

PROVIDING FOR THE ESTABLISHMENT OF THE SELECT  
COMMITTEE ON THE EVENTS SURROUNDING THE 2012  
TERRORIST ATTACK IN BENGHAZI

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MAY 7, 2014.— Referred to the House Calendar and ordered to be printed

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Mr. SESSIONS, from the Committee on Rules,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H. Res. 567]

The Committee on Rules, to whom was referred the resolution (H. Res. 567) providing for the establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, having considered the same, report favorably thereon without amendment and recommend that the resolution be adopted.

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## PURPOSE AND SUMMARY

H. Res. 567 provides for the establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. The resolution provides that the Select Committee will have a clear mandate for a comprehensive investigation that is not limited by jurisdictional lines. The resolution also authorizes the chair of the Select Committee to issue subpoenas and order depositions, ensures the Select Committee and its staff will have appropriate access to classified material, and requires the Select Committee to report to the full House on its findings and recommendations.

## BACKGROUND AND NEED FOR LEGISLATION

After the terrorist attack on United States facilities in Benghazi, Libya, on September 11, 2012, the Committee on Rules believed the most prudent course of action was to utilize the full weight of Congressional oversight by using existing committees. The standing committees in the House of Representatives have resources and expertise that can be quickly tapped, which has led to important and significant work on the Benghazi investigation. In particular, the Committee on Oversight and Government Reform, the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence have dedicated themselves to finding answers for the families of the four Americans killed during the attack.

One issue that the Rules Committee highlighted early in the process of this investigation was the need for enhanced coordination between committees. The Rules Committee has worked directly with committees to ensure an unsurpassed level of coordination. In August of 2013, the chair of the Committee on Rules received status reports from the relevant committees to ensure that they had every tool at their disposal as they continued to work through their investigation. After receiving updates from the committees of jurisdiction, the Committee continued to believe that the existing committee structure was best prepared to conduct the investigation.

While a select committee can be very useful in bringing enhanced public scrutiny to a situation, there are some drawbacks. Most notably, select committees take time to get up and running—Members have to be appointed, staff needs to be hired, and suitable space to handle classified information must be acquired. However, the Committee on Rules has always been open to the establishment of a select committee if it became apparent that a select committee was necessary. That time has come.

House committees have worked diligently to find out what happened on the ground in Benghazi on September 11, 2012, and equally important, what didn't happen. Unfortunately, committees have had to pursue this investigation with an unwilling partner in the Obama Administration.

While many documents have been provided to committees, it has taken far too long. On August 1, 2013, Chairman Darrell Issa issued a subpoena for records previously made available for *in camera* review in response to repeated committee requests for documents. Nearly one year later, the State Department continues to

produce documents related to that subpoena. In short, there are still documents covered by the August 1, 2013 subpoena that have not been turned over. For example, the Department has applied additional, unilateral redactions to both classified and unclassified documents that were previously made available for *in camera* review.

On April 17, 2014, an additional 276 documents, consisting of 779 pages were delivered to the Committee on Oversight and Government Reform—many of which were heavily redacted. This is the same day that the State Department complied with a Freedom of Information Act (FOIA) request submitted by Judicial Watch. The Committee believes that the timing of the two productions was deliberately coordinated and questions if Congress would have received these documents absent the FOIA request from Judicial Watch. Furthermore, the Committee on Oversight and Government Reform has informed the Committee on Rules that the versions of these documents provided to the Committee on Oversight and Government Reform are in some cases more redacted than those provided to Judicial Watch. The so-called “Ben Rhodes” email was turned over as part of this document production. However, it took the State Department more than a year and a half after the attacks in Benghazi to turn over a document that they themselves describe as “in connection with the Committee’s investigation in to the attacks on the U.S. Special Mission in Benghazi.”

The actions by the executive branch in the wake of the Benghazi terrorist attack on United States facilities have now expanded the scope of the congressional investigation that must occur. In addition to getting answers about what happened in Benghazi on September 11, 2012 and the Administration’s response to the attack, Congress must review how the Administration has responded to congressional inquiries, subpoenas, and requests for information. Congress must also look at the checks and balances between the legislative and executive branches that our Founding Fathers envisioned. The House of Representatives is the People’s House, and as such, should never be circumvented by any Administration. While FOIA is a powerful tool for transparency, an Administration should feel equally responsible to comply with a congressional investigation. A select committee will take time before it can open its doors, but it is now clear that we need to raise the level of public attention on the terrorist attack in Benghazi, Libya, on September 11, 2012 and the Administration’s response to Congress.

#### HEARINGS

The Committee on Rules did not hold hearings on this measure.

#### COMMITTEE CONSIDERATION

The Committee on Rules met on May 7, 2014 in open session and ordered H. Res. 567 favorably reported to the House by a record vote of 7 yeas and 4 nays, a quorum being present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Ms.

Foxx to report the bill to the House with a favorable recommendation was agreed to by a record vote of 7 yeas and 4 nays, a quorum being present. The names of Members voting for and against follow:

ROLL CALL NO. 132

H. RES. 567 (ORIGINAL JURISDICTION)

Date: May 07, 2014.

Motion by Ms. Foxx to report the resolution to the House with a favorable recommendation.

Adopted: 7 yeas and 4 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Ms. Foxx, Vice Chairman .....	X		Ms. Slaughter, Ranking Member .....		X
Mr. Bishop of Utah .....			Mr. McGovern .....		X
Mr. Cole .....	X		Mr. Hastings of Florida .....		X
Mr. Woodall .....	X		Mr. Polis .....		X
Mr. Nugent .....					
Mr. Webster of Florida .....	X				
Ms. Ros-Lehtinen .....	X				
Mr. Burgess .....	X				
Mr. Sessions, Chairman .....	X				
<b>Vote Total:</b>				<b>7</b>	<b>4</b>

The committee also considered the following amendments on which record votes were requested. The names of Members voting for and against follow:

## ROLL CALL NO. 130

## H. RES. 567 (ORIGINAL JURISDICTION)

Date: May 07, 2014.

Amendment offered by Ms. Slaughter makes membership on the Committee equally divided between Republicans and Democrats; guarantees minority sign-off on subpoenas and depositions; guarantees equal distribution of money, staffing, and other resources of the Committee; requires the Committee to establish written rules, specifically including rules concerning how documents and other information may be obtained, used, or released; guarantees equal access to evidence and materials of the Committee; provides for transparency of the Committee's expenditures and budgeting; ensures that a quorum for taking testimony or receiving evidence includes at least one minority Member; and, finally, ensures that the minority has a say in decisions about extended questioning and staff questioning of witnesses.

Not Agreed to: 4 yeas and 7 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Ms. Foxx, Vice Chairman .....		X	Ms. Slaughter, Ranking Member .....	X	
Mr. Bishop of Utah .....			Mr. McGovern .....	X	
Mr. Cole .....		X	Mr. Hastings of Florida .....	X	
Mr. Woodall .....		X	Mr. Polis .....	X	
Mr. Nugent .....					
Mr. Webster of Florida .....		X			
Ms. Ros-Lehtinen .....		X			
Mr. Burgess .....		X			
Mr. Sessions, Chairman .....		X			
<b>Vote Total:</b>				<b>4</b>	<b>7</b>

## ROLL CALL NO. 131

## H. RES. 567 (ORIGINAL JURISDICTION)

Date: May 07, 2014.

Amendment offered by Mr. Polis amends the resolution to provide for separate consideration of H.R. 15.

Not Agreed to: 5 yeas and 6 nays.

Representative	Yea	Nay	Representative	Yea	Nay
Ms. Foxx, Vice Chairman .....		X	Ms. Slaughter, Ranking Member .....	X	
Mr. Bishop of Utah .....			Mr. McGovern .....	X	
Mr. Cole .....		X	Mr. Hastings of Florida .....	X	
Mr. Woodall .....		X	Mr. Polis .....	X	
Mr. Nugent .....					
Mr. Webster of Florida .....		X			
Ms. Ros-Lehtinen .....	X				
Mr. Burgess .....		X			
Mr. Sessions, Chairman .....		X			
<b>Vote Total:</b>				<b>5</b>	<b>6</b>

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

## PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The resolution will ensure that Congress is most appropriately structured to conduct effective oversight of the events surrounding the terrorist attack in Benghazi, Libya, on September 11, 2012 and ensure that the executive branch complies with requests for information related to this investigation and future oversight requests from Congress.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## EXCHANGE OF COMMITTEE CORRESPONDENCE

CANDICE S. MILLER, MICHIGAN  
CHAIRMAN

GREGG HARPER, MISSISSIPPI  
PHIL GINGREY, GEORGIA  
AARON SCHOCK, ILLINOIS  
TODD ROKITA, INDIANA  
RICH NUGENT, FLORIDA

SEAN MORAN, STAFF DIRECTOR

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ONE HUNDRED THIRTEENTH  
CONGRESS

KYLE ANDERSON, MINORITY STAFF DIRECTOR

2014 MAY -7 PM 12: 54

May 7, 2014

The Honorable Pete Sessions  
Chairman  
Committee on Rules  
H-312, The Capitol  
Washington, D.C. 20515

Dear Chairman Sessions:

On May 7, 2014, the Committee on Rules ordered H. Res. 567, providing for the establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, reported to the House. As you know, the Committee on House Administration may be entitled to a sequential referral upon filing of the report pursuant to the Committee's jurisdiction under rule X of the Rules of the House of Representatives over expenditures from accounts for committee salaries and expenses.

Because of your willingness to consult with my committee regarding this matter, I will waive any request for a sequential referral of the bill by the House Administration Committee. By agreeing to waive its consideration of the bill, the Committee on House Administration does not waive its jurisdiction over H. Res. 567.

I also request that you include our exchange of letters on this matter in the Committee Report on H. Res. 567 and in the *Congressional Record* during consideration of this legislation on the House floor. Thank you for your attention to these matters.

Sincerely,



Candice S. Miller  
Chairman

Cc: The Honorable John Boehner  
The Honorable Robert Brady  
The Honorable Louise Slaughter  
Mr. Tom Wickham, Parliamentarian

PETE SESSIONS, TEXAS  
 CHAIRMAN  
 VIRGINIA FOIX, NORTH CAROLINA  
 ROB BISHOP, UTAH  
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May 7, 2014

The Honorable Candice S. Miller  
 Chairman  
 Committee on House Administration  
 1309 Longworth House Office Building  
 Washington, D.C. 20515

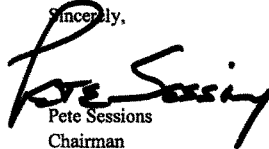
Dear Chairman Miller:

Thank you for your letter regarding H. Res. 567, providing for the establishment of the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi. As you noted, there are provisions of the resolution, as reported by the Committee on Rules, that may fall within the rule X jurisdiction of the Committee on House Administration.

I appreciate your willingness to forgo action on H. Res. 567, and I agree that your decision does not in any way prejudice the Committee on House Administration with respect to its jurisdictional prerogatives on this or similar measures.

I will include a copy of our exchange of letters on this matter in the Committee Report on H. Res. 567 and in the *Congressional Record* during consideration of the bill on the House floor.

Sincerely,

  
 Pete Sessions  
 Chairman

Cc: The Honorable John Boehner  
 The Honorable Robert Brady  
 The Honorable Louise Slaughter  
 Mr. Tom Wickham, Parliamentarian



## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Establishment.*

This section provides for the establishment of the Select Committee.

*Section 2. Composition.*

This section provides that the Speaker will appoint 12 Members to the Select Committee, five of whom will be appointed after consultation with the minority leader, that the Speaker will appoint the chair of the Select Committee, and that any vacancies are to be filled in the same manner as the original appointment.

*Section 3. Investigation and Report on the Events Surrounding the 2012 Terrorist Attack in Benghazi.*

This section establishes the scope of the Select Committee's investigation and provides that the Select Committee must report its findings to the House. This section also provides that the Select Committee may issue interim reports and that any report issued by the Select Committee may contain a classified annex.

The scope of the Select Committee's investigation includes, but is not limited to: security decisions and military posture prior to the attack, the terrorist attack that occurred in Benghazi on September 11, 2012, the Executive Branch's response to the attack, the Executive Branch's efforts to identify and bring to justice the perpetrators of the attack on U.S. facilities in Benghazi, Libya on September 11, 2012, the Executive Branch's response to congressional inquiries and subpoenas, recommendations for improving executive branch cooperation and compliance with congressional oversight, and lessons learned from the attacks and efforts to protect United States facilities and personnel abroad.

*Section 4. Procedure.*

Subsection (a) authorizes the Select Committee to study sources and methods of entities related to the scope of the investigation provided for in section 3. The covered entities are limited to the Central Intelligence Agency, the Director of National Intelligence, and the National Intelligence Program as defined in section 3(6) of the National Security Act of 1947.

Subsection (b) provides the Select Committee with access to classified information and provides that the Select Committee, including all staff and contractors, must properly handle classified information to prevent unauthorized disclosures.

Subsection (c) establishes how certain provisions of House rule XI (relating to the procedure of committees) will apply to the Select Committee. Specifically, the Rules Committee intends that section 4 of the resolution, in conjunction with the standing rules of the House, shall comprise the Select Committee's rules and the adoption of separate written rules is not necessary. However, nothing in the resolution prohibits the Select Committee, should it deem it necessary, from adopting additional rules not inconsistent with the provisions of H. Res. 567. This subsection provides the chair of the Select Committee with subpoena and deposition authority consistent with the authorities provided to the chair of the Committee

on Oversight and Government Reform. This subsection also provides that the Select Committee must use the same procedures to close a hearing as is required of the Permanent Select Committee on Intelligence. Finally, this subsection establishes quorums for certain orders of business and provides that the chair may recognize Members to question witnesses for longer than five minutes and recognize committee staff to question a witness.

*Section 5. Records; Staff; Funding.*

This section provides that any committee of the House of Representatives having custody of records in any form relating to the matters described in section 3 must transfer such records to the Select Committee within 14 days of the adoption of this resolution. Such records shall become the records of the Select Committee. This section also authorizes committee funding and staff for the Select Committee.

*Section 6. Dissolution and Disposition of Records.*

This section provides that the Select Committee will cease to exist 30 days after filing its final report and that the Speaker will designate which committee(s) will take possession of Select Committee's records.

CHANGES IN EXISTING HOUSE RULES MADE BY THE RESOLUTION, AS  
REPORTED

In compliance with clause 3(g) of rule XIII of the Rules of the House of Representatives, the Committee finds that H. Res. 567 does not propose to repeal or amend a standing rule of the House.

APPENDIX: DEPOSITION PROCEDURES

The deposition procedures described in section 4(c)(5)(B) of the resolution are reprinted below for the convenience of the reader. The procedures will also be printed in the Congressional Record as required by the resolution.

(a) Notice for the taking of depositions shall specify the date, time, and place of examination (if other than within the committee offices). Depositions shall be taken under oath administered by a member or a person otherwise authorized to administer oaths.

(b) Consultation with the ranking minority member shall include three business days' notice before any deposition is taken. All members of the Select Committee shall also receive three business days notice that a deposition has been scheduled.

(c) Witnesses may be accompanied at a deposition by counsel to advise them of their rights. No one may be present at depositions except members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel. Observers or counsel for other persons, or for agencies under investigation, may not attend.

(d) At least one member of the committee shall be present at each deposition taken by the committee, unless the witness to be deposed agrees in writing to waive this requirement.

(e) A deposition shall be conducted by any member or staff attorney designated by the chair or ranking minority member. When depositions are conducted by committee staff attorneys, there shall be no more than two committee staff attorneys permitted to question a witness per round. One of the committee staff attorneys shall be designated by the chair and the other by the ranking minority member. Other committee staff members designated by the chair or ranking minority member may attend, but may not pose questions to the witness.

(f) Questions in the deposition shall be propounded in rounds, alternating between the majority and minority. A single round shall not exceed 60 minutes per side, unless the members or staff attorneys conducting the deposition agree to a different

length of questioning. In each round, a member or committee staff attorney designated by the chair shall ask questions first, and the member or committee staff attorney designated by the ranking minority member shall ask questions second.

(g) Any objection made during a deposition must be stated concisely and in a non-argumentative and non-suggestive manner. The witness may refuse to answer a question only to preserve a privilege. When the witness has objected and refused to answer a question to preserve a privilege, the chair of the Select Committee may rule on any such objection after the deposition has adjourned. If the chair overrules any such objection and thereby orders a witness to answer any question to which a privilege objection was lodged, such ruling shall be filed with the clerk of the committee and shall be provided to the members and the witness no less than three days before the reconvened deposition. If a member of the committee appeals in writing the ruling of the chair, the appeal shall be preserved for committee consideration. A deponent who refuses to answer a question after being directed to answer by the chair in writing may be subject to sanction, except that no sanctions may be imposed if the ruling of the chair is reversed on appeal.

(h) Committee staff shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days thereafter, the witness may submit suggested changes to the chair. Committee staff may make any typographical and technical changes. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness's reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

(i) The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the Select Committee in Washington, DC. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken once filed there with the clerk of the Select Committee for the Select Committee's use. The chair and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

(j) The chair and ranking minority member shall consult regarding the release of depositions. If either objects in writing to a proposed release of a deposition or a portion thereof, the matter shall be promptly referred to the Select Committee for resolution.

(k) A witness shall not be required to testify unless the witness has been provided with a copy of rule XI of the Rules of the House of Representatives and these procedures.

## DISSENTING VIEWS

The 2012 attack in Benghazi was a tragedy that took the lives of brave American public servants representing and serving our country. We join their families in continuing to mourn their loss. Congress has an obligation—both to the families of the victims and to the country—to take every possible step to prevent anything like this from ever happening again.

The United States Senate has produced two bi-partisan reports on the issue and the State Department's Accountability Review Board has also produced a constructive, unbiased report. Unfortunately, the House Majority has chosen a different path, with an entirely partisan approach.

Over nearly two years and across four separate standing committees of the House, the majority has repeatedly demonstrated that rather than engaging in serious, objective examination of the circumstances of the Benghazi attacks, rather than producing constructive recommendations to keep our citizens and facilities abroad safe, they intend to use this tragedy as an excuse for generating partisan talking points.

Between the eight separate reports on Benghazi to date, millions of dollars of taxpayer money have been spent, dozens of interviews have been conducted and 13 hearings have been held. More than 25,000 pages of documents have been produced. There is a vast body of evidence already collected, none of it demonstrating that the Obama Administration engaged in any sort of cover-up as the majority continues to allege.

The reports issued by House committees have been highly partisan, as were the investigations on which they were based. Democratic Members were excluded from fact-finding delegations. The minority was denied access to hearing witnesses. Documents obtained by a committee were withheld from minority Members. These are only some of the abuses committed in the course of these investigations. Press reports even indicate that the National Republican Congressional Committee—the House Republicans' campaign arm—is explicitly raising campaign money off of the tragedy in Benghazi.

Now, after nearly two years of the majority engaging in thoroughly partisan exercises on this subject, they are proposing to create an extraordinary select committee, with the same partisan makeup and rules—to conduct yet another investigation.

Given the majority's history of unprecedented partisanship with regard to this matter, there is no reason to believe that the new select committee will produce a different result.

The *only* way this select committee could be effective is if it were completely bipartisan by the terms of the resolution creating it. We offered an amendment to make a number of changes to the structure and rules of the committee. Most importantly, our amendment

would have made membership on the committee equally divided between Republicans and Democrats, like the Ethics Committee and like some past select committees. Our amendment would have guaranteed minority concurrence for authorization of subpoenas and equal distribution of money, staffing, and other committee resources.

Unfortunately, our amendment was rejected on a party-line vote. Accordingly, we must oppose this resolution and the creation of this select committee. There is potential for a House select committee to investigate the tragedy in Benghazi in such a way as to finally produce a thoughtful, useful report on the subject, in stark contrast to the investigations and reports issued by four House committees thus far. But this select committee is doomed by the terms of this resolution to instead be more of the same.

LOUISE M. SLAUGHTER.

JAMES P. MCGOVERN.

ALCEE L. HASTINGS.

JARED POLIS.

