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# HEARING 3

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BEFORE THE

## SELECT COMMITTEE ON THE EVENTS SURROUNDING THE 2012 TERRORIST ATTACK IN BENGHAZI

## HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

HELD IN WASHINGTON, DC, JANUARY 27, 2015

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# HEARING 3

**TUESDAY, JANUARY 27, 2015**

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE
ON BENGHAZI,
*Washington, D.C.*

The committee met, pursuant to call, at 10:31 a.m., in room HVC–210, Capitol Visitor Center, Hon. Trey Gowdy (chairman of the committee) presiding.

Present: Representatives Gowdy, Brooks, Jordan, Pompeo, Roby, Roskam, Westmoreland, Cummings, Sánchez, Schiff, and Smith.

Staff Present: Philip G. Kiko, Staff Director and General Counsel; Chris Donesa, Deputy Staff Director; Dana Chipman, Chief Investigative Counsel; Sharon Jackson, Deputy Chief Counsel; Craig Missakian, Deputy Chief Counsel; Carlton Davis, Investigator; Luke Burke, Investigative Detailee; Brien Beattie, Investigator; Paige Oneto, Clerk; Paul Bell, Minority Press Secretary; Linda Cohen, Minority Senior Professional Staff; Shannon Green, Minority Counsel; Susanne Grooms, Minority Staff Director; Jennifer Hoffman, Minority Communications Director; Peter Kenny, Minority Senior Counsel; Laura Rauch, Minority Senior Professional Staff; Dan Rebnord, Minority Professional Staff; Kendal Robinson, Minority Detailee; Mone Ross, Minority Staff Assistant; Heather Sawyer, Minority Chief Counsel; and Brent Woolfork, Minority Senior Professional Staff.

Chairman GOWDY. Welcome, everyone. This is the third hearing of the Benghazi Committee. The committee will come to order. And the chair notes a quorum of two Members for taking testimony is present.

The chair will further note—well, before I note that, consistent with the rules and practices the House, without objection—well, that point has now been rendered moot. So you have been reappointed to the committee, and all members can participate fully.

The chair will recognize himself and then the ranking member for purposes of making an opening statement.

The Committee on Benghazi exists because the House of Representatives voted for it to exist and, in the process, made it very clear what is expected. If you have not read the House resolution authorizing this committee, I would encourage you to do so. For those asking for a roadmap or a scope of the investigation, or who want to know what the committee intends to do, the resolution passed by the House of Representatives, I hasten to add with seven Democrats voting "yes," answers all of those questions.

The resolution asked this committee to investigate all policies, decisions, and activities related to the attacks, the preparation before the attacks, the response during the attacks, efforts to repel the attacks, the administration's response after the attacks, and executive-branch efforts to comply with congressional inquiries.

The operative word in the resolution is the word "all." And the word "all" is about as comprehensive a word as you could use. So it stands to reason, if you are asked to conduct a full and complete investigation into all policies, decisions, and activities, you need to access all witnesses and all relevant documents. Because the final task assigned to this committee is to write a comprehensive report complete with recommendations on how to prevent future attacks. And to write a comprehensive report, you need access to all witnesses and all relevant documents.

It is essential we talk to every witness with knowledge and examine all relevant evidence. If six people witness an important event, you cannot credibly report on that event by examining one out of the six. Frankly, you can't credibly report on that event by interviewing two out of the six. Each witness has a different perspective, each witness may have observed a different fact, each witness has a different vantage point, so, to do your job, you have to interview all witnesses.

So, too, with documents. It is interesting, but not relevant, to note the number of pages agencies produce to Congress. What is both interesting and relevant is whether the agency has produced all documents responsive to the request. Giving Congress 10,000 pages of material out of a universe of 10,000 pages of material is good. Giving Congress 10,000 pages of material out of a universe of 100,000 pages of material does not get us any closer to issuing a final report in a timely fashion.

And make no mistake, time is of the essence. The world is not a safer place, as some of you may have noted even this morning. It is not safer than it was in 2012. So the sooner we make recommendations related to the improvements that make lives better for the women and men who serve us abroad, the better. Moreover, time does not make investigations or witness recollections or memories or evidence better either.

The purpose of today's hearing is to hear from some agencies and entities about the state of compliance with requests for documents and access to witnesses.

And we have had some success. The State Department provided the committee with 25,000 pages of documents, previously provided to the Oversight Committee but now with fewer redactions. In addition, this production included, finally, 15,000 new pages of documents. These documents include significantly more traffic from State Department leadership than in previously provided information to Congress.

These new documents are a reminder that no previous standing committee compiled or had access to a complete record of events, which is precisely why the Speaker constituted a select committee to produce a complete, definitive record for our fellow citizens.

Additionally, as of recent, the CIA made available some of the documents we requested in November. And while it is good to finally receive the new documents, the pace at which this process is

moving is not conducive to the committee concluding its work expeditiously.

And, frankly, it should not take a public hearing to make progress on these requests. Our hearings should be about substance, not process. We should be analyzing documents, not waiting for them to appear.

I want to read a quote. "I can promise you that if you are not getting something you have evidence of or you think you ought to be getting, we will work with you. And I will appoint someone to work directly with you starting tomorrow—with you, Mr. Chairman, to have a review of anything you don't think you have gotten that you are supposed to get. Let's get this done, folks." That was Secretary John Kerry, and that was in April of 2013.

So my objective is simple: I want to be able to look the family members of the four murdered Americans in the eye and tell them we found out everything that we could. I want to be able to tell my fellow citizens, including the man from Oregon who sat beside me on the plane yesterday, who used to guard facilities across the world as a Marine, that we made improvements that make women and men who serve us in dangerous places safer. And I want to be able to look my fellow citizens in the eye, regardless of their political ideation, and say, this is what happened, and this is how we can make sure it does not happen again.

So there will be no mystery to my questions today. There will be no trickery and no artifice. I want to know when the agencies are going to comply with the requests made by this committee so we can finish the work assigned to us, because I have zero interest in prolonging the work of this committee. And, by the same token, I have zero interest in producing a product that is incomplete.

So, in conclusion, I want to be as clear as I can possibly be. We intend to access all of the information necessary to do the job the House instructed us to do. And we need to access that information now. Talking to only some of the witnesses will not work, and accessing only some of the documents will not work. If you want all of the truth, then you need all of the information.

And we will do it in a respectful way, worthy of the memory of the four who were murdered and worthy of the respect of our fellow citizens, but it is going to be done. And the sooner the agencies make these documents and witnesses available to us, the sooner we can do what we were asked to do.

And, with that, I would recognize the gentleman from Maryland.

[The prepared statement of Chairman Gowdy not supplied]

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

I agree with you that we need to have all the information, we need to have all the documents, we need to have everything that you just talked about sooner rather than later.

Mr. Chairman and my fellow committee members, I am a bit sad to report today that there are major, major problems with this committee and its work. Democratic members have grave concerns about the partisan path this committee has taken over the past year—a path we believe undermines the credibility of the investigation itself and the very things that the Chairman just said he is fighting for—to make sure that we come out with a credible report.

We spent months trying to resolve these problems privately, but we can no longer remain silent.

When the committee was established last May, many questioned whether it would devolve into unseemly partisanship. Many worried that it would become a repeat of the Oversight and Government Reform Committee, where ridiculous allegations were made with no evidence—no evidence—to back them up, excerpts of documents were leaked out of context to promote false political narratives, and Democrats were cut out of the investigative process. I know because I was the ranking member and I was cut out over and over and over again.

In response, Chairman Gowdy assured the families of Chris Stevens, Sean Smith, Ty Woods, and Glen Doherty that this investigation would honor their loved ones by being bipartisan, fair, and based on the facts. One of the things that I said to the father of Tyrone Woods is that I would do everything in my power to seek the truth, the whole truth, and nothing but the truth, so help me God.

The chairman said that he would "transcend politics," and that is a quote. He stated these words, and they meant so much when he said them. He said, "If we engage in a process that is not fair according to the American people, we will be punished, as we should be, for that."

Unfortunately, since then, Democrats have been excluded from core components of this investigation. People may find it difficult to believe, but eight months into this investigation, Democrats and Republicans on this committee have not spoken jointly with even a single witness. Instead, we were stunned to discover that the chairman and his staff have interviewed at least five individuals on their own without including Democrats or even notifying us.

We learned about these interviews from the witnesses themselves and from press accounts, not from our Republican colleagues. Even worse, when our staff inquired about some of these interviews, Republicans downplayed their significance. They said these interviews were not important, that one of them said nothing, quote, "of note," and that the committee did not plan to use them.

But when we spoke to these witnesses, we got a different story. They shared key facts that undermine allegations the committee is investigating. Let me repeat that. When Democrats had a chance to interview some of these individuals, they provided factual information that counters the allegations this committee is investigating. Rather than bringing this information forward when the committee first obtained it, the information was buried.

The chairman is right; we need all of the facts—facts that may not be consistent with some of the things that we are hearing—because the families of those four Americans deserve that, and the American people deserve it—the truth, the whole truth and nothing but the truth.

These are not actions of a bipartisan investigation, to have secret meetings with witnesses. The way to honor the four Americans killed in Benghazi is to seek the truth, not to ignore the facts that contradict a preconceived political narrative. A credible investiga-

tion recognizes the importance of collecting these facts and putting to rest false allegations rather than allowing them to fester.

To try to address these problems, we asked the chairman to hold a vote on basic committee rules. We just want some rules. We wanted to ensure that all members, both Republicans and Democrats—and I emphasize that, both Republicans and Democrats—could participate fully in the investigation and would no longer be excluded.

Some may recall that our hearing in December was delayed because Democrats were meeting with the chairman beforehand to discuss these problems. As a matter of fact, there were some of our Republican colleagues that had drifted into that meeting. Following that meeting, the chairman promised that we would hold a vote on the committee rules. We even met with the Speaker, and he gave his blessings. But no vote has been held.

What is so disappointing is that this has been going on for months. We wrote private letters to the chairman laying out these problems in detail, hoping to resolve them. We explained that this will not be a credible, fair, or factual investigation until the committee holds joint meetings, interviews, and discussions with potential witnesses and includes all members in key aspects of our work.

That is not an unreasonable request. In fact, it is exactly how several other committees currently operate, such as the House Armed Services Committee. And there are those who will say that, "Well, maybe it is not in their rules." Well, House Armed Services apparently has not decided to move to common ground; they decided to move to higher ground.

But today, after eight months, we still have no committee rules, so we have no choice but to make these letters public.

As we explained last May when we agreed to join the committee, we need someone in the room simply to defend the truth. But we cannot defend the truth if Republicans lock us out. Until this changes, the committee will be viewed as nothing more than yet another partisan, expensive, and time-consuming campaign to continue politicizing this terrible tragedy.

Finally, Mr. Chairman, let me say a few words about today's hearing. Many people are concerned about the glacial pace of this committee's investigation. But, rather than blaming Federal agencies, we should acknowledge that the reason for the delay lies in the committee's own actions. The fact is that the committee waited six months before sending its first request for new documents—six months. It took the committee almost a month longer to request witness interviews from the State Department. And even now, eight months into the investigation, the committee still has not sent a document request to the Department of Defense and it has yet to request a single witness interview from the CIA.

Although I continue to believe that the best way forward for our committee is to reach agreement on a truly bipartisan approach, I can no longer say that I am optimistic that this will happen. Nevertheless, our door is always open, and we will always be willing to sit down in pursuit of the truth, the whole truth, and nothing but the truth.

With that, I yield back.

[The prepared statement of Mr. Cummings not supplied]

Chairman GOWDY. Mr. Rubin, you are recognized for your 5-minute opening statement.

## STATEMENTS OF JOEL M. RUBIN, DEPUTY ASSISTANT SECRETARY FOR HOUSE AFFAIRS, U.S. DEPARTMENT OF STATE; AND NEAL HIGGINS, DIRECTOR OF CONGRESSIONAL AFFAIRS, CENTRAL INTELLIGENCE AGENCY

### STATEMENT OF JOEL M. RUBIN

Mr. RUBIN. Thank you, Chairman Gowdy, Ranking Member Cummings, and distinguished members of the committee. It is an honor to be with you, and thank you for providing me with the opportunity to give testimony to your committee this morning.

My name is Joel Rubin, and I am the Deputy Assistant Secretary of State for House Affairs in the Department's Legislative Affairs Bureau. In this role, I serve as the Department's chief liaison to the House, responsible for ensuring that the multitude of foreign-policy issues that the House cares about, from fighting terrorism, to preventing a nuclear Iran, to expanding our economic alliances in Asia, to supporting your constituents when they travel overseas, are dealt with both efficiently and effectively.

I have served in the Federal Government for more than a decade, including both as a Hill staffer and as a civil servant in the State Department during the Bush administration. I work closely with committees and leadership in the House on a daily basis, ensuring that the Department's relationships and communications with the House are strong. And that is why I am here before you today.

As you know, the State Department has a strong record of cooperation with your committee, something which we are proud of and something that you yourself recently acknowledged, Mr. Chairman—statements for which we are grateful. This is consistent with our work prior to this committee's formation, as the Department has provided nearly 2 years of steady cooperation with Congress on Benghazi by responding to requests from 10 committees, through hearings with several officials, including former Secretary Clinton, and by providing more than 20 witness interviews and more than 55 congressional briefings, in addition to responding to hundreds of congressional inquiries. Since the formation of this committee in May of last year, we have provided four briefings and witnesses for two more hearings, plus today's. And, crucially, we have produced more than 40,000 pages of documents related to the tragic Benghazi attacks, all of which are in the hands of your committee today.

Since our most recent conversation with the committee last month about its top priorities, the Department has been hard at work on implementing your most recent requests for documents and interviews. Our progress has been slowed somewhat by the holidays and the briefing we provided to you on January 13th, but also by the breadth and time span of the document request itself. Nonetheless, we will begin producing documents soon to the committee to meet this request.

To put it bluntly, your priorities are our priorities. Therefore, in addition to the priority documents we will be providing soon, we also look forward to continuing to work with your staff to ensure

that your requested interviews can proceed, so long as they do not jeopardize the Department of Justice's investigation and prosecution of the perpetrators of the Benghazi attacks.

It is important to remember that from a management perspective we cannot respond to every request for a hearing, a briefing, documents, or interviews simultaneously. But we can and will prioritize our resources to address each request in the order that you identify as most important to you, as the committee most recently did in December.

Turning to your December requests for interviews, your staff informed us that, of the 22 names requested, the committee's priority was to interview the Diplomatic Security agents who served heroically during the attacks. We understand the committee's interest in interviewing these agents, and I am sure that the committee does not want to take any action that would create risks to their personal safety or their ability to do their jobs. We at the State Department have concerns that the requested interviews will pose precisely such risks. We also want to avoid interfering with the Department of Justice's ongoing investigations and prosecutions.

As a result, we have been in ongoing conversations since December with your staff, counsel for the agents, and the Department of Justice to try to find a way forward that accommodates your request without endangering these men and their families, without negatively impacting national security, and without harming the ongoing investigation and prosecution of the perpetrators of the attacks. We are hopeful that an accommodation can be reached.

In closing, we are proud of the significant and steady progress we have made on the committee's document and interview requests. We are grateful to the committee and its staff for your collegiality, and we look forward to continuing to work with the committee on its most recent priority document and interview requests, of which you will be seeing additional tangible responses in the near future.

Thank you, and I look forward to the committee's questions.

[Prepared statement of Mr. Rubin follows:]

WRITTEN STATEMENT
JOEL RUBIN
DEPUTY ASSISTANT SECRETARY OF STATE
FOR LEGISLATIVE AFFAIRS
U.S. DEPARTMENT OF STATE

House Select Committee on Benghazi
Hearing Title: "Status Review of Outstanding Requests"

January 27, 2015

Thank you for the opportunity to provide testimony to your Committee. My name is Joel Rubin, and I am the Deputy Assistant Secretary of State for House Affairs in the Department's Legislative Affairs Bureau. In this role, I serve as the Department's chief liaison to the House, responsible for ensuring that the multitude of foreign policy issues that the House cares about – from fighting terrorism, to preventing a nuclear Iran, to expanding our economic alliances in Asia, to supporting your constituents when they travel overseas – are dealt with both efficiently and effectively.

I have served in the federal government for more than a decade, including both as a Hill staffer and as a civil servant at State during the Bush administration. I work closely with multiple Committees and Leadership in the House on a daily basis, ensuring that the Department's relationships and communications with the House are strong, and that is why I am here before you today.

Specifically, you asked the State Department to appear today to discuss where we stand with respect to the document and interview requests related to Benghazi that you sent to us in November and December of last year. Like you, we are deeply committed to this process, and the Department is cooperating proactively with the Committee to get you the information you need. Indeed, we are very appreciative of the positive comments the Chairman made noting our cooperation – both in his November 18 letter to us and his positive public statements last month about our work. We are gratified that you are pleased with our cooperation, just as we are grateful to you for your collegiality throughout this process. To recap, since your Committee's creation last summer, the Department's record of cooperation already includes several milestones:

- We have provided to the Committee over 40,000 pages of documents related to the Benghazi attacks, and have done so with minimal redactions.

- We have given the Committee four informational briefings, on September 4, November 3, November 19, and January 13.

- Assistant Secretary of State for Diplomatic Security Gregory Starr testified publicly at both of the Committee's previous hearings, in September and again in December, on the implementation of the Accountability Review Board's (ARB) recommendations.

- In between Assistant Secretary Starr's appearances, the Department provided a detailed written status report, as requested, on the ARB's recommendations.

- Last month, the Chairman publicly stated that he would hold a January hearing to discuss why the United States was in Benghazi on September 2012. Accordingly, as we informed your staff, our Assistant Secretary of State for Near Eastern Affairs Anne Patterson prepared over the holidays and remains ready to testify on this issue.

- And, of course, we are here before you today, at this hearing to which we were invited last Wednesday evening, to discuss the status of document production.

Whether on substance or process, the Department is committed to responding to what you wish to discuss. As we discuss what to expect from the Department going forward, it merits placing where we stand today against the broader context of our cooperation with Congress on this issue.

Prior to this Committee's formation, the Department provided nearly two years of steady cooperation with Congress on Benghazi, through hearings with several officials, including former Secretary Hillary Clinton, significant document productions, more than 20 witness interviews, and more than 55 Congressional briefings, in addition to responding to hundreds of Congressional inquiries – all before the Committee began its work. In total, we have provided to Congress and this Committee more than 40,000 pages of documents related to the tragic Benghazi attacks.

As you know, we continue to build on this record of cooperation and have been collaborating closely with your staff to focus our limited resources on the items

that the Committee has told us are the most important to its work. We have taken cues from the Committee and made your priorities our priorities. Therefore, in addition to priority documents we will be providing soon, we also look forward to continuing to work with your staff regarding your requested interviews. Such interviews however, will need to take place without jeopardizing the Department of Justice's investigation and prosecution of the perpetrators of the Benghazi attacks.

Along the way, we have been in constant, often daily, communication with your staff to ensure that the Department is focusing its attention on the Committee's priorities. As we have shared, the Department does not have unlimited resources. We are constantly engaged with Congress on a wide variety of foreign policy issues and regularly are asked to brief and testify. With that said, we are committed to putting what we do have to work in getting you the information you need. And to date, the Department has done so, working with your staff to move through the Committee's requests in priority sequence based upon your preferences.

In sum, our record demonstrates the Department's cooperative posture and our ability to deliver on the priorities you have set for us. Specifically:

- In August 2014, after productive conversations about how the Committee would treat State Department documents, we produced to the Committee approximately 15,000 pages of documents in minimally redacted form as part of our ongoing rolling production in response to requests sent by the House Committee on Oversight and Government Reform.

- We then asked what the Committee's next priority was for production, suggesting a choice between additional work to close out the August 2013 request for documents from the ARB or re-production with fewer redactions of tens of thousands pages of previously produced documents.

- On September 30, the Chairman asked us by letter to focus on the re-production of documents. We estimated that effort would take approximately two months and produced the requested materials after Thanksgiving, concluding December 9.

- On November 18, acknowledging what the Chairman referred to as the Department's "cooperative posture" towards the Committee, you sent a request for two years' worth of email from 11 State Department principals.

On December 4, you wrote requesting interviews with 22 Department personnel.

- Your staff then asked that Secretary Kerry's Chief of Staff and Assistant Secretary of State for Legislative Affairs Julia Frifield meet with the Chairman and Ranking Member Cummings to discuss the prioritization of these requests. We agreed to meet on December 11, but the meeting was cancelled on December 10.

- In order to push the ball forward, we requested a call with your staff to discuss which Committee requests you wanted the Department to focus on first.

- Your staff then convened a call on the Friday before Christmas, December 19. During that call, your staff informed the Department that your top priority was for us to work on producing additional responsive email communications for the former Secretary of State, which are the documents we will be producing to your Committee within the next several days.

Since that conversation last month, the Department has been hard at work on implementing your top priorities. Our progress has been slowed somewhat by the holidays and the briefing we provided to you on January 13, but also by the breadth and timespan of the document request itself. During the December 19 call, we asked whether you were able to narrow your requests or provide specific search terms so that we could more quickly identify and produce the relevant materials. No such narrowing or search terms were acceptable to the Committee; as a result, our search and review has been (and will continue to be) particularly time-consuming. Nevertheless, we have made progress and are pleased that we will be able to make a production to the Committee soon.

With respect to the Committee's other requests for documents, our timing depends upon your priorities. Since our resources are limited, we cannot focus on every request – for a hearing, a briefing, documents, or interviews – at once. But we can, and will, prioritize our resources to address each request in the order that you identify is most important to you. We have benefitted from your specific guidance up to this point, and will continue to benefit from it going forward.

Turning to your December requests for interviews, your staff informed us that of the 22 names listed, the Committee's priority was to interview the Diplomatic Security agents who served heroically during the attacks. We understand the

Committee's interest in interviewing these agents. We also appreciate the assurances in the Chairman's December 4, 2014 letter and conversations with Assistant Secretary Frifield and Principal Deputy Assistant Secretary Miller on January 13 that any interviews would be conducted in a manner that would be sensitive to the agents.

As we know you are keenly aware, our special agents require discretion to operate in dangerous parts of the world, and I am sure that the Committee does not want to take any action that would create risks to their personal safety or their ability to do their jobs. We at the Department of State we have concerns that the requested interviews will pose precisely such risks. We also want to avoid interfering with the Department of Justice's ongoing investigations and prosecutions. We understand that the Department of Justice has advised the Committee, as it has advised the State Department, that additional interviews outside of the criminal justice process could jeopardize their criminal investigation by prematurely alerting individuals about the details of the government's case.

Mindful of these concerns, we have been in ongoing conversations since December with your staff, counsel for the agents, and the Department of Justice to try to find a way forward that accommodates your request without endangering these agents and their families, without negatively impacting national security, and without endangering the ongoing investigation and prosecution of the perpetrators of the attacks. We are hopeful that an accommodation can be reached. Indeed, we proposed to use last week for such discussions, and the State Department looks forward to working with both you and our colleagues in the Justice Department on this issue. The offer to have those conversations still stands.

In closing, we are proud of the significant and steady progress we have made on the Committee's document and interview requests. We are grateful to the Committee and its staff for your collegiality. And we look forward to continuing to work with the Committee on its most recent priority document and interview requests, of which you will be seeing additional tangible responses in the near future.

Chairman GOWDY. Mr. Higgins.

**STATEMENT OF NEAL HIGGINS**

Mr. HIGGINS. Mr. Chairman, Ranking Member Cummings, and members of the committee, thank you for this opportunity to discuss CIA's continuing cooperation with the committee's investigation. I apologize in advance for my cough.

Since the committee's creation, CIA has enjoyed a positive and productive dialogue with the committee and its staff. As of last Friday, CIA had fulfilled all of the committee's requests to date. Specifically, since last June, CIA has certified the committee's secure workspaces, granted access to sensitive compartmented information for 15 members of the committee staff, reviewed roughly 40,000 pages of State Department documents for CIA equities, and, through the Director of National Intelligence, provided the committee with finished intelligence products relating to Libya during the period in question.

Last Friday, CIA began production of more than 1,000 highly sensitive documents requested by the committee. I understand committee staff will begin reviewing those documents tomorrow.

With regard to committee requests to interview current or former CIA officers, we will work with the committee to respond to such requests in a timely fashion.

Working with classified information and interviewing covert employees can pose unique challenges for congressional oversight. We are committed to providing the committee with access to the information you need while safeguarding intelligence sources and methods.

We look forward to continuing our dialogue in the weeks ahead, and I look forward to your questions today.

[Prepared statement of Mr. Higgins follows:]

**Statement for the Record**

**Neal Higgins**
**Director of Congressional Affairs**
**Central Intelligence Agency**

**January 27, 2015**

Mr. Chairman, Ranking Member Cummings, and members of the Committee, thank you for this opportunity to discuss CIA's continuing cooperation with the Committee's investigation.

Since the Committee's creation, CIA has enjoyed a positive and productive dialogue with the Committee and its staff. As of last Friday, CIA had fulfilled all of the Committee's requests to date.

Specifically, since last June, CIA has certified the Committee's secure work spaces, granted access to Sensitive Compartmented Information for 15 members of the Committee staff, reviewed roughly 40,000 pages of State Department documents for CIA equities, and, through the Director of National Intelligence, provided the Committee with finished intelligence products relating to Libya during the period in question. Last Friday CIA began production of more than 1,000 highly sensitive CIA documents requested by the Committee; I understand Committee staff will begin reviewing those documents tomorrow.

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Working with classified information and interviewing covert employees can pose unique challenges for congressional oversight. We are committed to providing the Committee with access to the information you need while safeguarding intelligence sources and methods. We look forward to continuing our dialogue in the weeks ahead.

Chairman GOWDY. The chair will now recognize himself for questions.

Mr. Rubin, have you read the House resolution?

Mr. RUBIN. Yes, sir, I have.

Chairman GOWDY. What is your understanding of what this committee has been asked to do?

Mr. RUBIN. My understanding is that the committee has been asked to review the incidents related to the Benghazi attacks in all of the—as you described at the beginning, in all of the aspects that it seeks.

Chairman GOWDY. So your understanding is that we have been asked to look at all policies, decisions, and activities that contributed to the attacks?

Mr. RUBIN. Certainly that is our understanding. And we support providing information related to that request.

Chairman GOWDY. That affected our ability to prepare for the attacks?

Mr. RUBIN. Well, if that is the—if that is the—ultimately the decision——

Chairman GOWDY. Well, you have read it, right? I mean, you have read the resolution, right? You are not disagreeing with my interpretation of the resolution, are you?

Mr. RUBIN. No, I am not. And we defer to the committee's direction on how it wants to proceed.

Chairman GOWDY. Including executive-branch efforts to identify and bring to justice the perpetrators of these attacks? Did you read that in the resolution?

Mr. RUBIN. Sir, I don't have it in front, so I can't quote it verbatim.

Chairman GOWDY. I will be thrilled to get you a copy of the resolution.

Mr. RUBIN. Sure.

Chairman GOWDY. For the meantime, you are just going to have to take my word that it also says "executive-branch efforts to identify and bring to justice the perpetrators of these attacks." That is in the resolution.

Can you tell me specifically how our interviewing witnesses is going to jeopardize the prosecution?

Mr. RUBIN. Sir, the Department of Justice has been clear with——

Chairman GOWDY. I am asking you. It was in your opening statement. I am asking you. You tell me, a former prosecutor, how our interviewing witnesses that have already been interviewed by the ARB, already been interviewed by the Best Practices Panel, and, frankly, already been interviewed by the State Department—the video that you showed us last week, that agent interviewed the witnesses in preparation for a video.

So if the ARB and the Best Practices Panel and your own agency can interview people in preparation of a training video, how can Congress not interview those witnesses?

Mr. RUBIN. Sir, no one has said that Congress cannot interview the witnesses.

Chairman GOWDY. You just said that it would jeopardize an ongoing prosecution, and I just asked you specifically how.

Mr. RUBIN. My understanding—and I am the chief liaison to the House for the State Department—is that our colleagues at the Department of Justice have been in touch with your staff——

Chairman GOWDY. Specifically who told you that?

Mr. RUBIN. My colleagues within the State Department who work on this on a daily basis.

Chairman GOWDY. I am looking for a name. Because I have to clear up this misconception that simply talking to a witness who has already talked to three other investigatory bodies, that somehow or another Congress cannot talk to these witnesses, even though apparently everybody else can. I am curious how that jeopardizes an ongoing prosecution.

Mr. RUBIN. Sir, I am not an attorney, I am not a prosecutor. What I am is the chief liaison to the House for the State Department. And what I am conveying is that the Justice Department has told us that this could have an impact, and that they would like to have a conversation with you and your committee about that.

Chairman GOWDY. Do you believe that Congress has the constitutional authority to provide oversight?

Mr. RUBIN. Every day I do that with my job. Yes, sir.

Chairman GOWDY. So you do agree with that. What is your interpretation of the phrase "all policies, decisions, and activities"?

Mr. RUBIN. In what context?

Chairman GOWDY. In any context. How about contributed to the attacks? What is your understanding of all policies, all decisions, all activities?

Mr. RUBIN. The approach that we are taking at the State Department is to provide materials to the committee at the direction of the committee.

The request for interviews that you have reiterated here today, I am explaining that the Justice Department has said that they would like to have conversations with the committee for the concern about the protection——

Chairman GOWDY. Mr. Rubin, do you——

Mr. RUBIN [continuing]. And the welfare of these agents in an ongoing investigation.

Chairman GOWDY. I want to ask you something. I want to ask you something, okay? Because there are 12 people up here who may not agree on another single, solitary thing, but every one of us agrees that we don't want to do anything to jeopardize the physical security of anybody who works for this government. Nor does anybody on this dais want to do anything to jeopardize an ongoing prosecution. Okay? Can we stipulate that, that nobody wants——

Mr. RUBIN. Certainly.

Chairman GOWDY. To do either of those things?

Mr. RUBIN. Certainly.

Chairman GOWDY. Will you also stipulate that you can talk to witnesses while preserving their identity and not jeopardizing an ongoing prosecution?

Mr. RUBIN. I am confident that in the conversations between the Justice Department and the committee that those modalities can be discussed. I am not——

Chairman GOWDY. Mr. Rubin——

Mr. RUBIN [continuing]. The expert on how——

Chairman GOWDY. Mr. Rubin, do you see the Justice Department at this hearing?

Mr. RUBIN. No, sir.

Chairman GOWDY. Do you know why they are not at this hearing?

Mr. RUBIN. No, sir.

Chairman GOWDY. Because we don't have any issues with them. That is why they are not here. You just cited a reason to deny access to witnesses that even the Justice Department hasn't cited.

So what I want you to do is help this committee gain access to precisely the same witnesses that everyone else, from the ARB, to the Best Practices Panel, to your own agent who compiled a training video, had access to the witnesses.

Mr. RUBIN. Sir, as I said in my opening statement, we are happy to have the conversation with you and your staff on how to engage on this. And that is something that we are open to. We have never said no.

Chairman GOWDY. Well, and I appreciate that. I appreciate that. But I want to make sure that you and I have a clear understanding with each other.

If six people observed an important event and you were being asked to write a final, definitive accounting of that event, how many of the six would you want to talk to?

Mr. RUBIN. Sir, I understand——

Chairman GOWDY. That is not that trick question.

Mr. RUBIN. I know it is not a trick question. And I understand the point, and this is why we are here.

Chairman GOWDY. Well, if you understand the point——

Mr. RUBIN. This is why we have provided the quantity of documents and worked in collegial terms——

Chairman GOWDY. Mr. Rubin, we are going to get to the quantity of documents in a minute. I noticed that you said 40,000. That is an impressive number. That is 40 copies of "Dr. Zhivago." That is 40 copies of "Crime and Punishment." That is a lot of pages.

Forty thousand out of how many? That is our question. How many documents? Is 40,000 half? Is it all? Is it two-thirds?

Mr. RUBIN. We have made a comprehensive search, and, as you know, the State Department spans 275 missions overseas, 70,000 employees——

Chairman GOWDY. I am not asking you to bring any ambassadors back.

Mr. RUBIN. We have provided a comprehensive amount of——

Chairman GOWDY. I am not asking you to bring any ambassadors back to search for emails. I am not. Not a single one.

How many employees does the State Department have?

Mr. RUBIN. Roughly 70,000.

Chairman GOWDY. Seventy thousand?

Mr. RUBIN. Correct.

Chairman GOWDY. All right. And we have asked for emails from seventh-floor principals. Do you think that that is a reasonable request when you have been asked to study all policies, all activities, and all decisions?

Mr. RUBIN. In your committee's December letter where it named principals, first, many—in fact, all of those principals have—there

are emails, there are documents related to them in that 40,000. And, in addition, you and your——

Chairman GOWDY. Is it your testimony that we have all of the emails that we have asked for?

Mr. RUBIN. Well, you and your colleagues prioritized former Secretary Clinton's emails, and that is our priority, as I stated in my opening statement.

Chairman GOWDY. Well, I would say multiple emails. If there are multiple email accounts, we want all of the emails.

Mr. RUBIN. And——

Chairman GOWDY. Okay?

Mr. RUBIN [continuing]. We agree. And we are, as I said earlier——

Chairman GOWDY. Okay.

Well, you may have noticed my colleague from Maryland used the word "glacial." I find the use of that word interesting when you vote against constituting a committee, when you threaten not to participate in the committee, when you continually threaten to walk away from the committee, when you can't identify a single, solitary person that you would issue a subpoena to, when you are prepared to have an ask-and-answered Web site before you got the 15,000 pages of documents that you just provided, when you expect Members of Congress who are having conversations with people on airplanes to stop the conversation and say, "Let me go get a Democrat."

You heard the word "glacial." We are going to pick up the pace. We are going to pick up the pace. I have no interest in prolonging this. None.

Mr. RUBIN. Sir, I assure you that——

Chairman GOWDY. So you are going to have to——

Mr. RUBIN [continuing]. That we do not either.

Chairman GOWDY [continuing]. Pick up the pace with us, okay?

Mr. RUBIN. Absolutely. And this is why we are here today. We have made two witnesses available since the fall of last year. We are prepared at any time, proactively, as you and your colleagues know, to——

Chairman GOWDY. I appreciate that, Mr. Rubin.

Are you familiar with the subpoena that dates back to 2013 that the Oversight Committee sent with respect to the ARB?

Mr. RUBIN. Yes.

Chairman GOWDY. Okay. ARB is a statutory creation, you agree? Congress created the ARB?

Mr. RUBIN. Yes, it——

Chairman GOWDY. Do you agree Congress can amend or alter or enhance the ARB? If it is a statute, sure——

Mr. RUBIN. Through an Act of Congress.

Chairman GOWDY [continuing]. Congress can change it, right? Do you agree Congress should provide oversight over one of its statutory creations?

Mr. RUBIN. Yes, sir.

Chairman GOWDY. How can we do that if you will not give us the documents related to the ARB? How can we possibly do that, Mr. Rubin?

Mr. RUBIN. Sir, first, of the 40,000 pages of documents that the committee has received, many of those are, in fact, related to the ARB.

Chairman GOWDY. Mr. Rubin, I appreciate—I really do, I really do—I appreciate the word "many." I appreciate the 40,000. I keep coming back to one word that is in the House resolution, and that word is "all."

Mr. RUBIN. Sir——

Chairman GOWDY. Do we have all of the documents?

Mr. RUBIN [continuing]. What we have communicated to you and to your staff and what we have been grateful for is the committee's explanation of its top priorities. And we would be very honored to continue to have those discussions. If the ARB, as you have noted here, becomes the top priority, that is certainly——

Chairman GOWDY. Mr. Rubin——

Mr. RUBIN [continuing]. Our priority.

Chairman GOWDY [continuing]. We shouldn't have to pick among priorities. You have 70,000 employees. I mean, what we are not going to do is identify one tranche of emails and then 2 months later go depose or do a witness interview with that witness and then 2 months later get another tranche of emails, when our colleagues on the other side—who, by the way, had no interest in forming this committee whatsoever—are now ironically complaining about the pace of the committee that they had no interest in forming whatsoever.

It is time for us to pick up the pace. And I am looking to you——

Mr. RUBIN. Yes.

Chairman RUBIN [continuing]. To help me do that.

Mr. RUBIN. And that is why we are here, and that is why we have continuously engaged proactively with you and your committee, and we are happy to continue to do so.

Chairman GOWDY. Okay.

Mr. RUBIN. And I would mention, the 70,000 employees are engaged in their jobs.

Chairman GOWDY. I appreciate that. I don't want any ambassadors, security guards—I don't want anybody taken off of an important job. But compliance with congressional inquiries is important. And if you have time for condom demonstrations or culinary diplomacy, I think you have time to comply with a legitimate request for documents from Congress, and I am sure you agree.

And, with that, I would recognize the gentleman from Maryland.

Mr. CUMMINGS. Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Rubin, thank you. And I am going to try something a little different here; I am going to let you get a complete sentence out in response to a question so we can hopefully elicit some information.

But, first of all, the document request. The first document request that this committee sent out was on November 18th. The committee was formed in May, so—sorry, my math is a little off here. Between May and November, that is five or six months before the committee made a document request.

Now, the Chairman would have everybody believe that they have been begging for documents from day one and you have been

stonewalling them and that is the only reason we can't proceed. But fact number one is, from May to November, there were no document requests from this committee. Okay? If we are not interested in dragging it out, that just boggles the mind, that you wouldn't make a document request.

Now, putting aside for the moment that there have been nine separate investigations. And, gosh, I don't even know if anyone could count up the number of document requests that you have received from those nine separate investigations or the number of documents that you have, in fact, provided. But the reason Democrats on this committee are concerned about the so-called "glacial pace," is that that is a long time to wait for a document request if you are in a big hurry.

The second interesting thing about the little back-and-forth right there is, as near as I could tell—and it was hard, because you were being cut off so constantly—you have not said "no" to any request to interview a witness. Is that not correct?

Mr. RUBIN. That is correct.

Mr. SMITH. So let's just be clear about this. This stonewalling effort that the Chairman just described includes a situation where you have never said "no" to an interview request. And the interview requests have been relatively slow in coming.

So maybe we will get to the point where you do say "no". You were making the legal point—and I am ranking member on the Armed Services Committee, and we have been through this with investigations before—where the Justice Department always gets a little queasy when somebody else wants to interview a witness. As a former prosecutor, I know Mr. Gowdy would have felt the same way if someone had come in and said, "Hey, can I talk to your witness?" You always get a little nervous about it, but it doesn't mean that you don't do it.

And I just want the record to be very, very clear here: The State Department has not said "no". Now, if we get to the point where they do, then we can have a conversation about it.

So that whole little back-and-forth to sort of create the illusion that the reason the committee is moving so slowly is because of your unwillingness is very unfair to you and very unfair to the State Department. There may come a time in this committee's investigation when you are being uncooperative, and then we can have that conversation. We ain't there yet.

And these are the issues that Mr. Cummings raised that gives us the concern. Why was this committee formed in the first place?

Now, one of the things that I really want to make clear for Mr. Gowdy is he is never going to get every single question answered and he is never going to get every single document. I have been a legislator for 24 years, a prosecutor for a little bit of time. I have not yet encountered the event in human history where every question gets answered. It is frustrating; it is irritating. Because part of it is, if you interview all six of those witnesses, you get six different stories, and then you can't figure out how to reconcile them.

We are not going to get every single question answered. And to lay that promise out to the families involved—to the people whose lives were destroyed by this—that somehow we are going to answer every question, when no other investigative committee in the his-

tory of the world has ever been able to answer every question, I think is unfair. That is not what we are doing. We have nine separate investigations that have been done.

So what the Democrats are concerned about on this committee is whether or not this committee has a clear purpose. Okay? Or is that purpose purely political and partisan?

Because the other thing that I am readily going to admit is that Benghazi was an awful incident in our Nation's history, and the people who were in charge when it happened, you know, they have to feel very, very bad about it happening.

It is the nature of being the President that bad things happen on your watch. When George W. Bush was President, 9/11 happened. When Bill Clinton was President, Somalia, among other things, happened—18 dead Americans. When Ronald Reagan was President, we had two suicide bombings in Beirut. Jimmy Carter went through the Iran hostage crisis.

There is no question that Benghazi is a bad, bad incident in the Obama administration. And it has always been my suspicion that the purpose of this is to focus on that bad incident as much as possible for partisan and political reasons.

Now, we gave them the benefit of the doubt. Said, "Okay, let's see." Formed in May. No document request till November 18th. We are in January. We don't have a vote on the rules. We get occasionally a loose timeline for the interviews that seems to want to drag it out as close to 2016 as possible. Look, if we want to do honor to these families, then let's do a realistic investigation.

And then we have the final fact—and I am sorry, Mr. Chairman, it is not just people that you ran into on an airplane and didn't tell us. There were specific witnesses that were interviewed by the Republican majority, and they didn't tell the Democrats. And in a couple of instances, those witnesses contradicted the information that the majority was seeking—again, information not provided to us.

Now, I serve as the ranking member on the Armed Services Committee, and Buck McKeon and I, when he was chair, and now Mr. Thornberry and I, we have had our disagreements. But I will tell you, there has never been anything like that, where evidence on the other side we just sort of excluded from the minority party.

All of those facts add up to this being a partisan and political investigation. Now, if we want to change that and actually start trying to work together, that would be wonderful. But, as our ranking member pointed out, after we raised these issues of interviewing witnesses and not telling Democrats, not only wasn't it changed, you are attempting to write it into the rules of the committee that that would be permissible. So that is our concern.

The slow pace of this—again, we started in May. We had our first document request in November. Interviewing witnesses without including Democrats—all of this points to a goal and objective of this committee that doesn't have much to do with finding out the truth and doesn't have much to do with preventing future attacks.

Now, I hope we get better than that. But I got to tell you, what I just witnessed between the Chairman and Mr. Rubin here, trying to make it look like they are being stonewalled when they are not, hardly encourages me.

And, again, I will just conclude by emphasizing the fact that Mr. Rubin pointed out they have not said "no" to interviewing a witness. And I agree with Mr. Gowdy. As Members of Congress, we are constantly bumping heads against one administration or another. We want to interview every witness. And when you get to the point where you do say "no", well, then maybe we will have an argument. But you haven't said "no".

The documents you are trying to generate—the document request, as I understand it—included a request for two years' worth of information from about, I don't know, 14 different people, all around Libya. And in the era of emails and texts and everything else, that is a heck of a lot of information to find, and good luck finding it. And I see no evidence that either of these gentlemen are not trying their best to find it and provide it for us. I don't know if you are going to find everything, but it is clear that there is no stonewalling effort here, that the reason that we have moved so slow is because of the decisions made by the committee.

Now, I tend to be a little bit more impatient than our ranking member. That is why he has got the top job; he is better at it. For me, about a week ago when I learned about all this stuff, it was time to say, "Hey, what is the point? What are we doing here?" But Mr. Cummings is a patient and thorough man. And if the committee will now begin to include us in these things, stop accusing the State Department of stonewalling when they are not, and pick up the pace a little bit, I guess it is still possible this committee could—could—serve the purpose that it stated.

And, yes, we have all read what the Republican majority voted for in creating this commission. They want everything. And, it is going to take time to get everything, I would imagine. But the mere fact that the House of Representatives, controlled by the Republicans, voted for this doesn't change the possibility that it is more of a partisan political investigation than a legitimate effort to find the truth.

So I hope some of those things change. And, number one, the top of the list—and I will just close with this—it has to be bipartisan. You can't be interviewing witnesses, particularly when we come to find out that some of those witnesses who were interviewed were being interviewed to attempt to establish, you know, a line of—an argument—and it turned out that that witness directly contradicted that line of argument, and then you don't tell the other side?

And Mr. Gowdy has pointed out he is a prosecutor. You do that in open court, you get a piece of information like that and you don't provide it to the other side, as a prosecutor or a defense lawyer, you go to jail. All right? Because that is a violation of the laws of the court. I would hope that Congress would at least live up to that.

So I sincerely hope that we do better. I look forward to the documents. I don't envy you your job. There are so many documents in the world, but I hope you will provide them. And I hope you will provide what this committee asks for, when they get around to asking for it.

I yield back.

Chairman GOWDY. The chair will now recognize the gentlelady from Alabama, Ms. Roby.

Mrs. ROBY. Well, Mr. Rubin, I hope you thank Mr. Smith after the hearing for giving you a little bit of a break. I am going to ask you a series of questions now to follow up with the chairman about the processes.

We keep talking about those 40,000 documents, this universe. I want to get a better perspective from you. Is that the universe of documents? Is that your position, that 40,000 is it? Or is 40,000 one-quarter or one-half? Can you give us an idea of what this universe of documents looks like?

Mr. RUBIN. Thank you, ma'am.

The 40,000 is the accumulation of 2-plus years of searching, of gathering of documents from across the entire State Department. We have provided these—we provided—

Mrs. ROBY. Right. I am trying to get an idea of, in the entire universe of documents that we have yet to receive, as Mr. Gowdy said we are looking for all, what portion of that do the 40,000—because the 40,000 is a lot of documents. So where does that fit into the universe?

Mr. RUBIN. So it is 40,000 pages of documents. I said 40,000 documents. I mean to say 40,000 pages of documents. That is a significant amount. That is what we have found. That is what we have searched for, and that what is what we have found.

Mrs. ROBY. But you don't really know at this moment where that is?

And I don't want to get hung up on that. I really want to spend the time talking about the processes that you are using to gain access.

So let's start with, are you using a centralized location to ensure that you are properly capturing all of the documents, or is it mined out to different bureaus?

Mr. RUBIN. I appreciate the question. Thank you.

At the State Department, we do not have a single person responsible for document requests. When we have a document request that comes from Congress, the requested information sought essentially means that all individuals at the State Department who may be related to that information have to go looking in their files. Oftentimes, these are desk officers responsible for country issues, people working in our military affairs bureau, nuclear nonproliferation bureau.

So we don't——

Mrs. ROBY. Can you tell us right now——

Mr. RUBIN [continuing]. Have one single point of contact.

Mrs. ROBY. Okay. Can you tell us right now how many people you have working on the production of documents that have been requested as it relates to Benghazi?

Mr. RUBIN. Regarding the collection of documents, I can't tell you how many State Department people over the past several years have provided documents specifically, because it is across the entire——

Mrs. ROBY. So there is not a Benghazi group, so to speak? There is not a group of people that have been tapped to say, you are in charge of document collection for the incidents that happened and the deaths of the four Americans in Benghazi? There is not people that have been tapped for that?

Mr. RUBIN. It is a fair management question. And what happens is, when we get the information from across the building, there are people who review the documents.

We had a discussion with the committee where we came to an agreement with the chairman and the committee that we would at the State Department provide minimal redactions of the 40,000 pages of documents. Those redactions are made by experts who look at equities related to——

Mrs. ROBY. Back to my question. Is there a group of people that have been tapped as individuals to work on document collection for Benghazi? Just "yes" or "no." Is there a group of people that have been said, you are the Benghazi group for document production?

Mr. RUBIN. Again, the production is an effort that is across the entire State Department.

Mrs. ROBY. So, no, there is not a Benghazi group.

And if there is not a Benghazi group, then I would say, with 40,000 pages of documents that have already been produced, not knowing, you know, in the universe of documents, what percentage that 40,000 pages is, why has there not been—of the 70,000 employees that you referenced before, why has there not been a group of individuals that you have said, hey—and like the chairman mentioned before, not to take anybody off the very important task of their job, but this is an important task. This is an important issue.

So, of those 70,000 employees, why can't we just get one group of people designated within the State Department to say, hey, it is your job to respond, and respond quickly, to these requests so we can get to the truth?

Mr. RUBIN. Ma'am, I assure you that this is the highest priority. When individuals at the State Department are asked to provide documents to Congress, people move on it. It is not a question of people not. It is a question, however, of the comprehensive nature of acquiring all the information available, and we want to make sure that we do that well.

Mrs. ROBY. Okay.

Mr. RUBIN. That means that if we have one or two individuals, they may miss things, so we need to go to everybody——

Mrs. ROBY. I am not asking about one or two. I just wanted to know if the State Department took this seriously enough that they were willing to identify a group of employees of the 70,000 whose sole job was to ensure that we get to the truth about what happened in the days and weeks, months leading up to the attack in Benghazi and then what happened afterwards.

I am going to move on. I want to know how these searches are done by the individuals across—as you have stated, across the State Department. Do they do a keyword search? Do they type in "Libya" or "Benghazi" or "Tripoli" for any and all records that relate to Benghazi? Or is a staff member, you know, deemed relevant and then the keyword search is completed?

I mean, what does this look like? When you say to that one employee, it is your job to do this, what do they do?

Mr. RUBIN. It essentially is as you described. It means going and searching the files, searching the electronic, the hard files, and looking for the documents that are relevant.

We have multiple document requests underway all the time from Congress on multiple issues that affect the whole breadth of American foreign policy. And what that means, then, in practical purposes is, when Congress says, we need documents on topic X, then that topic is shared with the Department, and individuals at the Department have to go search for whether they have information related to that topic.

Mrs. ROBY. Why is so much time being spent redacting material from these documents?

Mr. RUBIN. The State Department has an agreement in place with the committee that we are very happy with, which is minimal redactions of these 40,000 pages of documents. And the committee has told us that they are comfortable with that.

Mrs. ROBY. Well, some of these documents have been highly redacted, and, obviously, that takes time, as well.

Mr. RUBIN. Ma'am, those are not necessarily State Department redactions. We cover foreign policy across the board, and multiple agencies and equities are involved in the review process.

Mrs. ROBY. Okay.

Every document that we receive is digitally stamped and it has a Bates number assigned, so this leads us to conclude that the records are in electronic format. Why is it that the Department has produced all records in paper format despite our requests for electronic copies?

Mr. RUBIN. That is historic standard practice from the State Department to ensure that we are providing the documents in the most user-friendly manner possible. But I am happy to take back that request.

Mrs. ROBY. Please do. And please report back to this committee as quickly as you can on that.

There is no order to the paper documents that are being produced. They are not in date order, they are not in Bates-number order, they are not by person, they are not by office or bureau. Just boxes of documents.

So can you give us assurance that your further productions of documents will occur not only timely—as you can see from the passion of the members of this committee, that we want to get to the truth, and so the quicker you can get us this information, obviously the better, particularly because of the volume. But there is no rhyme or reason to what you are sending to us, so could you provide them in some sort of order?

Mr. RUBIN. So, ma'am, this goes back to the original questions that you asked. And we are trying to provide the documents in as quick a manner as possible that are relevant to the committees for their investigations. If you are asking that we collate the paper, do the work to review it ourselves, that is——

Mrs. ROBY. Well, you are taking a lot of time to redact information. It seems that you could at least put them in some kind of order.

So I look forward to your, you know, further participation with this committee and your willingness to provide us these responses quickly. I would appreciate that you get back to us on the electronic format of these documents.

Mr. Chairman, I yield back.

Chairman GOWDY. The chair will now recognize the lady from California, Ms. Sánchez.

Ms. SÁNCHEZ. Thank you, Mr. Chairman.

I want to pick up where my colleague Mr. Smith left off, which was in countering the suggestion by the chair's questioning that somehow the Department of State is not forthcoming with their witnesses.

I believe that, in his questioning, the chairman said that DOJ had no problems with the interviews that this committee wants to conduct with certain witnesses. But I do hold in my hand a letter from the Department of Justice that is dated November 21st of 2014, and in that letter it states that they do have concerns, because they have an ongoing investigation, and that prior to any interviews that the committee would conduct, if they could please notify the Department of Justice prior to that.

And I would ask unanimous consent to submit this letter for the record.

Chairman GOWDY. Without objection.

[The information follows:]

**U.S. Department of Justice**

Office of Legislative Affairs

Office of the Assistant Attorney General

*Washington, D.C. 20530*

November 21, 2014

Mr. Phil Kiko
Staff Director
Select Committee on Benghazi
U.S House of Representatives
Washington, DC 20515

Dear Staff Director Kiko:

In recent public statements, Chairman Gowdy has indicated that he plans to kick off a robust investigative plan in December that will involve the questioning of witnesses who have not been previously interviewed. As you know, we are currently prosecuting Abu Khattala in the United States District Court for the District of Columbia and the Federal Bureau of Investigation (FBI) has an ongoing investigation into the September 11, 2012 attacks on U.S. Special Mission personnel and facilities in Benghazi, Libya. Our investigation of these attacks is continuing and additional prosecutions are possible, although we are not in a position to disclose more information at this time.

We appreciate your interest in reaching out directly to seek individual interviews in the course of your investigation. In those instances where you seek interviews of individuals who are likely to have personal knowledge of the attacks and those who planned and participated in them, we request that you notify us in advance so that we have an opportunity to confer with you about law enforcement equities (particularly the pending prosecution and continuing investigation) that might be implicated by such interviews. Our goal is to accommodate the Committee's information needs to the extent possible, consistent with our law enforcement interests in this important matter.

We look forward to continuing our constructive working relationship with you on this issue and other matters as they may arise in the course of your investigation.

Sincerely,

Peter J. Kadzik
Assistant Attorney General

Chairman GOWDY. And I am happy to reconcile those two, if the gentlelady from California would like me to.

Ms. SÁNCHEZ. Well, I would like to continue with my questioning and my comments, and perhaps at the end of the hearing there will be an opportunity for the chairman to have further time to speak on his time.

Chairman GOWDY. Very well.

Ms. SÁNCHEZ. So I think that it is clear that DOJ has expressed some concerns and that it is patently wrong to suggest that somehow witnesses are being withheld from the committee. I believe Mr. Smith stated pretty emphatically, and I believe it is the case, that no one has said that there are witnesses that cannot be interviewed by this committee. So I just thought it important to show that, as far back as November, that DOJ did communicate with this committee and expressed those concerns.

I want to thank our witnesses for joining us today.

I have to admit that when this committee was first announced some of us were a bit skeptical about the scope and the intentions of the investigation. There was, from the outset, some uncertainty as to what questions this committee would be tasked with answering and whether or not Democratic members of this committee would be fairly included in the work of the committee. Could partisanship, in fact, be set aside and logic and facts guide the course of the investigation?

And I can only speak for myself in saying that I put those concerns aside, in the hope that there would be an honest and open investigation that was free of partisan motives. But, boy, it really looks like I was wrong on that one.

The committee members on the Democratic side waited patiently as Chairman Gowdy assured us that there would be transparency and that minority members would be included in the investigation process and that he would outline the questions that still needed to be answered. Eight months later, our committee still lacks that scope, that transparency, and, more than ever, the credibility.

Now, more than ever, I am convinced that my colleagues on the other side of the aisle are in search of this mythical creature—this unicorn—and the unicorn being some kind of nefarious conspiracy, and that this nefarious conspiracy that they are looking for does not, in fact, exist.

Over the last few months, the majority has systematically robbed Democratic members of meaningful participation in this investigation. Apparently, our only use is to sit up on this dais in full committee hearings and be allowed to ask a few simple questions.

As my colleagues have noted, Mr. Cummings and Mr. Smith have noted, Democrats have been excluded from discussions that the chairman and his staff have had with material witnesses.

The chairman has refused to convene an organizational meeting or establish rules to address our concerns about the increasingly partisan direction that this committee has taken. In fact, yesterday the chairman told us that we could only have a vote on committee rules if we agree to vote on his rules, even though we think that they are patently unfair. I don't know what kind of logic that is, that you can have a vote so long as it is the vote for what I want.

The chairman might have the right to do these things, but that doesn't make his actions fair or nonpartisan.

Witnesses have been interrogated without any of our members or minority staff present. We have been denied opportunities to counter fanciful claims, and we have been left in the dark as to what answers Chairman Gowdy and his members are searching for.

Worse, the majority has manipulated facts and evidence to suit the narrative of their ongoing conspiracy theories. When convenient, they have left out key witness testimonies that don't corroborate the outlandish conspiracy theories that they are seeking to prove.

Ms. SÁNCHEZ. And when the facts don't add up, they just continue to make more fanciful claims.

For example, back in September, an article reported that former Deputy Assistant Secretary of State Ray Maxwell came forward with a startling allegation that, "Hillary Clinton confidants were part of an operation to separate damaging documents before they were turned over to the Accountability Review Board."

That allegation, which was reported in many conservative media outlets, was that former Secretary of State Hillary Clinton's aides ordered the destruction of documents to prevent Congress and the ARB from ever seeing them.

Chairman Gowdy called these allegations incredibly serious and told Fox News in mid-October that the committee would be investigating this. What he failed to admit was that, at the time of the chairman's Fox News interview, Republicans had already investigated the Maxwell claim and only found evidence against it.

The day before the chairman's interview on Fox News, his staff had spoken to a witness that Mr. Maxwell identified as being able to corroborate his claim. Republicans excluded Democrats from that interview and told us that they had learned nothing, quote, "of note" from that witness.

But when Democrat staff spoke to that witness, he said he didn't recall having been in the document review session that Mr. Maxwell described. He also denied ever being instructed to flag information in documents that might be unfavorable to the Department. He further reported that he never engaged in or was ever aware of any destruction of documents.

That witness was perfectly willing to talk to Democrats and has always been willing to talk to us. He also never asked to be treated as a confidential source. Chairman Gowdy has explained why we were excluded from that interview—he has never explained that. He has downplayed or discounted the factual information that the witness provided. And the information was material.

As a former prosecutor, Mr. Chairman, you understand that evaluating the credibility of witnesses and their allegations depends on whether the information that they provide can be corroborated or not. Although your staff stated that they learned nothing "of note", in fact they learned that this claim was not substantiated by a key witness. And, to me, that is incredibly telling.

Unfortunately, because the facts didn't shoehorn into the conspiracy narrative, they failed to divulge that information to our side.

If our goal is the truth and not a predetermined outcome, these interviews should have been conducted jointly with Democrats and Republicans in the room. Facts that do not support serious allegations that we are investigating should not and cannot be ignored. These actions sabotage a serious and credible investigation. They make it an unfair, exclusionary investigation with no transparency. And I, for one, am not willing to sit by silently any longer.

Maybe there is a good reason for all this nonsense. Maybe the secrecy is meant to distract from some of the committee's shortcomings. In the eight months since its formation, the majority in the committee has failed to deliver on some key promises. They have yet to request documents from the Department of Defense, they have yet to summon any CIA witnesses, and they have yet to yield any new information that has not already been uncovered by the previous eight—count them, eight—in-depth investigations into the attacks on the Embassy in Benghazi. That is a pretty abysmal record.

So if my colleagues and I sound a little frustrated today, well, it is with good reason. We have had enough of this pursuit and this quest to catch this mythical unicorn. Eight separate investigations, bipartisan investigations, where both sides agreed on the rules, have been conducted, and none have found this nefarious conspiracy.

If a constituent of mine were audited by the IRS eight times for the same year or if some member of the American public were tried in a court of law eight separate times for the same crime and no wrongdoing was found, we would say that it was lunacy to expend the time, effort, and money to continue to put them through that again. And yet here we are again.

But this time, this time, perhaps if we change the rules, if we make them unfair and lopsided, give one side the advantage of hearing witness testimony and the other side not, keep them locked out of the room, well, then maybe, just maybe, the outcome might be a little different from this committee than from the previous eight.

Mr. Chairman, the American public, the families that were affected by what happened in Benghazi, and the victims themselves deserve better. So I am urging you to adopt rules that allow for participation of both Republicans and Democrats in all future committee interviews so that we can conduct credible, nonpartisan, and transparent investigation into this matter.

In the time that I have remaining, I just want to say I apologize to our witnesses. These are tensions that have been boiling over for some time, but they are tensions that have been raised again and again and again.

And you make much of the fact that we didn't vote to empanel this committee or want to be here because we kind of suspected that this is where it would end up. And I hate to say it, but those who were more cynical, I think, had the better argument.

And, with that, I yield back the balance of my time.

Chairman GOWDY. I thank the gentlelady from California. And I can assure her, I will never give veto power over subpoenas to any entity that thinks no subpoena should ever be issued.

And, with that, I would recognize the gentleman from Illinois, Mr. Roskam.

Mr. ROSKAM. Thank you, Mr. Chairman.

I would just like to point out a couple of the internal inconsistencies that our friends on the other side of the aisle are making.

Mr. Cummings made a pledge to pursue the truth, the whole truth, and nothing but the truth, and Mr. Smith basically said you are never going to get it, it is impossible. In fact, he said, "You are never going to get all of the answers. You are never going to get all of the documents." That is an internal inconsistency, and they need to work it out.

Now, Ms. Sánchez just made an argument that said, well, certain information would have disposed of a particular question. But had that information been released, it would have made an exact argument that said, this is selective leaking of information.

And to Mr. Cummings' point, to go back and use just a classic straw man argument—you don't hear that that much, and there was really no pretense to it, but the classic straw man argument says, this is the Oversight and Government Reform Committee. No, it is not. It is a completely different committee with a completely different chairman and completely different admonition from the House.

And, really, to characterize this as a partisan process that is glacial in nature, when the majority has accepted the recommendation of the minority, and that is to have the first two subjects at the request of the minority party? Ridiculous. It is ridiculous.

So let's get down to really what this is all about.

Mr. Rubin, thank you for your time today.

I thought it was ironic that you are talking now in terms of the timing of these things, and that is what has everybody concerned, but you are actually speaking in seasons of the year. With some happiness, you said, "We have produced two witnesses since the fall." Isn't that ironic, that you are not speaking in terms of days or weeks or even months, but you are characterizing the timing of the Department of State in terms of seasons of the year?

Now, you have come into this with an opinion, haven't you, based on your past writings? You wrote a piece about politicizing the Benghazi attacks back in October of 2012. Isn't that right?

Mr. RUBIN. Yes, I did.

Mr. ROSKAM. Let me read the first two paragraphs, and I just want to get your opinion and how that opinion intersects with today.

So you wrote, "The killing of four American patriots in Benghazi last month was an act of terror. Those four Americans, including the U.S. Ambassador Chris Stevens, represented the best of our country. They put their lives on the line to advance American interests in a volatile region. They deserve the support of their government back home."

Paragraph 2: "Instead of getting that support, their deaths are being used as a partisan attack on President Obama, part of a false narrative that the President failed them. What has failed them is our political system. Rather than supporting a serious nonpartisan investigation into what took place and what went wrong, waiting

to get all of the facts out, conservatives are trying to affix blame for their deaths for political advantage."

Now, I recognize, Mr. Rubin, there has been a lot of things coming off of Capitol Hill as it relates to Benghazi, but you don't think that this is a frivolous, partisan investigation, do you?

Mr. RUBIN. Sir, Chris Stevens was a friend of mine. I worked on Capitol Hill——

Mr. ROSKAM. I understand that.

Mr. RUBIN [continuing]. Alongside Chris. And——

Mr. ROSKAM. You don't think——

Mr. RUBIN [continuing]. Sir, I am sorry——

Mr. ROSKAM. Mr. RUBIN——

Mr. RUBIN. Okay.

Mr. ROSKAM [continuing]. Do you think that that is a frivolous, partisan investigation?

Mr. RUBIN. Sir, I am not commenting on the question of is this a frivolous, partisan investigation, because you——

Mr. ROSKAM. Well, you——

Mr. RUBIN [continuing]. Are reciting what I wrote in 2012——

Mr. ROSKAM [continuing]. State of mind going into accepting responsibility——

Mr. RUBIN [continuing]. When I was not in the government.

Mr. ROSKAM [continuing]. At the Department of State. And I am interested in a simple question. Do you think that this investigation is frivolous and partisan? What is your opinion?

Mr. RUBIN. Sir, again, in 2012, after Chris Stevens was killed—and I remember the morning, because he was a friend, and I remember when his name was announced on the radio, and my heart sunk to my feet because I knew Chris, and he represented the best of the State Department, the best of America. And——

Mr. ROSKAM. Is this frivolous?

Mr. RUBIN [continuing]. I am sorry, sir, his name at that time was not being used in a manner that I felt respected his memory.

Mr. ROSKAM. Mr. RUBIN, is this frivolous? I am asking you an opinion about your opinion about this process today. Is this frivolous, and is this partisan? What is your answer? Can you not——

Mr. RUBIN. Sir——

Mr. ROSKAM [continuing]. Give an answer to that simple question?

Mr. RUBIN [continuing]. The State Department is and has been, from the Secretary on down, happy to comply with and work with the committee, as the chairman himself has said in a letter as well as in public comment that we have been cooperative.

Mr. ROSKAM. Mr. Rubin, I thought that was an easy lay-up. I thought it was an easy thing for you to say, no, of course this is serious, and of course this is not partisan, and let's get to it. I find it shocking that you can't give a straight answer to that simple question. And you are not going to give it to me, so let's move on.

I find myself oftentimes translating for people. I will translate back home what is meant by certain language up here. I find it ironic that you work for the State Department and you are in the business of understanding foreign language and you have misinterpreted the language, the graciousness, and the charm of a southern chairman. Because to come in here and to sort of claim that you

are gratified that we are pleased with your cooperation, let me translate for you. He is not pleased with your cooperation, he doesn't think that this is going well, and he thinks that you are part of the problem.

Now, you claimed in your original testimony, "In this role, I serve as the Department's chief liaison to the House, responsible for ensuring that the multitude of foreign-policy issues," et cetera, et cetera, et cetera. So your testimony is that you are responsible; is that right?

Mr. RUBIN. My testimony is that I am the chief liaison, that the State Department has a significant number of people working on a significant number of issues. In my job, I convey those issues, as requested by Congress, and go back and forth in dialogue with the Foreign Affairs Committee, the other——

Mr. ROSKAM. Mr. Rubin, back in November, November 18th, a season ago, this committee requested the documents, the emails, the communiques, and so forth of 11 of the principals on the seventh floor. You are familiar with that.

Now, I brought my computer here today. And I know it is not the same thing. I don't want to oversimplify it for the sake of being gratuitous. But when I go to my email, which has thousands in it, and I type in something like "United Airlines," for example, and I sort it, dozens and dozens of things come up within the twinkling of an eye.

When can we expect you to use a similar enterprise? Is there a date certain that we can rely on? Because the admonition that you have never said no is ridiculous. To never say no, you don't have to say no. As a dad, when my kids would come to me and I would say—they would ask to do something and I didn't want to do it, I would say, "Let me think about it." You are doing the exact same thing. You are saying, "We are working on it."

Do you remember that scene in "Raiders of the Lost Ark" at the very end when Indiana Jones goes in and he is talking to the government guy and he says, "Where is the Ark?" And the government guy says, "We have top people working on it." And Indiana Jones says, "What people?" And the government guy says, "Top people."

You are the government guy. You are standing up for "top people." You have to bring your game. You have to be the expediter. You have to be the one that sheds your past opinions about congressional investigations and takes on the job of being an advocate so that we can all get to the bottom of this.

The other side doesn't get to argue in the alternative, that it is not moving fast enough, and they are being passive aggressive by not participating. That just doesn't work, and it is very flatfooted. But what we need from you is a disposition of expedition. That is, recognizing that a chairman is not happy, don't misinterpret the charm and graciousness of the South. I am from Chicago; we have none of that. And we are trying to be very, very direct, and that is to be part of the remedy, Mr. Rubin, to be part of the solution and to get things done.

Mr. RUBIN. As I have said, sir, and as I can assure you, as I said in my testimony, we will begin the production of additional documents to the committee within days. We are also needing the guidance from the committee as to its top priorities and sequencing.

Mr. ROSKAM. That is arguing——

Mr. RUBIN. The committee had told us it is a top priority.

Mr. ROSKAM. No, no. You are making an argument there, Mr. Rubin, that says that these things have to be consecutive requests. They are not consecutive requests. They are concurrent requests. You can walk and chew gum at the same time.

Mrs. Roby made the point, you have 70,000 employees. So to make the admonition of the committee that you have to line up single-file and you are going to be admitted in and we are going to get you this piece of evidence if you ask the right way and you are going to give that piece of evidence, come on, that is an old trick.

Mr. RUBIN. Sir, we have a record of cooperation with this committee. Even——

Mr. ROSKAM. Not enough.

Mr. RUBIN [continuing]. In recent days, we proactively offered a briefing to this committee that was not requested.

Mr. ROSKAM. A briefing. Come on. We need——

Mr. RUBIN. Sir——

Mr. ROSKAM. We need the documents of the 11 people on the seventh floor.

Mr. RUBIN [continuing]. It was more than a briefing, much more than a briefing.

Mr. ROSKAM. We need it promptly. And we——

Mr. RUBIN. And we are committed to providing the documents.

Mr. ROSKAM. My time has expired. I yield back.

Chairman GOWDY. The chair will go to the gentleman from California, Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman.

I am still trying to figure out who is Indiana Jones in that analogy. I don't think there is an Indiana Jones on this panel, much as I would like to say there is.

I want to comment on a couple things, and I am not sure that I have any question for either of the panelists.

Mr. Higgins, thank you for spending your time with us today. I am not sure why you are here, but I appreciate your presence.

And, Mr. Rubin, it looks like your reason for being here is so that we can beat up on you, which I think is grossly unfair to you and unfair to the State Department, considering that if we are going to look to assess responsibility for the slow pace of this investigation, we ought to look to ourselves before we look to the State Department.

Given that we didn't ask for a single new document from the State Department for the first half-year of the existence of this select committee, it seems a bit disingenuous to be criticizing the State Department for the pace of our investigation. The entire Katrina investigation, that select committee, had finished its work before we had even requested a document from the State Department and certainly before this point in our investigation.

I think the problem here is not with the pace of the State Department's response. The problem all along has been this committee has such an indefinite scope, we don't know exactly what we are looking for. This was a big part of the reason why many Democrats had a reservation about participating in the committee or forming the committee. As the chairman pointed out, on the vote

to form the select committee originally, only seven Democratic Members supported it because it was unclear, other than the political purpose, what was the purpose of this select committee. And in the reauthorization, which took place as part of the rules package, not a single Democrat supported it. In fact, four Republicans voted against the rules package which reauthorized this committee.

And a big part of the reason is that, even now, eight months later, we still don't know what we are looking for. And this is a problem not only in terms of this select committee and investigation going on indefinitely, but it is also a problem in terms of the pace at which we can expect to get our document requests responded to. If we had a better idea of what we were looking at, if we had a better idea of what was actually in controversy, then we could narrow our requests, and I am sure we could get it complied with with much more alacrity.

Part of the reason why I think the charter for this select committee was as broad as the chairman mentioned is that we really didn't know the purpose of this committee. Were we looking at gunrunning, or were we looking at nonexistent stand-down orders, or were we looking at military assistance that was ordered not to be provided, or were we looking at any other number of myths?

The challenge has been that, on these issues, it is not as if there was a factual controversy. There wasn't, before this committee was established. We have had innumerable investigations, and we couldn't narrow in on a particular set of facts that were in dispute, because it really wasn't a fact-based dispute as much as a political dispute about how to interpret the events.

So the charter was very broad, and, for that reason, it was voted on on a fairly party-line basis. But the committee was established. We agreed to participate in the hopes that, against our expectation, it would turn out to be something different.

And, initially, it looked that way. And I am grateful that the first two hearings were on a very productive course, and that is what have we done in terms of implementing the ARB recommendations. I think that was very productive to do. I think it is very productive to ask, "Where are we in the hunt for those responsible?"

But we haven't narrowed the scope to those things. We haven't narrowed the scope, indeed, at all. We still don't know what we are looking for, but we know we are looking for something. And it is part of the reason why we feel it is so important that we agree on the scope of this investigation; otherwise, it is going to go on forever. It really will be a partisan fishing expedition, or it will be drawn out to affect the Presidential election cycle.

At the end of the day—and I want to disabuse anyone of the idea that was suggested by my colleague—we have never asked for a veto over subpoenas. What we have asked for is to be notified of them, to have a chance to weigh in. Where they are not disputed, our ranking member and chairman can agree on them, and where they are disputed, we ought to have a vote on them. That is not a veto. They have far more members than we do. Provided their members agree with the subpoena requests, they should always be approved. But we ought to have at least an open debate about it to prevent this from getting into a purely partisan exercise, unless that is the goal.

So I think defining the scope here is going to be very important if it is going to have any credibility.

And the final point I would make on this is, if this investigation doesn't produce a bipartisan report, it will have been a complete failure. It will be a meaningless failure. Because if we don't produce a bipartisan report at the end of the day, it will have no credibility. So if we are going to invest our time in this, let's make it worthwhile. And that means let's make it bipartisan so that the country and the families will have the confidence of knowing that this was an objective work product.

Because, honestly, if at the end of the day we have a report and the Republicans vote for it and the Democrats vote against it, yes, it will pass—you have the majority; you can do pretty much whatever you want—but it will have been a complete waste of time, and it will be a disservice to the families and a disservice to the taxpayers.

So if we are going to get to that bipartisan work product at the end of the day, it is going to have to mean we need to know who you are talking to. We need to know when they agree with the narrative that some believe; we need to know when they disagree with that narrative.

We ought to be part of the discussions about who we are subpoenaing. We ought to be part of the discussion about what we are really going to focus on here. I mean, at the end of the day, is it really about gun-running? Does anyone really think that is what this is about? And if it is not, okay, then let's not waste our time on that.

So let's figure out what this is about. Let's, you know, dedicate ourselves to making this a bipartisan work product at the end of the day. And we all have too much to do and there is too much at stake and too many families who are so deeply impacted by this, that they deserve better than anything less than bipartisan.

And I yield back.

Mr. JORDAN [presiding]. The gentlelady from Indiana is recognized.

Mrs. BROOKS. Thank you, Mr. Chairman.

I would like to agree that we do need to get to the bottom and we do need to find out what happened, and that is what everyone has been talking about. But the manner in which you do that, whether you are a lawyer, as I am, former U.S. attorney, whether you are a law enforcement official who conducts investigations, whether, as my friend from Illinois said, whether you are a parent trying to get to the bottom of an incident, you have to ask questions and you have to interview those who were involved.

But when the incident involves numerous documents, typically in any investigation, you try to get the documents ahead of time so that you run an efficient, fair investigation when you get to ask witness questions. You have documents in front of you that you can ask them the most relevant questions.

And that, I think, has been the problem that we have had, is that while you, Mr. Rubin, have talked about cooperating, you have required us to prioritize rather than giving us, as Ms. Roby talked about, the universe of documents, and so things have been, you know, dribbed and drabbed out to this committee over a period of

time. And in large part because of that, that is why we have not interviewed witnesses yet, because we have been waiting on the documents for months.

And I think when this committee was established the State Department knew, as we said, we were going to take the work, the documents from the other committees. We didn't want to duplicate the effort. We wanted to take the documents from the other committees, and it has taken a long time just to get those. What was produced to OGR? What was produced to Intel? So I just want to say, we have tried in a very thorough, fair manner to try to extract the documents from the various agencies that have already given the documents to different committees.

Our recommendations do plan to be very—we do need to make bipartisan recommendations. I agree with that. But in order to conduct a fair, thorough, thoughtful, efficient investigation, we have to have the documents first. That is why we have been focused on the documents.

And I have to ask, how can we possibly learn from the attacks if we don't learn about the attacks? We can't make recommendations going forward if we don't have all of the facts about what happened before, during, and after the attack.

And there are documents that remain to be reviewed. We have learned that. You have recently given us new documents that were never reviewed prior to the establishment of this committee. Even though there have been eight committees that received and requested documents in the past, this committee is still getting new documents. And our challenge is we don't know how many more new documents are out there. And how can that be? After 2 years since this tragic incident, how can it be that we are still getting new documents?

And the need to review those documents, as anyone who conducts any investigation, that is critical prior to interviewing witnesses who have yet to tell their stories to Congress. So many witnesses have yet to tell their story to Congress.

And I want to focus on our request to interview those witnesses. Our first two requests—and there will be more requests, Mr. Rubin—our first two requests for the State Department were to interview 22 State Department personnel, 18 of whom were in Benghazi in the months prior to the attack and experienced firsthand the deteriorating security posture, as well as the 4 who were in Benghazi. None of those people have been interviewed by Congress, to my knowledge—none.

And so, for the other side to, you know, really try and capture all that has been done, how is it that 22 people who have direct knowledge have not yet been interviewed by any committees in Congress?

So there are no asked and answered questions from 22 different people with firsthand knowledge. So we are not seeking to duplicate any work that has already been done. This is new, fresh work that needs to be done—people who were there, people who were in Benghazi prior to the attack, and actually people who were there during the attack.

So would you agree with me, Mr. Rubin, that firsthand knowledge, rather than a summary, a report, another agent coming in

and talking to us, firsthand information is better than secondhand information? Would you agree?

Mr. RUBIN. Ma'am, the request for these interviews came on December 4th, I believe, and we spoke quickly with the committee and the staff to try to figure out what the highest priorities were. And it was communicated to us that the four Diplomatic Security agents, DS, that that was the highest priority.

And that is where it runs into this complexity of an ongoing investigation to prosecute, potentially, the individual that is in custody for those terrorist attacks. And the Justice Department has raised concerns that we need to be mindful of. That is——

Mrs. BROOKS. Well——

Mr. RUBIN. That is the only discussion that we have had related to that, to be mindful of that.

Mrs. BROOKS. Thank you.

And please know that, as a former U.S. attorney and someone who was in charge of Victim-Witness Subcommittee for Attorney General Ashcroft and Attorney General Gonzales, I am very concerned about prosecutions and about victims and witnesses. And let me just share with you that our staff is in communication with the Justice Department, and we will handle these witnesses appropriately.

But if we made a request to you on December 4th of all of these witnesses—and I appreciate you would like them to be prioritized. It is January 27th today. There is no date yet scheduled for an interview of any of these people. We are not going to wait to receive now all of these documents, which would have been the more efficient way for a real investigation to be done.

So we would like to know what date. And because we want to preserve the safety and security of these personnel, we would like to know, I would say within the next 24 hours, which witnesses will be made available next week and which witnesses will be made available the following week and which witnesses will be made available the following week and so on.

And we all have a certain number of staff, but our staff will go to these witnesses, or we will work with you to make arrangements to get these staff back to Washington, D.C., to conduct these interviews.

Are you in agreement that that can be done?

Mr. RUBIN. To provide a bit of context——

Mrs. BROOKS. And we will be working with the Justice Department on all of this, as well, to ensure their safety and security.

So, assuming that we take the Justice Department prosecution off of your plate and assume we work with them on how this will be done, will you work with us to get these interviews set up in the next week?

Mr. RUBIN. Ma'am, we are always open to communicating and speaking with you. I am not the legal expert for the State Department. I will not take on that role. But I will tell you that——

Mrs. BROOKS. Who is the legal expert?

Mr. RUBIN [continuing]. We have lawyers at the State Department that are continually in touch, and individuals and staff, with the staff of the committee, and we are always open to that conversation.

Mrs. BROOKS. I appreciate that.

Who is the lawyer from the State Department that we should be communicating with with respect to scheduling these interviews of up to 22 different witnesses?

Mr. RUBIN. I would have to get you the specific person, but I am sure that the staffs know who they are speaking with directly about these issues.

Mrs. BROOKS. Who is the head of legal affairs for the State Department?

Mr. RUBIN. Well, the Legal Advisor is Mary McLeod. But that is the Legal Adviser, the top of the State Department Office of the Legal Adviser.

But within the context of the letter request for these interviews, it is important to remember that after we receive the requests, we have gone to the committee to ask for the priorities. In that interim process, we have prepared briefings, we have been engaged. And it took several weeks to get the priorities from the committee.

Mrs. BROOKS. Why do you need priorities? They are all priorities. Twenty-two people——

Mr. RUBIN. They are all——

Mrs. BROOKS. Why do we have to prioritize? Why does our staff have to prioritize to the State Department?

Mr. RUBIN. Because we want to know for your work, to make it as easy as possible, what it is that you are looking at as the highest to-do item on your checklist.

Mrs. BROOKS. When we don't know what they have to say, it is difficult, Mr. Rubin, to know who has the most information.

And so, at this point, we have the bandwidth and I would suggest that the other side has the bandwidth to begin on a regular process to set up a schedule as to when we will interview each of these 22 witnesses—18 who have not been interviewed who worked in Benghazi and in Libya prior and 4 who were there at the time of the attack.

And so will you work with us? Will you commit——

Mr. RUBIN. Of course.

Mrs. BROOKS [continuing]. That your legal department will work with us to—and we will pledge that we will work with the Justice Department on these witnesses, too, because we absolutely do not want to compromise that investigation.

But these are individuals, some of whom have been interviewed by the ARB; is that correct?

Mr. RUBIN. I am not intimately knowledgeable of every individual the ARB spoke with.

Mrs. Brooks. We must have these interviews done in an expeditious manner. And if we could please get the documents ahead of time, it will make it most effective, and we won't need to have multiple interviews with these important eyewitnesses.

Mr. RUBIN. Thank you.

Mrs. BROOKS. Thank you.

I yield back.

Chairman GOWDY [presiding]. The chair would now recognize the gentleman from Kansas, Mr. Pompeo.

Mr. POMPEO. Thank you, Mr. Chairman. It has been a very productive hearing.

Mr. Schiff seemed confused about why you are here, Mr. Higgins. I am about to enlighten him just perhaps a little bit about why you are here today.

The Central Intelligence Agency had turned over a series of documents to the House Permanent Select Committee on Intelligence. When it wrapped up its investigation, it returned those documents, as it did under its instructions and its rules, and they provided them to you. In a letter of May 8th, then-chairman of the committee, Chairman Mike Rogers asked you to hold on to those documents, to secund them in a way that they would be available to this committee in a very expeditious manner.

Since at least October, this committee has been seeking those documents. November 19th, one of your staff said, quote, "Working to try to set up a time next week," end of quote. December 8th, one of your staff attorneys says, quote, "We are in the process of organizing and page-numbering," end of quote. And then December 15, one of your staff attorneys said, quote, "We will reach out to you soon," end of quote.

That is a series of documents you had already identified. You had turned them over on Thursday of last week after Chairman Gowdy had to go through the process of notifying you that you were going to come here today and have to answer for why you hadn't turned over the documents. Coincidence?

Mr. HIGGINS. No, sir. Thank you for the question.

And I absolutely understand your frustration and the committee's frustration. Producing these materials has taken longer than you consider acceptable and certainly longer than we anticipated, as those emails from November and December suggest.

If you bear with me, let me see if I can explain the delay——

Mr. POMPEO. If you will do so quickly, I will be happy to bear with you.

Mr. HIGGINS. I will do so as quickly as I can. Let me see if I can explain the delay.

The committee first requested access to these documents on November 14th, one of the emails you referenced. Other events overtook that request. The committee revisited the issue on December 8th, asking to see the documents during the week of December 15th.

At that point, those of us in contact with the committee, as those emails again suggest, felt that it should be a pretty straightforward process of delivering to you the materials that we have previously produced to the House Intelligence Committee.

During this time, while we were in contact, our staff most familiar with the Benghazi-related documents had been working on the State Department document request, reviewing those 40,000 pages for CIA equities. When we asked them to prepare our own documents for delivery to the committee, they made three discoveries.

First, they discovered that the documents we had provided to HPSCI and HPSCI had returned to us were very disorganized, speaking to Mrs. Roby's previous point. They were not in chronological order or any logical order.

Second, they realized that the documents did not comply with the limited redaction criteria that we have previously discussed with this committee's staff directors.

Third, they learned that CIA had not kept an exact soft copy of what had been produced to HPSCI. So what that meant was that we had to go through a fairly time-consuming process of identifying the matching soft copies for the hard copies of thousands of pages that we had produced to HPSCI, pairing them up, implementing the limited necessary redactions that we had agreed with the staff directors, and then sorting them in chronological order. And we have run into technical problems with Bates-numbering them, but we are hoping that they will all be able to be Bates-numbered, as well.

Mr. POMPEO. Let me see if I can summarize.

Mr. HIGGINS. Yeah.

Mr. POMPEO. You gave some documents to HPSCI, we gave them back to you, and you couldn't figure how to give them back to us in a timely fashion.

Mr. HIGGINS. It——

Mr. POMPEO. But when the hearing was noticed, you figured it out.

Mr. HIGGINS. Our internal goal was to finish it by—our internal goal was to finish it by this Friday. We did accelerate that timeline——

Mr. POMPEO. You bet. To meet the hearing.

Mr. HIGGINS [continuing]. To meet the hearing deadline. But we had planned to finish the process I described, as bureaucratic and cumbersome as it sounds, we had planned to finish that by this Friday at the latest.

Mr. POMPEO. I appreciate that.

Mr. HIGGINS. And I apologize for the delay in——

Mr. POMPEO. I appreciate that. Can we do better as we move forward?

Mr. HIGGINS. Absolutely.

Mr. POMPEO. This was a pretty simple request. Some of the other challenges that the State Department has identified didn't exist here.

Mr. HIGGINS. It certainly appeared simple on its face, and we discovered it was more complicated than we thought.

Mr. POMPEO. Let me talk about witnesses. There have been comments from the other side that we haven't asked for witnesses. We are going to.

Will you agree that you will help us find those folks?

We will do all the right things to safeguard these folks.

Mr. HIGGINS. Yep.

Mr. POMPEO. They are warriors. We don't want to compromise them at all.

Will you agree that you will work with us closely to help us get those folks so that we can get their testimony, as well?

Mr. HIGGINS. Yes, sir. And we actually just received today the committee's request to speak with CIA witnesses, and we will do so.

Mr. POMPEO. Great. Thank you.

That brings up a point. You just got it today. I assume when these witnesses come, you are going to hope we only have to interview them once; is that correct?

Mr. HIGGINS. I would hope so.

Mr. POMPEO. It would be your strong preference that we not turn up a document after we have brought these folks back from goodness knows where to come testify, that we don't have to call them back to address another document. One time is better than two and certainly better than three, right?

Mr. HIGGINS. Absolutely.

Mr. POMPEO. And, Mr. Rubin, you would agree with that?

Mr. RUBIN. Yes, although I am not the expert in interviews.

Mr. POMPEO. But you would prefer, if we have to round up somebody from the State Department, that we just do it once and not have to gather them up, get your lawyers, all that goes with that, a second or a third time. That is better from your agency's perspective. Fewer of your 70,000 top people, right?

Mr. RUBIN. I can't speak to the effectiveness of interviews, but——

Mr. POMPEO. Here is what I can say. We have heard today from the other side that we haven't called witnesses, and I will tell you, until you get us the documents, we are going to be very loathe to bring them, because I know we will never get these folks back a second time. You all will find hundreds of reasons not to bring them the first time and thousands of reasons not to bring them the second time. And we are just going to do this right. We are going to do this, but we are actually going to pursue this inquiry in a reasonable way.

Mr. Higgins, it took us a long time to get some of our senior staff clearances. We have a three-star general that couldn't get an SCI completed until—when was it? When the hearing was noticed. Right. Shortly before the hearing was noticed, we get the final set of clearances that we need.

Can you assure us that that won't happen in the future? We will probably have additional folks that need to be cleared. This is a comity between the branches that you all have done good work on in the past.

And it is one the things—again, we have been trying to move this along. Now we have the minority saying we are too slow. But we didn't have clearances for staff members in a timely fashion.

Mr. HIGGINS. Yeah. We will commit to working with you to make the clearance process work as smoothly as possible.

I am happy to explain in more detail, if you like, the various—what CIA's limited role is in the clearance process and why it has taken as long as it has in a few instances.

But the bottom line is we will work with you to clear individuals as quickly as possible.

Mr. POMPEO. I appreciate that. And if it is the case that we are doing something wrong, that we don't have the information you need to get our folks clearances, we are happy to expedite that, as well.

But the executive branch sat for far too long and prevented this committee from taking on the task that we have been charged with. And so we hear the minority today talk about it, but the executive branch prevented us from having access to information and having staff people having access to information that was necessary for us to execute this investigation the way these families deserve.

Mr. HIGGINS. Usually, when clearances have taken longer than we would like or you would like, it is because necessary information to adjudicate staff access to sensitive compartmented information, which is the limited piece that CIA does, was not provided, and we either had to come back to the committee or go to our interagency partners.

We have worked through that. I think our security officers and the committee's security officer now have a good understanding of how we can move clearances forward in an expeditious fashion.

Mr. POMPEO. Thank you.

Mr. Higgins, have you received any document requests from the minority on this committee?

Mr. HIGGINS. No, I have not.

Mr. POMPEO. Have you received any witness requests from the minority on this committee?

Mr. HIGGINS. No requests independent from the request that we received this morning.

Mr. POMPEO. Mr. Rubin, have you received any document requests from the minority on this committee?

Mr. RUBIN. We have not, sir.

Mr. POMPEO. Have you received any witness requests from the minority on this committee?

Mr. RUBIN. Similar to Mr. Higgins.

Mr. POMPEO. So this today, this is fascinating to watch Mr. Schiff and Mr. Cummings talk about us being too slow. You have seen all the impediments that have been put in our way, whether it was clearances or priorities or documents we can't get our hands on.

They claim that they want to get—Mr. Cummings says, "I want to make sure we complete a fact-finding investigation." He hasn't asked for a single fact, not one. It must be the case that he believes every fact has been determined, that every relevant line of inquiry has been completed, that there is not a single witness left in the universe to be interviewed.

The minority complains that they have been shut out. They haven't asked for a single thing that they have not been granted by an incredibly gracious Chairman Gowdy with respect to a witness that they wanted to call before this committee or a document they sought from any group within the executive branch.

The hypocrisy to come today and say we are both moving too slow and asking for too much is something the American people will get to judge as we move forward.

But I can assure you, I can assure you that everyone on this committee—and I hope the minority will join in this effort in a serious way, as well—are going to ask questions. And it may be the case, as Mr. Smith said, we won't get to all of the answers that we would like to get to, but we are going to work at it.

We are going to take this charge seriously, and I hope the minority will participate, as well. They talk about us being too slow, and yet they act as if their job is to play defense—right?—to stop us from engaging in this inquiry, not participate in it, not say, Mr. Chairman, I think we ought to ask this witness questions X, Y, and Z. Mr. Chairman, might it be possible that we could obtain documents from this particular group? No, rather, they simply act as if they are the brake on this committee's investigatory work, as if

their sole role is to claim that this investigation is political and not to participate.

We still have men and women out in the world who are engaged in important intelligence-collection activities and keeping America safe. We have an obligation to make sure this committee gets it right. And I hope the minority in this committee will begin to take that role seriously, that they will participate actively, that they, too, will seek witnesses and documents and information, such that when we get done, they, too, will be able to sign the report.

I would love for nothing more than to have a bipartisan report that gets to all of the facts. But if the minority continues to believe that their role is to play fullback to our efforts to block everything we do, not to clear the way but, rather, to obfuscate, I suspect we will end up in a place where we get a good, factual report but the American people don't get the full resolution that they deserve.

With that, I yield back my time, Mr. Chairman.

Chairman GOWDY. Thank the gentleman from Kansas.

Now recognize the gentleman from Georgia, Mr. Westmoreland.

Mr. WESTMORELAND. Thank you, Mr. Chairman.

I just wanted to make a couple of comments about some of the statements that have been made about the delay in this committee in the request for documents.

This committee was formed in May, and I don't know if the minority leader didn't appoint the other side's members for 2 or 3 weeks, but we had to staff up. Both sides had to hire staff. And then, once we hired the staff, they had to get security clearance, which Mr. Higgins and Mr. Pompeo alluded to. We had a retired three-star general that applied for clearance last September, and I think he got it last Thursday. You know, if that is not dragging your feet, I don't know what it is.

But I don't know why we would have wanted all of these documents, 40,000 pages of documents, if we didn't have staff cleared to read them. I mean, we Members of Congress, I know you all don't think we do much, but, you know, for us, reading 40,000 pages of documents, that is what the staff is for.

And so, just in the amount of time it took to staff up, to find the right people from both sides of the aisle, and then to get their security clearance, I think everybody needs to understand, took a while.

And then, as far as the delay, you know, I think the delay has come from our chairman being too bipartisan. I know there were hours, if not a couple days, spent on arguing about how much time each member would get. And I think the minority wanted it down to 9 minutes and 20 seconds each, the way this thing was deliberated. And so if we had to spend a couple of days arguing about, you know, 40 seconds or 20 seconds or whatever it is, you are not going to get very far.

And as far as us being in the majority, I think the President said in 2009, elections have consequences.

As Mr. Pompeo said, he and I both sit on the Intelligence Committee, and reading the resolution that was put before the House, we have those same authorities as the Intel Committee.

Mr. Higgins, would you agree with that?

Mr. HIGGINS. The resolution does carve this committee into House Rule X, which establishes the Intelligence Committee's authorities over intelligence sources and methods.

Mr. WESTMORELAND. So you will give this committee the same respect that you would HPSCI in any request for documents or witnesses that they might request?

Mr. HIGGINS. I would be happy in a classified setting to discuss the materials that CIA has provided as well as the limited set of redactions that we are implementing pursuant to conversations with this committee's staff directors.

Mr. WESTMORELAND. Okay.

And 40,000 pages came from the State Department, and Mr. Rubin mentioned that there were a lot of—talking about redaction—there were a lot of other agencies, I guess, that had to look at what was in there, as far as redacting the information.

When the CIA received this, were there any redactions already done?

Mr. HIGGINS. We had a team that we sent down to the State Department to review. These were materials that had previously been produced in part in unclassified form with redactions. We sent a team down to review the redactions, see which redactions could be lifted.

As Mr. Rubin indicated, the documents are now less redacted than they were previously, in part because other agencies, like CIA, lifted their redactions. Again, any remaining redactions that are CIA redactions are pursuant to discussions that we have had with the staff directors here.

Mr. WESTMORELAND. So is the CIA the only redactions that are there now?

Mr. HIGGINS. I can't speak to that, sir, I am afraid. I am not sure which other agencies——

Mr. WESTMORELAND. Mr. Rubin, is that the documents, the 40,000 pages of only the CIA redactions?

Mr. RUBIN. So the different agencies that have redacted in different areas cut across the entire interagency, as——

Mr. WESTMORELAND. Do we know what agencies——

Mr. RUBIN [continuing]. Many agencies are involved in foreign policy.

Mr. WESTMORELAND. Do we know what agencies redacted what parts of——

Mr. RUBIN. We would be happy to meet with your staff to go over specific documents to identify where those redactions came from.

Mr. WESTMORELAND. Okay. But you know where they came from, the redactions, and why they are there, right?

Mr. RUBIN. Again, if another agency did it, we would engage with the committee staff and with that agency to help figure that out.

Mr. WESTMORELAND. So, by sending this to the CIA—and I am assuming that the CIA had, unlike the State Department, had some people specifically set up looking at these Benghazi documents?

Mr. HIGGINS. Between our Office of Congressional Affairs and our Office of General Counsel, we have people that we have designated to review Benghazi-related documents. So we actually sent

people to the State Department; they didn't send the documents to us.

Mr. WESTMORELAND. Okay. So you send them to the State Department rather than the State Department sending you over some documents and you looking at it. You actually send folks over to the State Department; is that correct?

Mr. HIGGINS. That is correct.

Mr. WESTMORELAND. Now, when—and I am assuming that for both the Intel Committee and this committee, that the redactions you make are for methods and sources. Is that correct?

Mr. HIGGINS. That is correct. Again, I would be happy to provide more detail in a different setting. We have discussed that with the staff directors from both sides.

Mr. WESTMORELAND. Okay. So do you think that the State Department shares emails between employees that would have methods and sources in it?

Mr. HIGGINS. There may be times that emails in the State Department's possession do include CIA information that would speak to intelligence sources and methods.

Mr. WESTMORELAND. Between employees?

Mr. HIGGINS. Or between, say——

Mr. WESTMORELAND. So the State Department feels like there are employees that can see methods and operations that Members of Congress can't see?

Mr. HIGGINS. I wouldn't—I can't speak as to——

Mr. WESTMORELAND. Mr. Rubin, I will ask you that question. Are there emails between State Department employees that disclose methods and operations and stuff that they can see that Members of Congress can't see?

Mr. RUBIN. In terms of communicating with other agencies, we have classified communication systems that are part of the daily operations of foreign policy, broadly speaking, national security. So, certainly, at State, we communicate with all relevant agencies who are engaged in national security.

Mr. WESTMORELAND. Yeah. Well, I know that Mr. Higgins testified that all of our facilities have been secured and certified by the CIA. I guess that they are secure, and I think most of the Members have top security clearance.

And so are you saying that the State Department employees just send these emails back and forth over something and that we shouldn't be seeing that?

Mr. RUBIN. No, sir. Related to the document request and the 40,000 pages of documents that you have, there are some classified documents, there are some unclassified documents, in that which we have provided.

Mr. WESTMORELAND. What would be considered classified from another agency that Members of Congress would not need to see?

Mr. RUBIN. There is a process for determining when information is classified as well as to what level. I can't speak——

Mr. WESTMORELAND. Okay.

Mr. RUBIN [continuing]. In total specificity, but, generally, when communications are classified between agencies or within agencies, if that type of information is related to the document request we are also seeking it.

Mr. WESTMORELAND. So is the CIA the last agency to get the redactions to say what needs to be lifted and what doesn't?

Mr. RUBIN. I believe the process is that we have gone to all the agencies who are relevant to these documents and asked for review.

Mr. WESTMORELAND. But Mr. Higgins said they lifted some of the redactions.

Mr. RUBIN. Yes. And we, as well, in agreement with the committee several months ago also agreed with the committee's desire to have minimal redactions, and so we went back over these 40,000 pages of documents and minimized the redactions.

Mr. WESTMORELAND. You know, there was an outside group prior to this committee being formed that had a Freedom of Information Act and got some information, I believe it was from the State Department, with no redactions. And as a member of the Intel Committee, we had gotten the same information, redacted.

Now, would it be easier for this committee or to have better information if we would go through the Freedom of Information Act rather than requesting it from you all?

Mr. RUBIN. Well, my understanding is that we received 18,000 FOIA requests last calendar year. So——

Mr. WESTMORELAND. Well, they got theirs a little quicker——

Mr. RUBIN [continuing]. It is safe to say it is significant.

Mr. WESTMORELAND. They got theirs quicker than we got ours, with no redactions.

Mr. RUBIN. And this is part and parcel of our cooperative working relationship with the committee, which is to provide these documents with minimal redactions. Many of the categories that were redacted from the State Department we have reduced.

Mr. WESTMORELAND. Well, your understanding of a cooperative relationship is probably a little bit different than some of ours.

But I yield back the balance of my time.

Chairman GOWDY. The chair now recognizes the gentleman from Maryland, Mr. Cummings.

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

As I sit here, I just want to make sure that we are all pursuing the same thing. I have heard a lot of comments that concern me.

Let me be clear. We have never, ever tried to veto the chairman's subpoena power. It just never happened. And I have made it clear to him over and over again. What we have asked for is to be true partners in this investigation.

And, you know, I think it is sad that, I mean, over my now 18 years in the Congress, to see how distrust wells up. And when distrust wells up, it is very hard to get anything done, period.

Mr. Rubin, I was watching you a minute ago when you talked about Ambassador Stevens, and I watched you as you—you may not have even realized it—became emotional talking about your friend. And as you became emotional, I couldn't help but think about all the other employees at State who are probably watching this right now and how they go out and give their blood, their sweat, their tears, away from their families, to do the jobs that they do. So the first thing I want to do is thank them.

Same thing for you, Mr. Higgins.

I mean, when I think about this effort that we are making—and I don't care what anybody says—it is a search for the truth. And be clear that what is one person's truth, somebody else may say something opposite and that is their truth. But our effort is to bring our heads together, our best efforts, and hopefully have some trust to look at all the facts and come to some conclusions.

Mr. Schiff was absolutely right. If we end this with a Republican saying this and a Democrat saying that, what have we really accomplished?

You know, one of the things that we did—and I thought it was great that we did it—was to sit down and meet with the families. And I made every one of those meetings. And it was painful. It was painful. They did not ask for Republicans to sit on one side of the room and Democrats to sit on the other. They wanted us to sit down and work together, period. One of the things that they said over and over and over and over again, don't make this a political football. One of the family members said, "If you are going to do that, don't even bother." They talked about how they wanted closure. They talked about how they wanted us to truly work together.

And what we have asked for is to merely be partners, to do what we were sworn to do, what we do every 2 years, and affirm when we put up our hand and swear that we are going to support the Constitution and we are going to support the people that we represent.

And I have said it before, and I will say it again, and I will say it until I die: Each one of us represents over 700,000 people, and all of us have value. All of us bring something to the table. And so it should not be about the "gotcha" moment. It should be about the "big-picture" moment. It should be about how do we make sure that this does not happen again.

And, you know, as I listen to a lot of the discussion, there was an issue of the question of whether the Democrats had put forth witnesses. And the fact is that we need a scope, we need an idea of what we are going after.

And I wouldn't even be here, wouldn't even be talking about this if we didn't already have eight reports. And, I mean, we talk about a surety, but, dammit, we have a situation where millions of American taxpayers' dollars have been paid for these reports. We have had Members of Congress that have been paid to sit in hearings. We have staff members that have produced those reports. And some of them are bipartisan. Some of them are bipartisan.

And so, when the Democrats on this committee—while we were waiting for things to move forward—we got our staff involved, and we created something that answers questions. And contrary to what the Chairman has said in writing, we weren't trying to—we didn't say that these are things that we—we were not judging the facts. We just went to the sworn testimony. We went to the various documents on various hearings, documents that had been presented, and just the very questions that had been asked, the main questions. We just presented the documents. "Just the facts, ma'am."

Mr. CUMMINGS. That is all we tried to do.

And then we said, now that we have done that, now that we have that, let's see what it is that we can work together on, if there is something, that has not been answered. Just want some scope. And we have been asking for scope.

So, Mr. Rubin, you talked about priorities. The chairman basically lays out, as I understand it, basically what he wants. Have you been given priorities?

Mr. RUBIN. Thank you, Mr. Cummings.

We have been given priorities, which is to ensure that in the immediate term that we provide additional documents related to a specific search for former Secretary Clinton as the top priority, and the second priority is that the four DS agents, that we work with them to help secure interviews.

Mr. CUMMINGS. And how did that come about? In other words, how did it come about that there was a list of priorities? How did that happen? And why did it happen?

Mr. RUBIN. It was initiated through the continual contact and communications between staff and committee and our officials, our personnel at State, including with the letters on December 4th and at the end of November, I think November 18th, as well, that laid out those questions. And then through engagement with staff it got refined.

Mr. CUMMINGS. And, see, this is the thing. That is why we need to have an idea of where we are going. And I assume that the chairman's goal is to address certain issues in a certain order, and he needs certain information. I agree with that, that he needs certain information.

Mr. RUBIN. Yes.

Mr. CUMMINGS. But when it comes to priorities, he sets those priorities, not you.

Mr. RUBIN. We are responsive to the committee's priorities.

Mr. CUMMINGS. And, now, tell me the priority list right now. What is that list?

Mr. RUBIN. It——

Mr. CUMMINGS. Number one?

Mr. Rubin. Number one is the production of documents that were requested regarding former officials, and the top of the list, again, was Former Secretary Clinton. Number two is the interviews of the four Diplomatic Security agents that we referenced.

Those have been the ones that have been clearly communicated. That is not to say that the other requests are forgotten. That is not it at all. What it is is to say that those are the issues, those are the items that we have worked most diligently on.

We have a good story here, in that we are producing—within several days, we will begin producing to the committee the beginning of those documents that were requested. It has only been 6 weeks, roughly, since the initial request and then about a month of the finalization of that. And in between that, we have prepared for hearings that didn't come about, we had the holiday break. And then this hearing, as well, the request was last Wednesday evening, and we are here this morning on Tuesday.

Mr. CUMMINGS. I just emphasize as I close that we have got to—it is just not common ground, we have to move to higher ground.

That is what these families deserve, that is what the American people deserve, and I think that is what we all want.

With that, I will yield back.

Chairman GOWDY. The gentleman from Ohio.

Mr. JORDAN. Democrats asked for no hearings in August and October, and now they complain. The Democrats picked the topic for the first hearing, the ARB recommendations; now they complain. Democrats asked and got a second hearing on the ARB recommendations; now they complain. In that second hearing, Mr. Smith, a member of the committee, was given a courtesy I have not seen in my 8 years as a Member of Congress. He was given the courtesy after surgery to call in and ask questions. Now they complain. I mean, to suggest that the chairman has been unfair is ridiculous on the face.

Now, the one thing they have said that makes some sense is the pace is way too slow. And that is why we have you guys here today, because we have got to pick up the pace and get to the truth for the families that Mr. Cummings just referenced.

So, Mr. Rubin, I am going to start with an issue that I dealt with in my work on the standing committee here in the House and has carried over to this committee, and that is the ARB process.

Are you familiar with the ARB process, Mr. Rubin?

Mr. RUBIN. I am not the expert on the whole ARB process.

Mr. JORDAN. Specifically, do you know something about the Benghazi ARB process at all?

Mr. RUBIN. Yes, I do in general terms. I know——

Mr. JORDAN. We have had two hearings on it in this committee, the first two hearings that the Democrats requested, so it is a pretty important issue.

Mr. RUBIN. And Secretary Starr came and testified on that.

Mr. JORDAN. He sure did.

Now, many claim the ARB process and the ARB report was independent. Mr. Cummings said this. He called it the "independent Accountability Review Board." "Their report was independent." Gerry Connolly, another Member of Congress, said it was the "independent Accountability Review Board process." Greg Starr, who you just referenced, Mr. Rubin, a colleague of yours who has testified twice in this committee, the first two hearings, said this: "Thank you for inviting me today"—this was at the last hearing—"to provide insight on the Department's progress to implement the recommendations made by the independent Benghazi ARB."

I mean, they use the term "independent" almost as if it is part of the title, part of the official title.

Now, I think there are problems with that claim. Secretary Clinton picked four of the five members of the board, of this so-called independent board. Secretary Clinton was never interviewed by this so-called independent board. Cheryl Mills, her chief of staff, wasn't interviewed by this so-called independent board. Cheryl Mills, her chief of staff, was given a draft copy of the report before it went public to make edits of this so-called independent board.

Admiral Mullen, a co-chair of the board, after interviewing Charlene Lamb, an employee at the State Department, then called up Cheryl Mills and said, "Hey, Ms. Lamb is going to testify in front of a congressional committee. She is not going to do a good

job. I am giving you a heads-up." So when the co-chair gives a heads-up to the people he is supposed to be investigating about a potential witness coming in front of Congress, that doesn't really scream independence.

But, Mr. Rubin, let's assume they are all right. Let's assume they got it right, that this is independent, in spite of those facts, in spite of the fact the Secretary picked four of the five people who are supposed to investigate her. I don't know anywhere else in life where a potential subject of an investigation gets to pick their investigators.

In spite of the fact she wasn't interviewed, in spite of the fact Cheryl Mills wasn't interviewed, in spite of the fact that they got a draft copy, in spite of all those facts, let's just assume that Mr. Cummings and Mr. Connolly, Mr. Starr are correct when they say "independent," how do we test that claim if you guys won't give us the documents? How do we test the claim of independence if you guys won't let us see the record?

Now, Mr. Rubin, you have had a subpoena, a subpoena Congress issued in August of 2013, saying, we want every single document, or, as the chairman has made clear, all documents relating to the ARB investigation. We want to know, when are you going to comply?

Mr. RUBIN. Sir, as I previously mentioned——

Mr. JORDAN. When are you going to put those "top people" that Mr. Roskam referenced, when are you going to put those "top people" on a subpoena that has been issued a year and a half ago to get us the documents so we can test the claim that this ARB was actually independent?

Mr. RUBIN. Sir, as I just mentioned with Mr. Cummings, the top two priorities that were communicated to us for the immediate term were these interviews——

Mr. JORDAN. Hey, hey, wait. This is what we have to get past——

Mr. RUBIN [continuing]. And these other documents. But we are happy——

Mr. JORDAN. Wait, wait, wait, wait, wait. This is what we have to get past, this "priority" line you keep using.

Mr. RUBIN. Okay.

Mr. JORDAN. The subpoena was August 2013. We are not talking a couple months ago. We are talking a year and a half ago. So you have top people working on it—here is the point: You can't have it both ways. You can't claim, oh, this was the independent, be-all, end-all, definitive statement that the ARB made on Benghazi, and then not let us see the record.

All we are saying is, okay, we will accept this fact. We don't think it is independent, we will accept it. Show us the record.

Mr. RUBIN. So we had two hearings with Secretary Starr about the ARB implementation. The ARBs themselves are crucial to providing security for our people. That is why they are there.

And the document request that you are referencing, there are documents, as well, in the 40,000 pages of documents that are related——

Mr. JORDAN. Okay.

Mr. RUBIN [continuing]. To the ARB, as well.

Mr. JORDAN. That is where I wanted to go. You are right where I wanted to go, Mr. Rubin.

You have given us 40,000 documents. Contained in that 40,000 documents are—within that 40,000 documents is every document that the ARB received from the State Department. So the State Department gave the ARB a bunch of documents. Are everything the ARB had contained in that 40,000?

Mr. RUBIN. I have not read all 40,000 pages.

Mr. JORDAN. No, no, I am not telling you——

Mr. RUBIN. I cannot——

Mr. JORDAN. I don't expect you have read them.

Mr. RUBIN. I don't want to misstate that, but——

Mr. JORDAN. Have we received everything that ARB received?

Mr. RUBIN. Again, sir, I did not——

Mr. JORDAN. Simple question.

Mr. RUBIN [continuing]. Draft the ARB, and I have not read all 40,000 pages. I am here to convey to the House, to the committee, what it is that we are working on. So the——

Mr. JORDAN. The documents—it is a simple question.

Mr. RUBIN. It is not something I——

Mr. JORDAN. This is the key question. The documents the ARB got from the State Department, are they in the 40,000 that we now have? Every single thing that the ARB got from the State Department, are they in the 40,000 documents we now have? "Yes" or "no"?

Mr. RUBIN. The document request——

Mr. JORDAN. Well, then you can say "I don't know."

Mr. RUBIN. The document request was related more broadly to an overall search for documents from the State Department.

Now, as far as the ARB investigation, it is important to also recognize that ARBs over time need to stand the independence, as you have cited——

Mr. JORDAN. And, Mr. Rubin——

Mr. RUBIN [continuing]. And that is for the security of our personnel.

Mr. JORDAN. Mr. Rubin, there are two components to this subpoena. There is what I was just talking about. Does this committee now have everything that the State Department gave to the Accountability Review Board? That is question one.

Question two is: The notes, the records, the files, the interview notes, everything that the ARB compiled in their investigation, we want those too. Does this committee have those notes, records, and files that the five-member ARB panel had? Do we have that information?

Mr. RUBIN. Again, I cannot tell you specifically every single document——

Mr. JORDAN. It is my understanding we don't.

Mr. RUBIN [continuing]. Has been in there. But, again, if the committee tells us that that is in their priorities and sequencing——

Mr. JORDAN. No, we——

Mr. RUBIN [continuing]. The number-one thing—

Mr. JORDAN. We don't have to tell you that.

Mr. RUBIN [continuing].—I am happy to convey that back and have us move on that.

Mr. JORDAN. Mr. Rubin, are you familiar with the statute, the statute that created the ARB? Says this:

Mr. RUBIN. 1986. Yes.

Mr. JORDAN. "Records pertaining to administrative proceedings under the ARB process shall be separated"—"shall," not "may"—"shall be separated from all other records of the Department of State and shall be maintained."

So here is the point. You should have a file already, with everything nicely and neatly organized, of all the documents that the State Department gave the ARB and all the notes, files, and records that the ARB compiled in their investigation. When they did the interviews, how many people they interviewed, did they interview them alone, did they do it in groups—you should have all that in a file. That should be the simplest thing in the world to hand over to us, and you haven't done it.

And yet—and yet—everyone claims the ARB was independent. How can we test the claim when you won't give us what the statute requires—a separated, segregated file on what the ARB did—and you guys keep it?

Mr. RUBIN. Part of the core integrity of the ARB——

Mr. JORDAN. Do you have that file separated and segregated like the statute requires?

Mr. RUBIN. Sir, the core integrity of the ARB is reliant upon discretion——

Mr. JORDAN. Mr. Rubin——

Mr. RUBIN [continuing]. And the ability of these people——

Mr. JORDAN [continuing]. These questions are so simple. Is there a segregated file like the ARB statute requires? Do you have that separated, segregated, ready-to-hand-over-to-us-at—a long time ago, frankly, but do you have it separated and segregated?

Mr. RUBIN. I would have to go and ask our experts about that. Again, I——

Mr. JORDAN. This is amazing.

Mr. RUBIN [continuing]. Am the liaison to the House.

Mr. JORDAN. You were invited to come here today to tell us about the documents. The statute says you are supposed to have them separated and segregated, ready to—maintaining those, and you don't even know if you have them and can't give them to us?

Mr. RUBIN. No, I am not saying that. I am saying that I am going to get our experts——

Mr. JORDAN. You are saying you don't know. I got that answer.

Mr. RUBIN [continuing]. To help convey that.

Mr. JORDAN. One last——

Mr. RUBIN. I want to get you the proper information.

Mr. JORDAN. One last thing, Mr. Chairman.

In the article you wrote 1 month after four Americans were tragically killed, one of them a friend of yours and a great Ambassador, in the article you wrote that Mr. Roskam cited earlier, you talked about not rushing to judgment. And you specifically said we should wait to get all the facts out—direct quote from your guest blogger column.

And here is the irony. Wait to get all the facts—you said "wait to get all the facts," and now you are the guy who can give us the facts. You are the guy who should have the ARB file separate, segregated, ready to hand over, and you guys won't do it, after you had said that a month after this tragedy. And now this should be ready to be give over to us, and the State Department is saying, well, keep prioritizing, we have top people on it, keep getting in line, we are working with you, we promise we will work with you, we are going to get to it someday, sometime, somehow.

It is not going to fly, Mr. Rubin.

Mr. RUBIN. Sir, we have been proactive with the committee. We have provided briefings that the committee didn't request. And we are always open to, as I stated earlier, to have these——

Mr. JORDAN. The subpoena was a year and a half ago. I don't know how you can say you have been proactive and helpful when you won't even comply with the statute and give us what the law requires you to give us and have it segregated and separated for us, and, oh, by the way, claim independence in the process.

Mr. Chairman, I yield back.

Chairman GOWDY. I thank the gentleman from Ohio.

Mr. Rubin and Mr. Higgins, I think both of you have something in common with every member of the committee, which is a deep and abiding respect for the four people who gave their lives for this country. So I think that you share our desire to do what the House instructed us to do.

And you will note the Department of Justice is not at the table. You made reference, Mr. Rubin, to the Department of Justice. Ms. Sánchez made a reference to the Department of Justice. And I asked her to yield time so I could clarify that, and she is well within her rights not to do so.

The Department of Justice did write us a letter, and we met with them, and we addressed the concerns that they had about protecting the integrity of their prosecution, which I can assure you, given my former line of work, I want them to be wildly successful with their prosecution. So I would never do anything to jeopardize that. We met, we discussed it, we worked out the issues. They are not at the table. That is why they are not at the table.

I don't enjoy these hearings. I would rather have a hearing about substance, not about process. I don't want another hearing like this. But when my colleagues are complaining about the pace—and I have colleagues on this side, which I never thought I would ever hear in my life, say that I am too polite—I never thought I would hear that. I hope my three sisters are watching. We are going to have to ratchet it up, and if the letters don't work, then we are going to have to resort to a more formal legal process, because I want this concluded.

And I will note—I don't think any of my colleagues on the other side of the aisle have had an opportunity to highlight this point yet, but I am sure that they would agree with me—there has not been a single leak of anything that either of you have provided to us. There has not been a single selective release of information, not one.

So the people on this committee take their responsibility seriously. This is not a political exercise for us. Most of the people who

ask me about Benghazi, I could not tell you their political ideation, if they have one. They just want to know what happened. And I intend to tell them, and I intend to tell them sooner rather than later.

So the letters haven't worked, and the southern politeness has not worked. We are going to ratchet it up. Because I need access to the documents and the witnesses, and we need to be able to conclude our work.

With that——

Mr. CUMMINGS. Would the gentlemen yield——

Chairman GOWDY. Certainly.

Mr. CUMMINGS [continuing]. Just for one question?

You know, as I listened a few moments ago to the last questioner I just want to make sure that the—consistent with what you just said, us getting the job done—that apparently they have priorities that are being set, and I want to make sure that they have the proper instructions.

I mean, on the one hand, we have some Members saying, you know, give them everything and don't worry about priorities. But, on the other hand, they say that you have set certain priorities. And I just—I mean, I want to make sure that they are clear as to the marching orders—that is all.

Chairman GOWDY. Well, that is a great question, Mr. Cummings. And in a perfect world when people ask you for priorities, that is exactly what they want. They want to know what your priorities are, because they intend on complying with all of your requests. They just want to know what are we going to do tomorrow and what are we going to do the next day and what are we going to do the next day. After a year and a half of waiting on compliance with a subpoena, the argument that we need priorities just rings a little bit hollow.

And if I were to tell you—if I were to tell you, I want you to prioritize Mr. Cummings' emails, then someone is going to spin that into that we don't care about the other people's emails, we are just obsessed with the gentleman from Maryland, we don't care about any other witness. So I am not going to fall for that. I am not going to fall for the trick of telling you what is really important. It is all important. That is why the word "all" is in the resolution.

So I can't tell you. I can tell you this: if you start producing documents on a regular basis, consistent with our request, nobody is going to complain to you that you are not giving them to us in the order in which we want them.

Mr. CUMMINGS. Will the gentleman yield?

Chairman GOWDY. Yes.

Mr. CUMMINGS. The reason why I asked that question is because it is my understanding that your staff had told them that it was okay to not make the top priority the ARB information—and you can correct me if I am wrong—and then concentrate on the other things.

Is that right? Is that——

Mr. RUBIN. That is my understanding.

Mr. CUMMINGS. Yeah.

And so all I am saying is, I just want—I understand what you are saying, and it makes a lot of sense. I just want to make sure that we are clear. And that way, we—you talk about not wanting to have more hearings. I understand that, too. But then I don't want folks to be in a position where they come back and say, well, you said one thing, and we tried to do what you asked us to do, and then there is—I don't want any wiggle room, I guess.

Chairman GOWDY. And I appreciate the gentleman from Maryland's point. I guess my point would be that this committee did not even become constituted until last May.

So what was the priority between the time Oversight sent you the subpoena on the ARB and this committee even coming into existence? Because God knows it couldn't have been anything we asked for.

So you kind of get my point. I mean, you can't wait a year and a half and say, well, we didn't give it to you because we didn't realize it was a priority.

Mr. RUBIN. We were producing significant numbers of documents throughout that period. We have been producing documents practically every month since October of 2012.

Chairman GOWDY. I understand that, but it has been how many years now?

Mr. RUBIN. Unfortunately, 2 and a quarter.

Chairman GOWDY. Right. And I realize there are some people, including people within the administration, that think Benghazi happened a long time ago. I can tell you, for the folks that are waiting on answers, including the family members that both of us met with, it might as well have been yesterday. So they want the truth.

And nothing gets better with time. Memories do not improve. Documents get misplaced. Recollections fade. That is why we have a speedy trial clock. It is ironic, the Department of Justice has to try Khattala within a certain period of time for that very reason.

So to ask me to prioritize, when all of it is important, I am not going to fall for that trap, no, siree—okay.

With that, having said that—I want to repeat it again. I have no interest in having another hearing like this. Zero. None.

And I don't think for a second that you are the decisionmaker at the State Department, no offense to you. I don't think you decide which documents to produce and which ones—don't. So what I would like you to do is go back to your department and say, I don't want to go back there.

So let's find a way to be in compliance with the request sooner rather than later so the committee can do its job, and then we can all produce a product that we can take pride in, that answers the questions, and we can all go back to whatever we were doing before the Speaker asked us to do this. Okay? Fair enough?

Mr. RUBIN. Thank you. We are happy to.

Chairman GOWDY. All right. Thank you.

With that, we are adjourned.

[Whereupon, at 12:51 p.m., the committee was adjourned.]

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