



LEGISLATIVE
AFFAIRS

THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, DC 20301-3000

The Honorable Trey Gowdy
Chairman
Select Committee on Benghazi
United States House of Representatives
Washington, DC 20515

APR 28 2016

Dear Mr. Chairman:

I write in response to the Select Committee on Benghazi's recent crescendo of requests of the Department of Defense regarding the attacks on American facilities in Benghazi, Libya on September 11-12, 2012. Since the Committee was stood up, the Department has worked diligently to respond quickly to questions and requests, producing approximately 1,000 pages of documents as well as providing classified written answers to 20 questions, with 57 subparts, last summer. The Department also provided 10 classified briefings to the Committee throughout 2015, and worked with the Committee to schedule transcribed interviews with five individuals last year and another two in January. These were in addition to the thousands of pages of DoD documents and interview transcripts of DoD personnel compiled by other congressional committees investigating Benghazi and forwarded to the Committee.

In February 2016, nearly 22 months after the establishment of the Committee, DoD lawyers met with Committee staff to receive what was represented to be a final list of requests for the Department. That list, however, continued to expand in February and March. Because of this, DoD lawyers met with your staff a second time, on March 31, 2016, to establish a new final list of requests, but additional requests have continued to follow. Most recently, on Friday, April 22, 2016, your staff requested interviews of four additional service members never previously mentioned to the Department. These requests are in addition to the ten interviews and two briefings the Department has scheduled at your staff's request since early February 2016, and are added to a list of nearly a dozen other individuals your staff has requested in the last three months.

While we understand that investigations evolve over time, it is unfortunate that the Committee has identified the need for these interviews only now. The number and continued pace of these requests since February 2016 are in tension with your staff's statements that the Committee expects to finish its investigation in the near term. Perhaps because of this conflict, the Committee's requests are accompanied by unrealistic timelines for the Department to identify the correct service members (who are often only identified by position), locate them if deployed or retired, and schedule interviews, which in some cases require them to return from overseas. The Department is working diligently to accommodate your staff's multiple and changing requests; however, we are concerned by the continuous threats from your staff to subpoena witnesses because we are not able to move quickly enough to accommodate these new requests. Subpoenaing our service members, when the Department is working diligently to accommodate your requests and when no service member has refused to appear voluntarily, is unfair to our uniformed men and women and an unproductive way forward.

We remain committed to accommodating Congressional oversight of the tragic event of 2012. We have never denied a request for a transcribed interview or briefing and have accommodated requests even when we believed them to be duplicative or unnecessary. At the same time, while I understand your stated intent is to conduct the most comprehensive review of the attack and response, Congress has as much of an obligation as the Executive Branch to use federal resources and taxpayer dollars effectively and efficiently. The Department has spent millions of dollars on Benghazi-specific Congressional compliance, including reviews by four other committees, which have diligently reviewed the military's response in particular.

The Committee has made requests of individuals who seem unnecessary even for a comprehensive investigation, or has insisted we prioritize certain requests only to later abandon the request. For example:

- The Committee requested the Department locate four pilots who could have been—but were not—deployed to Benghazi that night. We advised that interviewing those individuals would likely not be necessary based on the Committee's planned transcribed interview of the pilots' commander, who made the decision not to deploy them. Nevertheless, the Committee asked for us to spend efforts to locate them immediately. While we appreciate that the Committee has now withdrawn its requests for these pilots, the Department spent time and resources locating them that could have been spent on other requests had the Committee waited for the planned interview to be completed before requiring the Department to move forward on this request.
- The Committee requested to interview an individual who claimed on his Facebook page that he had been a mechanic at an air base in Europe the night of the attack and alleged that planes at his base could have been deployed to Benghazi in time to make a difference. The Department maintains that locating these types of individuals are not necessary since such claims are easily dismissed by any one of the multiple high-level military officials already interviewed.
- The Committee has requested to interview an individual identified as "John from Iowa" who described himself as a Remotely Piloted Aircraft (RPA) camera operator on a talk radio show¹, where he described what he allegedly saw in the video feed from the night of the attack. The Department has expended significant resources to locate anyone who might match the description of this person, to no avail. The Committee staff then expanded this initial request to include all RPA pilots and RPA sensor operators who operated in the region that night. This expansion has resulted in a time-intensive search that required DoD to locate another half-dozen current and former service members. We continue to believe interviewing these individuals is unnecessary since we have given the Committee access to the relevant RPA video from that night and it remains unclear what additional information could be gained from these interviews, especially the pilots.

¹ Interview available at: <http://www.theblaze.com/stories/2013/05/07/purported-benghazi-drone-operator-calls-sean-hannity-with-new-details-cant-be-armed-that-night-and-no-one-has-contacted-me/>.

In light of the recent pattern of the Committee's requests and threats of subpoenas raising concerns within the Department, I request that you meet with me in order to identify a productive way to help the Committee meet its needs while respecting the current work of our men and women and the resources of the Department.

Finally, DoD interviewees have been asked repeatedly to speculate or engage in discussing on the record hypotheticals posed by Committee Members and staff, regardless of the interviewee's actual knowledge or expertise to provide appropriate analysis or insight. This type of questioning poses the risk that your final report may be based on speculation rather than a fact-based analysis of what a military officer did do or could have done given his or her knowledge at the time of the attacks. I would respectfully request that you ensure pending interviews remain focused on obtaining facts rather than encouraging speculation.

In sum, I would appreciate a meeting with you at your nearest convenience to discuss these issues and a productive way forward. Thank you for your commitment to the uniformed service members of the United States. We look forward to continuing to work with you and your staff to conclude your oversight of this matter.

Sincerely,



Stephen C. Hedger

cc:

The Honorable Elijah E. Cummings
Ranking Member