will.

Chairman ISSA. Mr. Sullivan, Mr. Keil, I just had one question that has come up again and again in your post mortem of problems. I'm a big fan of really great security systems, and my favorite one is how they produce high quality automobiles on the Japanese assembly lines. They have overhead lines and any production worker—and this has become common in America too—anyone on the production line can pull if they see a bad part or a safety hazard they can pull a chain and the line shuts down. That's how they make sure they don't have defects.

Is one of the problems you've observed that whether or not we have a growth in the bureaucracy, an Under Secretary of X, Y, and Z, who theoretically report directly to the Secretary, isn't one of the problems that the culture doesn't allow one person who sees a problem to simply shut it down? In other words, one group is making the facilities decision as a complete exception to the safety standards; another person is held accountable after a decision is made to be in a hopelessly worthless building, one whose wall had been breached by a very small piece of explosive, and yet that person didn't have the ability to say, stop, we're not going to be in Benghazi because policy drives whether you are in Benghazi, facilities drives what building you're in, and then diplomatic security is told to make sure that they make it safe.

Isn't the functional structure at the Department of State one in which instead of having everybody be able to shut something down for safety, virtually nobody in some situations can independently shut it down other than the Secretary of State herself?

Mr. SULLIVAN. I think what we looked at here was enabling people to be able to do that very thing. I think what we saw here, a

Secretary, there's a lot of very, very good outstanding people at the Department of State.

Chairman ISSA. Agreed.

Mr. SULLIVAN. Diplomatic security. I think when it comes to risk, we, as a country, what I've been briefed on, we've made a determination that we're going to go into these high-risk areas. What I think is there just needs to be an improvement in how we go about doing our risk management and how we come up with the best plan to mitigate that risk.

We've seen, we have seen stovepiping, I think that's an issue, I think that's an issue in any organization. But to me, this is about identifying what those problems are and fixing it. And I do see that that move is afoot. But I do think when you go into any high-risk area, I do think that there is always going to be that threat. We're never going to be able to eliminate all of that risk but we need to come to a—I think State Department needs to come to a, arrive at a spot where, you know, they look at the criticality of that program and they come up with the best mitigation for that threat.

Chairman ISSA. I thank the gentleman.

Mr. CUMMINGS. Mr. Chairman, may I have 30 seconds to just sum up?

Chairman ISSA. Yes.

Mr. CUMMINGS. Mr. Chairman, you said a moment ago you said something, and you said that's not true when you were talking to Admiral Pickering.

Admiral Pickering, I just want you to clear that up the chairman said to me he misunderstood, but I want the record clear.

Chairman ISSA. I was only saying based on her question which the Ambassador misunderstood.

Mr. CUMMINGS. Because these records—I don't want your reputation to be impugned in any way.

Ambassador PICKERING. I've lost part of the conversation. I'd be glad to address the question.

Chairman ISSA. It was simply that what her question was if properly understood was about a public report, and it was clear that you didn't understand she was asking about the public report which then you both cleared up.

Mrs. LUMMIS. That is true.

Ambassador PICKERING. Because I know, I will put it this way, unpublic information——

Chairman ISSA. We do not want unpublic information here today.

Ambassador PICKERING. And I would always say, Mr. Chairman, just let me say this: Kidnapping seemed to me to be far-fetched because, in effect, in the testimony that was given in the public report, they did not make a serious attempt to go into the closed area of the villa. It is not even sure, in my view, they knew the Ambassador was there.

So I would say while I said I didn't want to touch that, I would say in retrospect, it doesn't seem highly likely. Could be, but I don't think so.

Mr. CUMMINGS. Thank you, Mr. Chairman.

Chairman ISSA. Thank you. We're now going to recognize that everyone has had a first round. I would like to get this panel out of here in less than 10 minutes. So I'm going to look to my left and

tell the gentlemen that I will waive my time and give you, between the two of you, 5 minutes. I will look to my right and give my ranking member 5 minutes, and no one will get a minute more. The gentlemen over there may split there time starting now.

Mr. JORDAN. I thank the chairman for the generosity.

Admiral Mullen, we learned earlier that in the very first week of the ARB being formed, you gave Cheryl Mills a heads up because you felt Charlene Lamb, who was coming to testify in front of this committee was quote, and the response to Mr. DeSantis' question, "a weak witness."

So my question is real simple. Why should you care? Why does it matter? Weak—if she was a weak, strong witness, short witness, tall witness, male witness, female witness, why in the heck does it matter? Your job is to figure out what took place at the State Department not to decide what kind of representative the State Department sends in front of a Congressional committee. So why in the heck did you care?

Admiral MULLEN. I indicated before that I did that having nothing to do with the ARB, and having everything to do with the fact that I've run departments, provided witnesses, and as the head of a——

Mr. JORDAN. If she was a strong witness, if she was going to convey a good light for the State Department, would you have called up Cheryl Mills and say hey, Charlene Lamb is going to knock it out of the park you know make sure you coach her and get her ready and send her in front, she is going to be stellar. Would you have called Cheryl Mills then?

Admiral MULLEN. In my interpretation or judgment at that point, she is going to be a strong witness? No.

Mr. JORDAN. So the only reason you called her is because she was going to be a weak witness and convey a bad light on the State Department.

Admiral MULLEN. The only reason I called was to give her a heads up that I thought the Department could be better represented at the hearing.

Mr. JORDAN. Let me walk you one more thing before I yield my time to the gentleman from Utah.

Isn't it true that you were selected, you were notified by Cheryl Mills that you were going to serve on the ARB?

Admiral MULLEN. Correct.

Mr. JORDAN. So Cheryl Mills called you up, said, Admiral Mullen, I want you to serve on the board. A week into the formation of the board you call her back up and you say, hey, Cheryl Mills, the lady who's about to go in front of the committee that has jurisdiction looking into this is going to be a terrible witness. You need a heads up on this, and oh, by the way, at the end of the report before it goes public, you give Cheryl Mills and Hillary Clinton a chance to look at the report and make edits if they want to, and yet, I forget one important point, maybe the most important point. In your opening statement you said you operated and the board operated independent.

Admiral MULLEN. We did operate independent.

Mr. JORDAN. I just want to make it clear. I yield my time to the gentleman from Utah.

Admiral MULLEN. And the only thing I'd like to comment with respect to what you said in the last statement was in the normal process, as we report it out, we were done with the report, and we went to Secretary Clinton to give her a briefing on the report. It was hers to take, that was the tasking, and hers to choose what to do with if she chose to sign it out.

Mr. JORDAN. And Admiral that's all fine, but don't convey this as independent. If Cheryl Mills picked you, you gave her a heads up within days of starting, and you let them look at the report and edit the report at the end, that's all fine if that's the way the statute reads, but don't try to tell us that it's independent.

Admiral MULLEN. Ms. Mills didn't pick me. She called me and asked me to do this for the Secretary of State.

Mr. JORDAN. Okay that's not picking. All right. I got that.

Chairman ISSA. The gentleman from Utah.

Mr. CHAFFETZ. I just have to ask as a follow-up to that. You testified that Charlene Lamb you thought was honest, you're not questioning her integrity so what made her a weak witness?

Admiral MULLEN. It was my reaction from having sat down with her for a couple of hours at that particular point in time.

Mr. CHAFFETZ. So she's honest, she's full of integrity but that made her a weak witness?

Admiral MULLEN. My sense was, Mr. Chaffetz, my sense was that she had not appeared before, this was not certainly, it certainly wasn't routine, from that standpoint, and it was not, and I just ask you, I have to ask you to believe me, it was not certainly intended to never put her in front of the committee, or at least speak to that.

Mr. CHAFFETZ. This is the problem. With all due respect, you make in your fourth paragraph of your testimony you go to great lengths about the unfettered access, the ability to talk to people. We didn't get that same privilege. We don't have that on the same panel.

The President of the United States said before the American people and said that he would "I think it is important to find out exactly what happened in Benghazi and I'm happy to cooperate in any way that Congress wants."

That's never happened. It doesn't happen in this panel, it doesn't happen from the State Department. That is part of the frustration. I don't mean to single you out at all. I appreciate you being here and what you've done in your career. We still don't have answers to very basic things.

The video, or the lack of a video, is kind of an important element to what happened or didn't happen in Benghazi. You didn't even look at that.

Now I need to ask Mr. Sullivan, because part of the reason that you and Mr. Keil are here is because we saw in Al Jazeera of all places the independent panel on best practices. You convened this panel at the recommendation of the ARB. You started this panel back in April, correct? Mr. Sullivan?

Mr. SULLIVAN. Yes, sir.

Mr. CHAFFETZ. When did you complete your work.

Mr. SULLIVAN. We completed our work just before the report came out which would have been the end of August, beginning of September.

Mr. CHAFFETZ. Who specifically—I want a name—did you give this report to? This report is dated August 29, 2013, this report is dated then.

Mr. SULLIVAN. Yes, sir.

Mr. CHAFFETZ. Who did you hand this to?

Mr. SULLIVAN. The report was handed to Greg Stern who is the acting——

Mr. CHAFFETZ. I'm sorry, who is he?

Mr. KEIL. We presented actually under the Federal Advisory Committee Act, we were legally bound to present the report to the Overseas Security Advisory Committee, which is a FACA-exempt group, and their executive counsel had to take a look at the report before it could officially go to the Department of State.

Mr. CHAFFETZ. Has it gone to the Department of State?

Chairman ISSA. Your time is expired. This will have to be the last question.

Mr. SULLIVAN. I don't know.

Mr. CHAFFETZ. I would ask my friend, the ranking member, if he would be okay just to finish this line of questioning. Please, if can have an additional minute.

Chairman ISSA. Without objection, so ordered.

Mr. SULLIVAN. The Department of State does have the report.

Mr. CHAFFETZ. One of my fundamental challenges and problems is the United States Congress doesn't have this report. It's been almost a month. We don't have this report. And yet the first time it comes up, to the best of my knowledge, is on Al Jazeera, that's where we've got to get this stuff? And so——

Mr. SULLIVAN. Congressman, I think that was really unfortunate——

Mr. CHAFFETZ. Do you know how it happened?

Mr. SULLIVAN. I do not. And believe me, that, I believe that's extremely unfortunate that that report came out that way. The State Department, quite frankly, didn't even have a chance to look at that report before it was, before that came out.

Mr. CHAFFETZ. So who is going to investigate how Al Jazeera gets a copy of it before the State Department or the United States Congress gets to it? Where did it go? You used to be the head of the Secret Service. You know how this stuff works. How did this happen?

Mr. SULLIVAN. Sir, all I know is that we provided this report, as Greg said, I was not there that day. I was out of town. But this report was provided to the representative of the Overseas Security Advisory Committee, and the next thing we knew within 2 days, that report had been leaked out.

Mr. CHAFFETZ. I do hope for those State Department officials, Mr. Chairman, I'm going to wrap up, the State Department officials that are here in this room that are listening to this, to understand this they've got to get to the bottom of this, and we still, as the United States Congress, have to get a copy of this. For Al Jazeera to have it a month almost before us is just not acceptable.

Chairman ISSA. I thank the gentleman. We now go to the ranking member.

Mr. CUMMINGS. Admiral Pickering, Admiral Mullen Mr. Sullivan and Mr. Keil, many of my comments mainly at Ambassador Pickering and Admiral Mullen, I'm so glad you're there. I'm glad you did what you did.

There's a book that I love called The Speed of Trust by Covey. At some point, we have to have trust in somebody. When you lose trust, what happens is that it's almost impossible for any relationship to succeed.

And I know that you come here, and I notice that everybody gives you these nice compliments and everything and then all depending on who it is, then you hear a lot of negatives and sometimes positive. But again, I thank you for what you've done.

Let me ask you, Admiral Mullen, there's been a number of questions about this heads up, and sounds like it was more just general advice as to who could best present testimony, but going back to the, now back to the ARB, did you all take it easy on Charlene Lamb?

Admiral MULLEN. We did not.

Mr. CUMMINGS. I can't hear you.

Admiral MULLEN. We did not.

Mr. CUMMINGS. Did you give her a pass?

Admiral MULLEN. No, we held her accountable.

Mr. CUMMINGS. Would you agree with that, Admiral Pickering? Ambassador. I'm sorry.

Ambassador PICKERING. Okay.

Admiral MULLEN. Absolutely.

Mr. CUMMINGS. I apologize. During the transcribed interviews with the committee staff, numerous officials described the week of the attacks on Benghazi as an intensely dangerous, complex and confusing week of protests and other violent episodes at U.S. facilities around the world. For example, Eric Boswell, the Assistant Secretary of Diplomatic Security, described a multitude of events threatening U.S. posts around the world.

This is what he told us; "The state of play was not only in Benghazi but in Tripoli, we were very concerned about Tripoli, but also things were starting to go haywire in other places. We had an attack on our embassy in Sana'a, Yemen, where demonstrators penetrated the perimeter, did a great deal of damage, milled around inside the compound and in subsequent days, there were other such demonstrations, so I had my hands full. We had," and this continuing on with the quote, "we had a mirror innovation of a compound in Khartoum, Sudan, where very large thousands of demonstrators in each case, there was thousands of demonstrators, saw thousands of demonstrators, came up against the wall of this brand new mission."

Continuing; "There was a similar attack by a mob on our embassy in Tunis, another brand new facility, a large number of demonstrators penetrated into it, into the facility, another round, did a lot of damage. It was very alarming at the time."

Admiral Mullen, I'm trying to put myself in the shoes of our military, diplomatic and intelligence officials who were trying to deal with this in very few days. I noted the ARB looked specifically at

Benghazi, but can you tell us anything about how our military would have dealt with this entire week of incidents?

Admiral MULLEN. You mean in terms of a military response.

Mr. CUMMINGS. Yes.

Admiral MULLEN. It would have been obviously posturing forces, increasing levels of readiness, moving them as rapidly as we could, literally, as you described it, around the world in order to respond. And it would pull us away from places like the Persian Gulf where we have a lot of forces, even, quite frankly, the Western Pacific we started to roll from there, forces that were heavily engaged as well in places like—or in Afghanistan. So it wouldn't have, it wouldn't be for, I'd say, a short period of time, impossible to kind of move forces into place, but sustaining them in, lo, these many areas for a long period of time, that's where we don't have enough forces.

Mr. CUMMINGS. Ambassador Pickering, what about the State Departments's global perspective? How do you begin to even process all of this incoming information?

Ambassador PICKERING. Well, I think that we have a system to do it, but the responses to cascades of basically deteriorating events are always measured against what are the resources of the State Department to mobilize reserves.

And in truth, Mr. Cummings, there ain't no reserves. We're short on dough, people are stretched. We have to take away from one set of foci where we're working online, operationally, pull people out and put them other places.

When compounds are under pressure, particularly where there are dependents, that raises another very serious question of how do we get them out of harm's way as soon as we can? So there are multiple questions. And I can understand that assistant Secretary Boswell was literally up to here to have 3, 4 or 5 major attacks if you can put it this way on U.S. facilities taking place in the space of 3 or 4 days.

And so that is getting close to exhaustion. And in many ways, the ability to ride that out and to see the way through it represents, in my view, an extraordinary devotion to duty.

Mr. CUMMINGS. Mr. Chairman, I again thank you for bringing our witnesses forward. Thank you all very, very much. We really appreciate your testimony, all of you. Thank you.

Chairman ISSA. I thank you. I also thank our witnesses and as we close, we thank each of you for your service, both in your roles of investigation and for your many years of Federal service.

We have learned today, I believe, a great deal about how the, particularly the Admiral and the Ambassador, view the ARB deficiencies, recommendations. We certainly have a number of statements made that I believe this committee will take note of and reflect on including Admiral Mullen's statement that, in fact, had there been in the neighborhood of 30 defense forces in Benghazi, the attack may not have occurred because at that point it would have been viewed as a harder target.

At the same time we contrast that with the two heroes who were lost at the annex, a facility that was, by comparison, better fortified and better armed. What it means to us is that there is no single point of accountability, there is no single fix that will deal with this.

Having been many times in the embassy in Beirut, I know what a facility that is heavily guarded costs as compared to one that is heavily fortified by design.

Recognizing that we will always have areas of risk, it is one of the challenges of this committee to recommend to the Foreign Affairs Committee and to the Appropriations Committee such funding in investments and organization as may allow a better decision process to be made.

One of the challenges I believe this committee and the other committees of jurisdiction will have is if the decision is that we must have a diplomatic presence, and then facilities and manpower must be procured, it takes away the honest authority of the Congress to appropriate such funds as they see fit, and ask the administration to live within those funds.

That struggle does that not occur in this committee. Our recommendations will be based on a process, hopefully leading to better decision processes.

I want to thank you again. I want to thank the next panel of witnesses for their patience. We will take a very short recess and reconvene. Thank you.

[Recess.]

Chairman ISSA. We now recognize our second panel of witnesses. Ms. Patricia Smith is the mother of Sean Smith who lost his life in the attacks on the U.S. diplomatic facilities in Benghazi on September 11, 2012. And Mr. Charles Woods is the father of Tyrone Woods, who also lost his life that night.

I want to thank you for your patience. Hopefully you benefited as much from the question and answers as the committee did.

Pursuant to the rules of the committee, could you please rise to take the oath. Raise your right hand.

Do you solemnly swear or affirm the testimony you will give today will be the truth, the whole truth and nothing but the truth?

Please be seated. Let the record indicate both witnesses answered in the affirmative.

You waited a long time through the first panel, and there were a great many questions. There will be many less questions, and I would ask that you tell us what you feel what you've experienced so that we can understand what it's been like for this slightly more than 1 year since the death of your loved ones. Ms. Smith.

STATEMENT OF PATRICIA SMITH

Ms. SMITH. I don't know exactly know what to say. I have been ignored by the State Department. I've been told I was unimportant, and I had to find everything I know by going on the Internet and asking questions, because nobody from the government has gotten back to me to tell me anything, and I mean that by saying anything. And it's been, I hate to put in the record, but it has been pure hell living through all this and not getting any answers. I wanted to be able to put everything beside me and have everything go away. But I can't do that because I don't have plenty of answers that I need.

One silly question that I had was every time I see this on TV, I see these bloody fingerprints crawling down the wall of that Benghazi place, and I keep asking everybody, do those belong to

my son? And nobody has told me anything. One person said, no, it's not them. It's not him. But that's just the kind of answers I get. Are those his bloody fingerprints? And I know you people can't answer that now. But this is how it feels, and it feels terrible. I want answers. I want to know what happened with my son. And I know you can't tell me anything classified, but tell me something. The only thing—wait a minute, I take that back, I apologize, I was told a few things and they're all lies.

Obama and Hillary and Panetta and Biden and Susan all came up to me at the casket ceremony. Every one of them came up to me, gave me a big hug and I asked them what happened please tell me. And every one of them said, it was the video. And we all know that it wasn't the video, even at that time they knew it wasn't the video. So they all lied to me.

But what they said was, I will check up on it and get back to you for sure. And do you know how many times I heard from them? None. I don't count. People of America don't count. The only thing that counts is their own selves and their own jobs. And the people that are involved in this get suspended for a short time, paid the whole time, and then rehired or whatever it is that they do.

I want to know what happened to my son. Why can't these people tell me this? I'm sorry. I'm ranting.

That's it.

Chairman ISSA. Thank you.

Mr. Woods

STATEMENT OF CHARLES WOODS

Mr. WOODS. Thank you, Congressman Issa, for inviting members of the family. First of all, I'd just like to say, this tie right here is special to me. It was worn at my son's funeral. And I only wear it on special occasions and this right here I trust is something special that is happening. The other thing that is special that is happening is after Ty went home to be with Lord, I really was concerned about his son that was born just, he only saw for a very brief time before he left on assignment, how he'd be doing and after 1 year, we spent a day with him yesterday that was the one ray of sunshine through the clouds this week, so a few special things have happened here and I thank you for what you're doing.

It's been over a year since four brave Americans were tragically killed in Benghazi. And after 1 year, we know very few answers that we have been asking for the last year. We don't know much more than we did a year ago.

Two of my heroes while growing up were John F. Kennedy and Martin Luther King. Reverend King made the statement that justice delayed is justice denied. It's been over a year. We have no justice and we have very few truthful answers that have been provided.

Public testimony is necessary in front of a committee such as this so that the American people can get the truth. So I thank you very much for what you're doing here. Now, voters, they need to know the truth about what happened in Benghazi in order to protect America's freedoms. Now a lot of people unfortunately say that we can't tell the people the truth, we have to answer, I can't answer that question. Such as the Ambassador did. There are too many of

these witnesses that are testifying behind closed doors, and we don't know what they said. We don't see their faces on TV to tell whether or not they're credible witnesses. We don't see whether or not the right questions were asked to get to the truth or whether meaningless questions were asked instead.

So it's very important that we have public testimony by credible witnesses with firsthand—not hearsay—knowledge of the situation. That is why it's imperative that you call people like General Ham, you call people like Ty's friends who have contacted various committees and wanted to testify through their attorney but have not been issued subpoenas.

There are people out there that have firsthand knowledge, and public testimony is necessary.

The voters need to have the truth about Benghazi so that the voters can protect the freedom of America.

Now after 1 year, there are certain questions that I would like to have answered. Recently I sent a letter to the President who offered to reach out for answers some of the questions I asked I would like to direct to this body as well.

I am the father of Ty Woods, who was killed while heroically defending the American consulate in Benghazi. These are some of the questions. Who made the decision to stand down and when and why was that decision made?

Now there is some conflict as to whether or not there was an order to stand down. There are very credible sources that say that Ty and five of his special forces workers were denied three times, once they went, were denied. They waited a certain period of time, second time they were denied. They waited another period of time. Third time, they were denied. They went anyway.

We need to ask the people that were there, not rely upon hearsay evidence as to whether or not there was an order to stand down.

More importantly, we also need to know find out who it was that gave that order to stand down and why that order was given to stand down? The former admiral of the Pacific fleet said that in all of his decades of service, this has never happened where a rescue attempt was not at least attempted immediately, and immediately does not mean the next day. Immediately does not mean 8, 9, 10 hours later.

When is also important, because Ambassador Stevens was alive for a substantial period of time after he made that initial distress call. It's very possible that there would have been no loss of life if that first order to stand down had not been given. We need to find that out.

Another question is, is it true that General Ham was relieved from duty for refusing to follow the order not to rescue? I have had a general tell me that according to his intel, that General Ham was relieved of duty because immediately after the distress call was relayed to him, he was told to stand down. And his words, according to this general were, I don't speak like this, screw it, and, within moments, General Ham was relieved of his duty by an inferior officer.

Now the spin that was given by the administration was that this was a prescheduled rotation of generals. Well, I think it is an insult to the intelligence of the American community to say that a

general in the middle of a battle would be relieved because of a prescheduled rotation, and especially by an inferior officer. We need to have that direct testimony by General Ham, and it needs to be public so that the public, so that the voters can view the credibility of who is telling the truth, because the ARB contradicts that and says that there was not any denial of support by anyone from Washington at page 37.

Finally, this is a very personal question to me, but a very important question, and that is if the President's child were in Benghazi, would the rescue attempt have been more aggressive? There are very—there's very strong evidence of what the answer to that question is, and I will let every American make that decision for themselves.

Thank you.

Chairman ISSA. Thank you.

I'll be brief in my questions and first I will start with a comment for both of you. We're essentially the Select Committee on Investigations here in the House, and we have a counterpart in the Senate, and we have a long history of doing investigations and sometimes people talk about us writing subpoenas and demanding people and hauling people before this committee. And we don't walk away from that. Sometimes it's necessary.

Today I want you to know that just today, I signed subpoenas for Alec Henderson and John Martinek.

Mr. WOODS. Thank you.

Chairman ISSA. If there are additional witnesses who have facts and were on the ground and want us to issue subpoenas if their names could be provided to us we will do so.

We are issuing the subpoenas for these two individuals because the State Department has repeatedly lied in how they reflected these people's availability saying that they were available if they wanted to come forward. Well, a spokesperson in the press office after repeatedly being asked by press officials, not us, the press officials essentially created the obvious slant which was that these individuals were free to come forward, but there was a criminal investigation and they might harm it.

We finally have reached the end of our rope after repeated requests for these individuals. In fact, their names have never been formally given to us, but rather, a large stack of information delivered to us as classified while, in fact, on their face being unclassified is guarded by State Department official and we may not make copies of it.

Instead we were able to find from open source, the names of these individuals, and we today subpoenaed them.

We will not end our investigation until all your questions are answered.

Mr. WOODS. Thank you.

Chairman ISSA. One of the questions, Mrs. Smith, that I have is how could President Obama tell you that, in fact, this had anything to do with a video when he said, quite frankly during a live debate in Denver, that the next morning in the Rose Garden he knew it was a terrorist attack, and that statement in the Rose Garden obviously occurred prior to your son coming home. So that one I find hard to believe.

Ambassador Rice, on the other hand, continued to be somewhat delusional as to the cause of this on five sequential television appearances. Secretary Clinton, I'm not sure what difference it makes to her, but I am surprised that she would make a categoric statement of something that her own acting ambassador on the ground has said before this committee, under oath, he knew from the moment it happened that it was, in fact, a terrorist attack and more importantly the Secretary was well aware that the Ambassador went to bed at 9:05 and would never have gone to bed if, in fact, there was a large demonstration occurring outside his door.

For both of you, I really truly regret your loss and I can see the pain that you deal with every day. I'm not going to inflict any more pain on you here today.

The promise I make is that as long as I have this gavel, I will continue to pursue this. As you go down the dais at least most of the dais, you're going to see people who have worked on this and will continue to work on this. And I want you to take particular note to Mr. Chaffetz who, on my request, made the first trip to the region was with General Ham and if he were sitting next to you, the testimony he would give as to what he found out from General Ham before the handlers got to him was quite a bit different than what was later related.

So, Mr. Woods, we will work with you, we will work with both of you to try to get you the truth.

The fact is that will not bring your loved ones back. And the only thing we can say is that it may save somebody else as a result of their efforts. And I also want to reiterate what I think is understood is those who picked up arms to defend the compounds undoubtedly saved the lives of their colleagues. And if reports are correct, there were more than 30 people who are alive today because of their heroic efforts. And I want to thank you for that.

I recognize the ranking member for his question.

Mr. CUMMINGS. Thank you very much. I don't have any questions. But I do want to thank you all for being here.

It is so important, and Mr. Woods, the last conversation I had with you was a very wonderful conversation and I have actually written about, and I remember you asked two things that we find out who did this, who is responsible, and do everything in our power to bring them to justice. But you also said something else and that was to do everything that we could to make sure it doesn't happen to anybody else. I made a commitment to you that day and I continue to make a commitment to you today to do just that.

So Mrs. Smith and Mr. Woods, I join my colleagues in expressing our sympathy for your loss, and honoring their memories. It's tough, I know, and very, very difficult. Not all of the heroes who were killed in Benghazi have family here today, but I wanted to honor those individuals as well as I know you would.

Mr. Woods, like your son, Glen Doherty was a Navy SEAL who spent his life serving our country. He was part of the team that responded to the USS Cole attack and he participated in two tours of duty in Iraq.

I'd like to read some words of kindness that friends of Glen Doherty shared at his memorial. Here is what one friend and former Navy SEAL said about Glen.

My friend Glen, he would never pound his chest or tell you how great he was. Glen was a great listener and always had experience and advice. He was the jack of all trades and the master of all, a person that was great at everything he did, a warrior, spirit balanced by kindness of hearts.

Here is what another friend and former Navy SEAL said about him. Glen was, without a doubt, the most liked man I have ever met. He was the kind who went through which hundreds of people knew one another and kept in touch and up-to-date with each other. I can't remember ever hearing anyone say a bad thing about the man, which I found particularly interesting considering he was one of the most genuine men I have ever known.

He was a brother in arms as well as a brother in life. Don't cry for Glen. He would not approve of that. Celebrate a man who lived well and died with a gun in his hands fighting for those too weak to fight for themselves.

Another former Navy SEAL described Glen this way. He said Glen Doherty was a true American hero in every sense of the word. He embodied the selfless spirit, unwavering determination to succeed, and a dedication to our country that sets the standard for what every American should strive to be.

The loss of this incredible warrior is one that will forever hurt this Nation's heart, as Glen was truly a gift to the many people that knew him, and even to the ones who didn't. There is nothing he wouldn't do to help those that were close to him and he never met a stranger that he would not befriend. Glen was one of the finest men I have ever had the pleasure of knowing. And the brotherhood that mourns of the loss of one of its very best.

And I think that we can as a matter of fact, I know we could say the same about your sons. They were gifts to us. And guess what? You are also gifts to them. And we're going to do everything in our power, as the chairman said, to get to the bottom of this. But we thank you so much for being here.

Ms. SMITH. I do have another question. And it is not really a question, but, it is, when I spoke to Obama and Hillary and all the rest that I told you about, they all promised me, including Obama, that he would get back to me and that it was the fault of the video. So don't tell me that he didn't know about it. He may have changed his mind, but he did tell me that it was the fault of the video. And I don't trust my government anymore because they lie to me.

Mr. CUMMINGS. Again, I want to thank you all both for being here.

Chairman ISSA. Thank you.

Mr. Jordan.

Mr. JORDAN. Again, I will be brief too. I can't add to what's been expressed already other than just to say thank you and your family for the service to our country for coming here and testifying today. God bless you, and I'm committed just like the chairman said to getting to the truth, asking every question, getting every witness on that witness stand under oath. It's the way our system works. There's a problem in the executive branch, they have to come here in front of Congress under oath and answer questions from the legislative branch. That's how you have accountability. That's how you have the checks and balances as the Founders wanted. And I'm

committed to doing that, but again, I just want to thank you for you and your family's courage and the sacrifice that each of your families has made for our country.

Chairman ISSA. Mr. Chaffetz.

Mr. CHAFFETZ. Well, thank you, thank you, Mr. Chairman and I thank you both for being here. God bless you and your families. I just love when Americans, ordinary Americans do extraordinary things, and for both of your sons and the others that were involved, we can never forget their service, their sacrifice and the millions of people, quite frankly, that have gone before them and done as well. And I can only hope that my kids will look at what your kids did. I just appreciate it. I just want to say thank you.

As Mr. Jordan said, part of what we do as a Nation which makes us different from so many others is we are self-critical, we do look hard at these things and that's why we have this inspired document called the United States Constitution.

And so you will always have an open door here. We have a duty and obligation to find out the truth because you deserve that, our country deserves that and we have to make sure that it never ever happens again.

But here is my concern, here is a quote from the President, this is November, November 14th, of last year. The President said, "I think that it is important for us to find out exactly what happened in Benghazi, and I'm happy to cooperate in any ways that Congress wants."

That has never, ever happened. Not even close. Not even close. And it's sad to me to be 13 months after the fact and look you in the eye and tell you, that has never happened.

This is, again, the President: "We have provided every bit of information that we have and we will continue to provide information."

Again, it has never, ever happened. The President continued, and we have got a full-blown investigation and all that information will be disgorged to Congress.

Again, I'm here to look you in the eye and tell you that hasn't happened either. They told us today the accountability review board didn't even look at the video they didn't even look into that, they didn't see if that was one of the factors.

The President continued, and I don't think there's any debate in this country that when you have four Americans killed that's a problem, and we've got to get to the bottom of this and there needs to be accountability.

Thirteen months later there hasn't been the accountability. That hasn't happened either.

Finally, the President said, we've got to bring those who carried this out to justice. And there won't be any debate from me on that. I can tell you as a Member of Congress spending as much time as everybody here who is still sitting here by the way, that hasn't happened either.

And so I know there are a lot of people who say why are you still doing this? Why? It is all politics. We've been through this. And you're exactly the reason why. And I think if we just lived up to the promise that the President of the United States days after an election made to the American people, made to you, that's fine

that's the standard. I just want to live up to what the President said. I just want the President to do what he said he would do.

Do you have any comments, Mrs. Smith?

Ms. SMITH. I have many comments, but I can never bring them to mind when I want to.

Mr. CHAFFETZ. You'll think about them tonight, I know that happens to all of us.

Ms. SMITH. There are just so many, many things that have happened and, I just want my government, I love my country. I love my country. But I sure don't like my government. And if these people are involved in this, why don't you, why don't you get them out here to tell us their story? Why isn't Hillary out here telling us? It was her department. Why hasn't she been subpoenaed? Why can't somebody call her get her out here and put her under oath and say okay, what did you know?

Ms. SMITH. And hope that maybe she will tell the truth.

Mr. CHAFFETZ. Mr. Woods?

Mr. WOODS. I would like to take this opportunity.

Mr. CHAFFETZ. Sorry, your microphone again, sir.

Mr. WOODS. I would like to take this opportunity to publicly honor Congressman Chaffetz. He has lived up to that promise to reach out to my family. After this happened, he gave me his personal cell phone number. Once I called him up, he was in the process of taking his children to Disneyland. He took a substantial chunk of his family's time out to talk with me.

He was so concerned about this that in October, right after it happened, when it was still fresh, he went back to Benghazi, a very dangerous place, or back to Libya with General Ham. And before General Ham was compromised possibly, we don't know, he asked him that very pointed question about whether, you know, there were assets and whether there was an order to stand down.

Now, I'm old school. I keep my brains in my shirt pocket. I'm not the sharpest person in the world, so I have to write important things down, and this is what General Ham told Jason Chaffetz. General Ham told the Joint Chiefs of Staff the forces were available but no order to use them was given. That is in direct conflict to page 23 of the ARB report. We need to have public testimony, where the public can judge credibility and find out whether one is credible or the other. Jason Chaffetz is a man of impeccable credibility. There's no question.

Mr. CHAFFETZ. You're very kind, too kind. God bless you both, thank you.

Mr. Chairman, we need to hear from the survivors who were on the ground that night. It needs to be in public so the country can hear it, so these families can hear it. Those that survived the attacks in Benghazi are the ones that we have to hear from.

Yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Pennsylvania, Mr. Meehan.

Mr. MEEHAN. A grateful Nation thanks you for the sacrifice of your children, the service of your children, and the sacrifice of your families.

My prayers are with you, and I'll be inspired by your courage and testimony here today to assure that we do what we can to con-

tinue to try to get you answers, and I thank you for your courage being here.

I yield back.

Chairman ISSA. Mr. Gowdy.

Mr. GOWDY. Thank you, Mr. Chairman.

Ms. Smith and Mr. Woods, I want to express on a personal level my gratitude and my sympathy to you for the loss of your sons and to everyone that loved your sons and all of the four victims of Benghazi. And when you were testifying, I couldn't help but think of this dichotomy of death that sometimes it walks slowly to the front door of your life and it gives you plenty of time to get your affairs in order: You've had a good life. You have time to say goodbye to the people you love. You have time to offer a prayer for your soul. It just walks slowly and knocks gently on the front door.

And then sometimes it kicks in the front door unexpectedly with no notice, and you don't even have time to offer a prayer.

The word "closure" is used all the time, and my experience is it's only used by people who have never suffered the loss of a child because there is no closure. I can't offer you closure. What I hope we can offer you is the truth, facts, justice, and let you do with that what you need to do as you walk down that road we call grief.

So we can't give you closure, just the facts, the truth, and the real jury, Mr. Woods and Ms. Smith, is the American people. They're the ones watching this trial unfold, and they will decide. They heard this morning a perspective that everything that can be investigated has been investigated, everything. That's one perspective.

The other perspective is you didn't even bother to interview some of the central key eyewitnesses. And the American people are going to have to decide whether or not they would ever tolerate an investigation where you don't call eyewitnesses and you don't call the people responsible for whatever the duty was.

But I want to leave you with this, I want you to know this, from the upstate of South Carolina, I am asked about Benghazi more than any other issue. It has not been forgotten. I suspect you both live a long ways from the upstate of South Carolina, but just know, Republican, Democrat, independent, don't know, don't care, from church to the grocery store to Costco, frankly, to the golf course, I am asked about Benghazi and, in effect, about your sons more than any other issue. So the jury has not forgotten.

Ms. SMITH. Get answers, please.

Mr. GOWDY. Yes, ma'am. I will work with Mr. Chaffetz, whom I agree with you on your characterization of, and the others, and frankly, there are folks on both sides——

Mr. WOODS. Right.

Mr. GOWDY. —who want to find out, and I appreciate the fact that Mr. Cummings has been here all day. I can't give you closure. I just want to give you the facts and the truth and justice and let you use it however you need to use it.

Yield back.

Chairman ISSA. Thank you.

The gentlelady from California, Ms. Speier.

Ms. SPEIER. Thank you, Mr. Chairman.

To Ms. Smith and Mr. Woods, we have no idea what you're going through. Even those of us who have lost spouses and endured horrific experiences have no idea, but we are a grateful country for the service of your sons, and we want to see that the truth bears out.

We also want to make sure that this doesn't ever happen again, and we know you're here in part because you don't want to see anyone else go through this.

And I think it would be helpful to us to hear about your sons. So if you could just take a couple of minutes each and talk about how wonderful they were. I mean, Mr. Woods, I believe your son was a Navy SEAL and served in some of the most dangerous places on the planet to protect our country. Could you just tell us a little bit about each of your sons?

Mr. WOODS. I was told that Ty was a SEAL among SEALs. He was an alpha male among alpha males. We sat around when the bodies were coming in with several of his SEAL friends, and we were exchanging stories like what you're asking for. They exchanged a story with me that I had never heard before, and one was that Ty was two things, a man of incredible physical and moral strength. He would not allow what they would refer to or he would refer to, he would use the word "smoke and mirrors." He would not allow any breach of integrity. He could bench press over 500 pounds. You've seen a picture of his arms, okay? Obviously, a recessive gene. And once someone in authority lied to him, gave him smoke and mirrors, he took that strong Navy SEAL arm of his, lifted the person up by this part of their body, and said, in Navy SEAL language, I'll paraphrase, "don't ever lie to me again. No more smoke and mirrors."

If Ty—and I seriously think there's a very good chance up in heaven he might know more about this hearing than anyone in this room knows right now. He might know about the lack of integrity. He might take one of those people who, you can kind of paint the picture, who has shown smoke and mirrors, and figuratively speaking lifted that person up and said, "no more lies, no more smoke and mirrors." That's what Ty would want. Thank you.

Ms. SPEIER. Ms. Smith.

Ms. SMITH. I keep—I'm not a good button pusher. Sean was married. I didn't see very much of him toward the end. He was stationed in The Hague. I didn't know about Benghazi. I didn't know anything about Benghazi. Now I even learned how to spell it, which took a little bit, but he said he was always being sent out to various different places. And he would call me all the time, and I would call him all the time. And we kept in touch that way, and—I was 38 before I even had him. I was told I couldn't have kids, but my family called him Patsy's kid because that was my kid, my miracle baby. Well, my miracle baby was abandoned in Benghazi that I couldn't spell before, but I can now, and he was—I don't know what to say about him. He was just a wonderful kid, and I loved the hell out of him, and I always will. I don't know what else to say.

Ms. SPEIER. Thank you.

I yield back.

Chairman ISSA. Thank you.

The gentlelady yields back.

We now go to the gentlelady from Wyoming, Mrs. Lummis.

Mrs. LUMMIS. Thank you, Mr. Chairman.

Mrs. Smith, could I ask you to introduce some of your family members who are with you here today?

Ms. SMITH. Okay. This is my friend Don, Don Howard.

Mrs. LUMMIS. Hello, Don.

Ms. SMITH. And that's it.

Mrs. LUMMIS. Okay. Well, I'm so pleased that, Don, you're with us as well.

Ms. SMITH. Don. Don.

Mrs. LUMMIS. Don, yes, thank you so much for being with us.

And Mr. Woods, could you introduce your family members who are with you today?

Mr. WOODS. Well, I brought two of Ty's sisters. And one is Joy. She's the oldest. She's a senior in high school. And Hope, she's an eighth grader. They also have another sister by the name of Faith.

Mrs. LUMMIS. Well, I thank you for introducing your family members, and there's a verse in the Bible that says, Surely goodness and mercy shall follow me all the days of my life. In your case, Mr. Woods, surely Hope and Joy will follow you all the days of your life and Faith as well. So you can rest assured that your family will be enormously supportive of each other as you endure this loss, and that you will fill a hole in Ty's life that their father would deeply appreciate, so thank God for family and for you all.

And Ms. Smith, I want to hope for you that you'll have the peace of God because, like Mr. Gowdy, the people that I represent visit about you and your children and what they did for our country with me frequently in the great hope that we will continue to search for answers. And I want to congratulate the chairman of this committee, the chairman of the subcommittee, Mr. Chaffetz, and all the gentlemen with whom I serve on my side of the aisle and all the gentlemen and ladies with whom I serve on the other side of the aisle who are in relentless pursuit of the truth.

I, too, Mrs. Smith, hear from many of my constituents that they don't trust their government anymore. And it's among the saddest things that I hear from my constituents, and it makes me sad to hear it from you here today. But that's why we're here. That's why we were elected, to restore people's trust in their own government, and on this issue, trust will not be restored until we get to the truth, and so we will continue to seek the truth. We appreciate your participation, and we wish you God's good graces as we continue to pursue the truth.

Mr. Chairman, I yield back.

Chairman ISSA. I thank the gentlelady.

We now go to the gentleman from Michigan, Mr. Walberg.

Mr. WALBERG. Thank you, Mr. Chairman.

And I guess what I want to say to you two is that as a Member from Michigan, a Member who understands my position representing a district, not even a State but a district, but that district is made up of people who expect us to stand firmly behind the Constitution, the oath of office we've taken, which involves defending and protecting our citizens against all enemies, both foreign and domestic.

There are times when a bureaucratic maze sometimes becomes the enemy of a good and great country, which is none other than a good and great people. Your sons were good and great people. Their memories will continue to expand the opportunities for defining what good and great is in the context of America. My sons and daughter, my grandsons and granddaughter, when they hear the story that I will tell them, regardless of what the history books say about the heroes of Benghazi, and I've learned to spell it now, too, Ms. Smith, with an H in it.

Ms. SMITH. Yes.

Mr. WALBERG. They will hear the story of men who rushed in, men who stood firm, men who understood the cost and ultimately gave the supreme sacrifice, but I hope they also hear the rest of the story from me, that I was privileged to serve in a Congress that didn't stop looking for and achieving the truth.

I'm not looking for a pound of flesh. I'm not looking even for punishment, though I think it ought to be meted out, but I'm looking for the truth. Your family members would have done no less, and so I can't ask you any questions, but I can assure you of my commitment to continue the effort toward truth that would honor your sons and our great country, and I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Oklahoma, Mr. Lankford.

Mr. LANKFORD. Bless you all for a very long day. I cannot imagine what it was like to start the travel here and to know that the destination was going to end up right here where you are right now after a very, very long day, so thank you. I am overwhelmed with Psalm 34:18, where it says, The Lord is near the brokenhearted, and He saves those who are crushed in spirit. And I pray that for you and for your family that you will experience the closeness and nearness of God and the comfort that only He can provide in this.

Here's another city you may not be able to spell, Ms. Smith. Like Benghazi, all of us learned how to spell that, Wewoka, Oklahoma.

Ms. SMITH. What is that?

Mr. LANKFORD. Wewoka, Oklahoma.

Ms. SMITH. Wewoka?

Mr. LANKFORD. Is a tiny little town in my district, and in August, I held a town hall meeting in Wewoka, Oklahoma, a town you've never heard of until just right now.

Ms. SMITH. That's right.

Mr. LANKFORD. And they asked me about Benghazi, and they wanted to know in small town Oklahoma what's being done to get the facts out and hold people in Libya that did this to account. There are people all over the country that care deeply about this, small towns and big towns, and they stand with you. And I thought you needed to know that today, that the good folks in Wewoka, Oklahoma, care deeply about what's going on as well as in big towns.

Ms. SMITH. Okay. I'm going to look you up.

Mr. LANKFORD. Well, you need to look it up, yeah. Go to Oklahoma City and move east, and you'll find Wewoka out there.

Ms. SMITH. Okay.

Mr. LANKFORD. Grateful that you all are here. Thank you for being a part of this day, and please keep us informed of the ques-

tions that you have. It is important that you receive what you were promised, and that's the facts and the truth, and we want to help in that in every way we can.

With that, I yield back.

Chairman ISSA. I thank the gentleman.

We now go to the gentleman from Michigan, Mr. Bentivolio.

Mr. BENTIVOLIO. Thank you very much, Mr. Chairman.

Ms. Smith, Mr. Woods, I would like to echo and reiterate what my colleagues have said earlier and their sentiments and know in your hearts I grieve with you. I feel your—I share your frustrations in finding the truth. I was never a career politician. I served 26 years part time and full time in the military and served in Vietnam and Iraq Freedom. Since I've been here in Washington, and I'm new, I started January 3rd, and I came to the realization that the hardest thing to find here in Washington is the truth.

Ms. SMITH. True.

Mr. BENTIVOLIO. It's a rare thing. With the verbal two-steps, the shuffle, the verbal moonwalk, the dodge, and all of those smoke and mirrors, it's pretty hard to find it. And I feel your frustration and understand exactly what you mean when you say, I love my country, but my government is a problem. Yep. But I want you to know that I'm joining and have joined because one of the reasons I came here was to find out what actually happened in Benghazi. As a soldier, I always believed in the warrior ethos, never leave one of our own behind, and I know in the unit that I came from we have, we hold that warrior ethos pretty high, with high regard, and the people I served with, well, like your losts, strived valiantly, endured greatly in service to our country. My office is open and at your service, whatever you need, don't hesitate to ask. I'm sure it applies to everyone here.

Thank you, God bless you.

Ms. SMITH. Thank you.

Mr. BENTIVOLIO. I yield back my time.

Chairman ISSA. I thank the gentleman.

I guess I'm the last "thank you." It's been a long day. It's been a long year, longer for you than for any two people we could possibly conceive of. Both for you and for the other surviving family members that are not here today, we thank you for your comments and statements, including the written statements you heard me read at the beginning.

I don't think any words are going to equal what has to be done, so I told you a little bit about what this committee is doing. You saw people with differing opinions on the dais. The opinion that ultimately matters is the opinion of the Speaker of the House. The Speaker of the House has authorized repeatedly the investigation to continue, the subpoenas, and all the work that we're doing. And I'm quite sure that as long as John Boehner is Speaker, I will have the ability and the authority to continue getting to the bottom of this.

And since we're all piling on, on Mr. Chaffetz, the fact is that I have a team that you saw a great many of today, and they, too, will continue to have that ability to go anywhere anytime and get to the truth. It takes a long time, and for that, I apologize. But we haven't quit, and we won't quit.

Mr. Woods, I can only say that it's seldom I would note for the record that my sister Faith, my sister Hope, and my departed sister Willow would be very proud of the naming practices within your family, and with that one light note of the day, we stand adjourned. Thank you.

Mr. WOODS. Thank you.

[Whereupon, at 3:24 p.m., the committee was adjourned.]

APPENDIX

Material Submitted for the Hearing Record

Kate Doherty Quigley
Marblehead, MA 01945

September 12, 2013

Honorable Darrell Issa
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515-6143

Dear Mr. Chairman:

Thank you for your invitation to participate in the Committee's September 19, 2013, hearing concerning the attack on U.S. facilities on September 11, 2012, during which four Americans, including my brother Glen Doherty, were killed. I am unable to do so, but submit for the Committee's consideration the following questions concerning the events that led to my brother's death in particular. I ask them because I am unaware that answers to these questions have been provided.

My understanding is that it took eight hours for the rescue team from Tripoli to travel 200 miles to reach their destination in Benghazi, that there were no dedicated transportation assets in place, and that the team received no help getting through barriers like the Benghazi airport and checkpoints in that city. If this is correct, why was it so, given the urgency of the mission? Recognizing the difficulty of "what ifs", I nonetheless ask, if those conditions had been different, would there have been a less tragic outcome?

Glen lived his life to the fullest and took pride in teaching others how to be their best. Glen died serving with men he respected, protecting the freedoms we enjoy as Americans and doing something he loved. He is an American Hero to those who did not know him; but for those who did know him, he is a best friend who leaves behind a giant hole in our hearts.

My thanks go out to all those in Congress and the Administration who strive to learn what mistakes were made that night so that U.S. personnel can be better protected in the future.

Sincerely,

Kate Doherty Quigley

cc: Ranking Member Elijah Cummings

Chris Stevens died in the service of his country. He died doing what he loved most -- working to build bridges of understanding and mutual respect between the people of the United States and the people of the Middle East and North Africa.

He was loved by many more Libyans than those who hated him for being an American. A few dozen fanatics penetrated his compound. More than 30,000 people in Benghazi demonstrated in protest over his death.

Chris was successful because he embodied the traits that have always endeared America to the world -- a commitment to democratic principles, and respect for others, regardless of race, religion or culture. Chris regarded and liked each person he met as an individual. He respected their views, whether or not he agreed.

One of his friends told us a tale that reflects his success on a small scale. Picnicking in the Libyan countryside, they met a local family. Chris immediately greeted them and suggested that they be photographed together. The young son of the patriarch of the family, suspicious and negative toward Americans, refused to participate. So Chris continued chatting with the others. When it was time to leave, the initially suspicious son presented Chris with a bouquet of flowers. "This is because you were so respectful to my father," he said.

Chris was not willing to be the kind of diplomat who would strut around in fortified compounds. He amazed and impressed the Libyans by walking the streets with the lightest of escorts, sitting in sidewalk cafes, chatting with passers-by. There was a risk to being accessible. He knew it, and he accepted it.

What Chris never would have accepted was the idea that his death would be used for political purposes. There were security shortcomings, no doubt. Both internal and outside investigations have identified and publicly disclosed them. Steps are being taken to prevent their reoccurrence.

Chris would not have wanted to be remembered as a victim. Chris knew, and accepted, that he was working under dangerous circumstances. He did so -- just as so many of our diplomatic and development professionals do every day -- because he believed the work was vitally important. He would have wanted the critical work he was doing to build bridges of mutual understanding and respect -- the kind of work that made him literally thousands of friends and admirers across the broader Middle East -- to continue.

So rather than engage in endless recriminations, his family is working to continue building the bridges he so successfully began.

One year ago this week, in response to a tremendous outpouring of support from around the world, we launched the J. Christopher Stevens Fund. The mission of the Fund is to support activities that build bridges between the people of the United States and those of the broader Middle East. This was the mission to which Chris dedicated his life.

We are grateful for each contribution received – from friends and family, from the Government of Libya, and from people near and far moved by Chris and his story.

In the coming weeks and months, we will launch a number of innovative programs and initiatives. The focus of our activity is on young people, both here in America and across the Middle East and North Africa.

Chris served in the Peace Corps in Morocco, and his death was felt acutely by the Peace Corps family. Last year, in response to numerous queries from returned Peace Corps Volunteers during Peace Corps Week, we encouraged returned volunteers to fan out across America and speak with youth about their experiences abroad. We are now working with the Peace Corps to expand their reach into schools and communities across this country.

The Center for Middle Eastern Studies at the University of California, Berkeley, where Chris studied as an undergraduate, announced on Sept 11 the Ambassador J. Christopher Stevens Memorial Fund for Middle Eastern Studies, endowed by the J. Christopher Stevens Fund. Our purpose is to encourage and inspire students in Middle Eastern and North African scholarship.

In Piedmont, CA, where Chris spent his teen years, the Piedmont Unified School District Board of Education has voted to name the Piedmont High library the Ambassador Christopher Stevens Memorial Library. Chris was inspired by the Piedmont High School motto "Achieve the Honorable".

Later this fall, together with a coalition of public and private partners, we will launch the J. Christopher Stevens Virtual Exchange Initiative. This initiative will embrace the power of technology to fuel the largest ever increase in people-to-people exchanges between the United States and the broader Middle East, vastly increasing the number and diversity of youth who have a meaningful cross-cultural experience as part of their formative education, and reaching over one million youth by 2020.

Later this year, the University of California's Hastings College of the Law, from which Chris graduated in 1989, will host the Ambassador J. Christopher Stevens Symposium. The event will emphasize law and public policy as used in practice to advance global understanding and peace, principles to which Chris was committed.

There have been more awards bestowed, and honors given, in Chris' memory than we could have ever thought possible. But as we've said before, we have received letters from thousands of people all over the world who were touched by Chris' example. His openness touched a chord in their hearts.

Chris would have wanted to be remembered for that.
Thank you. The Family of Chris Stevens

Committee on Oversight and Government Reform
Darrell Issa, Chairman

Benghazi Attacks: Investigative Update
Interim Report on the Accountability Review Board

Staff Report Prepared for Chairman Darrell Issa
U.S. House of Representatives
113th Congress
Committee on Oversight and Government Reform

September 16, 2013

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Eric Boswell
Assistant Secretary for Diplomatic Security

Eric Boswell is the former Assistant Secretary for Diplomatic Security. He was one of four State Department employees named by the ARB. Boswell resigned his position as Assistant Secretary for Diplomatic Security, but Under Secretary for Management Ambassador Patrick Kennedy asked him to remain in his concurrent position as the Director of the Office of Foreign Missions. Boswell was placed on administrative leave in December 2012, immediately after the ARB released its report.

Scott Bultrowicz
Director, Diplomatic Security Service

Scott Bultrowicz is the former Director of the Diplomatic Security Service. He was Eric Boswell's deputy at the Bureau of Diplomatic Security. Bultrowicz was placed on administrative leave on December 2012.

Elizabeth Dibble
Principal Deputy Assistant Secretary, Bureau of Near Eastern Affairs

Elizabeth Dibble is the Principal Deputy Assistant Secretary for Near Eastern Affairs. She is Elizabeth Jones' deputy, and the second most senior official in the Bureau of Near Eastern Affairs.

Jeffrey Feltman
Assistant Secretary, Bureau of Near Eastern Affairs

Jeffrey Feltman was the Assistant Secretary for the Bureau of Near Eastern Affairs from August 18, 2009 until May 31, 2012. In December 2011, Feltman requested that Under Secretary for Management Patrick Kennedy approve a continued *ad hoc* U.S. presence in Benghazi through the end of calendar year 2012. Kennedy approved.

Gregory Hicks
Deputy Chief of Mission, Libya

Gregory Hicks is the former Deputy Chief of Mission in Libya. He testified before the Committee on May 8, 2013, describing in detail the events on the ground and his interactions with Ambassador Chris Stevens on September 11, 2012. The State Department assigned him to a desk job while he awaits an onward assignment.

Elizabeth Jones
Acting Assistant Secretary, Bureau of Near Eastern Affairs

Elizabeth Jones is the Acting Assistant Secretary for Near Eastern Affairs, the most senior official in the Bureau of Near Eastern Affairs. Jones was the direct supervisor of Raymond Maxwell, the former Deputy Assistant Secretary for Maghreb Affairs.

Patrick F. Kennedy
Under Secretary of State for Management

Patrick Kennedy, a Career Minister in the Foreign Service, has served as the Under Secretary of State since 2007. Kennedy approved a memorandum that requested to continue the *ad hoc* U.S. presence in Benghazi through the end of calendar year 2012.

Charlene Lamb
Deputy Assistant Secretary for International Programs

The ARB cited Charlene Lamb for failing to provide the requested number of diplomatic security agents at the Benghazi mission and ignoring efforts by her subordinates to improve the staffing challenges at the mission. Lamb was placed on administrative leave in December 2012.

Lee Lohman
Executive Director, Bureau of Near Eastern Affairs

Lee Lohman was the Executive Director of the Bureau of Near Eastern Affairs. Lohman testified that Raymond Maxwell was not involved in any decisions pertaining to the security at Benghazi, and that Patrick Kennedy was highly involved with security decisions that affected Benghazi.

Raymond Maxwell
Deputy Assistant Secretary for Maghreb Affairs

Raymond Maxwell was the only individual in the Bureau of Near Eastern Affairs with whom the ARB found fault for the Benghazi attacks. Several witnesses testified that both the ARB and the State Department treated Maxwell unfairly. Maxwell was placed on administrative leave in December 2012.

Brian Papanu
Desk Officer, Libya

Brian Papanu served as the Desk Officer for Libya. He was responsible for obtaining temporary duty staff for Libya and served as a liaison between Washington, D.C. and Tripoli.

William Roebuck
Director, Office of Maghreb Affairs

William Roebuck is the Deputy Assistant Secretary for Maghreb Affairs—the position previously held by Raymond Maxwell. He served as the Chargé d'Affaires to Libya from January to June 2013. Prior to that post, he served as the Director of the Office of Maghreb Affairs, where he was one of the most knowledgeable policymakers on Libya in the State Department. Roebuck considered shutting down the Benghazi mission due to lack of security.

➢ Accountability Review Board

Thomas R. Pickering
Chairman

During his distinguished career, Thomas Pickering served as U.S. Ambassador to Jordan, Nigeria, El Salvador, Israel, India, Russia, and the United Nations. Pickering has also served as Under Secretary for Political Affairs, the State Department's fourth-highest ranking official.

Michael G. Mullen
Vice Chairman

Michael Mullen is a retired four-star Navy admiral who served two terms as the Chairman of the Joint Chiefs of Staff, the highest ranking officer in the U.S. Armed Forces.

Catherine A. Bertini

Catherine Bertini is a former Executive Director of the United Nations World Food Programme. She later served as former Assistant Secretary of Food and Consumer Services at the U.S. Department of Agriculture. She is currently on the faculty at Syracuse University.

Richard J. Shinnick

During his long career with the Foreign Service, Richard Shinnick served as the Director for the Bureau of Overseas Buildings and Operations, Executive Director of the Bureau of Near Eastern and South Asian Affairs, and Executive Director of the Executive Secretariat. Shinnick has extensive experience in the Under Secretariat for Management.

Hugh J. Turner III

Hugh Turner is a former senior Intelligence Community official, and served as the Deputy Director of Operations for the Central Intelligence Agency.

Glossary

ARB – Accountability Review Board

DNI – Director of National Intelligence

DOD – Department of Defense

DS – Bureau of Diplomatic Security, U.S. Department of State

DSS – Diplomatic Security Service, Bureau of Diplomatic Security, U.S. Department of State

DS/IP – Bureau of Diplomatic Security, International Programs Office, U.S. Department of State

HFAC – U.S. House of Representatives, Committee on Foreign Affairs

IED – Improvised Explosive Device

LES – Locally Employed Staff

M/PRI – Office of Management Policy, Rightsizing and Innovation, U.S. Department of State

MSG – Marine Security Guard

NEA –Bureau of Near Eastern Affairs, U.S. Department of State

NSS – National Security Staff

OSPB – Overseas Security Policy Board

RSO – Regional Security Officer

SECCA – Secure Embassy Construction and Counterterrorism Act of 1999

SST – Security Support Team

TDY – Temporary Duty Assignment

Benghazi Accountability Review Board: Key Concerns

- The structure of the ARB and culture within the State Department raised questions about the independence and integrity of the review.
- The ARB blamed systemic failures and leadership and management deficiencies within two bureaus, but downplayed the importance of decisions made at senior levels of the Department. Witnesses questioned how much these decisions influenced the weaknesses that led to the inadequate security posture in Benghazi.
- Witnesses questioned whether the ARB went far enough in considering the challenges of expeditionary diplomacy.
- The ARB's decision to cite certain officials as accountable for what happened in Benghazi appears to have been based on factors that had little or no connection to the security posture at U.S. diplomatic facilities in Libya.
- The haphazard decision to place the four officials cited by the ARB on paid administrative leave created the appearance that former Secretary Hillary Clinton's decision to announce action against the individuals named in the ARB report was more of a public relations strategy than a measured response to a tragedy.

Benghazi Accountability Review Board: Unanswered Questions

- What specific documentary evidence and witness testimony did the ARB review to reach its conclusions?
- What changes are necessary to eliminate the real or perceived lack of independence in the ARB structure?
- Did Secretary Clinton have views on the need to extend the Benghazi mission, both in the fall of 2011 and summer of 2012? Was she consulted on these questions and what, if any, influence did her opinion have on the Department's decisions?
- Is the State Department resistant to elevating the importance of security considerations?
- Why did the State Department fail to establish an Under Secretary for Security, as recommended by an external review and approved by Secretary of State Madeleine Albright, following the attacks in East Africa in 1998?
- Why did the Best Practices Panel strongly recommend that the State Department establish an Under Secretary for Security? Why did the Benghazi ARB not recommend such a change?

- Why did it take the State Department eight months to evaluate the performance of the four individuals placed on administrative leave? What information did Secretary Kerry and his staff review as part of that process? Who was involved in the process?

- How much did the decision to extend the Benghazi mission as a temporary facility limit the Department's ability to provide security resources?

- Who should be held accountable for deciding to extend the Benghazi mission as a temporary facility?

Executive Summary

The September 11, 2012 terrorist attacks on the U.S. diplomatic facilities in Benghazi, Libya resulted in a tragic and unnecessary loss of American life. The attacks also raise a number of important and substantive questions about U.S. foreign policy, with which policymakers will have to grapple for some time. A key area for further discussion and analysis is the balance between the U.S. Department of State's policy imperative of operating diplomatic outposts abroad and the security realities of doing so in dangerous and unstable environments such as Libya.

Pursuant to statutory requirement under the Omnibus Diplomatic Security and Terrorism Act of 1986, Secretary of State Hillary Clinton convened an Accountability Review Board (ARB) shortly after the attacks to address these questions. The five-member Board comprised distinguished public servants, including Chairman Thomas Pickering, former U.S. Ambassador to six countries and the United Nations, and Vice Chairman Michael Mullen, former Chairman of the Joint Chiefs of Staff.

The ARB operated under significant time pressure, completing its work and issuing a final report in just over two months. The State Department widely supported the ARB's recommendations, and sought to implement them without hesitation. For some, including the Department itself, this report represented the final word on the internal failures that contributed to the tragedy in Benghazi. For others, however, the report overvalued certain facts, overlooked others, and failed to address systemic issues that have long plagued the State Department.

In order to address these concerns, the Committee held a hearing on May 8, 2013, entitled, "Benghazi: Exposing Failure and Recognizing Courage." Not only did the testimony of three State Department officials—Mark Thompson, Eric Nordstrom, and Gregory Hicks—provide important information to Committee Members about the fateful attacks, it raised additional questions about the attacks as well as the ARB's work. In light of these questions, the Committee initiated a comprehensive investigation of the ARB procedures, findings, and recommendations. Understanding how the ARB reached its conclusions informs the Committee's interest in ensuring that this process remains efficient and effective, and that U.S. diplomats are able to avoid situations that compromise their safety or their mission. This effort supplements and informs the Committee's ongoing, independent evaluation of the facts and circumstances of what transpired before, during, and after the attacks on Benghazi.

Since the May 8 hearing, the Committee has taken a number of steps to advance the Benghazi investigation. During that time, the Committee has obtained testimony from more than a dozen witnesses, conducting more than 50 hours of transcribed interviews. The Committee has requested additional interviews, including of survivors of the attacks. The Department has thus far declined to make these individuals available, despite the fact that these individuals were made available to the ARB and media outlets. Committee investigators have reviewed more than 25,000 pages of documents. The Department continues to identify new material responsive to numerous requests from the Committee. The Department's failure to produce responsive materials has left the Committee with no alternative but to issue subpoenas. Overall, despite many Committee attempts at accommodation, the State Department has been exceedingly

uncooperative with the Committee's investigation of the attacks on Benghazi. Still, the Committee has been able to learn a great deal about the ARB's work.

While identifying positive and productive aspects of the ARB's review, witnesses interviewed by the Committee raised a number of significant concerns with the ARB process, findings, and recommendations. Most notably, several witnesses questioned the ARB's findings regarding the four Department employees held "accountable" for Benghazi. In some cases the ARB appeared to hold individuals accountable for actions which had nothing to do with security in Benghazi. In other cases, the ARB correctly identified poor individual decisions while apparently failing to take into account decisions made by more senior Department officials. Such senior-level decisions played an equal if not greater role in the vulnerability of the U.S. diplomatic mission in Benghazi. In particular, the ARB did not adequately address the decision by Department leadership to operate the Benghazi mission as a temporary and particularly ill-defended outpost of what it calls "expeditionary diplomacy." Nor did the ARB hold any individuals accountable for that decision.

The State Department's response to the ARB's findings on accountability is equally troubling. Secretary Clinton immediately relieved the four employees identified by the ARB of their duties and subsequently placed them on administrative leave – an ambiguous status akin to bureaucratic limbo. The Department misled these employees about what administrative leave entailed, did not allow the employees to challenge this decision, and further prohibited them access to the classified ARB Report, which contained the evidence against them. Moreover, the ARB failed to question these employees on the very topics for which they were held accountable. Last month, after eight months of paid administrative leave, Secretary of State John Kerry reinstated these four employees to Department service. Therefore, one year after the Benghazi attacks, no one at the State Department has been fired for their role leading up to the Benghazi attacks. It appears increasingly likely the Department's primary objective was to create the public appearance of accountability.

In addition, witnesses questioned whether the ARB properly addressed the challenges of increasing reliance on "expeditionary diplomacy." Some witnesses and stakeholders suggested that the ARB's recommendations improve on past failures but do not go far enough in striking the right balance between policy objectives and security realities. While the U.S. cannot advance its national interests from concrete bunkers and there is no such thing as 100 percent security, the highest levels of the Department must establish a clear line of responsibility for balancing foreign policy objectives with diplomatic security. One of the ARB's recommendations was that the State Department convene an independent best practices panel, comprised of security experts. The Panel identified a number of areas for improvement that the ARB did not address.

This interim report focuses exclusively on the ARB and its shortcomings. While the Committee presents current observations about the ARB gleaned through its investigation, it has also identified areas for further inquiry. Indeed, many serious questions surrounding Benghazi have gone unanswered. The Committee will continue its investigation wherever the facts lead.

Background

On September 11, 2012—now more than one year ago—armed extremists attacked a U.S. diplomatic facility in Benghazi, Libya. During these major attacks, terrorists overwhelmed the facility's guards and set fire to structures within the compound before diplomatic personnel inside could escape or reinforcements arrived. Four U.S. personnel were killed: Ambassador Christopher Stevens; State Department Information Officer Sean Smith; and two American security officers—and former U.S. Navy SEALs—Tyrone Woods and Glen Doherty.

On October 3, 2012, then-Secretary of State Hillary Rodham Clinton announced that the U.S. Department of State would convene an Accountability Review Board (ARB, or Board) to "examine the facts and circumstances of the attacks and to report findings and recommendations as it deems appropriate."[1] In addition, the Board was responsible for determining whether a "breach of duty" by any federal employee contributed to the attacks in Benghazi.

Approximately ten weeks later, on December 18, 2012, Secretary Clinton delivered the ARB Report to Congress.[2] Among other findings, the ARB concluded that "systemic failures and leadership and management deficiencies at senior levels within two bureaus" were to blame for the "inadequate" security posture at the U.S. facilities in Benghazi.[3]

The Administration has used this congressionally-mandated report to deflect questions about what transpired in Benghazi. Until the report was issued, Secretary Clinton and other Obama Administration officials regularly refused to answer questions about what happened in Benghazi, citing the ongoing ARB review. After the ARB Report was issued in December, Clinton and other top officials routinely referred questioners to the conclusions of the ARB Report. The White House and the State Department pointed to the ARB and its Report as the definitive final word on the failures that led to the attacks in Benghazi. White House Press Secretary Jay Carney stated:

> The Accountability Review Board which investigated this matter—and I think in no one's estimation sugarcoated what happened there or pulled any punches when it came to holding accountable individuals that they felt had not successfully executed their responsibilities—heard from everyone and invited everyone. So there was a clear indication there that everyone who had something to say was welcome to provide information to the Accountability Review Board.[4]

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[1] Fed. Reg., Vol. 77, No. 193 (Oct. 4, 2012), at 60741, Pub. Notice 8052.
[2] Letter from Hon. Hillary R. Clinton, Sec'y, U.S. Dep't of State, to Hon. John F. Kerry, Chairman, Comm. on Foreign Relations, U.S. Senate (Dec. 18, 2012).
[3] Accountability Review Board, U.S. Dep't of State, Report (Dec. 18, 2012), *available at* http://www.state.gov/documents/organization/202446.pdf [hereinafter ARB Report].
[4] The White House, Office of the Press Sec'y, Press Briefing by Press Sec'y Jay Carney (May 1, 2013), http://www.whitehouse.gov/the-press-office/2013/05/01/press-briefing-press-secretary-jay-carney-512013.

State Department spokesman Patrick Ventrell further stated, "We think that we've done an independent investigation, that it's been transparent, thorough, credible, and detailed, and . . . we've shared those findings with the U.S. Congress."[5]

Months later, President Obama held up the work of the ARB as the symbol of the Administration's effort to identify the problems that led to the inadequate security posture in Benghazi. In response to a question about Benghazi at a May 13, 2013 press conference, the President said:

> The day after it happened, I acknowledged that this was an act of terrorism, and what I pledged to the American people is we would find out what happened, we would make sure that it did not happen again, and we would make sure we held accountable those who perpetrated this terrible crime. That's exactly what we've been trying to do. Over the last several months, there was a review board headed by two distinguished Americans – Mike Mullen and Tom Pickering – who investigated every element of this.[6]

Although the ARB made several findings that are consistent with facts uncovered by congressional investigators, the Committee's investigation has revealed that ARB did not go far enough in addressing systemic weaknesses within the State Department. In addition, while there is no question that the real accountability rests with the terrorists who carried out these heinous acts, the evidence the Committee has uncovered to date suggests that some of the ARB's findings related to accountability within the State Department were flawed.

Secretary Clinton was required by law to convene an Accountability Review Board.

Secretary Clinton convened the ARB pursuant to the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (the Act), which states that "in any case of serious injury, loss of life, or significant destruction of property at, or related to, a United States Government mission abroad . . . the Secretary of State shall convene an Accountability Review Board."[7] The Benghazi ARB was the nineteenth Accountability Review Board held since 1988.[8]

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[5] James Rosen, *State Department's Benghazi review panel under investigation*, FOXNEWS, May 2, 2013, http://www.foxnews.com/politics/2013/05/02/state-department-benghazi-review-panel-under-investigation-fox-news-confirms/#ixzz2ebmbG4yW.

[6] Remarks of President Barack Obama at a joint press conference with Prime Minister David Cameron (May 13, 2013).

[7] Omnibus Diplomatic Security and Antiterrorism Act of 1986, 22 U.S.C. § 4831(a)(1).

[8] Sec'y of State Hillary Rodham Clinton, Test. Before S. Comm. on Foreign Relations (Jan. 23, 2013), *available at* http://www.foreign.senate.gov/imo/media/doc/SECRETARY%20OF%20STATE%20HILLARY%20RODHAM%20CLINTON.pdf.

According to State Department regulations, the ARB has several functions and characteristics. First, it is intended to be "**thorough and independent.**"[9] Second, it is intended to "**foster more effective security of U.S. missions and personnel abroad.**"[10] Third, it is to "**determine accountability.**"[11] Finally, it is to "**promote and encourage improved security programs and practices.**"[12]

Under the statute, the Secretary must convene an ARB within 60 days of a security incident.[13] In deciding whether to convene an ARB, the Secretary relies on the ARB Permanent Coordinating Committee, a standing committee consisting of State Department officials in the management, diplomatic security, intelligence, counterterrorism, and political affairs bureaus and offices, as well as a representative of the Director of National Intelligence.[14] In addition, a permanent ARB staff officer serves as the "institutional memory" within the Department for all ARB-related matters and keeps a list of individuals qualified to be named to an ARB in the event that the Secretary must convene one.[15]

When the Secretary convenes an ARB, an Executive Secretary appointed by the Director of the Office of Management Policy, Rightsizing and Innovation (M/PRI), an office under the Under Secretary of State for Management, joins the staff. The ARB may also determine that it requires the Department to furnish additional experts and support staff to carry out its duties.[16]

Senior State Department officials appointed distinguished public servants to serve on the Benghazi ARB.

The Accountability Review Board that Secretary Clinton and Lieutenant General James R. Clapper, the Director of National Intelligence (DNI), assembled represented a high standard of professional achievement and dedication to public service. The Chairman of the ARB, Ambassador Thomas R. Pickering has served as the U.S. Ambassador to Jordan, Nigeria, El Salvador, Israel, the United Nations, India, and Russia. Pickering also served as the 17th Under Secretary for Political Affairs during President Bill Clinton's second term. The Vice Chairman, Admiral Michael G. Mullen, brought to the ARB over four decades of experience in the U.S. Navy, culminating in two terms as Chairman of the Joint Chiefs of Staff from 2007 to 2011. The other members of the Board were: Catherine Bertini, a professor with experience in foreign assistance in the private sector and with the United Nations; Richard J. Shinnick, a veteran Foreign Service officer with extensive experience in the Under Secretariat for Management; and Hugh J. Turner III, a former senior Intelligence Community official. Of the five ARB members,

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[9] U.S. Dep't of State, Foreign Affairs Manual (FAM), Vol. 12, Diplomatic Security, 12 FAM 031.1 (emphasis added).
[10] *Id.* (emphasis added).
[11] *Id.* (emphasis added).
[12] *Id.* (emphasis added).
[13] 22 U.S.C. § 4831(b)(1). The statute also provides for a 60-day extension if needed. *Id.*
[14] 12 FAM 032.
[15] *Id.*; *see also* 12 FAM 033.
[16] 12 FAM 032.3

the Secretary of State selected four. DNI Clapper nominated the fifth, Hugh Turner, to serve on the ARB.[17]

As set forth by Secretary Clinton, the Benghazi ARB's specific mandate was to "determine whether our security systems and procedures in Benghazi were appropriate in light of the threat environment, whether those systems and procedures were properly implemented, and any lessons that may be relevant to our work around the world."[18] Announcing the ARB's creation, Secretary Clinton remarked, "The men and women who serve this country as diplomats deserve no less than **a full and accurate accounting wherever that leads**, and I am committed to seeking that for them."[19]

The Benghazi ARB worked under tight time constraints. It completed its work in approximately 10 weeks.

The Benghazi ARB first met in early October 2012. A principal source of information for the ARB was a series of interviews with key individuals, sometimes in a group setting, but more often individually.[20] Interviews Admiral Mullen described as "substantive" in nature lasted between two to four hours, while other interviews lasted about an hour.[21] While all ARB members were present for most interviews, this was not universally the case.[22] The ARB did not transcribe its interviews; rather reports indicate that ARB staff members took handwritten notes.[23] The State Department represented to the Committee that the ARB had access to approximately 7,000 documents numbering thousands of pages.[24] Ultimately, the unclassified report delivered to Congress on December 18, 2012 contained five findings and 24 recommendations.[25]

Upon delivery of the report, Secretary Clinton informed Congress of her intention to accept all of the Board's recommendations. In a letter to the relevant Committees of jurisdiction, the Secretary stated:

> I asked the Deputy Secretary for Management and Resources to lead a task force at the State Department to ensure that the Board's recommendations are implemented quickly and completely, as well as to pursue steps above and beyond those recommended in the Board's report. This group has already begun meeting, and the Deputy Secretary, along with the Undersecretary for Political Affairs, the Undersecretary for Management,

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[17] Transcribed Interview of Adm. Michael G. Mullen (Ret.). Tr. at 18-19, (June 19, 2013) [hereinafter Mullen Tr.].
[18] Secretary Hillary Rodham Clinton, Remarks with Foreign Minister of Kazakhstan Erlan Idrissov After Their Meeting (Oct. 3, 2012), *available at* http://www.state.gov/secretary/rm/2012/10/198635.htm.
[19] *Id.* (emphasis added).
[20] Mullen Tr. at 22.
[21] Mullen Tr. at 30.
[22] Deposition of Amb. Thomas Pickering. Transcript at 13 (June 4, 2013) [hereinafter Pickering Tr.].
[23] Mullen Tr. at 29-30.
[24] Letter from Thomas B. Gibbons, Acting Ass't Sec., Leg. Affairs, U.S. Dep't of State, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Aug. 23, 2013).
[25] In comparison, the classified report contained 29 total recommendations.

> the Director General of the Foreign Service, and the Deputy Legal Advisor are driving this effort forward.
>
> Because of steps we began taking in the hours and days after the attacks, this work is well underway. We will have implementation of every recommendation underway by the time the next Secretary of State takes office. There is no higher priority for me or my Department.[26]

On May 20, 2013, the State Department announced its progress on implementing each of the 24 unclassified ARB recommendations (see Appendix).

The ARB assigned accountability to four mid-level officials.

In addition to the recommendations on policy and procedures, the Benghazi ARB made personnel findings with regard to four State Department officials. The Board determined that none of these individuals breached their duties, as defined by the statute, and therefore could not be "the subject of a recommendation for disciplinary action."[27] The Board did, however, take the unprecedented step of including a specific finding regarding the performance of these four State Department officials, as well as recommendations for administrative actions against two of the individuals. In the unclassified report, the Board stated:

> [C]ertain senior State Department officials within two bureaus in critical positions of authority and responsibility in Washington demonstrated a lack of proactive leadership and management ability appropriate for the Department's senior ranks in their responses to security concerns posed by Special Mission Benghazi, given the deteriorating threat environment and lack of reliable host government protection.[28]

The details of the Board's findings regarding these four individuals were reserved for the classified version of the report. On December 19, 2012, however, the identities of these individuals appeared in public media reports after the State Department announced that they had been "placed on administrative leave pending further action."[29]

Three of these officials served in the Bureau of Diplomatic Security, a component of the Under Secretariat for Management headed by Ambassador Patrick Kennedy. These officials were the Assistant Secretary of the Bureau of Diplomatic Security (DS), Eric Boswell, his deputy Scott Bultrowicz, and Deputy Assistant Secretary for International Programs Charlene Lamb. The fourth official, Raymond Maxwell, had been the Deputy Assistant Secretary for Maghreb

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[26] Letter from Hon. Hillary Clinton, Sec'y, U.S. Dep't of State, to Hon. John F. Kerry, Chairman, S. Comm. on Foreign Affairs, et al. (Dec. 18, 2012) *available at* http://www.state.gov/documents/organization/202447.pdf.
[27] ARB Report at 39.
[28] *Id.*
[29] Michael R. Gordon & Eric Schmitt, *4 Are Out at State Dept. After Scathing Report on Benghazi Attack*, N.Y. TIMES, Dec. 19, 2012, http://www.nytimes.com/2012/12/20/us/politics/3-state-dept-officials-resign-following-benghazi-report.html?_r=0.

Affairs and was the only individual in the Bureau of Near Eastern Affairs – a component of the Under Secretariat of Political Affairs – to whom the ARB assigned blame.

The Obama Administration held up the ARB report as the product of a full and complete investigation.

Since the ARB Report's release, the Administration has roundly praised it. President Obama said that the ARB "investigated every element" of the Benghazi attack.[30] In an appearance before the House Committee on Foreign Affairs, Secretary Clinton testified that had "great confidence that the Accountability Review Board did the job they were asked to do, made the recommendations that they thought were based on evidence, not on emotion."[31] Similarly, appearing before the Senate Committee on Foreign Relations, Deputy Secretary of State William Burns testified that the ARB report "takes a clear-eyed look at serious, systemic problems."[32]

Upon release of the unclassified ARB report, White House Press Secretary Jay Carney also praised the ARB for being "sophisticated in its analysis, blunt in its criticism, effective in its prescriptions."[33] Referring to the four Department officials relieved of their duties based on the ARB's findings, Carney stated, "there has already been, in this very short period of time, actions that demonstrate accountability as being upheld. . . . Immediately, accountability has been brought to bear with regard to four individuals who are very senior."[34]

In May 2013, Carney reiterated that the ARB conducted "a very rigorous investigation that reached a number of conclusions, including the fact that action was taken immediately and appropriately and that that action saved American lives."[35] State Department spokesman Patrick Ventrell was equally fulsome in his praise, citing "the ARB's credible, comprehensive process," which was "exhaustive and looked at these things in great detail. . . . The bottom line is the ARB looked at this in great depth."[36]

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[30] The White House, Office of the Press Sec'y, Remarks by President Obama and Prime Minister Cameron of the United Kingdom in Joint Press Conference (May 13, 2013), http://www.whitehouse.gov/the-press-office/2013/05/13/remarks-president-obama-and-prime-minister-cameron-united-kingdom-joint-.

[31] *Terrorist Attack in Benghazi: The Secretary of State's View: Hearing Before the H. Comm. on Foreign Affairs*, 113th Cong., at 45 (Jan. 23, 2013) (testimony of Hon. Hillary Rodham Clinton, Sec'y, U.S. Dep't of State), http://docs.house.gov/meetings/FA/FA00/20130123/100170/HHRG-113-FA00-20130123-SD003.pdf.

[32] *Benghazi: The Attack and the Lessons Learned: Hearing Before the Senate Comm. on Foreign Relations*, 113th Cong. (Dec. 20, 2012) (Statement of Hon. William Burns, Deputy Sec'y, U.S. Dep't of State), http://www.foreign.senate.gov/imo/media/doc/William%20Burns%20Testimony.pdf.

[33] The White House, Office of the Press Sec'y, Press Briefing by Press Secretary Jay Carney (Dec. 20, 2012), http://www.whitehouse.gov/the-press-office/2012/12/20/press-briefing-press-secretary-jay-carney-12202012.

[34] *Id.*

[35] The White House, Office of the Press Sec'y, Press Briefing by Press Secretary Jay Carney (May 1, 2013), http://www.whitehouse.gov/the-press-office/2013/05/01/press-briefing-press-secretary-jay-carney-512013.

[36] U.S. Dep't of State, Daily Press Briefing, Patrick Ventrell, Acting Deputy Spokesperson (May 6, 2013), http://www.state.gov/r/pa/prs/dpb/2013/05/208988.htm#LIBYA.

Witnesses at the Committee's May 8, 2013 hearing raised questions about the ARB.

Despite the Administration's praise for the ARB Report, others have raised questions since its release. For example, the then-incoming Chairman of the House Committee on Foreign Affairs (HFAC), Ed Royce, stated, "The degree that others bear responsibility warrants congressional review, given the report's rather sweeping indictment."[37]

After appearances before the Senate Foreign Relations Committee and HFAC on December 19, 2012, Ambassador Pickering and Admiral Mullen declined invitations to appear before Congress to address concerns about the report. For example, on February 22, 2013, the Chairman of this Committee's Subcommittee on National Security, Jason Chaffetz, invited Ambassador Pickering and other members of the ARB to testify at a hearing on March 14, 2013. On March 1, 2013, an assistant for Admiral Michael Mullen, the Vice Chairman of the ARB, informed Committee staff that Admiral Mullen had declined to appear for any Benghazi-related hearing, and that Ambassador Pickering was coordinating a response with other members of the ARB. The same afternoon, Ambassador Pickering informed Committee staff that he had a previously scheduled conflict the day of the hearing. When asked if he would be available on another date, he conveyed that he was "deeply disinclined" to testify at any time because Congress had turned the issue into a "political circus."[38]

At the Committee's May 8, 2013 hearing on the Benghazi attacks, two witnesses raised questions as to whether the ARB was as effective in its work as some in the Administration apparently believed. Eric Nordstrom, the former Regional Security Officer at the U.S. Embassy in Tripoli, testified:

> Well, I guess the question that I have about the ARB -- and again, it's not what the ARB has. It's what it doesn't have and that it stops short of the very people that need to be asked those questions. And that's the Under Secretary of Management [Patrick F. Kennedy] and above. Those are perfect questions that he needs to answer.[39]

Nordstrom also testified:

> I go back to who authorized embassy employees, U.S. Government employees to go into facilities that did not meet legal requirements. I don't know who made that decision. And the reason why is because, as Ambassador Pickering said, he has decided to fix responsibility on the Assistant Secretary level and below. How I see that is, that's fine. It's an accountability of mid-level officer review board and the message to my colleagues is that **if you are above a certain level, no matter what your**

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[37] Gordon & Schmitt, *supra* note 28.

[38] Teleconference between Ambassador Thomas Pickering and Committee Staff (Mar. 1, 2013).

[39] *Benghazi: Exposing Failure and Recognizing Courage: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (May 8, 2013), at 47 (testimony of Eric Nordstrom) [hereinafter "Exposing Failure"].

decision is, no one is going to question it. And that is my concern with the ARB.[40]

In an exchange with Congressman Tim Walberg, former Deputy Chief of Mission and Charge d'Affaires in Libya Gregory Hicks also expressed his view that the ARB may not have examined the upper echelons of the State Department's chain of command in assigning accountability for the management failures which contributed to the outcome of the Benghazi attack. Hicks testified:

> Q. Do you think the ARB report lets any individual or bureaucracy off the hook?
>
> A. Again, as I mentioned earlier, given the decision-making that Under Secretary Pat Kennedy was making with respect to Embassy Tripoli and Consulate Benghazi operations, he has to bear some responsibility.[41]

Shortly before the Committee's May 8, 2013 hearing, and in the ensuing weeks, Ambassador Pickering and Admiral Mullen reversed course, announcing their desire to testify publicly before the Committee – despite their previous declinations.

The Committee welcomed their participation in a public hearing and began working with them to facilitate their testimony. To ensure that the hearing was fulsome and informed, the Committee requested the opportunity to conduct transcribed interviews with Ambassador Pickering and Admiral Mullen in advance of the hearing. The Committee conducted a deposition of Ambassador Pickering on June 4, 2013 and conducted a transcribed interview of Admiral Mullen on June 19, 2013. The Committee scheduled a hearing, entitled *Reviews of the Benghazi Attacks and Unanswered Questions*, on September 19, 2013, in order to give Members an opportunity to have an informed and constructive discussion with Ambassador Pickering and Admiral Mullen about concerns that have been raised about the ARB processes and conclusions. The hearing will also provide an opportunity to hear the views of members of the Independent Panel on Best Practices, which the State Department convened based on one of the ARB's 29 recommendations. Mark Sullivan, the Panel's chairman, as well as Todd Keil, a Panel member, will provide valuable insights about the review they conducted with the State Department's full support and cooperation.

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[40] "Exposing Failure," at 56.
[41] "Exposing Failure," at 63 (testimony of Gregory Hicks).

The Committee's Investigation of the ARB

In light of questions raised prior to and during the May 8, 2013 hearing, the Committee expanded its investigation to include an evaluation of the ARB's processes, conclusions, and recommendations. Understanding the strengths and weaknesses of the ARB will help Congress ensure future ARBs are efficient and effective. The Committee's investigation seeks to assist the State Department in identifying areas in need of reform which the ARB may have overlooked.

Since the May 8, 2013 hearing, the Committee has interviewed more than a dozen current and former State Department employees. The majority of these witnesses serve in the two bureaus at the center of the ARB report – the Bureau of Near Eastern Affairs (NEA) and the Bureau of Diplomatic Security (DS). All officials the Committee has interviewed, including individuals placed on administrative leave as a result of the ARB's findings, complimented the ARB's professionalism. They described the ARB as "thorough,"[42] "professional"[43] and "well-prepared"[44] in their interviews. In addition, witnesses thought the report was "very tough,"[45] "factual,"[46] and would lead to "lasting improvement."[47] All of these witnesses, however, also provided testimony that raises questions about the process, procedures, and conclusions of the ARB.

There are weaknesses in the ARB's investigative process.

Shortly after the Secretary convened the ARB, the Board began the process of collecting documents and testimony to support its review. Admiral Mullen explained that the ARB cast a wide net and was willing to interview any and all witnesses relevant to its review. He stated:

> I had a discussion, private discussion with Ambassador Pickering about at least my expectation, and I would say this was in the first couple weeks, that this certainly could present the requirement that we would have to interview everybody up the chain of command, including the Secretary, and he agreed with that. So the two of us had sort of set that premise in terms of obviously depending on what we learned over time, and our requirement to both affix both responsibility and accountability per se were, again, based on the facts as we understood them. So there was a consensus, and it was a universal consensus over time that we did the interviews we needed to do and that we didn't do the interviews we didn't do, which would have included the ones obviously that we didn't do, which were Nides and Burns and Secretary Clinton.[48]

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[42] Transcribed Interview of Eric Boswell, Transcript at 79 (July 9, 2013) [hereinafter Boswell Tr.]; Transcribed Inteview of Beth Jones, Transcript at 95 (July 11, 2013) [hereinafter Jones Tr.].
[43] Boswell Tr. at 81.
[44] *Id.* at 79.
[45] Jones Tr. at 95.
[46] Transcribed Interview of Elizabeth Dibble, Transcript at 72 (July 10, 2013) [hereinafter Dibble Tr.].
[47] Jones Tr. at 106.
[48] Mullen Tr. at 26-27.

The Board had the authority both to conduct depositions and require interrogatories.[49] The ARB also had the authority to issue subpoenas for testimony and documents.[50] The Board never exercised these authorities.[51] It conducted both group and individual interviews. The ARB also recalled some of the officials who participated in group interviews for individual interviews. For example, Scott Bultrowicz appeared before the Board on three separate occasions. He stated:

> I had three appearances with the ARB. The first one was shortly after it convened. Myself, Assistant Secretary Boswell, and Deputy Assistant Secretary Lamb, provided an overview brief of what we knew at the time, facts surrounding the attack itself. And I can't recall the date that we did that. My second appearance was my one-on-one with the ARB, and that was, I believe in late November that I received notification, time, date, place, and time to arrive. And then the third appearance was actually with only two of the panel members and it was myself, and the acting Chief Information Officer from State. They had some follow-up questions on a classified issue that they needed answers to. So that sort of, in general, was my interaction with the ARB.[52]

Other witnesses only appeared once before the Board. For example, Elizabeth Dibble, the second-most senior official in NEA—one of the two bureaus the ARB criticized—only appeared once before the ARB as part of a group interview that lasted about an hour and a half. When asked specifically about Dibble, Admiral Mullen stated, "[she] never really got up on the scope, per se, in terms of visibility, in terms of responsibility, what she did or did not do, from my perspective."[53] The fact that the second most senior person in NEA—a bureau the ARB ultimately cited for "systemic leadership and management deficiencies,"[54]—appeared once, as part of a group and for less than two hours, raises a number of questions about the thoroughness of the ARB's review. For example, aside from her participation in the short group interview, it is still unclear what information the ARB reviewed that led to the conclusion that her role or awareness of issues related to Benghazi did not warrant further inquiry.

In fact, the Committee has reviewed numerous documents that suggest that Dibble was involved in discussions about the U.S. presence in Benghazi and security resources deployed in Libya. In addition, individuals and offices under her direct supervision were involved in the coordination of security resources with DS and the U.S. mission in Benghazi. Regardless of her role or responsibility for decisions related to the security posture in Benghazi, both her involvement in e-mail traffic and references to her made by others in e-mail exchanges raise questions about which, if any, of these documents the ARB reviewed or discussed with Dibble.

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[49] 22 U.S.C. § 4833(a)(1).
[50] *Id.* § 4833(a)(3).
[51] Pickering Tr. at 17.

[52] Transcribed Interview of Scott Bultrowicz, Transcript at 72-73 (July 8, 2013) [hereinafter Bultrowicz Tr.].
[53] Mullen Tr. at 38.
[54] ARB Report at 4.

The State Department's refusal to turn over documents and materials reviewed by the ARB has limited the Committee's ability to evaluate the thoroughness and accuracy of the ARB process. Without access to this information, the Committee is forced to rely on the recollections of ARB members and State Department employees the ARB interviewed. Witnesses' recollections of events that occurred many months ago are understandably limited. For example, Admiral Mullen could not recall any specific documentation that supported the ARB's finding regarding Ray Maxwell. He testified:

> Q. [D]id the board members look at the documentary evidence about Maxwell's role in working with the people in Libya, communicating their concerns about security and working with DS in Washington about bridging that gap?
>
> A. I'm not sure. I mean -- I don't recall one way or the other.
>
> Q. Whether the paper trail supports his role in that?
>
> A. I just don't recall.[55]

Admiral Mullen also could not recall reviewing any documents relevant to other senior employees within NEA. He stated:

> Q. And do you know if Dibble or Jones were showing up in the documents as participants in the documentary traffic on what was happening in Libya?
>
> A. I don't. I don't.[56]

In addition, the Committee has been unable to assess with any specificity what information witnesses conveyed to the ARB during interviews. The ARB did not maintain official transcripts of the testimony provided to the Board. Instead, it developed reports of each interview based on the notes of staff and Board members. Mullen testified:

> Q. How were the interviews recorded? Was there a court reporter? Was there video? Was there audio recording? Note taking?
>
> A. Note taking.
>
> Q. And none of the other optious?
>
> A. No.
>
> Q. And how did it get put together?

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[55] Mullen Tr. at 110-11.
[56] *Id.* at 47.

A. The staff would put a summary of the interview together. We would -- the members would be able to review that summary shortly after the interview.

Q. Any concerns with that?

A. No.

Q. That it wasn't transcribed or recorded?

A. No. From the standpoint of content, substance and content, I found them to be very accurate.[57]

The State Department has steadfastly refused to turn over these records to the Committee. Without access to the notes Admiral Mullen described, the Committee cannot verify claims that these interviews were, in fact, thorough. Witnesses' recollections of their discussions with the ARB have been spotty and, at times, extremely limited. For example, when asked whether she recalled the content of her individual interview with the ARB, Ambassador Jones stated, "Not really. It was more detail on the same kinds of things. I don't remember the detail at all."[58]

Testimony the Committee has obtained through its own interviews raises questions about the substance of individual ARB interviews. Scott Bultrowicz, one of the individuals the ARB cited for accountability, told the Committee that the ARB never questioned him about issues for which it later criticized him. He testified:

A. I mean, what I sort of found odd is I thought maybe there would be more, you know, direct questions about Benghazi itself.

Q. It struck you as odd that that was such a small portion of the questioning?

A. Well, in hindsight, you know, after the ARB's release and me being relieved of my duties, I myself would think, okay, if I'm being relieved, I would have appreciated maybe a little bit more direct questioning as to my role in supervising a subordinate or proactive steps that I took in regards to Benghazi, which I understand were sort of the two main issues for me.[59]

Ambassador Boswell also told the Committee that the ARB did not ask him any questions about the actions of his subordinates or his supervision of them. He stated:

A. I do remember that there was no questioning about my role as a supervisor, none at all. There was no indication of what

[57] *Id.* at 29-30.
[58] Jones Tr. at 94.
[59] Bultrowicz Tr. at 76.

> conclusions the ARB was coming to, not a clue of any of these, any conclusions. And there was -- as I say, I was talking about what was not asked -- there was no conversation about my supervision. I don't remember any -- as I mentioned before, any conversation about confusion as to who was in charge of what, stovepiping, lack of transparency. And at the end of the meeting, we shook hands warmly, and Tom Pickering gave me a big hug because I've known him for a long time, and I left. **And I was absolutely stunned when I saw the report.**

Q. So no questions about the actions of your subordinates, or your role in supervising them, or anything --

A. Not that I recall, no.[60]

If the ARB did not question supervisors about the actions of their subordinates, or even discuss their awareness or supervision of those actions, it is unclear how the Board reached its conclusions regarding accountability for these individuals. The Committee's investigation seeks answers to these questions to ensure that the ARB process envisioned by the statute is truly efficient and effective. Otherwise, convening an ARB is a pointless exercise.

There are weaknesses in the ARB's independence.

The Committee has reviewed documents and obtained witness testimony that calls into question whether the ARB process and structure give the Board the independence necessary to conduct an objective and fair evaluation. As currently structured, the ARB is heavily reliant on the State Department for personnel and resources. The Secretary convenes the ARB and nominates four of five members, and the Department provides the necessary staff and resources. Such heavy reliance on State Department employees and resources has the potential to create not only the appearance of a conflict of interest, but also actual conflicts. For example, Under Secretary for Management Patrick Kennedy supervised the selection of the Benghazi ARB staff. This placed the staff in a position in which their duties required them to evaluate the performance of supervisors, colleagues, and friends. Additionally, two ARB members selected by Secretary Clinton–Ambassador Pickering and Richard Shinnick–had extensive experience with the State Department. Although a third member of the ARB, Catherine Bertini, did not come from the State Department, Pickering recommended her for the Board. He stated:

Q. And did you have any role in the selection of the other members?

A. I was asked for my ideas, and I provided my ideas, yes.

Q. And were any of the individuals that you -- did you recommend any specific individuals?

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[60] Boswell at 32-33 (emphasis added).

A. I did, yes.

Q. And who did you recommend?

A. The one that I recall who has served, did serve on the board was Catherine Bertini.

Q. Any of the other?

A. I made other recommended names. None of them appeared on the board. I was asked by Mr. Kennedy for those thoughts.[61]

Witnesses rejected the notion that the current structure—heavily dictated by the Department—compromised the independence of the Benghazi review. In fact, ARB Vice-Chair Admiral Michael Mullen considered the Board's familiarity with State Department protocol and personnel to be helpful. Admiral Mullen testified:

Q. The ARB is supposed to be set up as an independent review board. Did you have any questions about the independence of the board?

A. In fact, in the original conversation I had with Ms. Mills about this, from my perspective, the most important descriptive characteristic of it is that it would be independent, and Ms. Mills assured me that was the Secretary's intent upfront, and had that not been the case, I certainly wouldn't have agreed to it. Secondly, I saw in execution that independence throughout, from beginning to end, that it was supported. We had the authority to, within the scope of the tasking, to do just about anything that we thought was important with respect to that tasking.[62]

* * *

Q. Did you ever see any question as to whether that State Department heavy component played into any of the board's work?

A. It played into, from my perspective, a depth and a breadth of knowledge in terms of how the State Department functions, what the culture is, what was reasonable in terms of expectations in certain situations that we would examine, and I found it to be -- as much as I had worked with the State Department, particularly as Chairman, it's one thing to be outside an organization and work with, it's quite different to be inside to try to understand the inner

[61] Pickering Tr. at 12.
[62] Mullen Tr. at 19.

> workings and hidden mechanisms of a massive organization like that. So in that regard they were incredibly helpful.[63]

Mullen subsequently described, however, an example of how a culture of collegiality could undermine the ARB's independence. Mullen participated in the ARB's interview of Deputy Assistant Secretary for International Programs Charlene Lamb. Mullen subsequently put Cheryl Mills on notice that Lamb did not perform well in her interview with the Board. Mullen gave Mills a "heads up" that based on Lamb's performance in her interview with the Board, he thought her upcoming testimony before the House Oversight and Government Reform Committee could be "very difficult" for the State Department.[64] Lamb testified before the Committee at a hearing on Benghazi on October 10, 2012.[65] Mullen stated:

> Q. During the life of the board, did you or any of the board members update State Department officials or DOD officials about the work of the board that you know of?
>
> A. With respect to DOD, no. Shortly after we interviewed Ms. Lamb, I initiated a call to Ms. Mills to give her -- what I wanted to give her was a head's up because at this point she was on the list to come over here to testify, and I was -- so from a department representation standpoint and as someone that led a department, I always focused on certainly trying to make sure the best witnesses were going to appear before the department, and my reaction at that point in time with Ms. Lamb at the interview was -- and it was a pretty unstable time. It was the beginning, there was a lot of unknowns. To the best of my knowledge, she hadn't appeared either ever or many times certainly. So essentially I gave Ms. Mills a head's up that **I thought that her appearance could be a very difficult appearance for the State Department, and that was about** -- that was the extent of the conversation.[66]

Admiral Mullen's testimony calls the ARB's independence into question, as it creates the appearance that a member of an independent body is placing the interests or reputation of the entity under investigation above the body's investigative mandate.

Furthermore, the State Department's attempts to characterize the ARB as independent have proven to be inconsistent with the Department's action in response to the congressional investigation of the Benghazi attacks. In refusing to produce ARB materials subpoenaed by the Committee, the State Department has sought to compare the ARB to "analogous investigative bodies such as Offices of Inspectors General."[67] If an Inspector General, however, encouraged

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[63] *Id.* at 19-20.
[64] Mullen Tr.at 23-24.
[65] *The Security Failures of Benghazi: Hearing Before the H. Comm. on Oversight & Gov't Reform*, 113th Cong. (Oct. 10, 2012).
[66] Mullen Tr.at 23-24.
[67] Letter from Thomas B. Gibbons, Acting Ass't Sec., Leg. Affairs, U.S. Dep't of State, to Hon. Darrell E. Issa, Chairman, H. Comm. on Oversight & Gov't Reform (Aug. 23, 2013).

agency leaders to prevent a witness from testifying before Congress because that witness's testimony could reflect poorly on the Department, the Inspector General's credibility would be greatly diminished. An ARB should be held to the same standard, if the State Department is to use the community of Inspectors General as a point of reference.

Testimony provided by other witnesses suggests that the State Department's culture complicates the perception of the ARB's independence. Senior State Department officials often work together and develop close connections throughout their careers in the Foreign Service. For example, Ambassador Jones expressed no concerns about the independence of the Board while also describing her previous interactions with current and former State Department employees working on the ARB. She stated:

> Q. Had you had any professional interaction or relationships with the members or the staff of the ARB? I know a lot of them came from State.
>
> A. Yes. The person who was appointed as executive director, I guess she was called, of the ARB, Uzra Zeya, was someone I knew quite well having been the chief of staff to the deputy secretary until fairly recently, so I had had daily interactions with her, and I've known her through the years because she came out of NEA. Dick Shinnick, who was on the ARB, is someone I had known for many years. I never worked directly with him, we never served at a post together, but he was the kind of person one just knew because he was in jobs that we all had interactions with at various times. Ambassador Pickering was my ambassador in Jordan when I was the junior political officer in Amman in the 1970s, and I worked for him then for a year before the new ambassador came in. And then, when he was under secretary for political affairs and I was the principal deputy assistant secretary for NEA, I had interactions with him then. I didn't report directly to him either time but we had reason to be in meetings together and that kind of thing.[68]
>
> * * *
>
> A. On Ambassador Pickering, when I was in the private sector I served on two boards, two nonprofit boards with Ambassador Pickering.
>
> Q. And that was the period immediately before coming back to the State Department?
>
> A. Correct.[69]

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[68] Jones Tr. at 162-163.
[69] *Id.* at 163-164.

Numerous witnesses described similar professional connections to ARB members, staff or colleagues within the State Department. For example, Maxwell testified that Shinnick had a number of connections with senior State Department officials, including with Maxwell himself. Maxwell stated:

> Dick Shinnick was connected to Lee Loman. Dick Shinnick was connected to Pat Kennedy, a long-term series of overlapping assignments and connections. For that matter, I was connected to them all as well. We were all management officers, and--management officers back home by trade.[70]

Some of these connections were well known to State Department employees. Lee Lohman told the Committee that he was aware of the extensive connections between Ambassador Pickering, Richard Shinnick and current State Department employees. He stated:

> Thomas Pickering spent his entire career at the State Department and Richard Shinnick as well, so they knew all of the players, or many of the players anyway. And Thomas Pickering, obviously, knew -- well, I shouldn't say obviously, but he knew Beth Jones, and I think he knew Ms. Dibble.[71]

While a culture of mentoring and collegiality within the State Department has obvious benefits, such an environment also fortifies institutional priorities and organizational structures that are resistant to change. For example, in the wake of the 1998 attacks on the U.S. embassies in Kenya and Tanzania, the State Department implemented a number of changes recommended by the ARB chaired by Admiral William Crowe. The Department did not, however, adopt any significant changes that altered existing reporting lines or organizational structures. Most notably, an external review conducted by Booz Allen Hamilton recommended systemic changes at the State Department – specifically, the elevation of the Diplomatic Security function to the level of Under Secretary.[72] Despite initial support for this recommendation and the approval of then-Secretary of State Madeleine Albright, it was never realized.

Similarly, following the Benghazi attacks, the State Department readily accepted the recommendations of the State Department-commissioned ARB. Ambassador Pickering told the Committee that he was "deeply concerned, as others were, that previous ARBs, previous Accountability Review Boards, had been excellent in their recommendations, but the follow-through had dwindled away."[73] Despite his stated concern –and the parallels between the institutional failures identified with the 1998 attacks and what transpired leading up to the attacks in Benghazi – the Benghazi ARB downplayed the significance of decisions above the bureau level. As such, the ARB's recommendations focused on improving processes and coordination

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[70] Transcribed Interview of Ray Maxwell. Transcript at 36 (May 30, 2013) [hereinafter Maxwell Tr.].
[71] Transcribed Interview of Lee Lohman, Transcript at 110 (July 30, 2013) [hereinafter Lohman Tr.].
[72] *See* Trevor Aaronson, *Exclusive: Benghazi report details security flaws at US diplomatic posts*, AL JAZEERA AMERICA, Sept. 3, 2013, http://america.aljazeera.com/articles/2013/9/3/exclusive-benghazireportdetailssecurityflawsatusdiplomaticposts.html.
[73] Pickering Tr. at 56-57.

within the existing organization, as opposed to recommending significant structural and organizational changes.

While the Benghazi ARB did not recommend the type of significant change Booz Allen had recommended in 1999, it did recommend an evaluation by external security experts—the Best Practices Panel. This Panel proposed similar, if not identical, changes as Booz Allen had over a decade earlier. For example, both panels proposed elevating the security function within the Department through the creation of an Under Secretary for Diplomatic Security.[74] In addition, the Best Practices report made clear that the creation of this position was "crucial to the successful and sustainable implantation" of all of its recommendations.[75] However, the Panel worried that the State Department—under the leadership of many of the same employees who failed to implement Booz Allen's recommendations over a decade earlier[76]—would once again fail to actually implement the proposed changes. The Panel explained that although the Department had received a "significant amount" of best practices input since the creation of DS, it routinely failed to adapt and implement recommendations as to best practices.[77]

The Best Practices Panel, which made forty security-related recommendations to the Department, found a complete lack of accountability and management at the Department level. The Panel found that Department employees did not understand the security-related responsibilities of their colleagues.[78] Further, the Department had no formal risk management system in place to balance program criticality and acceptable risk. As a result, there was no clear way for Department officials to determine if the level of risk at the Benghazi mission was acceptable.[79] The Panel found that the Department did not even have a formalized "hot wash," or after-action debriefing process of key participants following major events.[80] In fact, as of the date of the Best Practices Report, apart from the ARB and Best Practice Panel interviews, no Department bureau or office — not even DS itself — had debriefed DS Agents who survived the attack in Benghazi for lessons learned.[81] The Panel also observed that the State Department created policies and procedures, only to issue waivers when its "expeditionary diplomacy" demanded facilities and missions that did not meet those standards.[82]

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[74] Report of the Independent Panel on Best Practices, U.S. Dep't of State, at 5 [hereinafter Best Practices Report].
[75] Best Practices Report at i.
[76] *See supra* note 70.
[77] *Id.* at 26. The report states:

> In the 27 years since DS' creation, the Department has received a significant amount of best practice input from 18 ARBs and a number of independent panels, such as the current one. . . .The panel observes that the challenge for the Department and DS has not been in obtaining regular best practice and SME input, but in incorporating that knowledge into operations and management capabilities.

[78] The Best Practices Panel Report contrasts the complete lack of understanding of lines of authority and security responsibilities of Department employees with the clear understanding of lines of authority and security responsibilities by those serving outside of the Department under the authority of Chiefs of Mission. Further, Department employees could not identify the senior security executive ultimately responsible for safety and security, the Assistant Secretary for Diplomatic Security, instead often naming the Under Secretary for Management as the senior security official. *Id.* at 3.
[79] *Id.* at 8-10.
[80] *Id.* at 13.
[81] *Id.* at 14.
[82] *See, e.g.*, Best Practices Report at 12 ("The Panel is therefore concerned that minimum operating security standards would also be established and then waived.").

The Committee recognizes the likelihood that the Department will once again pay lip-service to the recommendations of the Best Practices Panel, as it has done to similar independent panels in the past, but not take the concrete steps necessary to bring about badly-needed change. Many of the same people in positions of authority and responsibility following the Booz Allen report remain influential in the Department today.[83] The Department's failure to implement the recommendations of several independent panels over the years is consistent with the Department's current failure to recognize the shortcomings of the ARB process that it has implemented and controlled.

The ARB's findings and recommendations had weaknesses.

Many witnesses the Committee interviewed praised the ARB's recommendations, as well as the Department's implementation of them. Ambassador Elizabeth Jones, the Acting Assistant Secretary for NEA, told the Committee:

> Q. [...] Do you feel that this ARB does enough to help ensure these are lasting improvements?
>
> A. I think it does, not least because -- well, both because the recommendations are detailed and easy to understand. They're well documented. They're well explained, and because of the system that was implemented immediately to understand each of the recommendations, to break them down into the 65 from the 29, and assign responsibility for completing each of the recommendations, and meeting on a very regular basis with everybody who was involved with any part of it so we all knew what everybody else was doing and knew how everything we were trying to do fit in, and so we could have discussions about, okay, if the goal is to break down the impression, or the fact that DS is hard to engage with, what kinds of things do we all think would work and be appropriate to make fulfilling that recommendation a lasting improvement.
>
> Q. So you think it goes beyond just providing, say, brick and mortar solutions to security?

[83] Not surprisingly, a number of senior officials involved in events before, during and after the attacks on Benghazi – including the ARB – held senior positions within the Department prior to, and after, the 1998 attacks. At the time, Thomas Pickering was the Under Secretary for Political Affairs. Patrick Kennedy was the Assistant Secretary for the Bureau of Administration. He also served in concurrent positions in the years leading up to the 1998 attacks. From 1996-1997 he was the Acting Under Secretary for Management – the position he currently holds – and in 1998 he was the Acting Assistant Secretary for Diplomatic Security. Eric Boswell, who served in the latter position from 1996 until January 1998, served in that same role at the time of the attacks in Benghazi. In addition, Susan Rice was Assistant Secretary for the Bureau of African Affairs.

A. Yes.[84]

Jones' former counterpart at Diplomatic Security, Eric Boswell – whom the ARB singled out for criticism – nonetheless found value in the ARB's contribution to understanding the environment in which his bureau had been operating. He stated:

> I think the ARB got many things right, starting with the accountability for what happened in Benghazi lies with the terrorists; they are the people that are responsible. That's finding number 1. I think the ARB accurately portrayed the environment that DS was operating in not just in Benghazi, but worldwide, and the shift of the environment in which DS and the State Department was operating from historic times, the fact that we are practicing expeditionary diplomacy and the increasing demands on DS.[85]

Along with this praise, though, these individuals and others questioned a number of the ARB's findings and recommendations.

The ARB found "systemic failures and leadership and management deficiencies" in two bureaus but downplayed the decisions by senior State Department officials to run the Benghazi mission on an *ad hoc* basis.

The ARB's central finding with respect to the failures that led to the tragedy in Benghazi focused on two bureaus within the State Department: the Bureau of Diplomatic Security within the Under Secretariat for Management and the Bureau of Near Eastern Affairs within the Under Secretariat for Political Affairs.[86] The ARB found that:

> Systemic failures and leadership and management deficiencies at senior levels within two bureaus of the State Department . . . resulted in a Special Mission security posture that was inadequate for Benghazi and grossly inadequate to deal with the attack that took place.[87]

The ARB Report accurately identified a number of failures which contributed to an insufficient security posture at the Benghazi special mission compound. These failures included a temporary staffing model using an inadequate number of security personnel and the failure of the Department's Washington headquarters to provide the requested level of security personnel. The Report stated:

> Overall, the number of Bureau of Diplomatic Security (DS) security staff in Benghazi on the day of the attack and in the months and weeks leading

[84] Jones Tr. at 105-106.
[85] Boswell Tr. at 81.
[86] Mullen Tr. at 107.
[87] ARB Report at 4.

> up to it was inadequate, despite repeated requests from Special Mission Benghazi and Embassy Tripoli for additional staffing.[88]

The Committee's investigation corroborates these ARB findings. Like the Committee, the ARB determined that a major contributing factor to these failures was the temporary and *ad hoc* nature of the U.S. diplomatic mission in Benghazi. According to the ARB:

> Special Mission Benghazi's uncertain future after 2012 and its 'non-status' as a temporary, residential facility made allocation of resources for security and personnel more difficult, and left responsibility to meet security standards to the working-level in the field, with very limited resources;[89]
>
> * * *
>
> The short-term, transitory nature of Special Mission Benghazi's staffing, with talented and committed, but relatively inexperienced, American personnel often on temporary assignments of 40 days or less, resulted in diminished institutional knowledge, continuity, and mission capacity.[90]

The ARB, however, downplayed the importance of the Department's leadership and organizational structure as the source of the decision to run the Benghazi mission on an *ad hoc* basis. Indeed, it was a particularly ill-defended outpost of what the Department has labeled "expeditionary diplomacy." None of the four individuals the ARB singled out for "accountability" made this decision. Rather, it could accurately be described as "above their pay grade." Therefore, while the ARB correctly identified the symptoms of the Benghazi failure, it failed to identify accurately the individuals, organizations, and policies that led to these symptoms.

The Diplomatic Security Bureau

The Committee's investigation shows that the ARB's focus on DS was understandable. The Committee obtained witness testimony confirming that DS was the bureau most immediately responsible for security-related planning and resource allocation for the two U.S. diplomatic posts in Libya—the Embassy in Tripoli and the Special Mission Compound in Benghazi. While many of the ARB's findings rightly point to shortcomings that manifested themselves in areas within the DS Bureau's area of responsibility, the Committee's investigation raises questions about whether the ARB looked high enough within the State Department organizational chart when assigning accountability for the failures it identified. In fact, the Committee's investigation suggests that with respect to several important failures, DS was constrained by decisions made by the Department's senior leadership, particularly within the Under Secretariat for Management.

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[88] ARB Report at 5.
[89] ARB Report at 5.
[90] ARB Report at 4.

Special Mission Benghazi: An Unfunded Mandate

Documents and testimony obtained by the Committee show that DS struggled to provide adequate resources both to protect the Benghazi compound and allow the diplomats stationed there to move outside the walls and perform their intended mission. The ARB made a similar finding. The documents and testimony show that one of the major contributing factors to this deficiency was the temporary nature of the Benghazi compound authorized by Under Secretary Patrick Kennedy. The ARB downplayed Kennedy's role in the decision-making that led to the inadequate security posture in Benghazi.

Once the U.S. reopened its embassy in Tripoli in September 2011, the center of gravity of U.S. diplomatic activity shifted away from Benghazi to Tripoli. As a result, the future of the Benghazi special mission compound, which had never been an official U.S. diplomatic facility, was uncertain. The property lease for the Benghazi mission was due to expire in early February 2012. And, according to e-mails reviewed by the Committee, as late as December 2011 many State Department employees both in Washington and in Benghazi remained uncertain as to whether the mission would close when the lease expired.

Finally, in December 2011, then-Assistant Secretary for Near Eastern Affairs Jeffrey Feltman sent an Action Memorandum to Under Secretary for Management Patrick Kennedy, requesting that Kennedy "approve a continued U.S. presence in Benghazi through the end of calendar year 2012."[91] The memo cited ongoing U.S. policy interests in maintaining a State Department footprint in Benghazi, including the need to maintain political, economic, public diplomacy, and commercial reporting in eastern Libya, a historically marginalized but politically and economically important part of Libya. According to the memo, "Many Libyans have said the U.S. presence in Benghazi has a salutary, calming effect on easterners who are fearful that the new focus on Tripoli could once again lead to their neglect and exclusion from reconstruction and wealth distribution and strongly favor a permanent U.S. presence in the form of a full consulate."[92]

Kennedy approved the memo, extending the Benghazi special mission compound's life for one year, through the end of December 2012. Rather than the "full consulate" envisioned by the Libyans, however, the Benghazi compound was a "temporary, residential facility, not officially notified to the host government, even though it was also a full time office facility."[93] This ad hoc status created challenges for DS, which struggled to provide the necessary security resources to operate the facility safely. In fact, the senior official who provided DS clearance on the memo prior to its transmittal to Under Secretary Kennedy anticipated this challenge. According to an e-mail dated December 23, 2011, the acting Principal Deputy Assistant Secretary cleared the memo "with the comment that this operation continues to be an unfunded mandate and a drain on personnel resources."[94]

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[91] Jeffrey Feltman, "Action Memo for Under Secretary Kennedy – M" (Dec. 27, 2011) [hereinafter Feltman Memo].
[92] Feltman Memo.
[93] ARB Report at 30.
[94] State Department Production, Document No. C05427113 (Aug. 2013).

The DS desk officer for Libya explained:

> [A]s a temporary facility, not a U.S. mission, [an] accredited . . . embassy or consulate . . . everything that was provided to it had to come from somewhere else, someplace that something was already allotted to essentially. So, for funding, at least in my experience, we would have to draw from other sources within DS/IP/NEA for other programs that we were supposed to be doing. And for personnel, in my experience, the agent pool that I pulled from mostly was from domestic operations. And they have a mission as well which they are supposed to be doing. So we had to pull them from that as well.[95]

It has been suggested by the State Department and some Members of Congress that budget cuts caused a shortfall in resources, which led to inadequate security at the Beughazi special mission compound. Documents and testimony show that the State Department budget did not affect the security posture in Benghazi. In fact, the "non-status" of the Benghazi compound appears to have been the most important factor. Charlene Lamb testified:

> Q. It has been suggested that budget cuts were responsible for a lack of security in Benghazi. I would like to ask, Ms. Lamb, you made this decision personally; was there any budget consideration and lack of budget which led you not to increase the number of people in the security force there?
>
> A. No, sir.[96]

The effect of the mission's temporary status manifested itself in a number of ways.

Personnel Security

According to the action memorandum signed by Kennedy, which extended the Benghazi mission, DS would provide a "full complement of five Special Agents" to protect two NEA diplomats and a communications officer.[97] Having an appropriate number of agents would allow for the protection of the compound and permit the necessary security support to allow diplomats stationed there to travel off-compound in order to fulfill the mission's diplomatic purpose. According to the ARB, however, the Benghazi special mission had its full complement of five DS agents for only 23 days between January 1 and September 9, 2013.[98]

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[95] Transcribed Interview of Brian Papanu, Transcript at 94 (Aug. 8, 2013) [hereinafter Papanu Tr.].
[96] *The Security Failures of Benghazi, Hearing Before the H. Comm. on Oversight & Gov't Reform*, 113th Cong., at 149 (Oct. 10, 2012) (testimony of Charlene Lamb, U.S. Dep't of State).
[97] Feltman Memo.
[98] ARB Report at 31.

With a permanent diplomatic post, the DS Bureau is able to engage in its normal long-term planning for budgets and personnel. These posts are staffed by full-time equivalent Regional Security Officers (RSO) from the regular pool of DS agents.[99] In contrast, temporary duty assignment (TDY) agents staffed temporary facilities such as Tripoli and Benghazi. Pulled from their existing assignments, these TDY agents and were thrust into an environment for which they often had not trained adequately. Charlene Lamb's Diplomatic Security/International Programs (DS/IP) office ran this TDY staffing system, rather than the normal pool of agents. It was never designed to provide the long-term staffing needed in Libya. Rather, the TDY system was designed as a stop-gap to fill short-term vacancies at post due to temporary absences of permanently-assigned personnel. Brian Papanu, the Libya desk officer in DS/IP/NEA explained the challenges in the year leading up to the Benghazi attack to the Committee. He stated:

> Q. Do you know why there was difficulty getting to five or why there were so infrequently five agents [in Benghazi]?
>
> A. Yes.
>
> Q. Can you explain?
>
> A. Certainly. In October of 2011, I assumed responsibilities for obtaining TDY staff for all of Libya. Prior to that, it was a desk officer colleague of mine. The mission in -- around the same time, September, October, the mission in Benghazi changed essentially from a protection mission, which was run by our dignitary protection unit here in Washington, to a more traditional RSO program management position, which pushed it back into DS/IP's, my office's realm. So at that time the mechanism to get agents changed, they have a task-oriented system, we have a -- it's hard to describe, but it's a system where basically we get volunteers to go. It's usually the high threat posts. And our system is, generally we cover -- traditionally we cover one RSO position like over a summer transition or during a break. It was very difficult for us to get the type of numbers on kind of a continuous basis through the volunteer system.
>
> Q. [I]t sounds like you're alluding that the system was kind of designed to deal with one absence here or one absence there, but is that because typically with a traditional RSO model you've got a more regular staffing kind of already set up and you're just kind of staffing the gaps, like during vacations in August or something like that?
>
> A. That's correct. Typically we just cover the gaps, but we did do -- occasionally we would do -- particularly in the beginning of Arab spring, it was very busy, and we had to find TDY support. But

[99] Papanu Tr. at 18-19.

> generally it wasn't near that number. It was never near that number. And it was for a much shorter timeframe, usually only one or two 60- to 30-day deployments for agents.
>
> Q. So is it fair to say that Benghazi being a sort of a non-official post but still needed a significant number of TDY agents, that sort of created challenges for you guys in staffing that, given your model?
>
> A. **Definitely**.[100]

To provide sufficient DS staffing for Libya, the TDY staffing system was entirely dependent on volunteers both willing and able to take a leave of absence from their permanent assignments for TDY assignments in Libya. Papanu testified:

> A. [A]s a high-threat post, in DS/IP, we would take only volunteers. And as a volunteer, the people that were interested in attending would not only have to volunteer themselves, they would also have to get their superiors and potentially their superior's superiors to sign off on the TDY, which could be a significant amount of time away from whatever their current duties were. So that was one of the other factors.[101]
>
> * * *
>
> There is no pool. There is not agents waiting to be grabbed to go that are standing by, at least agents that I was deploying, the TDY agents.[102]

In preparation for a July 2, 2012, meeting with Under Secretary Kennedy, Ambassador Eric Boswell, Assistant Secretary for Diplomatic Security, instructed Charlene Lamb to ensure that the DS representative reiterated the Bureau's concerns with the staffing challenges and security conditions in Benghazi:

> Re the Benghazi item, DS should express its concern over the resource drain that the endless TDYs in Benghazi in inflicting on us, and also concern that the overall security situation in Libya, Tripoli included, is deteriorating. We can't keep up these TDYs indefinitely. And having said that, if we are required to keep going in Benghazi we must salute and do it.[103]

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[100] *Id.* at 18-19 (emphasis added).
[101] *Id.* at 50.
[102] *Id.* at 95.
[103] E-mail from Eric J. Boswell to Charlene R. Lamb, "FW: AGENDA for NEA-SCA EX Meeting with US Kennedy – 7/2/12" (June 29, 2012, 3:48 p.m.).

Physical Security

Another area where the ARB correctly identified a security shortcoming of the Benghazi special mission compound, yet failed to assign appropriate accountability, was with respect to the post's failure to meet State Department physical security standards. The unclassified ARB Report found that:

> The insufficient Special Mission security platform was at variance with the appropriate Overseas Security Policy Board (OSPB) standards with respect to perimeter and interior security. Benghazi was also severely under-resourced with regard to certain needed security equipment, although DS funded and installed in 2012 a number of physical security upgrades.[104]

The ARB Report further elaborates that, as with personnel shortfalls, the special mission compound's physical security was a direct casualty of the decision to operate it as a temporary facility:

> Another key driver behind the weak security platform in Benghazi was the decision to treat Benghazi as a temporary, residential facility, not officially notified to the host government, even though it was also a full time office facility. This resulted in the Special Mission compound being excepted from office facility standards and accountability under the Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA) and the Overseas Security Policy Board (OSPB). Benghazi's initial platform in November 2011 was far short of OSPB standards and remained so even in September 2012, despite multiple field-expedient upgrades funded by DS. (As a temporary, residential facility, SMC was not eligible for OBO-funded security upgrades.) A comprehensive upgrade and risk-mitigation plan did not exist, nor was a comprehensive security review conducted by Washington for Benghazi in 2012. The unique circumstances surrounding the creation of the mission in Benghazi as a temporary mission outside the realm of permanent diplomatic posts resulted in significant disconnects and support gaps.[105]

Documents and testimony obtained by the Committee show that the exemption of the Benghazi special mission compound from Department physical security guidelines was not the result of a decision made by any of the four individuals singled out for "accountability" by the ARB. In fact, the Under Secretary for Management approved the decision to allow U.S. diplomats to move into an "as-is" facility.

Normally, an interim or permanent diplomatic post must request a waiver in order to operate under an exception to OSPB physical security standards. The Committee asked the

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[104] ARB Report at 5.
[105] *Id.* at 30-31.

former Principal Deputy Assistant Secretary and Director of the Diplomatic Security Service, Scott Bultrowicz, about the procedure for requesting waivers from OSPB standards. He testified:

> The OSPB standards, those could be signed off by the Assistant Secretary, the waiver of OSPB standards.
>
> But there's an important element into that, in that the waiver packet, that is produced by post. So post has to go and they have to do a physical security survey, identify what standards are being met, which ones aren't being met, which ones can we meet with upgrades, and which ones we just won't be able to meet, and those would have to be the ones that would be waived.
>
> In that packet, there would also be a statement from the Ambassador stating that he has reviewed the survey, he has reviewed what requires being waived, and he is in agreement with that based upon foreign policy priorities and objectives.
>
> And that would also be accompanied by a statement from the RSO stating that he or she is cognizant of the facilities, the physical security footprint, what needs to be upgraded, what can't be upgraded, and that they're in support of these waivers.
>
> That's brought back to Washington. It's reviewed. And where the upgrades could not be made, the waiver packet would go forward.[106]

According to Boswell, OSPB standards did not apply to Benghazi because of its status as a temporary facility:

> [I]n my opinion, the standards apply to permanent facilities, not temporary ones. Having said that, as I mentioned previously, in any place we have people we do our best to get as close, because OSPB standard is the standard for us, it's the gold standard, and we try to get as close as we can to it.[107]

In Ambassador Boswell's view, the entire Department was aware that Benghazi did not meet OSPB standards, but sought to bring the facility up as much to the standards as possible, with a particular focus on mitigating the effects of an improvised explosive device (IED) attack on the compound. He stated:

> In the specific case of Benghazi, we were aware that, you know, the villas they had rented would not meet. **Everybody was aware of it. Ambassador Stevens was aware of it.** The Department as a whole was

[106] Bultrowicz Tr. at 31-32.
[107] Boswell Tr. at 66.

> aware that this did not meet standards. But what we did was put as much effort into it as we could to get as close as possible to the standards.
>
> The most important consideration for Benghazi, the greatest threat that we were worried about -- well, there were two greatest threats that we were worried about. One is an attack on our vehicles when we are moving and the other is a car bomb or an IED of some sort. The reason we had -- we went into a villa complex in Benghazi that was of the size it was, was to give us the best possible standoff against an IED, which was the common form of attacking something in that part of the world.[108]

Nevertheless, Bultrowicz clarified that Benghazi was exempt from the waiver evaluation process because of the status granted it by Under Secretary Kennedy when he approved the one-year extension of the facility "as-is" in December 2011. He stated:

> A. I think in March, during one of these working groups, it was noted that there was authority to move into the facility as is but that a waiver packet would have to be done at a later date. But I don't think that packet was ever completed.
>
> Q. So was there, sort of, a directive not to do a waiver packet? Or who would have the authority to say, you can occupy this without doing a waiver packet?
>
> A. Well, not saying that anybody -- not saying that somebody said, "You don't have to do a waiver packet," but who could grant the authority to move into the building, I think that authority was given by the Under Secretary of Management, Mr. Kennedy.[109]

The Bureau of Near Eastern Affairs

The second State Department bureau that the ARB singled out for "systemic failures and leadership and management deficiencies" was the Near Eastern Affairs Bureau (NEA), a component of the Under Secretariat for Political Affairs. NEA is the chief policy-making bureau in the State Department with responsibility for the Middle East and North Africa, including Libya. While officials in NEA disagreed with this finding, some were aware of concerns about security but were unable to effectuate action to address those concerns.

Several senior officials within NEA told the Committee they disagreed with the ARB's findings with respect to their bureau, not least because NEA was not a bureau tasked with security functions prior to the Benghazi attack. For example, the Acting Assistant Secretary of Near Eastern Affairs, Ambassador Elizabeth Jones, a distinguished diplomat who holds the rank

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[108] *Id.* at 67-68 (emphasis added).
[109] Bultrowicz Tr. at 32.

of Career Ambassador in the Senior Foreign Service, told the Committee she was unaware of the security problems at the Benghazi special mission compound. She also disagreed with the ARB's conclusions about her bureau. She stated:

> A. My reaction is that I wish I'd known what the situation there was. I wish I'd been told.
>
> Q. Do you believe there were leadership and management deficiencies within NEA?
>
> A. I do not.
>
> Q. The finding refers to two bureaus at the State Department. Do you believe NEA to be one of those two bureaus?
>
> A. Yes, I do.[110]

Ambassador Jones and other senior officials who ran NEA told the Committee they had no responsibility for security policy and staffing in Libya, nor did they have the ability to affect those policies and staffing decisions. Rather, they maintained that this responsibility and authority rested entirely with the Diplomatic Security Bureau, a component of the Under Secretariat for Management. Ambassador Jones stated:

> Q. What was NEA's role in security at U.S. embassies or U.S. facilities . . . in Libya?
>
> A. The Near East Bureau has very little responsibility and capacity to determine security at embassies overseas. That responsibility at that time lay virtually entirely with the Diplomatic Security Bureau.[111]

Jones' deputy, Principal Deputy Assistant Secretary Elizabeth Dibble shared a similar sentiment with the Committee. She testified:

> A. I suppose that I would agree with the second part of the sentence, that the security posture was inadequate for Benghazi and was inadequate to deal with the attack. I would not necessarily agree that it was due to systematic failures in leadership and management deficiencies in the two bureaus at the State Department.
> I think if you go down to the next paragraph of the report, it hits the -- you know, that's the nub of it, that things were stovepiped.
>
> Q. Uh-huh.

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[110] Jones Tr. at 98.
[111] Jones Tr. at 12.

> A. But leadership and management deficiencies, I think, are broader than -- that is something different than stovepiping.[112]

Dibble also said:

> If you're talking about the reporting chain, Lee Lohman did report to me, yes, and I reported to the assistant secretary. But security -- and again, you know, this was pointed out in the report itself, decisions on security were stovepiped pre-Benghazi. And decisions on specific, you know, whether to put assets in Benghazi or in Bujumbura were made by the Bureau of Diplomatic Security, not by the regional bureaus. I mean, this is -- and this is sort of -- it's not just an NEA issue. It's across the board. The convention was that **regional bureaus did not have control over the security resources, control over the security people, and therefore control over security.**[113]

Lee Lohman, the head of the NEA Executive Office in charge of finance, personnel and general services support for the diplomatic mission in Libya, also shared his concerns about the ARB's finding with the Committee. He testified:

> Q. Do you think that NEA had any significant role in the security posture of the special mission in Benghazi?
>
> A. Let's go back to what we mean about the security posture again. We're talking about the number of agents on the ground, the training and composition of the guards, the fortification of the buildings, the security procedures that would be used to protect the facility. **There's no expertise in NEA that could competently provide an opinion on any of that. That's what we depended, relied on Diplomatic Security to provide.**[114]

Raymond Maxwell was the Deputy Assistant Secretary for Maghreb Affairs within NEA. U.S. foreign policy toward Libya fell within his portfolio. Maxwell was the only Department official within NEA whom the ARB held responsible for poor performance that contributed to the failures of Benghazi. Maxwell too shared a similar perspective with the Committee about NEA's relative lack of control over security resources and the security posture at the U.S. mission in Libya. He testified:

> Q. What would be the role of Liz Dibble or Beth Jones in helping the folks who are in Libya make the case to management to get more security? I mean, certainly, if you were aware, if you were concerned, it's fair to say that Liz Dibble and Beth Jones were also aware, presumably concerned.

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[112] Dibble Tr. at 87.
[113] *Id.* at 51 (emphasis added).
[114] Lohman Tr. at 34 (emphasis added).

A. Yes.

Q. What would be their role in working with State Department management to help the security posture for the folks on the ground that were requesting it?

A. It's typically a DS function, and so the DS Secretary would have the lead in this sort of cross-bureau environment, but it's certainly the case that...the NEA Assistant Secretary would advocate on behalf of posts to the DS Assistant Secretary.[115]

Notwithstanding Maxwell's statement that the NEA Assistant Secretary would advocate on behalf of her posts to the DS Assistant Secretary, Acting Assistant Secretary Jones told the Committee she did not do so with respect to the U.S. mission in Libya. Jones stated:

Q. And in your interactions, or I should say NEA's interactions with DS with . . . regard to security policy, did you have any direct interaction with your counterpart . . . Ambassador Boswell?

A. I had no interactions with Ambassador Boswell about security at Embassy Tripoli. . . . or at the [Benghazi] mission.[116]

Ambassador Jones' lack of awareness regarding security resourcing problems in Benghazi does not mean no one in NEA was aware of them. Since NEA serves as the chief interlocutor for U.S. ambassadors and their diplomatic officers in the region, it is not surprising that Ambassador Christopher Stevens and other members of his team routinely expressed their needs and concerns through NEA channels. These channels included either direct contact with the NEA front office via the Maghreb Desk, or through the NEA executive office (NEA/EX), which handled administrative matters such as human resources and finance for diplomatic missions in the region.[117] The needs and concerns expressed to NEA from the U.S. mission in Libya included DS's perennial understaffing of the Benghazi mission and a security environment that deteriorated rapidly in the summer of 2012.

For example, in February 2012, the U.S. principal officer stationed in Benghazi wrote to the NEA/EX desk officer in Washington:

> For DS staffing, please let me know if there is anyone I can call. We had a short window yesterday when [the Information Management Officer] was alone without an RSO [Regional Security Officer] in the compound due to simultaneous movements by me and the TDYers [temporary duty DS officers]. We'll de-conflict so that does not happen again, but what that means, we will not be able to support any off-compound movements

[115] Maxwell Tr. at 19.
[116] Jones Tr. at 23.
[117] Lohman Tr. at 8-9.

> February 12 to 13. I will be restricted to a single movement at that time inside Benghazi city limits from February 14 to 24. We've heard that the agent scheduled to arrive February 13 is having visa issues. If he cannot travel as planned, we will be down to two agents from February 12 to 24 and restricted to compound.[118]

Lohman told the Committee he raised the shortage of DS agents in Benghazi with Charlene Lamb, the Deputy Assistant Secretary for International Programs in the Diplomatic Security Bureau. He stated:

> I said that we were concerned, because the implications of not having sufficient staffing in Benghazi . . . would have a direct operational impact, either . . . the [Information Management Officer], who was trying to protect the classified [communications equipment], would not have a regional security officer with him because they were out doing things, or the principal officer would not be able to get out to do his work. What could we do about this?[119]

As the Office Director for the Maghreb Office, William Roebuck was the executive officer to Deputy Assistant Secretary Raymond Maxwell and one of the most knowledgeable policy experts on Libya in the Department. Roebuck told the Committee that he was so concerned about the number of DS agents in Benghazi, he considered recommending to the number two in the Bureau, Elizabeth Dibble, that the post be shut down to "force the issue" with DS.

In an e-mail to a subordinate, Roebuck wrote: "I'm skeptical we will get anything more than minimal DS support (3). If it drops longer term to two DS agents, we should drop the caveats in the e-mail I will send to Liz [Dibble], and we should recommend closing [the Benghazi post] to force the issue. Nothing really to lose if we lose the argument."[120]

According to Roebuck, he never sent the proposed e-mail to Dibble, nor did he raise the issue of closing the Benghazi mission to "force the issue." He testified:

> Q. What was the e-mail you were planning to send to Liz?
>
> A. I don't know. There must have been something that Evyenia and I were drafting for Liz for her consideration, but I can't find a record of it, so I'm not --
>
> Q. Okay. So you looked for a record of --
>
> A. I did. This is one of the e-mails I had in my files, and I read it and looked, and I was unable to find anything.

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[118] State Department Production, Document No. C05389467 (Aug. 2013).
[119] Lohman Tr. at 126.
[120] State Department Production, Document No. C05395968 (Aug. 2013).

* * *

Q. What did you mean by closing? Closing the facility in Benghazi?

A. Yeah. That's what I was saying, yeah. As far as I can tell, I did not send such an e-mail, but it was -- that was definitely something I was thinking about as a way to sort of force the issue.

Q. Because of issues with DS staffing you were concerned about --

A. Right.

Q. -- the number of agents. Is that safe to say?

A. Right. Primarily because people out there were not able to do their work, they weren't able to move, they weren't able to do the contact work that they wanted to do.[121]

* * *

Q. [T]hat idea ... about closing, potentially closing Benghazi. Was that an idea that you discussed with anyone else?

A. I don't have a recollection of discussing it. My sense of the e-mail is that I was, you know, gaming out some arguments about how to, you know, persuade people to provide additional security.[122]

NEA officials were aware of the difficulty the Benghazi post was having in receiving enough DS agents to protect the diplomats there and allow them to do their jobs. They were also aware of the significant deterioration in the security environment which began in the spring of 2012 with an attack on the compound itself and an assassination attempt on the British ambassador in Benghazi. For example, Roebuck told the Committee:

> There had been a substantial spike in violence. Most of it was Libyan-on-Libyan violence -- assassinations, abductions, some explosions, militia, inter-militia violence. But there had been the beginnings of some targeting of westerners. . . . And so I reached out to Chris [Stevens]. I said, you know, we're concerned about security for the people out there, and we should think about what we're doing with our staffing. And I see from his response he agreed.[123]

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[121] Roebuck Tr. at 81-82.
[122] *Id.* at 90.
[123] *Id.* at 87-88.

Roebuck told the Committee that, in response to the spike in violence in Benghazi, he delayed deploying a replacement principal officer to the compound:

> A. And so [the outgoing principal officer] left, and I, as I remember, I delayed the arrival of the new principal officer for a period, as we sort of reassessed the situation out there . . . .
>
> Q. So do you recall sort of what that gap was or how long that space was where you held somebody back or didn't have somebody there?
>
> A. It was a few weeks, I think. It was about 3 weeks, 2 or 3 weeks.[124]

In short, at least some officials in NEA were aware of long-standing concerns at post that there were insufficient security resources in Benghazi. Yet, either they took no action to advocate for additional security resources to DS because they felt powerless to do so, or they did not raise these concerns with their NEA superiors who could take them to DS. As the ARB acknowledges, "security in Benghazi was not recognized and implemented as a 'shared responsibility' by the bureaus in Washington charged with supporting the post, resulting in stove-piped discussions and decisions on policy and security."[125] The ARB cited NEA for "systemic failures and leadership and management deficiencies," yet it singled out only one official for "accountability," an official whose failings were totally unrelated to the Benghazi tragedy – according to information obtained by the Committee.

Accountability Theater

On December 18, 2012—approximately ten weeks after it was convened—the ARB delivered a report that found certain senior State Department officials in Washington had "demonstrated a lack of proactive leadership and management ability appropriate for the State Department's senior ranks in their responses to security concerns posed by Special Mission Benghazi . . . ."[126] In the section entitled "Accountability of Personnel," the ARB report assigned blame to four State Department officials—Eric Boswell, Scott Bultrowicz, Charlene Lamb and Raymond Maxwell.[127] Within days, Secretary Clinton placed those four officials on administrative leave.

In December 2012, the Department's swift action against the individuals named in the ARB report fostered the perception that it had held individuals who were negligent in their responsibilities accountable. For example, a December 19, 2012 *New York Times* article stated:

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[124] *Id.* at 88.
[125] ARB Report at 4.
[126] *Id.* at 39.
[127] *Id.*, Accountability section.

> Four State Department officials were removed from their posts on Wednesday after an independent panel criticized the "grossly inadequate" security at a diplomatic compound in Benghazi, Libya, that was attacked on Sept. 11, leading to the deaths of Ambassador J. Christopher Stevens and three other Americans.[128]

The Administration also praised the State Department's swift action against the four individuals named in the ARB report. With reference to the four Department officials relieved of their duties based on the ARB's findings, White House Press Secretary Jay Carney said:

> [T]here has already been, in this very short period of time, actions that demonstrate accountability as being upheld . . . . Immediately, accountability has been brought to bear with regard to four individuals who are very senior.[129]

Documents and testimony obtained by the Committee give the impression that former Secretary Hillary Clinton's decision to announce action against the individuals named in the ARB report was more of a public relations strategy than a measured response to assign accountability where appropriate. Eight months later, in August 2013, Secretary Kerry reinstated the four officials placed on administrative leave. Secretary Kerry concluded that since they had not "breached their duties," none of the four should be fired, according to State Department spokesperson Marie Harf.[130]

On August 20, 2013, in a daily press briefing, Harf explained that the four officials were reinstated in part because taking adverse personnel action against them would serve merely to "make us all feel better." Harf stated:

> [W]e have to let the facts lead where they may, and these are people with real lives and real careers, and **we can't just take action that's not warranted against them just to make us all feel better**. That's not the way the process works, and quite frankly, we owe it more to our diplomats serving all around the world to have thorough processes and to look at all of this from an independent lens, which is exactly what the ARB did.[131]

Because the employees identified in the ARB report had not been negligent or willfully insubordinate, the ARB was not in a position to make recommendations regarding discipline. The State Department faced no such restrictions. Ambassador Pickering told the Committee that the Board felt that the actions of these individuals warranted discipline, but the ARB lacked the statutory authority to recommend specific disciplinary actions, absent a breach of duty. He stated:

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[128] Gordon & Schmitt, *supra* note 28.

[129] The White House, Office of the Press Sec'y, Press Briefing by White House Press Sec'y Jay Carney (Dec. 20, 2012).

[130] Jay Solomon, *Kerry Reinstates Officials Suspended Over Benghazi Attack*, WALL ST. J., Aug. 21, 2013.

[131] Bureau of Public Affairs, U.S. Department of State, Daily press briefing, Statement of Deputy Spokesperson Marie Harf (Aug. 20, 2013) (emphasis added).

> We were concerned that breach of duty had been defined, both in statute and regulation, in part through what are the normal processes of negotiation with labor unions and the State Department to the point where it required an element of extreme negligence and some element of willfulness. And the meaning of that, Mr. Chairman, is that you can't exercise what's called discipline, and the disciplines are three -- reprimand, suspension, and separation -- without finding the evidence sufficient to establish that. And we said, look, we did our best, but that was not there, but we found people so deficient in their performance of their duty that we felt that there should have been some discipline available.[132]

The ARB's limited authority—which does not extend to recommending adverse personnel action—is a weakness for which Congress may consider a legislative remedy. This limited authority is part of a larger concern about the ARB's evaluation of accountability related to the Benghazi attacks. Witnesses interviewed by the Committee raised questions about the ARB's findings regarding accountability, including whether individuals cited by the ARB actually had any responsibility for decisions related to security of U.S. facilities in Libya.

The fact that the ARB recommended discipline for four State Department officials who "demonstrated a lack of proactive leadership and management ability appropriate for the State Department's senior ranks in their responses to security concerns posed by Special Mission Benghazi,"[133] and the fact that Secretary Kerry took eight months to rule out action against those four officials, calls into question the ARB's findings and the Department's faith in the work of the ARB.

More than one year since the attacks in Benghazi, and despite obvious failures by the State Department with regard to securing the Benghazi mission, no State Department official has been fired. No State Department official even missed a paycheck. Those most responsible for the attacks—the perpetrators—remain at large.

Raymond Maxwell's misconduct had no bearing on the security posture in Benghazi.

One of the four officials singled out by the ARB for accountability was Raymond Maxwell, the Deputy Assistant Secretary for Maghreb Affairs within NEA. Maxwell was the only individual within NEA criticized by the ARB. The criticism of Maxwell was included in a section of the classified version of the ARB report. That section was subsequently declassified. With regard to Maxwell, the ARB stated:

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[132] Pickering Tr. at 91-92.
[133] ARB Report at 39.

> Mindful of the lesson that security is everyone's responsibility, Board members were troubled by the NEA DAS for Maghreb Affairs' lack of leadership and engagement on staffing and security issues in Benghazi. The Board was particularly concerned that an official at his senior level would make the affirmative decision not to read intelligence regularly when doing so might have given him a more informed understanding of the areas and issues under his responsibility, including security risks and needs. In contrast to the constant engagement by NEA Executive Office post management officers and the Office Director and staff for the Maghreb, the Maghreb DAS failed to provide tangible advocacy with DS in support of his subordinates' efforts and post's security requests.[134]

Maxwell was removed from his duties as Deputy Assistant Secretary for Maghreb Affairs on December 18, 2012, the same day the State Department released the unclassified version of the ARB report.[135] Three days later, Maxwell was notified that he had been placed on administrative leave.[136] As with the other three individuals placed on administrative leave, Maxwell was not fired—he continued to receive full salary and benefits. He was removed from his position and prohibited from performing any official duties for the Department.

The ARB's findings with respect to Maxwell are significant because he was the only official the ARB singled out for criticism within a bureau—NEA—which was found to suffer from "systemic failures and leadership and management deficiencies [which] resulted in a Special Mission security posture that was inadequate for Benghazi and grossly inadequate to deal with the attack that took place."[137] This finding is based entirely on Maxwell's conduct. In fact, Ambassador Pickering confirmed to the Committee that Maxwell's performance was the focus of this finding. He stated:

> Q. Were there systemic failures in leadership and management deficiencies within the NEA Bureau?
>
> A. Yes.
>
> Q. And what were they?
>
> A. The identification of Mr. Maxwell's failure fully to perform his duties as expected was the major identification that supported that judgment.
>
> Q. And were there any systemic failures in leadership and management deficiencies with any other officials in the NEA Bureau?

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[134] *Id.*, Accountability section.
[135] Maxwell Tr. at 28.
[136] *Id.* at 31.
[137] ARB Report, at 4.

A. No.[138]

An analysis of the ARB's critique of Maxwell's performance could reasonably be expected to shed light on the failures of NEA which led to Benghazi. In reality, however, the ARB's findings with respect to Maxwell raise more questions than answers.

According to NEA officials interviewed by the Committee, decisions about security policy and security resources rested firmly within the Bureau of Diplomatic Security, not NEA.[139] Therefore, the ARB's finding that Maxwell lacked "leadership and engagement on staffing and security issues in Benghazi" is puzzling. Maxwell himself denied having any formal role in determining the appropriate security posture or evaluating security requests by the U.S. mission in Libya. He testified:

> Q. And did you have any role in the security posture for Libya?
>
> A. No.
>
> * * *
>
> Q. Did you have any role in evaluating security requests for Libya, whether Tripoli or Benghazi?
>
> A. Technically, no. Those requests came in through the Executive Bureau, the Post Management Office. They were routed to the Executive Director who reports to PDAS, or they will also parallel-route it through Diplomatic Security and up through that chain of command.[140]

Similarly, the Principal Deputy Assistant Secretary in NEA, Elizabeth Dibble, told the Committee that Maxwell had no responsibility for security measures and should not have been held accountable by the ARB. She stated:

> Q. But, obviously, they did, you know, find Mr. Maxwell . . . culpable for something. I mean, do you feel that the finding with Mr. Maxwell speaks to a systemic failure of leadership and management deficiencies as it relates to security in Benghazi?
>
> A. No, because Mr. Maxwell wasn't -- in the context of the way the State Department, not just NEA but across the board, in which we were operating, you know, a year ago, the regional bureaus did not have oversight over implementation of security measures. And because of that, **I don't think he should be held responsible for what happened in Benghazi.**[141]

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[138] Pickering Tr. at 103-104.
[139] Jones Tr. at 118.
[140] Maxwell Tr. at 14.
[141] Dibble Tr. at 88 (emphasis added).

Lee Lohman, the Executive Director for NEA in charge of finance, personnel and general services issues for U.S. diplomatic facilities in Libya, agreed. He testified:

> A. For the people in Diplomatic Security, I didn't know what information the ARB had accumulated, I didn't know what their involvement on any specific decisionmaking might be, so . . . the justice of those decisions was something that I just had no idea about.
>
> When I looked at Ray Maxwell's situation, I had a much better sense of how much he was or was not involved in this, and it struck me as being unfair.
>
> Q. Can you elaborate on that?
>
> A. Well, he just wasn't involved in making decisions about the security of what was going on at post, because nobody in NEA was making those kind of detailed decisions.
>
> Q. **Was he making any decisions related to security at post**?
>
> A. **Not that I was aware of.**[142]

Testimony obtained by the Committee showed that concerns about the ARB's findings regarding Maxwell were not confined to his colleagues in NEA. Former Assistant Secretary for Diplomatic Security Eric Boswell—who was himself singled out by the ARB for management failures related to Benghazi—was also puzzled by the ARB's finding with respect to Maxwell's and the NEA Bureau's role in security. Boswell stated:

> A. I didn't see anything elsewhere in the report about systemic failure in the NEA Bureau. I'm sure they're talking about the NEA Bureau, but beyond saying that there was a DAS that they faulted, I didn't see any other --
>
> Q. That was Mr. Maxwell?
>
> A. Mr. Maxwell.
>
> Q. Were you surprised that Mr. Maxwell was in the accountability section, based upon your interaction with --
>
> A. I was a little surprised. I didn't know Mr. Maxwell.

[142] Lohman Tr. at 115.

Q. Why were you surprised?

A. I didn't know him as a player on the --

* * *

A. I did not know Ray Maxwell, just didn't know him.

Q. Didn't have any interaction with him?

A. Didn't have any interaction with him, had no reason to -- didn't understand why the ARB had mentioned him.[143]

The ARB's criticism of Maxwell focused on his "affirmative decision not to read intelligence regularly when doing so might have given him a more informed understanding of the areas and issues under his responsibility, including security risks and needs."[144] This finding represents the extent of the ARB's concerns about Maxwell's performance, which amounted to the entire basis for the ARB's finding that NEA suffered from "systemic failures and leadership and management deficiencies [which] resulted in a Special Mission security posture that was inadequate for Benghazi and grossly inadequate to deal with the attack that took place."[145] Pickering testified:

Q. Did the Board identify -- just sticking to Mr. Maxwell, did the Board identify any other concerns about Mr. Maxwell's performance that went beyond his failure to read the daily intelligence briefing materials?

A. **I believe we considered that sufficient unto itself.** And I don't want to take it any further without going back again and looking, but I think it's -- essentially that's the reason.[146]

Documents and testimony obtained by the Committee call into question the connection between Maxwell's performance and the security posture in Benghazi. It is unclear why the ARB based a significant finding—arguably the strongest one in the entire ARB Report—on Maxwell's failure to read daily intelligence briefings that did not bear on the security posture at U.S. diplomatic facilities in Benghazi. Several witnesses testified that Maxwell's decision to stop attending daily intelligence reviews had no bearing on what happened in Benghazi.

In July 2012, Maxwell stopped attending regular morning sessions where briefers from the Intelligence Community would make available daily "read-books" of intelligence reports relevant to the Bureau's area of operations.[147] At these read-book sessions, officials from the

[143] Boswell Tr. at 120-21, 82.
[144] ARB Report, Accountability section.
[145] *Id.* at 4.
[146] Pickering Tr. at 149 (emphasis added).
[147] Maxwell Tr. at 66.

NEA front office would come at their convenience between about 7:30 am. and 9:00 a.m. to read through the daily intelligence reporting.[148] According to Maxwell, when the ARB interviewed him for a second time by the ARB, he informed the Board that he had stopped attending the read-book sessions in part because he found the intelligence to be of dubious value. Maxwell testified:

> Well, primarily because the intel was garbage. It was circular reporting. It was regurgitated Embassy reporting we were getting anyway. And what wasn't recirculated or regurgitated was spectacular and sensational and just not useful.[149]

Witnesses described the daily read books as "the funny book,"[150] or the "funny papers."[151]

Maxwell told the ARB that during the summer of 2012, he had been invited to give a number of public speeches and did not want to have trouble separating classified from unclassified information. He was trying to avoid inadvertently disclosing classified information in a public setting. He stated:

> I told them that part of my job included domestic outreach, and I had been to Nebraska, of all places, for a weekend of speaking engagements. I had been to Los Angeles and Santa Monica. I had briefed diplomatic delegations in Washington. I had done a series of briefings for Security Council member delegations who came down from New York. I talked to college students and think-tanks and a number of things, and I told them that I made a decision maybe July-August timeframe that I didn't need that spectacular sensationalism from the intel briefings from the morning readings bouncing around in my head during question-and-answer sessions with these briefings.[152]

According to Maxwell, what he failed to communicate to the ARB was that he did receive regular briefings on a number of classified programs and routinely read the cable traffic pertaining to his area of responsibility. He testified:

> Now, what they didn't give me a chance to say, and if they had checked I would have told them, that I was read into a couple of different programs that required compartmentalized information and special briefings, and when there was actionable intelligence, the analysts from INR [State Department Intelligence and Research Bureau] would call me, and I'd meet them in the SCIF, and he would make the information accessible to me, and that happened once every couple of weeks. Additionally, I read

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[148] Jones Tr. at 69-70.
[149] Maxwell Tr. at 25.
[150] *Id.* at 67.
[151] Dibble Tr. at 62.
[152] Maxwell Tr. at 25-26.

the cable traffic that came in every day through the classified open net.[153]

The ARB apparently interpreted Maxwell's comments about no longer attending the daily read-book sessions to mean he had stopped reading intelligence entirely. The ARB's senior leadership told the Committee that the Board believed Maxwell had stopped reading all intelligence materials. Admiral Michael Mullen, the ARB Vice-Chairman, stated:

> Well, I think he indicated, I think he said publicly that he wasn't reading the intelligence. If you're going to -- it's just hard for me to understand how you could have any idea, particularly with respect to threat or potential or anything like that, that you're not paying attention to intelligence.[154]

Ambassador Pickering testified that he understood Maxwell's explanation that he stopped attending the daily intelligence sessions to mean that Maxwell had stopped reading all intelligence. Pickering testified:

> A. I believe that his approach, which he described to us, his principal failing was that he made it apparently a practice not to read the intelligence.
>
> Q. Okay. And specifically what type of intelligence do you recall him not reading?
>
> A. **I took the statement to cover all intelligence**.
>
> * * *
>
> Q. Were there any other aspects of his performance that were lacking?
>
> A. That was our principal concern.
>
> Q. That he didn't read the intelligence generally or just the daily intelligence?
>
> A. He said intelligence.[155]

Members of the ARB may have been confused as to what intelligence Maxwell was actually reading in the roughly two months prior to the Benghazi attacks. NEA officials interviewed by the Committee expressed concerns about how the ARB seized upon Maxwell's statement in its final report and linked his decision to skip the morning read-books sessions between July and September 2012 to the tragedy in Benghazi.

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[153] *Id.* at 26.
[154] Mullen Tr. at 138.
[155] Pickering Tr. at 35-36 (emphasis added).

In an interview with the Committee, Maxwell's supervisor, Acting Assistant Secretary for NEA Elizabeth Jones, said that if she had known about Maxwell's decision to stop attending the daily read-book sessions, she would have insisted he do so.[156] However, she also unequivocally stated that there was no connection between Maxwell's decision with respect to the read-books and the loss of life in Benghazi. Jones testified:

> Q. Do you believe that with respect to Ray Maxwell, do you believe that the -- do you believe what the Board found about Mr. Maxwell's conduct that it put in the report, was that at all related to a systemic failure or a leadership and management deficiency that was at all responsible for the security posture that was inadequate in Benghazi?
>
> A. No. The issue that was reported about Ray in the ARB about his failure to read intelligence is a performance issue. **However, because it's been determined that there was no intelligence that could have told us that this attack was underway, it wasn't material.**[157]

Jones' deputy at NEA, Elizabeth Dibble, also felt it was inappropriate for Maxwell to stop attending the read-book sessions.[158] Still, like Jones, Dibble saw no connection between Maxwell not attending the read-book sessions and the security failures which contributed to the attacks in Benghazi. Dibble stated:

> I don't think he was responsible for security in Libya, and so to be held accountable for security breaches, lapses, failures, however you want to characterize them, I don't think is right, for him to be held accountable, because he had no decision authority . . . he had no impact, no control over the allocation of security resources. . . . I am not sure that that is directly related to what happened in Benghazi because I don't see the link there, and I am not quite sure why the -- how the ARB, I mean, if he said some of these things, it does strike me as odd and off and not what one would expect from a senior officer. But, again, that's not -- it doesn't fall into lack of -- you know, dereliction of duty or anything with regard to Benghazi.[159]

Despite focusing on Maxwell's actions with respect to intelligence and drawing a connection between those actions and the security situation in Benghazi, the ARB did not ask key witnesses any questions about that issue. Maxwell's supervisor and colleagues could have provided context for Maxwell's testimony to the Board before it held him accountable for actions the Board found to have contributed to the inadequate security posture in Benghazi. The ARB

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[156] Jones Tr. at 91.
[157] *Id.* at 98-99
[158] Dibble Tr. at 64.
[159] Dibble Tr. at 64-65.

did not ask them. Maxwell's direct supervisor, Acting Assistant Secretary for NEA Elizabeth Jones, was interviewed twice by the ARB. She told the Committee the ARB never asked her about Maxwell's conduct or performance. Ambassador Jones testified:

> Q. [A]t neither meeting were you asked about your supervision of Mr. Maxwell. Is that correct?
>
> A. I believe that to be the case. I don't recall any question about personnel issues.[160]
>
> * * *
>
> Q. Would you have preferred that, as Mr. Maxwell's supervisor, [the ARB] had consulted you about his performance matter issues?
>
> A. Yes, because I could have told them that he had planned to retire within 3 days of the Benghazi attack happening.
>
> Q. Why is that relevant?
>
> A. I believe it's potentially, possibly relevant as to why Ray Maxwell stopped reading intelligence.
>
> Q. Could you elaborate on it?
>
> A. He told me, when I talked to him about it, that he had stopped reading intelligence in the weeks before he retired so he wouldn't get mixed up in public statements about what was classified and what was unclassified, about what he knew about the countries in his region.
>
> Q. Did you find that to be a sensible reason?
>
> A. No, because I think it's quite easy to keep separate.
>
> Q. Did you tell him that at the time?
>
> A. I did.
>
> Q. What did he say?
>
> A. He didn't say anything. But I was more concerned that he had not given that explanation to the ARB, because I thought that that would have given better context to the statement that he made to the ARB.

[160] Jones Tr. at 99.

Q. And just to be clear, what was your understanding of the statement that he made to the ARB?

A. That he had stopped reading intelligence in the weeks before the attack.[161]

The ARB's approach to assigning accountability within NEA for the failures that led to the Benghazi tragedy is puzzling. The ARB identified "systemic failures and leadership and management deficiencies at senior levels" within NEA. It seems obvious that a "systemic failure" within a large organization such as NEA could only result from a widespread failure throughout the system, either to recognize the challenges posed by the inadequate security posture of the Benghazi mission in a deteriorating environment, or else to take the appropriate steps to rectify it in order to safeguard American lives. Yet within the entire NEA Bureau, the ARB singled out only Raymond Maxwell, for conduct his own supervisor contended was not "material" to what happened in Benghazi.

If Ambassador Jones and others are right, and the intelligence Maxwell stopped reading was not material because NEA was essentially powerless to affect the actions of DS in Benghazi, it is unclear why the ARB blamed Maxwell for not reading it. If the intelligence did provide some kind of insight which could have prevented the failures of Benghazi, it is further unclear why Maxwell was held accountable for not reading it, but Ambassador Jones and others within NEA were not held accountable for having read it and taken no effective steps to remedy the shortcomings of the Benghazi compound's security posture before it led to a loss of life?

The ARB appropriately criticized Charlene Lamb's actions but downplayed how the Under Secretary for Management influenced her decisions.

The ARB leveled specific criticism at Charlene Lamb, the Deputy Assistant Secretary for International Programs, for the Diplomatic Security Bureau's failure to provide the full complement of five special agents for Benghazi. DAS Lamb repeatedly sought to limit the number of agents in Benghazi. She also ignored her subordinates' efforts to improve staffing levels. Still, the temporary nature of the facility provides important context for her actions. Under Secretary Kennedy, her superior, approved that decision.

Lamb remained consistently resistant to providing the five DS special agents earmarked for the Benghazi special mission compound by the December 2011 memorandum signed by Under Secretary Kennedy. The DS desk officer for Libya told the Committee:

> The RSO in Tripoli, the primary RSO, he was -- you know, he wanted his five agents which he thought was due to him from the memorandum that was signed on December 27th. Several different issues impacted on the -- particularly in that timeframe. We already spoke about the trouble we

[161] Jones Tr. at 100-101

> were having getting TDY personnel. At that time I was still attempting to get five agents for most of that period?
>
> In mid-February, in conversations with DAS Lamb, it became quite -- she made it quite apparent that she wanted **three agents on the ground in Benghazi**. From that time on, I was attempting to get three agents into Benghazi at all times.[162]

According to individuals interviewed by the Committee, Lamb's resisted staffing Benghazi to the full complement of DS agents because she believed that DS special agents had been poorly utilized in Benghazi. One of her principle concerns was the reliance of DS agents to drive the special mission compound's armored vehicles, a role typically fulfilled by locally employed staff in other countries.[163]

Lamb's resistance to providing more DS special agents continued even after an apparent terrorist IED attack on the Benghazi compound on June 6, 2012, which blew a hole in the perimeter wall. At that time, the RSO in Tripoli renewed his request for the full complement of five DS agents for Benghazi. Both Lamb's Regional Director for Near Eastern Affairs as well as the Libya desk officer strongly supported this request. The desk officer told the Committee:

> Q. Based on your experience, just from a personal perspective, did you support that number or support that assessment?
>
> A. Yes. Not only did I support it, I sent it to the RSO for clearance as well, which he supported fully, and I drafted an action memorandum stating the RSO's request.
>
> Q. And what happened to that action memorandum?
>
> A. It was approved by my direct supervisors, and then it was upstairs for a while. And we didn't hear anything. We felt it urgent enough, my supervisor scheduled a meeting with DAS Lamb, and in the meeting with DAS Lamb, essentially the long and short of it, the memo was denied for additional resources, personnel-wise.[164]
>
> * * *
>
> I mean, by the memo, I thought it was pretty clear. I had outlined the anti-Western attacks. My feelings, along with the RSO's -- and both RSOs opposed, and my superiors, we tried to advocate for additional security resources. It was denied. It wasn't outright denied. It was -- she wanted to know specifically what programs

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[162] Papanu Tr. at 23.
[163] *See id.* at 58.
[164] *Id.* at 42-43.

that the additional agents would be working on.[165]

Lamb also seemed very resistant to continuing the mission of the Department of Defense (DOD) Security Support Team (SST), a cadre of 16 special operators seconded to the State Department and placed under the authority of the Chief of Mission. DOD provided the team to State on a cost reimbursable basis, meaning the only costs to the State Department to have it in Libya were for transport, room and board. The SST deployed to Libya on 120-day deployments, which had to be renewed periodically in order to keep the team there. Although a handful of SST members were sent to Benghazi on a number of occasions to reinforce security there, the SST was primarily a Tripoli-based security asset.

In Tripoli, the SST provided critical protection for the visits of numerous U.S.-based personnel to Libya as part of the Administration's plans to assist the new Libyan government. According to William Roebuck, Director of the Maghreb Office within NEA:

> A. The NSS [National Security Staff], like a number of people in the interagency, wanted to get more assistance to the Libyan government on a range of areas, democracy in government, helping them rebuild their security institutions, helping with civil society. And the way that we were structured to do that was to send out TDYers to do it for a few weeks at a time, and that was difficult, because the embassy was just getting stood up again; they had limited bed space and other ability to support these visits, so they were pushing back, and so there was some friction between post and interagency about, you know, how to properly manage that desire to get assistance out to the Libyan government.
>
> * * *
>
> Q. Was the DOD SST presence . . . necessary to ensure that the staffing that was being pushed by NSS, the numbers, the individuals being pressed had adequate security to be able to get out and, you know, fulfill the responsibilities that they were being asked to do?
>
> A. I think the SST team was an important part of that security. I mean, they were a vital component in it. DS also provided regular RSO, ARSO folks and MSD teams. And all that together provided the security for the embassy and the security for TDYers, movements, et cetera. And, yeah, that kind of -- taken together, all that security support was essential to allow the embassy to function and to allow the TD wires to get out there and to provide assistance to the Libyans.[166]

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[165] *Id.* at 44.

[166] Transcribed Interview of William Roebuck, Transcript at 120-22 (Aug. 5, 2013) [hereinafter Roebuck Tr.].

As early as February, Lamb had been pushing to end the SST mission, despite strenuous objections from the Embassy in Tripoli. The Committee asked the Libya desk officer in DS about this. Papanu stated:

> Q. I will just read it for the record. So it is an e-mail from you on Friday, February 3rd, 2012. It is unclassified. It looks like it is to Eric Nordstrom and CC Jim Bacigalupo and Daniel Meehan. The subject is "DS/IP meeting on Tripoli." So you wrote, "Eric, we had a meeting with DAS Lamb and DS/IP/OPO yesterday on Tripoli. Here are a couple of takeaways. One, DS/IP is not going to support extension of the DOD SST team past April 5. Please start thinking about what post could potentially need from DOS assets (high threat trained agents and SPS were both mentioned)."
>
> * * *
>
> A. [O]ne of the things that DAS Lamb mentioned in this meeting, obviously, was she was not going to support the extension of the DOD/SST team.[167]

The Ambassador and his staff in Tripoli at the time were taken aback by Lamb's position. In an e-mail, Ambassador Gene Cretz—Chris Stevens' immediate predecessor—wrote:

> I fail to see the logic as to why DS would not support an extension of SST, unless DOD is against it which we have no inkling of . . . . The bottom line is we will be severely impacted without them and no one here is arguing that there has been any improvement in the security situation which would argue that they are no longer needed.[168]

The Ambassador's deputy weighed in as well, saying that "This is an untenable position."[169]

Although SST was extended past April 5, it would prove to be the final extension of the team's mission. In July 2012, Under Secretary Kennedy informed DOD that the State Department would not be requesting a further extension of the SST mission. A handful of DOD special operators remained in Tripoli past the early August expiration date of the SST to provide training for their Libyan military counterparts. According to Roebuck, Ambassador Stevens and his colleagues at the Embassy would have preferred to keep the SST running, in part to provide security. Roebuck stated:

> Q. And your sense at the time was that post did want to extend the group? Or were they more focused on shifting the mission of the group?

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[167] Papanu Tr. at 97-98.
[168] E-mail from Gene A. Cretz to Elizabth L. Dibble, "FW: DS/IP meeting notes on Tripoli" (Feb. 14, 2012, 3:41 a.m.).
[169] E-mail from Joan Polaschik to Gene A. Cretz, "RE: DS/IP meeting notes on Tripoli" (Feb. 14, 2012, 7:53 a.m.).

A. They wanted to extend it for a substantial period. At a certain point, I think they realized -- and this was later than this memo. It would have been -- you know, later in the summer, they realized that, you know, changing -- in fact, in here, it is already evident that changing the nature of the mission was a good way to ensure that at least some of the people stayed on the ground and would help provide some security at post. And then they wanted this -- also, post was strongly supportive of this [training] mission. So keeping people on the ground also supported that mission.

Q. But part of the motivation, at least as you understood it, was to have those assets on the ground from a security perspective as much as a training program?

A. I think so, yeah. Simply because they were -- they had been part of the security team. You know, they were armed and trained. And even if they were focused primarily on the training of Libyan CT forces, they could be an asset to help post. I think that was the thinking of Chris.

* * *

I mean, Chris' general predisposition was to keep the SST guys out there.

Q. From a training or a security standpoint? Or for both?

A. The predisposition I am talking about is for security. But I think he also recognized as the mission for -- at least a piece of the SST change that it would -- you know, it would be a good asset to provide the [counterterrorism] training but also to provide some security for post and be a rationale for keeping some of those guys at post.

Q. Was there a concern about security if the SST team left, that the post would lack the adequate security resources?

A. I think that is probably -- yeah. I think that is a fair description based on what I have seen from, you know, RSO e-mails and indications from Chris.[170]

These examples, and others described to the Committee in documents and testimony, suggest that the ARB's citation of Lamb's poor management was certainly justified. Nonetheless, the ARB downplayed the effect of decisions made by Lamb's superiors that

[170] Roebuck Tr. at 127-129.

contributed to her actions. Lamb failed to heed the recommendations of both the RSO in Tripoli and her subordinates in Washington to increase the number of DS agents in Benghazi in the wake of the June 6, 2012 terrorist attack on the compound. As mentioned earlier, Lamb's office was struggling to provide enough TDY DS agents to the mission in Libya in part because the temporary nature of those missions had forced them to use a personnel system to supply those agents which was never designed to handle the workload. The temporary, ad hoc nature of the mission in Libya was not a decision made at Lamb's level, or indeed even within the DS bureau. Rather, the Department's top leadership made this decision. And while Lamb's resistance to extending the SST mission, particularly as early as February 2012, is difficult to understand, the fact remains that the ultimate decision to end that mission rested with, and was taken by, Under Secretary Kennedy.[171]

It is unclear why the ARB did not hold the Under Secretary for Management accountable for decisions that affected the security posture in Benghazi.

The ARB correctly identified a number of failures which contributed to the Benghazi tragedy, however; the Board stopped short of identifying the root causes of those failures. In particular, the ARB appeared remarkably uncurious about the role of decisions made by officials above the four identified by the ARB as "accountable" for the failures of Benghazi. Witnesses questioned the ARB's reluctance to examine the effects of decisions made at more senior levels within the State Department.

Gregory Hicks, the former Deputy Chief of Mission at Embassy Tripoli, told the Committee that the ARB, in his view, may have overlooked the extensive role of Under Secretary for Management Patrick Kennedy in the relevant Benghazi-related decision making. Hicks testified:

> In our system, people who make decisions have been confirmed by the Senate to make decisions. The three people in the State Department who are on administrative leave pending disciplinary action are below Senate confirmation level. Now, the DS assistant secretary resigned, and he is at Senate confirmation level. Yet the paper trail is pretty clear that decisions were being made above his level. Certainly the fact that Under Secretary Kennedy required a daily report of the personnel in country and who personally approved every official American who went to Tripoli or Benghazi, either on assignment or TDY, would suggest some responsibility about security levels within the country lies on his desk. So, you know -- and since DS works for him as well and therefore threat reporting should be coming up to him, and so, you know, the ability -- at his point, it is pretty clear that personnel and threat meet. Not only that, but budget also meets at his desk, so, you know, if we assume that in our system, Senate confirmation means you get to make decisions, the under

[171] Bultrowicz Tr. at 132.

secretary for management is confirmed by the Senate, his appointment.[172]

As previously discussed, the decision by Ambassador Kennedy to approve the extension of the Benghazi special mission compound for one year as a temporary, residential facility had a number of negative effects on the U.S. Government's ability to provide adequate personnel and physical security resources. The former Assistant Secretary for Diplomatic Security, Eric Boswell, confirmed that Kennedy approved this extension. He testified:

> Q. Did you feel that there were any decisions related to security in Libya that involved individuals above you in the chain of command?
>
> A. Involving security in Libya, yes. The Under Secretary for Management was definitely involved in decisions involving -- lots of decisions about Benghazi. He's the one, after all, that authorized, gave the go-ahead for the mission in the first place and extended the mission. He approved the extension of the temporary mission.[173]
>
> * * *
>
> Q. You said the memo that went to Under Secretary Kennedy, though?
>
> A. Right, right. The December whatever it was memo that went -- to which I referred earlier, the decision memo regarding extending the temporary facility in Benghazi.
>
> Q. Does that mean it was the Under Secretary of Management's decision that it be a temporary facility?
>
> A. Yes, yes. It was certainly his decision to authorize the extension, so, yes,[174]

Similarly, the decision to end the SST mission in Libya in July 2012 was made by Ambassador Kennedy, albeit based upon a recommendation from Charlene Lamb. Assistant Secretary for DS Eric Boswell testified:

> Q. Who were the decisionmakers relative to the -- either the presence or the mission of the SST?
>
> A. The ultimate decisionmaker is Under Secretary Kennedy.[175]

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[172] Transcribed Interview of Gregory Hicks by H. Comm. on Oversight and Gov't Reform Comm. staff, Transcript at 115-166 (Apr. 11, 2013).
[173] Boswell Tr. at 92.
[174] *Id.* at 29-30.

Scott Bultrowicz—Boswell's deputy—agreed. He stated:

> Well, again, he was certainly involved in the discussion whether or not the SST was going to be extended, because I think DOD reached out actually directly to Under Secretary Kennedy on that.[176]

The Committee interviewed several State Department officials who testfied that Ambassador Kennedy was very involved in other aspects of the U.S. diplomatic mission in Libya, including the Benghazi special mission compound. Ambassador Boswell gave testimony that is consistent with testimony provided at the Committee's May 8, 2013 hearing. He told the Committee that Ambassador Kennedy was involved in staffing and budgets for Libya. He testified:

> Q. And this is maybe a bit repetitive of what we just talked about, but at the May 8th hearing this committee held, a number of the witnesses raised questions about Under Secretary Kennedy's role in decisions related to Libya. They suggested that he was very involved in decisions related to staffing and budget. Do you agree or disagree with that?
>
> A. I do agree. He was very aware of what was going on in Libya and was involved in decisions. Sure, I agree with that.[177]
>
> * * *
>
> Q. Beyond him approving the extension, was he involved in any other discussions about Libya or decisions related to Libya?
>
> A. That I am aware of -- you have to understand that Libya was -- Tripoli and Benghazi were unaccompanied posts. It is the Department's policy and practice to handle unaccompanied posts in a particular way. Unaccompanied, I mean with no families. And so any decision about travel in and out, staffing levels was made by the Under Secretary for Management.
>
> Q. Is that staffing of security and political staff?
>
> A. All, all, all positions.
>
> Q. So any decisions on staffing would --
>
> A. Staff size, yes. He would personally approve them.

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[175] *Id.* at 125.
[176] Bultrowicz Tr. at 132.
[177] Boswell Tr. at 93-94.

Q. Okay. And you wouldn't be involved in the discussion?

A. DS might be involved with his staff, I might be involved, yes.[178]

Deputy Assistant Secretary for Maghreb Affairs Raymond Maxwell also told the Committee that Ambassador Kennedy was intimately involved in the details for Libya. Maxwell testified:

Q. The DCM, Mr. Hicks, testified that Ambassador Kennedy was very engaged on a minute level about the incidents that were occurring in Benghazi in the months leading up to the attacks.

A. Yep.

Q. Does that surprise you?

A. It does not. We--one of the things that I found interesting was that the Under Secretary approved every person that went in or came out of Tripoli. Now, that's the Under Secretary . . . . [T]here were times when the Under Secretary for Management would delegate that authority to the Assistant Secretary of the regional bureau affected or to the Ambassador at post. But Pat Kennedy has never done that.[179]

* * *

A. The DAS Assistant Secretary reports to the Under Secretary for Management. **The way the Under Secretary for Management runs things, there is no decision that DS makes that doesn't have his input and his imprimatur, his approval. There is no decision that DS doesn't make that doesn't have his disapproval.** DS--the Under Secretary for Management speaks for DS for all practical purposes, and there is no decision that DS makes that the Under Secretary for Management is not involved in.

Q. **So, the important decisions about the security posture in Libya leading up to the attacks, if Mr. Boswell was held accountable for those decisions, is it fair to say that the Under Secretary for Management would have had a role in those decisions?**

A. **Absolutely.**[180]

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[178] Boswell Tr. at 92.
[179] Maxwell Tr. at 87-88.
[180] *Id.* at 87.

Lee Lohman, the Executive Director of the Near Eastern Affairs Bureau, told the Committee that Kennedy was personally involved in reviewing the schematics of the villas to be occupied by the U.S. diplomats in Benghazi. He stated:

> A. I was at least in one meeting where the undersecretary himself was looking at the -- the schematics and looking at which property would be selected and so on and offering opinions, but the staffers were . . . constantly providing input to us; not in . . . the sense of them having a personal opinion, but they were conveying the wishes of the undersecretary.
>
> Q. Is that a normal arrangement . . . for M to be involved in selecting the facilities?
>
> A. When you say, 'normal,' what do you mean?
>
> Q. Is that common for the State Department?
>
> A. In a situation like this, it's . . . consistent with . . . past practice for the undersecretary to be involved.
>
> Q. Past practice throughout your experience . . . at the State Department?
>
> A. Well, I think it . . . depends on the undersecretary. Some . . . get more into the detail than others.
>
> Q. I guess we have heard that Undersecretary Kennedy is very involved . . . in the details. Would you say he was more involved in the details on this . . . decision than --
>
> A. Yes.
>
> * * *
>
> Q. So Undersecretary Kennedy and his staff conveying his desires was heavily involved in that discussion?
>
> A. Heavily.[181]

According to Acting Assistant Secretary for NEA, Ambassador Elizabeth Jones, before the Benghazi attack, any disagreements between her Bureau and the Diplomatic Security Bureau would be adjudicated by Pat Kennedy. Jones testified:

> [I]f there was a disagreement between the Near East Bureau and

[181] Lohman Tr. at 26-27.

> Diplomatic Secretary, how would that be adjudicated or how -- to whom would we -- it would go to Under Secretary Pat Kennedy.[182]

Documents and testimony show that Ambassador Kennedy attended regular meetings with DS and NEA where, among other subjects, Libya was a topic of discussion. For example, Brian Papanu, the DS desk officer for Libya, described a July 2, 2012 meeting where the future of the Benghazi special mission compound beyond December 2012 was discussed. He stated:

> Q. Do you recall the . . . July 2nd meeting with Under Secretary Kennedy?
>
> A. I do.
>
> Q. Did you attend that meeting?
>
> A. I did.
>
> Q. Can you provide us your recollection of that meeting?
>
> A. Certainly . . . From my recollection, the only Libya mention was a question NEA -- I believe it was NEA/EX, but it could have been NEA/MAG -- about the continued presence in Benghazi.
>
> Q. And . . . what was the question posed to him?
>
> A. Essentially, I can't remember the specifics, but are we going to continue with the mission in Benghazi.
>
> Q. And was Under Secretary Kennedy present at the meeting?
>
> A. He was.
>
> Q. And do you recall what his response was?
>
> A. His response was he had to check with S.
>
> Q. And by 'S,' what does that mean?
>
> A. That would be Secretary of State.[183]

To date, it is unclear whether Ambassador Kennedy ever discussed this matter with Secretary of State Hillary Clinton. The role of senior State Department leadership other than Kennedy in determining the parameters of Benghazi as an *ad hoc*, temporary mission remains one of the many questions the Committee intends to answer through its ongoing investigation.

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[182] Jones Tr. at 34-35.
[183] Papanu Tr. 115-116.

E-mails reviewed by the Committee, however, show it is likely that Secretary Clinton's views played some role in the decision making on the future of the U.S. diplomatic mission in Benghazi. For example, in September 2011, when the Department was discussing what to do with the Benghazi special mission compound in the wake of the reopening of the U.S. Embassy in Tripoli, several NEA officials discussed the Secretary's desire to continue operating the Benghazi mission. Lee Lohman wrote: "Do I remember correctly that the Secretary had views about keeping Benghazi going?"[184]

Another State Department official responded: "Not sure. [A]long the lines of what Chris [Stevens] has laid out, i.e., for another six months or so? I am not sure if she had views of anything longer term than that."[185]

Raymond Maxwell replied:

> I remember [Assistant Secretary of NEA] Jeff [Feltman] (or somebody very important) saying that S definitely wanted Benghazi to continue operations for some time to come. No specifics were mentioned though.[186]

Elizabeth Dibble responded. She wrote:

> I raised with [NEA Assistant Secretary Jeffrey Feltman]. He thinks Chris needs to stay in Benghazi until [REDACTED] has relocated more or less permanently to Tripoli. He also thinks we should not rush to shut down operation there; this is in keeping with what the Secretary has said.[187]

The ARB downplayed the importance of the decisions made above DS and NEA. Documents and witness testimony show that these decisions—including those made by the Under Secretary for Management and other senior State Department officials—influenced or informed the actions of those under their supervision. The importance of such decisions will be a continued focus of the Committee's investigation.

In the rush to assign blame for the events leading up to the attacks in Benghazi, the State Department accepted the ARB findings regarding accountability at face value and immediately placed the careers of four public servants into bureaucratic purgatory.

There is no question that any individual whose actions contributed to the inadequate security posture in Benghazi should be held accountable. The ARB took this responsibility seriously and went above and beyond their predecessors in assigning accountability to four State Department officials. Documents and testimony, however, have raised questions about the adequacy of the ARB's findings with respect to accountability, and whether State Department

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[184] State Department Production, Document No. C05389443 (Aug. 2013).
[185] *Id.*
[186] *Id.*
[187] *Id.*

leadership relied on the ARB's recommendations regarding accountability in the absence of doing their own evaluation of officials above the Assistant Secretary level. The Committee's investigation will continue to focus on identifying all the State Department officials who bore responsibility for the inadequate security posture in Benghazi.

U.S. Diplomacy in Libya: Expeditionary or Expedient?

Another consequence of the ARB downplaying decisions made above the Assistant Secretary level in assigning accountability for the failures of Benghazi may be that the ARB missed the larger context of the Benghazi tragedy, namely the State Department's decision to operate the U.S. diplomatic presence in Libya as an *ad hoc* and poorly-defended outpost of what the Department has labeled "expeditionary diplomacy." As a result, the State Department may not learn all the right lessons from the Benghazi tragedy. In particular, the Department may need to figure out how to strike a better balance between the perceived policy imperative of operating in a particular location and the exigencies of operating in dangerous and unstable environments without adequate U.S. or host nation security support.

The Committee heard different views about what expeditionary diplomacy actually means; however, witnesses consistently testified that it involves operating diplomatic outposts in unstable environments which, in the past, the State Department believed were too dangerous to host diplomats. According to Principal Deputy Assistant Secretary for Near Eastern Affairs Elizabeth Dibble, the ARB failed to grasp the significance of the role played by expeditionary diplomacy in its analysis of the Benghazi tragedy. Dibble testified:

> A. There were parts of [the ARB report] that I felt perhaps missed the larger context in which we are operating now.
>
> Q. Can you elaborate on that?
>
> A. Things changed in the way we conduct our diplomacy in the period after Iraq, and we are now operating in places where 15 years ago we would have been pulling people out. Instead we are putting people in. And the phrase 'expeditionary diplomacy' really does mean something. And at least in the Near East world, things have gotten much harder and, frankly, much more dangerous. You know, 30 years ago Beirut was the anomaly, it was the exception, and now we have more posts that are under some sort of restriction -- or we're probably 50-50 now. But even Cairo, which had always been our big -- you know, it was the center of the -- the beating heart of the Arab world, as they say, is now on ordered departure. Tunisia, where I served, is an unaccompanied post.
>
> So things have changed. And what I wasn't sure came through in the report was how much things have changed since Iraq and how we as foreign service officers are being asked to operate in a

> different context and world than we were certainly when I joined.[188]

According to former Assistant Secretary for Diplomatic Security Eric Boswell, expeditionary diplomacy involves the Department operating in "war zones," often alongside the U.S. Armed Forces. Boswell stated:

> It's the central policy question that we have to deal with in DS, and the Department for that matter. I think I have very good perspective ... with which to answer that question because I have been Assistant Secretary twice, the last time in the '90s, before the term "expeditionary diplomacy" ever was coined. It was in 2003, in the wake of 9/11, the 9/11/2001, that -- that the United States Government made a decision that it would operate embassies in places where in my previous incarnation we never would have been, specifically war zones, war zones where there is active combat, and U.S. troops for that matter.[189]

Former Director of the Diplomatic Security Service Scott Bultrowicz believed expeditionary diplomacy certainly involved danger, and sometimes involved U.S. diplomats operating out of *ad hoc* physical facilities. Bultrowicz stated:

> [W]hen you talk about expeditionary diplomacy and you talk about deploying to these types of places, there has to be a recognition that there is a threat that it could happen, especially if you're not going into a purpose-built facility where you have all of the resources and manpower that you do in Kabul or Iraq.[190]

However, unlike Iraq and Afghanistan, where the Department has relied heavily on the U.S. military (and now on a small army of armed private security contractors in Iraq) to provide a strong outer defense for its facilities, U.S. diplomats in Libya were forced to operate in a dangerous and unstable environment without reliable U.S. or host nation security support. Lee Lohman, the Executive Director of the Near Eastern Affairs Bureau, testified:

> [R]emember that Benghazi, I'm not sure that we -- I'm trying to think back. I mean, we've evacuated from any number of places, but I'm not sure we've ever gone into something in such an expeditionary way as this by ourselves without having military along with us.[191]

Brian Papanu, the DS desk officer for Libya, told the Committee that host nation security support had been better in the war-torn nation of Liberia than in Benghazi. He testified:

> A. Well, Benghazi was definitely unique in almost every -- I can't

[188] Dibble Tr. at 72-73.
[189] Boswell Tr. at 112.
[190] Bultrowicz Tr. at 139.
[191] Lohman Tr. at 106.

> think of a mission similar to this ever, and definitely in recent history. Potentially the closest I can think of was when we went into Monrovia, but there we had pretty decent host nation support, as far as I know.
>
> Q. I am sorry, so Liberia had better host nation support than Benghazi?
>
> A. That was my understanding.[192]

Former Deputy Chief of Mission in Libya, Greg Hicks, told the Committee that because the mission in Libya was part of the Department's expeditionary diplomacy approach, he and his colleagues had to make do with fewer security resources than were needed. He stated:

> [Y]ou know, this was expeditionary diplomacy...we were doing our best with the resources that we had . . . when we got there, we arrived in Libya, we didn't have the security resources that we needed . . . .[193]

Documents and testimony obtained by the Committee during the course of its investigation show that the *ad hoc* facility in Benghazi, rather than being an example of expeditionary diplomacy, was instead an expedient way to maintain a diplomatic presence in a dangerous place. The State Department was operating a temporary residential facility in a violent and unstable environment without adequate U.S. and host nation security support.

The ARB recognized that in Benghazi the Department failed to strike "the proper balance between acceptable risk and expected outcomes in high risk, high threat areas."[194] Because the decision to keep the Benghazi mission running in the face of a dangerous environment without adequate U.S. or host nation security support was made at a level above which the ARB decided to assign accountability, it is unclear whether the ARB's report will result in a Department better able to strike the appropriate balance in the future.

The State Department Eagerly Relied on the Flawed Accountability Findings in the ARB Report

The ARB released its unclassified report on December 18, 2012. The classified version of the report identified four State Department officials whose actions, in the ARB's opinion, contributed to the inadequate security posture in Benghazi. It did not, however, find that the conduct of any of these officials constituted a "breach of duty." Absent this statutorily defined standard, the Board lacked the authority to effect any specific personnel actions. The ARB instead took the unprecedented step of issuing findings for individuals who they believed bore some responsibility for the inadequate security posture in Benghazi. In addition, they provided

[192] Papanu Tr. at 96-97.
[193] Hicks Tr. at 101.
[194] ARB Report at 8.

recommendations for administrative, not disciplinary, action against two of these individuals. In doing so, the Board circumvented the limitations of the existing statute and left it up to the State Department to act on these findings and recommendations.

State Department leadership accepted the ARB's personnel findings and acted immediately to create the appearance of accountability.

The Department accepted the ARB's findings and recommendations regarding accountability without delay. Shortly after the report was delivered to the Secretary, the four officials cited by the ARB were relieved of their duties. Within days, all four were "placed on administrative leave pending further review."[195] As discussed above, the focus on these four individuals raises as many questions as answers.

Witnesses testified that the decision to act on the ARB's findings came from the very top of the Department. Raymond Maxwell, the Deputy Assistant Secretary for Maghreb Affairs within NEA, was one of the four individuals cited by the ARB. The day that the ARB report was released, Ambassador Elizabeth Jones, the Assistant Secretary for NEA, summoned Maxwell to her office. Jones informed him that Secretary Clinton had decided to relieve Maxwell of his duties. He testified:

> I went to the office, Beth closed the door. She said, 'Ray, the ARB Report was released today.' She said, 'It was not complimentary to the Department, it was not complimentary to the NEA Bureau, and it was not complimentary to you.' She said, 'In fact, it was so uncomplimentary to you that I have been told by Cheryl Mills to relieve you of your DAS position, to fire you.' She said, 'So, you should have all of your stuff out of the office by close of business today.'[196]

Ambassador Jones corroborated Maxwell's version of events. She testified that Deputy Assistant Secretary Elizabeth Dibble informed her of Secretary Clinton's decision regarding Maxwell. Jones testified:

> Q. [Y]ou learned from Liz Dibble, who learned from Cheryl Mills, that the Secretary had determined that [Maxwell] should be relieved of his duties. Is that correct?
>
> A. That he should be removed as DAS.
>
> Q. Removed as DAS.
>
> A. That is correct.[197]

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[195] Gordon & Schmitt, *supra* note 28.
[196] Maxwell Tr. at 29.
[197] Jones Tr. at 90.

Jones was clear that the decision to remove Maxwell came from Secretary Clinton herself, not the ARB. She testified:

> Q. And to be clear, to your understanding, it wasn't the ARB that was recommending that these individuals be placed on administrative leave, this is something that came from the Department itself? Is that your understanding?
>
> A. That was my understanding. At that point I had not read the classified ARB. I had read the unclassified. And of course, this was not present in -- the issue of the personnel issue was not in the unclassified. So I -- the only reason that I knew of by -- as explained to Liz -- was that the Secretary herself had been upset to hear -- to read that Ray Maxwell had not been reading intelligence for quite a while and that this was not acceptable.[198]

Jones disagreed with the Department's decision to remove Maxwell from his position, but did not contest the decision. She testified:

> Q. What was your reaction when you learned that he had been named for those reasons in the ARB?
>
> A. What I knew, what I was told, because at the time I was asked to have the conversation with Ray, I had not read the classified. So I did not know what it said. I was told what it said. I did not believe that that warranted his removal as DAS, no.
>
> Q. Did you question anybody about that?
>
> A. No.
>
> Q. At any point?
>
> A. No.[199]

Another individual named by the ARB, Assistant Secretary for DS Eric Boswell, told the Committee that Under Secretary for Management Patrick Kennedy informed him that the ARB had included him in the report. Boswell immediately submitted a letter of resignation. He stated:

> I received a phone call from Under Secretary Kennedy, and I don't remember the exact date, but that's the date the report came out. He said, the report is awful, and it has criticized you, Scott Bultrowicz, Ray

[198] *Id.* at 77.
[199] *Id.* at 89.

> Maxwell, who was a Deputy Assistant Secretary in the NEA Bureau, and Charlene Lamb, and has recommended that you be removed from your position. When I heard that news, I was shocked. I went back to my office to think things over. I was in my office actually. I hung up the phone to think things over. And I called Kennedy back up, asked for an appointment, got it. I walked up there to his office and with my letter of resignation, which had I written out by hand. And so I resigned.[200]
>
> * * *
>
> When I learned of this finding, I decided I had little choice, I think. I decided to resign because I wanted to resign on my terms. I didn't feel that the verdict, if you like, was justified; that I wasn't going to [sic] wait to be pushed. And so that's why I resigned. My resignation was not asked for, but I won't speculate as to what was going to happen next. I was, I should say, asked to stay on as Director of the Office of Foreign Missions.[201]

Kennedy accepted Boswell's resignation, but convinced him to remain with the Department as the Director of the Office of Foreign Missions, a title that Boswell held in addition to his role as Assistant Secretary for DS. Within days, Boswell and the others were placed on administrative leave.

The State Department took unreasonable actions with respect to placing four officials on administrative leave.

The four individuals relieved of their duties were told that their leave status would be temporary. It would last only until the Department was able to find another position to move them into. Ultimately, however, the four were relegated to bureaucratic purgatory where they remained, at taxpayer expense, for eight months while the Department decided their futures.

When Ambassador Jones informed Maxwell of the Secretary's decision that he was to be relieved of his duties, he was told that it was a temporary situation. Maxwell testified:

> [Jones] said, 'Don't worry, this is going to be temporary.' She told me, 'We will bring you back as a Senior Adviser. We will have an office space for you.' In fact, she said, 'I will have Liz arrange an office space for you today so that you could move your things to so you don't have to take them home.'[202]

Jones similarly recalled the conversation. She stated:

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[200] Boswell Tr. at 33.
[201] *Id.* at 34.
[202] Maxwell Tr. at 28.

> I asked Ray [Maxwell] to come see me that day after getting that instruction and explained to him what I had been told, that it was because he had not been reading intelligence that this - the decision had been made, that I was very surprised that he hadn't been reading intelligence. And he -- but that, **from what I understood, that the arrangement was that he would be removed from his DAS responsibilities but that he would remain in NEA**. I told him that, as far as I was concerned, he was a good and valuable colleague, that we would definitely find useful, honorable work for him to do in NEA, that there were many, many issues that were important to us, that -- he expressed at that point a particular interest in working on the North Africa Sahel issues, and I said, well, that might be a possibility and that I would certainly pursue that and that we would definitely have a nice office for him and that he should please stay with us.[203]

Elizabeth Dibble was also led to believe that Maxwell would be removed from his position but that he would remain with NEA. She stated:

> Q. At the time that this all happened, what was your understanding of what would happen to Mr. Maxwell?
>
> A. **That he would be reassigned to a non-DAS position in NEA. That he would stay in the Bureau.**[204]

Ambassador Boswell described a similar experience. Shortly after Kennedy asked Boswell to retain his concurrent position as the Director of the Office of Foreign Missions, he was placed on administrative leave anyways. Boswell testified:

> Q. After you had your meeting with Under Secretary Kennedy, he asked you to stay on in your other capacity. About how long after that did you hear from him again?
>
> A. Days, but I don't remember exactly how long.
>
> Q. And he just -- days later you received a call from him saying you've been placed on administrative leave?
>
> A. I received a call from him that said, you're going to be notified that you are being placed on administrative leave, as are the three other people.
>
> Q. And who made that decision?

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[203] Jones Tr. at 74.
[204] Dibble Tr. at 81 (emphasis added).

A. I don't know.

Q. **Did he provide any context or any additional information?**

A. **Beyond saying he didn't think it would last long.**[205]

* * *

Q. So you were asked to stay on and then placed on administrative leave?

A. That's right, days between that time.

Q. That one's a little hard for me to wrap my head around. Can you provide some context to that?

A. I don't have any other context. **I was totally astonished.**

Q. Who informed you of that?

A. Under Secretary Kennedy.

Q. Who asked you to stay on?

A. Under Secretary Kennedy. Who informed me of that I would be put on administrative leave?

Q. Yes.

A. Under Secretary Kennedy.

Q. Who asked to you stay on prior to being put on [administrative leave]?

A. Under Secretary Kennedy.

Q. Did he give you any explanation for why you were being put on administrative leave?

A. No.[206]

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[205] Boswell Tr. at 95-96.
[206] Boswell Tr. at 34-35.

Senior State Department officials informed Ambassador Boswell and the others affected that they had been placed on administrative leave and that they should expect this to be a temporary situation while the Department conducted its own performance evaluations.

The administrative leave process was haphazard and unfamiliar to the employees directly affected by it.

When Ambassador Jones learned that Maxwell was being placed on administrative leave—specifically that he had been told to give up his badge and computer—she complained to Ambassador Kennedy and others that the actions taken by the Department did not comport with what she had been told would happen to Maxwell. She testified:

> Then on a Saturday morning, I had a -- I can't now remember if it was an e-mail or a call from Ray saying that he was extremely upset, that he had gotten a letter that he had been asked to sign saying he was on administrative leave and that this meant that he had to give up his badge and his BlackBerry access, his computer access. And I said, no, **that's not at all what I was told, that none of that was meant to happen, that that was quite the contrary to what I'd been told, and that I would get it fixed.**
>
> **So I called several people, Director General Pat Kennedy, people like that, and said, this is not at all what the understanding was, this is not at all what I was told when you asked me to remove Ray as DAS but he would stay in NEA. This is not at all what you told me was the case when you said that this was going to be changed to administrative leave. I strenuously object to this.** This is not at all what was agreed and this is not appropriate, from my perspective, in this situation. And we got it changed so he did not lose his badge and he did not lose his computer access.[207]

Ambassador Jones told the Committee she did not believe that Maxwell should have been placed on administrative leave. She testified:

> Q. Okay. As his supervisor, do you believe that Mr. Maxwell's conduct merited his being relieved of duties as DAS?
>
> A. No.
>
> Q. Do you believe, as his supervisor, that his conduct merited his being placed on administrative leave?

[207] Jones Tr. at 75-77.

A. No.[208]

Dibble also agreed with Jones that a failure to participate in the daily intelligence reading would not warrant administrative leave. She testified:

> Q. I know you also talked at the end a little bit about if you had been aware that Mr. Maxwell wasn't reading this material that you would have recommended that his supervisor, Beth Jones, speak to him about it. Do you think not reading it would warrant administrative leave?
>
> A. No. Absolutely not.[209]

The Secretary's decision to place the four employees on administrative leave created substantial uncertainty for the employees and their relevant supervisors. In fact, senior Department officials and supervisors interviewed by the Committee could not even describe the administrative leave process. When asked to describe her understanding of the process, Ambassador Jones testified:

> Q. Can we go just back to the administrative leave issue? As a supervisor in the State Department with a lot of experience, what is your understanding of the purpose of administrative leave?
>
> A. When I was first told that a decision had been made to move the four into administrative leave, I asked, because **I didn't know what administrative leave means, and I was told in this situation all it meant was that they would not be coming to work, but that they would be getting full pay, that they would not -- and that the arrangements that I had discussed with Ray Maxwell to move him into a different position in NEA were no longer operative**.
>
> Q. And who told you this? Do you recall?
>
> A. I don't recall specifically, no.
>
> Q. Okay. Have you ever had to put anyone on administrative leave before? Not in this situation, but in other situations in your experience?
>
> A. I don't believe I have ever, no.

* * *

[208] Jones Tr. at 89.
[209] Dibble Tr. at 68-69.

Q. Is it your opinion it's a fairly routine measure or is it fairly uncommon? Just your opinion.

A. **In my experience it's uncommon.** [210]

Jones' deputy, Principal Deputy Assistant Secretary Elizabeth Dibble was also unfamiliar with the administrative leave process. Dibble testified:

Q. You're a supervisor essentially at the State Department, is that fair to say?

A. Yes.

Q. **I'm just trying to determine what the purpose of administrative leave is in the State Department, typically?**

A. **That's a tough question. I don't know.** I mean, it's -- I have never placed anyone on administrative leave, and I've never had anyone who was working for me on administrative leave. It is, you know, sometimes used, I believe, if someone, for instance, loses a security clearance or something like that. But I don't know.

Q. Have you ever heard of anybody being placed on administrative leave for as long as Mr. Maxwell has been placed on administrative leave?

A. No, I don't know -- I don't really know much about administrative leave. So, no.[211]

State Department employees and their supervisors were left in the dark about any personnel reviews being undertaken on the four employees placed on administrative leave, or why the reviews have taken so long. Boswell repeatedly tried to obtain an update from the Department on his status:

Q. Okay. It is now, what, 6 months later?

A. Yes.

Q. And you said you've inquired every couple of weeks as to what your status is?

A. Correct. I wouldn't say every couple of weeks, but from time to time.

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[210] Jones Tr. at 156-57.
[211] Dibble Tr. at 85-86.

Q. Okay. And no response?

A. No response -- well, beyond saying it is still under advisement.

Q. So what is your understanding of the process right now; what is happening?

A. My understanding of the process is that at some point the Secretary of State is going to have to decide whether myself and the three others remain on administrative leave or not.

Q. Why is it taking this long?

A. I can't answer that. "I don't know" is the answer.

Q. Have you ever seen something like this --

A. No.

Q. -- in your experience at the State Department?

A. No, I have not.[212]

As of July 9, 2013, the date of Bultrowicz's interview with the Committee, the Department had effectively provided him with no information about his administrative leave status, when he might return to work, and what, if any, additional investigation the Department was undertaking. Bultrowicz described his experience to the Committee. He stated:

Q. When were you placed on administrative leave?

A. December 21st.

Q. So it's been, what, 6 months?

A. Yeah, a little over -- it will be 7 months in July, July 21st.

Q. What have you been told as far as how long that status will last?

A. Until a decision is made.

Q. Do you know --

A. So, I mean, I don't know. I was not given a specific length of time.

Q. Do you know how the decision is going to be made as far as what to do?

[212] Boswell Tr. at 95-96.

A. No.

Q. Do you know who is the decider?

A. Again, I mean, it's just -- I would imagine maybe the Secretary. I'm not sure.

Q. Do you know if the State Department is doing any sort of additional investigation or internal review to make the decision?

A. No.

Q. Do you know if they're relying on anything besides what's in the unclassified ARB report?

A. No.

Q. Have they given you any sort of --

A. I mean, I would imagine that, in making their decision, other than the classified ARB report, they would look at your performance record, assignments, I mean, that type of thing. So I'm sure there is supporting documentation they're looking at, not looking at solely the declassified ARB. I would think. I am not sure.

Q. Do you have any idea if they are doing additional interviews or kind of crosschecking any of the findings in the ARB report?

A. I'm not aware of that, no.[213]

Jones, as Maxwell's supervisor, has also not been privy to information or updates about Maxwell's status. She testified:

Q. And what's your understanding as to what the process is now insofar as Mr. Maxwell is concerned? Is this something that you're privy to?

A. I have no understanding of it at all. I just know that -- what I've been told, which is that he still remains on administrative leave, that they all remain on administrative leave. But it's not a process that I'm privy to.[214]

The fact that a supervisor has no visibility into the Department's evaluation of an employee under her supervision begs the question of how the Department evaluated the performance of

[213] Bultrowicz Tr. at 149-150
[214] Jones Tr. at 77.

these individuals. Secretary Kerry's performance review does not appear to have included interviews with the supervisors of the officials placed on administrative leave.

Ambassador Jones told the Committee that she disagreed with the decision to place all four individuals on administrative leave. She also could not explain why the process has taken so long. She stated:

> Q. Do you have any concerns with respect to Mr. Maxwell, how he's been treated with respect to his administrative leave?
>
> A. I don't think any of them should have been put on administrative leave, including Ray.
>
> Q. Do you have any idea why Mr. Maxwell is still on administrative leave?
>
> A. I don't know.
>
> Q. And have you ever heard of anyone being placed on administrative leave for as long as Mr. Maxwell has been on administrative leave?
>
> A. I have so little experience with administrative leave I really can't say.[215]

Though the four employees were told the period of administrative leave would be far shorter—only long enough to find a new placement. Instead, they remained in administrative limbo for approximately eight months. While on administrative leave neither the four employees nor their supervisors received updates as to the status of the personnel investigations. More troublingly, as discussed below, the State Department severely restricted access to the classified ARB report and the employees were given no chance to appeal or otherwise discuss the findings of the ARB, findings which resulted in their being placed on administrative leave.

The State Department severely restricted access to the classified version of the ARB report.

The State Department has restricted access to the classified ARB report by limiting its availability to career officials who were placed on administrative leave. The classified report, which contains additional detailed findings of the actions of Boswell, Bultrowicz, Lamb, and Maxwell, also recommends administrative action for two of those four individuals. Despite this, however, for six months many of the employees on administrative leave were forbidden access to the classified report. The first time some of them were able to view the report was in preparation for their interviews with Committee staff. Ray Maxwell testified about when he first read the classified report. He stated:

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[215] Jones Tr. at 157-158.

> I also find it strange, if not mystifying, that **the State Department would intentionally prohibit me access for six months to the details of the now-declassified allegation**, the charges against me for which I had been already been unjustly punished, **until just yesterday, when my attorney and I were first allowed to view pertinent portions of the classified ARB Report.**[216]

Scott Bultrowicz repeatedly asked for access to the classified report so he could better understand exactly why he was put on administrative leave. The State Department repeatedly denied his request. The first time Bultrowicz viewed the classified report was shortly before his interview with Committee staff. He testified:

> Q. Did you ever try to reach out to anybody whether it's members of the ARB or Under Secretary Kennedy, or others in what would be your chain of command, and sit down and say hey, you know, help me understand what I have done wrong here, help me understand how I can avoid this in the future, what is my status of coming back? That is a lot of questions.
>
> A. Well, when I would get calls from the department, it typically was to give me updates on my status, which, again, was still in review. As far as asking, you know, what I did wrong, I mean, that was a question. Saying, you know, **every time I spoke to someone, I said, look, I haven't been able to see the ARB or its findings specifically in regards to me. I would like to see it.** And it was eventually produced last week
>
> Q. And what reason were you given for why you couldn't see the ARB, either the classified version or just the portion on the finding? I assume, given your role, you had clearance level available to read the classified ARB?
>
> A. **I was told that it was actually being, you know, very tightly controlled**, and I think even you have to say though, and this is something that I think the department was probably trying to do its best to protect employees, is there's the classified ARB, which I read, and there's not much difference, not a lot of difference between the unclassified and classified. There is a bit more substance, I think, but I think key to it was protecting the privacy of the personnel who the ARB cited in its findings. So I know there wasn't at least a wide distribution of that.[217]

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[216] Maxwell Tr. at 152.
[217] Bultrowicz Tr. at 80-81.

Political appointees and more senior officials within the State Department, however, had seemingly unfettered access to the classified report. Assistant Secretary Eric Boswell, who, like Bultrowicz and Maxwell was placed on administrative leave as a result of the report's findings, was able to review the classified report as soon as it came out. Boswell stated:

> Q. Did you have an opportunity to read the report or passages about you?
>
> A. **I asked for the opportunity to read the report.** I had already resigned, I had submitted my letter of resignation. I said I thought it was only fair to read what they said about me, because I didn't know, **so he said, of course.** I obtained a copy of the report, the full report. I was moving very fast; I did not read the full report. I went to the accountability section, and I read that thoroughly, and then I thumbed through the rest of the report.
>
> Q. That was the day –
>
> A. **The day of, day of. I think that was the day that the report was made available to the Department, but it may have been the following day.**
>
> Q. So you did have an opportunity to review the classified version?
>
> A. I did. Again, it was a very quick review. I was concentrating on what they had to say about me.[218]

Likewise, Acting Assistant Secretary Beth Jones, who was not disciplined, was able to review the classified report whenever she wanted. She testified:

> Q. When did you first have an opportunity to read the classified ARB?
>
> A. I didn't. I read it this week.
>
> Q. Okay. Was it provided in advance of preparation for this interview?
>
> A. Yes. **Well, I asked for it. I had plenty of opportunities to read it**, and each time I had scheduled to read it, it was overtaken by a crisis that I had to deal with right now. I didn't have the luxury of sitting down and reading it.
>
> Q. So you had requested to read it prior to this past week?

[218] Boswell Tr. at 86-87.

A. Absolutely. **And I had scheduled to read it many times.**[219]

Ambassador Jones was out of the office the morning the ARB report was delivered to the Secretary. As a result, Cheryl Mills called Principal Deputy Secretary of State for Near Eastern Affairs, Elizabeth Dibble, into her office to read the report and learn of the findings. Dibble testified:

> Q. Moving forward with your experience with the ARB, after the report came out, when did you first learn that individuals had been cited for criticism?
>
> A. I learned the morning that the report was going to be released that there were individuals, including one of my colleagues, who was going to be.
>
> Q. And how did you learn this?
>
> A. **I received a call from Cheryl Mills, who asked me to come up to her office and gave me a copy of the classified version of the report,** because, of course, the personnel stuff doesn't appear in the unclassified version, and she had me stay and read it there. And as I recall, Beth Jones was -- she was traveling, she was not in the office that morning for some reason. **Otherwise Beth would have gotten the call from Cheryl. But this is one of these cases where the PDAS takes over for the assistant secretary.**
>
> Q. And what was the purpose of having you read it at that point?
>
> A. So that I knew -- so that NEA new. **And she told me I could -- I should brief Beth, but I was not to discuss this further**, that NEA knew what was in the report and how our Bureau and DS were being characterized.[220]

Dibble was personally asked by the Chief of Staff to review the classified report in the absence of Ambassador Jones. Yet when Scott Bultrowicz, who served in the State Department at the same level as Dibble, asked to review the classified report to understand the basis of his removal and placement on administrative leave, he was denied access to it.

The employees placed on administrative leave were denied due process.

The lack of access to the classified ARB report—especially by those placed on administrative leave as a result of the report—and the administrative leave process itself denied

[219] Jones Tr. at 96-97.
[220] Dibble Tr. at 77-78.

Boswell, Bultrowicz, Lamb, and Maxwell of their due process rights. This is in stark contrast to the State Department's public acknowledgement of the importance of the due process rights of the employees on leave. On May 20, 2013, State Department spokesman Patrick Ventrell said:

> It's important to remember we're dealing with four individuals who -- that we discussed are long-serving government officials who over the years have provided dedicated service to the U.S. government in challenging assignments. And career Foreign Service employees are entitled to due process and legal protection under the Foreign Service Act, with respect to any potential disciplinary actions.[221]

The ARB did not question the officials held accountable in the ARB report about the conduct for which they were criticized.

Multiple employees who were relieved of their duties and placed on administrative leave as a result of the findings by the ARB testified that the ARB never asked them about the issues for which the panel later criticized them. Similarly, supervisors were not questioned by the ARB about the actions of their subordinates.

Eric Boswell, who was cited for his failures as a supervisor, testified that the ARB never asked him about his actions as a supervisor. He stated:

> A. Yeah, I was the -- it's not the first time I've been before an ARB. In the first meeting my recollection was simply a general discussion of this sort of set-up, just as we have had here at the outset of this meeting. At the final or the last meeting that we had, it was relatively brief, it was cordial, it was quite friendly. **I don't remember exactly the line of questioning, but I do remember that there was no questioning about my role as a supervisor, none at all.** There was no indication of what conclusions the ARB was coming to, not a clue of any of these, any conclusions. **And there was -- as I say, I was talking about what was not asked -- there was no conversation about my supervision . . .**
>
> Q. **So no questions about the actions of your subordinates, or your role in supervising them, or anything –**
>
> A. **Not that I recall, no.**[222]

Not only did Boswell testify that he was never asked about his role as a supervisor, but he testified that the ARB never asked him about the actions of the individuals under his supervision that were ultimately criticized by the ARB. He stated:

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[221] Statement of Patrick Ventrell, Acting Deputy Spokesperson, U.S. Dep't of State, Press Briefing (May 20, 2013).
[222] Boswell Tr. at 32-33 (emphasis added).

Q. Did they ask you questions about Ms. Lamb?

A. I don't recall if they asked me questions about Ms. Lamb, Ms. Lamb's management style.

Q. But did they ask you questions in general about Ms. Lamb?

A. I don't recall that they did.[223]

Scott Bultrowicz testified that the ARB never asked him about the topics for which the panel later criticized him. Bultrowicz testified:

Q. And that was going to be my followup, was you know, they asked you about your relationship with Assistant Secretary Boswell and a few others, but **did they ask you any questions that really drove at the things that you are being criticized for?**

A. **No.**

Q. Okay. No one has been able to give you any clarity as to why that decision was made?

A. No.

Q. I just imagine that is very frustrating for you.

A. **It's frustrating.**[224]

* * *

Q Why do you think the ARB got that wrong then? Why did they get it wrong if you believe that their characterization of you is wrong? How did they come across that wrong characterization?

A I don't know. I mean, I don't have access to, you know, maybe 10 people came in and said, boy, that Scott Bultrowicz, he just really doesn't know what he is doing. I don't know.

Q Only taking into consideration your testimony to the ARB, what could they have done in order to clarify that in your eyes in front of you?

A They could have asked me. You know, what steps.

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[223] *Id.* at 73.
[224] Bultrowicz Tr. at 82.

Q And what are the questions they didn't ask?

A All right, if it was an issue with a particular employee, what steps did you take? Well, I can tell you when I came in with all of my assistant directors, or DAS's, I instituted one-on-one meetings with them every week. Sometimes if we couldn't make it, it would skip a week, but the door was always open. There was always discussion. I saw my DAS's, my directorates. We had threat meetings, or threat briefings every morning. We had small staff meetings every week. We had large staff meetings. I mean, engagement was not an issue. All right, so that's one thing. And again, I would go back and say, what is the expectation of the department in overseeing a Deputy Assistant Secretary? Okay.

Secondly, as far as being proactive, well, they could have asked me[,] since you became director, what have you done? And I could have listed off that, you know, we redirected resources from Iraq to Libya, positions, not only agents, but also security protective specialists, which what made it so difficult, is those positions were funded through supplemental funding, specifically for Iraq. So we had to go through a lot of red tape so that those were readjusted, reassigned, reprogrammed, which we eventually did. The FACT training, the high-threat training. There are a lot of things that we were doing proactively to help the situation in Libya. And that could have been asked.[225]

Bultrowicz testified that the ARB had an opportunity to question him about his supervision, yet did not. He stated:

> No, look. Here is my thing. I will take responsibility for the decisions I made based on the information I had at hand, okay. I mean, and I'm not looking to point the finger, you know. Accountability cuts a wide swath, I think. So I'm not saying I had nothing to do with this. I mean, it would be shame on me if I said I was completely oblivious to everything. I'm willing to take responsibility for the decisions I made based on the information I had. But, you know, to say, well, you should have managed person A more closely, or you should have been more proactive, that's pretty general to me. And I mean, you know, it is what it is. I respect the members of that panel. They are all very distinguished officials. **But yeah, I have a problem with it. I do. I don't think it's something that defines me after 27 years of doing everything I'm asked, or at least to say be more direct in the questioning with me when they had the opportunity.**[226]

[225] *Id.* at 96-98.
[226] Bultrowicz Tr. at 81-82.

Ray Maxwell also testified that the ARB never asked him about their concerns about his actions with respect to the daily intelligence book. He stated:

> I continue to find it most puzzling that ARB would attach so much significance to the now-declassified allegation that resulted in my removal and six months of administrative leave without double-checking with me to make sure it was true or valid or relevant or even properly characterized. **If I had been in their shoes, I would certainly have checked if I were going to attach so much significance to it.**[227]

The evidence and testimony provided to the Committee to date suggests that the ARB's findings and recommendations regarding accountability were made without the benefit of testimony from the accused employees, or their supervisors, on the very topics for which they were criticized. These witnesses were not questioned on the topics that became the basis for their administrative leave, and entered their administrative leave confused, angry, and frustrated.

The employees placed on administrative leave were not given an opportunity to respond to the allegations against them.

Not only did these witnesses not have a chance to engage the ARB directly on the issues for which the ARB criticized them, but they were also unable to undertake any formal process to challenge the criticisms—or even review them at all. The State Department kept these employees completely in the dark regarding their administrative leave status. The Department, in contrast to two hundred years of settled jurisprudence and constitutional writing, also denied them the opportunity to face their accusers and respond to their allegations.

By placing the four employees on indefinite administrative leave, the State Department prevented the accused employees from formally challenging the ARB's findings and recommendations. According to Boswell, the State Department has given him no opportunity to appeal the decision to place him on administrative leave, or to challenge the ARB's findings and recommendations. Boswell stated:

> Q. And you have been given no opportunity to, if you will, face your accusers or respond to the allegations against you?
> A. I have not.
>
> Q. Is there any avenue from which you can do that?
>
> A. I'm not aware of any.
>
> Q. There's no appeal process that you can go through or –

[227] Maxwell Tr. at 152 (emphasis added).

A. To answer your question, **there's no appeal process that I know of. I'm a bit disappointed that I didn't have a chance during the ARB, if they were coming to a conclusion, the conclusion that they did, to ask me about it and ask my views about that judgment. That would happen if you were being -- in any other kind of review done by inspectors or GAO or whatever, you get an opportunity to comment.** I didn't get an opportunity to comment; I just saw the conclusion, surprised to see the conclusion.[228]

Scott Bultrowicz testified that he is unsure of what information the State Department used, in addition to the ARB report, to evaluate his status as an employee. Bultrowicz stated:

Q. Do you know if the State Department is doing any sort of additional investigation or internal review to make the decision?

A. No.

Q. **Do you know if they're relying on anything besides what's in the unclassified ARB report?**

A. **No.** I mean, I would imagine that, in making their decision, other than the classified ARB report, they would look at your performance record, assignments, I mean, that type of thing. **So I'm sure there is supporting documentation they're looking at, not looking at solely the declassified ARB. I would think. I am not sure.**

Q. Do you have any idea if they are doing additional interviews or kind of crosschecking any of the findings in the ARB report?

A. I'm not aware of that, no.

Q. Is there any indication that your testimony today has any bearing on the decision to remove you from admin leave?

A. No.[229]

Ray Maxwell testified that he was not even aware of what the charges were against him for months after he was first placed on administrative leave. Maxwell stated:

Well, I guess we should start that discussion with the fact that we only got access to the classified version of the report yesterday. This is after asking for the past six months for it. **So, for six months, I was in the**

[228] Boswell Tr. at 98
[229] Bultrowicz Tr. at 150-151.

> **administrative-leave status, which amounts to sort of a punitive measure without knowing what the charge was.**[230]

Maxwell testified that the process was unfair, and that he was not given any due process regarding his administrative leave status. This, according to Maxwell, was against State Department rules. He stated:

> **I was removed from the DAS position in violation of a number of rules that exist for removing a person involuntarily from a position in Washington**, and the rules--the Foreign Affairs Manual Rules are very clear about how you go about removing a person from a position. There is a procedure that's established, and that procedure exists for a reason: To provide a sort of fairness and due process.
>
> **There was no fairness. There was no due process in the way I was removed from my position.**[231]

All of the employees placed on administrative leave by the Department who were questioned by Committee staff found the administrative leave process confusing and unfair. That sentiment was shared by colleagues throughout the State Department. Maxwell stated that a human resources official felt he had been sufficiently punished and lamented that she was unable to provide him with answers when he asked for status updates. Maxwell testified:

> A. No. I have no visibility on the process. I don't know who is involved with the process. I don't know at what stage we are at in the process. I know nothing about it.
>
> Q. Do you have a person that you contact regularly or periodically to--
>
> A. I check in with the Director General.
>
> * * *
>
> Q. And what does she tell you?
>
> A. She tells me, "Ray, we're still working on it. "Ray," she always says--her position is that the administrative leave period should end and we should all be brought back to work.
>
> Q. I'm sorry? That's her--
>
> A. Her position is that the administrative leave period should end and we should all be brought back to work. In fact, she say she

[230] Maxwell Tr. at 42.
[231] *Id.* at 129.

> has--she's told me and she's told Pat Kennedy--in fact, she told Cheryl Mills before she left, "We punished these people enough. They need to be brought back to work." But she hasn't prevailed because the administrative leave has continued.[232]

According to the testimony of the four officials placed on leave, none were told how long their administrative leave would last. According to their testimony, none were able to formally rebut the allegations against them. According to their testimony, none were even questioned by the ARB about the reasons they were ultimately placed on administrative leave.

Despite public proclamations by the State Department that these employees were entitled to due process under the Foreign Service Act, these employees *did not* in fact receive due process.

The State Department is Back to Business as Usual

Nine months after the ARB report was released and four employees were relieved of their duties and subsequently placed on administrative leave, little has changed at the State Department. In August 2013, Secretary Kerry determined that all four employees would be reinstated.

The decision to place the four officials on administrative leave was touted as a step towards holding accountable those individuals who bore responsibility for the inadequate security posture in Benghazi. The facts, however, paint a much different picture. The Department simply reacted to the findings of the ARB and, in the process, created the illusion of accountability. Assistant Secretary Beth Jones testified that she didn't know why the four officials were placed on administrative leave, but had heard that it was necessary to "regularize their status." She stated:

> Q. Do you know how he was placed on administrative leave then? Were you part of that?
>
> A. I was not part of the decision on that. I was told the following. I don't remember the timeframe exactly but it was still before Christmas. [...] I heard from the director general's office that a decision was being made to move the four to administrative leave, and I talked to the deputy director general about what that meant. **And he said it doesn't mean anything different from what we had told them originally, that nothing at all would change. It was just a way to regularize their status.**[233]

[232] Maxwell Tr. at 139.

[233] Jones Tr. at 75-76.

"Regularizing their status" afforded the Department an opportunity to show the public that it was actively taking steps to hold people accountable for the Benghazi attacks. In reality, however, the Department was just biding its time before it went back to business as usual. Last month, after eight months of these four employees receiving full pay on administrative leave, Secretary Kerry reinstated them and determined that they would not face any formal disciplinary action. As Chairman Issa said at the time Secretary Kerry made this announcement:

> It is now clear that the personnel actions taken by the Department in response to the Benghazi terrorist attacks was more of a public relations strategy than a measured response to a failure in leadership.[234]

In fact, two of these employees had previously announced their retirement, but chose not to retire under the stigma of administrative leave. Ambassador Boswell testified:

> I had always planned to retire at the end of the last administration. I had been Assistant Secretary for many years. It's a meat grinder of a job, and I had always planned to retire. That was well known. I had told Under Secretary Kennedy and others that at the end of the Clinton administration, having served two -- actually three administrations, I planned to retire.
>
> Actually 'retire' is the wrong word, the word is 'resign,' because I am already a retired Foreign Service officer -- but to resign my commissions as Assistant Secretary and Director of the Office of Foreign Missions, but once I was put on administrative leave, I made the personal decision that I did not want to resign a commission under these circumstances, that I wanted my situation resolved before I took another step.
>
> When you asked me what the effect on my life, it has been a profound effect, a profoundly deleterious effect on my life. [...] I had planned -- had various plans to move on. All of those are on the shelf. And so it is perhaps the most painful period of my professional life.[235]

Maxwell told the Committee that if he had just been fired he would have had an opportunity to contest the decision. Instead, he and the other affected employees have been left in limbo. As a result, he delayed plans for retirement in order to contest the Department's actions. He stated:

> Q. Do you believe that you have been subject to an adverse action within the Department of State?
>
> A. Yes, definitely.
>
> Q. What would you say to those in the Department of State and the officials who would claim that you were not technically subject to an adverse action?

---

[234] Press release, Hon. Darrell Issa, Chairman, H. Comm. on Oversight and Gov't Reform (Aug. 20, 2013).
[235] Boswell Tr. at 97-98.

A. There are people who will say that because they'll say you're still getting paid, and because you're still getting paid, you don't have any reason to complain. But you know, it's not about the money. It's about your reason for being, if you will. And, you know, frankly, I would have been better off had they said you are fired from the State Department. You go today. Your pay stops, and you're out of here. I would have been better off because I could have contested that or--I mean, I would have contested it. It would have also been behind. It would have all been behind me and I could have started with the next thing. But as things now stand, I'm still employed. There's still a possibility that I could come back, so it's not like I can start something new.

I was scheduled to retire on April 30th, and I made the decision to withdraw my retirement request because I didn't want to go out under this cloud of suspicion that maybe I had done something, that's the cloud that--my fear of the cloud of suspicion no longer exists because I have embraced my administrative leave-ness, if you will, and it's no longer a source of shame for me. It's now--almost--it's increasingly becoming a source of pride for me. So, it's not that big a deal anymore. But now there's a principle. Now there's a principle that they did something improperly, immorally, maybe even illegally, and if I just take it laying down, guess what, they'll do it to somebody else again.[236]

According to information obtained by the Committee, two other employees—Charlene Lamb and Scott Bultrowicz—are currently being considered for prestigious assignments overseas.

Conclusion

The unclassified ARB report begins with a quote from George Santayana's 1905 book, *Reason in Common Sense*: "Those that cannot remember the past are condemned to repeat it." Notwithstanding this promising start, the gaps in the ARB review and final report identified by the Committee signal that the State Department may very well be doomed to repeat its past mistakes.

In response to a question about Benghazi at a May 13, 2013 press conference, the President pledged to the American people to "find out what happened."[237] To this day, more than one year after the attacks, not a single person at the State Department has actually been fired or formally held accountable for the attacks in Benghazi. More importantly, those most

[236] Maxwell Tr. at 121-122.
[237] Remarks of President Barack Obama at a joint press conference with Prime Minister David Cameron (May 13, 2013).

accountable for the attacks in Benghazi—the terrorists who attacked U.S. facilities and claimed the lives of four Americans—have not been brought to justice.

The gaps in the ARB's work are particularly troubling because the Obama Administration has repeatedly touted the ARB report as the final word on failures by the State Department that contributed to the inadequate security posture in Benghazi. The limitations inherent in the ARB's mandate and the weaknesses in the ARB's methodology show that a more thorough investigation is necessary. The Committee will continue to examine the events before, during and after the September 11, 2012 attacks on U.S. diplomatic facilities to properly assign accountability and to make findings that will inform legislative remedies.

Appendix

On May 20, 2013 the State Department released an update on the efforts to implement the ARB's recommendations. The ARB issued 29 recommendations (24 of which were unclassified) to the Department of State. A brief summary of the Department's actions on the 24 unclassified recommendations is as follows:[238]

1. The Department must strengthen security for personnel and platforms beyond traditional reliance on host government security support in high risk, high threat posts.

- *The Department established a High Threat Board to review our presence at High Threat, High Risk posts; the Board will review these posts every 6 months.*
- *We created a Deputy Assistant Secretary for High Threat Posts in the Bureau of Diplomatic Security (DS), who is responsible for ensuring that such posts receive the focused attention they need.*

2. The Board recommends that the Department re-examine DS organization and management, with a particular emphasis on span of control for security policy planning for all overseas U.S. diplomatic facilities.

- *The Department established a six-person panel to thoroughly review DS's organization and management structure; the panel has developed draft findings.*

3. Regional bureaus should have augmented support within the bureau on security matters, to include a senior DS officer to report to the regional Assistant Secretary.

- *DS staff attend regular Regional Bureau meetings, and Regional Bureau staff attend DS daily briefings to better communicate on security issues.*
- *The Department has adjusted the work requirements (position descriptions) for senior level staff (Assistant Secretaries and Deputy Assistant Secretaries) to reflect everyone's responsibility for overseas security.*

4. The Department should establish a panel of outside independent experts (military, security, humanitarian) with experience in high risk, high threat areas to identify best practices (from other agencies and other countries), and evaluate U.S. security platforms in high risk, high threat posts.

- *The Department established a six-person panel to identify best practices used by other agencies and countries; this panel's work is expected to be complete by late summer.*

5. The Department should develop minimum security standards for occupancy of temporary facilities in high risk, high threat environments, and seek greater flexibility to make funds rapidly available for security upgrades at such facilities.

---

[238] Fact Sheet, "Benghazi Accountability Review Board Implementation," State Department Office of the Spokesperson (May 20, 2013).

- *The Department has re-affirmed that Overseas Security Policy Board Standards apply to temporary facilities.*
- *We identified flexible funding authorities to make improvements to our overseas facilities.*

6. Before opening or re-opening critical threat or high risk, high threat posts, the Department should establish a multi-bureau support cell, residing in the regional bureau.

- *The Department developed standard operating procedures for "Support Cells" for opened/reopened posts. The process is being incorporated into the Foreign Affairs Handbook.*

7. All State Department and other government agencies' facilities should be collocated when they are in the same metropolitan area, unless a waiver has been approved.

- *We verified all data on our overseas facilities; we are exploring which non-collocated facilities can be eliminated and their personnel relocated.*

8. The Secretary should require an action plan from DS, OBO, and other relevant offices on the use of fire as a weapon against diplomatic facilities, including immediate steps to deal with urgent issues.

- *The Department issued guidance to all posts on "weapons of opportunity."*
- *Fire testing is ongoing at U.S. military facilities.*

9. The Department should revise its guidance to posts and require key offices to perform in-depth status checks of post tripwires.

- *The Department reviewed and revised requirements for posts on how to respond to changing security benchmarks (i.e., "tripwires").*
- *The Department established a Washington-based "Tripwires Committee" to review tripwires upon breach, to help ensure that posts and regional bureaus in Washington respond more quickly should security deteriorate at post.*

10. The State Department must work with Congress to restore the Capital Security Cost Sharing Program [for embassy construction] at its full capacity, adjusted for inflation to approximately $2.2 billion in fiscal year 2015.

- *The FY14 President's Budget included a request for $2.2 billion in the Embassy Security, Construction, and Maintenance account.*

11. The Board supports the State Department's initiative to request additional Marines and expand the Marine Security Guard (MSG) Program – as well as corresponding requirements for staffing and funding.

- *Along with the Congress and Department of Defense, we are working to increase the number of Marine Security Guards at U.S. diplomatic facilities, and have requested (and*

received) more resources to build facilities at additional posts to host Marine Security Guards in the future.

STAFFING HIGH RISK, HIGH THREAT POSTS

12. The Board strongly endorses the Department's request for increased DS personnel for high- and critical-threat posts and for additional Mobile Security Deployment teams, as well as an increase in DS domestic staffing in support of such action.

- *With Congressional support, the Department is creating 151 new Diplomatic Security positions -- 113 are expected to be hired this fiscal year. The remainder will be hired in FY14.*

13. The Department should assign key policy, program, and security personnel at high risk, high threat posts for a minimum of one year. For less critical personnel, the temporary duty length (TDY) length should be no less than 120 days.

- *All high threat posts now have a minimum of a one-year tour of duty. We are planning to ensure overlap between incumbent and incoming positions to facilitate continuity of operations at high threat posts.*
- *Temporary duty assignments are set at a minimum of 120 days.*

14. The Department needs to review the staffing footprints at high risk, high threat posts, with particular attention to ensuring adequate Locally Employed Staff (LES) and management support. High risk, high threat posts must be funded and the human resources process prioritized to hire LES interpreters and translators.

- *The Department surveyed every post to review the numbers of interpreters and translators on staff, and found that there was adequate staffing.*

15. With increased and more complex diplomatic activities in the Middle East, the Department should enhance its ongoing efforts to significantly upgrade its language capacity, especially Arabic, among American employees, including DS, and receive greater resources to do so.

- *The Department is ramping up the language capacity of its American employees, including Diplomatic Security agents, especially in Arabic. Increasing language capacity takes time – certain languages take up to 2 years to learn. In the short term, the Department is committed to better equipping the growing cadre of security experts to engage local populations and cooperate with host nation security forces.*

TRAINING AND AWARENESS

16. A panel of Senior Special Agents and Supervisory Special Agents should revisit DS high-threat training with respect to active internal defense and fire survival as well as Chief of Mission protective detail training.

- *The Department established a panel of Supervisory Special Agents to participate in a Program Review of the High Threat Tactical Course; as a result, DS revised high-threat training and COM protective detail training and raised standards for passing the High Threat Tactical Course. DS and the Foreign Service Institute are currently revising the curriculum.*
- *DS is pursuing a high-threat training strategy that will incorporate elements of this training across the full spectrum of courses required for DS special agents throughout their careers.*

17. The Diplomatic Security Training Center and Foreign Service Institute should collaborate in designing joint courses that integrate high threat training and risk management decision processes for senior and mid-level DS agents and Foreign Service Officers and better prepare them for leadership positions in high risk, high threat posts.

- *The Department has enhanced security training efforts, including by requiring personnel headed to high threat posts to receive additional, specialized security training.*

SECURITY AND FIRE SAFETY EQUIPMENT

18. The Department should ensure provision of adequate fire safety and security equipment for safe havens and safe areas in non-Inman/SECCA facilities, as well as high threat Inman facilities.

- *The Department has surveyed fire and life safety equipment requirements abroad and is now upgrading this equipment, to include enhanced fire safety equipment and personal protective equipment, at all high-threat, high-risk U.S. diplomatic posts abroad.*

19. There have been technological advancements in non-lethal deterrents, and the State Department should ensure it rapidly and routinely identifies and procures additional options for non-lethal deterrents in high risk, high threat posts and trains personnel on their use.

- *The Department has addressed this recommendation.*

20. DS should upgrade surveillance cameras at high risk, high threat posts for greater resolution, nighttime visibility, and monitoring capability beyond post.

- *Over the next year the Department will have upgraded high-threat, high-risk facilities with more modern surveillance cameras that feature greater resolution and monitoring capability at all times of day.*

INTELLIGENCE AND THREAT ANALYSIS

21. Careful attention should be given to factors showing a deteriorating threat situation in general as a basis for improving security posture. Key trends must be quickly identified and used to sharpen risk calculations.

- *The Department has addressed this recommendation.*

22. The DS Office of Intelligence and Threat Analysis should report directly to the DS Assistant Secretary and directly supply threat analysis to all DS components, regional Assistant Secretaries, and Chiefs of Mission in order to get key security-related threat information into the right hands more rapidly.

- *The DS Office of Intelligence and Threat Analysis, now reports directly to the Assistant Secretary for Diplomatic Security for threat reporting and supplies threat analysis to regional Assistant Secretaries and Chiefs of Mission.*

PERSONNEL ACCOUNTABILITY

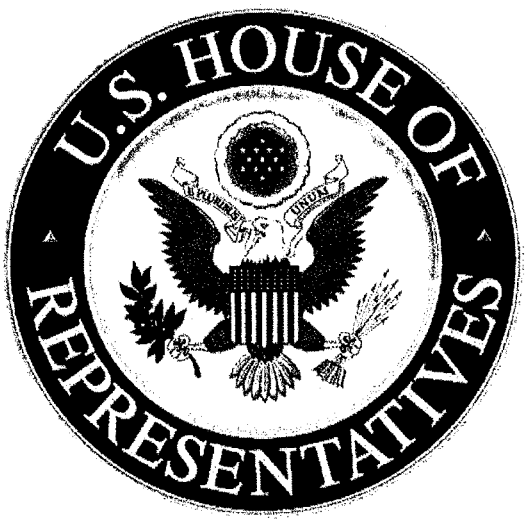
23. The Board is of the view that findings of unsatisfactory leadership performance by senior officials in relation to the security incident under review should be a potential basis for discipline recommendations by future ARBs, and would recommend a revision of Department regulations or amendment to the relevant statute to this end.

- *The Department is working with Congress to increase accountability. In January, the Department proposed legislation to grant future ARBs the authority to recommend disciplinary action on the basis of unsatisfactory leadership, and thus increase accountability for security incidents.*

24. The Board was humbled by the courage and integrity shown by those on the ground in Benghazi and Tripoli, in particular the DS agents and Annex team who defended their colleagues… We trust that the Department and relevant agencies will take the opportunity to recognize their exceptional valor and performance, which epitomized the highest ideals of government service.

- *The President and the Secretary of State have publicly mentioned the bravery and heroic efforts of our personnel on numerous occasions.*

The Department bestowed the Holbrooke award on Ambassador Chris Stevens; the Thomas Jefferson award to the personnel who gave their lives in September; the Secretary's award to one officer who was seriously injured; and the Secretary's Heroism Award to 12 personnel who defended the Benghazi facilities.



STATUS UPDATE ON INVESTIGATION OF ATTACKS ON U.S. PERSONNEL AND FACILITIES IN BENGHAZI

Democratic Staff
Committee on Oversight and Government Reform
Prepared for Ranking Member Elijah E. Cummings

September 2013

http://democrats.oversight.house.gov/

Executive Summary

This report provides a status update on the Committee's investigation into the U.S. government's response to the attacks on American personnel and facilities in Benghazi in September 2012, as well as the findings and recommendations of the Accountability Review Board (ARB) led by Ambassador Thomas Pickering and Admiral Michael Mullen.

Based on a review of tens of thousands of pages of classified and unclassified documents, 16 transcribed interviews, and one deposition, this report provides new details about an intense and terrifying week last September when incidents at embassies and consulates throughout the world kept U.S. personnel on hair-trigger alert for days. These included incidents not only in Benghazi, but also in Khartoum, Sana'a, Tunis, Karachi, Lahore, and Islamabad, where crowds of thousands marched, set fires, and breached U.S. compounds repeatedly.

Prepared at the request of Ranking Member Elijah Cummings, this report attempts to honor the service and sacrifice of the four American heroes killed in Benghazi in service of their country. It provides detailed information in response to questions relating to the attacks, and it is intended to focus on reforms to improve security for our diplomatic corps serving overseas.

The Benghazi ARB was one of the most comprehensive ARB reviews ever undertaken.

During his deposition with the Committee, Ambassador Pickering explained that, because of his own personal and professional bond with Ambassador Christopher Stevens, he viewed his service on the ARB as "a debt of honor." He said that "Chris gave me two wonderful years of his life in supporting me in very difficult circumstances," and that "I owed him, his family, and the families of the other people who died the best possible report we could put together."

Comparing the work of previous ARBs, Ambassador Pickering reported that "no other ARB was so extensive and far-reaching in its findings of personal responsibility or personal accountability, or made such far-reaching recommendations at such high levels in the State Department."

Admiral Mullen told the Committee that, in his view, "the most important descriptive characteristic" of the ARB was that it was "independent." He also said he personally witnessed "that independence throughout, from beginning to end."

Other officials agreed. The Executive Director of the Bureau of Near Eastern Affairs called the ARB "penetrating," "specific," and "critical." The former Director of the State Department's Office Maghreb Affairs described it as "very tough" and "the opposite of a whitewash."

In terms of accountability for senior officials, Admiral Mullen explained that "everybody was on the table," and "in the end, there was no official, including the Secretary of State, whose involvement wasn't reviewed." He also explained that the ARB "never found any evidence whatsoever that she was involved in the day-to-day security decisions with respect to Benghazi."

Accusations that the United States military withheld assets are unfounded.

As the former Chairman of the Joint Chiefs of Staff, Admiral Mullen served as the ARB's military expert. He described in detail how he "looked at every single U.S. military asset that was there, and what it possibly could have done, whether it could have moved or not." He concluded, "after a detailed understanding of what had happened that night, that from outside Libya, that we'd done everything possible that we could."

Addressing the claim that the leader of a four-man team leaving Tripoli for Benghazi was ordered to "stand down," Admiral Mullen said there "was never direction given to him to stand down." Instead, the team was "remissioned" to provide security and medical attention to evacuees in Tripoli. He added: "an untold story here is the heroic efforts of the medic actually on that airport coming from Benghazi to Tripoli, which there are those that believe kept a couple of those wounded alive."

Admiral Mullen explained why F-16s or other "fast-mover" aircraft were not deployed to Benghazi. Without tankers "to provide the refueling they would have needed probably twice en route," he reported that "it was not realistic to think that we could task fast movers." He added: "There's no one I've ever met in the military that wouldn't want to get help there instantly," but that the "physics of it, the reality of it, it just wasn't going to happen for 12 to 20 hours."

With respect to general allegations that the military failed to help the attack victims, Admiral Mullen stated: "The line of questioning and approach here, for those of us in the military, that we would consider for a second not doing everything we possibly could, it just—it stirs us to our bones, because that's who we are. We don't leave anybody behind."

Benghazi lacked adequate security in part because it was a temporary post.

According to multiple witnesses, Ambassador Stevens was "one of, if not the premier expert" on Libya and strongly believed that having a U.S. post in Benghazi was "critically important" to "indicate that the United States was going to stay involved," "to have a window into the Islamist extremism that was developing primarily in the east," and "to have a window into the tribal dynamics, which are very important." As one official said, "nobody knew Libya better than Chris," and "Chris strongly recommended that we maintain a presence in Benghazi."

Witnesses explained that the decision to extend the temporary mission in Benghazi was reviewed by numerous offices within the Department, including Resource Management, the Administration Bureau, the Near Eastern Affairs Bureau, and the two Bureaus primarily responsible for security, Diplomatic Security and Overseas Buildings Operations. Based on their unanimous agreement, the decision was issued by the Under Secretary for Management.

Witnesses confirmed that Benghazi, as a temporary post, was "excepted from office facility standards" and "was not eligible" for security upgrades from the Bureau of Overseas Buildings Operations, a key finding of the ARB report. Witnesses also confirmed the ARB's description of personnel "churn" and the "short-term, transitory nature of Benghazi's staffing."

As the Diplomatic Security Desk Officer for Libya told the Committee, the Department could send "only high-threat-qualified agents," but since Benghazi was a temporary mission, they "had to draw from a pool of resources" that "was also being utilized in other areas of the world, including Iraq, Afghanistan, Pakistan, Yemen."

Several witnesses reported that Charlene Lamb, the Deputy Assistant Secretary for International Programs within the Bureau of Diplomatic Security, among other actions, rejected repeated requests for additional Diplomatic Security Agents in Benghazi. According to the Diplomatic Security Desk Officer, Ms. Lamb reportedly felt that agents were being used inappropriately as drivers.

During his interview with the Committee, Admiral Mullen explained that "there was a tremendous dependence on Ms. Lamb and DS to take care of this." Referring to both Ms. Lamb and Eric Boswell, the Assistant Secretary of Diplomatic Security, Admiral Mullen stated:

> That then all goes back, from my perspective, on to Mr. Boswell and Ms. Lamb's lap in terms of making sure security is all right, and yet it was, in fact, over the next many months that she fought it, didn't resource it, bureaucratically didn't answer, made it incredibly difficult on those who were trying to improve the security to achieve any kind of outcome they deemed favorable, and she just beat them down over time.

The Department must ensure that the ARB's recommendations are fully implemented.

The ARB made 29 recommendations to improve the security of U.S. diplomatic personnel serving overseas, 24 of which were unclassified. On the same day the ARB report was issued, Secretary Clinton embraced all of its recommendations, urged Department employees "to cooperate fully," and launched a task force "to ensure that the Board's recommendations are implemented quickly and completely."

Witnesses reported to the Committee that significant progress is being made. For example, the official who served as Chargé d' Affaires to Libya after the attacks from January to June 2013 stated: "When I was charge in Tripoli for 6 months, for example, there were a huge number of security upgrades that are underway, many of them, you know, attributable either directly or indirectly to ARB."

Despite this progress, Ambassador Pickering warned the Committee that he is "deeply concerned" that although previous ARBs "had been excellent in their recommendations," the "follow-through had dwindled away." He concluded with this statement:

> I believe that this hearing, this discussion, this whatever it is that we are engaged in now is an opportunity, in fact, to find a way to assure that the recommendations, insofar as they needed to be supported here in the Congress, do get supported.

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I. ACCOUNTABILITY REVIEW BOARD

A. Background on ARB Process

The State Department's Accountability Review Board (ARB) process, which was established pursuant to Section 301 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986, is used to conduct thorough and independent reviews of security-related incidents at U.S. diplomatic facilities.[1] The ARB's objective is to determine accountability and improve the security practices of U.S. missions and personnel abroad.[2]

On September 19, 2012, then-Secretary of State Hillary Clinton convened an ARB to investigate the September 11, 2012, attacks on U.S. facilities and personnel in Benghazi, Libya, that resulted in the deaths of four Americans, including the U.S. Ambassador to Libya Christopher Stevens, Sean Smith, Tyrone Woods, and Glen Doherty.

Secretary Clinton selected four ARB members, and Director of National Intelligence James Clapper selected one member from the Intelligence Community. Former Ambassador Thomas Pickering served as Chairman, and Admiral Michael Mullen served as Vice Chairman. Catherine Bertini, Richard Shinnick, and Hugh Turner also served as ARB Members.

On December 18, 2012, the Benghazi ARB issued an unclassified report on its findings. A separate classified version of the report, presented to the Secretary of State, included specific personnel accountability findings and recommendations. By statute, the report includes findings on whether the attacks were security-related, whether security systems and procedures were adequate and properly implemented, and whether any U.S. government employee breached his or her duty.[3] The ARB also issued 29 unanimous recommendations to improve security systems and procedures at the State Department.[4]

B. Independence of ARB

On June 4, 2013, the Committee conducted a formal deposition with Ambassador Pickering. During that deposition, Ambassador Pickering explained to Members and staff that it was a "debt of honor" to have served on the ARB, noting his personal connection to Ambassador Stevens:

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[1] 22 U.S.C. §§ 4831-4835.

[2] Department of State, *Foreign Affairs Manual Volume 12—Diplomatic Security*, 12 FAM 030.

[3] 22 U.S.C. § 4834(a).

[4] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

> [Y]ou know when you lose friends, when you lose colleagues and fellow employees, that's the most urgent and demanding of all situations, and if you can make a contribution and make it right, it's important.
>
> Chris Stevens worked for me as my special assistant for 2 years when I was Under Secretary of State. This was not any kind of vendetta, but I felt that Chris gave me two wonderful years of his life in supporting me in very difficult circumstances, that I owed him, his family, and the families of the other people who died the best possible report we could put together.
>
> And I have to tell you, the five of us, I think, time and time again mentioned how important this was, how significant it was to get it right, and how important it was to—what our work product would be, what our end result would be, would be deeply scrutinized, and it should be, there's no reason it shouldn't be, but that we had to work as hard as we can to make it stand up, that we had, with all respect to everybody in this room, no sense of political attachment on this particular issue. We wanted to do it in the best way we could. We got lots of advice from all areas. We attempted to synthesize that and put it into those 29 recommendations in the most serious way that we could.
>
> So it was on obligation, maybe a debt of honor on our side. And I considered it an honor to be asked by the Secretary of State just to be on the Board, but in a more distinct one, to be asked to be chairman. And I felt that it was my responsibility, working with the others, and we worked in a very collegial way, but we certainly had differences and discussions in our views. We had a lot of give and take, which was good, and I felt it was very useful. And we brought in experts, and they were extremely helpful to us in looking at the way in which the report was put together and prepared.[5]

Similarly, in his interview with Committee staff on June 19, 2013, Admiral Mullen stated that the independence of the ARB was its "most important" characteristic, and that he would not have agreed to serve as a Member had he not received assurances that it would be independent:

> Q: The ARB is supposed to be set up as an independent review board. Did you have any questions about the independence of the board?
>
> A: In fact, in the original conversation I had with [Chief of Staff to Secretary Clinton] Ms. Mills about this, the most—from my perspective, the most important descriptive characteristic of it is that it would be independent, and Ms. Mills assured me that was the Secretary's intent upfront, and had that not been the case, I certainly wouldn't have agreed to it. Secondly, I saw in execution that independence throughout, from beginning to end, that it was supported. We had

[5] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

> the authority to, within the scope of the tasking, to do just about anything that we thought was important with respect to that tasking.[6]

Admiral Mullen stated that after the ARB was convened, he and Ambassador Pickering agreed that the investigation would follow the facts and that there would be no limits with respect to whom the ARB interviewed:

> There was early on a discussion, and certainly I had a discussion, private discussion with Ambassador Pickering about at least my expectation, and I would say this was in the first couple weeks, that this certainly could present the requirement that we would have to interview everybody up the chain of command, including the Secretary, and he agreed with that. So the two of us had sort of set that premise in terms of obviously depending on what we learned over time, and our requirement to both affix both responsibility and accountability per se were, again, based on the facts as we understood them.[7]

On a personal note, Admiral Mullen told Committee investigators that it was a privilege for him to serve on the ARB:

> [I]t was a privilege, it remains a privilege. ... I knew it was critical work. And it was, from my perspective something I did for my country. ... And certainly I understood obviously instantly the gravity of the situation just because of the loss of life even though as it initially occurred I really didn't have much of an idea how it happened. ... I didn't do it for any other reason but to do it for the country.[8]

C. Interviews of Relevant Witnesses

As part of its investigation, the ARB interviewed more than 100 witnesses, including security officers at the Special Mission Compound on the night of the attacks and a number of senior State Department officials. Ambassador Pickering explained how the ARB prioritized interviews with key witnesses:

> Q: Was there a protocol to how and in what order you interviewed some of the 100 individuals that you spoke with?
>
> A: Yes. Our priority was to interview people who were firsthand fact witnesses as early as possible. That had to be done in conjunction with the FBI.
>
> Q: And from there, was there any protocol for selecting witnesses?

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[6] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[7] *Id.*

[8] *Id.*

A: From there, we attempted to move sort of on the basis of people we felt had the most knowledge and the perhaps most extensive testimony to offer from what we knew about where they sat.

Q: Now, was the work of the board designed to be a full-fledged investigation, or was it something short of that, a review or an opportunity to, you know, find out what happened and present recommendations?

A: I'm glad you asked that question. We were all volunteers. We all operated in accordance with the statute. The statute has five specific questions that need to be addressed by an ARB, almost all in one way or another closely tied with security, and the output of the board is to make findings and recommendations to help the State Department improve security dealing with these kinds of incidents to help prevent, deter or otherwise ward off any future actions of this sort. In that regard, it was a review board because it wished to look at everyone's experience and at what was actually the best recounting of what took place.[9]

Admiral Mullen explained the ARB's investigative approach:

I had a conversation with Chairman Pickering when it started, that every—from my perspective, and he agreed, everybody was on the table. And then it would obviously be part of the process and discovery, if you will, about who we thought was responsible and who we should—who we should interview, who we thought was responsible, and eventually who we would assign accountability to.[10]

With respect to the scope of the investigation, Admiral Mullen stated: "[W]e interviewed everyone that we thought was relevant."[11] He explained:

Q: Could you explain to us how for the most part the board met with some of the witnesses? We understand the board met with about a hundred witnesses.

A: Right, right.

Q: Could you walk us through a typical procedure?

A: Well, typically—I mean, where we started was we wanted at least certainly initially to see those that were in Benghazi that night, and so we started with those individuals, the security officers who were in fact both on that trip with the

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[9] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

[10] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[11] *Id.*

> Ambassador and in Benghazi. The other group, sort of core group we started with was the leadership inside the State Department, and as we looked at and interviewed them, and I'll come back to that part of it specifically, but as we would review material and have interviews, the space that we wanted to see or review would expand, and so we would add additional people as names or positions became evident or obvious in our discussions. So typically we spent the first few meetings just coming up to speed ourselves on what had happened, and then we started to see witnesses in sort of the two first key groups would have been the diplomatic security group, in particular Assistant Secretary Boswell, Deputy Assistant Secretary Lamb, Assistant Secretary—or—and then the RSOs or ARSOs, assistant RSOs who were there in Benghazi that night. They would come in individually, which is how we would interview each of them.

Q: So some meetings were conducted in groups and then there were some individual—most were individual?

A: Yeah, the vast majority were individual interviews.[12]

Admiral Michael Mullen summarized the investigative approach undertaken by the ARB: "[F]rom a direction standpoint, we tried to cast a wide net and have a very open door and have that word out, and we were reassured more than once that that was the case."[13]

According to Admiral Mullen, the ARB assigned responsibility at the level where decisions were made:

> **[I]n the end there was no official, including the Secretary of State, whose involvement wasn't reviewed** and decisions about accountability were tied to, one, that direction and, two, where we saw the decisions made, dominantly so with respect to security in the diplomatic security directorate, if you will, the assistant secretary and the deputy assistant secretary. And in fact, I see them as very senior individuals. Some might take issue with that. I do. They certainly had the responsibility, they had the experience, and the—you know, decades of experience, and that's how it was actually happening in execution.[14]

D. Findings and Recommendations on Accountability

The ARB found that four senior State Department officials exhibited failures in leadership, including an Assistant Secretary, a Principal Deputy Assistant Secretary, and two Deputy Assistant Secretaries:

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[12] *Id.*

[13] *Id.*

[14] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013) (emphasis added).

> [C]ertain senior State Department officials within two bureaus in critical positions of authority and responsibility in Washington demonstrated a lack of proactive leadership and management ability appropriate for the State Department's senior ranks in their responses to security concerns posed by Special Mission Benghazi, given the deteriorating threat environment and the lack of reliable host government protection.[15]

During his deposition, Ambassador Pickering responded to assertions that the four individuals highlighted by the ARB were only "mid-level" officers, and that it didn't hold senior officials accountable:

> Q: The witnesses that we had at the May 8th hearing, Mr. Nordstrom, Mr. Hicks testified that they thought the accountability portion of the report may not have gone high enough. Mr. Nordstrom, for example, testified that it's an accountability of mid-level officer review board, and the message to my colleagues is that if you're above a certain level, no matter what your decision is, no one's going to question it. And that is my concern with the ARB Mr. Nordstrom testified. How did the board conclude the appropriate level to assign accountability for what went wrong?
>
> A: We assigned accountability where the evidence was clear the decisions were made and in at least two cases where they were reviewed or should have been reviewed.
>
> Q: Do you think Mr. Nordstrom's statement, his testimony is fair or unfair?
>
> A: With all respect, I spent 42 years in the State Department. I don't consider an Assistant Secretary of State or a Deputy Assistant Secretary of State a kind of minion. They are serious jobs, they report certainly in my day directly to the Secretary. They have responsibilities for billions of dollars in some cases, which is not trivial.[16]

During his interview with Committee staff, Admiral Mullen also explained the ARB's findings:

> We assigned accountability where we thought it was best and most appropriately resident in the officials, the four in particular, the four senior officials that we singled out in the

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[15] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012). *See also* 22 U.S.C. § 4834(c) (establishing a breach-of-duty standard in determining whether an ARB makes personnel recommendations).

[16] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

report, two of whom we made specific recommendations for, and I'm very comfortable with that.[17]

Admiral Mullen explained that the ARB did not identify any other individuals whom it felt should be held accountable for poor performance:

Q: Was there anyone for whom you thought their performance was lacking in a way or was to blame for something such that it should have been noted that was not included in the report?

A: No.[18]

Admiral Mullen explained that the ARB's decisions on accountability were unanimous and that any dissenting views would have been included in the final report:

Q: But these were all unanimous decisions; is that correct?

A: They were.

Q: Okay. And had there been dissenting views, I believe, under the guidelines, other members could have submitted dissenting views, and to your knowledge did any member exercise that?

A: It didn't happen. I mean, my own view of that is had I had a dissenting view, I would have made it in writing to make it very clear in the report.[19]

E. <u>State Department Personnel Actions</u>

After receiving the ARB report, the State Department placed the four senior officials identified by the ARB on administrative leave pending a further investigation.[20] When Secretary of State John Kerry arrived at the Department, he took steps "to make sure that the Department took the time necessary to get these decisions right."[21]

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[17] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[18] *Id.*

[19] *Id.*

[20] Letter from Thomas B. Gibbons, Acting Assistant Secretary, Legislative Affairs, Department of State, to Chairman Darrell E. Issa, House Committee on Oversight and Government Reform (Aug. 23, 2013).

[21] *Id.*

In August 2013, the State Department determined that the four senior State Department officials referenced in the ARB report should be permanently relieved of their former positions and duties. In a letter to the Committee on August 23, 2013, the Department explained:

> The Department has now re-affirmed the findings and recommendations of the ARB. With respect to the four individuals, all will be held accountable by permanently relieving them of the positions and duties that gave rise to the ARB's findings. In two cases, this step of relieving them of their duties goes beyond the recommendations of the ARB itself. The Department determined that such a step is in the best interests of the Department and those two employees.
>
> As a result, the employees who had worldwide decision making authority for security resources affecting high-threat posts will no longer have those responsibilities. Their new assignments, which in some cases will be preceded by additional management training, will reflect a level of responsibility appropriate to their expertise and experience. Consistent with the findings of the Benghazi ARB, the Department has determined that there was no breach of duty and no basis to pursue formal disciplinary action.[22]

The Department explained how it reached its determination to allow the four senior State Department officials to continue working at other positions with reduced responsibilities:

> In reaching these decisions, the Department considered the findings of the ARB, the employees' performance, and applicable personnel rules. The Department also considered the totality of these employees' service to the Department of State over many years to determine if there was a pattern of inadequate performance. No such pattern was found, but rather the record showed a history of dedicated service by four employees who sought to faithfully execute their responsibilities. The four individuals are all longstanding public servants who collectively have more than a century of committed civilian service, plus additional service in both the U.S. military and in local law enforcement. In addition to serving in a variety of critical positions in Washington, they have served in and volunteered for difficult assignments in the former Soviet Union, sub-Saharan Africa, Central America, and the Middle East.[23]

The Department determined that the facts did not support finding the four senior State Department officials responsible for the Benghazi attacks:

> In the wake of a tragedy such as Benghazi, we all understand the instinctive desire to make public examples of one or two individuals in the name of "accountability." By permanently relieving these four employees of the duties that gave rise to the ARB's findings, the Department has held the four employees accountable for their performance.

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[22] *Id.*

[23] *Id.*

However, the facts and evidence simply do not support finding them responsible for the attacks and their tragic outcome.[24]

F. **Role of Secretary Clinton and Under Secretary Kennedy**

Since the ARB report was released, Republicans have accused the ARB of not holding senior level officials accountable, including Secretary Clinton and Under Secretary Kennedy.

In his deposition with the Committee, Ambassador Pickering stated that had the ARB found a need to interview Secretary Clinton, it would have:

> Rep. Connolly: Let me just ask you this one question: If you had found Secretary Clinton to be responsible here, what would you have done?
>
> Amb. Pickering: We would certainly have included it in our report. There was no way that we would have been limited in our findings.[25]

According to Admiral Mullen, the ARB assigned accountability where the facts supported it:

> I would put Under Secretary Kennedy in the same category I put Secretary Clinton, meaning we clearly, when the ARB began there was no limits on who we would interview. And, in fact, I told counsel earlier that I had a conversation with Chairman Pickering when it started, that every—from my perspective, and he agreed, everybody was on the table. And then it would obviously be part of the process and discovery, if you will, about who we thought was responsible and who we should—who we should interview, who we thought was responsible, and eventually who we would assign accountability to. It was—the whole issue of security was so dominated by DS, Lamb in particular, Boswell, Boswell enabling all of that. That the seniors, again, with an awful lot going on, awful lot of—in a big organization, you know, unless this is sort of—this is brought to their attention, then it was—we did not see any direct line of what I would call accountable responsibility for Under Secretary Kennedy. As we didn't for those senior to Under Secretary Kennedy in the State Department.[26]

Admiral Mullen stated that the Board uncovered "no evidence whatsoever" that Secretary Clinton was involved in security decisions related to Special Mission Benghazi:

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[24] *Id.*

[25] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

[26] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

Q: In your review did you determine whether Secretary Clinton had a role in establishing the Benghazi compound or approving its security profile?

A: Not that I could see. Not that I saw.

Q: And did you find that Secretary Clinton was involved in the decision making that led to the lack of security in the days and weeks leading up to the attack?

A: Secretary Clinton was certainly, one, aware of the compound; two, aware of deteriorating, of incidents which occurred in the east. It was a very difficult part of Libya, but we found no evidence whatsoever that she was involved in security decisions out there. In fact, that was held very closely by Miss Lamb.[27]

Regarding Secretary Clinton, Admiral Mullen explained further:

A: We never found any evidence whatsoever that she was involved in the day-to-day security decisions with respect to Benghazi, and my expectation is that those would, for her to be involved, that would have to be brought to her attention by somebody in her chain of command.

Q: And just to revisit that point, who was it that was responsible for the security in Benghazi? Who was making, principally making the decisions?

A: My own view—well, it was Lamb that made the decision, Miss Lamb that made the decisions. It was really Assistant Secretary Boswell who, from my perspective, had the authority, was in a position as an assistant secretary to make sure that this thing went up the chain, as he thought appropriate.[28]

Admiral Mullen stated that the ARB did not have any reason to interview Secretary Clinton, but would have done so if they uncovered evidence that supported it:

Q: You had mentioned earlier today that you had met with Ambassador Pickering, and the two of you had had a conversation that you would leave no stone unturned, that you would interview up the chain of command as high as was necessary and where, not to put words in your mouth, where the facts would lead you?

A: Correct, to include the Secretary of State.

Q: Okay. Had you needed—

A: He agreed with that.

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[27] *Id.*

[28] *Id.*

Q: And he agreed with that?

A: Yes.

Q: Did you find or uncover any evidence or receive any evidence that led either you or Ambassador Pickering to feel the need to interview the Secretary at any point throughout the process?

A: We did not.

Q: And if you had uncovered that evidence, would you—what would you have done?

A: We would have interviewed her.[29]

G. Officials Said ARB Was "Tough" and Made Valuable Recommendations

Based on transcribed interviews with numerous officials familiar with the ARB process, it appears that the Benghazi ARB was one of the most comprehensive ever conducted, that ARB Members were knowledgeable and well-informed, and that the ARB's findings and recommendations were thorough and tough.

During his deposition with the Committee, Ambassador Pickering addressed accusations that the ARB was less robust than other ARBs:

Amb. Pickering: Thank you, Mr. Cummings. My response is that to the best of my knowledge, no other ARB was so extensive and far-reaching in its findings of personal responsibility or personal accountability, or made such far-reaching recommendations at such high levels in the State Department.

Rep. Cummings: And how did you come to that conclusion that you just made?

Amb. Pickering: I came to that conclusion by speaking to and asking our staff to review all of the other ARBs that were reported on. We had those reports in our possession, so we made a comparison, and we arrived at that conclusion after reviewing the recommendations of the other ARBs.[30]

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[29] *Id.*

[30] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

During his deposition, Ambassador Pickering also explained that one reason the ARB did not "pull any punches" was because he did not want to see the Board's recommendations go unheeded:

Rep. Cummings: Let me ask you as well, you had asked the staff to read previous reports. And what was the aim there? In other words, were you trying—did this review come after you had pretty much made findings and trying to compare to what other folks had done in other ARBs, or were you—this come from the outset to try to figure out what would be a reasonable framework to, you know, come up with recommendations and findings? You understand my question?

Amb. Pickering: I do. There are two aspects to the answer to that question. One is we relied on the facts, data, information, analyses, and reports that we were able to assemble as the basis for our recommendations. And we did not wish in any way, if I could put it this way, to pull any punches. We felt we had a serious obligation under the law and from the Secretary to do that. We looked carefully at what we were doing. Where it was necessary, we checked those particular pieces.

Secondly, I was deeply concerned, as others were, that previous ARBs, previous Accountability Review Boards, had been excellent in their recommendations, but the follow-through had dwindled away. And indeed, I caused to be put at the head of each chapter of the ARB some recollection from the past. The first chapter begins with George Santayana's statement that those who cannot remember the past are condemned to repeat it. But throughout the report you will see each chapter headed by something that recalls a prior recommendation or a prior event, including in the chapter on what happened the night of September 11th a very moving account from a 1967 attack on the consulate general in Benghazi shortly following a Middle East war, I believe.

So it was an effort to try to instill in the readers a sense that we were not doing as much as we should do about these reports that also concerned me. And I believe that this hearing, this discussion, this whatever it is that we are engaged in now is an opportunity, in fact, to find a way to assure that the recommendations, insofar as they needed to be supported here in the Congress, do get supported. And I'm very pleased to have the opportunity to do all I can here to reinforce that.[31]

[31] *Id.*

During his interview with Committee staff, the former Director of the State Department's Office Maghreb Affairs, who served as the Chargé d'Affaires in Libya from January through June 2013, said the recommendations "constituted a rational set of recommendations on the security side." According to this official, many of the ARB's recommendations are already being implemented:

> When I was charge in Tripoli for 6 months, for example, there were a huge number of security upgrades that are underway, many of them, you know, attributable either directly or indirectly to ARB.[32]

The Acting Assistant Secretary for Near Eastern Affairs described the ARB as thorough, "very tough," and the "opposite of a whitewash":

> Q: I just wanted to ask you a few other follow up questions. Did you think that the ARB was a thorough investigation?
>
> A: Yes, I did.
>
> Q: Did you think it was tough?
>
> A: I thought it was very tough.
>
> Q: Some have referred to it as a whitewash. Do you think it was a whitewash?
> A: I think it's the opposite of a whitewash.
>
> Q: Some have suggested that it was designed to protect people within the State Department. Did you see any evidence of that?
>
> A: I saw no evidence of that at all.[33]

The former Principal Deputy Assistant Secretary for the State Department's Bureau of Near Eastern Affairs stated that the ARB's recommendations, if implemented, would make diplomats around the world safer:

> Q: And it made north of two dozen recommendations. Have you had a chance to look at those recommendations?
>
> A: Yes, I have.

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[32] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

[33] House Committee on Oversight and Government Reform, Interview of Elizabeth Jones (July 11, 2013).

Q: Do you think they are sound?

A: Yes. I've got them here. I—

Q: I mean, from somebody who's been at the State Department as long as you have been, do you think if those are implemented they will make people safer?

A: Yes.[34]

The Executive Director of the State Department's Bureau of Near Eastern Affairs described the ARB as "penetrating," "specific," and "critical":

Q: Okay. We talked about your view on the ARB and about its degree of thoroughness. Did you think it was a thorough report?

A: I—given the objectives that they had, which seemed to be reasonable, and the way that they—the way they approached it and the information that they got seemed to be thorough.

Q: Do you think it was in any way a whitewash or went easy on the State Department?

A: Boy, it sure didn't feel that way.

Q: Why is that?

A: I well, I mean, take a look at the report. It wasn't—from our perspective, it was penetrating. It was specific. It was critical, and many of the—well, I quibble with some of the recommendations. Some of the recommendations were—were right. I mean, so I perceived it as a—as a good evaluation.

Q: Do you have any knowledge that it engaged in any favoritism or improperly protected certain people from accountability?

A: No, I have no knowledge of that.[35]

The former Director of the State Department's Office of Maghreb Affairs also disputed the allegation that the ARB was a "whitewash":

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[34] House Committee on Oversight and Government Reform, Interview of Elizabeth Dibble (July 10, 2013).

[35] House Committee on Oversight and Government Reform, Interview of Lee Lohman (July 30, 2013).

> I think they thoroughly investigated it and they—as I said, I think it was understandable, given the gravity of what happened, that they held some people accountable. And—and I think that, you know, it's had serious consequences for—you know, for those people, so I think it—I don't—I wouldn't call it a—I think it was a thorough investigation, not a whitewash.[36]

The Diplomatic Security Desk Officer responsible for Libya told Committee investigators that the ARB interviewed him for several hours and asked him "thorough" questions.[37] He also said ARB Members "were very knowledgeable about the inner workings of the department and the greater intelligence community as well." He added that he thought the ARB conducted a fair process and that it incorporated some of his suggestions:

> Q: Did you feel it was fair and objective?
>
> A: Yes.
>
> Q: What was your reaction to the ARB report? I know you mentioned earlier you had access to the classified but did not have access to the classified?
>
> A: Like I said, overall, I concurred with the overall nexus of the ARB report. I thought it was well prepared and well written.
>
> Q: Was there anything that you disagreed with or felt that they could have gone further with?
>
> A: No. Several of the points in there were things that I had brought up specifically in my conversations. I don't know about what other people brought up or other points outside of my realm. But they definitely listened to what I had to say. And some of those things were incorporated in the recommendations.[38]

The Assistant Secretary of Diplomatic Security stated that he agreed with most parts of the ARB and found its recommendations to be important. He also clarified that accountability ultimately rested with the terrorists:

> I read the ARB carefully, and there are many parts, in fact, most parts, of the ARB that I agree with. There are many recommendations that are constructive and proper. The Department has decided to adopt those recommendations, most notably ones that involve a shortfall in funding for diplomatic—for diplomatic construction efforts. I think that's a

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[36] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

[37] House Committee on Oversight and Government Reform, Interview of Brian Papanu (Aug. 8, 2013).

[38] *Id.*

very good thing; there were some additional resources for DS; the finding that the accountable people are the terrorists.[39]

[39] House Committee on Oversight and Government Reform, Interview of Eric Boswell (July 9, 2013).

II. DEFENSE DEPARTMENT ACTIONS

A. ARB Found No Fault With Military Response

After conducting a detailed review of the U.S. military response to the attacks in Benghazi—including a review of the military assets that were available, the decision-making by military commanders, and the coordination of the overall U.S. government response—the ARB found no fault with the military response:

> The interagency response was timely and appropriate, but there simply was not enough time given the speed of the attacks for armed U.S. military assets to have made a difference. Senior-level interagency discussions were underway soon after Washington received initial word of the attacks and continued through the night. The Board found no evidence of any undue delays in decision making or denial of support from Washington or from the military combatant commanders. Quite the contrary: the safe evacuation of all U.S. government personnel from Benghazi twelve hours after the initial attack and subsequently to Ramstein Air Force Base was the result of exceptional U.S. government coordination and military response and helped save the lives of two severely wounded Americans. In addition, at the State Department's request, the Department of Defense also provided a Marine FAST (Fleet Antiterrorism Security Team) as additional security support for Embassy Tripoli on September 12.[40]

During his deposition with the Committee, Ambassador Pickering was asked directly about how the military responded on the night of the attack:

Rep. Connolly:	There have been allegations or charges or statements made that the defense response, or lack thereof, to the tragedy in Benghazi was inadequate and could have been so much more effective. Did you and the ARB look into the defense posture, the defense response to the tragedy in Benghazi?
Amb. Pickering:	Yes, we did, Mr. Connolly.
Rep. Connolly:	About what did you find, Mr. Ambassador?
Amb. Pickering:	We found that with respect to the various options that were possible to consider for providing military support or assistance to Benghazi and Tripoli, none had the capacity to provide that within a relevant time period.[41]

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[40] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

[41] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

Admiral Mullen, as the former Chairman of the Joint Chiefs of Staff, served as the ARB's military expert. During his transcribed interview with Committee staff, he explained: "I went to the Pentagon to look at every single asset that was postured in theater."[42] Admiral Mullen also explained the thoroughness of his review:

> Q: Admiral, did you conclude that the military took the appropriate steps to help the Americans in Benghazi on the night of the attack?
>
> A: I did.
>
> Q: And, generally speaking, what facts led to you determine that the military's response was appropriate?
>
> A: I personally reviewed, and as the only military member of the ARB, I personally reviewed all of the military assets that were in theater and available. Now, I also did this in conjunction with—we listened to—we interviewed General Ham; we interviewed Admiral Tidd, who is the Operations Officer for the Joint Staff, who was the current Operations Officer. We also brought back the—Tidd's predecessor, a Marine, three star whose name I am blanking on right now, to look at the possibility of moving forces. We walked through the forces that move, the ones that could or couldn't that night. And then after those interviews or in conjunction with those interviews we actually went to the Pentagon. And we reviewed with many—many of the Joint Staff that I knew from my time there, I have great regard for. And we walked through the force posture in Europe, notionally, and looked at every single U.S. military asset that was there, and what it possibly could have done, whether it could have moved or not. And it was in that interaction that I concluded, after a detailed understanding of what had happened that night, that from outside Libya, that we'd done everything possible that we could.[43]

Admiral Mullen also confirmed that the ARB had access to all relevant information in order to evaluate the U.S. military response to the attacks:

> Q: And did you have access to all of the information you needed to address this question, both paper, videotapes, any hard material that you needed as well as individuals?
>
> A: Yes.
>
> Q: Okay. Did you find that anybody, in fact, tried to prevent you from having that information or any information you needed?

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[42] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[43] *Id.*

A: No.

Q: Okay. And that also applies to the State Department, did the State Department provide you with all the information you needed to address this area insofar as the State Department's role was concerned?

A: Which area?

Q: The question of the military—

A: Military response. Yes.

Q: Okay. So your conclusion based on your experience, 40 years of experience, is that the military and the U.S. Government did everything that they could to respond to the attacks?

A: Yes.[44]

Admiral Mullen confirmed that he conducted two reviews of assets available to the U.S. military on the night of the attacks, as well as the logistics of moving those assets to respond:

Q: And just to be very clear here, you had access to all of the puzzle pieces on the board?

A: I did.

Q: And you were able to essentially take the night of the attacks and almost work backwards and say, show me where all the assets were in theater or in that region or around the world, and you were able to look at the time components and sort of the logistics of what it would take to move from point A to B, and this includes naval, aviation, ground forces, all components of the military?

A: I did that twice.

Q: And you were satisfied?

A: I am.[45]

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[44] *Id.*

[45] *Id.*

B. No "Stand Down" Order Issued on Night of Attacks

During the Committee's May 8, 2013, hearing, Gregory Hicks, the Deputy Chief of Mission (DCM) in Libya at the time of the attacks, testified that he believed the military issued a "stand down" order to a four-man military team based in Tripoli on the night of the attacks and commanded by Lieutenant Colonel Gibson. Mr. Hicks testified that he "believe[d] it came from either AFRICOM or SOCAFRICA," referring respectively to the DOD's Africa and Special Operations Commands.[46]

Rather than investigating this claim to determine its validity, some Republican Members of Congress began using it as a talking point during public interviews and appearances. For example, during an interview in May 2013, Rep. Chaffetz told *CNN* that "military personnel were ready willing and able, and within proximity, but the Pentagon told them they had no authority and to stand down."[47] Likewise, according to press reports, Chairman Issa said "there were calls for help that were unheeded by any support from outside, including military personnel that were effectively told to stand down when they tried to be part of a relief mission."[48]

After he reviewed the directions given to those military forces in the region on the night of the attacks, Admiral Mullen explained during his interview with Committee staff that no stand-down order was issued, but that the four-man team was directed to provide security in Tripoli and assist with the evacuation. He also confirmed previous testimony from General Martin Dempsey, Chairman of the Joint Chiefs of Staff:

Q: General Dempsey said that a determination was made that the team, quote, "would contribute more by going to the Tripoli airport to meet the casualties upon return," end quote. And here's what General Dempsey said further, quote, "By the time they contacted the command center in Stuttgart, they were told that the individuals in Benghazi were on their way back and that they would be better used in the Tripoli airport because one of them was a medic, that they would be better used to receive the casualties coming back from Benghazi. And that if they had gone they would have simply passed each other in the air." Admiral Mullen, do you believe this most recent statement by General Dempsey to be correct?

A: I do.

Q: Is there any reason to doubt that statement?

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[46] House Committee on Oversight and Government Reform, *Hearing on Benghazi: Exposing Failure and Recognizing Courage* (May 8, 2013).

[47] *Former Deputy Chief of Mission in Libya: U.S. Military Assets Told to Stand Down*, CNN (May 7, 2013).

[48] *Issa Ignoring Real Benghazi Scandal?*, WorldNetDaily (Aug. 9, 2013).

A: None. In fact, when I heard Mr. Hicks' testimony, I went—I specifically went to look at that aspect of what had happened. And in fact the direction that was given, I think it's Colonel Gibson, Lieutenant Colonel Gibson, I think—I know the direction that was given him, after he and his forces had helped Mr. Hicks redeploy, if you will, the Americans from the embassy compounds to the annex, after he had helped do that.

Counsel: Just to clarify, that's in Tripoli.

A: This is in Tripoli. He checked in with his command, which was SOCAFRICA. And he was given direction to hold in place. There was never direction given to him to stand down. He was then remissioned consistent with what General Dempsey said in his testimony the other day.[49]

Admiral Mullen explained that the four-man team was assigned to the critical function in Tripoli of receiving incoming wounded, who were already being evacuated from Benghazi for return to Tripoli. Admiral Mullen also explained that the team's medic provided "heroic" lifesaving medical assistance which may have prevented additional fatalities:

Q: Okay. Did the ARB, as part of your inquiry, determine that there was a need to keep the four-man team in Tripoli instead of sending them to Benghazi? Were you able to evaluate their need for being there at all?

A: Well, I think—you know, what General Dempsey said was true in terms of this was about 6:30 in the morning. Had Hicks—or I'm sorry, had Gibson and the other three gotten on an airplane, they would have flown past the plane bringing those who—out of Benghazi, some of whom were wounded. And an untold story here is the heroic efforts of the medic actually on that airport coming from Benghazi to Tripoli, which there are those that believe kept a couple of those wounded alive to get them to Tripoli, which would then allow continued triage to put them on a C-17 pretty rapidly and get them up to Landstuhl. So I say that because the focus of the medical aspect on this and the medic who remained in Tripoli was absolutely critical. That's where the focus was at that time.
I would also add that for Lieutenant Colonel Gibson and for others who either are currently wearing or have worn the uniform, the desire to get out there to help is who we are. So I certainly wasn't surprised that that's what he wanted to do. [50]

Admiral Mullen also added:

Q: And in Tripoli what did the four special operations personnel, what did they do then?

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[49] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[50] *Id.*

A: Well, one, what I thought was in the end a very smart call was they stayed there so that medic could see the people coming off that first, that airplane and provide critical medical assistance.[51]

The four-man team also provided security for Tripoli, which was under uncertain threat that an attack could occur there as well. Admiral Mullen told the Committee that the four-man team represented a significant portion of the remaining security assets capable of guarding American personnel and the U.S. embassy in Tripoli from a possible attack:

Q: The four-person team that we've talked about staying behind in Tripoli, you had mentioned something along the lines of this was Mr. Hicks' only security left or something along those lines. I don't want to put words in your mouth, but can you repeat what you were saying?

A: Well, he has got—he used these individuals most of the night to reposition people out to the Annex, the Annex in Tripoli, and they were the only military members left that could provide any kind of security capability and capacity, and so from my perspective—and what doesn't get much discussion in all this is sort of the backdrop of Tripoli which everybody was concerned about before Benghazi, the Benghazi incident, during it, and after. So from a commander's perspective there's some wisdom in telling him to hold in place until we can kind of sort this out, combined with the fact that by every indication it was over out east and everybody was coming back.

Q: And that was going to be my follow-up question. Was it known that Tripoli wouldn't experience an attack that night?

A: No.

Q: So that was a possibility?

A: Absolutely. And, in fact, I think Mr. Hicks said this in public testimony, and he did not—he waited until sunrise to start to move people around, and to me that's a reflection of the danger that was there at the time.[52]

According to Admiral Mullen, the four-man team in Tripoli spent the "majority of the night" protecting American personnel in Tripoli:

A: One of the things that I think it's important at least from my perspective, and I understood it as we went through this, obviously the report focuses on Benghazi heavily.

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[51] *Id.*

[52] *Id.*

Q: Yeah.

A: But Libya was no cup of tea at the time throughout, and Hicks was very concerned about—because same thing, we didn't know, we didn't know how many, how fast, where they had come from, and in particular this group of four had spent the majority of the night through the morning until about 6:30 helping relocate the American personnel from Tripoli to the Annex. They were also—again, this is my perspective, they were also part about all he had left from a security standpoint there.

Now, you know, I wasn't in on the conversations about all of that, and I accept that Mr. Hicks had a desire to, you know, try to help, as did Colonel Gibson. I mean, you know, I would expect nothing less in that regard. From what I concluded is at that time there was no place to go because they were coming back, and I really think what Dempsey said, General Dempsey said about that is absolutely right, we knew enough at that point to know they were coming out and they would have crossed en route, and I spoke earlier about the critical medical capability that resided in one of those four individuals.[53]

State Department Diplomatic Security officials interviewed by the Committee confirmed Admiral Mullen's observations. For example, during a transcribed interview, the former Principal Deputy Secretary for Diplomatic Security told the Committee that the Diplomatic Security Bureau in Washington believed that Tripoli was a possible target:

Q: The threat information that was coming into the DS center that Tripoli may have been a possible target, how serious was that that night for you guys?

A: It was very serious. I mean, given what had just occurred in Benghazi, what happened earlier in the day, you know, in Cairo, it's something that of course you had to take a look at and say this—you know, of course it was serious.

Q: So there was a genuine worry that Tripoli could be next?

A: Absolutely. Yes.

Q: And that's why the precautions were being taken, I think, that night to—

A: Yes.

Q: —consolidate staff?

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[53] *Id.*

A: Evacuation, consolidation. I can't recall exactly what time the decision was made to bring in the Marine FAST team, but I think maybe the next day that was brought in to Tripoli. So, absolutely.[54]

The Diplomatic Security Desk Officer for Libya, who was in the Diplomatic Security Command Center in Washington, D.C., during the attacks, explained that Department officials were concerned about the safety and security of American personnel in Tripoli:

Q: You said that you were in the command center. The command center was in communication with Tripoli the night of the attack. Were you concerned about Tripoli itself?

A: Yes, very much so. Tripoli also received some threat information. So they were in the process of actually packing up and moving to the annex to co-locate with the all chief of mission personnel there. So while this was going on, they were also trying to coordinate their own evacuation, essentially.

Q: From a DS perspective, how real did you think that threat information was? Or how serious did you think that was?

A: I believed it was serious because now we had seen at least two instances. One very violent. And basically, two of our missions had been breached, one embassy and the mission compound at Benghazi. So it was a significant concern.[55]

The House Armed Services Committee also investigated whether the four-man military team was ordered to "stand down" and rejected the allegation. On June 26, 2013, the House Armed Services Subcommittee on Oversight and Investigations held a classified briefing with General Carter Ham, the former Commander of AFRICOM; Lieutenant Colonel S.E. Gibson, the former commander of the Site Security Team at the U.S. Embassy in Tripoli; and Rear Admiral Brian Losey, the former commander of Special Operations Command-Africa. Following the briefing, that Committee issued the following statement:

> [C]ontrary to news reports, Gibson was not ordered to "stand down" by higher command authorities in response to his understandable desire to lead a group of three other Special Forces soldiers to Benghazi. Rather, he was ordered to remain in Tripoli to defend Americans there in anticipation of possible additional attacks, and to assist the survivors as they returned from Benghazi. Gibson acknowledged that had he deployed to Benghazi he would have left Americans in Tripoli undefended. He also stated that in hindsight, he would not have been able to get to Benghazi in time to make a difference, and as it turned out his medic was needed to provide urgent assistance to survivors once they arrived in

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[54] House Committee on Oversight and Government Reform, Interview of Scott Bultrowicz (July 8, 2013).

[55] House Committee on Oversight and Government Reform, Interview of Brian Papanu (Aug. 8, 2013).

Tripoli.[56]

C. Aircraft Flyovers "Not Realistic" in Benghazi

At the Committee's May 8 hearing, the question was asked why F-16s or other "fast-mover" aircraft were not deployed to Benghazi on the night of the attacks. This question surfaced repeatedly with assertions being made that aircraft—particularly F-16s based in Aviano, Italy—could have arrived in time to either strike or deter the assailants.[57]

In his deposition with the Committee, Ambassador Pickering was asked whether F-16s could have been dispatched to Benghazi in time to have made a difference:

Rep. Connolly:	As you may know, Mr. Ambassador, we had Mr. Hicks before the committee in an open hearing who testified that based on a conversation he had with the military attache in Tripoli that the military response was insufficient and that, in fact, they could have done more, based on Aviano or some other base. Did your—did the ARB look into that?
Amb. Pickering:	Yes, we did. And I was struck, Mr. Connolly, by the fact that Mr. Hicks' testimony contained the answer to his own question when he was told, according to his testimony, by the defense attache, Lieutenant Colonel Keith Porter—I'm not sure I've got the names right—that the aircraft based at Aviano were 2 to 3 hours away, but there was no tanker support for them. Again, I'm not portraying myself as a military expert, but that seems to have been an answer to the question that he posed.[58]

During a hearing before the Senate Armed Services Committee, General Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified that on the night of the attacks, F-16s stationed at Aviano Air Base in Italy could not have been deployed in time:

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[56] House Committee on Armed Services, *Readout of the House Armed Services Committee, Subcommittee on Oversight and Investigations Classified Briefing on Benghazi* (June 26, 2013) (online at http://armedservices.house.gov/index.cfm/press-releases?ContentRecord_id=2da7b67e-088e-462f-93c2-01cab80c562a&ContentType_id=e0c7b822-826f-493d-8cef-1e21aa53e12a&Group_id=12580721-af41-4987-849c-c25b730d096d&YearDisplay=2013).

[57] *See, e.g.,* House Committee on Oversight and Government Reform, *Hearing on Benghazi: Exposing Failure and Recognizing Courage* (May 8, 2013).

[58] House Committee on Oversight and Government Reform, Deposition of Ambassador Thomas R. Pickering (June 4, 2013).

> [I]n order to deploy them it requires the—this was the middle of the night, now. These were not aircraft on strip alert. They're there as part of our commitment to NATO and Europe. So as we looked at the time line, it was pretty clear that it would take up to 20 hours or so to get them there. Second … importantly, it was the wrong tool for the job.[59]

During his transcribed interview with Committee staff, Admiral Mullen was asked directly about this issue:

> Q: So the next section I want to cover is the issue of flying a fast jet over Benghazi. Mr. Hicks also testified that he was frustrated that a fast-mover, such as an F-16, could not have been sent to Benghazi to either engage militarily or do fast flyovers to perhaps scare adversaries. Obviously I think we're all sympathetic with that. I think both sides of the committee certainly understood that we wanted jets there yesterday, I think as our ranking member said. Admiral Mullen, as part of the ARB, did you investigate whether the military could have sent fast-mover assets, such as F-16s, to Benghazi on the night of the attack? And, if so, what did you conclude?
>
> A: We did—we did investigate that. And consistent with what I said previously, it was not realistic to think that we could task fast movers, jets, notionally in Aviano, Italy, 2 to 3 hours' flying time away, without tankers, which were a minimum of 4 hours away in the middle of the night with no previous tasking. So General Dempsey's testimony in February, and I think consistent with what Secretary Panetta said in terms of being able to move forces more rapidly, which we all wanted to do. I am particularly sympathetic to Mr. Hicks' frustration with what he was going through, can we get help now. There's no one I've ever met in the military that wouldn't want to get help there instantly. The physics of it, the reality of it, it just wasn't going to happen for 12 to 20 hours. And I validated that in my review when I went to the Pentagon to look at every single asset that was postured in theater, including those jets in Aviano.
>
> Q: Okay. At a hearing on February 7th, 2013, before the Senate Armed Services Committee, General Martin Dempsey, the current Chairman of the Joint Chiefs of Staff, was asked whether we could have deployed F-16s from Aviano Air Base in Italy. And here is what he said. Quote, For a couple reasons, one is that in order to deploy them it requires the—this is in the middle of the night now. These are not aircraft on strip alert. They are there as part of our commitment to NATO and Europe. And so as we looked at the timeline, it was pretty clear that it would take up to 20 hours or so to get them there. Admiral Mullen, do you agree with General Dempsey's explanation that there was simply not enough time to deploy those assets?

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[59] Senate Committee on Armed Services, *Hearing on Attack on U.S. Facilities in Benghazi, Libya* (Feb. 7, 2013).

A: There was not enough time to deploy the assets, to provide the refueling they would have needed probably twice en route, given once while they are going, and if they're going to have any on-station time, twice, those assets, those refueling assets were further out of reach than the jets in Italy—meaning in Aviano specifically. So it just wasn't realistic. The line of questioning and approach here, for those of us in the military, that we would consider for a second not doing everything we possibly could, it just—it stirs us to our bones, because that's who we are. We don't leave anybody behind. We do support them under all circumstances. That night, middle of the night, it just wasn't—for those assets that may have been able to get there in someone's view, it just wasn't very realistic. What is also unsaid in this is for those kinds of assets, the significant, though administrative issue of asking a country like Libya to come into their air space with combat forces. And those are decisions that have to be made. Obviously, if we had assets available. And the significance of either that being granted or not granted or the ability to even have it granted that night with everything else that was going on in Libya.

Q: And without at all getting into classified space, is there anything you can provide us with that gives a bit more context as to what's required to simply get an asset such as that, such as an F-16 from point A to point B on almost no notice?

A: Well, I think General Dempsey said it in his testimony. You know, there were no jets on strip alert. And strip alert is a readiness to respond level where you condition a military asset to be available in a period of time. And it could be an hour, it could be 4 hours, it could be 12 hours. And all of the people, all of the munitions, all of the missions, all that sort of pre—that's all preplanned. And depending on what your readiness level is or your response time requirement is. So there were none who had any readiness level at all to be able to respond to an attack like this.[60]

Then-Secretary of Defense Leon Panetta also testified before the Senate Armed Services Committee regarding this issue:

> Some have asked why other types of armed aircraft were not dispatched to Benghazi. The reason simply is because armed UAVs, AC–130 gunships, or fixed-wing fighters with the associated tanking—you've got to provide air refueling abilities—armaments—you've got to arm all the weapons before you put them on the planes—targeting and support facilities were not in the vicinity of Libya. And because of the distance, it would have taken at least 9 to 12 hours, if not more, to deploy these forces to Benghazi. This was, pure in simple, in the absence, as I said, of any kind of advance warning, a problem of distance and time. Frankly, even if we were able to get the F–16s or the AC–130s over the target in time, the mission still depends on accurate information about what

[60] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

> targets they're supposed to hit, and we had no forward air controllers there. We had ... no communications with U.S. personnel on the ground. And as a matter of fact, we had no idea where the Ambassador was at that point to be able to kind of conduct any kind of attacks on the ground.[61]

During an appearance on *Face the Nation*, former Secretary of Defense Robert Gates also addressed this issue:

> I listened to the testimony of—both Secretary Panetta and General Dempsey. And—and frankly had I been in the job at the time—I think my decisions would have been just as theirs were. We don't have a ready force standing by in the Middle East. Despite all the turmoil that's going on, with planes on strip alert, troops ready to deploy at a moment's notice. And so getting somebody there in a timely way—would have been very difficult, if not impossible. And frankly, I've heard "Well, why didn't you just fly a fighter jet over and try and scare 'em with the noise or something?" Well, given the number of surface to air missiles that have disappeared from Qaddafi's arsenals, I would not have approved sending an aircraft, a single aircraft—over Benghazi under those circumstances.[62]

During his interview with Committee staff, Admiral Mullen agreed with Secretary Gates' comments:

> If I were to send an asset over Benghazi I'd want to know what the threat is. I—from a standpoint of in particular this is focused—at least from my perspective it's been focused on the second attack, which the event that—the mortar attack which killed two great Americans, Mr. Doherty and Mr. Wood—Mr. Woods. The reality is the likelihood at 2:00 in the morning of—or at 5:00 in the morning in the middle of the night under the cover of darkness, the likelihood that we could have had any effect on very accurate mortar fire set up in a very short period of time for—to be able to deter or take that out is from my perspective near zero.
>
> So I think Secretary Gates' comment about the whole idea, and I think Secretary Panetta said the same thing another way, which is trying to understand the threat base which is what we always do when we send people in. That doesn't imply from my perspective that we would have to wait. It's just you need to understand it. And you need to understand the risks. And there are risks where from my perspective I would—when I was in a position of responsibility I would have taken the risk to send somebody in when there was a surface to air threat I thought I might be able to mitigate and there are times when I wouldn't.[63]

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[61] Senate Committee on Armed Services, *Hearing on Attack on U.S. Facilities in Benghazi, Libya* (Feb. 7. 2013).

[62] *Face the Nation,* CBS News (May 12, 2013).

[63] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

Secretary Gates also explained the importance of understanding the threat environment before deploying forces into a dangerous situation, including ground troops such as special operations forces:

> [W]ith respect to—sending in special forces or a small group of people to try and provide help, based on everything I have read, people really didn't know what was going on in Benghazi contemporaneously. And to send some small number of special forces or other troops in without knowing what the environment is, without knowing what the threat is, without having any intelligence in terms of what is actually going on on the ground, I think, would have been very dangerous. And personally, I would not have approved that because we just don't it's sort of a cartoonish impression of military capabilities and military forces. The one thing that our forces are noted for is planning and preparation before we send people in harm's way. And there just wasn't time to do that.[64]

During his transcribed interview, Admiral Mullen agreed "completely" with Secretary Gates' comments:

> I think—what caught me in his statement there that I think is really important is his comment on "cartoonish." As if it's almost like a PowerPoint slide, you can go from a situation that is very calm to all of a sudden they're all there. There's an extraordinary amount of work that goes into planning and preparation and understanding what you're doing. And going into very risky environments. Not that they wouldn't do that. But that you can somehow do that instantly when you really are completely surprised, that you could generate a force to have that kind of impact is—it's just not reasonable. And it's not my experience in some pretty difficult circumstances over the last several years in two wars plus the war against al Qaeda.[65]

D. Special Forces Team in Europe Could Not Respond in Timely Manner

During an April 30, 2013, television interview, an unidentified individual described as a "military special ops member" asserted that the Defense Department failed to mobilize a special operations team conducting training exercises in Europe to respond to the attacks in Benghazi:

> I know for a fact that C-110, the EUCOM [European Command] CIF [commander's in extremis force] was doing a training exercise not in the region of North Africa, but in Europe, and they had the ability to react and respond.[66]

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[64] *Face the Nation,* CBS News (May 12, 2013).

[65] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[66] *Special Forces Could've Responded to Benghazi Attack,* Whistle-Blower Tells Fox News, Fox News (Apr. 30, 2013) (online at www.foxnews.com/politics/2013/04/30/special-opsbenghazi-whistleblower-tells-fox-news-government-could-have/).

This individual also stated: "They would have been there before the second attack."[67]

Ranking Member Cummings sent a letter to Secretary of Defense Charles Hagel to examine this allegation.[68] In a May 7, 2013 response, the Department of Defense specifically explained:

> [T]he time needed from alerting the CIF to landing at the Benghazi airport is greater than the approximately 7.5 hours between the initiation of the first attack and that of the second one. As such, the time requirements for notification, load, and transit alone prevented the CIF from being at the Annex in time enough to change events. This analysis is consistent with the findings of the Accountability Review Board.[69]

At a June 12, 2013, Senate Budget Committee hearing, General Dempsey testified that "[t]he travel time alone" would have precluded the special forces team in Europe from responding.[70]

During his interview with Committee staff, Admiral Mullen confirmed General Dempsey's statements:

Q: And last week, again, June 12th, General Dempsey testified before the Senate Budget Committee that the EUCOM CIF was on a training mission in Eastern Europe on the night of the Benghazi attack and could not have been in Benghazi within 4 to 6 hours as has been alleged. General Dempsey explained, quote, The travel time alone would have been more than that, and that's if they were sitting on the tarmac. Do you have any reason to disagree with General Dempsey's assessment of the plausibility of the claim that CIF could have been in Benghazi within 4 to 6 hours?

A: I do not.

Q: Does it seem plausible to you that the CIF could be redeployed from a training exercise in Eastern Europe and be on the ground in Benghazi within 4 hours?

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[67] *Special Forces Could've Responded to Benghazi Attack, Whistle-Blower Tells Fox News*, Fox News (Apr. 30, 2013) (online at www.foxnews.com/politics/2013/04/30/special-opsbenghazi-whistleblower-tells-fox-news-government-could-have/).

[68] Letter from Rep. Elijah E. Cummings to Secretary of Defense Charles T. Hagel (May 2, 2013).

[69] Letter from Elizabeth King, Assistant Secretary of Legislative Affairs, Department of Defense, to Rep. Elijah E. Cummings (May 7, 2013).

[70] Senate Committee on Budget, *Hearing on The President's Fiscal Year 2014 Defense Budget Request* (June 12, 2013).

A: It doesn't.

Q: Okay. Well, testifying before the Senate Budget Committee, General Dempsey was questioned as to the CIF's standing order time to deployment at the moment of the Benghazi attack, and he responded with an estimate. General Dempsey said, quote, Given that they were on a training event, it was probably at N plus 6. Can you explain what that means, N plus 6, and do you have any reason to believe that the CIF standing order time to deployment was less than that?

A: Well, I think that General Dempsey's estimate is reasonable, although I don't know specifically what it would be. When you are going to deploy forces, you give them what we call N hour, so that's, you know—and then you are expected to deploy at some period of time after that. So you establish an N hour, and then N plus 3 or N plus 6 or N plus 12 is when you typically deploy. So what General Dempsey is saying there from notification and establishment of that notification hour, let's say for discussion purposes that night it was midnight, they—or it was 2 in the morning, theoretically what he's saying is 6 hours later. But there's an awful lot more that goes into that. They're deployed at the time, they're exercising at the time, their kits are, they're kitted up for entirely different missions, training missions, et cetera. There's a whole lot that goes into how quickly I can move someone.

Q: Okay.

A: And, in fact, my understanding is they moved as rapidly as they could, and they showed up at this base in southern Europe late that afternoon.[71]

Admiral Mullen emphasized that there was a significant movement of U.S. forces on the night of the attacks in Benghazi:

> I think it's important in my experience with two Presidents is that when something like this happens, the Presidents say do everything you possibly can do. And that's all the guidance I need to move forces and certainly with two Secretaries of Defense that I served with that's all the—all the guidance Secretary Gates and Secretary Panetta would need. So we're—and in fact in this situation, it does not seem to be, at least from a public standpoint, widely understood, we moved a lot of forces that night. They don't move instantly. But we had a significant force that was deployed doing other things, Special Operations Force in Europe, in Croatia, which was redeployed to a base in Southern Europe. We had a significant force from the United States which was deployed to a base in Southern Europe. So there were a lot of forces moving. And you make those packages, if you will, as robust as possible because you don't know when it's going to end and you don't know exactly what's going to happen next. And I'm very confident

[71] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

that was done. All of that, while you're trying to put together the picture as rapidly as possible, moving a drone over—a UAV, unarmed UAV over Benghazi as rapidly as possible to give your—give yourself better situational awareness. That was done. You're pulling every single spring you possibly can to find out what's going on, including those forces that are—and this isn't just the Pentagon. This is—I certainly saw this in the State Department. I saw this in the intelligence community. From my review if you will. And you're piecing all that together to try to put together a plan to take whatever the next step is going to be, and it's all happening simultaneously, and from what I could see, it certainly was that night.[72]

[72] *Id.*

III. STATE DEPARTMENT ACTIONS

A. Ambassador Stevens Championed U.S. Presence in Eastern Libya

On April 5, 2011, then-Special Envoy Chris Stevens arrived aboard a cargo container ship in Benghazi in eastern Libya, which served as the cradle to the revolution against the 42-year rule of Muammar Qaddafi. Amidst the uprising, the State Department had suspended operations at its Embassy in the Libyan capital city of Tripoli on February 25, 2011. After Qaddafi fled Tripoli in fall 2011, the State Department re-opened U.S. Embassy Tripoli with limited staff on September 22, 2011.[73] Special Envoy Stevens served in Benghazi from April 2011 until November 17, 2011, when he departed Libya. As a leading expert on Libya, he returned to Tripoli in May 26, 2012, as the U.S. Ambassador. Meanwhile, the Special Mission in Benghazi continued to operate, but with limited, temporary-duty staff.[74]

Numerous State Department officials interviewed by Committee staff acknowledged that Ambassador Stevens championed the U.S. presence in Benghazi and had successfully built a consensus that the U.S. should maintain its presence in eastern Libya. The former Office Director for Maghreb Affairs stated that "there was widespread ... consensus that the mission in Benghazi was very important."[75] This State Department official explained that Ambassador Stevens was a primary advocate of maintaining a presence in the eastern region:

> He thought that Benghazi was a critically important—and the east in general, were critically important components to understanding Libya. ... And he felt it was important on a symbolic level to indicate that the United States was going to stay involved not only in Libya writ large but also in Benghazi and in the east. And then for the other reasons that I mentioned: to have a window into the Islamist extremism that was developing primarily in the east but in other parts of Libya, to have a window into the tribal dynamics, which are very important, more so in the east than in the west.[76]

On September 6, 2011, Ambassador Stevens wrote an e-mail to senior State Department officials articulating the reasons the State Department should continue to maintain a temporary presence in Benghazi while Embassy Tripoli re-opened. In describing the importance of the region, Ambassador Stevens noted that "the revolution began in eastern Libya and the views of these 2 million inhabitants will certainly influence events going forward."[77] He also noted that eastern Libya would continue to play an important role in Libyan governance and politics

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[73] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

[74] *Id.*

[75] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

[76] *Id.*

[77] Email from Special Envoy Chris Stevens to Ambassador Gene Cretz, Elizabeth Dibble, et al., *Thoughts on future of Benghazi* (Sept. 6, 2011).

because "some [Libyan] government agencies may have their headquarters in Benghazi ... Other government agencies/corporations already have their HQ's here."[78] He relayed comments that the U.S. presence in eastern Libya "has a salutary 'calming' effect on easterners who are fearful that the new focus on Tripoli could once again lead to their neglect and exclusion from reconstruction and wealth distribution."[79] He provided an overview of the Benghazi Special Mission Compound and discussed ongoing upgrades and staffing plans.[80] Finally, he recommended a small, continuing presence in Benghazi.[81]

In the Bureau of Near Eastern Affairs, the Principal Deputy Assistant Secretary explained that the opinion of Ambassador Stevens, who she referred to as "one of, if not the premier expert" on Libyan matters, carried significant weight in Washington:

A: Chris Stevens' views weighed heavily into the bureau's decision to request an extension of the mission. Chris argued very eloquently that it was important for the United States to keep in contact with people in the eastern part of Libya, which had been the cradle of the revolution. And given that the leadership of the interim government was primarily from the east and was traveling back and forth between Tripoli and Benghazi and other parts of the east, he felt it was important to maintain those contacts.

Q: And who would have listened to him in the State Department? Would he have had—

A: Everybody.

Q: Everybody? And why is that?

A: And not just in the State Department, in the interagency. You know, the national security staff was very interested in hearing what Chris's views were because he was recognized as one of, if not the premier expert on the current situation in Libya, having served there previously as DCM charge and then having been sent back as envoy during the revolution. And then the intent, which is what happened, was that we were going to nominate him as Ambassador to replace Ambassador Cretz.

Q: And I think you said his opinions carried significant weight.

A: Yes, they did.

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[78] *Id.*

[79] *Id.*

[80] *Id.*

[81] *Id.*

Q: And so he thought it was very important to be in eastern Libya, Benghazi specifically, correct?

A: Yes.

Q: And did that ever change? Did he ever say, you know, I think it's time that we no longer have a presence in—

A: No, not that I'm aware of.

Q: So the reasons for being in eastern Libya, Benghazi, in 2011, it's your view that those would have just carried forward.

A: Yes.[82]

B. Extension of Temporary Benghazi Mission for One Year

On December 27, 2011, Under Secretary for Management Patrick Kennedy approved an action memorandum that extended the Special Mission compound for one year.[83] The Principal Deputy Assistant Secretary for the Bureau of Near Eastern Affairs stated that Ambassador Stevens' views "formed the basis of what eventually became the memo that went up to Pat Kennedy in December recommending that we keep the operation going till the end of 2012."[84] She explained:

Q: And how did that all develop? What was the sequence of events that led up to that memo to Under Secretary Kennedy?

A: Are you talking about the December 27th memo?

Q: Yes. I guess I am trying to understand how that decision was made.

A: We sent—the office in Benghazi had been operating since April of 2011, when Chris Stevens was sent in by steamer, by boat. He was there throughout the summer. Then, when it looked like Tripoli was about to—well, when Tripoli fell and Qadhafi disappeared, the decision was made that we were going to send people back to Tripoli to our embassy. We first sent the DCM, Joan Polaschik, who had been the DCM before. And then Ambassador Gene Cretz went back in

[82] House Committee on Oversight and Government Reform, Interview of Elizabeth Dibble (July 10, 2013).

[83] Department of State, Action Memorandum for Under Secretary Kennedy – M, from Jeffrey Feltman, *Future of Operations in Benghazi*, Libya (Dec. 27, 2011).

[84] House Committee on Oversight and Government Reform, Interview of Elizabeth Dibble (July 10, 2013).

> September to raise the flag and reestablish the embassy. Chris Stevens continued in Benghazi. **And nobody knew Libya better than Chris. And Chris strongly recommended that we maintain a presence in Benghazi** temporarily for a year because the government was just getting on its feet. It was an interim government. It was composed of many representatives from eastern Libya who were sort of the fathers of the revolution. So the east was important, politically. And so I recall an email from Chris shortly before he left laying out the reasons why he thought it was important that we continue to maintain temporarily a presence in Benghazi. And we discussed it within the bureau.[85]

The December 2011 memorandum that approved the extension was reviewed and cleared by State Department bureaus and offices, including the Bureau of Diplomatic Security. The Principal Deputy Assistant Secretary for Near Eastern Affairs explained that each of these bureaus and offices had equities in the decision to extend the mission. She explained that if the Bureau of Diplomatic Security had expressed serious concerns about the memo, that it would not have been approved without further discussion:

> Q: And when we see DS here on the clearance list, to whom does that refer?
>
> A: Diplomatic Security.
>
> Q: Why would they be on this memo?
>
> A: Well, because there is—I think there is an attachment that's missing that sets out the security upgrades and the costs that would be required to make the upgrades, just as OBO, the Office of Overseas Buildings Operations, would have cleared it because it has to do with a facility. You have RM, which is Resource Management, because it has to do with money. You have the A Bureau, the Administrative Bureau. These things usually also go through—at that point we had two deputy secretaries of state—both of their offices. The under secretary for political affairs, that's P. It was cleared by the person who was the acting principal officer in Benghazi at the time. And it was cleared by someone on Under Secretary Kennedy's staff.
>
> Q: And does it go through all these places because this is where the component expertise resides?
>
> A: Yes. It's because they all have equities in this recommendation. And this is an action memo.
>
> Q: Right.

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[85] House Committee on Oversight and Government Reform, Interview of Elizabeth Dibble (July 10, 2013) (emphasis added).

A: So when Under Secretary Kennedy or whoever is the recipient of an action memo gets a memo, he or she wants to know that everybody, all the offices that have equities in this are okay with it.

Q: So if DS had a major concern about the security aspects raised in this memo, is the process such that they could say, okay, I'm not going to sign this?

A: Yes.

Q: And they have a right of refusal to either resolve the issue or discuss the issue or do something to rectify what their concerns are—

A: Yes.

Q: —prior to it being signed?

A: Yes.[86]

Under Secretary Kennedy's Special Assistant, who reviewed the December 2011 memo and ensured that all information was complete before its submission, explained the clearance process within the Department:

> But when the names are listed, as they are here, that means that this person has read it and is okay with the information and has cleared on it. Whether or not somebody from—anybody else has seen it or has approved it, that is really not something I can speak to. It really depends on the offices, and it depends on the action memo. So, for example, there might be some offices that say "I need further input before I can clear something" and they might discuss it with other people in their office in order to provide a more informed sort of decision and then clearance.[87]

When asked about the Bureau of Diplomatic Security's signature on the December 2011 memo, the Executive Director of the State Department's Bureau of Near Eastern Affairs stated:

Q: So if I see DS there, it means that DS examined this from a security perspective? Is that what that means?

A: That's what it means.

Q: All right. What if DS decided that this was something that they didn't think we should do because the security risks were too high? What would happen?

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[86] House Committee on Oversight and Government Reform, Interview of Elizabeth Dibble (July 10, 2013).

[87] House Committee on Oversight and Government Reform, Interview of Erfana Dar (Oct. 25, 2012).

A: There are two—well, the way that it works is that if one of the principal bureaus—and particularly Diplomatic Security with regard to this memo, because Diplomatic Security works with the Under Secretary for Management—if they disagreed and they wouldn't clear on it, we couldn't actually have sent it forward. Because the Under Secretary for Management would push back and say, you need to get this cleared. Or, alternatively, you need to provide a split memo. If you have a different view, then that needs to be detailed here. It's called a split memo.

Q: Is that almost like dissenting views?

A: Yes.[88]

C. Temporary Nature of Mission Led to Physical Security Challenges

The ARB found that the temporary nature of the Special Mission Compound led to certain security challenges. As a temporary facility, the compound was not covered by physical security standards and statutory security requirements:

> Another key driver behind the weak security platform in Benghazi was the decision to treat Benghazi as a temporary, residential facility, not officially notified to the host government, even though it was also a full time office facility. This resulted in the Special Mission compound being excepted from office facility standards and accountability under the Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA) and the Overseas Security Policy Board (OSPB). Benghazi's initial platform in November 2011 was far short of OSPB standards and remained so even in September 2012, despite multiple field-expedient upgrades funded by DS. (As a temporary, residential facility, SMC was not eligible for OBO-funded security upgrades.) A comprehensive upgrade and risk-mitigation plan did not exist, nor was a comprehensive security review conducted by Washington for Benghazi in 2012. The unique circumstances surrounding the creation of the mission in Benghazi as a temporary mission outside the realm of permanent diplomatic posts resulted in significant disconnects and support gaps.[89]

Ambassador Eric Boswell, the former Assistant Secretary for Diplomatic Security and chair of the interagency Overseas Security Policy Board, confirmed that the temporary nature of the Special Mission Compound meant that security standards and statutory requirements did not apply to this facility:

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[88] House Committee on Oversight and Government Reform, Interview of Lee Lohman (July 30, 2013).

[89] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

Q: And just to be as clear as possible on this, there seems to be some lingering confusion about whether waivers or exceptions were required or sought in the case of Special Mission Benghazi. In your view, neither an exception to OSPB or a waiver to SECCA requirements was required?

A: I never received a request for a waiver, and so—and I did not believe that OSPB standards—a waiver was or an exception—exception is the term of art—for OSPB standards. An exception, formal exception would be required.

Q: So you didn't believe that an exception would be required for OSPB standards?

A: Right.

Q: And the SECCA requirements?

A: Didn't apply.

Q: Didn't apply.

A: Not a newly acquired, newly constructed embassy or consulate.

Q: Sorry to belabor the point, Ambassador.

A: Sure.

Q: Then a waiver was not necessary?

A: A waiver was not necessary.[90]

Consistent with the ARB's finding, Ambassador Boswell explained that "SECCA and OSPB apply to permanent facilities that are notified to the host country government."[91] Such a notification never occurred with the Special Mission Compound.[92]

According to the ARB, the Special Mission Compound was not eligible for Overseas Building Operations-funded security upgrades because it was a temporary facility. Although it noted that certain security upgrades were provided during 2012, the ARB observed that "Benghazi was also severely under-resourced with regard to certain needed security equipment."

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[90] House Committee on Oversight and Government Reform, Interview of Eric Boswell (July 9, 2013).

[91] *Id.*

[92] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

Overall, the ARB found that "[g]iven the threat environment, the physical security platform in Benghazi was inadequate."[93]

D. Temporary Nature of Mission Led to Security Personnel Challenges

The ARB also found that the temporary nature of the mission led to short-term deployments and turnover of security personnel, or security staffing "churn":

> The Board found the short-term, transitory nature of Benghazi's staffing to be another primary driver behind the inadequate security platform in Benghazi. Staffing was at times woefully insufficient considering post's security posture and high risk, high threat environment. The end result was a lack of institutional knowledge and mission capacity which could not be overcome by talent and hard work alone, although the Board found ample evidence of both in those who served there. The situation was exacerbated by the lack of Locally Employed Staff (LES) who would normally provide a backstop of continuity, local knowledge, and language ability. This staffing "churn" had significant detrimental effects on the post's ability to assess adequately both the political and security environment, as well as to provide the necessary advocacy and follow-through on major, essential security upgrades.[94]

Individuals interviewed by Committee staff agreed that temporary deployments and personnel turnover were an ongoing challenge. The Diplomatic Security Desk Officer for Libya, for example, stated that the post could only take volunteers for security deployments, and that "everything that was provided to it had to come from somewhere else, someplace that something was already allotted to essentially."[95] He said:

> A: As a temporary mission, there was no allotted agents or a pool of agents which just—there were no full-time positions we could send to Benghazi. So we had to draw from a pool of resources. We sent only high-threat-qualified agents. That pool was also being utilized in other areas of the world, including Iraq, Afghanistan, Pakistan, Yemen. During this time frame, it was the backdrop of what was the Arab Spring, which was, you know, in recent history, at least, it's an unprecedented time of political upheaval, which has caused numerous posts within NEA to actually go close, order departures, and have numerous security issues.
>
> Q: So was this then a fairly shallow pool from which you could pull these resources at that point in time?

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[93] *Id.*

[94] *Id.*

[95] House Committee on Oversight and Government Reform, Interview of Brian Papanu (Aug. 8, 2013).

A: Yes. Relatively speaking. I mean, compared to all the agents that work with DS, it's a much smaller pool. Less than half.

Q: So resources were an issue then?

A: Yes, I would say so.[96]

E. Decisions Made by Deputy Assistant Secretary in Bureau of Diplomatic Security

In addition to finding that Special Mission Benghazi lacked adequate security staffing on the night of the attacks and in the period leading up the attacks, the ARB concluded that this shortfall occurred despite multiple requests for additional personnel from the post:

> Overall, the number of Bureau of Diplomatic Security (DS) security staff in Benghazi on the day of the attack and in the months and weeks leading up to it was inadequate, despite repeated requests from Special Mission Benghazi and Embassy Tripoli for additional staffing. Board members found a pervasive realization among personnel who served in Benghazi that the Special Mission was not a high priority for Washington when it came to security-related requests, especially those relating to staffing.[97]

The ARB explained that the level of five Diplomatic Security Agents was initially projected for the Special Mission Compound, but that the post achieved this level for only 23 days during 2012:

> The Board determined that DS staffing levels in Benghazi after Embassy Tripoli re-opened were inadequate, decreasing significantly after then-Special Envoy Stevens' departure in November 2011. Although a full complement of five DS agents for Benghazi was initially projected, and later requested multiple times, Special Mission Benghazi achieved a level of five DS agents (not counting DoD provided TDY Site Security Team personnel sent by Embassy Tripoli) for only 23 days between January 1-September 9, 2012. As it became clear that DS would not provide a steady complement of five TDY DS agents to Benghazi, expectations on the ground were lowered by the daunting task of gaining approvals and the reality of an ever-shifting DS personnel platform. From discussions with former Benghazi-based staff, Board members concluded that the persistence of DS leadership in Washington in refusing to provide a steady platform of four to five DS agents created a resignation on the part of post about asking for more. The TDY DS agents resorted to doing the best they could with the limited resources provided.[98]

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[96] *Id.*

[97] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

[98] *Id.*

Consistent with the ARB, the Committee identified multiple requests for additional security personnel in Benghazi. State Department officials told Committee staff that, despite these requests, Charlene Lamb, Deputy Assistant Secretary for International Programs within the Bureau of Diplomatic Security, decided in February 2012 to provide only three Diplomatic Security Agents to Benghazi. According to the Diplomatic Security Desk Officer, Deputy Assistant Secretary Lamb reportedly made this decision because she felt that Diplomatic Security Agents were being inappropriately used as drivers, a role that local staff could fill:

Q: Let me ask a question regarding that February period where DAS Lamb discovers that there are two DS agents being used as a driver as opposed to I guess conducting themselves as DS agents for movements or whatever their duties would require. I think you had mentioned that—at that point in time sets the number of five down to three? Is that what you said, something along those lines?

A: That's correct. In conversations with—I don't recall exactly. It was around that time frame. But I definitely remember the meeting with DCM Polaschik, where it was set as three as far as, you know, DAS Lamb was my superior and my boss' superior. So when she said it was three, that's the number we tried to attain. And it was more of a program management is what we traditionally do in DS/IP, vice, hard skills, such as driving, which we would do doing protection but not overseas.

Q: And did you ask her why three? Or did you query her further about, okay, we thought it was going to be five or they're asking for five, but now you are saying three. Why three? Did you query her about that?

A: It was very clear to me that—from the conversations we had, that the prime reason that was made evident to me was the driving issue. And that is standard practice through the vast majority of the world is that LES or FSNs provide the drivers for the mission.

Q: But DAS Lamb then said, okay, so now we're only going to provide three?

A: She told me the number to provide was three.

Q: And how far into the future does that directive carry her?

A: That carried her right until I received word otherwise, which I never did. So three was the number that I always tried to obtain officially. As far as I was concerned, three.

Q: So, from your perspective, it was your marching orders given to you by DAS Lamb that three was the number of agents that you were to try to supply—

A: Yes.

Q: —to post.

A: Clearly, around the February 15, 16 time frame, that was made evidently clear to me.

Q: And when you say "evidently clear," she had a conversation with you?

A: Yes. We spoke about it, not just with me directly but with my supervisor as well.

Q: Was she emphatic about it?

A: That was the number she wanted, yes.

Q: And what about once post got LES drivers?

A: Which they did eventually. I believe in April, they started to get drivers. One TDY driver, for sure, went to Benghazi. And I know they hired two. At one point, I think one ended up leaving or something. But it remained at three, like I said, from February 15 until September 11.[99]

Following a series of attacks against Western interests in June 2012, the Regional Security Officer in Libya, Diplomatic Security Desk Officer, and the Diplomatic Security Regional Director drafted and submitted a memorandum requesting five Diplomatic Security Agents for Benghazi, but Deputy Assistant Secretary Lamb did not approve the request. The Desk Officer described the process:

A: It was approved by my direct supervisors, and then it was upstairs for a while. And we didn't hear anything. We felt it urgent enough, my supervisor scheduled a meeting with DAS Lamb, and in the meeting with DAS Lamb, essentially the long and short of it, the memo was denied for additional resources, personnel-wise.

Q: Can you walk us through that in a little more detail? How long was it upstairs? So your immediate supervisor, that would be Mr. Bacigalupo?

A: At that time it was James Bacigalupo, correct.

Q: So he approved this action memorandum, and then it would go to Charlene Lamb. Is that correct?

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[99] House Committee on Oversight and Government Reform, Interview of Brian Papanu (Aug. 8, 2013).

A: It went to—I know it was in—I don't know where it went in between. Probably to her staff assistants or the deputy prior to her. But it definitely made it to her because that's who we had the meeting with.

Q: And how long was it up there before the meeting?

A: I think the memo actually didn't get sent up until after the incident with the UK protective detail, so it was probably mid-June, June 15th, I believe, the date on the memo. So I think it was late that week. Maybe June 18th. I can't recall it specifically.

Q: Okay. And what is your recollection of that meeting? Or why was it denied?

A: Well, I mean, by the memo, I thought it was pretty clear. I had outlined the anti-Western attacks. My feelings, along with the RSO's—and both RSOs opposed, and my superiors, we tried to advocate for additional security resources. It was denied. It wasn't outright denied. It was—she wanted to know specifically what programs that the additional agents would be working on.

Q: And so what was the response to that when she—was there an effort to justify the additional agents or—

A: Yes.

Q: And can you explain?

A: Certainly. I reached back to the RSO in Benghazi, and I told them the response that we had received from DAS Lamb and asked them to come up with what he would be doing, you know, what these agents would be—what programs they would be running. So he generated a list of items. The focus turned toward—after that, the focus turned toward physical security measures that could be implemented to help ease the workload of the agents that were already out there.

Q: I'm sorry. But given that there has been an attack on the consul, on the post, did you find it odd that the response from the requests—the recommendations for more agents—that the response back was, one of the programs—I mean, at least from my perspective, one of the programs, we would be protecting the compound. I mean, did you have any thoughts about that?

A: Obviously, I thought it should have been accepted. That's why I wrote it and sent it up.

Q: Sure.

A: I mean, I stand by the memo as it's written.[100]

Admiral Mullen explained that the responsibility to provide the required number of security personnel established in the December 2011 action memo fell to the Bureau of Diplomatic Security:

> Under Secretary Kennedy signed out the memo extending Benghazi from December of '11 to December of '12. And in that memo there were—there was a—in particular an area of focus with respect to number of RSOs that needed to be out in Benghazi. After that, and he may have been, but after that, I didn't see any—you know, I didn't see his involvement from a security standpoint, per se, in any significant way. Did he have broad responsibility? Yes. But there was a tremendous dependence on Ms. Lamb and DS to take care of this.[101]

Former Deputy Assistant Secretary Lamb testified at the Committee's October 10, 2012, hearing on the Benghazi attacks. When questioned about requests for additional security staffing from post, she explained that she responded by asking post for a "serious assessment of the numbers that were needed there."[102] Regarding the security staffing on the night of the attacks, she also testified: "we had the correct number of assets in Benghazi at the time of 9/11 for what had been agreed upon."[103]

During the hearing, Ms. Lamb was asked if budgetary considerations were a factor in the Department's decision not to increase security personnel in Benghazi. She responded:

> [T]his was an unprecedented attack in size and ferocity, as the words of RSO Eric Nordstrom. And as long as we have the need to be outside of the wire in these volatile countries, we can't defend against that.[104]

Admiral Mullen explained that the Bureau of Diplomatic Security and the Deputy Assistant Secretary, in particular, did not provide adequate security personnel despite repeated requests:

> [T]here was a very clear commitment for another 12 months, security needed to be provided, specifics of how many agents in Benghazi specifically. Then it falls back on to Deputy Assistant Secretary Lamb, who actually didn't see the memo, wasn't aware of it, as I recall, until after September 11th or 12th, after the 12th, which was kind of a

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[100] *Id.*

[101] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[102] House Committee on Oversight and Government Reform, *Hearing on the Security Failures of Benghazi* (Oct. 10, 2012).

[103] *Id.*

[104] *Id.*

stunning revelation. I think Mr. Nordstrom at one point in time forwarded some recommendations for security improvements in January, attaching that memo to it. He wasn't happy that the memo had actually been signed out, and he didn't know anything about it as the RSO in Libya. So, I mean, it gave, from one perspective it gave pretty clear direction, we're committed out here, and you need to make sure we're okay. That then all goes back, from my perspective, on to Mr. Boswell and Ms. Lamb's lap in terms of making sure security is all right, and yet it was, in fact, over the next many months that she fought it, didn't resource it, bureaucratically didn't answer, made it incredibly difficult on those who were trying to improve the security to achieve any kind of outcome they deemed favorable, and she just beat them down over time.[105]

F. Secretary Clinton Did Not Personally Sign Cable Authorizing Security Reductions

On April 23, 2013, the Chairmen of the House Committees on Oversight and Government Reform, Armed Services, Foreign Affairs, the Judiciary, and Intelligence, released a report that alleged that former Secretary Clinton signed a cable scaling back security personnel for U.S. diplomatic facilities in Libya in response to requests for additional security.[106] The Republican report stated: "On March 28, 2012, Ambassador Cretz sends a cable to Secretary Clinton requesting additional security assets."[107]

The report then stated:

> On April 19, 2012, the response cable from the Department of State to Embassy Tripoli, bearing Secretary Clinton's signature, acknowledges Ambassador Cretz's request for additional security but instead articulates a plan to scale back security assets for the U.S. Mission in Libya, including the Benghazi Mission.[108]

As part of its investigation, the Committee has now obtained a copy of the cable at issue. Like millions of other cables sent from the State Department, it bears a pro forma stamp with the Secretary's name. The April 19, 2012, cable shows communications between Embassy Tripoli and Bureau of Diplomatic Security's Office of International Programs (DS/IP). The cable reads: "DS/IP acknowledges post's requests."[109] At the time the cable was sent, the official directly

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[105] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[106] Majority, House Committees on Oversight and Government Reform, Armed Services, Foreign Affairs, the Judiciary, and Intelligence, *Interim Progress Report for the Members of the House Republican Conference on the Events Surrounding the September 11, 2012 Terrorist Attacks in Benghazi, Libya* (Apr. 23, 2013).

[107] *Id.*

[108] *Id.*

[109] Department of State, 12 STATE 38939 (Apr. 19, 2012).

responsible for DS/IP was then-Deputy Assistant Secretary Lamb, whom the ARB and the minority have confirmed played a key role in making security decisions.

During an appearance on Fox News' *Fox and Friends* on April 24, 2013, Chairman Issa again made the accusation that Secretary Clinton was personally responsible for security reductions in Benghazi:

> [The] Secretary of State was just wrong. She said she did not participate in this, and yet only a few months before the attack she outright denied security in her signature in a cable [in] April 2012.[110]

The *Washington Post* Fact Checker gave Chairman Issa "Four Pinocchios" for this accusation:

> Issa has no basis or evidence to show that Clinton had anything to do with this cable—any more than she personally approved a cable on proper e-mail etiquette. The odds are extremely long that Clinton ever saw or approved this memo, giving us confidence that his inflammatory and reckless language qualifies as a 'whopper.'[111]

Regarding the significance of Secretary Clinton's signature on the April 19, 2012 cable, Richard Shinnick, a member of the Accountability Review Board and veteran State Department official, added:

> Every single cable going out is signed 'Clinton,' it is the normal procedure. Millions of cables come into the operation center every year, not thousands, millions. And they are all addressed Hillary Clinton. So you can make a story that Hillary saw a cable and didn't act on it or sent a cable out; it's all bullsh*t, it's all total bullsh*t. I can't be any clearer than that.[112]

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[110] *Fox and Friends*, Fox News (Apr. 24, 2013).

[111] *Issa's Absurd Claim That Clinton's 'Signature' Means She Personally Approved It*, Washington Post (Apr. 26, 2013).

[112] *Benghazi Review Panel Member: Fox-Promoted GOP Claims Against Clinton Are 'Total Bullsh*t,'* Media Matters (Apr. 25, 2013).

IV. TALKING POINTS

Republicans have accused the President and other Administration officials of deliberately misleading the American people and engaging in a cover-up, citing in particular talking points used by Ambassador Susan Rice during her appearance on Sunday news shows on September 16, 2013. Chairman Issa stated that "the American public was deliberately misled,"[113] and that "Ambassador Rice outright read off of talking points that had to be knowingly false."[114] Rep. Rohrabacher alleged: "What is clear is that this administration, including the president himself, has intentionally misinformed, read that LIED, to the American people in the aftermath of this tragedy."[115] Senator Inhofe stated that this was the "most egregious cover-up in American history."[116]

After interviewing multiple officials involved in the immediate response to the attacks in Benghazi and the drafting of the talking points, the Committee has identified no evidence whatsoever to support accusations that the talking points were drafted or altered in order to mislead the American people. To the contrary, during their transcribed interviews with Committee staff, numerous officials described the days before and after the attacks as an intensely dangerous, complex, and confusing week of protests and other violent episodes at U.S. facilities around the world.

A. Developed by Intelligence Community

In May 2013, the White House released 100 pages of e-mails that demonstrate that talking points used by Ambassador Susan Rice on the Sunday talk shows were prepared by the Intelligence Community based on its best assessments at the time in response to a Congressional request for information to share with media.[117]

Victoria Nuland, the former State Department spokesperson, explained during her transcribed interview with Committee staff the process of developing the talking points:

> Q: Now, turning to a different phrase, does the phrase "demonstrations in Benghazi were spontaneously inspired" appear in this version of the talking points, again, in the first bullet?
>
> A: It does.

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[113] *CBS Evening News*, CBS (May 6, 2013).

[114] *Darrell Issa on Benghazi and the IRS*, HughHewett (Aug. 7, 2013).

[115] *Benghazi Hearing Turns Ugly: Republicans Accuse Obama of Lying, Dems Fire Back*, NBC News (Nov. 15, 2012).

[116] *GOP Sen. Inhofe: Obama Could Be Impeached over Benghazi 'Cover-up,'* The Hill (May 10, 2013).

[117] *See, e.g., White House Releases Benghazi E-mails*, CNN (May 16, 2013) (online at www.cnn.com/2013/05/15/politics/benghazi-emails/index.html).

Q: Thank you. Did you or anyone at the State Department to your knowledge insert the phrase "demonstrations in Benghazi were spontaneously inspired" or request that this phrase be used in the talking points?

A: We did not.

Q: Based on your understanding of the facts and circumstances of the events in Benghazi at this time, was there anything factually inaccurate about including this phrase?

A: Again, I wasn't sure personally, one way or the other, whether what had transpired outside the gates could or could not be called a demonstration. Frankly, that evening I assumed that if the CIA was writing this this way, that they had confirmed that there had been demonstrations.

Q: Turning to a different phrase, does the phrase "violent demonstrations" appear in this version of the talking points, focusing now on the second bullet?

A: Yes.

Q: Did you or anyone in the State Department, to your knowledge, insert this phrase or request that this phrase be used in the talking points?

A: I did not.

Q: Based on your understanding of the facts and circumstances of the events in Benghazi at this time, was there anything factually inaccurate about including this phrase?

A: Again, I wasn't aware of any information, at that point, that would have necessarily contradicted this. I assumed that in writing it, the CIA had facts to back it up.[118]

Ambassador Nuland also explained the role played by the White House during the development of the talking points:

> On this chain of talking points, the White House, the National Security staff, did not develop the contents. In fact, it was rarely the case that the NSS developed the content. In this case, the CIA developed the content. The NSS staff, as I saw it, were endeavoring to ensure that the equities of all the relevant agencies in the process were respected, that the talking points were complete, that they were consistent, that they

[118] House Committee on Oversight and Government Reform, Interview of Victoria Nuland (Aug. 28, 2013).

were accurate.[119]

Jake Sullivan, the former Director of Policy Planning at the State Department, agreed with Ambassador Nuland's description of this process:

A: The role of the White House was simply to coordinate a clearance process in which each of the agencies that had some role or interest reflected in the points got a chance to weigh in.

Q: Okay. And to your knowledge, during this process, did the White House, did the White House officials, did they, in your view, unfairly weigh in on behalf of any single official or agency?

A: No.

Q: In your view, did they generally run a fair process?

A: In my view, yes, it is all laid out in the emails. I think the process was entirely fair and geared towards ensuring that everyone's voices were heard and that the end product was appropriate.[120]

Mr. Sullivan also rejected accusations that the talking points had been doctored by the White House to mislead the American people:

Q: Mr. Sullivan, to your knowledge, was the process of developing or editing talking points a part of an effort to mislead Congress and the American people?

A: Absolutely not.

Q: Based on what you observed, was the process of developing the talking points focused more on unfairly protecting the reputation and credibility of the State Department than on explaining to the American people the facts surrounding the fatal attacks on U.S. diplomatic facilities and personnel in Libya?

A: No.

Q: To your knowledge, did White House officials direct that talking points be changed to protect the reputation of the State Department?

A: No.

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[119] *Id.*

[120] House Committee on Oversight and Government Reform, Interview of Jacob Sullivan (Sept. 12, 2013).

Q: To your knowledge, did the administration deliberately remove references to al Qaeda linked groups and previous attacks in Benghazi as part of an effort to protect the State Department?

A: No.

Q: To your knowledge, did White House officials direct that the talking points be changed out of desire to dismiss the continued threat posed by extremist groups in the region?

A: No.[121]

B. Rapidly Unfolding Events Led to Confusion and Uncertainty

During his transcribed interview with Committee staff, the former Office Director for Maghreb Affairs stated that there was significant uncertainty about what occurred in Benghazi:

Q: After the statements made by Ambassador Rice, you had some visibility into the disagreements in the process leading up. What was your reaction to the statements that were ultimately made on the Sunday talk shows?

A: I think that the first week after 9/11 there was significant uncertainty about what had happened and disagreement among key people who shaped opinion. And I don't mean people with ideas. I mean people with information. There was a disagreement about what had happened.[122]

The Office Director added that the unrest and demonstrations occurring across the Middle East and North Africa contemporaneously and shortly after the attacks in Benghazi "colored" the view of the attacks and delayed the ability of the U.S. Government to obtain the "ground truth":

Q: And so the attack in Cairo, would it be safe to say that it from a time perspective bleeds right into the Benghazi attack?

A: Yes, it was in the same timeframe, and to a certain degree it colored in the initial few days, it colored how people looked at that attack.

Q: And what do you mean colored?

A: Because it was the first, and there was incomplete and sort of changing

[121] *Id.*

[122] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

information about what had happened in Benghazi. You had this other thing that happened in Cairo, and there was some confusion about have you had—was this the same thing, were these two incidents the same, were they different? The interagency was trying to sort that out. They were also trying to sort out the conflicting information from Benghazi itself.

Q: And immediately following the Benghazi incident, were there other incidents at other posts around the world?

A: There were. There were incidents in Sudan, in Pakistan.

Q: Can you give me some timeframes and dates? Was this months later or—

A: No, no, this was in the same—this was the week. I'm talking about the week from September 11 through, you know, 18 or 19.

Q: So all in the same week?

A: Yeah.

Q: And what was the basis for the other incidents at the other facilities?

A: They were protesting this film, this anti-Islam film.

Q: So would it be reasonable, then, if there are disagreements within the agency or within different departments or agencies at the U.S. Federal Government level that it would be hard to sort of tease out the root cause of one incident versus another?

A: I think it made it more difficult, and it probably slowed our getting to ground truth on Benghazi, absolutely.[123]

The Office Director stated that he heard from Gregory Hicks, then-Deputy Chief of Mission, that there were no protests outside the Special Mission Compound. The Office Director also said, however, that there was a "legitimate disagreement" between agencies over what occurred in Benghazi that lasted for nearly a week after the attacks:

Q: In those initial days, that first week after the attack, did you—were you involved in any discussion or did you have any awareness of a protest prior to the attack or that it was a result of a protest? Was that something you were familiar with?

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[123] *Id.*

A: What we learned from Greg Hicks, who talked to a range of people at the mission, was that there was not a protest or that people on the ground had not been aware of one.

Q: When did you learn that?

A: The day after. That would have been September the 12th. But there was disagreement in the interagency about what had happened, and people—I mean, on the intelligence side—disagreed about what had taken place, and that played itself out over 5 or 6 days or even a week after September 11th.

Q: Were you involved in those discussions at all?

A: I heard some of them.

Q: How would you have come to that? How would you have heard them? Were you part of SVTS or—

A: Yes.

Q: Okay. And did you convey—did you or somebody in your chain of command or from the State Department convey in that setting that this is what we're hearing from the people on the ground?

A: I don't remember. I think so from somebody.

Q: And do you recall who that would have been at that point in time?

A: I don't recall specifically, but the two points of view were thoroughly aired.

Q: But it was clear to you from people on the ground within a day that there had—the report from the people on the ground was that there was no protest?

A: Like I said, there was a dispute among people who were looking very carefully at all of the evidence on the ground, and there was a legitimate disagreement about what had sort of been the precursor to the attack.[124]

The Office Director explained that the disagreements over what events immediately preceded the attacks lasted for several days:

Q: There was also a discussion about the night of the attacks, and you had made reference to the fact that there was some agency disagreement as to the basis or the predicate for those attacks. Is that correct?

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[124] *Id.*

A: Yes.

Q: Okay. And how long did that last within the agency?

A: Six to 7 days.

Q: Okay. Would you characterize those disagreements as honest disagreements?

A: Yes.

Q: Were these people that you respected and are they generally well informed of global security or geopolitical issues?

A: Yes, they were the experts.

Q: And so if there was disagreement, in your opinion, that disagreement could be legitimate in that there was a basis for it?

A: Yes, absolutely.

Q: Okay. Was there also disagreement within differing agencies as to the basis for the attacks?

A: Yes.[125]

During his interview with Committee staff, Ambassador Boswell, the former Assistant Secretary of Diplomatic Security, stated:

Q: In those immediate days when you were dealing with a lot of major issues going on, was there any specific understanding that what had happened in Benghazi was tied to the YouTube video or to what happened in Cairo?

A: I knew only what the press was—I had no other knowledge of what was going on. To this day I don't think the USG—and we'll know when the FBI finally comes out with its report and investigation—but to this day I don't think we have a good fix as the USG on what exactly caused that attack or was motivating that attack.[126]

The Principal Deputy Assistant Secretary for Diplomatic Security stated that U.S. Government officials did not then and still today may not know exactly what occurred prior to

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[125] *Id.*

[126] House Committee on Oversight and Government Reform, Interview of Eric Boswell (July 9, 2013).

the attacks in Benghazi:

> You know, at that time, I think people still didn't know what was going on. I mean, I don't say you can definitively at that point even say what you knew what was—maybe not immediately outside of the compound, but you don't know what was happening a half a kilometer before that. So you know, again, that was something that I didn't involve myself in, and obviously, folks had access to much more information than I had. I mean, I had sort of realtime ground information, you know, not a lot of what else—other background information, or intelligence that people may have been using.[127]

C. Numerous Attacks in Region Complicated Assessment of Benghazi

During transcribed interviews with Committee staff, numerous officials described the week of the attacks on Benghazi as an intensely dangerous, complex, and confusing week of protests and other violent episodes at U.S. facilities around the world.

Eric Boswell, the Assistant Secretary of Diplomatic Security, who was on travel on September 11, 2012, described a multitude of events threatening U.S. posts around the world:

> I had to get briefed on what was—on what had been happening, what the state of play was not only in Benghazi, but in Tripoli. We were very concerned about Tripoli. Tripoli is an embassy that in some ways is similar to Benghazi … just like Benghazi. So we were very concerned about Tripoli.
>
> But also things were starting to go haywire in other places. This was at the time, as you will recall, of what I call the odious video, the YouTube video, the blasphemous video that had led to—I believe had led to the original demonstration in Cairo where people came over the wall.
>
> I think it was the day after I got back, we had an attack on our embassy in Sana'a, Yemen, where demonstrators penetrated the perimeter, did a great deal of damage, milled around inside the compound, and in subsequent days there were other such demonstrations. So I had my hands full.
>
> We had a near invasion of a compound in Khartoum, Sudan, where very large—thousands of demonstrators—in each case there was thousands of demonstrators—saw thousands of demonstrators came up against the wall of this brand new mission, OSPB-compliant, SECCA-compliant, compliant-with-everything mission in Khartoum and tried very hard to get in. They did a lot of damage, but they didn't get in.
>
> Similarly, and I can't tell you exactly the date, I'd have to come back to you on that,

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[127] House Committee on Oversight and Government Reform, Interview of Scott Bultrowicz (July 8, 2013).

> but it was very soon there was a similar attack by a mob on our embassy in Tunis, another brand new facility. A large number of demonstrators penetrated into the—into the facility, milled around, did a lot of damage. It was a very alarming time.
>
> In the end, in all of those places, the systems that we had put in place to protect our people—and I want to underline this—the systems that we put in place to protect our people succeeded. It was a near-run thing, but it succeeded. There were no American casualties in any of those. They were very, very severe attacks on our missions.
>
> I can add that there were also enormous demonstrations in Pakistan. I don't want to undersell Pakistan in any of this. It was an area of great concern. I've said in the past and to you that I thought Peshawar was our most difficult mission in the Foreign Service. There were major demonstrations by tens of thousands of people against consulates in Karachi, in Lahore, and our embassy in Islamabad. The Embassy—the demonstration against our embassy in Islamabad by one count was 80,000 people. That focuses the attention when that happens.[128]

During his transcribed interview with the Committee, Jake Sullivan, then-Director of Policy Planning at the State Department, stated that the information included in the talking points was consistent with what the Intelligence Community had been providing to the State Department during the week after the attacks:

> Q: And were these other attacks occurring days after the Benghazi attacks? Was it all within that 1 week?
>
> A: Everything that I've just described happened before Saturday, September 15th. Between September 11th and September 15th.
>
> Q: So, is this a confusing period at the State Department in terms of trying to understand motivation?
>
> A: It was a relentless period in which we were being bombarded by security challenges, not just in the region, but in other parts of the world, related to these protests at our embassies, and our focus was minute to minute trying to protect our personnel.
>
> Q: What about the motivations for these attacks? Was—was it difficult to tease out what was causing one from another, given that they were so closely occurring?
>
> A: Well, the common factor across nearly all of these protests in several different countries around the world was the video cited by the protesters, cited by the

[128] House Committee on Oversight and Government Reform, Interview of Eric Boswell (July 9, 2013).

people supporting the protesters, cited by those who were attacking our facilities in Tunis, in Cairo, in Khartoum, in Sana'a. So that was a very present factor for us over the course of that week, and U.S. officials at all levels were speaking publicly to it. Every major media organization in America and around the world was heavily focused on the role that the video played and the wide variety of attacks and protests taking place.

Q: And one final question: What was the Intelligence Community telling the State Department throughout that week?

A: Well, I don't want to get into classified information, but what I can say is that the information captured in the HPSCI talking points was completely consistent with what the Intelligence Community was telling the State Department that week.[129]

The Diplomatic Security Desk Officer in the Command Center on the night of the attack also addressed the confusion during this week:

Q: A minute ago, you testified that it was unprecedented in scope. There were a lot of armed individuals. Was that something that was communicated to you the night of or is that something you have learned subsequently?

A: Not in the initial report. I don't think the RSO had the numbers or—I believe he used the term "attack," which would indicate it is not a protest, people just climbing over the wall. He probably would have said so if that was the case. So, from my recollection, the RSO meant it as an attack. And then, obviously, as the night progressed and we started talking and getting more information, it appeared to be incredibly violent, and it was definitely not what we were seeing in Cairo, which was very malicious in nature. And to be honest with you, a breach of the compound perimeter is a serious security issue. But they weren't trying to break in. They didn't build battering rams or anything like that. It didn't look like they were there to hurt anybody from what we could tell. But in Benghazi, I mean, they went in initially and just started—one of the first reports I recall was they went in and instantly started lighting fires and also explosions and gunfire was heard at the onset of the attack like initially. So it appeared to be a terrorist attack.

Q: And there was nothing like that in Cairo, nothing like the fires?

A: No. No. But there were a lot of people in Cairo. A lot. I mean, it was unnerving to find out the numbers that that they had mobilized, I guess, would be the proper term.

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[129] House Committee on Oversight and Government Reform, Interview of Jacob Sullivan (Sept. 12, 2013).

Q: Do you remember when you first heard mention that the attacks in Benghazi might have been connected to a protest or a demonstration?

A: I don't. Probably the talking points that were put out. I mean, from my perspective, where I was, it was all meshing together as one. So we really didn't have time to analyze one in particular from another. It could have just—I mean, it's hard—everyone in Benghazi had guns. So who knows what their initial intent was or what their intent was. But the way they all—one of them right after another and then stopped, it seems to signify to me that they were related in some way, shape or form. And the only common thread that I can see is the video.

Q: So, in your opinion, at the time, Cairo was pretty clearly a demonstration or a protest that had become, you know, vandalism, some sort of hostility. But in your mind, it was clearly a protest in nature and might have had some connection to the video. And because of the timing, the correlation with the Benghazi attack, you thought that there was a possibility that Benghazi was a similar event that had gotten even more violent, more dangerous?

A: I mean, that's part of it. I don't want to sit here and tell you exactly. I mean, I don't know. But some of the things I witnessed in Cairo, I mean, the protesters were doing a lot of tweeting. Are you familiar with what a flash mob is?

Q: Uh-huh.

A: And then when we were reacting or coordinating responses in the command center, the Twitter pages were going crazy. It was unbelievable to see how much Twitter traffic was transpiring during the attack. This is in Libya now. And it was amazing. I had never used Twitter. I don't use Facebook. I barely even use a computer, for that matter; emails are about it. But I was awestruck at the speed and the ability for them to communicate and then to get resources and people together where previously to that—at least historically, if you want to get a big demonstration together, you had to start making announcements, sending out flyers. If you are going to get a big turnout, you have to get the word out. And generally, we could pick up on those types of things. But with the Twitter and those things, then they can have a flash mob together very, very fast. And it's difficult for a host nation or us to respond. And there's no doubt in my mind that that was a strong part of it. The first phase of the attack on Benghazi, there was already Twitter stuff starting. In what I would call the second phase or the looting phase, that was all Twitter-fed. You could just tell. They are tweeting. And you know—it was—the mob—the number of tweets running up the screen. We had a huge screen, and it was just running. It was unbelievable.

Q: Do you remember how you found out that there was no demonstration in

Benghazi prior to the attack?

A: I just relied on the conversations with my agents. They said they did not see one. They didn't know of one.

Q: Do you remember at what point you had those conversations? Was it the night of?

A: No, it was after the fact.

Q: How many days approximately?

A: I don't recall. I mean, they didn't even come back for several days. They were in Frankfurt, speaking with the FBI. So it was a week maybe. I don't know for sure.[130]

The Desk Officer also described his view on the possible link between the Benghazi attacks and the video tape:

Q: Since we are on this subject, can you walk through, starting with the Cairo attack, what DS was dealing with from Cairo to Benghazi and in the days of the additional incidents at other locations that you were responsible for?

A: Certainly. In Cairo, I believe that we had some prior notice of a demonstration in Cairo. I don't 100 percent recall. But I believe the post knew because they were already in—they weren't open for business, and it didn't appear—it appeared they were aware of it. It looked like they were ready for it. The demonstration began. And like I said, it lasted several hours. They breached the compound perimeter wall and were doing miscellaneous things, like I said, and that was going on for an extended period of time because the host nation wouldn't respond or couldn't respond to—

Q: Does DS at this point send something out to the other potentially affected posts that this is something you need to pay attention to?

A: Yes. It went out. I know for sure that Benghazi got that information.

Q: And what do you tell them?

A: I don't specifically remember the message going out. I didn't work on that aspect of it, but probably demonstrations in Cairo, breached perimeter, could be an ops alert or something to that effect.

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[130] House Committee on Oversight and Government Reform, Interview of Brian Papanu (Aug. 8, 2013).

Q: Okay. All right. And then Cairo bleeds into Benghazi?

A: Well, yes. For me it did. Like I said, it was going on for so long, we started to do shifts. So, at some point late in the morning, it started. And now we're talking late afternoon. And my shift had just ended down in the command center. So I was heading upstairs when the phone call came.

Q: And then what about the days after Benghazi, what's taking place?

A: I don't think—the day after Benghazi, I don't believe anything happened. It was the following day that the protests in Yemen occurred.

Q: And what was that like?

A: It was a very large demonstration. They breached the compound in Yemen and did a lot of significant damage to the—they didn't breach the chancery, but they did significant damage to the chancery grounds and our vehicles and—

Q: Was that serious?

A: —equipment there. Yes, I would say it was serious.

Q: And was Tunisia also one of the—

A: Yes. Tunisia occurred, I believe, the following day after Yemen. Tunisia and Khartoum were the same day. And once again, the protesters were able to gain access into the chancery compound. They weren't able to gain access into the chancery. And the same thing occurred there. They did a lot of physical damage. They started some fires. And they burned down an adjacent American school. It wasn't on our property, but it was across the street. So it was pretty significant there as well.

Q: Violent?

A: Yeah. Violent, yes. And destruction of property. And lighting fire.

Q: And you had mentioned that these were motivated by the videotape?

A: I mean, in my belief. I'm fairly certain that the Cairo, the Tunis, the Khartoum ones were—and Yemen were motivated by that tape. The Benghazi one was a little more—that's more conjecture on my part just because I don't think there was a direct link that I ever saw or heard.

Q: You said something to the effect of all events were related or that you still believe that they were related to the this tape?

A: I do.

Q: Why is that?

A: Well, the mere fact of the time frame of them together. It could have been a coincidence, of course. But now we are talking my perspective. And I believe, I read somewhere one of the local guards, contract guards that was in Benghazi, he was interviewed and said that when he was being beat up by the attackers that this was for making fun of Mohammed or something like that. And they made reference to it. So that's what I base my information on.[131]

Scott Bultrowicz, the former Principal Deputy Assistant Secretary for Diplomatic Security, also described these events:

Q: In Cairo, you had protests over the video that had led to a breach in our facility there, correct?

A: Uh-huh.

Q: And then so, if not contemporaneously, certainly quickly thereafter, you have the events in Benghazi?

A: Uh-huh.

Q: And then very quickly after that, you had other protest attacks on other U.S. facilities. I think Tunisia was one of them?

A: Tunisia.

Q: So was it crystal-clear that you could tease out in the hours or days or even weeks after the Benghazi attack what was a protest and what was not a protest? Would it have been reasonable to have some confusion, that it would be hard to know the underlying events and whether or not they were a contributing factor to the Benghazi attacks, in other words?

A: I mean, I think it would be reasonable to assume that there would be some confusion, of course. I mean, that's just the nature of it. And I think, as I mentioned, I'm not quite sure what the RSO on the ground in Benghazi saw outside the walls prior to the attack. All I can tell you is that, when he phoned in, he said he was under attack. And, you know, different individuals are going to probably draw different conclusions, maybe tying everything together or maybe not, just trying to go, sort of, factually, sort of, what we thought at

[131] *Id.*

the time. But, I mean, in itself, the whole situation was confusing, sort of, as they say, the fog of war. There was a lot going on.

Q: When you say itself was confusing—

A: Well, they—

Q: —do you mean from the night of the—

A: The—

Q: —the day of the Cairo events forward to post-Benghazi to the other attacks?

A: No, the night of the attack in Benghazi. But I think in the subsequent attacks that happened in Tunisia and the other posts, I mean, it was very clear that it was large-scale demonstrations, a lot of people, large crowds, same as in Cairo. I mean, again, you know, not trying to draw a connection of what happened that night in Benghazi to any of those events, but just to say that no one really knew, sort of, the lead-up all to that. You know, as I mentioned, what happened a half mile down the road, or before that, or when—because I'm pretty certain, and I could be wrong, but I think, you know, the RSO's first call was once they breached the wall. I'm not sure if they were looking out prior to that.[132]

Ambassador Elizabeth Jones, the former Acting Assistant Secretary of Near Eastern Affairs, was in continuous contact with Tripoli on the night of the attacks and told Committee staff that although she knew there had been an attack, she did not know the underlying motivation for it:

Q: Okay. Now, your day starts with Cairo?

A: Yes.

Q: And this was a protest—

A: That's right.

Q: —over the video—

A: Right.

Q: —that we have heard about ad nauseam?

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[132] House Committee on Oversight and Government Reform, Interview of Scott Bultrowicz (July 8, 2013).

A: Right.

Q: They put ladders up against the wall. They potentially—did they breach the wall?

A: They did. There were people roaming around the garden.

Q: They breached the wall. And then that bleeds right into Benghazi?

A: That's right.

Q: And then suddenly you have later that night potential threat on Tripoli?

A: Right.

Q: Did you think that they were all related? Was it a fog at that point in time? Was it easy to tease out one from another?

A: We didn't know what had sparked what happened in Benghazi. Because of the way, sort of the initial report when Greg—the report I had, which was Benghazi is under attack, that was all it said, I called Greg and I said, tell me what Chris said. He said Benghazi is under attack. I said, what does under attack mean? He said there are people shooting. I didn't ask if there was a demonstration because I was more focused on what do we do now, not what just happened, what do we now, looking for Chris, is the building on fire, is there reports then of a mortar attack, who's on the compound, how do we get Libyan security there, is there anybody who can help us, those kind of things. So there wasn't a discussion that evening about was there a demonstration or not. In Tripoli, when we saw the Web site claim that these Councils of Tripoli were going to—were going to—were calling for an attack on the Embassy, I believe the language was attack, so I was thinking—we were thinking mortar attack, guns, that kind of thing. But we also knew that the possibility of demonstrations was not that night. There was no discussion of demonstrations that night. But within days after that there were discussions of routes the demonstrations could take. And the reason that became important is that the attack in Benghazi—in Cairo and Benghazi was on the 11th, bleeding into the 12th for us, and very much the 12th for Libya. On the 13th, our Embassy in Sana'a was attacked and very badly, very, very badly damaged, and on the 14th our Embassy in Tunis.

Q: And what was the basis for those attacks?

A: The basis for the attack—at that point, the basis for the attack in Sana'a and Tunis, as I recall it, were the videos.

Q: Were the videos.

A: That was much clearer in the attack in Tunis. It was less clear in the attack in Sana'a. And there were many other embassies that were—in which there were demonstrations and the potential for—well, there were demonstrations. I think we counted in that—in those several days—Friday is always the most dangerous day for demonstrations. But over that weekend and into the next week, I think we counted 27-some demonstrations at 12 of my posts just in NEA, and there were many other demonstrations in other Muslim-majority countries because of the video.

Q: So to be fair, was that a fairly confusing period?

A: Yes, it was very—it was—it was—

Q: When I say period, I mean days, weeks?

A: Yes, absolutely.[133]

[133] House Committee on Oversight and Government Reform, Interview of Elizabeth Jones (July 11, 2013).

V. STATUS OF REFORMS

A. Recommendations for Enhanced Security

Based on its investigation, the ARB made 29 recommendations to improve the security of U.S. diplomatic personnel serving overseas, 24 of which were unclassified.[134] The ARB report identified six core areas for action and reform:

1. Overarching Security Considerations
2. Staffing High Risk, High Threat Posts
3. Training and Awareness
4. Security and Fire Safety Equipment
5. Intelligence and Threat Analysis
6. Personnel Accountability[135]

Within these core areas, some of the ARB recommendations relating to security included the following:

- Endorsement of the Department's request for increased DS personnel for high- and critical-threat posts, Mobile Security Deployment teams, and DS domestic support staff.
- Strengthen security for personnel and platforms beyond traditional reliance on host government security support in high risk, high threat posts.
- Convene a panel of Senior and Supervisory Special Agents to revisit DS high-threat training with respect to active internal defense and fire survival.
- Re-examine Diplomatic Security (DS) organization and management, with particular emphasis on span of control for security policy planning.[136]

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[134] Department of State, *Benghazi Accountability Review Board Implementation* (Sept. 11, 2013).

[135] *Id.*

[136] *Id.*

B. Implementation of Recommendations

On the same day the ARB report was issued, then-Secretary Clinton embraced all 29 recommendations, urged all State Department employees "to cooperate fully," and directed the Deputy Secretary for Management and Resources to lead a task force "to ensure that the Board's recommendations are implemented quickly and completely, as well as to pursue steps above and beyond those recommended in the Board's report."[137]

On September 11, 2013, the State Department issued an update showing considerable progress on the implementation of all 24 unclassified ARB recommendations. For example, since the ARB issued its recommendations in December 2012, the State Department has:

- filled 113 out of 151 newly created Diplomatic Security positions;
- established a High Threat Board to review the State Department presence at high risk, high threat posts;
- created a Deputy Assistant Secretary for High Threat Posts in the Bureau of Diplomatic Security (DS), who is responsible for ensuring that such posts receive the focused attention they need;
- established a panel that identified and developed 170 operational requirements, associated proficiency standards, and training plans needed by DS special agents operating in high-threat, high risk environments; and
- established a six-person panel to improve DS operations and management structure which produced 35 recommendations, of which 31 have been accepted.[138]

During the course of the Committee's investigation, State Department personnel have reported that the Department has made significant progress in the implementation of the ARB's recommendations. For instance, Deputy Assistant Secretary for Maghreb Affairs, Bill Roebuck, is uniquely positioned to see the progress that has been made over time with respect to the U.S. mission in Libya, specifically. Prior to the Benghazi attacks, Deputy Assistant Secretary Roebuck was the Director of the State Department's Office of Maghreb Affairs with policy

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[137] Letter from Secretary of State Hillary Rodham Clinton to Senator John F. Kerry (Dec. 18, 2012).

[138] Department of State, *Benghazi Accountability Review Board Implementation* (Sept. 11, 2013).

responsibilities in the region including Libya.[139] From January to June of 2013, he served as the U.S. Chargé d'Affaires to Libya.[140]

During a transcribed interview, Deputy Assistant Secretary Roebuck informed Committee staff that, while serving in Libya, he saw evidence that the ARB recommendations were being implemented:

> When I was charge in Tripoli for 6 months, for example, there were a huge number of security upgrades that are underway, many of them, you know, attributable either directly or indirectly to ARB, you know, recommendations; some of them attributable to, you know, further inquiries or studies the ARB said should be done on security, they were done and then they—these security—recommended security upgrades arose out of those studies, one between, I believe it's a committee they mentioned with DOD participation and—and State, and those upgrades are underway, and they've vastly improved the security of the mission in embassy Tripoli. They've also recommended things to increase the connectivity between DS and NEA. And I've seen evidence of that since I've been back as the DAS.[141]

Deputy Assistant Secretary Roebuck also explained the current status of the recommendations:

> I think most of them have been implemented or are in the process of being implemented. Of course, they were made in hindsight, but absolutely in hindsight, you know, they—they were—you know, constituted a rational set of recommendations on the security side, and I think they've largely been implemented.[142]

C. Creation of Sullivan Best Practices Panel

One of the ARB's key "Overarching Security" recommendations was for the State Department to "establish a panel of outside independent experts (military, security, humanitarian) with experience in high risk, high threat areas to identify best practices (from other agencies and other countries), and regularly evaluate U.S. security platforms in high risk, high threat posts."[143]

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[139] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

[140] *Id.*

[141] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

[142] *Id.*

[143] Department of State, *Benghazi Accountability Review Board Unclassified Report* (Dec. 2012).

In response, the State Department created a six-person "Best Practices Panel" headed by former United States Secret Service Director Mark Sullivan, who is scheduled to testify before the Committee on September 19, 2013. Another member of the panel, former Assistant Secretary for Infrastructure at the Department of Homeland Security Todd Keil, is also expected to testify on the panel's findings.

The Best Practices Panel has completed its review and issued 40 total recommendations in 12 areas, including: (1) Organization and Management; (2) Accountability; (3) Risk Management; (4) Program Criticality and Acceptable Risk; (5) Planning and Logistics; (6) Lessons Learned; (7) Training and Human Resources; (8) Intelligence, Threat Analysis, and Security Assessments; (9) Programs, Resources and Technology; (10) Host Nations and Guard Forces Capability Enhancement; (11) Regular Reevaluation; and (12) Change Management – Leadership.[144]

The most "overarching" recommendation, which the panel believes is "crucial to the successful and sustainable implementation" of all its other recommendations, is to establish a new Under Secretary for Diplomatic Security.[145] Currently, the Bureau of Diplomatic Security reports to the Under Secretary for Management, who is responsible for a "large, complex" area covering a "myriad" of key matters such as personnel, budget, procurement, medical, services, and contracting. The panel concluded that the State Department "requires an organizational paradigm change" with a new Under Secretary for Diplomatic Security to better prepare against safety threats to diplomatic personnel and missions.[146]

According to the Best Practices Panel, its other recommendations "echoed the findings of previous boards," such as the ARB:

- Initiate a comprehensive DS and Human Resources (HR) review to determine the requirements for … meeting operational and language training requirement, overseas staffing consistency and other mission essential objectives.

- Develop and implement a Department-wide risk management model and policy.

- Establish one planning office within DS that is accountable and responsible for DS-centric planning that informs DS decision-making and program execution.

- Develop an accountability framework documenting institutional and individual accountability and responsibility for security throughout the Department.

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[144] Independent Panel on Best Practices, *Report of the Independent Panel on Best Practices* (Aug. 29, 2013).

[145] *Id.*

[146] *Id.*

- Provide waivers to established security standards only after implementing mitigating measures as agreed by regional bureau or other program managers.

- Establish a formalized lessons learned process and accompanying FAM policy to ensure a timely debriefing of all personnel who have participated in critical operational events.[147]

[147] *Id.*

VI. FUNDAMENTAL FLAWS IN MAJORITY REPORT

On Sunday, September 15, 2013, Chairman Issa provided to select press outlets a Republican staff report entitled "Benghazi Attacks: Investigative Update Interim Report on the Accountability Review Board."[148] This report was not provided to Democratic Committee Members until the following day, September 16, 2013, and the report was never considered at an official Committee business meeting where Members could have vetted it for accuracy and completeness.[149] As a result, the report contains numerous mistakes and omits key portions of transcript excerpts that undermine the report's conclusions. Several examples are discussed below:

A. Allegation that Admiral Mullen Gave Cheryl Mills an Inappropriate "Heads-Up" Prior to Her ARB Interview

The Republican staff report makes a very serious allegation that the ARB's independence was undermined. The report cites as evidence for this allegation that Admiral Mullen gave Cheryl Mills, the State Department Chief of Staff, an inappropriate "heads-up" prior to her interview with the ARB. The report alleges: "Mullen put Cheryl Mills on notice in advance of her interview that the Board's questions could be 'difficult' for the State Department."[150] The report alleges that this action was "an example of how a culture of collegiality could undermine the ARB's independence."[151] The implication is that this advance information prior to her interview compromised the integrity of the ARB process.

The Republican staff report completely distorts Admiral Mullen's words to invent a false narrative. In fact, Admiral Mullen explained that he called Cheryl Mills not because she was scheduled to testify before the ARB, but because Charlene Lamb was scheduled to testify before this Committee. At the time, Ms. Lamb had already appeared before the ARB, and Admiral Mullen stated that he wanted to inform Ms. Mills that Ms. Lamb had never before testified before Congress. Below is the full excerpt, with brackets to identify Admiral Mullen's actual meaning:

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[148] *Congress: Hillary's Benghazi Investigation Let Top Officials Escape Blame*, Daily Beast (Sept. 15, 2013) (online at www.thedailybeast.com/articles/2013/09/15/congress-hillary-s-benghazi-investigation-let-top-officials-escape-blame.html).

[149] Email from Chief Majority Clerk to Democratic Members, House Committee on Oversight and Government Reform (Sept. 16, 2013, 11:01 AM).

[150] Majority Staff Report, House Committee on Oversight and Government Reform, *Benghazi Attacks: Investigative Update Interim Report on the Accountability Review Board* (Sept. 16, 2013) (online at http://oversight.house.gov/wp-content/uploads/2013/09/Report-for-Members-final.pdf).

[151] *Id.*

Q: During the life of the board, did you or any of the board members update State Department officials or DOD officials about the work of the board that you know of?

A: With respect to DOD, no. Shortly after we interviewed Ms. Lamb, I initiated a call to Ms. Mills to give her—what I wanted to give her [*Ms. Mills*] was a head's up because at this point she [*Ms. Lamb*] was on the list to come over here [*Congress*] to testify, and I was—so from a department representation standpoint and as someone that led a department, I always focused on certainly trying to make sure the best witnesses were going to appear before the department, and my reaction at that point in time with Ms. Lamb at the interview [*the previous ARB interview*] was—and it was a pretty unstable time. It was the beginning, there was a lot of unknowns. To the best of my knowledge, she [*Ms. Lamb*] hadn't appeared either ever, or many times certainly [*before Congress*]. So essentially I gave Ms. Mills a head's up that I thought that her [*Ms. Lamb's*] appearance could be a very difficult appearance for the State Department, and that was about—that was the extent of the conversation.[152]

In other words, instead of undermining the integrity and independence of the ARB by giving Ms. Mills advance information prior to her interview with the ARB, Admiral Mullen was informing Ms. Mills that Ms. Lamb had no experience testifying before Congress, which she was scheduled to do before this Committee. There is no evidence before the Committee that calls into question Admiral Mullen's personal integrity or the independence of the unanimous findings and recommendations of the ARB. It is unclear whether the accusation in the Republican staff report was made knowingly or based on an incorrect understanding of the facts, but since Chairman Issa did not provide a copy of this report to Democratic Members before he leaked it to press, this very serious and false accusation was made in a very public manner.

B. Allegation that the ARB Downplayed the Role of Under Secretary Kennedy

The Republican staff report also makes a serious allegation that the ARB "downplayed the importance of the decisions made above DS and NEA."[153] As evidence for this accusation, the report cites the involvement of the Under Secretary for Management Patrick Kennedy in the decision not to extend the military Site Security Team (SST) past August 2012. The Republican staff report states:

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[152] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

[153] Majority Staff Report, House Committee on Oversight and Government Reform, *Benghazi Attacks: Investigative Update Interim Report on the Accountability Review Board* (Sept. 16, 2013) (online at http://oversight.house.gov/wp-content/uploads/2013/09/Report-for-Members-final.pdf).

Similarly, the decision to end the SST mission in Libya in July 2012 was made by Ambassador Kennedy, albeit based upon a recommendation from Charlene Lamb. Assistant Secretary for DS Eric Boswell testified:

Q: Who were the decisionmakers relative to the—either the presence or the mission of the SST?

A: The ultimate decisionmaker is Under Secretary Kennedy.

Scott Bultrowicz—Boswell's deputy—agreed. He stated: Well, again, he was certainly involved in the discussion whether or not the SST was going to be extended, because I think DOD reached out actually directly to Under Secretary Kennedy on that.[154]

The Republican staff report truncates this transcript excerpt and omits critical context explaining how and why the Under Secretary made the decision not to extend the SST. Mr. Bultrowicz went on to explain that although Under Secretary Kennedy was the final authority on whether to extend the SST, both Mr. Bultrowicz and Under Secretary Kennedy relied heavily on the recommendation of Charlene Lamb because of her expertise:

Q: You had mentioned that it was Ms. Lamb's recommendation not to extend the SST team?

A: Yeah. She recommended that we wouldn't need the extension.

Q: And that was the final extension, I think, in—

A: They left—I think they left August 4th.

Q: Right.

A: Right.

Q: And so, would that have been her decision to make?

A: No. That was a recommendation made to the Under Secretary.

Q: From?

A: Under Secretary of Management.

Q: But—

[154] *Id.*

A: And she made it through me. The Under Secretary had asked her for a recommendation, because she was the one closest to everything, you know, knowing where the status of the guards were, the training programs, and things of that nature. So that recommendation was made.

Q: So she would have been the most knowledgeable person in the position to evaluate whether or not the SST should remain in country, and then it was her job to make a recommendation—

A: Right. ...

Q: Who had the final authority to make the decision to end the SST mission?

A: The final authority? Well, I guess—

Q: Within State.

A: Well, ultimately, it would have been the highest person who had a say in it. So, I mean, I guess, if Mr. Kennedy would have come back and said, you know what, I don't see it, I mean, he certainly would have had the authority to say that. But I don't see where he would have any reason, you know, much like myself, to doubt what was being said.[155]

Admiral Mullen explained that the ARB's findings on accountability were driven by their determination of who was responsible for decision-making, as directed by the statute. He explained:

> [T]he responsibility for the decisions that were involved in the incidents, if you will, were made at a level inside the Department at a lower level, senior but lower. It very specifically focuses by law directing us as ARB members on where the decisions were made. That's what guided us. And in the end there was no official, including the Secretary of State, whose involvement wasn't reviewed. ...
>
> We assigned accountability where we thought it was best and most appropriately resident in the officials, the four in particular, the four senior officials that we singled out in the report, two of whom we made specific recommendations for, and I'm very comfortable with that.[156]

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[155] House Committee on Oversight and Government Reform, Interview of Scott Bultrowicz (July 8, 2013).

[156] House Committee on Oversight and Government Reform, Interview of Admiral Michael Mullen (June 19, 2013).

As Admiral Mullen explained, the ARB determined that primary responsibility for the staffing decisions, including the decision to not extend the Site Security Team, rested with Ms. Lamb:

> The SST it was leaving the country on the 2nd of August. There were discussions as late as July with respect to between State and DOD and internal to State about whether we were going to extend this. In the end it's my view that Ms. Lamb won that debate, didn't want to extend it.[157]

In addition to Ms. Lamb, the ARB held accountable her immediate supervisor, the Principal Deputy Assistant Secretary for Diplomatic Security, as well as his supervisor, the Assistant Secretary for Diplomatic Security.

C. Allegation That "Little Has Changed" at the State Department

The Republican staff report argues that the State Department "is back to business as usual" because the State Department has not terminated any employees.[158] The report alleges: "Nine months after the ARB report was released and four employees were relieved of their duties and subsequently placed on administrative leave, little has changed at the State Department."[159]

These conclusions disregard the significant progress made by the State Department on substantive concrete reforms, as described in Section V above. The State Department has provided the Committee with an update on its progress implementing the ARB's recommendations, and numerous Department officials interviewed by the Committee have explained that they have observed first-hand the very real changes that are being made.

For example, a State Department official who served in Libya following the attacks said that he saw on the ground how the ARB's recommendations were being implemented to improve the security of the embassy in Tripoli. This official explained:

> When I was charge in Tripoli for 6 months, for example, there were a huge number of security upgrades that are underway, many of them, you know, attributable either directly or indirectly to ARB, you know, recommendations.[160]

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[157] *Id.*

[158] Majority Staff Report, House Committee on Oversight and Government Reform, *Benghazi Attacks: Investigative Update Interim Report on the Accountability Review Board* (Sept. 16, 2013) (online at http://oversight.house.gov/wp-content/uploads/2013/09/Report-for-Members-final.pdf).

[159] *Id.*

[160] House Committee on Oversight and Government Reform, Interview of William Roebuck (Aug. 5, 2013).

He added that these upgrades "are underway, and they've vastly improved the security of the mission in embassy Tripoli."[161]

[161] *Id.*