



# **BENGHAZI: WHERE IS THE STATE DEPARTMENT ACCOUNTABILITY?**

**Majority Staff Report - House Foreign Affairs Committee**





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# **BENGHAZI INVESTIGATION: WHERE IS THE STATE DEPARTMENT ACCOUNTABILITY?**

*“The [State] Department cannot have a culture of accountability . . . if no one, literally no one, is held accountable for the mismanagement and poor leadership the ARB itself identified.”*

— Chairman Ed Royce, September 19, 2013

## **EXECUTIVE SUMMARY**

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Osama bin Laden was killed by U.S. Special Forces in May 2011. Despite this blow to its network, al-Qaeda’s influence continued to spread well beyond Afghanistan and Pakistan. In 2012, this disturbing trend was starkly evident in Libya. Extremist militias filled the void left by the near-total collapse of Libyan state institutions after the fall of Muammar Qaddafi’s regime.

In June 2012, nearly one thousand Islamist militants swarmed the square at the downtown courthouse in Benghazi, Libya, in what State Department personnel described as “an unprecedented show of force.”<sup>1</sup> The militants arrived in 150-200 heavily armed vehicles and waived the black flags long associated with Islamist extremism.<sup>2</sup> The two-day rally was hosted by Ansar al-Sharia, an extremist group which was designated a Foreign Terrorist Organization by the State Department earlier this year.<sup>3</sup>

Also in June 2012, militants used an improvised explosive device to blow a hole in the wall surrounding U.S. diplomatic facilities in Benghazi – the second such attack against the compound that year. Elsewhere in Benghazi, the U.K. – America’s closest ally and intelligence partner – shuttered its office and withdrew its staff after a rocket-propelled grenade attack on the British Ambassador’s convoy injured two security officers.

U.S. intelligence agencies provided extensive warning of the deteriorating security environment in eastern Libya, including al-Qaeda’s expanding operations and the mounting risk to U.S. personnel and facilities.<sup>4</sup> These threats were well-understood by even the most senior officials in Washington; then-Secretary of State Hillary Clinton has testified that she “was certainly aware” of this reporting, as well as the fact that extremists claiming to be affiliated with al-Qaeda were active in the area.<sup>5</sup>

A recently released bipartisan report by the Senate Select Committee on Intelligence reveals the depth and breadth of what U.S. intelligence agencies knew. This report found that the agencies “produced hundreds of analytic reports...providing strategic warning that militias and terrorist and affiliated groups had the capability and intent to strike U.S. and Western facilities and personnel in Libya.”<sup>6</sup> For example, a June 2012 Defense Intelligence Agency report entitled *Libya: Terrorists Now Targeting U.S. and Western Interests* anticipated “more anti-U.S. terrorist attacks in eastern Libya.”<sup>7</sup>

Both before and after the attacks in Benghazi, President Obama promoted a flawed and deeply misleading public narrative in which he claimed that al-Qaeda was “decimated,” “on the run,” and “on the path to defeat.” Yet those on the ground in Libya faced a surge in violence and increasing evidence of terrorist activity; they appealed to Washington for added security.

Lieutenant Colonel Andrew Wood, who led a U.S. military team that, among other things, supplemented diplomatic security in Libya, recommended that the State Department consider pulling out of Benghazi altogether. After seeing the U.K., United Nations, and International Committee of the Red Cross exit Benghazi, Lieutenant Colonel Wood remarked that “it was apparent to me that we were the last [Western] flag flying in Benghazi. We were the last thing on their target list to remove from Benghazi.”<sup>8</sup> Tragically, his warnings went unheeded.

Despite the growing danger in Libya, State Department officials in Washington denied the requests for increased security from U.S. personnel on the ground. Instead, the Department insisted on aggressively *reducing* security support in Libya, disregarding numerous indications that this assistance was still necessary. There is widespread agreement that these actions led to a wholly inadequate security posture in Benghazi, with deadly consequences.<sup>9</sup> On September 11, 2012, terrorists, including those affiliated with al-Qaeda, attacked U.S. facilities in Benghazi, killing U.S. Ambassador Christopher Stevens, and U.S. officials Sean Smith, Tyrone Woods, and Glen Doherty.<sup>10</sup> This was a tragic loss of life, and it served to embolden America’s enemies.

Over the past 16 months, majority investigative staff of the House Committee on Foreign Affairs have conducted extensive oversight, studying the State Department’s conduct before, during, and after the terrorist attacks. In April 2013, the five House committees of jurisdiction issued an *Interim Progress Report* documenting their findings, including significant bureaucratic missteps and outright failures by key officials to ensure the safety and security of U.S. personnel in Libya. This report builds upon these oversight activities and focuses on the lack of accountability within the State Department in light of these well-documented failures.

Committee Members have demanded that the appropriate State Department officials be held accountable for their ill-advised decisions, so that similar mistakes are not repeated. Yet neither the White House nor the State Department have stepped up to this responsibility. Instead, the Obama Administration has repeatedly pointed to the final report of the Benghazi Accountability Review Board (“ARB”) as the definitive assessment of accountability.

Unfortunately, the Benghazi ARB’s work was seriously deficient in several respects, most notably in its failure to review or comment on the actions of the Department’s most senior officials. While the ARB did cite four Department personnel (including one political appointee) for their underperformance, the Department’s top officials – including Clinton, her deputies, and the Under Secretary of State for Management – escaped any meaningful scrutiny, as did other senior Department officials involved in security decisions and Libya policy. For example, although Secretary Clinton herself championed the U.S. intervention in Libya in early 2011, and testified to the Committee that she was “engaged...in the issues relating to the deteriorating threat environment” in Libya,<sup>11</sup> the ARB never interviewed her or her deputies. Moreover, other senior officials who admitted to their involvement in security-related decisions, such as Under Secretary of State for Management Patrick F. Kennedy, were not reprimanded by the ARB.

Committee investigators believe that these omissions could be related to the fact that Secretary Clinton selected four out of the ARB’s five members, while other Department officials like Under Secretary Kennedy played some role in developing its initial roster of prospective members.<sup>12</sup> While legally permissible, this compromised the report’s independence and impartiality. To counter the potential for abuse in future ARB investigations, Chairman Royce

has introduced legislation, discussed below, to limit the influence of the Secretary and other Department personnel in this selection process.

While the State Department has repeatedly cited the ARB's report to deflect criticism of its senior leadership, it has refused to meaningfully discipline any of the four employees that the ARB *did* fault.<sup>13</sup> When the ARB report was released in December 2012, it cited four Department officials for "systemic failures and leadership and management deficiencies" that contributed to the "grossly inadequate" security in Benghazi on the night of the attacks.<sup>14</sup> These four were removed from their duties and placed on paid administrative leave immediately after the report's release, only to be reinstated eight months later in different positions within the Department.

Secretary of State John Kerry recently argued before the Committee that these Department employees *had* been held accountable. During testimony before the Committee, the Secretary went out of his way to dramatically note that "careers were ended" by the post-Benghazi fallout. He further asserted that charges about a lack of accountability constituted a "mythology that has no basis in fact."<sup>15</sup> But the facts paint a different picture.

Two of the four employees cited by the ARB simply retired after their reinstatement. One had actually told Committee investigators that he planned to retire *well before* the attacks in Benghazi.<sup>16</sup> Moreover, after Chairman Royce pressed the Department for more information, it was revealed that the other retiree is expected to continue working "on a part-time, as needed basis to support Departmental activities."<sup>17</sup>

Secretary Kerry also claimed that the two other employees cited by the ARB had been "demoted."<sup>18</sup> The Department later clarified that these employees were still waiting for their next assignments, while one receives "additional training."<sup>19</sup> The Department *did* note that neither employee will have "worldwide" security responsibilities. However, it does not seem that their salaries or benefits will be affected by whatever new positions they are ultimately assigned. Given this, it appears that Secretary Kerry overstated the degree to which these individuals have been held accountable.

Indeed, exoneration of an organization's senior-most officials along with reassignment and training for others does *not* constitute sufficient accountability for the failures that led to the woefully inadequate security posture in Benghazi. While then-Secretary Clinton publicly accepted "responsibility" for the failures of her Department, she suffered no significant consequence and held no one accountable. In a well-run organization, there are consequences for failure; at the State Department, not one employee was fired or even missed a paycheck. This report represents a concerted effort by Committee investigators to confront the illusion of accountability that has been promoted by the Department.

Meanwhile, and with serious consequences for U.S. national security, the Administration appears little closer to killing or capturing those who carried out the attacks, despite President Obama's and Secretary Clinton's pledges to do so. Critical tools have been underutilized, including the Rewards for Justice program, which offers financial incentives to terrorist informants.

State Department personnel serve the nation with distinction. Many put their lives at risk, operating in the most dangerous areas of the world. Their security cannot be guaranteed, nor do they expect it to be guaranteed. What they do expect and deserve is a Department in which

everyone is held accountable for his or her performance and which makes every reasonable effort to ensure their safety.

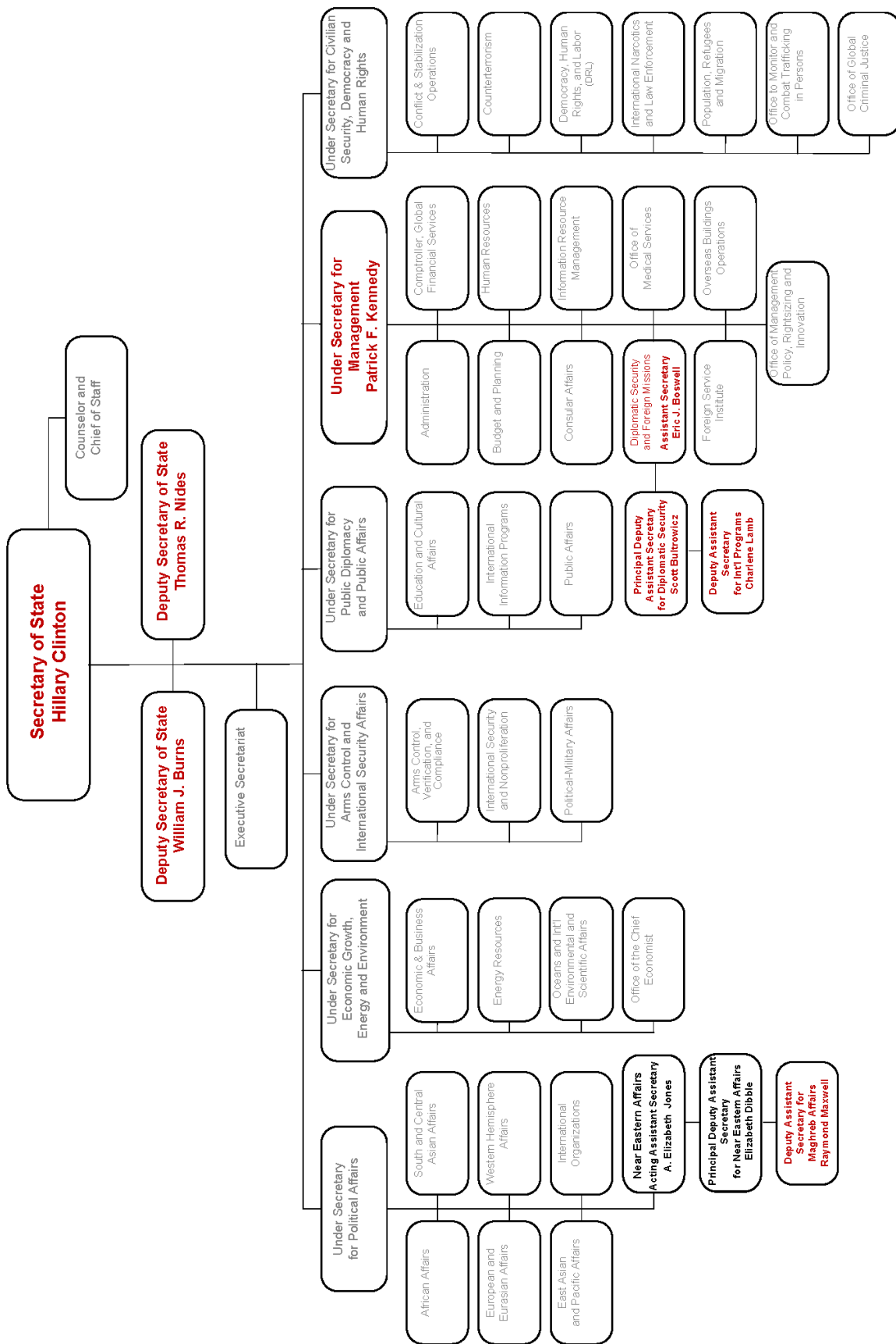
This report shows a State Department that is not focused on accountability. To this day, none of the agency's personnel have been held accountable in a meaningful way for their flawed decisions about security in Benghazi. The "talking points" episode further revealed a Department leadership more interested in its reputation than an accurate accounting of the facts. Tellingly, the Department went for a historically long period – including the entirety of Secretary Clinton's tenure – without a permanent Inspector General, a position central to ensuring a culture of accountability. In its oversight capacity, the Committee on Foreign Affairs will remain focused on pressing for the accountability needed to make State Department personnel serving overseas safer.



## KEY FINDINGS

- Before September 11, 2012, U.S. intelligence agencies provided extensive warning of the deteriorating security environment in eastern Libya, including al-Qaeda's expanding operations and the mounting risk to U.S. personnel and facilities.
- These threats were well-understood by even the most senior officials in Washington; then-Secretary Clinton "was certainly aware" of this reporting, as well as the fact that extremists claiming to be affiliated with al-Qaeda were active in the area.
- Despite this increasingly dangerous environment, State Department officials in Washington denied requests for additional security from Department personnel on the ground in Libya, and insisted on an aggressive timeline for drawing down support. By contrast, the CIA increased security at its facilities in Benghazi.
- The Accountability Review Board (ARB) convened in response to the 1998 attacks on the U.S. embassies in Nairobi and Dar es Salaam recommended that the Secretary of State "take a personal and active role in carrying out the responsibility of ensuring the security of U.S. diplomatic personnel abroad."
- The ARB convened by Secretary Clinton after the Benghazi attack was seriously deficient in several respects, most notably in its failure to review or comment on the actions of the Department's most senior officials, including Secretary Clinton herself.
- Secretary Clinton and Secretary Kerry have failed to hold anyone accountable for the flawed decisions about security in Benghazi. Instead, the four employees cited by the ARB were temporarily suspended *with* pay and ultimately reassigned to new positions within the Department. Two of these officials subsequently retired voluntarily, and not as the result of disciplinary action.
- The "talking points" controversy further revealed a Department leadership more interested in its reputation than establishing the facts and accountability.
- Tellingly, during the entirety of Secretary Clinton's tenure, the State Department went for a historically long period without a permanent Inspector General, a position central to ensuring a culture of accountability within the Department.
- State Department personnel serve the nation with distinction, operating in the most dangerous areas of the world. Their security cannot be guaranteed, nor do they expect it to be guaranteed. What they do expect and deserve is a Department in which everyone is held accountable for his or her performance.
- While the Committee will continue to press for accountability, it is incumbent upon President Obama and Secretary Kerry to recognize the failures of senior officials and hold them accountable. Otherwise, another Benghazi scenario, in which U.S. personnel are left vulnerable by irresponsible decision making in Washington, is inevitable.

# STATE DEPARTMENT ORGANIZATIONAL CHART AS OF MAY 2012<sup>20</sup>





## **I. INTRODUCTION**

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Investigative staff of the five House committees have conducted rigorous oversight of the events surrounding the September 11-12, 2012 terrorist attacks on U.S. facilities in Benghazi, Libya. Oversight efforts have included numerous hearings, briefings, witness interviews, and a protracted and contentious document review by the Committees on Foreign Affairs, Armed Services, Intelligence, Judiciary, and Oversight and Government Reform. These Committees have worked together to uncover the facts, hold the Administration accountable for its failures, and advance necessary reforms.

The oversight conducted by the Committee on Foreign Affairs has included: convening four public hearings with senior State Department officials, including Secretaries of State Clinton and Kerry, as well as other experts; holding two classified Member briefings; reviewing more than 25,000 pages of documents that the Department produced under highly restrictive circumstances<sup>21</sup>; sending 14 letters to request specific information from government agencies; interviewing numerous Department and interagency witnesses; and, along with the four other House committees investigating the attacks, co-authoring the April 23, 2013 *Interim Progress Report* for the House Republican Conference.<sup>22</sup> The Committee on Foreign Affairs continues to press the State Department to hold the appropriate officials accountable, and to take all steps necessary in the hunt for the Benghazi terrorists.

This extensive oversight effort has led to legislative reform initiatives. On July 30, 2013, Chairman Royce introduced H.R. 2848, the Department of State Operations and Embassy Security Authorization Act, which makes substantial improvements to embassy security funding, procedures, and operations, especially at high-risk, high-threat posts. In addition, Chairman Royce has introduced H.R. 1768, the Accountability Review Board Reform Act, to increase the independence and transparency of future investigations into State Department security incidents.

## **II. FLAWED DECISION MAKING LEFT AMERICANS VULNERABLE**

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As described in the *Interim Progress Report* and the recent report of the Senate Select Committee on Intelligence, security conditions in Libya continued to worsen throughout 2012, as heavily armed militias gained prominence throughout the country. Internal strife spilled into the streets, erupting in random gunfire, revenge killings, and calculated attacks on Western targets. Indeed, U.S. personnel documented over 200 security incidents, including an attempt to assassinate the British ambassador and two separate bombings of the Benghazi Special Mission Compound (“SMC”).

As the violence increased, U.S. personnel in Libya repeatedly requested additional security from the State Department. These requests came in the form of emails, phone conversations, and official cables between Tripoli and Washington. Yet, in the days and months before the attacks, the Department withdrew two Diplomatic Security (“DS”) mobile security detachments and a U.S. military Security Support Team (“SST”), believing these assets could be effectively replaced by a combination of DS agents and local guards. The patchwork local guard force in Benghazi included an unarmed perimeter patrol and four armed members of a local militia (the 17<sup>th</sup> of February Martyrs Brigade).

Yet for prolonged stretches of time, the Benghazi SMC had only *one* DS agent to protect its personnel, despite the Department's authorization for five DS agents. By comparison, Embassy Baghdad had as many as 88 agents during the same time period.<sup>23</sup> DS agents provide protection for diplomatic personnel and facilities abroad; they include Regional Security Officers, who coordinate a post's security arrangements and serve as a principal security and law enforcement advisor. At no time did the Department assign more than three DS agents to the SMC, and each agent served on a short-term temporary duty assignment ("TDY").<sup>24</sup>

According to the Benghazi Accountability Review Board ("ARB"), DS agents performed bravely on the night of the attacks,<sup>25</sup> but some were "junior" agents on temporary duty assignments who had "relatively little or no prior DS program management or overseas experience."<sup>26</sup> Committee investigators continue to probe why the Department deployed junior agents to a high-threat post like Benghazi.

Remarkably, as the Department ramped down security it privately acknowledged that staffing levels were inappropriate. In a June 11, 2012 email exchange concerning Benghazi, former Deputy Assistant Secretary of State for Diplomatic Security Charlene Lamb noted to her superiors:

"...This is very concerning when you start putting the events together: The recent big demonstration that was openly anti-American, the attack on our compound, and now this UK motorcade attack. **If the tide is turning and they are now looking for Americans and Westerners to attack that is a game changer. We are not staffed or resourced adequately to protect our people in that type of environment.** We are a soft target against the resources available to the bad guys there. Not to mention there is no continuity because we do everything there with [temporary duty] personnel..."<sup>27</sup>

By comparison, the Central Intelligence Agency ("CIA") *increased* security at its nearby facilities in response to the deteriorating security situation. According to the recent report of the Senate Select Committee on Intelligence, the CIA "quickly implemented additional security measures due to the threat of continued attacks against Western personnel in Benghazi."<sup>28</sup> The CIA's approach stands in stark contrast to that of the State Department's, and further highlights the State Department's lack of responsiveness to the deteriorating security situation.

### **III. ADMINISTRATIVE LEAVE ...THEN REINSTATEMENT**

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The Committee's oversight efforts have revealed a startling lack of accountability at the State Department for the poor decision making that left U.S. officials so vulnerable to attack. On October 4, 2012, then-Secretary Clinton convened the Benghazi ARB to investigate the facts and circumstances surrounding the attacks. The ARB issued its final report in December 2012, citing four Department officials for "systemic failures and leadership and management deficiencies" that contributed to the "grossly inadequate" security in Benghazi on the night of the attacks.<sup>29</sup>

These four employees were not identified in the public version of the ARB's final report. However, in a now-declassified section of the report, the ARB specifically criticizes them for their performance.<sup>30</sup> ARB co-Chairman Ambassador Thomas Pickering later described them in a televised interview as having "failed in the performance of their duties."<sup>31</sup>

These employees were Assistant Secretary of State for Diplomatic Security Eric Boswell, Principal Deputy Assistant Secretary for Diplomatic Security Scott Bultrowicz, Deputy Assistant Secretary for Diplomatic Security Charlene Lamb, and Deputy Assistant Secretary for Maghreb Affairs Raymond Maxwell. On January 23, 2013, Secretary Clinton testified before the Committee that these four had been removed from their jobs and placed on paid administrative leave. On April 17, 2013, Secretary of State John Kerry testified before the Committee that the Department was reviewing the performance of these employees, after which he would determine what action to take with respect to each of them.

On August 20, 2013, the State Department announced—without notifying or consulting the Committee—that it had reinstated the four employees and given them new assignments.<sup>32</sup> The Committee immediately sought answers from Department officials about this action. The Department eventually responded that Secretary Kerry had “re-affirmed” the ARB’s findings, that the four would “be held accountable by permanently relieving them of the positions and duties that gave rise to the Board’s findings,” and that their new assignments would “reflect a level of responsibility appropriate to their expertise and experience.”<sup>33</sup> According to one Department spokesperson, “the right answer for these four was reassignment.”<sup>34</sup>

**The New York Times**

**Republicans Say State Dept. Meted Out No Discipline Over Benghazi Attack**

By ERIC SCHMITT

WASHINGTON — Senior House Republicans on Wednesday accused the State Department of failing to hold senior department officials accountable for security failures that contributed to the attack on the American diplomatic mission in Benghazi, Libya, last year in which four Americans were killed.

“No State Department personnel have been fired or even disciplined,” said Representative Ed Royce, Republican of California who leads the House Foreign Affairs Committee. “No one has missed a paycheck.”

Mr. Royce’s comments opened the first of three hearings this week that the House Republican

Patrick F. Kennedy, above left, a State Department official, defended his agency’s response to the attack on an American diplomatic mission in Libya last year. Representative Ed Royce, at the microphone, was critical. “No one has missed a paycheck,” he said.

PHOTOGRAPHS BY GABRIELLA DENCIK/THE NEW YORK TIMES

and must be elevated in importance, Mr. Sullivan’s panel recommended creating a new under secretary job to oversee diplomatic security, a proposal Mr. Kennedy said was under review.

Mr. Royce also raised concerns that a year after the attacks in Benghazi, “not one terrorist perpetrator has been captured or killed, despite the president saying that this was his highest priority.”

The Justice Department has indicted suspects in the attack. American intelligence officials have a general idea of where they are hiding, but they have not been captured. Some military and law enforcement officials have grown frustrated with what they believe is the White House’s unwillingness to pressure the Libyan government to make it

tacks against us in all cases.” posts. It also plans to improve

In response, Chairman Royce convened a hearing to examine the State Department’s “disciplinary” decisions. At the September 18, 2013 hearing, Committee members pressed the Department to explain why not one of its employees had been disciplined in any meaningful way. Under Secretary Kennedy testified that the employees cited by the ARB had been reassigned to positions of “lesser responsibility,” reiterating the Department’s position that this constituted accountability.<sup>35</sup> Chairman Royce countered that it did not: “no State Department personnel have been fired or even disciplined. No one has missed a paycheck.” On November 19, 2013, Chairman Royce sent a letter to the Department requesting an update on the employment status of the four.



On December 10, 2013, Secretary Kerry argued in testimony before the Committee that there *had* been accountability at the Department, because two of these four employees had been “demoted,” while the other two had resigned after their “careers were ended” over the post-Benghazi fallout.<sup>36</sup> In a December 11, 2013 letter, Chairman Royce sought clarification from the Department about Secretary Kerry’s dramatic assertion.

On January 17, 2014, the Department formally responded to the Chairman’s repeated requests, asserting that the four officials had been “permanently relieved of the positions that gave rise to the ARB’s findings and assigned to positions of lesser responsibility.”<sup>37</sup> The Department also disclosed that:

- **Eric Boswell** had resigned from this position as Assistant Secretary for Diplomatic Security in December 2012, after the ARB report’s release, but retained his concurrent position as the Director of the Office of Foreign Missions. After returning from administrative leave in November 2013, he then retired from the Department. However, the Department anticipates continuing to employ him for temporary assignments.
- **Scott Bultrowicz**, the former Principal Deputy Assistant Secretary of Diplomatic Security, is now working in the Office of the Executive Director of Diplomatic Security on “projects involving management and administrative issues, and will do so until the next assignment cycle.”
- **Charlene Lamb**, the former Deputy Assistant Secretary of Diplomatic Security for International Programs, is now “in training while she waits for her next assignment.”
- **Raymond Maxwell**, the former Deputy Assistant Secretary for Maghreb Affairs, became an advisor to the Bureau of African Affairs in August of 2013. He retired from the Foreign Service in November 2013.

It is worth noting that Mr. Boswell’s actions were voluntary, and not the result of any disciplinary action by the Department. Mr. Maxwell’s retirement was not only voluntary, **but something he planned to do during summer 2012.**<sup>38</sup> Around that time, and with the Department’s consent, Mr. Maxwell postponed his retirement to assist during the turbulent Arab Spring.

Despite repeated assurances from Secretaries Clinton and Kerry that they would hold accountable those responsible for the inadequate security in Benghazi, such accountability remains starkly absent. The voluntary retirements of Mr. Boswell and Mr. Maxwell and the re-assignments of Mr. Bultrowicz and Ms. Lamb do *not* meet any reasonable threshold for accountability, given the magnitude of the events that unfolded in Benghazi. Nor do they compensate for the lack of decisive action by Secretaries Clinton and Kerry to encourage a culture of accountability within the Department.

#### **IV. FAILURE TO CONSIDER SENIOR DEPARTMENT OFFICIALS**

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While lower-level personnel certainly contributed to the State Department’s failures, the Benghazi ARB appears not to have considered whether the conduct of more senior managers also played a role in the tragedy. The Board never interviewed the Department’s senior-most political appointees, including then-Secretary Clinton, Deputy Secretary William Burns, and

then-Deputy Secretary for Management and Resources Thomas Nides. At the same time, individuals who admitted involvement in security-related decisions, such as Under Secretary Kennedy, avoided scrutiny and maintained their high-level positions.

These lapses by the Benghazi ARB belie any system of real accountability and are particularly glaring in light of a previous ARB. The ARB that convened in response to the 1998 attacks on the U.S. Embassies in Nairobi and Dar es Salaam recommended that: “[f]irst and foremost, the Secretary of State should take a personal and active role in carrying out the responsibility of ensuring the security of U.S. diplomatic personnel abroad.”<sup>39</sup> Instead, Secretary Clinton accepted “responsibility” while denying any direct role in the decisions surrounding security at the Benghazi SMC, even while top Department officials knew the security situation was “flashing red around the time of the attack.”<sup>40</sup> Especially given the United States’ deep involvement in Libya, it appears that Secretary Clinton did not meet the expectations set by the 1998 ARB.

### ***Under the Department’s Longstanding Reporting Structure, Senior Officials Should Have Been Involved in Security-Related Decisions.***

A former senior political appointee within the State Department has explained that, according to longstanding Department policy, security requests from diplomatic posts are generally routed simultaneously through both the Bureau of Diplomatic Security and the relevant regional bureau—in this case, the Bureau of Near Eastern Affairs. Each bureau’s Assistant Secretary reviews requests and makes a recommendation for action to the Under Secretary for Management. The Under Secretary for Management then is responsible for approving or rejecting security requests in consultation with the Deputy Secretary for Management and Resources.

This process implies that the approval and denial of security resources would have been made by—or at least briefed to—Under Secretary Kennedy, and perhaps even the former Deputy Secretary for Management and Resources, Thomas Nides. In addition to their duties in reviewing security requests, these two individuals are functionally responsible for the deployment of personnel and the approval of expenditures at overseas posts, making the Benghazi ARB’s silence about their respective roles a clear oversight.

### ***Department Personnel Serving in Libya Testified that Under Secretary Kennedy was Involved in Security-Related Decisions Leading up to the Benghazi Attacks.***

State Department officials testifying before Congress on May 8, 2013 disagreed with the ARB’s conclusion that responsibility for security decisions should rest at or below the Assistant Secretary level. Specifically, former Embassy Tripoli Regional Security Officer Eric Nordstrom testified that “all of the resource determinations [for DS] are made by the Under Secretary for Management.”<sup>41</sup>

Similarly, when asked whether the Benghazi ARB let anyone at the Department “off the hook,” former Embassy Tripoli Deputy Chief of Mission Gregory Hicks responded in the affirmative.<sup>42</sup> Hicks noted that “the decision making authority is at...the level of [Assistant Secretary] or higher” and that Under Secretary Kennedy “has to bear some responsibility” given his role in approving personnel assignments to Embassy Tripoli and the Benghazi SMC.<sup>43</sup>

### ***Under Secretary Kennedy Has Described His Involvement in Security-Related Decisions.***

Under Secretary Kennedy himself has acknowledged making security-related decisions about the U.S. Mission to Libya before the attacks. Yet the ARB report did not discuss his involvement or responsibility in any meaningful way. For example, it was Under Secretary Kennedy who approved a one-year extension of the Benghazi SMC in December 2011, even though this temporary status and uncertain future put the post at a disadvantage when it came to obtaining security resources.<sup>44</sup> This extension included specific instructions regarding the security posture in Benghazi, including the number of DS agents that would be assigned to post (five). While the ARB failed to mention Under Secretary Kennedy's role, it *did* emphasize "the flawed process by which Special Mission Benghazi's extension until the end of December 2012 was approved," describing it as "a decision that did not take security considerations adequately into account."

In addition to approving the U.S. diplomatic presence in Benghazi, Under Secretary Kennedy told the Defense Department in July 2012 that the State Department would no longer need the U.S. military's 16-member SST.<sup>45</sup> Mr. Kennedy rejected the SST despite compelling requests from personnel in Libya that the team be allowed to stay. The ARB report does not mention this decision.

Though State Department officials in Washington have downplayed the security function served by the SST,<sup>46</sup> the SST's commander, Lieutenant Colonel Andrew Wood, repeatedly stressed the unit's importance when testifying before Congress. According to Lieutenant Colonel Wood, the SST was created "to meet the demanding security challenges facing the State Department and their requirement to re-establish diplomatic relations with a post-Qaddafi or Free Libya" and "loaned considerable support to [the Department's] security posture in this uncertain and volatile environment."<sup>47</sup> These sentiments were echoed by Tripoli's Regional Security Officer Nordstrom, who stressed that retaining the SST until other security resources became available was a "primary issue" for him in his role as the U.S. Mission to Libya's lead security officer.<sup>48</sup>

It has recently been suggested that Ambassador Stevens may have been responsible for rejecting the SST, since *after* Mr. Kennedy's initial rejection, the Ambassador reportedly turned down two more Defense Department offers to extend the SST's presence in Libya.<sup>49</sup> Embassy Tripoli's former Deputy Chief of Mission Gregory Hicks, who served with Mr. Stevens in Benghazi, has vehemently denied this claim. According to Mr. Hicks, because Under Secretary Kennedy had already rejected the extension of the SST's mission, State Department practice required Ambassador Stevens to decline any future Defense Department offers.<sup>50</sup>

On May 3, 2012, Under Secretary Kennedy also terminated Embassy Tripoli's use of a DC-3 aircraft that provided logistical support to the SST.<sup>51</sup> In a meeting with congressional staff shortly after the Benghazi attacks, Lieutenant Colonel Wood called the DC-3 "vital" to moving sensitive personnel and equipment to and from Benghazi and Tripoli.

Under Secretary Kennedy's role in reducing the Department's security posture undermines the ARB's assertion that *only* officials at or below the Assistant Secretary level should bear responsibility for decisions related to security in Benghazi. It is unclear whether the ARB was aware of Under Secretary Kennedy's decision making role and chose not to reference it, or simply had no knowledge of his involvement. Regardless, the ARB's failure to address his



actions constituted a significant oversight. Secretary Kerry should correct this and hold him accountable for his poor security decisions.

***What Difference, At This Point, Does it Make? The Result: More than One Year Later, Still No Accountability at the State Department.***

Secretary Clinton and her deputies were never evaluated for their performance leading up to the attacks. Under Secretary Kennedy's role in decisions involving security was dismissed. And the employees who *were* faulted by the ARB were reinstated. This does not represent even a modicum of Department "accountability" based on these actions.

Despite the State Department's claims that it was using the administrative leave period to review the four employees' cases and make a deliberate decision about their future, congressional investigators found little evidence that the Department had substantively reviewed their performance. Immediately after the release of the ARB's report, the Department apparently assured all four employees that their administrative leave would be temporary, after which they would receive new positions within the Department.<sup>52</sup> Moreover, more than six months into the administrative leave period, congressional investigators who spoke with the four employees learned that no Department official had even attempted to interview or question them. In one case, the suspended employee's immediate supervisors were unaware of any Department review of his performance.<sup>53</sup> Based on this information, the State Department's "evaluation" of the four employees appears to have been more of a delay tactic than a real attempt to hold individuals accountable.

The case of Mr. Maxwell, the former Deputy Assistant Secretary for Maghreb Affairs, calls into question the Department's claims that it has held the appropriate officials responsible. Unlike the other three employees cited by the ARB, Mr. Maxwell did not work in the Bureau of Diplomatic Security. Further, he has maintained that prior to the attacks, he had no role in the review or approval of recommendations related to security in Libya.<sup>54</sup> His immediate superior has confirmed this fact.<sup>55</sup> Yet it took the State Department eight months to resolve his case. Perhaps worse, Secretary Kerry recently pointed to Mr. Maxwell's pre-planned retirement as evidence of "accountability."<sup>56</sup>

Meanwhile, senior officials not cited by the ARB, but who played a role in shaping the Department's security posture in Benghazi, or the Administration's flawed response to the attacks, appear to have been promoted. For example, Principal Deputy Assistant Secretary for Near Eastern Affairs Elizabeth Dibble, previously Mr. Maxwell's immediate supervisor, was granted a prestigious assignment as the new Deputy Chief of Mission at U.S. Embassy London.

Likewise, former State Department Spokesperson Victoria Nuland, who played an active role in shaping the controversial "talking points" used by Administration officials soon after the Benghazi attacks, was confirmed in September 2013 as the Department's new Assistant Secretary for European and Eurasian Affairs. Jake Sullivan, who served as Secretary Clinton's Deputy Chief of Staff for Policy, was another key State Department participant in the drafting of the talking points. In February 2013, he was selected to serve as Vice President Joseph Biden's National Security Advisor.

## **THE “TALKING POINTS”**

### **A CASE STUDY IN THE STATE DEPARTMENT’S CULTURE OF UNACCOUNTABILITY**

The controversial talking points used by Ambassador Susan Rice on September 16, 2012 were initially prepared by the CIA for Members of the House Permanent Select Committee on Intelligence, who had requested unclassified information about the attacks for use in responding to media inquiries. The CIA prepared an initial set of talking points, then forwarded the draft to other interested agencies for comment. (A fuller discussion of the multiple revisions that ensued is contained in the Senate Select Committee on Intelligence’s recent report).

Perhaps the most troubling aspect of this interagency correspondence is the extent to which senior State Department officials repeatedly objected to the inclusion of any information that might cast the Department in an unflattering light. Then-Department Spokesperson Victoria Nuland argued against any mention of the many CIA warnings about the deteriorating security environment in Benghazi because, though entirely accurate, they could be used “to beat the State Department for not paying attention to Agency warnings.”<sup>57</sup> Other officials agreed, noting that such information would “read to members like we had been repeatedly warned.”<sup>58</sup>

Even after the talking points had been modified to reflect the State Department’s concerns, Nuland replied to the interagency that the changes “don’t resolve all my issues or those of my building leadership. They are consulting with [the White House’s National Security Staff].” Interagency officials noted that “the State Department had major reservations with much or most of the document.”<sup>59</sup>

Ultimately, State Department leadership succeeded in refining the document to the point where then-CIA Director David Petraeus remarked “[f]rankly, I’d just as soon not use this then...”<sup>60</sup> This final version of the talking points contained no mention of terrorism or the multitude of warnings issued by the CIA with regard to extremist activities in eastern Libya.

The actions of State Department officials in this episode demonstrate a troubling preference for political self-preservation over embracing the culture of accountability necessary for protecting its personnel serving abroad. The Department’s leadership is clearly unwilling to accept and digest criticism. Rather than concentrate on *why* intelligence warnings about Benghazi were not heeded, and how to make sure they are better addressed in the future, Department leadership focused on how to avoid or mitigate damage to their reputations.

## **V. FIXING THE BROKEN ACCOUNTABILITY REVIEW BOARD PROCESS**

Congress created the Accountability Review Board process in the Omnibus Diplomatic Security and Antiterrorism Act of 1986, which requires the Secretary of State to convene an ARB in “any case of serious injury, loss of life, or significant destruction of property at, or related to,” a U.S. mission abroad.<sup>61</sup> As noted above, Committee investigators have identified significant oversights by the Benghazi ARB,:

- *Failed to recommend disciplinary action against those responsible for failures.* The ARB described serious management deficiencies by State Department personnel, yet did not recommend disciplinary action against them. According to the ARB, its authorizing

statute did not permit the recommendation of disciplinary action because these failures did not constitute a “breach a duty” – a rather vague standard that the ARB concluded required a more egregious violation of workplace conduct than was discovered in the course of their investigation. The ARB instead claimed that certain Department employees demonstrated “unsatisfactory leadership performance,” and recommended that this be a basis for disciplinary recommendations by future ARBs.

- ***Did not interview the Department’s most senior officials, despite their ultimate responsibility for the safety of Department personnel.*** As discussed, the ARB did not interview the senior-most officials at the State Department, including then-Secretary Clinton, Deputy Secretary William Burns, or then-Deputy Secretary for Management and Resources Thomas Nides.
- ***Did not adequately explain why it deemed some employees “responsible” for the poor security posture in Benghazi, while ignoring the roles of others whose decisions affected security.*** Many Committee Members believe that the Board did not assign responsibility for the poor security in Benghazi at a high enough level within the Department. In particular, the ARB’s report failed to address evidence linking so-called “seventh floor” Department officials to the decisions that led to the Benghazi SMC’s severely compromised security posture. Instead, the ARB assessed responsibility for the Department’s “systemic failures” at or below the level of Assistant Secretary – a seemingly arbitrary cutoff that excluded very senior officials like Under Secretary Kennedy from scrutiny.
- ***Was assisted by State Department employees, raising concerns about the ARB’s independence.*** The Department acknowledged that a small number of its employees assisted the Benghazi ARB in its work. This arrangement, while permissible under current law, raises questions about the ARB’s independence from the Department. These employees might have acted with the best of intentions, but it is questionable whether it was appropriate for the Department to assign them to what should be an “independent” investigative panel. Moreover, such a system could potentially create serious conflicts of interest, including, for example, if employees investigated by an ARB later serve on performance review boards for those who helped carry out the investigation.

### ***Reforming ARB Investigations: The Accountability Review Board Reform Act***

The Benghazi ARB’s shortcomings demonstrate the need for serious reform. In light of concerns with the Board’s composition, process, and final report, Chairman Royce has proposed legislative reforms to ensure that future ARBs can perform their work with greater independence. On April 23, 2013, the Chairman introduced H.R. 1768, the Accountability Review Board Reform Act of 2013. This bill, with 19 majority co-sponsors on the Committee, seeks to increase the independence of future ARBs from the Department, and improve the transparency and reliability of future ARB reports.

H.R. 1768 principally does the following:

- ***Increases the ARB’s independence.*** The Secretary of State currently appoints four out of the ARB’s five members—a clear majority that presents a serious conflict of interest.



This bill requires the Chairperson of the Council of Inspectors General on Integrity & Efficiency (the umbrella organization for federal Inspectors General) to appoint two of the ARB's five members, thus limiting the Secretary's appointments to a minority of ARB members (two).

- **Improves ARB staffing.** Under current law, an ARB may detail any federal employee to help carry out its investigation; the Benghazi ARB used current State Department employees. Using Department employees in this capacity is problematic because they could end up investigating friends, coworkers, or even themselves. Under H.R. 1768, employees used by the ARB would come from the Department's Office of Inspector General, as these officials are already tasked with conducting independent investigations of Department operations.
- **Prevents conflicts of interest.** H.R. 1768 would prevent officials from serving as ARB members or staff if they have a current or prior personal or professional relationship with someone they might have to investigate. It also provides for ARB members and staff to recuse themselves from particular ARB activities that may present a similar conflict.
- **Requires the Secretary to name for Congress the senior employees that staff the ARB.** Current law only requires the Secretary of State to disclose the names of ARB members. In investigating the Benghazi attacks, it took the Committee months to obtain the names of those State Department employees who assisted the Benghazi ARB. This Act improves oversight by allowing Congress to know whether any senior State officials are involved in the investigation.
- **Requires the ARB report be provided to Congress.** Current law requires only that the ARB's final report go to the Secretary of State, and the Department has declined to provide most previous ARB reports to Congress. This Act would require future reports to go to Congress, thus aiding congressional oversight efforts.

## **VI. GETTING STATE'S TOP COP BACK ON THE BEAT**

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A well-functioning, independent Office of Inspector General ("OIG") is essential to promoting accountability in U.S. government agencies, by providing critical review of agency activities and ensuring effective congressional oversight. For the State Department, the OIG's role is particularly important due to the obvious challenges to accountability that come with having nearly 70,000 employees – including more than 45,000 foreign staff – at hundreds of installations around the world. In addition, the Department's OIG conducts specialized security inspections to ensure effective protection of Department personnel, facilities, and sensitive information.

However, during President Obama's tenure the State Department's OIG has been hampered in its mission. In what constituted the longest vacancy *ever* for any of the 73 Inspector General positions across the federal government, President Obama failed to nominate a permanent Inspector General for the State Department for an inexcusable 1,989 days – the entirety of Secretary Clinton's tenure. For the nearly five-and-a-half-years that this top cop was off the beat, the Department conducted large-scale initiatives in countries with high rates of corruption,

and of course experienced major challenges to the security of its embassies, including the attacks in Benghazi.

Through letters and hearings, Chairman Royce pressed the Administration to fill this troubling vacancy. On June 25, 2013, Chairman Royce introduced H. Res. 273, calling on the President to immediately nominate a qualified and independent Inspector General. Within days, President Obama nominated Steve Linick, a former Inspector General of the Federal Housing Finance Agency, who was confirmed by the Senate in September 2013.<sup>62</sup> This answered a pledge Secretary Kerry made to the Committee in April 2013 that this position would be filled. Independent oversight from a strong OIG will help ensure greater accountability within the Department going forward, including with respect to the types of security-related decisions that are made at high-risk posts like Benghazi.

### **ACCOUNTABILITY AT THE DEPARTMENTS OF STATE AND DEFENSE: A STUDY IN CONTRASTS**

While the State Department appears entirely unwilling to hold its employees truly accountable, the Defense Department has by contrast demonstrated swift disciplinary action in response to serious performance failures and loss of life. In September 2013, the Marine Corps' top officer, General James F. Amos, concluded that two senior Marine Corps generals should be relieved of their commands, after they failed to take "adequate force protection measures" prior to a Taliban attack on Camp Bastion, Afghanistan. The September 2012 Taliban attack had killed two Marines, wounded eight personnel, and destroyed six AV-8B Harrier jets – almost an entire squadron – in the largest single loss of allied materiel during the Afghanistan war.<sup>63</sup> This loss of life due to a failure to provide adequate security was strikingly reminiscent of the circumstances surrounding the Benghazi attacks.

By failing to deploy a sufficient number of guards and take other measures to prepare for a Taliban ground attack, the generals "failed to exercise the level of judgment expected of commanders of their rank."<sup>64</sup> According to General Amos, "[t]he fog of war, the uncertain risks of combat, and the actions of a determined foe do not relieve a commander of the responsibility for decisions that a reasonable, prudent commander of the same grade and experience would have made under similar circumstances." In articulating the Marines' rigorous "accountability standard," General Amos noted that, despite the difficulty of the combat mission faced by these generals, "my duty requires me to remain true to the timeless axioms relating to command responsibility and accountability."

"This is the hardest decision I've had to make as commandant of the Marine Corps," General Amos announced. "I'm not asking you to feel sorry for me, but Mark Gurganus and Greg Sturdevant were close personal friends of mine. I served with them for decades. They're extraordinary Marine officers who have served their country with distinction and honor for many years. But commandship is a sacred responsibility and the standard for general officers is necessarily high. In their duty to protect our forces these two generals did not meet that standard."<sup>65</sup> While acknowledging the differences between the Defense and State Departments, a commensurate level of accountability should exist across the entire Executive Branch.

## **VII. ADVANCING REFORMS AND FUNDING FOR EMBASSY SECURITY**

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In addition to developing a culture of accountability, the State Department must continue to reassess its policies and procedures regarding embassy security. The Committee's investigation into the Benghazi attacks revealed a fundamentally flawed process for reviewing, approving, and administering security requests. Further, the Department must ensure that its posts are appropriately sized, located, and protected to match the critical policy objectives of the United States.

Consistent with these objectives, the Committee's FY 2014 State Department Authorization bill would take significant steps toward bolstering security for our diplomatic personnel and facilities abroad. As terrorist threats against its overseas facilities intensify – leading the State Department to close nearly two dozen posts in August 2013 – the Committee will continue to assess whether and to what extent further legislative reforms are necessary and feasible.

### ***Improving Embassy Security: H.R. 2848***

In July 2013, Chairman Royce introduced H.R. 2848, the State Department Operations and Embassy Security Authorization Act, Fiscal Year 2014. This legislation, which authorizes the Administration's full embassy security funding request, passed the House in September 2013 and is pending before the Senate Committee on Foreign Relations. Among other things, it:

- Authorizes \$4.83 billion for embassy security, including \$101 million for facility security upgrades such as blast-resistant doors and windows and retrofits for protection against chemical and biological attacks.
- Requires the State Department to designate a list of high-risk, high-threat posts and mandates working groups to ensure these posts have necessary security measures and funding.
- Directs the State Department and Defense Department to jointly develop enhanced contingency plans for emergency situations, including planning for rapid deployment of military resources.
- Requires a strategic review of the Bureau of Diplomatic Security to ensure that its mission and activities are meeting current and projected needs.
- Encourages the Capital Security Cost Sharing Program to prioritize the construction of enhanced facilities and improvement of facilities at high-risk, high-threat posts.
- Allows the State Department to award security contracts for high-risk, high-threat facilities on a "best value" basis rather than on a "lowest cost" basis.
- Improves security for the children and families of U.S. diplomats abroad.

Requires the State Department to make efforts to reduce the turnover of key personnel, including security providers, at high-risk, high-threat posts.

- Enhances security training requirements for personnel assigned to high-risk, high-threat posts.
- Authorizes funding for 156 additional Marine Security Guards at overseas posts.
- Lowers and clarifies the standard for future ARBs to recommend disciplinary action against Department employees.

## VIII. HUNTING DOWN THE TERRORISTS: ENSURING THE ADMINISTRATION DOES EVERYTHING POSSIBLE

On September 12, 2012, Secretary Clinton promised not to rest until those responsible for the attacks were “found and brought to justice,” and stated that the United States was “working closely with the Libyan authorities to move swiftly and surely.”<sup>66</sup> President Obama later vowed that his administration’s “biggest priority” was bringing to justice the perpetrators of the Benghazi attacks.<sup>67</sup> Despite these pledges, none of the perpetrators has been held accountable in the 16 months since the attack.

In the hunt for these terrorists the Administration should employ every tool available to it, including the State Department’s Rewards for Justice (“RFJ”) program, established by Congress in 1984. Under the RFJ program, the Secretary of State can offer rewards for information that leads to the arrest or conviction of anyone who plans, commits, or attempts international terrorist acts against U.S. persons or property.<sup>68</sup> The Department calls the RFJ program “one of the most valuable assets the U.S. Government has in the fight against international terrorism” and has paid out more than \$125 million to over 80 people who have provided actionable information that put terrorists behind bars or prevented acts of international terrorism worldwide.<sup>69</sup>



On October 30, 2013, Chairman Royce and 81 House Republicans wrote Secretary Kerry to ask why the State Department had not used the RFJ program to help find the perpetrators of the Benghazi attacks.<sup>70</sup> It was only after this inquiry that the Department formally disclosed that the RFJ program had an “active reward offer of up to \$10 million for information leading to the arrest or conviction of any individual involved” in the attacks. While then-Secretary Clinton had approved the reward in January 2013, the Department strongly implied that the Administration did not publicize the award in the United States or on the RFJ website to avoid “adversely affect[ing] efforts to bring to justice those responsible for the attack.”<sup>71</sup>

It remains unclear to Committee investigators how the RFJ offer can be effective if it is not publicized or promoted. Further, Committee investigators remain concerned that the Administration did not brief relevant congressional committees on the program’s use in the Benghazi investigation, despite prior assurances to keep Congress informed. Committee investigators are seeking answers to these questions.

## **IX. CONCLUSION**

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Systemic failures at the State Department during Secretary Clinton's tenure resulted in a grossly inadequate security posture in Benghazi. These vulnerabilities contributed to the deaths of four Americans, including the first U.S. ambassador killed in the line of duty since 1979. Americans mourned this loss of life. This tactical defeat at the hands of Islamist terrorists has been made worse by President Obama's failure to honor his vow to bring the perpetrators to justice.

In order to prevent such attacks in the future, the State Department and other agencies must adapt and improve. The deteriorating security situation in Benghazi was well known, yet nothing was done in response to the warnings from the intelligence community and U.S. personnel on the ground. It may never be known to what extent the President's repeated claims that al-Qaeda was on "the path to defeat" affected the decision making of senior officials in Washington. Nevertheless, the U.S. government must learn from this abysmal bureaucratic failure.

The Administration has taken some positive steps towards improving embassy security, but much more remains to be done. To this end, the Committee has supported an active legislative agenda to reform and bolster embassy security. One reform that cannot be legislated, however, is an organization's culture. The Committee's oversight work has for good reason stressed the importance of personal accountability within the Department. Without it, no amount of legislation or added funding can make the State Department's men and women overseas safer. Unfortunately, the Department has not demonstrated a commitment to developing a culture of accountability.

The State Department's response stands in stark contrast with recent Defense Department disciplinary actions, which held military commanders accountable for what happened on their watch in Afghanistan. In Afghanistan and elsewhere, State Department personnel increasingly face the kind of threats that our men and women in uniform face. They deserve the high standards of accountability that make their Defense Department brethren safer in this dangerous world.

As Chairman Royce noted when questioning Under Secretary Kennedy one year after the Benghazi tragedy, not a single State Department employee has missed a paycheck as a result of the Department's failure to adequately protect its people in Benghazi. While four employees were temporarily suspended with pay, they were ultimately reassigned to new positions within the Department. The result of this reshuffling is that no one has been held responsible in a meaningful way for the grossly inadequate security in Benghazi.

The Committee will continue pressing for improvements to U.S. diplomatic security overseas, including doing what it can to promote a culture of accountability. Reforming the Accountability Review Board process – by not only increasing its independence, but also allowing it to recommend dismissals – is central to moving in this important direction.

Accountability, of course, starts at the top. Unfortunately, leadership from the Administration has been sorely missing. While the Committee will continue to press for accountability, it is incumbent upon President Obama and Secretary Kerry to recognize the failures of senior officials and hold them accountable. Otherwise, another Benghazi scenario, in which U.S. personnel are left vulnerable by irresponsible security decision making in Washington, is inevitable.



## COMMITTEE ACTIVITIES BY THE NUMBERS

**4:** Public hearings convened with senior Department of State officials and other experts:

- o 9/18/13: **“Benghazi: Where is the State Department Accountability?”** Witness: Under Secretary of State for Management Patrick Kennedy
- o 1/23/13: **“Terrorist Attack in Benghazi: The Secretary of State’s View,”** Witness: Secretary of State Hillary Clinton
- o 12/20/12: **“Benghazi Attack, Part II: The Report of the Accountability Review Board,”** Witnesses: William Burns, Deputy Secretary of State; Tom Nides, Deputy Secretary of State for Management and Resources.
- o 11/15/12: **“Benghazi and Beyond: What Went Wrong on September 11, 2012 and How to Prevent it from Happening at other Frontline Posts, Part I,”** Witnesses: private panel.

**2:** Classified Member briefings held.

**25,000:** Pages reviewed of documents produced by the Department under highly restrictive circumstances.

**14:** Oversight letters sent to request specific information from government agencies.

**4/23/13:** Co-authoring, along with the four other House committees investigating the attacks, the April 23, 2013 Interim Progress Report on behalf of the Republican Conference.

**2848:** Introducing and passing through the House H.R. 2848, the Department of State Operations and Embassy Security Authorization Act for FY 2014, which makes substantial improvements to embassy security funding, procedures, and operations, especially at high-risk, high-threat posts.

**1768:** Introducing H.R. 1768, the Accountability Review Board Reform Act, to increase the independence and transparency of future investigations into Department of State security incidents.

## ENDNOTES

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<sup>1</sup> U.S. Mission Benghazi, “Benghazi Situation Report – June 8, 2012,” June 8, 2012.

<sup>2</sup> *Id.*

<sup>3</sup> Federal Research Division, Library of Congress, “Al-Qaeda in Libya: A Profile,” August 2012, *available at* [www.fas.org/irp/world/para/aq-libya-loc.pdf](http://www.fas.org/irp/world/para/aq-libya-loc.pdf). *See also* U.S. Department of State, “Terrorist Designations of Three Ansar al-Shari’a Organizations and Leaders,” January 10, 2014, [www.state.gov/r/pa/prs/ps/2014/01/219519.htm](http://www.state.gov/r/pa/prs/ps/2014/01/219519.htm). (Hereinafter, “January 10, 2014 Ansar al-Sharia Designation.”)

<sup>4</sup> Senate Select Committee on Intelligence, “Review of the Terrorist Attacks on U.S. Facilities in Benghazi, Libya, September 11-12, 2012, together with Additional Views,” January 15, 2014, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi). (Hereinafter, “January 15, 2014 SSCI Review.”)

<sup>5</sup> Testimony of Secretary of State Hillary Clinton before the House Committee on Foreign Affairs, January 23, 2013: “Well, I was certainly aware of a number of reports from throughout our government...There were [Department of Defense] reports and intelligence community reports, State Department reports, talking about the...increasing threat environment in eastern Libya...I am well aware that there were people claiming to be associated with al-Qaeda, that were attempting to influence militias, attempting to exercise more authority, along with a number of other groups that didn’t necessarily work under that flag, but had the same militant jihadist mentality....So yes, I was certainly aware of that....”

<sup>6</sup> January 15, 2014 SSCI Review.

<sup>7</sup> Defense Intelligence Agency, “Libya: Terrorists Now Targeting U.S. and Western Interests,” June 12, 2012.

<sup>8</sup> Testimony of Lieutenant Colonel Andrew Wood before the House Committee on Oversight and Government Reform, October 10, 2012. (Hereinafter, “LTC Andrew Wood testimony.”)

<sup>9</sup> *See, e.g.*, January 15, 2014 SSCI Review.

<sup>10</sup> January 15, 2014 SSCI Review; January 10, 2014 Ansar al-Sharia Designation.

<sup>11</sup> *See, e.g.*, Helen Cooper and Steven Lee Myers, “Obama Takes Hard Line With Libya After Shift by Clinton,” *New York Times*, March 18, 2011, [www.nytimes.com/2011/03/19/world/africa/19policy.html](http://www.nytimes.com/2011/03/19/world/africa/19policy.html); testimony of Secretary of State Hillary Clinton before the House Committee on Foreign Affairs, January 23, 2013.

<sup>12</sup> Testimony of Under Secretary of State for Management Patrick Kennedy before the House Committee on Foreign Affairs, September 18, 2013. At the hearing, Chairman Royce asked Under Secretary Kennedy, “Is that correct? You asked [ARB Chairman] Ambassador Pickering for his recommendations as to who else might serve on the ARB board?” Kennedy responded: “That is correct, sir.”

<sup>13</sup> *See, e.g.*, U.S. Department of State, Daily Press Briefing, January 15, 2014, [www.state.gov/r/pa/prs/dpb/2014/01/219808.htm](http://www.state.gov/r/pa/prs/dpb/2014/01/219808.htm), regarding the January 15, 2014 SSCI Review: “There’s no new information here. And we’ve all looked at it exhaustively, whether it’s the ARB, the Best Practices Panel. Certainly, again, this largely reaffirms what we already knew, and, I mean, most of the recommendation they’ve made – I think 10 out of 12 – were made by the ARB or the Best Practices Panel as well. So there were a lot of the same conclusions.”

<sup>14</sup> U.S. Department of State, “Report of the Accountability Review Board on the September 11-12, 2012 Attacks on the Special Mission Compound in Benghazi,” December 18, 2012, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi). (Hereinafter, “Benghazi ARB Report.”)

<sup>15</sup> Testimony of Secretary of State John Kerry before the House Committee on Foreign Affairs, December 10, 2013.

<sup>16</sup> Interview with former Deputy Assistant Secretary for Maghreb Affairs Raymond Maxwell, May 7, 2013.

<sup>17</sup> Letter from Assistant Secretary of State for Legislative Affairs Julia Frifield to House Committee on Foreign Affairs Chairman Ed Royce, January 17, 2014.

<sup>18</sup> Testimony of Secretary of State John Kerry before the House Committee on Foreign Affairs, December 10, 2013

<sup>19</sup> Letter from Assistant Secretary of State for Legislative Affairs Julia Frifield to House Committee on Foreign Affairs Chairman Ed Royce, January 17, 2014.

<sup>20</sup> Some offices have been omitted for image clarity. Offices mentioned in this report are highlighted in red.

<sup>21</sup> The State Department has refused to provide copies of critical documents to the Committee, including emails and memoranda between key officials. For over a year, it has permitted Committee staff to review them only *in camera*, which means that the Committee cannot maintain possession of the documents and is not allowed to make photocopies. The Department has further

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insisted that one of its own employees be present during limited review periods, which constrains the ability of staff to speak openly about the information. These circumstances are unique to the Benghazi investigation, and the Department has refused to offer a legal justification for its behavior.

<sup>22</sup> House Committee on Foreign Affairs Chairman Ed Royce, *et al*, “Interim Progress Report for the Members of the House Republican Conference on the Events Surrounding the September 11, 2012 Terrorist Attacks in Benghazi, Libya,” April 23, 2013, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).

<sup>23</sup> Testimony of Deputy Assistant Secretary for Diplomatic Security Charlene Lamb before the House Committee on Oversight and Government Reform, October 10, 2012.

<sup>24</sup> Five Diplomatic Security agents were at the Benghazi SMC on the night of the attack. Three were assigned to Benghazi in temporary duty status, and two were assigned to Embassy Tripoli and traveled to Benghazi with Ambassador Stevens.

<sup>25</sup> The Benghazi ARB Report commented: “The Board members believe every possible effort was made to protect, rescue, and recover Ambassador Stevens and Sean Smith, and that the bravery of the DS agents present in Benghazi helped prevent a further loss of life, particularly given their assistance in defending the Annex.”

<sup>26</sup> Benghazi ARB Report.

<sup>27</sup> Email from Deputy Assistant Secretary for Diplomatic Security Charlene Lamb to Principal Deputy Assistant Secretary for Diplomatic Security Scott Bultrowicz, with carbon copies to Assistant Secretary of State for Diplomatic Security Eric Boswell and Deputy Assistant Secretary of State for Countermeasures Gentry Smith, Re: British Motorcade Attacked in Benghazi, June 11, 2012. (Emphasis added.)

<sup>28</sup> January 15, 2014 SSCI Review.

<sup>29</sup> Benghazi ARB Report.

<sup>30</sup> According to the Department of State, the personnel sections of the Benghazi ARB Report were declassified in August 2013. Email from Department of State to House Committee on Foreign Affairs staff, August 12, 2013.

<sup>31</sup> Alex Witt, “Ambassador Clarifies Role in Benghazi Investigation,” *MSNBC*, May 12, 2013, video [msnbc.msn.com/alex-witt/51859494](http://msnbc.msn.com/alex-witt/51859494).

<sup>32</sup> Brian Knowlton, “U.S. Diplomats, Relieved after Libyan Attack, Are Reinstated,” *New York Times*, August 20, 2013, [www.nytimes.com/2013/08/21/world/africa/us-diplomats-relieved-after-libyan-attack-are-reinstated.html](http://www.nytimes.com/2013/08/21/world/africa/us-diplomats-relieved-after-libyan-attack-are-reinstated.html).

<sup>33</sup> Letter from Acting Assistant Secretary of State for Legislative Affairs Thomas B. Gibbons to House Committee on Foreign Affairs Chairman Ed Royce, August 23, 2012.

<sup>34</sup> U.S. Department of State, Daily Press Briefing, August 20, 2013, [www.state.gov/r/pa/prs/dpb/2013/08/213274.htm](http://www.state.gov/r/pa/prs/dpb/2013/08/213274.htm).

<sup>35</sup> Testimony of Under Secretary of State for Management Patrick Kennedy before the House Committee on Foreign Affairs, September 18, 2013.

<sup>36</sup> Testimony of Secretary of State John Kerry before the House Committee on Foreign Affairs, December 10, 2013.

<sup>37</sup> Letter from Assistant Secretary of State for Legislative Affairs Julia Frifield to House Committee on Foreign Affairs Chairman Ed Royce, January 17, 2014.

<sup>38</sup> Interview with former Deputy Assistant Secretary for Maghreb Affairs Raymond Maxwell, May 7, 2013.

<sup>39</sup> Benghazi ARB Report.

<sup>40</sup> Quoted in Sens. Joseph I. Lieberman and Susan M. Collins, “Flashing Red: A Special Report On The Terrorist Attack At Benghazi,” U.S. Senate Committee on Homeland Security and Governmental Affairs, December 30, 2012, *available at* [www.hsgac.senate.gov/download/flashing-red-hsgac-special-report](http://www.hsgac.senate.gov/download/flashing-red-hsgac-special-report).

<sup>41</sup> Testimony of U.S. Mission to Libya Regional Security Officer Eric Nordstrom before the House Committee on Oversight and Government Reform, May 8, 2013.

<sup>42</sup> Testimony of U.S. Mission to Libya Deputy Chief of Mission Gregory Hicks before the House Committee on Oversight and Government Reform, May 8, 2013.

<sup>43</sup> *Id.*

<sup>44</sup> Action Memorandum from Assistant Secretary of State for Near Eastern and North African Affairs Jeffrey Feltman to Under Secretary of State for Management Patrick F. Kennedy, Subject: Future of Operations in Benghazi, December 27, 2011 (Sensitive But Unclassified). The Benghazi ARB Report commented: “Special Mission Benghazi’s uncertain future after 2012

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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.”

<sup>45</sup> January 15, 2014 SSCI Review. *See also* Testimony of Under Secretary of State for Management Patrick F. Kennedy before the Subcommittee on Financial and Contracting Oversight of the Senate Committee on Homeland Security and Government Affairs, July 16, 2013. At the hearing, Senator Johnson asked Under Secretary Kennedy, “Did you at any time communicate or confirm to the Defense Department that the State Department would not be needing the SST after August 2012?” Kennedy responded: “I did, sir.”

<sup>46</sup> Testimony of Secretary Hillary Rodham Clinton before the House Committee on Foreign Affairs, January 23, 2013: “[The ARB] does not even discuss the SST or recommend that our personnel on the ground should have asked for its continued deployment. And I think that’s in part because the SST was based in Tripoli.” Secretary Clinton’s testimony contrasts with the LTC Andrew Wood testimony, in which LTC Wood not only stressed the SST’s many security functions, but also its travel to support the movements of diplomatic officers “as their work required.”

<sup>47</sup> LTC Andrew Wood testimony.

<sup>48</sup> Testimony of U.S. Mission to Libya Regional Security Officer Eric Nordstrom before the House Committee on Oversight and Government Reform, October 10, 2012.

<sup>49</sup> See, e.g., Mark Mazzetti, Eric Schmitt and David D. Kirkpatrick, “Benghazi Attack Called Avoidable in Senate Report,” *New York Times*, January 15, 2015, [www.nytimes.com/2014/01/16/world/middleeast/senate-report-finds-benghazi-attack-was-preventable.html](http://www.nytimes.com/2014/01/16/world/middleeast/senate-report-finds-benghazi-attack-was-preventable.html).

<sup>50</sup> Gregory Hicks, “Benghazi and the Smearing of Chris Stevens,” *Wall Street Journal*, January 22, 2014, [online.wsj.com/news/articles/SB10001424052702304302704579332732276330284](http://online.wsj.com/news/articles/SB10001424052702304302704579332732276330284).

<sup>51</sup> Email from Eric Nordstrom to Andrew Wood, Subject: Termination of Tripoli DC-3 Support, May 3, 2012.

<sup>52</sup> Letter to Secretary of State John F. Kerry from House Committee on Oversight and Government Reform Chairman Darrell E. Issa, July 31, 2013.

<sup>53</sup> *Id.*

<sup>54</sup> Josh Rogin, “Hillary’s Benghazi Scapegoat Speaks Out,” *The Daily Beast*, May 20, 2013, [www.thedailybeast.com/articles/2013/05/20/exclusive-hillary-s-benghazi-scapegoat-speaks-out.html](http://www.thedailybeast.com/articles/2013/05/20/exclusive-hillary-s-benghazi-scapegoat-speaks-out.html).

<sup>55</sup> Staff Report Prepared for Chairman Darrell Issa, “Benghazi Attacks: Investigative Update,” House Committee on Oversight and Government Reform, September 16, 2013.

<sup>56</sup> Testimony of Secretary of State John Kerry before the House Committee on Foreign Affairs, December 10, 2013.

<sup>57</sup> Email from State Department Spokesperson Victoria Nuland, Subject: Revised HPSCI Talking Points for Review, September 14, 2012, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).

<sup>58</sup> Email from Assistant Secretary of State for Legislative Affairs David Adams, September 14, 2012, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).

<sup>59</sup> Email, source redacted, September 14, 2012, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).

<sup>60</sup> Email from Director of Central Intelligence David Petraeus, Subject: Hill Talking Points, September 15, 2012, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).

<sup>61</sup> 22 USC §§ 4831.

<sup>62</sup> White House Office of the Press Secretary, “President Obama Announces More Key Administration Appointments,” June 27, 2013, [www.whitehouse.gov/the-press-office/2013/06/27/president-obama-announces-more-key-administration-posts](http://www.whitehouse.gov/the-press-office/2013/06/27/president-obama-announces-more-key-administration-posts).

<sup>63</sup> Rajiv Chandrasekaran, “Two Marine Generals Fired for Security Lapses in Afghanistan,” *Washington Post*, September 30, 2013, [www.washingtonpost.com/world/national-security/two-marine-generals-fired-for-security-lapses-in-afghanistan/2013/09/30/b2ccb8a6-29fe-11e3-b139-029811dbb57f\\_story.html](http://www.washingtonpost.com/world/national-security/two-marine-generals-fired-for-security-lapses-in-afghanistan/2013/09/30/b2ccb8a6-29fe-11e3-b139-029811dbb57f_story.html).

<sup>64</sup> Memorandum for the Record, From: James F. Amos, Commandant of the Marine Corps, Subject: Accountability Determination of U.S. Commanders for the 14-15 September 2012 Attack on the Camp Bastion, Leatherneck, and Shoraback (BLS) Complex, Helmand Province, Afghanistan, September 30, 2013, *available at* [www.hqmc.marines.mil/Portals/142/Docs/CMC%20Memo%20for%20the%20Record%20in%20Bastion%20Investigation.PDF](http://www.hqmc.marines.mil/Portals/142/Docs/CMC%20Memo%20for%20the%20Record%20in%20Bastion%20Investigation.PDF).

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<sup>65</sup> United Press International, “Two Marine Generals Fired For Failing to Protect Camp in Afghanistan,” September 30, 2013, [www.upi.com/Top\\_News/US/2013/09/30/Two-Marine-generals-fired-for-failing-to-protect-camp-in-Afghanistan/UPI-70071380582543/](http://www.upi.com/Top_News/US/2013/09/30/Two-Marine-generals-fired-for-failing-to-protect-camp-in-Afghanistan/UPI-70071380582543/).

<sup>66</sup> Secretary of State of Hillary Clinton, “Remarks on the Deaths of American Personnel in Benghazi, Libya,” September 12, 2012, [www.state.gov/secretary/rm/2012/09/197654.htm](http://www.state.gov/secretary/rm/2012/09/197654.htm).

<sup>67</sup> President Barack Obama, radio interview on the Michael Smerconish Program, October 26, 2012, *available at* [www.youtube.com/watch?v=hKSey7M1c8o&feature=youtu.be](http://www.youtube.com/watch?v=hKSey7M1c8o&feature=youtu.be).

<sup>68</sup> 22 USC § 2708.

<sup>69</sup> U.S. Department of State, “Rewards for Justice Program,” [www.state.gov/m/ds/terrorism/c8651.htm](http://www.state.gov/m/ds/terrorism/c8651.htm).

<sup>70</sup> Letter from House Committee on Foreign Affairs Chairman Ed Royce, *et al*, to Secretary of State John Kerry, October 30, 2013, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).

<sup>71</sup> Letter from Assistant Secretary of State for Legislative Affairs Julia Frifield to House Foreign Affairs Committee Chairman Ed Royce, November 15, 2013, *available at* [www.gop.gov/benghazi](http://www.gop.gov/benghazi).



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