

III: EVENTS LEADING TO THE BENGHAZI ATTACKS

“Probably failing to plan for the day after what I think was the right thing to do in intervening in Libya.”¹

The President, on what constituted the biggest mistake of his Presidency, April 10, 2016

“When Qaddafi is himself removed, you should of course make a public statement before the cameras wherever you are ... You must establish yourself in the historical record ... The most important phrase is ‘successful strategy.’”²

Sidney Blumenthal to the Secretary of State, August 22, 2011

“We came, we saw, he died.”³

The Secretary of State after the death of Muammar Qadhafi, October 20, 2011

“The American people and the U.S. Congress will be understandably irritated if a revolution that the United States supported ends up spewing hatred or advocating violence against the United States.”⁴

Jake Sullivan, August 29, 2011 Note for the Secretary, U.S. Interests in post-Qadhafi Libya

¹*President Obama: Libya aftermath ‘worst mistake’ of presidency*, BBC NEWS (Apr. 11, 2016), <http://www.bbc.com/news/world-us-canada-36013703>.

² Email from Sidney Blumenthal (“Sid”) to Hillary R. Clinton (“H”) (Aug. 22, 2011, 11:25 AM) (on file with the Committee, SCB 0051597).

³ Corbett Daly, Clinton on Qaddafi: “We came, we saw, he died,” CBS NEWS (Oct. 20, 2011), <http://www.cbsnews.com/news/clinton-on-qaddafi-we-came-we-saw-he-died/>.

⁴ See Email from Policy Planning staff, U.S. Dep’t of State, to Jake Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Aug. 29 2011, 5:01 PM) (on file with the Committee, SCB 0060926-30) (attaching Note for the Secretary re: U.S. Interests in post-Qadhafi Libya).

INTRODUCTION

John Christopher Stevens arrived in Benghazi, Libya on April 5, 2011, in the midst of a civil war. Stevens traveled to Benghazi from Malta by Greek cargo ship with \$60,000 in currency and an eight-member Diplomatic Security protective detail. Also in the group was a junior reporting officer tasked with conducting political reporting, and two members of the Disaster Assistance Response Team from the United States Agency for International Development. Stevens' only instruction was to begin establishing contact with Libyan opposition forces seeking to overthrow the government of the Colonel Muammar Qadhafi. There was no military support for Stevens' arrival because of President Barack H. Obama's "no boots on the ground" policy, no protocol and no precedent to guide his activities, and no physical facility to house him and his team. Stevens' operation had an undefined diplomatic status and duration, and no authorized set of contacts to work with. He was asked to do a difficult job in a dangerous environment, and he courageously accepted the call.

Although the civil war ended in August 2011 with the fall of Tripoli, Libya was not officially liberated until October 23, 2011, after the death of Qadhafi.⁵ Even then the security environment remained hazardous. In December 2011, the State Department's own threat rating system considered Libya a grave risk to American diplomats.⁶ The situation deteriorated from there. In Benghazi alone, more than 60 major security incidents took place between January 1, 2012 and September 10, 2012. More than half of those security incidents occurred after April 6, 2012, the date of the first IED attack on the Benghazi Mission compound.⁷

⁵ Press Statement, Hillary R. Clinton, Sec'y of State, U.S. Dep't of State, Liberation of Libya (Oct. 23, 2011),

<http://www.state.gov/secretary/20092013clinton/rm/2011/10/175999.htm>.

⁶ See Email from Diplomatic Sec. Agent 24 to Diplomatic Sec. Agent 10 (Dec. 15, 2011, 9:03 AM) (on file with the Committee, C05388931) (discussing "US Mission Benghazi threat levels"); see also U.S. GOV'T ACCOUNTABILITY OFF., GAO-14-655, DIPLOMATIC SECURITY: OVERSEAS FACILITIES MAY FACE GREATER RISKS DUE TO GAPS IN SECURITY-RELATED ACTIVITIES, STANDARDS, AND POLICIES (2014), available at <http://www.gao.gov/products/>.

⁷ See Security Incidents in Benghazi, Libya from June 1, 2011 to Aug. 20, 2012 (on file with the Committee); see also Benghazi Spot Report, EAC and Significant Event Timeline (DS/IP/RD) (on file with the Committee, C05394332).

As conditions worsened, the Benghazi Mission labored under an unusual, if not unprecedented, set of circumstances and conditions:

- From the beginning, senior Obama Administration officials were divided about what degree of commitment to make in Libya. A principal objective was to limit military engagement: the administration’s “no boots on the ground” policy prevailed throughout the Benghazi Mission’s existence in Libya. Apart from “no boots on the ground,” U.S. policy remained indefinite and undefined throughout Stevens’ tenure in Benghazi.
- After the Qadhafi regime fell, the administration sought to maintain a “light footprint” in the country, determined to avoid an extended state-building engagement.
- Because the Benghazi Mission existed in a state of diplomatic uncertainty—never having a clearly defined status—it was not required to meet security standards applicable to permanent U.S. embassies.
- Benghazi had no clear lines of authority to either Tripoli or Washington D.C. This delayed responses to Mission requests for physical security measures and personnel.
- Senior officials in Washington D.C. did not heed intelligence detailing the rise of extremists groups in Benghazi and eastern Libya prior to September 11, 2012.

In an April 10, 2016 interview, the President called “failing to prepare for the aftermath of the ousting of ... Muammar Gaddafi ... the worst mistake of his presidency.”⁸ Expressing regret over “failing to plan for the day after,” the President called Libya a “mess.”⁹ This section describes the events, decisions, and non-decisions that led to the terrorist attacks which killed Chris Stevens, Sean Smith, Tyrone Woods and Glen Doherty.

⁸ *President Obama: Libya aftermath ‘worst mistake’ of presidency*, BBC NEWS (Apr. 11, 2016), <http://www.bbc.com/news/world-us-canada-36013703>.

⁹ *Id.*

STEPS TOWARD U.S. INTERVENTION IN LIBYA

February-March 2011: Early Debates and Decisions

The United States' intervention in Libya took root during the Arab Spring, a series of anti-government protests and revolutions in the Middle East and North Africa occurring in late 2010 and early 2011.¹⁰ The protests, inspired by Tunisians, followed in Egypt and reached Yemen in late January of 2011.¹¹ Tunisian President Zine El Abidine Ben Ali was removed on January 14, 2011, following a month of protests.¹² In February 2011, Egyptian President Hosni Mubarak resigned.¹³ Four days later, on February 15, 2011, Libyans staged their first demonstration in Benghazi.¹⁴ It evolved into an armed conflict two days later, as loyalists of Qadhafi attempted to quell the protests.¹⁵ A civil war then erupted. As Joan A. Polaschik, then Deputy Chief of Mission at the U.S. Embassy in Tripoli, described: "On Friday, in Tripoli, things started to get a little tense, sporadic gunfire. Then Saturday night, sustained gunfire, so we started having emergency action committee meetings that Sunday at the Embassy to talk about what our response should be."¹⁶

The President publicly addressed the conditions in Libya on February 23, 2011, stating: "Secretary Clinton and I just concluded a meeting that focused on the ongoing situation in Libya. Over the last few days, my national security team has been working around the clock to monitor the situation there and to coordinate with our international partners about a way forward."¹⁷ He called the violence "outrageous" and "unacceptable,"

¹⁰ Testimony of Benjamin I. Fishman, Director for North Africa and Jordan, National Sec. Staff, Tr. at 15-16 (Jan. 12, 2016) [hereinafter Fishman Testimony] (on file with the Committee).

¹¹ *Id.* at 14; *see generally*, *The Arab Spring: A Year of Revolution*, NPR (Dec. 18, 2011, 9:24 AM), <http://www.npr.org/2011/12/17/143897126/the-arab-spring-a-year-of-revolution>.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *See* Testimony of Joan A. Polaschik, U.S. Deputy Chief of Mission in Libya, U.S. Dep't of State, Tr. at 18 (Aug. 12, 2015) [hereinafter Polaschik Testimony] (on file with the Committee) ("Well, the uprising really started on February 17 in Benghazi. I believe it was a Thursday.").

¹⁶ *Id.* at 18.

¹⁷ Jesse Lee, *President Obama Speaks on the Turmoil in Libya: "This Violence Must Stop,"* WHITE HOUSE BLOG (Feb. 23, 2011),

asserted the protection of American citizens was his highest priority, and added: “I have also asked my administration to prepare the full range of options that we have to respond to this crisis.”¹⁸

The U.S. suspended operations at the Embassy in Tripoli, Libya on February 25, 2011.¹⁹ The suspension of operations and evacuation were important for reasons beyond the safety of the embassy personnel. Polaschik testified:

I was very clear with the people on those policy planning discussions that I felt very strongly that the administration could not change its policy toward Qadhafi until we got all of the U.S. employees out safely because we did not have appropriate security at our Embassy in Tripoli. It met none of our State Department security standards.²⁰

The same day, the President issued an Executive Order freezing the property in the United States of Qadhafi, his family members, and senior officials of the Libyan Government.²¹

<https://www.whitehouse.gov/blog/2011/02/23/president-obama-speaks-turmoil-libya-violence-must-stop> (providing full transcript of the President’s remarks).

¹⁸ *Id.*

¹⁹ Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State & Janet A. Sanderson, Deputy Ass’t Sec’y of State, Bureau of Near Eastern Affairs, U.S. Dep’t of State, *The Suspension of United States Embassy Operations in Libya*, U.S. DEP’T OF STATE (Feb. 25, 2011),

<http://www.state.gov/m/rls/remarks/2011/157173> htm. Jake Sullivan indicated in an August 21, 2011 email to Cheryl Mills and Victoria Nuland “February 26 - HRC directs efforts to evacuate all U.S. embassy personnel from Tripoli and orders the closing of the embassy,” but this date appears to be contradicted by the Department’s public statement the previous day. See Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to Cheryl D. Mills, Chief of Staff and Counselor to the U.S. Sec’y of State, U.S. Dep’t of State, and Victoria J. Nuland, Spokesperson, U.S. Dep’t of State (Aug. 21, 2011, 07:39 PM) [hereinafter Tick Tock on Libya Email] (on file with the Committee, SCB0045101).

²⁰ Polaschik Testimony at 19. The U.S. Government did not sever diplomatic ties with Libya. Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State & Janet A. Sanderson, Deputy Ass’t Sec’y of State, Bureau of Near Eastern Affairs, *The Suspension of United States Embassy Operations in Libya*, DEP’T OF STATE (Feb. 25, 2011), <http://www.state.gov/m/rls/remarks/2011/157173> htm. Rather, Ambassador Cretz and his staff worked from Washington, D.C. on Libyan matters. Polaschik Testimony at 20-21.

²¹ Exec. Order No. 13566, 76 Fed. Reg. 11315 (Feb. 25, 2011).

On February 26, 2011, the international community responded with United Nations Security Council Resolution 1970, deploring “gross and systematic violations of human rights” and demanding an end to the violence.²² The resolution also imposed an arms embargo and travel restrictions, froze the assets of Qadhafi and his inner circle, and referred the matter to the Prosecutor for the International Criminal Court.²³

Secretary of State Hillary R. Clinton made calls to foreign leaders to garner support for the resolution.²⁴ She took an active role in mobilizing forces against the Qadhafi regime. Her staff described the efforts as “instrumental in securing the authorization, building the coalition, and tightening the noose around Qadhafi and his regime.”²⁵

Unofficial Commentary and Advice

During this period, the Secretary received extensive and regular communications from Sidney S. Blumenthal. Blumenthal frequently offered commentary about developments in Libya (as well as more general commentary about other matters)—passing on self-styled “intelligence reports” prepared by Tyler S. Drumheller, a former official at the Central Intelligence Agency²⁶—and recommending various courses of U.S. action. Although Blumenthal had been rejected by the White House for employment at the Department of State, and admittedly had no knowledge about Libya,²⁷ Secretary Clinton responded to his emails and in some cases forwarded them to her top policy aides and career foreign service officers in the Department for their reaction and comment. The Secretary described Blumenthal’s emails as ““unsolicited.””²⁸

²² S.C. Res. 1970, ¶ 1 (Feb. 26, 2011), http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970 (2011).

²³ *Id.*

²⁴ Tick Tock on Libya Email, *supra* note 19.

²⁵ *Id.*

²⁶ Testimony of Sidney S. Blumenthal, Tr. at 67-68 (June 16, 2015) [hereinafter Blumenthal Testimony] (on file with the Committee).

²⁷ *Id.* at 99.

²⁸ Daniel Drezner, “*The Unbearable Lightness of Hillary Clinton’s Management Style*,” the Washington Post (May 20, 2015), www.washingtonpost.com/posteverything/wp/2015/05/20/the-unbearable-lightness-of-hillary-clintons-management-style/.

On February 21, 2011, two days prior to the President's first public remarks on the matter,²⁹ Blumenthal suggested the U.S. "might consider advancing [a no-fly zone] tomorrow."³⁰ The Secretary forwarded the email to her Deputy Chief of Staff and Director of Policy Planning, Jacob J. Sullivan, and asked: "What do you think of this idea?"³¹ Sullivan replied: "[H]onestly, we actually don't know what is happening from the air right now. As we gain more facts, we can consider."³² In response, the Secretary reflected on what Admiral Michael G. Mullen, Chairman of the Joint Chiefs of Staff, noted publicly more than a week later, asking Sullivan: "I've heard contradictory reports as to whether or not there are planes flying and firing on crowds. What is the evidence that they are?"³³ The Secretary responded to Blumenthal: "We are looking at that for Security Council, which remains reluctant to 'interfere' in the internal affairs of a country. Stay tuned!"³⁴ When the U.N. resolution was ultimately introduced two weeks later, the U.S. strongly advocated for passage of the no-fly zone.³⁵

On February 25, 2011, Blumenthal suggested other means of pressuring the Libyan leadership:

²⁹ Jesse Lee, *President Obama Speaks on the Turmoil in Libya: "This Violence Must Stop,"* WHITE HOUSE BLOG (Feb. 23, 2011), <https://www.whitehouse.gov/blog/2011/02/23/president-obama-speaks-turmoil-libya-violence-must-stop> (providing full transcript of the President's remarks).

³⁰ Email from Sidney S. Blumenthal ("sbwhoep") to Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State (Feb. 21, 2011, 10:32 PM) (on file with the Committee, SCB0078044).

³¹ Email from Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State (Feb. 21, 2011, 10:42 PM) (on file with the Committee, SCB0078044).

³² Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State, to Hillary R. Clinton ("H"), Sec'y, U.S. Dep't of State (Feb. 22, 2011, 4:59 AM) (on file with the Committee, SCB0078044).

³³ Email from Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State (Feb. 22, 2011, 6:34 AM) (on file with the Committee, SCB0078044).

³⁴ Email from Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State, to Sidney Blumenthal (Feb. 22, 2011, 6:09 AM) (on file with the Committee, SCB0078042).

³⁵ See Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State, to "jake.sullivan[REDACTED]" (Mar. 16, 2011, 9:29AM) (on file with the Committee, SCB0075861) ("We are going to be actively engaged in New York today in discussions about the best course of action for the international community to take, including through the UN Security Council.").

Depending on the state of play within the U.N. Security Council, it might be useful to think about generating a statement from the UNSC that any officer or government official in the chain of command in Libya who is involved in deploying or using WMD would be subject to war crimes and crimes against humanity prosecution.³⁶

The Secretary forwarded the suggestion to Sullivan, asking: “What about including this is UNSCR?”³⁷ The following day, Blumenthal sent the Secretary another unofficial “intelligence” report that began with a note: “This report is in part a response to your questions. There will be further information coming in the next day.”³⁸ The Secretary forwarded the information to Sullivan with the request not to “share until we can talk.”³⁹

In a later email, Blumenthal suggested: “Someone should contact Mahmod Jipreel [Mahmoud Jibril]. He is balanced, level-headed and understands the situation well.”⁴⁰ The Secretary forwarded the note to Sullivan, indicating she thought “we” were reaching out to the individuals Blumenthal had suggested.⁴¹ Even though Jibril was on the list Blumenthal sent earlier, Sullivan responded: “I don’t know about this Jipreel fellow.”⁴² It was the “hastily scheduled” and “behind closed doors”

³⁶ Email from Sidney S. Blumenthal (“sbwhoep”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Feb. 25, 2011, 7:16 PM) (on file with the Committee, SCB0078066).

³⁷ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Feb. 26, 2011, 11:34 AM) (on file with the Committee, SCB0078066).

³⁸ Email from Sidney S. Blumenthal (“sbwhoep”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Feb. 26, 2011, 10:58) (on file with the Committee, SCB0078104).

³⁹ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Dir. of Policy Planning (Mar. 2, 2011, 7:18 AM) (on file with the Committee, SCB0078121).

⁴⁰ Email from Sidney S. Blumenthal (“sbwhoep”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Mar. 7, 2011, 10:29 PM) (on file with the Committee, SCB0078150-0078153).

⁴¹ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Mar. 7, 2011, 7:17 AM) (on file with the Committee, SCB0087150-0078153).

⁴² Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y, U.S. Dep’t of State (Mar. 7, 2011, 7:22 AM) (on file with the Committee, SCB0077210).

meeting between the Secretary and Jibril in Paris just one week later⁴³ that helped prompt the Secretary to become a leading advocate for Libyan intervention.⁴⁴

“Libya Options”

On March 8, 2011, Sullivan sent an email titled “Libya Options” to senior State Department officials.⁴⁵ In the email, he described the Department’s “preferred end-state in Libya, at the most basic level.”⁴⁶ The email spelled out five “successively more intrusive” strategic frameworks outlining various options against Qadhafi:

1. Provide material support to the Libyan opposition but take no direct offensive action;
2. Provide material support to the Libyan opposition and take only that direct action which is nonlethal and designed to shape the theater rather than take the fight to Qadhafi;
3. All options consistent with broad regional support and a clear legal basis;
4. Offensive aerial options but no ground troops; and
5. Whatever necessary to remove Qadhafi.⁴⁷

In addition, Sullivan identified a number of immediate goals to be accomplished through intervention, something he noted was sent over to the National Security Staff. The immediate goal listed first was “to avoid

⁴³ Steven Lee Myers, *Clinton Meets in Paris With Libyan Rebel Leader*, N.Y. TIMES (Mar. 14, 2011), <http://www.nytimes.com/2011/03/15/world/africa/15clinton.html>.

⁴⁴ Joby Warrick, *Hillary’s war: How conviction replaced skepticism in Libya intervention*, WASH. POST (Oct. 30, 2011), https://www.washingtonpost.com/world/national-security/hillarys-war-how-conviction-replaced-skepticism-in-libya-intervention/2011/10/28/gIQAhGS7WM_story.html.

⁴⁵ Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to James B. Steinberg, Deputy Sec’y of State, U.S. Dep’t of State, et al. (Mar. 8, 2011, 8:13 PM) [hereinafter *Libya Options Email*](on file with the Committee, C05886430).

⁴⁶ *Id.*

⁴⁷ *Id.* A sixth option presented “focusing not on actions against Qadhafi but on a negotiated solution” was to “Leverage a stalemate into some kind of negotiated solution, or at least a process.” *Id.*

a failed state, particularly one in which al-Qaeda and other extremists might take safe haven.”⁴⁸ Another immediate goal was “[w]e seek the prevention of an exodus of Libyans.”⁴⁹

The State Department and other top officials expressed concern about the options, especially establishing a no-fly zone without military intervention.⁵⁰ For example, the Secretary of Defense, Robert M. Gates, the National Security Advisor, Thomas E. Donilon, and others “opposed military action, contending the United States had no clear national interests at stake and that operations could last far longer and cost more lives than anyone anticipated.”⁵¹ A senior State Department official warned he did not “think that we’ve ever established a NFZ [no fly zone] anywhere where we didn’t ultimately have to go in militarily and stay for a long time (Iraq, Bosnia, implicitly Afghanistan, Kosovo).”⁵² The official suggested a better option would be to stand by, “not get pulled into more Middle East wars,” and gain a “better sense of what post use-of-force end state looks like.”⁵³

The President convened a meeting with his National Security Council to discuss the situation. Ultimately, he sided with the Secretary of State, who favored some level of intervention.⁵⁴

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *See id.* (sent from Philip H. Gordon on Mar. 9, 2011, 9:37 AM) (Philip Gordon stating “would also point out I don’t think we’ve ever established a NFZ anywhere where we didn’t go have to go in militarily and stay for a long time (Iraq, Bosnia, implicitly Afghanistan, Kosovo).”).

⁵¹ Kevin Sullivan, *A Tough Call on Libya That Still Haunts*, WASH. POST (Feb. 3, 2016), <http://www.washingtonpost.com/sf/national/2016/02/03/a-tough-call-on-libya-that-still-haunts/>.

⁵² Libya Options Emails, *supra* note 45 (Sent from Philip H. Gordon on Mar. 9, 2011, 9:37 AM) (Philip Gordon stating “would also point out I don’t think we’ve ever established a NFZ anywhere where we didn’t go have to go in militarily and stay for a long time (Iraq, Bosnia, implicitly Afghanistan, Kosovo).”).

⁵³ *Id.*

⁵⁴ *See* Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to “jake.sullivan[REDACTED]” (Mar. 16, 2011, 9:29AM) (on file with the Committee, SCB0075861) (“Last night, the President led a meeting with his national security team on the situation in Libya and the way forward.”); *see also* Kevin Sullivan, *A Tough Call on Libya That Still Haunts*, WASH. POST (Feb. 3, 2016), <http://www.washingtonpost.com/sf/national/2016/02/03/a-tough-call-on-libya-that-still-haunts/>.

Senior officials still cited complications. State Department policymakers did not see the question as simply one of how to “pressure and isolate Qadhafi.”⁵⁵ Philip H. Gordon, Assistant Secretary of State for European and Eurasian Affairs, framed the situation as follows:

As I noted, it seems to me fundamental [sic] initial decision for us is which is greater strategic priority: a) avoiding getting pulled into Libyan conflict and owning it; or b) bringing about quick end of Qaddafi regime. So far we have rightly sought to achieve both of these objectives at the same time but with each passing day, as regime gets upper hand, it is forcing us to choose between them. As Jim [Deputy Secretary of State James B. Steinberg] pointed out it is always possible that developments on the ground force you later on to abandon such a first principle (as in Kosovo when two months of ineffective air strikes led us to reconsider the determination not to use ground forces) but knowing the objective in advance would help guide the operational decisions in the meantime. If it’s a) we need to be ultra-cautious about steps designed to make it look like we are doing something but will not prove decisive (NFZ); and if it’s b) we need to understand the risks and costs of establishing that as a redline.⁵⁶

Sullivan concurred, saying: “[W]e have not already embraced objective (b)” and further responded: “I agree with you about the fundamental initial decision, although I don’t think it’s as simple as (a) or (b). It will inevitably be a calibration between the two. I agree with Jim that we can get drawn in *some* but not *all the way*, as long as we have a strong theory of the case to rest on.”⁵⁷

Implementing U.S. Policy

A week later, on March 17, 2011, the United Nations Security Council adopted Security Council Resolution 1973, demanding an immediate ceasefire and authorizing member states to “take all necessary measures

⁵⁵ Email from Special Ass’t to Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Mar. 28, 2011, 8:13 PM) [hereinafter Libya Q & A for S London Trip 32811] (on file with the Committee, SCB0075863-0075871).

⁵⁶ Libya Options Emails, *supra* note 45 (Sent from Philip H. Gordon on Mar. 9, 2011, 9:37 AM).

⁵⁷ *Id.* (Sent from Jacob J. Sullivan on Mar. 9, 2011, 10:33 AM) (emphasis in original).

... to protect civilians and civilian populated areas under threat of attack,” specifically including a no fly zone.⁵⁸ On March 18, 2011, the President announced: “If Qaddafi does not comply with the resolution, the international community will impose consequences, and the resolution will be enforced through military action.”⁵⁹ He emphasized: “I also want to be clear about what we will not be doing. The United States is not going to deploy ground troops into Libya. And we are not going to use force to go beyond a well-defined goal—specifically, the protection of civilians in Libya.”⁶⁰ The President added: “Our focus has been clear: protecting innocent civilians within Libya, and holding the Qadhafi regime accountable.”⁶¹

To implement this policy, the President announced he had “directed Secretary Gates and our military to coordinate their planning, and tomorrow Secretary Clinton will travel to Paris for a meeting with our European allies and Arab partners about the enforcement of Resolution 1973.”⁶² The next day, March 19, 2011, “U.S. military forces commenced operations to assist an international effort authorized by the United Nations (U.N.) Security Council ... to prevent a humanitarian catastrophe and

⁵⁸ S.C. Res. 1973, ¶ 4 (Mar. 17, 2011), <http://www.un.org/press/en/2011/sc10200.doc.htm#Resolution>.

⁵⁹ Press Release, The White House Office of the Press Secretary, The White House, Remarks by the President on the Situation in Libya (Mar. 18, 2011), <https://www.whitehouse.gov/the-press-office/2011/03/18/remarks-president-situation-libya>.

⁶⁰ *Id.*

⁶¹ *Id.* President Obama further detailed what specific steps he believed Qadhafi needed to meet to comply with the resolution:

The resolution that passed lays out very clear conditions that must be met. The United States, the United Kingdom, France, and Arab states agree that a cease-fire must be implemented immediately. That means all attacks against civilians must stop. Qaddafi must stop his troops from advancing on Benghazi, pull them back from Ajdabiya, Misrata, and Zawiya, and establish water, electricity and gas supplies to all areas. Humanitarian assistance must be allowed to reach the people of Libya. Let me be clear, these terms are not negotiable.

⁶² *Id.* Secretary Clinton’s staff later noted that, surrounding these events, Secretary Clinton “participates in a series of high-level video and teleconferences.... She is a leading voice for strong UNSC action and a NATO civilian protection mission.” Tick Tock on Libya Email, *supra* note 19.

address the threat posed to international peace and security by the crisis in Libya.”⁶³

Two days later, on March 21, 2011, the President formally notified the Speaker of the House of Representatives and the President Pro Tempore of the Senate of these operations.⁶⁴ In his letter, the President stated the nature and purpose of these operations as follows:

As part of the multilateral response authorized under U.N. Security Council resolution 1973, U.S. military forces, under the command of Commander, U.S. Africa Command, began a series of strikes against air defense systems and military airfields for the purposes of preparing a no-fly zone. These strikes will be limited in their nature, duration and scope. Their purpose is to support an international coalition as it takes all necessary measures to enforce the terms of U.N. Security Council Resolution 1973. These limited U.S. actions will set the stage for further action by other coalition partners.

United Nations Security Council Resolution 1973 authorized Member States, under Chapter VII of the U.N. Charter, to take all necessary measures to protect civilians and civilian populated areas under threat of attack in Libya, including the establishment and enforcement of a “no-fly zone” in the airspace of Libya. United States military efforts are discrete and focused on employing unique U.S. military capabilities to set the conditions for our European allies and Arab partners to carry out the measures authorized by the U.N. Security Council Resolution....

The United States has not deployed ground forces into Libya. United States forces are conducting a limited and well-defined mission in support of international efforts to protect civilians and prevent a humanitarian disaster. Accordingly, U.S. forces have targeted the Qadhafi regime’s air defense systems, command and control structures, and other capabilities of Qadhafi’s armed

⁶³ Letter from the President to the Speaker of the House of Representatives and the President Pro Tempore of the Senate Regarding the Commencement of Operations in Libya (Mar. 21, 2011), <https://www.whitehouse.gov/the-press-office/2011/03/21/letter-president-regarding-commencement-operations-libya>.

⁶⁴ *Id.*

forces used to attack civilians and civilian populated areas. We will seek a rapid, but responsible, transition of operations to coalition, regional, or international organizations that are postured to continue activities as may be necessary to realize the objectives of U.N. Security Council Resolutions 1970 and 1973.⁶⁵

While the President described the goal of the intervention in Libya as “well-defined” in his March 18, 2011 public remarks, the formal notification of the ensuing military operation to Congress left uncertainty and ambiguity in the eyes of some U.S. decision-makers. Speaker John A. Boehner responded to the President by letter two days later on March 23, 2011, writing:

It is my hope that you will provide the American people and Congress a clear and robust assessment of the scope, objective, and purpose of our mission in Libya and how it will be achieved. Here are some of the questions I believe must be answered:

A United Nations Security Council resolution does not substitute for a U.S. political and military strategy. You have stated that Libyan leader Muammar Qadhafi must go, consistent with U.S. policy goals. But the U.N. resolution the U.S. helped develop and signed onto makes clear that regime change is not part of this mission. In light of this contradiction, is it an acceptable outcome for Qadhafi to remain in power after the military effort concludes in Libya? If not, how will he be removed from power? Why would the U.S. commit American resources to enforcing a U.N. resolution that is inconsistent with our stated policy goals and national interests? ...

You have said that the support of the international community was critical to your decision to strike Libya. But, like many Americans, it appears many of our coalition partners are themselves unclear on the policy goals of this mission. If the coalition dissolves or partners continue to disengage, will the American military take on an increased role? Will we disengage?

⁶⁵ *Id.*

Since the stated U.S. policy goal is removing Qadhafi from power, do you have an engagement strategy for the opposition forces? If the strife in Libya becomes a protracted conflict, what are your Administration's objectives for engaging with opposition forces, and what standards must a new regime meet to be recognized by our government? ...

Because of the conflicting messages from the Administration and our coalition partners, there is a lack of clarity over the objectives of this mission, what our national security interests are, and how it fits into our overarching policy for the Middle East. The American people deserve answers to these questions. And all of these concerns point to a fundamental question: what is your benchmark for success in Libya?⁶⁶

Selecting Chris Stevens

Notwithstanding the State Department's decision to suspend operations at its Embassy in Tripoli and its efforts underway through the United Nations to impose a no fly zone,⁶⁷ discussions were immediately under

⁶⁶ Letter from John A. Boehner, Speaker of the House of Representatives, to Barack H. Obama, U.S. President (Mar. 23, 2011), http://www.speaker.gov/UploadedFiles/POTUSLetter_032311.pdf. (also asking three specific questions relating to the military operation and its cost).

⁶⁷ Patrick F. Kennedy, Under Sec'y of State for Mgmt., U.S. Dep't of State & Janet A. Sanderson, Deputy Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, *The Suspension of United States Embassy Operations in Libya*, DEP'T OF STATE (Feb. 25, 2011), <http://www.state.gov/m/rls/remarks/2011/157173.htm>. Jake Sullivan indicated in an August 21, 2011 email to Cheryl Mills and Victoria Nuland "February 26 - HRC directs efforts to evacuate all U.S. embassy personnel from Tripoli and orders the closing of the embassy." This date appears to be contradicted by the Department's public statement the previous day. See Email from Jake Sullivan, Dir. Policy Planning, U.S. Dep't of State to Cheryl D. Mills, Chief of Staff to U.S. Sec'y of State, U.S. Dep't of State and Victoria Nuland, Spokesperson, U.S. State Dep't (Aug. 21, 2011, 07:39 PM) (on file with the Committee, SCB0051146). See Email from Phillip H. Gordon to James B. Steinberg, *et al.* (Mar. 23, 2011, 6:55 PM) (on file with the Committee, SCB0045016) ("We are putting together S conference call with Juppe, Davutoglu and Hague tomorrow. Here is the outcome I think the call should seek to meet everybody's redlines.



way between the White House and the Secretary and her advisors to return to Libya—specifically to Benghazi.⁶⁸ These discussions included sending a “diplomatic representative” to serve as a liaison with the Transitional National Council [TNC], an opposition group headquartered in Benghazi hoping to emerge as the new Libyan government.⁶⁹ Jeffrey D. Feltman, Assistant Secretary for Near Eastern Affairs, State Department, told the Committee “the TNC had asked in the meetings with Hillary Clinton for representation to be able to work directly on a continuing basis with the U.S. Government, which is why a decision was made to send a representative to Benghazi.”⁷⁰

The Secretary selected J. Christopher Stevens, a widely and highly respected career Foreign Service officer, to serve as the representative to the TNC.⁷¹ Stevens previously served as Deputy Chief of Mission, the



⁶⁸ See Email from Donald Steinberg, U.S. Agency on Int’l Development, to Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State (Mar. 30, 2011, 10:12 AM) (on file with the Committee, SCB0095926) (“As you know, we’re under instructions from NSS and State to get our DART staff into Benghazi so we can begin our humanitarian assessments of needs and infrastructure.”).

⁶⁹ See Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Mar. 13, 2011, 10:55 AM) (on file with the Committee, SCB0045011) (“They urged us to find some kind of language that would suggest moving in that direction, and I noted our decisions to suspend the operations of the Libyan Embassy, have S meet with Mahmoud Jabril of the Council and send a diplomatic representative to Benghazi.”).

⁷⁰ Testimony of Jeffrey D. Feltman, Ass’t Sec’y of State, Bureau of Near Eastern Affairs, U.S. Dep’t of State, Tr. at 24-25 (Dec. 8, 2015) [hereinafter Feltman Testimony].

⁷¹ See *Benghazi: The Attacks and the Lessons Learned Before the S. Comm. on the Foreign Relations*, 113th Cong. 9 (2013) (statement of the Hon. Hillary R. Clinton, Sec’y of State); *Terrorist Attack in Benghazi: The Secretary of State’s View Before the H. Comm. on the Foreign Affairs*, 113th Cong. 7-8 (2013) (statement of the Hon. Hillary R. Clinton, Sec’y of State).

Embassy's number two post, in Tripoli from 2007 through 2009.⁷² The Secretary told the Committee: “[w]hen the revolution broke out in Libya, we named Chris as our envoy to the opposition.”⁷³ “I was the one who asked Chris to go to Libya as our envoy.”⁷⁴ The Secretary told the Committee that Stevens “was one of our Nation's most accomplished diplomats.”⁷⁵ Stevens had been a member of the U.S. Foreign Service since 1991. He had previously served overseas as Deputy Principal Officer and Section Chief in Jerusalem; Political Officer in Damascus; Consular/Political Officer in Cairo; and Consular/Economic Officer in Riyadh. In Washington he had served as Director of the Office of Multilateral Nuclear and Security Affairs; a Pearson Fellow with the Senate Foreign Relations Committee and Senator Richard G. Lugar; Special Assistant to the Under Secretary for Political Affairs at the State Department; and Iran desk officer and staff assistant in the Bureau of Near Eastern Affairs.⁷⁶

While attending the March 14, 2011 G8 foreign ministers meeting in Paris to discuss the Libyan crisis,⁷⁷ the Secretary arranged to have a separate meeting with Jibril, the leader of the Transitional National Council.⁷⁸ She asked that Stevens be rerouted to join her and Ambassador Gene A. Cretz, the U.S. Ambassador to Libya, for the meeting with Jibril.⁷⁹ As a result of the meeting with Jibril, the Secretary was convinced the United

⁷² *J. Christopher Stevens Bio*, ECON. POLICY J. (Sept. 12, 2012), <http://www.economicpolicyjournal.com/2012/09/j-christopher-stevens-bio.html> (last visited June 7, 2016).

⁷³ Testimony of Hillary R. Clinton, Sec'y of State, U.S. Dep't of State, Tr. at 20 (Oct. 22, 2015) [hereinafter Clinton Testimony] (on file with the Committee).

⁷⁴ *Id.* 21.

⁷⁵ *Id.* 20.

⁷⁶ *J. Christopher Stevens Bio*, ECON. POLICY J. (Sept. 12, 2012), <http://www.economicpolicyjournal.com/2012/09/j-christopher-stevens-bio.html> (last visited June 7, 2016).

⁷⁷ The G8 is comprised of eight of the world's major industrialized countries.

⁷⁸ See Email from Jeffrey D. Feltman, Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, to J. Christopher Stevens, U.S. Rep. to Transitional National Council (Mar. 11, 2011, 9:20 PM) (on file with the Committee, SCB0076601) (discussing Sec'y Clinton's meeting with Mr. Jibril in Paris).

⁷⁹ *Id.*; see also Email from Jeffrey D. Feltman, Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, to Huma Abedin, Deputy Chief of Staff to U.S. Sec'y of State, U.S. Dep't of State (Mar. 13, 2011, 10:02) (on file with the Committee, SCB0076612) (communicating that Feltman had been asked to redirect Ambassador Stevens to Paris).

States should support the TNC in its efforts to become the new Libyan government.⁸⁰

The decision to send a representative to the TNC was seen as both practical and symbolic. Ambassador Cretz explained the rationale for having a presence in Benghazi, telling the Committee “the center of the revolution was in Benghazi. It was the place that the opposition ... had centered around as its, in effect ‘capital.’”⁸¹ He testified several other coalition partners established envoys in Benghazi and “so it was only natural” the U.S. have a presence there as well since the United States had a stake in the outcome of the Libyan revolution.⁸²

Delay

The administration then made plans to send Stevens to Benghazi. Following the Secretary’s March 14, 2011 meeting in Paris with Jibril, Stevens did not return to the United States but remained in Europe to plan his entry into Libya.⁸³ He traveled to Stuttgart, Germany to meet with General Carter F. Ham, commander of the United States Africa Command [AFRICOM], to discuss the trip into Libya, including any potential rescue operations.⁸⁴ Stevens discussed travelling to Benghazi on a “helicopter to a coalition naval vessel that can go close to shore,” and then

⁸⁰ See Email from Jacob Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to himself on a personal email account (Mar. 16, 2011, 9:29 AM) (on file with the Committee, SCB0075861).

⁸¹ Testimony of Gene A. Cretz, U.S. Ambassador to Libya, Tr. at 32 (Jul. 31, 2015) [hereinafter Cretz Testimony] (on file with the Committee).

⁸² *Id.* at 32-33.

⁸³ Email from Jeffrey D. Feltman, Ass’t Sec’y of State, Bureau of Near Eastern Affairs, U.S. Dep’t of State, to J. Christopher Stevens, U.S. Rep. to Transitional National Council (Mar. 11, 2011, 9:20 PM) (on file with the Committee, SCB0076601) (“I know you have your travel accommodations set for Rome. But S staff would like you to join the Secretary and Gene Cretz for a mtg in Paris with Mahmoud Jibril.”). Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep’t of State, Tr. at 13 (February 10, 2015) [hereinafter Diplomatic Sec. Agent 6 Testimony] (on file with the Committee) (“[W]hen I left Washington, I went to Rome. And in Rome, I was met by the Envoy, Chris Stevens.”).

⁸⁴ Email from Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State to Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State, *et al.* (Mar. 24, 2011, 9:55 AM) (on file with the Committee, SCB0095893-98) (discussing Stevens’ plan).

“zodiac transport from ship to shore” for “day trips only, returning to the naval vessel to RON [rest overnight].”⁸⁵

In addition to Stevens’ activities, the Secretary and her advisors were coordinating with United States Agency for International Development’s [USAID] Disaster Assistance Response Team to travel into Benghazi to assess firsthand the extent of the humanitarian crisis.⁸⁶ On March 15, 2011, however, USAID “pulled the plug” because of security concerns.⁸⁷ That same day, Stevens’ mission to Benghazi expanded:

The latest ... is now that 12-13 people are going into Libya near Benghazi. It’s John C. Stevens (lead), a JO (no name) who is fluent in Arabic, 10 DS agents (protective detail) and they are working on getting a Management Officer to go to do the admin/accounting work. There are at least 2 DOD military elements going along (SOC Forward types i.e. Special Forces).... Given how this has grown from our earlier discussions, I think \$60,000 is needed rather than the \$25,000 we initially thought. They are talking about this trip being up to 30 days.⁸⁸

While Stevens was still in Europe coordinating his entry, the National Security Council ordered him to deploy “as soon as possible.”⁸⁹ For the

⁸⁵ Email from Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State, to Lee Lohman, Ex. Dir., Bureau of Near Eastern Affairs, U.S. Dep’t of State, and Post Mgmt. Officer, Bureau of Near Eastern Affairs, U.S. Dep’t of State (Mar. 23, 2011, 5:14 PM) (on file with the Committee, SCB0091885).

⁸⁶ See Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to William J. Burns, Deputy Sec’y of State, U.S. Dep’t of State (Mar. 6, 2011, 3:48 PM) (on file with the Committee, SCB0095837-0095838) (discussing coordination with USAID and the situation in region).

⁸⁷ See Email from Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State, to Eric J. Boswell, Ass’t Sec’y of State, Bureau of Diplomatic Sec., U.S. Dep’t of State, *et al.* (Mar. 15, 2011, 1:59 PM) (on file with the Committee, SCB0095877-0095879).

⁸⁸ See Email from Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State (Mar. 15, 2011, 8:02 PM) (on file with the Committee, SCB 0098178-0098179).

⁸⁹ See Email from Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State, to Lee Lohman, Ex. Dir. Bureau of Near Eastern Affairs, U.S. Dep’t of State, and Post Mgmt. Officer, Bureau of Near Eastern Affairs, U.S. Dep’t of State (Mar. 23, 2011, 5:14 PM) (on file with the Committee, SCB0091885). See also Email from Special Ass’t, Office of Deputy Sec’y, U.S. Dep’t of State, to Thomas R. Nides, Deputy Sec’y of State, U.S. Dep’t of State (Mar. 24, 2011, 1:47 PM) (on file with the Committee, SCB0075262).

next week, the State Department and AFRICOM engaged in extensive planning to enter Benghazi using the military to augment the State Department Diplomatic Security Agents.⁹⁰

Within a matter of days, Stevens' team expanded again.⁹¹ Senior State Department officials made the decision to add two USAID workers, consistent with Secretary Clinton's goal that the U.S. be seen as "visibly engaged on the humanitarian side."⁹²

After weeks of planning, the Administration's no boots on the ground policy kept military assistance from accompanying Stevens to Benghazi.⁹³ On March 30, 2011, Kennedy informed other senior State Department leaders: "After over a week of joint planning ... Mullen has decided that the 'no boots on the ground in Libya' policy precludes DOD assisting us in getting Stevens into Libya."⁹⁴ Specifically, Admiral Mullen deemed the use of military assets—even in civilian dress—to be in violation of the President's directive, and therefore forbade their use to get Stevens into Benghazi and assist in his protection there.⁹⁵ With no military assets to assist, Stevens "found a way to get himself there on a Greek cargo ship, just like a 19th-century American envoy."⁹⁶ Accompanying Stevens on the ferry to Benghazi was a junior reporting officer,

⁹⁰ See Email from Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep't of State, to Ronald L. Schlicher, *et al.* (Mar. 24, 2011, 9:40 AM) (on file with the Committee, SCB0095893-94) ("Per Chris' emails, he would travel into Benghazi via zodiac or helicopter. All mil assets would be US, including comms and medic. Seals would participate in civilian dress -- an initiative that could prove problematic with the TNC. Travel would be day trips. RON on the US naval vessel.").

⁹¹ Email from Janet A. Sanderson, Deputy Ass't Sec'y of State, Bureau of Near Eastern Affairs, to Patrick F. Kennedy, Under Sec'y of State for Mgmt., U.S. Dep't of State (Mar. 26, 2011, 12:02 PM) (on file with the Committee, SCB0094603) ("Pat, AID Administrator talked to Bill Burns last night and requested Stevens Mission include one or two DART team reps.").

⁹² Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State, to William J. Burns, Deputy Sec'y of State, U.S. Dep't of State (Mar. 6, 2011, 3:48 PM) (on file with the Committee, SCB0095837-0095838).

⁹³ Email from Patrick F. Kennedy, Under Sec'y of State for Mgmt., U.S. Dep't of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State, and Joseph E. Macmanus, Exec. Ass't, Office of the Sec'y (Mar. 30, 2011, 12:50 PM) (on file with the Committee, SCB0071180).

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Clinton Testimony at 20-21.

two members of USAID's Disaster Assistance Response Team, and eight Diplomatic Security Agents.⁹⁷

SETTING UP OPERATIONS IN BENGHAZI

When Stevens arrived in Benghazi, he was authorized to stay for up to 30 days, security permitting.⁹⁸ His job was to "begin gathering information and meeting those Libyans who were rising up against the murderous dictator Qadhafi."⁹⁹ This was all the instruction he was given. "There was no protocol for how to move forward," the Secretary said. "No past precedent to follow. No list of important figures to look out for. Chris had to work from scratch to identify the key players on the ground and carve out his own set of rules for working with the opposition."¹⁰⁰

Stevens' early days and months in Benghazi were consumed by ongoing, concurrent concerns: contending with severe civil unrest; establishing a Mission compound; and meeting with officials from the Libyan insurgency and other nations. Stevens was expected to accomplish all of this with an uncertain diplomatic status.

The Tibesti Hotel

The lead Diplomatic Security Agent who traveled with Stevens into Benghazi testified: "[W]e tried to put a plan together as best we could. We didn't even know where we were going to set up once we arrived.

⁹⁷ See Email to Patrick F. Kennedy, Under Sec'y of State for Mgmt., U.S. Dep't of State (Mar. 30, 2011, 7:38 PM) (on file with the Committee, SCB0095929) (attaching Benghazi Party OPLAN at SCB0095929-35).

⁹⁸ *Id.*

⁹⁹ Clinton Testimony at 20; see also Email from Special Ass't, Office of Deputy Sec'y, U.S. Dep't of State, to Thomas R. Nides, Deputy Sec'y of State, U.S. Dep't of State (Apr. 5, 2011, 5:38 PM) (on file with the Committee, SCB0061086) ("Chris explained his mission, making it clear that he would like to meet all members of the TNC and as many local council members as possible to understand the extent of the TNC's support.").

¹⁰⁰ Remarks, Hillary R. Clinton, Sec'y of State, U.S. Dep't of State, Prepared Remarks: Secretary Clinton Remarks at Swearing-In Ceremony for Chris Stevens, Ambassador to Libya (May 14, 2012), <http://www.state.gov/secretary/20092013clinton/rm/2012/05/197696.htm>.

Once we arrived, we looked at a couple locations. But prior to going there, it was somewhat fluid because it was just the unknown.”¹⁰¹

After spending the first night on board the Greek cargo ship, the Aegean Pearl, and evaluating different locations, Stevens decided to stay at the Tibesti Hotel.¹⁰² While State Department security rules do not apply to hotels,¹⁰³ the Diplomatic Security Agents on the ground sought out locations with security advantages. The Tibesti Hotel had limited setback¹⁰⁴ and “rudimentary barriers to control access.”¹⁰⁵ “[T]here was [also] an attempt to provide perimeter security, but it wasn’t very robust.”¹⁰⁶ The lead Diplomatic Security Agent described the decision-making process:

We went to see where the British were at, and they were kind of at a guest conference type center. It wasn't really big, but it was moderate sized, maybe two or three stories, had a compound. It was down along the water, so we ruled that place out.¹⁰⁷

He also testified:

[W]e went to one other hotel where there were some other journalists were staying. I don’t recall the name of it, but it was a little bit smaller. It was right up against the highway. So we decided and it was a little bit closer to where the U.K. facility was, but we decided that wasn't really a good place for us. And then we

¹⁰¹ Diplomatic Sec. Agent 6 Testimony at 30-31.

¹⁰² *Id.* at 31, 49.

¹⁰³ See Testimony of Gentry O. Smith, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Countermeasures, U.S. Dep’t of State, Tr. at 14-15 (Feb. 25, 2016) [hereinafter Smith Testimony] (on file with the Committee) (“There would not be any security standards for a hotel, but security recommendations that are made during times that we’re in a hotel, a solid core door, just basic things that you would expect from even being in the States, solid core door, viewfinder, very good locking equipment on the door; in situations such as being overseas, to look for hotels where there would be a security presence from either the host country or that the hotel provide its own security and what are the security procedures that are followed at that hotel for its guests.”).

¹⁰⁴ Diplomatic Sec. Agent 6 Testimony at 32.

¹⁰⁵ Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep’t of State, Tr. at 36 (Feb. 26, 2015) [hereinafter Diplomatic Sec. Agent 7 Testimony] (on file with the Committee).

¹⁰⁶ *Id.*

¹⁰⁷ Diplomatic Sec. Agent 6 Testimony at 31.

went to the Tibesti and looked at that. At the time, there were some advantages for us to be there.¹⁰⁸

There were a lot of journalists there that would make it easier for—[sic] and others staying there that would make it easier for Mr. Stevens to communicate with these people without us having to make unnecessary movements all the time. And there was a little bit of security at that hotel, very minimal. There was a presence.¹⁰⁹

He also testified:

There wasn't a formalized police—I mean, there was probably somebody that called himself a police chief. And then you had the military—somewhat of a military presence, you know—that really wasn't focused on anything to do with our security. They had, you know, they were trying to fight the war. Then you had February 17, a militia that assisted us a little bit.¹¹⁰

Notwithstanding the minimal security advantages over other hotels, Stevens and the Diplomatic Security Agents remained concerned about the security vulnerabilities of the Tibesti Hotel.

CIVIL WAR AND UNREST

Five days after Stevens arrived in Benghazi, he and his group were nearly forced to leave. Qadhafi's forces had regrouped around the city of Ajdabiya, approximately 100 miles south of Benghazi.¹¹¹ Stevens and the

¹⁰⁸ *Id.* at 32.

¹⁰⁹ *Id.* at 32-33.

¹¹⁰ *Id.* at 33.

¹¹¹ See Email from Gene A. Cretz, U.S. Ambassador to Libya, to Jeffery D. Feltman, Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, *et al.* (Apr. 10, 2011, 6:06 AM) (on file with the Committee, SCB0095985) ("It appears that qadhafi forces are at the eastern and western gate of ajdabiyah and that there is a real possibility of the city falling."); see also Rob Crilly, *Libya: rebels flee stronghold of Ajdabiya as Gaddafi closes net*, TELEGRAPH (Mar. 15, 2011),

lead Diplomatic Security Agent, were concerned about the security in Benghazi if Qadhafi took Ajdabiya.¹¹² When asked why they did not depart Benghazi, the Diplomatic Security Agent in charge of the Mission told the Committee: “[W]e reexamined the issues, and at that time, we weren’t worried about what was happening in Benghazi. We were worried about the forces coming forward. So they must have stopped.”¹¹³ Concerns about Stevens and his team’s security reached the Secretary.¹¹⁴

Nevertheless, the security situation in Benghazi remained precarious. On April 15, 2011, the Mission held an emergency action committee [EAC] meeting “to address several security issues that occurred or reported during the past 12 hours. The meeting was called by Stevens and was attended by all members of the Benghazi Mission.”¹¹⁵ An emergency action committee meeting is called “when there is an emergency or security incident, the committee will convene and discuss the incident as well as steps forward either to mitigate the incident or resolve the incident.”¹¹⁶ Charlene Lamb, Deputy Assistant Secretary, Diplomatic Security, International Programs, described EACs to the Committee: “They’re usually chaired by the deputy chief of Mission. Sometimes they’re chaired and/or attended by the Ambassador. And then the core members, at a

<http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8383872/Libya-rebels-flee-stronghold-of-Ajdabiya-as-Gaddafi-closes-net.html>.

¹¹² See Email from Patrick Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State, to James Steinberg, Deputy Sec’y of State, U.S. Dep’t of State, *et al.* (Apr. 10, 2011) (on file with the Committee, SCB0095985).

¹¹³ Diplomatic Sec. Agent 6 Testimony at 99; *see also* Email from Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State, to Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State (Apr. 10, 2011, 2:06 PM) (on file with the Committee, SCB0095970) (showing email exchange at the time).

¹¹⁴ Email from Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (April 10, 2011, 10:14 AM) (on file with the Committee, SCB0045049)

¹¹⁵ Email from Diplomatic Sec. Command Ctr. (Apr. 15, 2011, 5:54 PM) (on file with the Committee, C05396062).

¹¹⁶ Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep’t of State, Tr. at 50 (Apr. 15, 2015) [hereinafter Diplomatic Sec. Agent 8 Testimony] (on file with the Committee).

minimum, the core members of your post security envelope and intelligence if they are present.”¹¹⁷

The April 15, 2011 EAC highlighted three discreet incidents including: (1) military grade explosives were found with the Tibesti Hotel as the identified target; (2) two explosives were detonated outside the El Fadeel Hotel—the hotel used by the U.N. and UK; and (3) a large fire and pillar of smoke was seen emanating near the Hotel Uzo—the hotel occupied by many international journalists.¹¹⁸ The EAC determined it would work with the Transitional National Council to focus on security.¹¹⁹

Less than 10 days later, on April 24, 2011, Stevens again considered whether it was safe enough to stay at the hotel. He informed State Department senior officials the Tibesti Hotel might not be safe enough in the long run and alternative facilities might be needed for a longer term stay.¹²⁰

The Diplomatic Security Agents on the ground protecting Stevens and his team members described a high-risk security environment. The Agents spoke of explosions occurring near and around the Tibesti Hotel.¹²¹ They described constant gunfire, including “a small-caliber round [that] came through the dining room where [Stevens] and the Swedish Consul were having dinner” and “a round that went through the window of our command post room in the hotel.”¹²² One Diplomatic Security Agent testified the car bomb explosions “reminded me of what I experi-

¹¹⁷ Testimony of Charlene Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State, Tr. at 174 (Jan. 7, 2016) [hereinafter Lamb Testimony] (on file with the Committee).

¹¹⁸ See Email to DSCC_C DS Seniors (Apr. 15, 2011, 5:54 PM) (on file with the Committee, C05396062).

¹¹⁹ See Email to DSCC_C DS Seniors (Apr. 15, 2011, 5:54 PM) (on file with the Committee, C05396062).

¹²⁰ See Email from Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Apr. 24, 2011, 10:25 AM) (on file with the Committee, SCB0045054) (forwarding email communicating Benghazi security update, hotels being targeted, cell arrested, increased security being sought, and may need to move out of hotel to villa).

¹²¹ Diplomatic Sec. Agent 6 Testimony at 39-42.

¹²² Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep’t of State, Tr. at 42. (Feb. 12, 2012) [hereinafter Diplomatic Sec. Agent 9 Testimony] (on file with the Committee).

enced in Kabul or Iraq”¹²³ Unlike Kabul or Iraq, however, there was no U.S. military presence in Libya.

Security would remain tenuous through the summer. On June 10, 2011, a credible threat to the Tibesti Hotel forced Stevens and his team out of the hotel and to a more secure location.¹²⁴ In late July 2011, a leading opposition figure, General Abdul Fatah Younis—a former Qadhafi loyalist who defected earlier in 2011 to join the opposition—was assassinated in Benghazi.¹²⁵

BENGHAZI MISSION: SUMMER 2011

Despite the unrest and security concerns in April 2011, senior leaders at the State Department were discussing continuing Stevens’ diplomatic operation beyond the initial 30 days and into the summer of 2011. On April 14, 2011, a report was filed with Thomas Nides, the Deputy Secretary of State for Management and Resources:

NEA will be drafting a paper for Steinberg, which essentially will ask for an expanded scope of work for Stevens—which will allow him to stay in Libya for longer than (90 days or more). Once NEA has some policy guidance about what Stevens should be seeking to accomplish in Libya, it will devise a plan for a new footprint on the ground—this will require needed resources and could shift the mission from an envoy situation to a more permanent presence. We will need to watch this closely and I’ve flagged for P and D(S) staff that you and Pat should be included in these discussions.¹²⁶

¹²³ Diplomatic Sec. Agent 7 Testimony at 49.

¹²⁴ See Email from Special Ass’t, Office of Deputy Sec’y, U.S. Dep’t of State, to Thomas R. Nides, Deputy Sec’y of State, U.S. Dep’t of State (June 10, 2011, 6:58 PM) (on file with the Committee, SCB0074991) (discussing relocation from Tibesti Hotel); see also Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (June 10, 2011, 4:01 PM) (on file with the Committee, SCB 0045085).

¹²⁵ See Email to Benghazi Update (July 31, 2011, 10:35 AM) (on file with the Committee, C05394875) (communicating reports of General Yunus’ death).

¹²⁶ Email from Special Ass’t, Office of Deputy Sec’y, U.S. Dep’t of State, to Thomas R. Nides, Deputy Sec’y of State, U.S. Dep’t of State (Apr. 14, 2011, 6:48 AM) (on file with

Feltman explained to the Committee:

It was more fluid ... but it was certainly the idea was to be there more than a day or a week. The idea was to be there for long enough that we would have the type of insights into TNC thinking that you can't get from a single meeting, that we would have the type of access to other decisionmakers in the TNC that you can't have when you only are meeting with one or two persons. We needed somebody who could better understand what was happening, what was motivating the leadership of the TNC, what were they thinking. So the idea was not that this would necessarily be years and years and years but certainly more than a few weeks.¹²⁷

By the end of April 2011, the diplomatic team had increased to 17 Americans consisting of "Stevens, one reporting/public diplomacy officer, one Information Management Officer who is also doing Management work, four USAID officers, and ten Diplomatic Security special Agents who

the Committee, SCB0075032). P is the designation for the Bureau of Political Affairs. D(S) is the designation for the Deputy Secretary of State Steinberg.

¹²⁷ Feltman Testimony at 42:

Q: Okay. And then when you either prior to your trip or during your trip in May of 2011, were there discussions about continuing the presence in Benghazi for an indefinite period of time, maybe not years but at least the foreseeable future?

A: Yes, there were. And the discussions were, what's the appropriate when I was there, part of our discussions were, what's the appropriate platform for maintaining a presence for that period in Benghazi?

Q: And by "platform," do you mean number of personnel?

A: Number of personnel, communications, location. You know, at the time we were in a hotel

Q: The Tibesti Hotel?

A: The Tibesti Hotel. And so the discussion had already started about what were the alternatives to being in a place like that.

Q: Okay. And had there been some review of compounds and villas at that time?

A: Yes, it had started, and it was very difficult because there were not that many places available or appropriate. *Id.* at 43.

See also Email from Special Ass't, Office of Deputy Sec'y, U.S. Dep't of State, to Thomas R. Nides, Deputy Sec'y of State, U.S. Dep't of State (May 5, 2011, 7:00 PM) (on file with the Committee, SCB0061070) ("**NEA sees Benghazi turning into an eventual EBO – and all that entails on resources, DS, OBO, and Interagency discussion.**" (emphasis in original)).

comprise the protective detail for the mission.”¹²⁸ By the end of June 2011, security threats had forced Stevens and his team to relocate. The space constraints in the new locations forced the number of personnel in Benghazi to drop to nine, including five Diplomatic Security Agents.¹²⁹ Staffing remained unchanged throughout the summer.¹³⁰ William V. Roebuck, the Director of the Office of Maghreb Affairs, told Stevens:

Other principals like Deputy Secretary Nides are operating under (and accept) the assumption that the mission will bulk back up to 17 as housing stabilizes and the security conditions permit I have the strong sense in any case that there would be little appetite for capping the mission at 9 people, given the equities the interagency has in the previously higher staffing figure.¹³¹

Notwithstanding the security threats and decreased staff, Stevens and his team faced increasing demands. According to Polaschik, who served in Benghazi in May 2011:

Certainly, when I was there, I was working from, you know, 8 in the morning till midnight. And there were two reporting officers there.

Just in terms of sustainability and getting the work done, 8 in the morning until midnight is never a good recipe, and, also, when you're trying to make sure that people are at a heightened state of alert that's appropriate for a very fluid security environment.

¹²⁸ Memorandum from Jeffrey D. Feltman, Assistant Sec’y of State, Bureau of Near Eastern Affairs, U.S. Dep’t of State, to Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State (June 10, 2011) [hereinafter June 10, 2011 Action Memo for Under Secretary Kennedy] (on file with the Committee, C05578649).

¹²⁹ See Email from Special Ass’t, Office of Deputy Sec’y, U.S. Dep’t of State, to Thomas R. Nides, Deputy Sec’y of State, U.S. Dep’t of State (June 21, 2011, 8:12 PM) (on file with the Committee, SCB0061058) (discussing staffing concerns and issues).

¹³⁰ See *id.* (discussing staffing concerns and issues).

¹³¹ Email from William V. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep’t of State, to J. Christopher Stevens, U.S. Rep. to Transitional Nat’l Council (June 21, 2011, 12:08 PM) (on file with the Committee, C05409676).

So it wasn't a decision to say, oh, we need a long term presence. It was a decision that we don't have the resources in place to get the work done that needs to get done.¹³²

Move to Mission Compound

With Washington's interest in extending Stevens' stay, he and his team searched for a new location—a challenging process in the middle of a civil war. The Post Management Officer for Libya, Bureau of Near Eastern Affairs, State Department, testified: “Finding a place that met our security needs, where the rent was not completely outrageous due to the fact that we were in a war zone, that had required ingress and egress that met what security wanted ... were all significant issues that had to be overcome.”¹³³

[T]he traditional ... real estate agent just didn't exist ... there were other channels of information that we would leverage to help us identify what we were looking for. Because that was really the issue, was not a property per se, but a property that we had special considerations for.”¹³⁴

These difficulties were further complicated by Stevens' team's inability to find a “landlord that would be willing to cooperate with us and our specific needs....”¹³⁵

As Stevens and his team searched for new property, they temporarily collocated with other U.S. personnel on the ground in Benghazi. Space constraints precluded maintaining this arrangement for the long term.¹³⁶ On June 21, 2011, Stevens and his team moved to another interim site, while they narrowed their search for a suitable longer term location.¹³⁷

¹³² Polaschik Testimony at 130.

¹³³ Testimony of Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs U.S. Dep't of State, Tr. at 79 (July 23, 2015) [hereinafter Post Mgmt. Officer for Libya Testimony] (on file with the Committee).

¹³⁴ Diplomatic Sec. Agent 7 Testimony at 95.

¹³⁵ *Id.*

¹³⁶ See Email from Thomas R. Nides, Deputy Sec'y of State, U.S. Dep't of State, to Special Ass't, Office of Deputy Sec'y, U.S. Dep't of State (June 13, 2011, 1:13 PM) (on file with the Committee, SCB 0061059-0061060).

¹³⁷ Email from Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep't of State (June 20, 2011, 9:04 AM) (on file with the Committee, C05393024) (“We are

They found a facility that had previously served as a “man camp” for personnel working for the oil industry but had been abandoned at the start of the civil war.¹³⁸ The lead Diplomatic Security Agent at the time described the advantages of the camp:

[I]t had an established perimeter. That perimeter also gave us setback from the road, setback being one of the critical elements that we were looking for given that issues that we had at the Ti-besti Hotel with the explosion.

It also was a hardened building. In other words, the mason area was significant enough that it would likely withstand rounds dropping down from the sky or, depending on the trajectory of a particular round, it provided it afforded us additional protection because of the construction of that particular villa.

It allowed us to control our access onto the compound. That was one of the big problems with the hotel, was we didn't know who was coming and going. It was an active, operating hotel. And so they were there to make money, not to control the access necessarily for the Americans.¹³⁹

Notwithstanding the search for a secure location, traditional security standards did not apply in Benghazi at the time. The physical security specialist in Benghazi testified:

Q: You were advised that OSPB standards did not apply to Benghazi. Is that correct?

A: Yes.

Q: And when they didn't apply to Benghazi, did that mean the city at large or did that mean a specific facility?

treating the interim villa as hotel space – only 30-60 days while we wait for the upgrades to the Villa Compound to come online.”); *see also* Email from Diplomatic Sec. Agent 7 (June 17, 2011, 6:19 AM) (on file with the Committee, C05408710) (“We hope to have the ‘interim’ villa by next tuesday [sic].”).

¹³⁸ Testimony of Physical Sec. Specialist, Bureau of Diplomatic Sec., U.S. Dep’t of State, Tr. at 9 (Apr. 6, 2016) [hereinafter Physical Sec. Specialist Testimony].

¹³⁹ Diplomatic Sec. Agent 7 Testimony at 93-94.

A: That meant for our facility.

Q: Okay. But the facility at that point in time was what?

A: The facility that we were going to occupy as the platform was going to be the man camp.¹⁴⁰

Federal regulation and State Department rules set out the security standards United States facilities located abroad are required to meet to keep Americans safe.¹⁴¹ Senior State Department officials, nevertheless, made the decision to exclude “temporary facilities,” such as Benghazi, from these security rules.¹⁴² Kennedy attempted to justify this exclusion:

When we go into one of these temporary facilities, we take the Overseas Security Policy Board (OSPB) standards—OSPB is how we refer to them—we take the OSPB standards as our goals ... We treat the temporary facilities as if we were heading towards interim by using the OSPB standards as our goal.¹⁴³

In addition to the OSPB security standards, the Secure Embassy Construction and Counterterrorism Act (SECCA), the applicable federal security law, provides among other things a diplomatic facility ensure: (1) all US Government personnel are located together in the new diplomatic facility; and (2) the diplomatic facility is located “not less than 100 feet from the perimeter of the property on which the facility is situated.”¹⁴⁴ With regard to Benghazi, however, the State Department Office of the Legal

¹⁴⁰ Physical Sec. Specialist Testimony at 87-88.

¹⁴¹ See Secure Embassy Construction and Counterterrorism Act of 1999, 22 U.S.C. § 4865 (2012); and *see also*, U.S. DEP’T OF STATE, 12 FAH-6 H-511.1-511.6, OVERSEAS SECURITY POLICY BOARD APPROVED POLICIES AND STANDARDS FOR ALL POSTS; U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-14-655, DIPLOMATIC FACILITY SECURITY: OVERSEAS FACILITIES MAY FACE GREATER RISKS DUE TO GAP IN SECURITY-RELATED ACTIVITIES, STANDARDS, AND POLICIES (2014).

¹⁴² See Testimony of Eric Boswell, Ass’t Sec’y of State, Bureau of Diplomatic Sec., U.S. Dep’t of State, before the H. Comm. On Oversight and Gov’t Reform, Tr. at 65-66 (July 9, 2013) [hereinafter Boswell Testimony].

¹⁴³ Testimony of Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State, Tr. at 193 (Feb. 5, 2016) [hereinafter Kennedy Testimony] (on file with the Committee).

¹⁴⁴ See Secure Embassy Construction and Counterterrorism Act of 1999, 22 U.S.C. § 4865 (2012)

Adviser determined: [T]his facility would not fit within the definition of a ‘diplomatic facility’ under SECCA, which defines the term as an office that (1) is officially notified to the host government as diplomatic/consular premises or (2) houses USG personnel with an official status recognized by the host government. If the facility will not be notified to the host government then it will not be considered inviolable, and our personnel will not have any official status, then the facility would not meet the definition of a diplomatic facility under the statute.¹⁴⁵

Without official security standards in place, Stevens and the Diplomatic Security Agents on the ground worked with the landlord of the “man camp” to identify field expedient measures to improve the physical security of the camp. The needed security measures were contracted out to an individual situated in Benghazi.¹⁴⁶ The physical security specialist on site wrote:

The DS/PSP [physical security programs] funded PSD upgrade contract that was signed ... was for \$75,000 with a specific scope of work to be performed, fabricate two ... vehicle gates, fabricate concrete jersey type barriers, string barbed wire and fabricate two vehicle drop arm barriers.¹⁴⁷

Concerns about the owner’s title and relationship to the Qadhafi regime forced Stevens and his team to abruptly drop the “man camp” from consideration as a housing facility. With no alternative, Stevens and his team remained at the interim facility, also known as Villa A.¹⁴⁸ Within days of the decision to remain in Villa A, a neighboring property, Villa B, was

¹⁴⁵ Email (June 20, 2011, 11:30 AM) (on file with the Committee, C05396431).

¹⁴⁶ Email from Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep’t of State (Aug. 1, 2011, 11:08 AM) (on file with the Committee, C05393020).

¹⁴⁷ *Id.*

¹⁴⁸ *See* Email from Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep’t of State, to Diplomatic Sec. Agent 25 & James Bacigalupo, Regional Director, Bureau of Diplomatic Sec., U.S. Dep’t of State (Feb. 13, 2012) (on file with the Committee, C05411579) (“[T]he decision was made to stay put when Villa B became an option and we stopped looking at the other properties.”); *see also* Email from Diplomatic Sec. Agent (July 04, 2011, 3:59 AM) (on file with the Committee, C05394858) (“We are currently referring to our current residence as Villa A and the neighboring property as Villa B.”).

acquired.¹⁴⁹ The physical security specialist in Benghazi at the time described the sequence of events: “That facility fell through on a Thursday, and on the Friday, Stevens sat down with the Villa A landlord, who brought along the owner of Villa B. Stevens especially liked Villa B and said he wanted A and B together.”¹⁵⁰

The decision made by Washington to exempt the proposed “man camp” site from the official security standards also applied to the Mission compound.¹⁵¹ The same physical security specialist in Benghazi explained:

Q: ... you were told that OSPB standards and SECCA did not apply to the man camp; am I correct?

A: Did not apply.

Q: Did not apply.

So was that analysis then sort of used as it relates to the villa compound?

A: It carried over.

Q: Carried over. So basically and correct me if I'm misstating this but the thought would be that exceptions and waivers to OSPB and SECCA do not apply in Benghazi, generally?

A: When I was there, that's the

Q: Is that a fair characterization?

A: That's the guidance that I was given at that time.¹⁵²

This decision to exclude the Mission compound in Benghazi from official security standards and rules was never formally communicated to the

¹⁴⁹ See Email from Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep't, to Diplomatic Sec. Agent 24, *et al.* (Feb. 13, 2012, 7:52 AM) (on file with the Committee, C05411579).

¹⁵⁰ Summary of group interview with Physical Security Specialist and others (On file with the Committee, SCB0046921-0046923).

¹⁵¹ See Physical Sec. Specialist Testimony at 134.

¹⁵² *Id.*

Diplomatic Security Agents who volunteered to serve in Benghazi. One Diplomatic Security Agent told the Committee:

I was starting to understand then and what I learned later, that if you are a diplomatic facility within the State Department, you have physical security requirements that are in the FAM, the Foreign Affairs Manual. And it is a very detailed, large set of rules that you have to follow to operate a diplomatic facility. It requires you to have physical security standards that are typically going to be expensive and will take time to do.

If you are in a non-diplomatic facility, there are no security standards.

They don't exist.¹⁵³

The Committee also learned “Villas A and B owners were adamant about their residential properties not be[ing] altered by our then short term presence without their explicit approvals being obtained in advance.” To assuage the landlords concerns, security improvements to Villas A and B were minimal.¹⁵⁴ According to the physical security specialist:

[M]inor security improvements were discussed and authorized for B only, open a hole in the perimeter wall between Villa's [sic] A & B wide enough for a roadway, install several window grills on the small Villa B office annex and reposition several large manufacturing machines on the Villa B property to block the vehicle gates because all Mission vehicle activity was to be conducted from Villa A. The owners [sic] representative walked the property with us several times and he agreed to implement these minor security improvements as part of his fiduciary management responsibilities and dismissed other recommendations such as installing razor ribbon on existing perimeter walls were

¹⁵³ Testimony Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep't of State, Tr. at 28 (Apr. 2, 2015) [hereinafter Diplomatic Sec. Agent 10 Testimony] (on file with the Committee).

¹⁵⁴ Email from Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep't, to Diplomatic Sec. Agent 25 and James Bacigalupo, Regional Director, Bureau of Diplomatic Sec., U.S. Dep't of State (Feb. 13, 2012, 7:52 AM) (on file with the Committee, C05411579).

[sic] needed, installing shatter resistant window film and installing vehicle drop arm barriers. Post used available FAV SUV's with maintenance issues (no working A/C) to block the Villa A vehicle gates. There was no PSD/PCB trip report prepared upon return because conditions on the ground were changing on a near daily basis and were discussed on conference calls and/or in email correspondence with concerned offices within WDC as to what Post was proposing and what was being considered an approved for the leased properties.¹⁵⁵

Villa C, another residence, was acquired shortly after the residences located in Villas A and B. Although no security assessment was conducted on Villa C at the time, one of the Diplomatic Security Agents assessed “[n]o upgrades are needed for Villas A & C.”¹⁵⁶

As Stevens and his team finalized the acquisition of all three Villas in late July 2011, a Diplomatic Security Agent on the ground outlined to Washington D.C. a number of “security-related items,” needed to better protect the new compound:¹⁵⁷

More agents required: Between the three compounds, we’re looking at roughly 15 acres of property to secure. This will require additional SAs [special agents] (up to five more) by early to mid-August. For REACT purposes, teams of agents will reside on all three compounds. Once resources permit, RSO [regional security officer] TOC [technical operations center] will be staffed 24/7.

LGF [local guard force]: per the contract already in place with AQM, we’ll have 11 unarmed guard positions (all 24/7). This includes a Shift Supervisor and 10 guard posts. Tripoli LGF commander will oversee day-to-day operations. LGF will be in place prior to occupancy. Guard Orders in draft—pending.

¹⁵⁵ *Id.*

¹⁵⁶ Email from Diplomatic Sec. Agent to Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep’t of State, and Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State (Aug. 1, 2011, 6:32 PM) (on file with the Committee, C05393020).

¹⁵⁷ Email from Diplomatic Sec. Agent to DS-IP-NEA (July 21, 2011, 3:22 PM) (on file with the Committee, C05396529).

Access control policy (drafted and approved by Envoy): Except for select VIPs, visitors will park outside the compound and enter on foot. Visitor/vehicles will be screened by LGF. Visitors/deliveries will be channeled to one access control point; remaining vehicle gates will be blocked using armored vehicles or similar.

Compound Security/Internal Defense Plan: will incorporate DS [diplomatic security] agents, LGF, and TNC [Transitional National Council] armed guards.

Designation of safe havens within each residential and office structure.

Installation of TSS equipment/arrival of TDY install tea—TBD.

Relocation of RSO TOC from Villa A (current location) to Villa B office building.

Request for additional TNC armed guards.¹⁵⁸

The email introduces several specific elements related to security that later become significant. Already occupying Villa A, Stevens and his team took occupancy of Villas B and C on August 1, 2011.¹⁵⁹ On August 3, 2011, leases for all three villas were executed, forming what would become known as the Benghazi Mission compound.¹⁶⁰

Diplomatic Security Agents on the ground described their impressions of the compound:

When I arrived on the compound, it was 13 acres I remember this pretty vividly 13 acres. We occupied three dormitories, I will

¹⁵⁸ Email from Diplomatic Sec. Agent to DS-IP-NEA (July 21, 2011, 3:22 PM) (on file with the Committee, C05396529).

¹⁵⁹ See Email from Diplomatic Sec. Agent to DS-IP-NEA (July 21, 2011, 3:22 PM) (on file with the Committee, C05396529) (mentioning that “[b]arring any issues, occupancy of villa B&C could be as early as Aug. 1.”); see also Lease Agreement between [REDACTED] and the United States of America, STS-800-11-L-009 (Aug. 3, 2011) (on file with the Committee, C05394161) (showing term of lease beginning Aug. 1).

¹⁶⁰ *Id.*; see also Letter (July 28, 2011) (on file with the Committee, SCB0047437-42) (authorizing three leases in Benghazi).

say. We named them Villa A, B, and C. There was a building that we considered as, you know it was referred to by, you know, us and the other folks there as the tactical operations center, also as the office.

And then we had another outlying building on the 13 acre compound, which really was three separate, you know, residences, which housed the quick reaction forces I've described before, the 17th February guys, who also lived on compound with us.¹⁶¹

[I]t was not like the other compounds that I had seen. It appeared to be more of a low profile building, lower footprint than your typical embassy or consulate. It didn't have the signs up saying "U.S. Embassy" or "Consulate." It didn't have some of the physical security features you would typically see at an embassy or consulate, such as Delta barriers or chicane. There wasn't the host nation police presence, the military presence that you would find at your typical embassy or consulate. So my impression was, it was a lower or a lower profile mission.¹⁶²

Less than three weeks after leases were signed for the new Mission compound, Tripoli fell to opposition forces.¹⁶³ Soon after the fall of Tripoli, elements of the TNC moved from Benghazi to Tripoli.¹⁶⁴ Less than eight weeks after the Mission moved into its new compound, Embassy Tripoli reopened.¹⁶⁵ At that time, Stevens requested his role as representative to the TNC conclude on or about October 6, 2011.¹⁶⁶ He was asked to re-

¹⁶¹ Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep't of State, Tr. at 18 (Apr. 9, 2015) [hereinafter Diplomatic Sec. Agent 12 Testimony] (on file with the Committee).

¹⁶² Diplomatic Sec. Agent 8 Testimony at 41.

¹⁶³ See Email from U.S. Embassy Tripoli, to Gene A. Cretz, U.S. Ambassador to Libya (Sept. 7, 2011, 12:53 PM) (on file with the Committee, C05390164) ("... the TNC effectively took control of Tripoli in mid-August and has begun to establish its presence and authority in the city.").

¹⁶⁴ See *id.* ("Approximately half of the TNC's executive cabinet ... is currently in Tripoli, joined by 15 of the TNC's 42 council members.").

¹⁶⁵ *Id.*

¹⁶⁶ Email from William V. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, to Raymond D. Maxwell, Deputy Ass't Sec'y, Bureau of Near Eastern Affairs, U.S. Dep't of State, and Elizabeth L. Dibble, Principal Deputy Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State (Sept. 20, 2011, 8:20 AM) (on file with the Committee, C05389443) ("I am forwarding this to

main in Benghazi until the TNC's relocation was complete later that fall.¹⁶⁷

Uncertain Diplomatic Status

Stevens' Mission in Benghazi fell outside the normal realm, even extending to questions about its diplomatic status.¹⁶⁸ Typically, a Mission and its staff are notified to the host nation under which they receive the full privileges and immunities afforded under international conventions.¹⁶⁹ At the time Stevens and his team went into Benghazi to coordinate with the emerging Transitional National Council,¹⁷⁰ however, the U.S. had not severed formal diplomatic relations with the Qadhafi regime.¹⁷¹ Gene A. Cretz remained the Ambassador to Libya, and he and a select number of his team were serving "in exile" in Washington D.C.¹⁷² Feltman explained:

socialize Chris' thoughts on the future of the Benghazi Mission, in light of our Embassy in Tripoli. He would like to conclude his service o/a October 6 and return to Washington.").

¹⁶⁷ Email from Elizabeth L. Dibble, Principal Deputy Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, to Raymond D. Maxwell, Deputy Ass't Sec'y, Bureau of Near Eastern Affairs, U.S. Dep't of State, William Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, and Lee Lohman, Ex. Dir., Bureau of Near Eastern Affairs, U.S. Dept. of State, *et al.* (Sept. 20, 2011, 6:38 PM) (on file with the Committee, C05389443) ("I raised with Jeff [Feltman]. He thinks Chris needs to stay in Benghazi until Jalil has relocated more or less permanently to Tripoli. He also thinks we should not rush to shut down the operation there.").

¹⁶⁸ See Email from Senior Desk Officer for Libya, Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, to J. Christopher Stevens, U.S. Rep. to Transitional Nat'l Council ("stevens chris") (July 27, 2011, 9:22 AM) (on file with the Committee, C05561961) (attaching draft staffing paper discussion of the role of the Mission); *see also* Email from Senior Desk Office for Libya, Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, to U.S. Embassy Tripoli, (Sept. 7, 2011, 1:02 PM) (on file with the Committee, C05390164).

¹⁶⁹ See Vienna Convention on Diplomatic Relations, Apr. 18, 1961, 23 U.S.T. 3227, 500 U.N.T.S. 95; Vienna Convention on Consular Relations, Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261.

¹⁷⁰ Email from Special Ass't, Office of Deputy Sec'y, U.S. Dep't of State, to Thomas R. Nides, Deputy Sec'y of State, U.S. Dep't of State (Apr. 5, 2011, 5:38 PM) (on file with the Committee, SCB0061086) ("Chris explained his mission, making it clear that he would like to meet all members of the TNC and as many local council members as possible to understand the extent of the TNC's support.").

¹⁷¹ See Feltman Testimony at 27.

¹⁷² See Cretz Testimony at 36.

Again, the overall goal was to try to limit the need for a military solution, to focus on a political solution, and convince Qadhafi that his time was over. So you close down the Embassy in Tripoli of course, we closed it down earlier for security reasons but you have no representation in Tripoli, but suddenly you have somebody in Benghazi.

You know, psychologically, did this have an impact on Qadhafi's thinking to realize that the U.K., the U.S., France, Italy, whole lists of countries no longer had representation in Tripoli, but they had representation in Benghazi.

Now, the TNC, as I said, wasn't a government at the time. You know, there's certain attributes that a government has that we didn't think they had achieved those attributes yet. They very much wanted to be recognized as the legitimate government of Libya, and I'm not sure that any country actually recognized them within that period as legitimate government. I don't think they did. But it was important to show who which Libyans did the U.S. think were appropriate interlocutors at the time.¹⁷³

Keeping Washington Informed

While contending with the civil unrest and seeking a location to house his diplomatic mission, Stevens set out to meet with leaders of the fledgling TNC.¹⁷⁴ He also met with other nations on the ground and leading rebel forces.¹⁷⁵ Throughout his time in Benghazi in 2011 Stevens kept Washington informed of the ongoing developments. For example, on April 10, 2011, he reported to Washington:

The situation in Ajadbiyah has worsened to the point where Stevens is considering departing Benghazi. The envoy's delegation

¹⁷³ Feltman Testimony at 27-28.

¹⁷⁴ See Email from Special Ass't, Office of Deputy Sec'y, U.S. Dep't of State, to Thomas Nides, Deputy Sec'y of State, U.S. Dep't of State (Apr. 5, 2011, 5:38 PM) (on file with the Committee, SCB 0061086) ("Chris explained his mission, making it clear that he would like to meet all members of the TNC and as many local council members as possible to understand the extent of the TNC's support.").

¹⁷⁵ See Email to SES-O_SWO; Tripoli Cooperation, SES-O (Apr. 10, 2011, 6:10 AM) (on file with the Committee, SCB 0075057).

is currently doing a phased checkout (paying the hotel bills, moving some items to the boat etc.). He will monitor the situation to see if it deteriorates further, but no decision has been made on departure. He will wait 2-3 more hours and then revisit the decision on departure.

* * *

The Brits report Qadhafi's forces are moving from Sirte to Brega, which they interpret as preparation for another assault on Ajadbiyah today.

He plans to discuss the situation further with the Brits, Turks, and the TNC to see if this is an irreversible situation. Departure would send a significant political signal, and would be interpreted as the U.S. losing confidence in the TNC.

Initial message to the TNC would frame the departure as due to security grounds and as a temporary measure only.

Polaschik said she would discuss these developments with Ambassador Cretz.

If the group departs, the contract for the boat stipulates they return to Greece. One scenario could be the group stages elsewhere for a few days.¹⁷⁶

On April 25, 2011, Stevens reported the following:

Political/economic developments:

The TNC [Transitional National Council]: This week the Council will focus on strengthening its executive arm, the "Crisis Management Committee," by appointing coordinators (i.e. ministers) for defense, interior, and justice. They will also encourage the head of the Committee Dr. Mahmoud Jabril to remain in Benghazi and focus on managing the affairs of eastern Libya. He has been criticized for spending too much time abroad.

¹⁷⁶ *Id.*

Libyan Broadcasting: A number of Libyan contacts told us that Libyan State Television was disrupted in the early morning hours, possibly due to NATO airstrikes. Later in the day, however broadcasting resumed.

Air bridge?^[sic] The United Nations Humanitarian Air Service (UNHAS) is expected to begin regular passenger service in/out of Benghazi in the next week or so. Details, including its route, are being worked out. The flights would be available on a sign up basis to humanitarian and donor staff (UN, NGOs, and donor Missions).

New passport and visa procedures: the TNC issued a press release from Colonel Saad Najm, the head of the immigration office, describing how the historically burdensome passport process will be eased. Colonel Najm said that his office would suspend issuing entry visas until the TNC could better secure the land and sea ports, and said that journalists crossing into Libya over land from Egypt will need to apply for visas at the border town of Msaed and have letters of endorsement from TNC media committee.¹⁷⁷

In addition, Stevens reported back to the State Department on the security environment in Benghazi.

Security situation:

Benghazi: TNC member confirmed reports we received yesterday that TNC security forces had uncovered a cell of Libyans sent from Egypt to disrupt life in Benghazi by attacking hotels and even schools (schools have been closed since the mid-March attacks by loyalist forces). [The TNC Member] said that Qadhafi forces relative Ahmed Qadhafadam who moved to Cairo after the revolution began was behind the effort. [The TNC Member] said he gave interviews to Egyptian TV channels last night complaining about this problem and calling on Egyptian authorities to stop it. According to press reports, TNC Chairman Abd al-

¹⁷⁷ Email from Staff Ass't, Office of the U.S. Sec'y of State, U.S. Dep't of State, to Jacob J. Sullivan, Dir. Policy Planning, U.S. Dep't of State, *et al.* (Apr. 25, 2011, 4:33 PM) (on file with the Committee, SCB0083338).

Jalal asked Egyptian authorities to halt Qadhafadam's efforts to raise funds to use against the rebels.¹⁷⁸

On August 22, 2011, Stevens filed a report on the fall of Tripoli:

TNC caretaker cabinet/members were up until 4am following events in Tripoli and discussing plans for the coming days. Tarhouni said the TNC has been in constant communication with its people in Tripoli, including both fighters and those entrusted with implementing the stabilization plans. Rebels in Tripoli, in coordination with the TNC, have begun to set up checkpoints inside the city and guard public buildings.

TNC chairman Abd al Jalil and PM Jabril made statements to the media last night, urging people to refrain from revenge attacks and destruction of public buildings.

There has so far been 'no bloodbath' or serious looting.

The capture of Saif al-Islam al-Qadhafi and Mohamed at-Qadhafi is significant. The TNC, including Abd al-Jalil himself, intervened with rebels surrounding Mohamed's house to ensure that they didn't harm him. They understood that it would be harmful to the revolution and the TNC if he were killed. These events were captured live by Al Jazeera in interviews with Mohamed. Both brothers are in rebel custody (at this time, it is unclear to us exactly who is holding them, however).

Per Tarhouni, the next steps are: 1) find Muammar Qadhafi; 2) issue a statement announcing the end of the Qadhafi regime and the start of the interim period under the TNC (TNC staff have begun drafting this statement already); 3) insure the delivery of essential services and commodities (esp. addressing the acute shortages of fuel, children's milk, and medication for blood pressure and diabetes); and 4) move the TNC to Tripoli.

Regarding the move to Tripoli, Tarhouni said security arrangements would need to be made before they could send the TNC

¹⁷⁸ *Id.*

leadership to the capital. We have heard from another contact that some TNC members are already making plans to fly to Misurata and the Western Mountains, possibly as early as today, and from there drive to Tripoli.¹⁷⁹

As Stevens filed his reports, State Department personnel continued to monitor.¹⁸⁰ The Post Management Officer, who handled logistics for Stevens' mission, told the Committee:

In the initial insertion period, we were speaking to the team on the ground on a regular basis, and we would say we will touch base with you again in X number of hours and have another phone call.

I don't know when we shifted to a regular schedule versus when we were just saying, okay, we've heard from you now. Okay. Let's talk again in 6 hours once things have gone on. We'll give you 8 hours and let you sleep, and then we'll talk to you again, kind of thing.¹⁸¹

Polaschik reported:

I saw my role as his [Stevens] backstop, because having been in a situation where the security environment was very fluid, and having limited resources, knowing that their communications setup was less than ideal as they were getting started, I thought it was very important for him to have a single point of contact that he could reach out to that could then communicate information, requests, et cetera; and also I personally felt very invested in what was happening, and I wanted to be there for him.¹⁸²

Later in her testimony, Polaschik said:

Quite early on, it looked as if Chris and team had just arrived. There was a moment when it looked like a city called Ajdabiya

¹⁷⁹ Email to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State, *et al.* (Aug. 22, 2011, 6:54 AM) (on file with the Committee, SCB0045093).

¹⁸⁰ See Post Mgmt. Officer for Libya Testimony at 115.

¹⁸¹ *Id.* at 108.

¹⁸² Polaschik Testimony at 28.

was about to fall to Qadhafi forces. I remember it was a Saturday, and I was on a conference call, and I remember talking to Chris and saying, are you sure you should stay? Because my perspective is very much with the events in Tripoli when we were evacuating fresh in my mind, things can change on a moment's notice; I would feel much better if he would get out now.

And Chris had, I think, a different tolerance for risk than I did. And he felt that the conditions on the ground were such that it was okay to stay. And, again, these were conference calls that involved a variety of actors in the State Department. I believe Op Center was on it and was probably documenting the call as well. So that was one instance.

But in terms of the overall what is our future, I don't remember the specifics, but I do remember an overall very strong impression from Chris that he felt it was important to stay, and the conditions were such that they should.¹⁸³

Recognition of the TNC

The discussion in the summer among senior officials in Washington also turned toward supporting the TNC to an even greater degree.¹⁸⁴ The first step in supporting the emerging council was determining when and how to recognize them. Stevens reported to Washington earlier in June “substantial pockets of people in Benghazi and Eastern Libya ... are questioning the TNC’s legitimacy.”¹⁸⁵ At the behest of the Secretary, the United States took the unprecedented step of formally recognizing the Transitional National Government on July 15, 2011,¹⁸⁶ terming it the

¹⁸³ *Id.* at 30.

¹⁸⁴ See Fishman Testimony at 22 (“[D]uring the intervention, we were trying, as mandated by the Security Council, to protect the civilian population of the Libyan people, and once their regime was collapsed, we were trying to, as we saw it, help the Libyans stabilize their country and support the interim authorities to do that.”).

¹⁸⁵ See Email from Special Ass’t, Office of Deputy Sec’y, U.S. Dep’t of State, to Thomas R. Nides, Deputy Sec’y of State, U.S. Dep’t of State (June 7, 2011, 7:38 PM) (on file with the Committee, SCB0074994) (discussing the TNC’s legitimacy).

¹⁸⁶ Hillary R. Clinton, Sec’y of State, U.S. Dep’t of State, *Remarks on Libya and Syria* (July 15, 2011), <http://www.state.gov/secretary/20092013clinton/rm/2011/07/168656.htm>.

“legitimate representative of the Libya People,”¹⁸⁷ but not the legitimate government of Libya.¹⁸⁸ Fishman explained the difference:

A: That was how we could recognize the Libyan authorities as the legitimate representative of the Libyan people, which would in essence, derecognize the Qadhafi regime as the Government of Libya.

Q: But did you draw a distinction between recognizing them as the representative of the Libyan people and recognizing them as the legitimate Libyan Government?

A: I believe so, because they didn't have a government at the time.¹⁸⁹

Notwithstanding the United States' decision to recognize the TNC as the legitimate representative of the Libyan People, the State Department made clear “it did not intend to establish a formal diplomatic Mission in Benghazi.”¹⁹⁰ State Department officials were worried:

[E]stablishment of a formal diplomatic mission in Benghazi would undermine this commitment [to a unified, free Libya with Tripoli as its capital] and send the wrong political message. Establishment of a formal diplomatic mission in Benghazi also would set off a chain of complex legal and administrative requirements that do not make sense for what is intended to be a short-term presence.¹⁹¹

While formally recognizing the Benghazi diplomatic mission may have created issues for Washington, especially if the mission were considered

¹⁸⁷ Fishman Testimony at 32.

¹⁸⁸ *Id.* at 33-34.

¹⁸⁹ *Id.* at 60.

¹⁹⁰ See Email from Senior Desk Officer to Libya, Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, to J. Christopher Stevens, U.S. Rep. to Transitional Nat'l Council (“stevens chris”) (July 27, 2011, 9:22 AM) (on file with the Committee, C05390164) (attaching draft staffing paper).

¹⁹¹ Email from William V. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, to Joan A. Polaschik State, Deputy Chief of Mission in Libya, U.S. Dep't of State (July 18, 2011, 8:17 PM) (on file with the Committee, C05579345).

“short term,” there was a benefit to the TNC: the release of previously frozen funds to them. Fishman told the Committee:

Well, it led to this complicated process that allowed us to unfreeze some assets because the Central Bank and other financial institutions ... still had their assets frozen¹⁹²

* * *

[B]y recognizing the NTC [sic], as subsequently other countries did or previously and subsequently other countries did, we [the United States] were able to engage in the process where we were ultimately able to create a temporary funding mechanism where we could release some assets ... to help defray their cost of running Benghazi.¹⁹³

Private business also stood to gain from the unfreezing of Libyan assets. One such business was Osprey Global Solutions in which Sidney Blumenthal had a financial interest.¹⁹⁴ According to Osprey’s Chief Operating Officer, the plan was for the United States to unfreeze the frozen Libyan assets.¹⁹⁵ These assets could then be used by the new Libyan government to fund humanitarian assistance,¹⁹⁶ an idea proposed by the Secretary herself.¹⁹⁷

According to internal company documents, Osprey identified a 300-foot hospital vessel—including a crematorium.¹⁹⁸ Osprey provided to the Libyans details about this hospital ship, even down to the number of physicians on board (16), nurses (40), custodial and kitchen staff (18).

¹⁹² Fishman Testimony at 60.

¹⁹³ *Id.* at 33.

¹⁹⁴ Blumenthal Testimony at 44.

¹⁹⁵ *Id.* at 113.

¹⁹⁶ See Osprey Global Solutions, Capabilities Brief: Libya Citizens & LSM Initiatives, Osprey Global Solutions, at 71 (on file with Committee) (“Citizens Initiative: Phase 2 – Frozen Libyan – USA Funds”) [hereinafter Osprey Brief].

¹⁹⁷ Scott Shane & Jo Becker, *A New Libya, With ‘Very Little Time Left,’* N.Y. TIMES, (Feb. 27, 2016),

<http://www.nytimes.com/2016/02/28/us/politics/libya-isis-hillary-clinton.html>.

¹⁹⁸ Osprey Brief, *supra* note 196, at 31-35 (presenting the “Citizens Initiative: Phase 1 – Multi-Purpose Hospital Ship”).

Osprey also provided hard figures on how much it would cost to procure the ship, maintain the ship, and acquire medical equipment.¹⁹⁹

On July 14, 2011—the day before the United States officially recognized the TNC as the legitimate representative of the Libyan people—Blumenthal emailed the Secretary twice.²⁰⁰ One email contained the subject “H: IMPORTANT FOR YOUR MEETING. Sid.”²⁰¹ The other email contained the subject “Re: H: Pls call before you leave for Turkey. Important re your trip. Sid.”²⁰² That email contained the note “read the memo I sent you. Here it is again.”²⁰³ The contents of both emails are identical:—Blumenthal described Osprey and the funding issues associated with his venture. The emails read:

You should be aware that there is a good chance at the contact meeting in Turkey the TNC ambassador to the UAE, a man you have not yet met, whose name is Dr. Neydah, may tell you the TNC has reached an agreement with a US company. The company is a new one, Osprey, headed by former General David Grange, former head of Delta Force. Osprey will provide field medical help, military training, organize supplies, and logistics to the TNC. They are trainers and organizers, not fighters. Grange can train their forces and he has drawn up a plan for taking Tripoli similar to the plan he helped develop that was used by the first wave of Special Forces in the capture of Baghdad.

This is a private contract. It does not involve NATO. It puts Americans in a central role without being direct battle combatants. The TNC wants to demonstrate that they are pro-US. They

¹⁹⁹ *Id.*

²⁰⁰ Email from Sidney Blumenthal (“sbwhoeop”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (July 14, 2011, 10:38 AM) (on file with the Committee, SCB0078451); Email from Sidney Blumenthal (“sbwhoeop”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (July 14, 2011, 7:03 PM) (on file with the Committee, SCB0078453).

²⁰¹ Email from Sidney Blumenthal (“sbwhoeop”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (July 14, 2011, 10:38 AM) (on file with the Committee, SCB0078451).

²⁰² Email from Sidney Blumenthal (“sbwhoeop”) to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (July 14, 2011, 7:03 PM) (on file with the Committee, SCB0078453).

²⁰³ *Id.*

see this as a significant way to do that. They are enthusiastic about this arrangement. They have held meetings with Grange in Geneva and Dubai this week, Tuesday and Wednesday, that concluded late last night (Wednesday). They have developed a good relationship. This is the group the TNC wants to work with. As I understand it, they are still working out funding, which is related to the overall TNC funding problems.

Grange is very low key, wishes to avoid publicity and work quietly, unlike other publicity hungry firms. Grange is under the radar.

Tyler, Cody and I acted as honest brokers, putting this arrangement together through a series of connections, linking the Libyans to Osprey and keeping it moving. The strategic imperative: Expecting Gaddafi to fall on his own or through a *deus ex machina* devolves the entire equation to wishful thinking. The TNC has been unable to train and organize its forces. The NATO air campaign cannot take ground. The TNC, whose leaders have been given to flights of fancy that Qaddafi will fall tomorrow or the day after, have come to the conclusion that they must organize their forces and that they must score a military victory of their own over Qaddafi that is not dependent solely on NATO in order to give them legitimacy.²⁰⁴

Upon receiving these emails, the Secretary forwarded one to Sullivan and said "Pls read and discuss w me at hotel. Thx."²⁰⁵ She also responded to Blumenthal. First she wrote: "I just landed and will call shortly."²⁰⁶ She followed with: "Got it. Will followup tomorrow. Anything else to convey?"²⁰⁷

²⁰⁴ *Id.*

²⁰⁵ Email from Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State (July 14, 2011, 6:47 PM) (on file with the Committee, SCB0078451).

²⁰⁶ Email from Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State, to Sidney Blumenthal ("sbwhoop") (July 14, 2011, 6:31 PM) (on file with the Committee, SCB0078454).

²⁰⁷ Email from Hillary R. Clinton ("H"), Sec'y of State, U.S. Dep't of State, to Sidney Blumenthal ("sbwhoop") (July 14, 2011, 7:37 PM) (on file with the Committee, SCB0078453).

The following day, the United States formally recognized the TNC as the legitimate representative of the Libyan people, allowing the TNC to access \$30 billion in Libyan assets held in the United States.²⁰⁸

On August 24, 2011, Osprey and the TNC entered into a Memorandum of Understanding that read, in part:

Per meetings held 13 July and 20 Aug 2011 in Dubai with Dr. Aref Aly Nayed and in Amman on 23 and 24 August with Mohammad Kikhia, this agreement is entered into this 24th day of August 2011 between the National Transitional Council of Libya (hereinafter referred to as “NTC”), now recognized by the United States Government of America as the legitimate and sole government of the Republic of Libya (ROL), and Osprey Global Solutions, LLC ... The specific tasks—Scope of Work (SOW) the NTC desires to retain Osprey to perform include but are not limited to ... Provide ship-to-shore (maritime) logistical support, advanced field hospital services and mobile command and control ...²⁰⁹

The total cost in the Memorandum for the first year of Osprey’s services—to include the “multi-purpose 302’ ship”—was \$114 million.²¹⁰

The head of Osprey, General David L. Grange, also wrote Andrew J. Shapiro, Assistant Secretary for Political-Military Affairs, regarding the hospital ship.²¹¹ In the letter Mr. Grange wrote Osprey was prepared to provide the following services:

Provide ship-to-shore (maritime) medical and logistical support, advanced field hospital services and mobile command and con-

²⁰⁸ Sebnem Arsu & Steven Erlanger, *Libyan Rebels Get Formal Backing, and \$30 Billion*, N.Y. TIMES (July 15, 2011), http://www.nytimes.com/2011/07/16/world/africa/16libya.html?_r=0.

²⁰⁹ Osprey Global Solutions, Memorandum of Understanding (Aug. 24, 2011) (on file with Committee).

²¹⁰ *Id.*

²¹¹ Letter from David L. Grange to Andrew J. Shapiro, Asst. Sec’y for Political-Military Affairs, U.S. Dep’t of State (Jan. 4, 2012) (on file with Committee).

trol; this would include the immediate deployment of a hospital ship equipped with rotary wing assets...²¹²

Ultimately the National Security Council rejected the hospital ship proposal.²¹³

Senior Official Travel to Libya

Despite the tenuous security environment in the summer of 2011, senior officials from Washington D.C., including Feltman, William Roebuck, Director, Office of Maghreb Affairs, Bureau of Near Eastern Affairs, State Department, and Fishman, traveled to Benghazi.²¹⁴ Feltman wrote to the Secretary during his August 2011 trip to Benghazi:

I have joined our representative, Chris Stevens, in meetings with a large number of representatives from the TNC, civil society, UN organizations and NGOs, and diplomatic corps. While we had no idea our trip would correspond with the significant military advances in the east and start the coordinated Tripoli uprising dubbed “Operation Mermaid Dawn,” the timing gave us the opportunity to note the contrast between the relative bureaucratic quiet here compared to the hyped-up activity in western Libya.²¹⁵

He also described the impact the assassination of General Younis, commander of the rebel forces had on the security environment in Benghazi.²¹⁶ He spoke of the “two realities of Libyan life that TNC officials had

²¹² *Id.*

²¹³ Scott Shane & Jo Becker, *A New Libya, With ‘Very Little Time Left,’* N.Y. TIMES, (Feb. 27, 2016), <http://www.nytimes.com/2016/02/28/us/politics/libya-isis-hillary-clinton.html>.

²¹⁴ Email from Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Aug. 21, 2011, 9:26 AM) (on file with the Committee, SCB0045090-92) (Ms. Abedin forwarding Mr. Feltman’s message to Sec’y Clinton).

²¹⁵ *Id.*

²¹⁶ General Younis, a former Libyan interior minister under Qadhafi, defected to the rebel side when the revolution began and became the commander-in-chief of the rebel forces in Libya.

previously tried to downplay: tribes and militia ... On reigning [sic] in the militia we heard no good answers.”²¹⁷

It was also during this trip to Benghazi Feltman discussed with Stevens the future of the Benghazi Mission:

During the August trip, Chris and I talked about, frankly, our shared view that we needed to maintain a longer presence in Benghazi than the fall of Tripoli might otherwise suggest. I was in Benghazi when the battle for Tripoli began, and it was clear that this time, it was inevitable that Qadhafi was leaving Tripoli even though he wasn't, of course, found and killed until later.

And so Chris and I did talk in that August trip about the fact that both of us believed that we needed to maintain some kind of presence in Benghazi for the foreseeable future. We didn't talk about how long, but given the history of Libya, given the history of the revolution, given the need for Benghazi to remain supportive of whatever government took form in Tripoli, we thought it was politically extremely important that we maintain some kind of presence in Benghazi beyond the fall of Tripoli.²¹⁸

THE FALL OF QADHAFI

With NATO airstrikes providing cover, by August 2011, the Libyan opposition was finally able to push back against Qadhafi's forces.²¹⁹ On August 21, 2011, rebels advanced into Tripoli.²²⁰ The next morning, Stevens provided an update to the senior leaders at the State Department on the events in Tripoli and the TNC's urgent request for “essential ...

²¹⁷ Email from Huma Abedin, Deputy Chief of Staff to U.S. Sec'y of State, U.S. Dep't of State, to Hillary R. Clinton (“H”), Sec'y of State, U.S. Dep't of State (Aug. 21, 2011, 9:26 AM) (on file with the Committee, SCB0045090-92).

²¹⁸ See Feltman Testimony at 44-45.

²¹⁹ See John F. Burns, *NATO Bombs Tripoli in Heaviest Strikes Yet*, N.Y. TIMES (May 23, 2011), <http://www.nytimes.com/2011/05/24/world/africa/24libya.html>.

²²⁰ Kareem Fahim & David D. Kirkpatrick, *Jubilant Rebels Control Much of Tripoli*, N.Y. TIMES (Aug. 21, 2011), <http://www.nytimes.com/2011/08/22/world/africa/22libya.html>.

commodities.”²²¹ Stevens described the events unfolding and made the following request:

Request for assistance: Tarhouni who also holds US citizenship said items listed above (gas, diesel, baby milk, and medicine) are urgently needed in Tripoli and recommend that USG ship items directly to Zawiya’s Port and publicize such assistance as soon as feasible (in coordination with the TNC). He said this would bring the US even more goodwill than it has already earned here.²²²

The Secretary responded to her staff five minutes later asking: “Can we arrange shipments of what’s requested?”²²³ Sullivan replied seven minutes later saying the NSS and Department of Defense were already pursuing the effort.²²⁴

The Secretary also told her inner circle she wanted to do a press event as it would be “[g]ood to remind ourselves and the rest of the world that this couldn’t have happened [without] us”²²⁵ and “would be a great [opportunity] to describe all we’ve been doing...”²²⁶ She and her staff discussed her traveling to Martha’s Vineyard to be seen with the President celebrat-

²²¹ Email from Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State, to Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Aug. 22, 2011, 7:07 AM) (on file with the Committee, SCB0045093) (forwarding update from Stevens in Benghazi).

²²² *Id.*

²²³ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State (Aug. 22, 2011, 7:11 AM) (on file with the Committee, SCB0045095).

²²⁴ Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, to Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State & Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State (Aug. 22, 2011, 7:17 AM) (on file with the Committee, SCB0045097).

²²⁵ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, Cheryl D. Mills, Chief of Staff and Counselor to U.S. Sec’y of State, U.S. Dep’t of State & Huma Abedin, Deputy Chief of Staff to U.S. Sec’y of State, U.S. Dep’t of State (Aug. 22, 2011, 7:32 AM) (on file with the Committee, SCB0078489)

²²⁶ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Cheryl D. Mills & Huma Abedin (Aug. 22, 2011, 7:16 AM) (on file with the Committee, SCB0078489).

ing their Libyan success.²²⁷ Her top policy director commented: “It will show potus [President of the United States] not on vacation. He’s huddling with you. This must be a political boost, right?”²²⁸

At about the same time, Blumenthal wrote:

First, brava! This is a historic moment and you will be credited for realizing it.

When Qaddafi himself is finally removed, you should of course make a public statement before the cameras wherever you are, even in the driveway of your vacation house. You must go on camera. You must establish yourself in the historical record at this moment.

The most important phrase is ‘successful strategy.’²²⁹

Later in the message, Blumenthal wrote: “Be aware that some may attempt to justify the flamingly stupid ‘leading from behind’ phrase, junior types on the NSC imagining their cleverness.”²³⁰

The Secretary forwarded this message to Sullivan:

Pls read below. Sid makes a good case for what I should say but it’s premised on being said after Q dies which will make it more dramatic. That’s my hesitancy since I’m not sure how many chances I’ll get.²³¹

²²⁷ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan & Huma Abedin (Aug. 22, 2011, 7:09 AM) (on file with the Committee, SCB0078489).

²²⁸ Email from Jacob J. Sullivan to Hillary R. Clinton (“H”), Cheryl D. Mills & Huma Abedin (Aug. 22, 2011, 7:27 AM) (on file with the Committee, SCB0078489).

²²⁹ Email from Sidney Blumenthal (“Sid”) to Hillary R. Clinton (“H”) (Aug. 22, 2011, 11:25 AM) (on file with the Committee, SCB 0051597).

²³⁰ *Id.* The phrase “leading from behind” came from a remark by an Obama advisor quoted in a May 2, 2011 article by Ryan Lizza in *The New Yorker*. Ryan Lizza, *Leading from Behind*, NYT (Apr. 26, 2011), <http://www.newyorker.com/news/news-desk/leading-from-behind>.

²³¹ Email from Hillary R. Clinton (“H”), Sec’y of State, U.S. Dep’t of State, to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Aug. 22, 2011, 3:46 PM) (on file with the Committee, SCB0051597).

Sullivan had already developed a detailed timeline of events and actions to demonstrate the Secretary's "leadership/ownership/stewardship of this country's Libya policy from start to finish."²³² He wrote:

HRC has been a critical voice on Libya in administration deliberations, at NATO, and in contact group meetings—as well as the public face of the U.S. effort in Libya. She was instrumental in securing the authorization, building the coalition, and tightening the noose around Qadhafi and his regime.²³³

Limiting the Future U.S. Role

With the rebels capturing Tripoli in August 2011 and Qadhafi nowhere to be found, the TNC started to shift its leaders and headquarters to Tripoli.²³⁴ As the situation in Libya appeared to stabilize, there was corresponding interest throughout the State Department and the administration to shift the focus back to Tripoli and reopen the U.S. Embassy in Tripoli as soon as possible.²³⁵ Sullivan asked: "[W]hat's it gonna take to get a team on the ground in Tripoli?"²³⁶ His colleague wrote back: "Exception to the BOG [boots on the ground] for Explosive Ordnance Detection and Marine FAST [Fleet Anti-terrorism security team.] An Ambassador to

²³² Tick Tock on Libya Email, *supra* note 19 (from Jacob J. Sullivan to Cheryl D. Mills & Victoria Nuland, forwarded to Sec'y Clinton, Aug. 22, 2011, 12:37 PM).

²³³ *Id.*

²³⁴ See Email from J. Christopher Stevens, U.S. Rep. to Transitional Nat'l Council, to Jeffrey D. Feltman, Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, *et al.* (Aug. 23, 2011, 11:29 AM) (on file with the Committee, SCB00100119) (discussing TNC plans to relocate to Tripoli); *see also* Exec. Secretariat, Operations Ctr., Situation Report No. 14, Libya Task Force TFLY03 (Sept. 4, 2011, 4:00 PM) (on file with the Committee, SCB0074167) ("The TNC's Ministry of Foreign Affairs will move from Benghazi to Tripoli September 4 and will be housed in the Qadhafi-era MFA building.").

²³⁵ See Email from Lee Lohman, Ex. Dir., Bureau of Near Eastern Affairs, U.S. Dep't of State, to Patrick Kennedy, Under Sec'y of State for Mgmt., U.S. Dep't of State (Sept. 2, 2011) (on file with the Committee, SCB0096224) ("Jeff send [sic] an email from Paris yesterday expressing frustration that we don't have a presence in Tripoli.").

²³⁶ Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State (Aug. 30, 2011, 4:47 PM) (on file with the Committee, SCB0060918).

Libya who actually wants to go. Locking Pat Kennedy in a closet for long enough to actually take some real risks”²³⁷

As events unfolded in Tripoli, senior policy makers within the State Department discussed their goals for Libya, including: 1) bring the Lockerbie bomber to justice; and 2) recover the costs incurred in providing military and humanitarian aid to Libya; 3) recover and improve the position of U.S. Energy firms in Libya.²³⁸ The fourth and final goal was to counter Islamist extremists, noting that there was a need to “avoid allowing the most extreme and certainly violent Islamist groups to use the new Libyan government and civil society as a platform. The American people and the U.S. Congress will be understandably irritated if a revolution that the United States supported ends up spewing hatred or advocating violence against the United States.”²³⁹

These policy goals did not address how the U.S. government would assist Libya in transitioning to a functioning government post-Qadhafi.²⁴⁰ Nor did they discuss any role the Mission in Benghazi might play in these efforts.²⁴¹

Stevens wanted to maintain a presence in Benghazi for the short term, writing on September 6, 2011: “As the Dept stands up a Mission in Tripoli, the question arises as to how long to keep Mission Benghazi operat-

²³⁷ Email to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State, (Aug. 30, 2011, 4:50 PM) (on file with the Committee, SCB0060918).

²³⁸ See Email to Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Aug. 29 2011, 5:01 PM) (on file with the Committee, SCB 0060926-30) (attaching Note for the Secretary re: U.S. Interests in post-Qadhafi Libya).

²³⁹ *Id.*

²⁴⁰ *Id.* The lack of post-Qadhafi planning is consistent with the President’s recent statement that his biggest foreign policy failure was not properly planning for post-Qadhafi Libya. The lack of planning is also in stark contrasts with statements by the Secretary that they did plan for post-Qadhafi Libya but it was “obstruction” by the Libyan people to the United States’ efforts that led to the failed state of Libya today. *Barack Obama Says Libya Was ‘Worst Mistake of His Presidency*, GUARDIAN (Apr. 11, 2016), <http://www.theguardian.com/us-news/2016/apr/12/barack-obama-says-libya-was-worst-mistake-of-his-presidency>.

²⁴¹ See Email to Jacob Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Aug. 29 2011, 5:01 PM) (on file with the Committee, SCB 0060926-30) (attaching Note for the Secretary re: U.S. Interests in post-Qadhafi Libya).

ing. I believe it would be prudent to maintain a small State-run presence here for at least 6 months.”²⁴²

Polaschik also saw the benefits of maintaining a short-term presence in Benghazi. She testified:

Qadhafi had just fled Tripoli. He was still on the loose, on the lam. We were not yet back in Tripoli. It wasn't clear if or when the leadership of the transitional office or Council would transition from Benghazi to Tripoli, if they all would, what would be there. And given the critical role that Benghazi had played in the start of the revolution and the execution, so to speak, of the revolution and the leadership, of course it made sense to have a presence there for another 6 months.”²⁴³

She elaborated:

[S]ome officials from the Transitional National Council were beginning to shift to Tripoli. Others were still there, so it was clear that there was going to be a period in which the political leadership of a free Libya, ... the post-Qadhafi government was going to be in a variety of places; so we needed to make sure that we had the ability to touch them in both places, and from my perspective, it made a lot of sense to keep Chris there.”²⁴⁴

The Post Management Officer for Libya testified closing the Mission was also an option: “In official conversations, as we met to discuss options related to the Benghazi footprint that was always one of the items that was out there as a potential decision point. As we were looking at security and others things, closure was always an option.”²⁴⁵

Later in September 2011, Sullivan, Feltman, and William B. Taylor, the newly appointed head of the Middle East Transitions office, prepared a note for the Deputy Secretaries advocating U.S. involvement in Libya be

²⁴² Email from J. Christopher Stevens, U.S. Rep. to Transitional Nat'l Council, to Deputy Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State et al. (Sept. 6, 2011, 9:01 AM) (on file with the Committee, C05389443).

²⁴³ Polaschik Testimony at 160.

²⁴⁴ *Id.* at 39-40.

²⁴⁵ Post Mgmt. Officer for Libya Testimony at 174.

significantly scaled back.²⁴⁶ Outlining the level of priority Libya now had within the State Department, they wrote:

[P]ost-conflict stabilization in Libya, while clearly a worthy undertaking at the right level of investment, cannot be counted as one of our highest priorities. Strategically for us, Libya does not loom as large as Egypt and Syria.²⁴⁷

They cautioned: “We should not allow the momentum of our involvement to date in the Libyan revolution to determine our strategy for long-term assistance.”²⁴⁸ They emphasized “[t]his means that, for the United States, Libya must not become a state-building exercise.”²⁴⁹ They defined the circumstances under which the U.S. should, or should not, intercede, and argued the U.S. should only assist when 1) the U.S. had a “unique” ability to provide a particular service; 2) the U.S. has a proven track record of success and Congress will provide funds; and 3) Libyans expressly request the U.S. to do so, “[e]ven if we feel the Libyan government or its people are making a mistake in not seeking our help....”²⁵⁰

According to these State Department officials, the highest priorities in Libya were to “secure weapons”; ensure an “effective democratic transition”; prevent “violent extremists” from “seizing control”; and “ensuring a level-playing field for U.S. businesses.”²⁵¹

Medium priority goals were reconciling former regime elements into Libyan society and “create a judicial system.”²⁵² The lowest priority, according to these policy makers was to support a “broad program of eco-

²⁴⁶ Note from Jacob J. Sullivan, Dir., of Policy Planning, U.S. Dep’t of State, *et al.* to William J. Burns, Deputy Sec’y of State, U.S. Dep’t of State, and Thomas R. Nides, Deputy Sec’y of State, U.S. Dep’t of State (Sept. 28, 2011) (on file with the Committee, SCB0090954-59), (discussing parameters for U.S. engagement in post-Qadhafi Libya).

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ *Id.*

²⁵¹ *Id.*

²⁵² *Id.*

conomic reconstruction and diversification” and ensure the Libyans have the “ability to maintain delivery of basic services.”²⁵³

The sentiment of the memorandum was clear: Once the civil war was over and Qadhafi was removed from power, the United States would move on.²⁵⁴ The broad policies outlined by the senior State Department officials stood in direct contrast with what the State Department’s own experts on the ground in Libya knew was needed to support the country moving forward.

In his interview with the Committee, Cretz described what he saw, knew, and believed needed to be done to stabilize Libya:

Q: ... what was your sense of what challenges? [sic]

A: Well, number one, you know, Qadhafi ruled for 40 years and didn’t allow the emergence of any institution that could rival his power and the influence of he and his small clique over the people and government of Libya, so consequently, after the fall, there really was nothing there. There was no institutions, you know, ministries. They never operated as a real government because Qadhafi ruled the roost.

So my concerns were, number one that we needed to find a way to help them build their infrastructure in terms of developing independent and capable institutions. My second concern was that there had to be a way to end the strife among the militias and that involved getting a strong and capable central government.

We had to deal with, you know, making sure that the oil resource, which was really the only resource that they depended on, was developed in a reasonable way and that the proceeds made their way back to the to the people of Libya. We had to ensure that there was a capable military, a capable counterintelligence, a counterterrorism capability as well.

²⁵³ *Id.*

²⁵⁴ *See id.* (“The Administration has a primary interest in ensuring that others—the Libyans, the UN, the EU, and NGOs—take overall responsibility for post-conflict stabilization.”).

So these were all kind of concerns that I had mentioned. The borders were porous. There had to be some kind of way to establish a border regime. There was a continuing threat of weapons, which had been collected by the Qadhafi regime and then loose, you know, basically spread throughout the country and began to be making their way through the region in Africa, et cetera, so that had to be a way to get control of that, so there were a lot of problems in the post Qadhafi era.

* * *

Q: And with regard to the U.S., United States' engagement, involvement, and to the extent you can recall, would you have recommended that the U.S. become more engaged, less engaged? I know that you've already said that you did not recommend that we leave altogether, but do you have a sense of whether you felt it was important for us to increase our engagement as opposed to decrease our engagement?

A: Well, I think it was critical that the United States continue to play a vital role. I mean, given our past history, given what we did on the intervention, and given the fact that there was a real affection for the United States in the country in the aftermath of what we had done along with the French and British and others to overthrow Qadhafi, and I would have liked to have seen a more robust program.

But the truth of the matter was that when you don't have a functioning government, how do you provide resources to that government when there's no absorptive capacity? So this is the main problem that we ran into in the post war situation. You know, I can't say that there was a huge appetite in Washington to put hundreds of millions of dollars into Libya, but I can say there was an interest in ensuring, you know, our role there, ensuring that this evolving nation developed in a democratic tradition. But the truth is that there was no absorptive capacity to receive assistance and to help develop the nation along that way.²⁵⁵

²⁵⁵ Cretz Testimony at 145-47.

Embassy Tripoli Reopens: Impact on Benghazi Mission

As senior State Department officials were discussing their goals for Libya, nearly seven months after its personnel were evacuated and one month after the fall of Tripoli, the U.S. Embassy in Tripoli raised the American flag and restarted operations.²⁵⁶ Cretz returned to Tripoli as Ambassador.²⁵⁷ The precarious security environment in Libya precipitated the need for 16 Security Support Team [SST] members from the Defense Department, eighteen members of the State Department's own highly trained mobile security team, in addition to a temporary duty Diplomatic Security team, to protect the Ambassador and embassy personnel.²⁵⁸ The Administration's policy of no boots on the ground once again shaped the type of military assistance that would be provided, with the Defense Department and the State Department going to great lengths to ensure the administration's policy was not violated. The Executive Secretariats for both the Defense Department and State Department exchanged communications outlining the diplomatic capacity in which the Defense Department SST security team members would serve, which included wearing civilian clothes so as not to offend the Libyans.²⁵⁹

²⁵⁶ Polaschik Testimony at 12-15:

[When “] the Embassy evacuated to Washington, ... we worked sort of in Embassy in exile ... In August 2011, our official status as Embassy Tripoli expired because the State Department had run the course of the 180 days of evacuation status for Embassy Tripoli, so we created a new entity that we called the Libya cell. And the purpose of the Libya cell was to either staff the Mission in Benghazi if the situation continued and we needed to have our only representation in country in Benghazi because Qadhafi was still in Tripoli, or the Libya cell would serve as the nucleus of the group that would go back into Tripoli to reopen the Embassy.” *Id.*

²⁵⁷ *U.S. ambassador Gene Cretz returns to Libya*, USA TODAY (Sept. 21, 2011), <http://usatoday30.usatoday.com/news/world/story/2011-09-21/us-reopens-libya-embassy/50491638/1>.

²⁵⁸ Cretz Testimony at 89-91.

²⁵⁹ See Email from Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State, to Charlene R. Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State, (Sept. 6, 2011) (on file with the Committee, SCB0096343); see also Email from Patrick F. Kennedy, Under Sec’y of State for Mgmt., U.S. Dep’t of State to Denis R. McDonough, Deputy Dir., Nat’l Sec. Council (Sept. 6, 2011, 12:32 PM) (on file with the Committee, SCB0096350) (“I have confirmed . . . [Special Air Services] folks in Tripoli supporting the restart of their Embassy, in civilian clothes. Have also reconfirmed with NEA that civilian clothes [and thus SOF] is the way we have to go.”).

The increased security was important as fighting in Libya continued. Cretz described to the Committee:

[I]n general, Tripoli was still in the throes—in September of 2011 was still in the throes of civil war. Tripoli had fell—had fallen. But there were still active pockets of resistance throughout the country from Qadhafi loyalists.

The country had also begun to break down in anticipation of a victory over Qadhafi into the militias that, in fact, were fighting Qadhafi. The war against Qadhafi was not by a unified opposition army.

It was made up of a militia. The jihadists had a militia. The people from Zintan had a militia. The people from Misrata had a militia. So in anticipation of the final victory, they were, in effect, fighting it out.

In a sense, a lot of what we see today in Libya, they were fighting it out for a foothold to make sure that they got a piece of the pie—a piece of the power pie once things settled down.

So the situation in Tripoli was very unsettled.²⁶⁰

With Embassy Tripoli officially reopened, and Benghazi's future less than certain, Stevens asked the State Department to conclude his Mission on October 6, 2011, but he was asked to remain until Jibril, the interim Prime Minister, completed his relocation from Benghazi to Tripoli.²⁶¹ Feltman described his ongoing conversations with Stevens about Benghazi's future:

The normal response would be once the government's in Tripoli ... then you close down Benghazi. That would be sort of a nor-

²⁶⁰ Cretz Testimony at 83.

²⁶¹ See Email from Elizabeth L. Dibble, Principal Deputy Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State, to Raymond D. Maxwell, Deputy Ass't Sec'y, Bureau of Near Eastern Affairs, William V. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep't of State, Lee Lohman, Ex. Dir., Bureau of Near Eastern Affairs, U.S. Dep't of State *et al.* (Sept. 20, 2011, 6:38 PM) (on file with the Committee, C05389443) (discussing reasons for Special Rep. Stevens to remain in Benghazi).

mal response given the budget climate, given all the other complications. And so Chris and I would talk about did we really think this was essential. Why did we think it was essential. And it had to do with, again, the fact that Libya had been essentially a divided country before, where Benghazi had been neglected, oppressed even by Qadhafi, but yet Benghazi was where this uprising had begun. It was where the Libyan revolution had begun, so it was important that Benghazi feel part of this process. We felt that having a small diplomatic presence in Benghazi it would not be the Embassy.

Clearly the Embassy would be accredited to the government in Tripoli but that that would keep our presence as well as the presence of others, because we were not the only ones looking at this, as well as the presence of others, would keep Benghazi as part of the political equation. Because if you didn't have Benghazi feeling invested in what was happening in Tripoli, you had the risks of the country splitting again, is what we clearly thought.²⁶²

Feltman further testified why the State Department did not make the Benghazi Mission official, especially when operations resumed in Tripoli:

So what we were trying to what Chris and I were trying to figure out was, how could we make a compelling enough argument that in the zero sum game that we have in terms of our budget and our resources, that we could find enough resources to keep Benghazi operating through the critical transition period? ...

[T]he type of budget support out of Congress we would need. This is a time when the U.S. reduces diplomatic presences, doesn't expand them.²⁶³

Discussions also ensued over how to bring the personnel in Benghazi under the diplomatic umbrella of the Embassy in Tripoli without triggering formal recognition of the Benghazi office.²⁶⁴

²⁶² Feltman Testimony at 58.

²⁶³ *Id.* at 46-47.

Polaschik was aware of this issue and wanted to ensure that all personnel in Benghazi had the protections of the privileges and immunities accorded by the Vienna Convention.²⁶⁵ Listing personnel in Benghazi as a separate office was rejected, however, as “[t]he reference to the establishment of an office in Benghazi may raise congressional notification issues”²⁶⁶ Earlier in the year, Kennedy, determined congressional notification was not needed because “the Hill knows we are there.”²⁶⁷

Ultimately, it was decided to submit “one dip[lomatic] list for Tripoli, but noting on it that certain staff members will be performing their duties on a TDY basis in Benghazi.”²⁶⁸ Thus, without formally notifying the new Libyan government of the Benghazi Mission, the personnel in Benghazi received diplomatic immunity only because the State Department told the Libyan government the personnel in Benghazi were actually assigned to Tripoli.²⁶⁹

Benghazi’s Future

Senior officials in Washington discussed several options for Benghazi’s future operations. Stevens proposed two options to State Department officials in early September 2011 to continue the Mission:

²⁶⁴ See Post Mgmt. Officer for Libya Testimony at 131:

At some point in the fall of 2011, we exchanged diplomatic notes with the new Government of Libya in whatever form that happened to be, and with the return of Ambassador Cretz, a Special Representative was not needed at that point, because we had our accredited Ambassador in Tripoli. So at that point, I believe, it when the term ‘Special Representative’ ceased to be used, but again, I don’t have specific recollection of the timeline.

²⁶⁵ See Email from Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State, to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State, and Senior Desk Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State (Oct. 17, 2011, 10:09 AM) (on file with the Committee, C05528533) (discussing listing Benghazi team on diplomatic list).

²⁶⁶ Email to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State (Nov. 9, 2011, 5:23 AM) (on file with the Committee, C05528533).

²⁶⁷ Email (May 18, 2011, 1:13 PM) (on file with the Committee, C05391797).

²⁶⁸ Email from Deputy Ex. Dir., Bureau of Near Eastern Affairs, U.S. Dep’t of State, to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State, and Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State (Nov. 9, 2011, 7:08 PM) (on file with the Committee, C05528533).

²⁶⁹ *Id.* (“[C]ertain staff members will be performing their duties on a TDY basis in Benghazi.”).

Slimmed down compound: Principal Office (FS-02 level) MGT/IRM and possibly one USAID/OTI officer (if they get requested funding). 4 DS. 1 admin LES [locally employed staff] plus guardforce.

Consolidated to Villa A (combine lodging/offices; beds for 7 plus 2 TDY [temporary duty] in living room; also possible to rent a small 1 bedroom house attached to Villa A belonging to same owner)

Duration: through September 30, 2012 (3 months beyond projected TNC elections)

Purpose: provide platform for POL/ECON [political/economic] reporting; PD and OTI programming;

PM/Conventional Weapons collection effort in east; commercial outreach.

Other Benghazi Missions: UNSMIL [United Nations Special Mission in Libya], EU and UK intend to maintain small branch offices for the next 6 months-one year. Italians and Turks have consulates.

Virtual presence: End all 3 compound leases. Zero full-time State Department staff. Use hotels (as Spanish, Greek and foreign NGOs have been doing). Possibly leave FAV in Benghazi [REDACTED] to support TDY travel in eastern Libya.²⁷⁰

Feltman described the discussions to the Committee “[t]hey [sic] were ongoing discussions ... because we needed to muster our arguments. We needed to muster our rationale. We needed to feel confident ourselves that this was the right thing to do before we would propose something that was going to be, you know, financially difficult.”²⁷¹

²⁷⁰ Email from J. Christopher Stevens, U.S. Rep. to Transitional Nat’l Council, to William V. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep’t of State, Gene A. Cretz, U.S. Ambassador to Libya, and Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State (Oct. 31, 2011, 3:08 PM) (on file with the Committee, C05394929).

²⁷¹ Feltman Testimony at 59.

The Post Management Officer for Libya further explained to the Committee closing the mission was an option. “In official conversations, as we met to discuss options related to the Benghazi footprint that was always one of the items that was out there as a potential decision point. As we were looking at security and others things, closure was always an option.”²⁷² In September 2011, Cheryl Mills, Chief of Staff and Counselor, State Department, was likely briefed on a plan that would have closed Benghazi in January 2012.²⁷³

From a security standpoint, Eric Boswell, Assistant Secretary, Diplomatic Security, State Department, explained:

Benghazi was originally envisaged at [sic] a short term thing. Our expectation in DS was that we were going to support Chris Stevens' effort for 60 days, 90 days, and that once an embassy was reestablished in Tripoli, if that was the outcome of the civil war, once the—well, if the right side one [sic] in Tripoli, once an embassy was to be reestablished, we anticipated that Benghazi would go out of business.

The Embassy was reestablished in September, but the NEA Bureau asked us to keep a little presence in Benghazi, so a little longer a little longer. [sic] It was really quite incremental. A little longer, a little longer.²⁷⁴

Benghazi's uncertain future impacted Stevens and his team. The Diplomatic Security Agent in charge in the fall of 2011 testified:

[W]e were still in this situation where we didn't know how long Benghazi was going to be. Tripoli was kicking off. And so there was a lot of interest in supporting that. So we were trying to figure out—or headquarters was trying to figure out where to prioritize our deficiencies, if you want to call it that. So no one knows.

²⁷² Post Mgmt. Officer for Libya Testimony at 174.

²⁷³ See Memorandum to Cheryl D. Mills on Update on Tripoli Operations (Sept. 14, 2011) (on file with the Committee, C05578323) (discussing plans for activities in Benghazi through January 2012).

²⁷⁴ Testimony of Eric J. Boswell, Ass't Sec'y of State, Bureau of Diplomatic Sec., U.S. Dep't of State, before H. Comm. on Oversight & Gov't Reform, Tr. at 17 (July 9, 2013) [hereinafter Boswell Testimony] (on file with the Select Committee on Benghazi).

I mean, we were planning for the worst, phasing people out and trying to figure out how best to support the mission there. If I remember correctly, with the Embassy being opened—it opened towards the latter part of my tenure there. So the Envoy lost his, quote-unquote, status because there was now an Ambassador in country.... I think they were going to bring in a political officer, probably my rank. I'm pretty sure he was my rank. He was going to be the foothold there in Benghazi for the short term, but no one knew how long.²⁷⁵

While Stevens and his team waited to learn their status, security resources to the mission decreased.²⁷⁶ Stevens called an EAC meeting in October 2011 to evaluate the Mission's security posture after the fall of Sirte, Qadhafi's birthplace.²⁷⁷ Stevens and the Diplomatic Security Agents were concerned about the "recent reduction in DS manpower (the departure of several Agents in past week who ha[d] not ... been back-filled)."²⁷⁸ Another EAC was held three days later to discuss "the current situation in Benghazi and to address possible developments ... that may arise in the next 24 hours."²⁷⁹ A little more than a week later, a member of the February 17 Martyrs Brigade [February 17] who worked on the Mission compound came under attack on his way home.²⁸⁰ That incident occurred approximately 500 meters from the compound.²⁸¹

Qadhafi's Death

With the future of a U.S. diplomatic presence in Benghazi being debated and discussed, the Secretary traveled to Tripoli, Libya on October 18,

²⁷⁵ Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep't of State, Tr. at 33-34 (May 21, 2015) [hereinafter Diplomatic Sec. Agent 13 Testimony] (on file with the Committee).

²⁷⁶ *Id.* at 33.

²⁷⁷ Email to Diplomatic Sec. Command Ctr. (Oct. 17, 2011, 12:18 PM) (on file with the Committee, C05389778).

²⁷⁸ *Id.*

²⁷⁹ Email from Diplomatic Sec. Agent 13 to NEA-MAG-DL *et al.* (Oct. 20, 2011, 1:52 PM) (on file with the Committee, C05395038).

²⁸⁰ Email from [REDACTED] (Benghazi) to 'Spot Reports,' *et al.* (Nov. 1, 2011, 4:49 AM) (on file with the Committee, C05272056).

²⁸¹ *Id.*

2011.²⁸² During her day trip there, she met with members of the TNC, went to Tripoli University to meet with students, visited the medical center and the U.S. Embassy, and gave several speeches.²⁸³ She did not visit Benghazi even though Stevens was still there. She did “not recall” speaking with Stevens during her trip to Libya.²⁸⁴ Asked whether she discussed the future of the Mission there, Feltman, who traveled with the Secretary, told the Committee:

If there were, it was quite light and in passage. She had a very, very busy schedule going to see a variety of Libyan officials, meeting with representatives of Libyan civil society, delivering a speech. It was a jam-packed day and it wasn't the type of quiet time to have sort of policy discussions like that.²⁸⁵

Two days later, on October 20, 2011, Qadhafi was captured and killed attempting to escape from his hometown of Sirte. The TNC “declared the liberation of Libya” and the revolutionary war officially ended on October 23, 2011.²⁸⁶ The NATO-led military action, Operation Unified Protector, formally ended a week later.²⁸⁷

When informed of Qadhafi's death, the Secretary said: “We came, we saw, he died.”²⁸⁸

²⁸² Steven Lee Myers, *In Tripoli, Clinton Pledges U.S. to a 'Free Libya,'* N.Y. TIMES (Oct. 18, 2011), <http://www.nytimes.com/2011/10/19/world/africa/clinton-in-libya-to-meet-leaders-and-offer-aid-package.html>.

²⁸³ *Id.*

²⁸⁴ Clinton Testimony at 155-56.

²⁸⁵ Feltman Testimony at 85.

²⁸⁶ *See NTC declares 'Liberation of Libya,'* AL JAZEERA (Oct. 24, 2011), <http://www.aljazeera.com/news/africa/2011/10/201110235316778897.html>; *see also* Press Release, The White House Office of the Press Secretary, Statement by the President on the Declaration of Liberation in Libya (Oct. 23, 2011), <https://www.whitehouse.gov/the-press-office/2011/10/23/statement-president-declaration-liberation-libya> (“On behalf of the American people, I congratulate the people of Libya on today's historic declaration of liberation. After four decades of brutal dictatorship and eight months of deadly conflict, the Libyan people can now celebrate their freedom and the beginning of a new era of promise.”).

²⁸⁷ *NATO ends Libya mission,* CNN (Nov. 3, 2011),

<http://www.cnn.com/2011/10/31/world/africa/libya-nato-mission/>.

²⁸⁸ Corbett Daly, *Clinton on Qaddafi: "We came, we saw, he died,"* CBS NEWS (Oct. 20, 2011), <http://www.cbsnews.com/news/clinton-on-qaddafi-we-came-we-saw-he-died/>.

Approximately a month after Qadhafi's death, Susan Rice, United States Permanent Representative to the United Nations, also traveled to Libya, including Benghazi.²⁸⁹ Despite "walk[ing] the streets of Benghazi," Rice would not comment to the Committee on whether she visited the Mission compound in Benghazi.²⁹⁰ Less than a month later, in December 2011, Leon Panetta, the Secretary of Defense, traveled to Libya.²⁹¹ Because of security concerns, Panetta's time in Libya was brief and did not include a trip to Benghazi.²⁹²

FURTHER EXTENDING THE MISSION

With Embassy Tripoli officially up and running, and the return of Cretz to Libya, Stevens departed Benghazi in late November 2011.²⁹³ Before he left, however, he was asked to return as Ambassador. Cretz was informed of this change as well.²⁹⁴ According to Polaschik: "[I]t's very inappropriate for someone sitting in country to be working in country. I mean, it's an unusual situation. In order to be nominated and get through the congressional confirmation process, I think it was better for him [Stevens] to be here [in Washington]."²⁹⁵ Stevens would remain outside of Libya from November 2011 until May 26, 2012.

²⁸⁹ Press Release, U.S. Mission to the U.N., Remarks by Ambassador Susan E. Rice, U.S. Permanent Rep. to the U.N., Following Sec. Council Consultations on Libya (Nov. 28, 2011),

<http://iipdigital.usembassy.gov/st/english/texttrans/2011/11/20111129113633su0.6971203.html?distid=ucs#axzz48qWq65Vj>.

²⁹⁰ Testimony of Susan E. Rice, U.S. Permanent Rep. to the U.N., Tr. at 134 (Feb. 2, 2016) (on file with the Committee).

²⁹¹ *Defense chief Panetta visits Libya*, USA Today (Dec. 17, 2011), <http://usatoday30.usatoday.com/news/world/story/2011-12-17/panetta-libya/52019842/1>.

²⁹² *See id.*

²⁹³ *See* Email from J. Christopher Stevens, U.S. Rep. to Transitional Nat'l Council, to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep't of State (Nov. 10, 2011, 10:39 AM) (on file with the Committee, SCB0079464) ("I'll check in with you all myself when I'm back in [Washington D.C.] the week of Nov 21.").

²⁹⁴ *See* Email from Gene A. Cretz, U.S. Ambassador to Libya, to Cheryl D. Mills, Chief of Staff and Counselor to the U.S. Sec'y of State, U.S. Dep't of State (Oct. 21, 2011, 4:50 AM) (on file with the Committee, SCB 0045106).

²⁹⁵ Polaschik Testimony at 40.

Security Remains Unstable

Security continued to be unstable in December 2011. The Security Environment Threat List [SETL] rating for Libya was critical for political violence and high for terrorism and crime.²⁹⁶ SETL ratings are essential State Department tools in determining the countermeasures a facility must put in place to mitigate a threat.²⁹⁷ A critical rating is the most serious rating—indicating there is a grave impact to diplomats.²⁹⁸ A high rating indicates there is a serious impact on American diplomats.²⁹⁹ In late December 2011, right before holidays, there was open source reporting about a threat to western embassies located in Benghazi during Christmas and New Year’s Eve in 2011.³⁰⁰ The Mission held an EAC led by the new Principal Officer to discuss its security posture in light of the threat and the overall security environment and to discuss the need for additional security resources.³⁰¹

The incoming Diplomatic Security Agent in charge described the Mission compound when he arrived to the facility in late November 2011.³⁰² He told the Committee: “While I was in Benghazi ... the compound was woefully inadequate in terms of physical security. There were a whole number of things that we didn’t have, and a lot of things that we did have were completely insufficient.”³⁰³ He observed:

[O]ur perimeter security is nonexistent, we have walls with lattices that somebody can shoot through; we have walls with footholds people can climb over; we have a 4 foot wall back here; we have no lighting. So all these physical security standards, es-

²⁹⁶ Email from Diplomatic Sec. Agent 24 to Diplomatic Sec. Agent 10 (Dec. 15, 2011, 9:03 AM) (on file with the Committee, C05388931).

²⁹⁷ See ALEX TIERSKY & SUSAN B. EPSTEIN, CONG. RESEARCH SERV., RL42834, SECURING U.S. DIPLOMATIC FACILITIES AND PERSONNEL ABROAD: BACKGROUND AND POLICY ISSUES 6 (2014).

²⁹⁸ *Id.*

²⁹⁹ *Id.*

³⁰⁰ See Email from Diplomatic Sec. Agent 10 to Diplomatic Sec. Agent 25 (Dec. 21, 2011, 8:50 EST) (on file with the Committee, C05396082) (discussing reporting of threat to U.S. compound in Benghazi).

³⁰¹ See Principal Officer 1, U.S. Dep’t of State, to Joan A. Polaschik, Deputy Chief of Mission in Libya, U.S. Dep’t of State, *et al.* (Dec. 23, 2011, 7:34 AM) (on file with the Committee, C05392213) (Distributing notes from EAC.).

³⁰² See Diplomatic Sec. Agent 10 Testimony at 19.

³⁰³ *Id.*

pecially around the perimeter of the building were completely insufficient, and we needed large amounts of money and this was going to take time, it was going to be expensive, but we needed this desperately to make this place safe.³⁰⁴

With normal security standards not applicable in Benghazi and a decreasing number of Diplomatic Security Agents on the ground, the incoming Diplomatic Security Agents were forced to request the most rudimentary measures to improve security on the compound.³⁰⁵ The Diplomatic Security Agent on the ground told the Committee: “[O]nce I became RSO, I started a flurry of requests asking for physical security upgrades.”³⁰⁶ He further stated: “I put together a list of, call it a dozen requests in terms of guard platforms, sandbags, sent that out initially in kind of an informal email, because we didn't have any ability to send cables.”³⁰⁷

For example, on December 21, 2011, the Mission requested funding from Washington for 17 jersey barriers to serve as anti-ram barriers.³⁰⁸ The barriers were on sale from the British who were closing their compound in Benghazi and moving their operations back to their Embassy in Tripoli.³⁰⁹ A day later, the agent made another request for “some escape hatches in the iron window bars on the villas.”³¹⁰ That same day, the Diplomatic Security Agent’s request was expanded to include:

[A]dditional security measures that are desperately needed (lighting for areas of the compound that are completely dark, sandbags, platforms that we can place against the perimeter walls

³⁰⁴ *Id.* at 25-26.

³⁰⁵ See Testimony of Diplomatic Sec. Agent, U.S. Dep’t of State, Tr. at 26 (Apr. 9, 2015) [hereinafter Diplomatic Sec. Agent 12 Testimony] (on file with the Committee) (“[W]e identified some -- you know, identified a contractor to come in and cut those window grilles off and then replace them with a system that was very, very, you know, rudimentary, but it worked.”).

³⁰⁶ Diplomatic Sec. Agent 10 Testimony at 19.

³⁰⁷ *Id.* at 20.

³⁰⁸ Email from Diplomatic Sec. Agent 10 to Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep’t (Dec. 21, 2011, 12:27 PM) (on file with the Committee, C05396085).

³⁰⁹ *Id.*

³¹⁰ Email from Diplomatic Sec. Agent 10 to Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep’t (Dec. 22, 2011, 6:09 AM) (on file with the Committee, C05388920).

so we can see over them—we have significant blind spots in our video camera coverage, a guard shack for outside of the main entrance, etc).³¹¹

As Benghazi was requesting additional security measures, the Mission was experiencing significant shortages in Diplomatic Security Agents. A Diplomatic Security Agent on the ground at the time described his concern to the Committee:

It was down to two agents, myself and one other agent. And as I was getting ready to depart, we were going to go to one agent. And if the staffing pattern remained the way it was, with our expected incoming agents, we were going to go down to zero agents. And that would have been around January 4th or 5th or so, we would go down to zero agents.³¹²

These requests for security resources and personnel continued into the winter, spring, and summer of 2012.

The Extension Memorandum

When Stevens left Benghazi for the U.S. in November 2011, Washington still had not made a decision on the Mission's future. A few weeks after he left Libya to return to the United States, Stevens asked the Principal Officer who replaced him in Benghazi about the status of the Mission, writing: "Also, just curious what you guys decided to do re: future of the compound."³¹³

Discussions about Benghazi's diplomatic future culminated in the Near Eastern Bureau's decision to request an extension of the Mission for one year.³¹⁴ This required the approval of Kennedy, and the Near Eastern

³¹¹ Email from Diplomatic Sec. Agent 10 to Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep't (Dec. 22, 2011, 7:19 AM) (on file with the Committee, C05388920).

³¹² Diplomatic Sec. Agent 10 Testimony at 45-46.

³¹³ Email from J. Christopher Stevens to Principal Officer 1, U.S. Dep't of State (Dec. 15, 2011, 1:14 PM) (on file with the Committee, SCB0079324).

³¹⁴ See Memorandum from Jeffrey D. Feltman, Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State to Patrick F. Kennedy, Under Sec'y of State for Mgmt., U.S. Dep't of State (Dec. 27, 2011) [hereinafter Dec. 27, 2011 Action Memo for

Bureau prepared an extension memorandum for his approval.³¹⁵ The Post Management Officer for Libya, of the logistics arm of the Near Eastern Affairs Bureau, explained the purpose of the memo:

[I]ts purpose is to establish the policy priority, that this is what we are going to be doing, and this is what we—we need to make it happen. So this memo says that the presence is approved, and that some of these issues were dealt with to deal with the change in the presence.

Without specific budgets dedicated to these facilities and to this process, there needed to be some sort of mandate to declare this is what we are doing, so that then, the relevant functional bureaus and regional bureau could then say, hey, we have this approval I am waving my document we have this approval, we need to find money to make this happen.³¹⁶

On December 27, 2011, Feltman forwarded the final Action Memorandum to Kennedy requesting approval to extend the Benghazi Mission until the end of 2012.³¹⁷ Feltman described the memorandum as reflecting “discussions with my bosses at the State Department about why Chris Stevens and I both thought that we needed to maintain a presence in Benghazi. ... I was confident that we had done our best to build the consensus that would lead to a yes.”³¹⁸ When asked whether the Secretary was aware of the discussion about Benghazi’s future, Feltman testified he “had ready access to the secretary. I don’t think that anything that I would have put in any of these memos would have surprised her just because of the sort of ongoing discussion we had about the Arab Spring.”³¹⁹

The Secretary told the Committee:

Under Secretary Kennedy] (on file with the Committee, C05261557) (recommending approval of continued U.S. presence in Benghazi through the end of calendar year 2012).

³¹⁵ *Id.*

³¹⁶ Post Mgmt. Officer for Libya Testimony at 65-66.

³¹⁷ See Feltman Testimony at 98.

³¹⁸ *Id.* at 100-01.

³¹⁹ *Id.* at 101.

There were certainly meetings in which I was advised about the process being undertaken as to determine whether Benghazi should be extended. So, yes, I was aware of the process that was ongoing, and I was kept up to date about it.³²⁰

In his Action Memorandum, Feltman laid out the policy reasons to remain in Libya:

A continued presence in Benghazi will emphasize U.S. interest in the eastern part of Libya. Many Libyans have said the U.S. presence in Benghazi has a salutary, calming effect on easterners who are fearful that the new focus on Tripoli could once again lead to their neglect and exclusion from reconstruction and wealth distribution and strongly favor a permanent U.S. presence in the form of a full consulate. They feel the United States will help ensure they are dealt with fairly. TNC officials have said some government agencies may shift their headquarters to Benghazi (such as the National Oil Company). Other government agencies and corporations already have their headquarters in Benghazi and will likely remain there for the foreseeable future. The team will be able to monitor political trends (Islamists, tribes, political parties, militias) and public sentiment regarding the “new Libya,” as well as report on the critical period leading up to and through Libya's first post-Qadhafi elections. Programmatic benefits to a continued U.S. presence in Benghazi include building on USAID/OTI's programs to strengthen civil society groups, media training, and capacity building in municipal councils. We should continue to engage with the populace, particularly with the large population of Libyan youth, an important and receptive audience with high expectations for the post-revolution period.³²¹

On January 5, 2012, Kennedy approved the memorandum.³²² He explained to the Committee:

³²⁰ Clinton Testimony at 160.

³²¹ Dec. 27, 2011 Action Memo for Under Secretary Kennedy, *supra* note 311.

³²² *See Id.* (signature date stamped); *see also* Post Mgmt. Officer for Libya Transcript at 178 (“[‘January 5th, 2012’] would indicate that that’s the day that action was taken on the memo.”).

This document is essentially in a prime part and a secondary part. The prime part is that I am authorizing us committing to extend the lease on this facility through the end of calendar year 2012. And I am doing that because they have made representations to me that the facility is needed. My conversations with others of my peers indicated that no decision had yet been made about whether to make this operation permanent, continue at interim or close it.... And, then secondly, it also sets a ceiling on the number of personnel that will be assigned.”³²³

Excluded from the discussions to extend the Benghazi mission for another year were senior officials from the Bureau of Diplomatic Security.

Boswell explained he was not involved, nor consulted, in the extension memorandum:

When the memo came up regarding the—a memo from Assistant Secretary Feltman to Under Secretary Kennedy asking for the extension of the Benghazi mission for another year and asking the Under Secretary to make a couple of decisions about that, one, the overall decision to approve or disapprove, but also a second decision about what kind of property to maintain, I did not see that memo. That memo never got to me. It went up, I gather, on the 23rd of December. It was signed off on by various parts of Diplomatic Security, including—the right parts of Diplomatic Security, including the Countermeasures Directorate. It was cleared by—as I found out in retrospect, it was—after the fact, it was cleared by my Deputy Assistant Secretary for Countermeasures who was acting for Scott Bultrowicz.³²⁴

Gentry O. Smith, Deputy Assistant Secretary, Diplomatic Security, Countermeasures, confirmed to the Committee he cleared the extension memorandum on behalf of Diplomatic Security. He also confirmed he cleared the memorandum with the comment, “this operation continues to be an unfunded mandate and a drain on personnel resources.”³²⁵ When asked to explain his comment, Smith testified “it didn't come from Coun-

³²³ Kennedy Testimony at 333-334.

³²⁴ Boswell Testimony at 17.

³²⁵ Email to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep't of State (Dec. 23, 2011, 3:27 PM) (on file with the Committee, C05578953).

termeasures, it would not have been solely for physical security. So I would say that it was broader for the operations in Benghazi.”³²⁶ He further stated; “The other seniors would have seen the memo as well and had an opportunity to comment based on its accuracy and maybe providing information for the document itself.”³²⁷

Charlene Lamb told the Committee “I did not see it [the memorandum] until after the event in Benghazi.”³²⁸

**Purpose of Mission in 2012:
Symbolic Nature of U.S. Presence in Benghazi**

With Embassy Tripoli reopened and Stevens back in Washington D.C. awaiting confirmation to become Ambassador to Libya, the Benghazi Mission continued its work through a series of “Principal Officers.”³²⁹ The Principal Officers met with leaders of the local council, militia heads, foreign diplomats located in Benghazi, heads of businesses and non-governmental organizations, and regular Libyans.³³⁰ The Principal Officers reported to Washington D.C. their impressions of Benghazi and the state of eastern Libya.³³¹

While the Mission continued to operate, it operated much differently than in 2011. As explained by Polaschik:

A: Traditionally [Special Envoys] have been based in Washington, but I know in recent years there has been a special envoy presence in Jerusalem that reports to the Secretary of State. So it’s not unprecedented to have special envoy missions.

That said, it is unusual to have a totally separate office in a country in which there is no other consulate or presence. So it was a bit of an odd duck. Let’s say it doesn’t fit the unusual [sic] State Department pattern, and it’s something that as DCM, I struggled

³²⁶ Smith Testimony at 75.

³²⁷ *Id.* at 73.

³²⁸ Lamb Testimony at 221.

³²⁹ See Dec. 27, 2011 Action Memo for Under Secretary Kennedy, *supra* note 311 (discussing staffing of Benghazi Mission).

³³⁰ See *id.* (discussing programmatic benefits of continued Benghazi Mission).

³³¹ See *id.* (discussing the effect of ongoing Benghazi Mission).

with a bit, not in the early days, because it was just a different operation, I think, while Chris was there. Because of his stature, because of his experience, because of his reach back into the State Department, I think he had the ability to get resources and attention in a way that the people who followed him did not.

I was able as DCM to have a good working relationship with Chris and all of his successors just because we made it work. But I did not—you know, in another country, if there's a consulate per se, the principal officer or the consul general reports to the DCM, and the DCM has oversight for operations and hiring and resources and all of those issues. As DCM in Tripoli, I did not have that.

Q: Once Chris Stevens left in November of 2011 and was replaced by a series of principal officers, did that change then?

A: The formal relationship?

Q: In that principal officers then became more routine and report to you, and then you reported out to Washington?

A: No. There was never a decision or a procedure put in place to have the Mission in Benghazi report to the Embassy in Tripoli. It was still something that was reporting directly to Washington, staffed by Washington. I had no say in the staffing decisions, re-sourced by Washington, et cetera.

I played a supporting role. To the extent that I could, I made sure that I coordinated very regularly with the principal officers; and whenever they needed help on anything, I jumped in.³³²

Security Problems Continue

The security environment also became a factor in the Principal Officer's ability to meet reporting responsibilities. As early as December 2011 and throughout 2012, the Mission was forced to go on lockdown because of the lack of security personnel. This impacted the ability of the Principal Officers to do their jobs. For example, on December 15, 2011, the Prin-

³³² Polaschik Testimony at 44-45.

principal Officer at the time recommended halting future non-security temporary duty assignments because of the lack of DS Agents on the ground.³³³ In January 2012, the Principal Officer reiterated his concerns “the mission will be hard-pressed to support TDY’ers (much less higher-level visitors and out-of-town travel) unless we have better staffing. On that basis, we won’t be fulfilling what I understand our mission to be.”³³⁴ Later, in February 2012, the incoming Principal Officer expressed similar concerns: “we will be all but restricted to compound for the vital February 12-18 timeframe. This will effectively leave us unable to do any outreach to Libyan nationals during the week and we will be extremely limited in the ability to obtain any useful information for reporting.”³³⁵

On February 11, 2012, the lead Diplomatic Security Agent at Embassy Tripoli, informed Benghazi “substantive reporting” was not the Mission’s purpose.³³⁶ In an email to the diplomatic security agent in Benghazi, the Diplomatic Security Agent wrote: “[U]nfortunately, nobody has advised the PO that Benghazi is there to support [REDACTED] operations, not conduct substantive reporting.”³³⁷

These concerns were expressed throughout 2012. Cretz told the Committee:

The various officers that were there felt that they from time to time didn’t that the Mission was not necessarily well staffed enough for them to be able to go out and do their reporting on a regular and aggressive basis.

* * *

³³³ Email from Principal Officer 1, U.S. Dep’t of State, to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State (Dec. 15, 2011, 1:11 PM) (on file with the Committee, SCB0079324-25).

³³⁴ Email from Principal Officer 1, U. S. Dep’t of State, to Diplomatic Sec. Agent 25 (Jan. 13, 2012, 2:44 PM) (on file with the Committee, C05393569).

³³⁵ Email from Principal Officer 5, U.S. Dep’t of State, to U.S. Embassy Tripoli, *et al.* (Feb 11, 2012, 5:29 PM) (on file with the Committee, C05409829).

³³⁶ Email from Diplomatic Sec. Agent 24 to Diplomatic Sec. Agent 12 (Feb. 11, 2012, 10:41 AM) (on file with the Committee, C05411292).

³³⁷ *Id.*

I recall discussions with one or two of them at various times that said that, because of the requirement to protect the facility that it was difficult for them to go out because it required a certain level of accompaniment around the city.³³⁸

During this time, the Mission evaluated and communicated to Washington D.C. the severity of the security environment. The Mission held more than a dozen EAC meetings to evaluate the security environment; review tripwires and determine if any had been crossed; and to identify any necessary steps to mitigate the threats.³³⁹ The Mission communicated the outcomes of the EACs to Washington D.C. but senior officials did not respond. The Secretary told the Committee: “There are millions of them, as you point out. They are sorted through and directed to the appropriate personnel. Very few of them ever come to my attention. None of them with respect to security regarding Benghazi did.”³⁴⁰

Other State Department officers offered similar explanations. Kennedy told the Committee:

The State Department gets thousands of cables a day, and some of them are brought to my attention, depending upon the nature. An example would be brought up potentially by one of my subordinate units, it might be brought up by a regional functional bureau that has an interest in the subject matter.³⁴¹

Boswell testified:

I think we followed the Libya situation very closely. Keep in mind, however, that it’s a big world out there, and we have 180 posts and some extremely high threat ones, so we spend a lot of time concentrating on the high threat ones. I would say Libya was one of them, but not the only one. There is Iraq, there’s Af-

³³⁸ Cretz Testimony at 88-89.

³³⁹ See Benghazi Spot Report, EAC and Significant Event Timeline (DS/IP/RD) (on file with the Committee, C05394332).

³⁴⁰ Clinton Testimony at 41.

³⁴¹ Kennedy Testimony at 43.

ghanistan, there's Lebanon, there's Yemen, there's Pakistan, and all of those at one time or another were flashing pretty bright.³⁴²

Lamb told the Committee:

The RSO [Regional Security Officer] and the Ambassador are ultimately responsible for security at post. It is very unfortunate and sad at this point that Ambassador Stevens was a victim, but that is where ultimate responsibility lies. And it's up to headquarters to provide resources when post asks for them, and it's also up to Washington to make sure that we don't have, you know, waste, fraud, and abuse of our resources, because we're covering the entire world as well. So it's you know, when you say who should be accountable, accountable for what?³⁴³

The U.S.' uncertain and shifting commitment in Libya affected the administration's responses to security threats there. For instance, as detailed in Appendix F, an extensive set of security rules for permanent U.S. diplomatic facilities around the world did not apply to the temporary Benghazi Mission. The lack of security standards made Benghazi an anomaly among U.S. facilities located in Arab Spring countries, such as Tunisia, Yemen, and Egypt. As one Diplomatic Security Agent put it:

[I]f you are a diplomatic facility within the State Department, you have physical security requirements that are in the FAM, the Foreign Affairs Manual. And it is a very detailed, large set of rules that you have to follow to operate a diplomatic facility. It requires you to have physical security standards that are typically going to be expensive and will take time to do.

If you are in a non-diplomatic facility, there are no security standards. They don't exist.

So it's all or nothing.³⁴⁴

³⁴² Boswell Testimony at 18-19.

³⁴³ Lamb Testimony at 254.

³⁴⁴ Diplomatic Sec. Agent 10 Testimony at 28.

Requests for Additional Security Measures

Without security standards in place to guide them, Diplomatic Security Agents were forced to make ad hoc requests for basic security measures. On January 2, 2012, the Benghazi Mission sent an Action Memorandum to Washington D.C. outlining field expedient security measures needed to secure the compound.³⁴⁵ The request included 17 jersey barriers, 500 sandbags, seven observation platforms, four guard posts, additional lighting, and egress locks on window bars.³⁴⁶ In addition, the Action Memorandum notified Washington D.C. that additional requests would be forthcoming as well as a request for a physical security specialist to help scope the security needs of the modified compound.³⁴⁷ The security request was made again on January 5, 2012 and this time included a request for two drop arm barriers and measures to reinforce the perimeter wall, including concrete and barbed wire.³⁴⁸ Funding for sandbags, lighting, door upgrades and drop arm barriers was approved on January 26, 2012.³⁴⁹ On the other hand, the request for observation platforms, guard booths, and escape hatches went unaddressed—as did the request for the help of a physical security specialist.³⁵⁰

On February 13, 2012, the Benghazi Mission asked Washington D.C. to reconsider those measures previously requested but not funded.³⁵¹ In addition, the Mission made new requests to better secure the compound,

³⁴⁵ Email from Diplomatic Sec. Agent 14 to Diplomatic Sec. Agent 25 (Jan. 2, 2012, 5:41 PM) (on file with the Committee, C05579142) (attaching “an Action Memo”).

³⁴⁶ *Id.*

³⁴⁷ *See id.* (“Once a decision has been made on the size and location of Mission Benghazi’s compound – perhaps as soon as the coming week – RSO Benghazi will request additional security upgrade requests in support of that shift, and may request a TDY by a facility security expert to help scope them.”).

³⁴⁸ Email from Mgmt. Officer/Information Mgmt. Officer, U.S. Dep’t of State, to Post Mgmt. Officer for Libya, Bureau of Near Eastern Affairs, U.S. Dep’t of State, Principal Officer 1, U.S. Dep’t of State, Libya Mgmt. Issues (Jan. 5, 2012, 1:43 PM) (on file with the Committee, SCB0049988).

³⁴⁹ *See* Email from Diplomatic Sec. Agent 25 to Diplomatic Sec. Agent 15 (Jan. 26, 2012, 3:59 PM) (on file with the Committee, C05412127) (notifying that funding for some security measures had been obtained).

³⁵⁰ *See id.* (noting that Action Memorandum items 3, 6, 8, and 9 had been funded, but not addressing the funding for other items).

³⁵¹ *See* Email from Diplomatic Sec. Agent 12 to Diplomatic Sec. Agent 25 & James Bacigalupo, Regional Director, Bureau of Diplomatic Sec., U.S. Dep’t of State (Feb. 13, 2012) (on file with the Committee, C05394247).

including concertina wire, screens to obscure the compound, improvements to the perimeter wall, and ... film for the compound windows.³⁵² The Mission also reiterated its request for the help of a temporary duty physical security specialist in Washington D.C. to help scope needed upgrades.³⁵³

Funding for guard booths was approved on February 23, 2012.³⁵⁴ A critical request that went unaddressed until early March was a proposal to strengthen the compound's perimeter wall.³⁵⁵ Modifications to the wall were not completed until May 21, 2012, almost six weeks after the first Improvised Explosive Device [IED] attack on the Benghazi Mission.

Requests for Additional Diplomatic Security Personnel

In addition to the requests for physical security measures, the Benghazi Mission made constant requests for Diplomatic Security Agents. Concerns about Diplomatic Security Agent staffing shortages in late 2011 and early 2012 precipitated the preparation of an Action Memorandum for Lamb's approval.³⁵⁶ On January 10, 2012, an Action Memorandum described the Bureau of Diplomatic Security's responsibilities under the December 27, 2011 extension memorandum to provide five Diplomatic Security Agents for Benghazi and recognized the Diplomatic Security's inability to "identify, seek necessary approvals and obtain the required

³⁵² *Id.*

³⁵³ *Id.*

³⁵⁴ See Email to Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep't (Feb. 23, 2012, 8:22 AM) (on file with the Committee, C05394287) ("I just found a clause in our funding matrix that gives us the ability to support his request. There was early on talk about guard towers which we cannot support, however small booths to keep them out of the weather can be supported by our office.").

³⁵⁵ See Email from Diplomatic Sec. Agent 12 to Physical Sec. Specialist, Physical Sec. Programs, Bureau of Diplomatic Sec., U.S. Dep't, and Diplomatic Sec. Agent 25 (Mar. 1, 2012, 4:59 AM) (on file with the Committee, SCB0049970) ("The current perimeter wall, which was inherited in the leasing agreement, is in poor condition ..."); Email from Physical Sec. Specialist (Mar. 1, 2012, 9:12 AM) (on file with the Committee, SCB0049971) (recommending funding for a temporary fence).

³⁵⁶ Email from Diplomatic Sec. Agent 25 to Principal Officer 1, U.S. Dep't of State (Jan. 13, 2012, 10:05 PM) (on file with the Committee, C05411094) ("We have submitted an Action Memorandum that if approved should significantly improve our ability to identify and obtain approvals for staffing Benghazi.").

visa approvals for this many Agents on a continuing basis.”³⁵⁷ The January 10, 2012 Action Memorandum requested Lamb approve efforts to “request assistance from Domestic Operations, so that personnel can be selected and directed from the Field Offices by the DS Command Center as well as authorize funding for five, 45 day ARSO TDYs in Benghazi from Feb.1 through September 30 at a total estimated cost of \$283,050.”³⁵⁸ The January 10, 2012 Action Memorandum was never approved by Lamb.³⁵⁹

On March 28, 2012, the Embassy in Tripoli made a request on behalf of Benghazi for “five TDY DS agents for 45-60 day rotations in Benghazi.”³⁶⁰

³⁵⁷ Memorandum from Jim Bacigalupo, Regional Director, Bureau of Diplomatic Sec., U.S. Dep’t of State, to DAS Charlene Lamb, Bureau of Diplomatic Sec., U.S. Dep’t of State (Jan. 10, 2012) [hereinafter Jan. 10, 2012 Action Memo] (on file with the Committee, C05578986); *see also* Email from Diplomatic Sec. Agent 25 to Principal Officer 1, U.S. Dep’t of State (Jan. 13, 2012, 10:05 PM) (on file with the Committee, C05411094) (“We have submitted an Action Memorandum that if approved should significantly improve our ability to identify and obtain approvals for staffing Benghazi.”); Email from J. Christopher Stevens, U.S. Ambassador to Libya, to Diplomatic Sec. Agent 7 (June 5, 2012, 10:55 AM) (on file with the Committee, C05409979) (“We’d feel much safer if we could keep two MSD teams with us through this period to provide QRF for our staff and PD for me and the DCM and any VIP visitors.”).

³⁵⁸ Jan. 10, 2012 Action Memo, *supra* note 357; *see* Email from J. Christopher Stevens, U.S. Ambassador to Libya, to Diplomatic Sec. Agent 7 (June 5, 2012, 10:55 AM) (on file with the Committee, C05409979) (Requesting increased security).

³⁵⁹ *See* Testimony of James Bacigalupo, Special Agent in Charge/Regional Sec. Officer, Regional Sec. Office before the H. Comm. On Oversight and Gov’t Reform, Tr. at 17-18 (Sept. 4, 2012) (on file with the Committee) (Discussing the Jan. 10 Action Memo).

A: I believe it was January, maybe December/January timeframe we had talked about it in the office, and I think I was out on leave because my deputy I had seen a document that my deputy had sent up to Director Lamb, to DAS Lamb requesting we use the system that they use domestically to direct a certain number of agents from the field offices for assignments. We use that on protection. And we sent the memo up suggesting maybe we could use this mechanism for overseas.

Q: Specifically for Libya or

A: It was specifically for Libya.

Q: And do you know what happened to that memo?

A: It was never signed off on.

³⁶⁰ *See* U.S. Dep’t of State, Cable, Request for DS TDY and FTE Support (Mar. 28, 2012) (on file with the Committee, SCB 004625). *But see* U.S. Dep’t of State Cable,

Further Erosion of Security in 2012

As the requests for measures and personnel continued, the security environment in Benghazi continued to deteriorate in 2012, with the incidents and attacks increasing in volume and in intensity particularly against westerners.

One event occurred in March 2012:

Mission personnel were detained at a vehicle checkpoint in the town of Rajma, approximately 15 km southeast of Benghazi International Airport. U.S. Mission Benghazi RSO personnel were there to conduct a site survey near the town of Rajma. Benghazi personnel were detained by 17th February Martyrs Brigade militia members, had their identification temporarily confiscated, and were escorted back to Benghazi to a militia base.³⁶¹

The situation was eventually resolved and the personnel released.³⁶²

On April 2, 2012, four days before the first IED attack on the Mission compound, the Mission reported:

British Diplomatic Mission FAV [fully armored vehicle] was attacked by a mob of demonstrators. The vehicle was damaged but the occupants escaped injury. The demonstrators who numbered between one hundred (100) and two hundred (200) were members of the Traffic Police Force known as “Murur.”³⁶³

On April 6, 2012, the Mission suffered its first IED attack when an IED was thrown over the perimeter wall.³⁶⁴ According to the spot report: “at approximately 2250 hours (GMT+2), the U.S. Diplomatic Mission Ben-

Tripoli – Request for DS TDY and FTE Support (Apr. 19, 2012) (on file with the Committee, SCB 0046263) (denying request).

³⁶¹ Email from Spot Reports to DS Command, *et al.* (Mar. 15, 2012, 9:24 AM) (on file with the Committee, C05393455).

³⁶² *Id.*

³⁶³ Email from Diplomatic Sec. Agent 16 to DS-IP-NEA, Principal Officer 2, U.S. Dep’t of State, and Diplomatic Sec. Agent 17 (Apr. 2, 2012, 4:17 PM) (on file with the Committee, SCB0048091).

³⁶⁴ Email from Diplomatic Sec. Agent 16 to DS-IP-NEA (Apr. 6, 2012, 7:11 PM) (on file with the Committee, SCB0048088).

ghazi, Libya Compound came under attack. An IED was thrown over the perimeter walls and exploded within the compound grounds. No one was injured and damage was not visible.”³⁶⁵

One Diplomatic Security Agent was on the ground at the time of the IED attack.

Four days later, on April 10, 2012, the Mission reported “an IED was thrown at a four (4) vehicle convoy carrying the United Nations Special Representative to Libya, Ian Martin. No one was hurt in the explosion and no one has taken responsibility for the attack.”³⁶⁶

The March 28, 2012 request for five Diplomatic Security Agents was rejected less than two weeks after the first IED attack on the Mission.³⁶⁷ In denying the request on April 19, 2012, Washington D.C. responded:

DS will continue to provide DS agent support in Benghazi. DS/IP recommends that post continues [sic] its efforts to hire LES drivers for Benghazi to enable the DS TDYers to solely perform their protective security function. DS/IP also recommends a joint assessment of the number of DS agents requested for Benghazi to include input from RSO Tripoli, TDY RSO Benghazi, and DS/IP in an effort to develop a way forward.³⁶⁸

On May 22, 2012 “a rocket propelled grenade hit the offices of the International Committee of the Red Cross.”³⁶⁹ The International Committee of the Red Cross offices were approximately one kilometer from the Mission compound in Benghazi.³⁷⁰ Less than a week after the attack on

³⁶⁵ *Id.*

³⁶⁶ Email from Diplomatic Sec. Agent 16 to DS-IP-NEA (Apr. 10, 2012, 1:12 PM) (on file with the Committee, SCB0048085).

³⁶⁷ See U.S. Dep’t of State, Cable, Tripoli – Request for DS TDY and FTE Support (Apr. 19, 2012) (on file with the Committee, SCB 0046263).

³⁶⁸ *Id.*

³⁶⁹ Email from OpsNewsTicker to NEWS-Libya (May 22, 2012, 9:06 AM) (on file with the Committee, C05392368).

³⁷⁰ Email from Diplomatic Sec. Command Ctr. to DSCC E TIA/PII, DSCC E TIA/ITA & DS-IP-NEA (May 28, 2012, 5:08 AM) (on file with the Committee, C05391864).

the International Committee for the Red Cross, a Facebook post appeared threatening “to send a message to the Americans.”³⁷¹

Chris Stevens Becomes Ambassador

The U.S. Senate received the President’s nomination of J. Christopher Stevens to be Ambassador of Libya on January 24, 2012. The Senate confirmed his nomination by voice vote on March 29, 2012.³⁷² Stevens was sworn in by the Secretary of State on May 14, 2012.³⁷³

While in Washington D.C., Stevens met with various individuals including former State Department employee and author Ethan Chorin. Mr. Chorin told the Committee he discussed Benghazi with Stevens in March 2012:

he [Stevens] said ... essentially, Benghazi was not only the epicenter of the revolution, but a long-neglected part of the Libyan polity, and that the, essentially—what I got from him was that he was concerned that all of the attention was moving where—all of those factors that you mentioned, militarily, security-wise, medical, to the epicenter activities moving to Tripoli. And I believe what his point was, that he was afraid that the situation in Benghazi could degenerate as a result of that relative shift of the tension.

And we both agreed that Benghazi was particularly important for one, the threat of potential future spread of extremist activity, as well as the fact that, you know, many of Libya's thinkers, intellectuals, you know, people with high levels of education, also came from Benghazi, and that there was a sort of an, essentially, again, without putting words into his mouth, that Benghazi would be critical to future, to Libya's future health as a unified state.

³⁷¹ Email from Diplomatic Sec. Agent 18 to Diplomatic Sec. Agent 17 *et al.* (May 28, 2012, 5:36 AM) (on file with the Committee, C05392202).

³⁷² John Christopher Stephens Nomination, PN1233, 112th Congress (Mar. 29, 2012) <https://www.congress.gov/nomination/112th-congress/1233> (confirmed on voice vote).

³⁷³ See Hillary R. Clinton, Sec’y of State, U.S Dep’t of State, *Prepared Remarks at Swearing In Ceremony for Chris Stevens, Ambassador to Libya* (May 14, 2012), <http://www.state.gov/secretary/20092013clinton/rm/2012/05/197696.htm>.

* * *

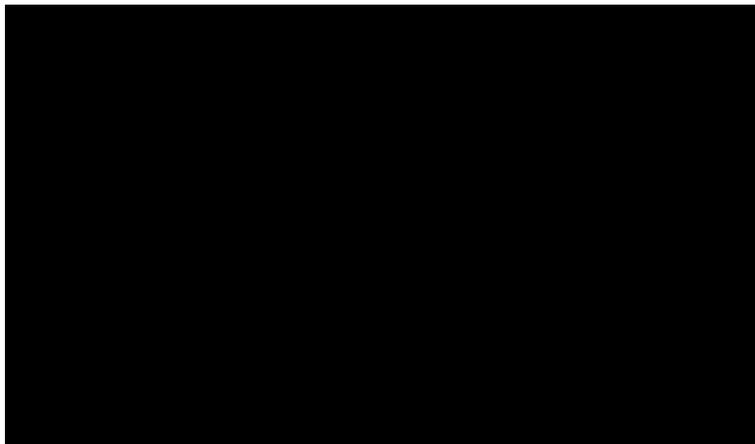
I mean, it was widely known, or believed at the time that either Ansar al-Sharia, or one of its affiliates was responsible for, or had some connection to the death of the assassination of Abdul Fatah Younis. I should actually correct that by saying that it wasn't—it was an Islamist faction that that event was attributed to. But that's the background to our conversation. So there was no explicit mentioning in the Washington conversation about specific names of individuals or groups, but it was clear that that was part of what he was concerned about.

* * *

He did say that he was very concerned that we were at a turning point, and that things could go badly quickly.³⁷⁴

Cretz, whose service concluded on May 15, 2012, communicated his concerns about the negative trends occurring in Benghazi prior to his departure and the need to maintain Department of Defense assets in Libya.³⁷⁵

In a classified cable sent on his last day, Cretz warned:



³⁷⁴ Testimony of Ethan D. Chorin, Tr. at 15-18 (Mar. 11, 2016) [hereinafter Chorin Testimony] (on file with the Committee).

³⁷⁵ Cretz Testimony at 89-90.



Cretz further told the Committee:

[T]hose events in Benghazi in the spring of 2012 ... it was a disturbing trend because, in Tripoli, we did not I did not see a piece of intelligence. I did not see any indication that the violence that was taking place was other than the product of the rival militias or whatever fighting it out for their piece of the pie.

We never had any intelligence report, as I recollect, that specifically targeted U.S. or Western interests in Tripoli. Benghazi began to look like there was something going on there that was disturbing.

* * *

Well, my view was and I expressed this to General Ham and others, who was the head of AFRICOM at the time was that my belief was that we needed them, especially in Tripoli, because of the ongoing strife and, also, because the elections were going to be held in June.

And I think our general sense was that this was going to be a time a real problematic time period because it was the first election and for some of the reasons I went over before: first election, a lot at stake.

So I felt that, in order again, for us to be able to do the job that we needed to do to get out and to reassure people that we were there to in case we were going to bring in observers or something with the elections, that an SST component would be very, very important for us to maintain up until that time.

³⁷⁶ Email from Joan A. Polaschik, Deputy Chief of Mission to Libya, U.S. Dep't of State, to SES-O; SWO-Cables; Dibble, Elizabeth; Maxwell, Raymond; NEA-MAG-DL; Burns, William; Sherman, Wendy; Nides, Thomas; Sullivan, Jacob; Feltman, Jeffrey (May 15, 2012, 10:26 AM) (on file with the Committee, C05395496).

* * *

[T]here was a medical component. We had a Navy doctor for a period of time. They brought special skills. For example, we had a bomb that was a 10,000 pound bomb that was in the middle of the Benghazi compound where Qadhafi used to live and kids were playing on it every day.

And I worked with our one of our SST people, and they had a bomb defusing expert. So we were able to work out a plan whereby we defused that bomb. So that kind of skill, the normal kind of skill I think that most DS agents wouldn't possess, counter maybe counterterrorism skills.

I can't describe the level above which our—because our DS agents were very, very capable. But these guys just brought kind of a special force kind of set of skills to the game.³⁷⁷

Stevens returned to Tripoli, Libya as Ambassador on May 26, 2012, presenting his credentials to Libyan Foreign Minister Ashour Bin Khyal on May 27, 2012.³⁷⁸

June 2012

Less than ten days after Stevens' return to Libya and a week after the Facebook threat, the Benghazi Mission compound came under attack for the second time in less than two months.³⁷⁹ On June 6, 2012, the Mission reported back to Washington D.C.:

Approximately, one hour ago (3:30am) an IED exploded next to the front gate. Video camera footage shows a 4-door white pick-up truck in front of the gate, and local guards report seeing a man

³⁷⁷ Cretz Testimony at 86, 90-91.

³⁷⁸ Email from J. Christopher Stevens, U.S. Ambassador to Libya, to Diplomatic Sec. Agent 7 (June 5, 2012, 10:55 AM) (on file with the Committee, C05409979); *see* Email to Post Mgmt. Officer for Libya, *et al.* (May 30, 2012, 11:20 AM) (on file with the Committee, SCB0080338) (regarding the arrival of Ambassador J. Christopher Stevens); Email to SES-O, SWO Cables, NEA-MAG-DL (May 28, 2012, 2:18 PM) (on file with the Committee, SCB0079242) (regarding Tripoli Situation Report).

³⁷⁹ *Id.*; Email from Diplomatic Sec. Agent 18 to Diplomatic Sec. Agent 17, *et al.* (May 28, 2012, 5:36 AM) (on file with the Committee, C05392202).

in ‘Islamic’ dress placing the IED at what appears to be the base of perimeter wall. The local guards sounded the duck and cover drill after seeing the man and smelling smoke. Approximately 5-6 minutes later the device exploded, creating a large hole in the perimeter wall. No one was injured and all personnel are accounted for.³⁸⁰

A day before the second IED attack on the Mission, Stevens requested the State Department’s own highly trained mobile security deployment (MSD) team remain in Tripoli through the end of the summer.³⁸¹ More resources in Tripoli meant possibly more available resources to augment security in Benghazi. On the same day Benghazi was attacked for a second time, the Diplomatic Security Agent, who was the head of the MSD division, denied Stevens’ request to keep the State Department’s highly trained security personnel stating: “Unfortunately, MSD cannot support the request.... we have two emerging requirements similar to Tripoli that requires the whole of our office essentially.”³⁸²

Five days later, an RPG attack was launched on the United Kingdom Ambassador’s motorcade injuring two individuals.³⁸³ According to the Mission, “the UK Ambassador’s motorcade was attacked with an RPG and small arms fire in Benghazi, approximately three kilometers away from the US Mission.”³⁸⁴ Concern was expressed the RPG attack was actually directed toward the U.S. Mission. Deputy Assistant Secretary for International Programs suggested to her colleagues and supervisors “it

³⁸⁰ Email from Principal Officer 2, U.S. Dep’t of State, to J. Christopher Stevens, U.S. Ambassador to Libya, Joan A. Polaschik, Deputy Chief of Mission in Libya, William V. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep’t of State (June 6, 2012, 4:49 AM) (on file with the Committee, C05393187).

³⁸¹ Email from J. Christopher Stevens, U.S. Ambassador to Libya, to Diplomatic Sec. Agent 7 (June 5, 2012, 10:55 AM) (on file with the Committee, C05409979).

³⁸² Email from Diplomatic Sec. Agent 7 to J. Christopher Stevens, U.S. Ambassador to Libya (June 6, 2012, 3:00 PM) (on file with the Committee, C05409979).

³⁸³ See Testimony of Gregory N. Hicks, Deputy Chief of Mission at U.S. Embassy Tripoli, U.S. Dep’t of State, before H. Comm. on Gov’t Oversight & Reform, Tr. 50 (Apr. 11, 2013) [hereinafter Hicks Testimony] (on file with the Committee) (discussing the attack).

³⁸⁴ Email from Charlene R. Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State, to Eric J. Boswell, Ass’t Sec’y of State, Bureau of Diplomatic Sec., U.S. Dep’t of State, *et al.* (June 11, 2012, 11:09 AM) (on file with the Committee, C05394418).

raises the question were they targeting the Brits or us and/or did we just lucky [sic] on this one?"³⁸⁵ Polaschik told the Committee:

I personally was very concerned that it might not have been targeted at the British Ambassador, but could have been targeted at us, given the location where it had occurred and given that we had been storing the British embassy's vehicles on our compound. But it was unclear. It was very murky, difficult to determine exactly who was targeted.³⁸⁶

The pattern of violence—particularly against westerners raised some concern in Washington. On June 11, 2012, the Near Eastern Affairs regional bureau expressed concern about the security situation in Benghazi to Stevens—suggesting even a pause in staffing.³⁸⁷ Stevens agreed, indicating it would allow “our RSO team time in Benghazi (perhaps reduced in number) to continue to assess the threat environment and consider ways to mitigate.”³⁸⁸

On June 12, 2012, Scott Bultrowicz, the Principal Deputy Assistant Secretary, Diplomatic Security, opined after the attack on the UK ambassador’s motorcade “this along with last week’s incident is troubling.”³⁸⁹ Lamb acknowledged:

We are not staffed or resourced adequately to protect our people in that type of environment. We are a soft target against resources available to the bad guys there. Not to mention there is no continuity because we do everything there with TDY person-

³⁸⁵ *Id.*

³⁸⁶ Polaschik Testimony at 82-83.

³⁸⁷ See Email from William V. Roebuck, Dir. Office of Maghreb Affairs, U.S. Dep’t of State, to J. Christopher Stevens, U.S. Ambassador to Libya (June 11, 2012, 5:11 PM) (on file with the Committee, C05391335) (“I’m getting quite concerned about the security situation for our folks in Benghazi ... We are at a(possible) [sic] natural break ...”).

³⁸⁸ Email from J. Christopher Stevens, U.S. Ambassador to Libya, to William v. Roebuck, Dir. Office of Maghreb Affairs, Bureau of Near Eastern Affairs, U.S. Dep’t of State (June 12, 2012, 10:52 AM) (on file with the Committee, C05409960).

³⁸⁹ Email from Scott P. Bultrowicz, Principal Deputy Ass’t Sec’y of State, Bureau of Diplomatic Sec., to Charlene R. Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State (June 11, 2012, 1:05 PM) (on file with the Committee, C05388866).

nel. The cost to continue to do business there may become more challenging.³⁹⁰

On June 14, 2012, the Benghazi Mission held an Emergency Action Committee meeting to discuss the series of attacks and request additional DS staff.³⁹¹ The Diplomatic Security Agent in Benghazi wrote to Washington D.C. expressing concern about the intensity and frequency of attacks: “Recent attacks have intensified in frequency with the active targeting of diplomatic personnel (e.g. the IED attack on the U.S. compound, the complex attack on the U.K. motorcade, and a recent rally by heavily armed Islamist militia members).”³⁹²

That very day the Diplomatic Security Agent in charge in Tripoli underscored the concern raised by Benghazi stating “I fear that we have passed a threshold where we will see more targeting, attacks, and incidents involving western targets.”³⁹³ He went on to list five major security incidents in and around Benghazi, including:

06/12/2012—0350 hrs—RPG attack on the International Committee of the Red Cross (ICRC) compound in Misrata;

06/11/2012—Attack on UK Ambassador’s convoy—Benghazi;

06/08/2012 2345 hrs—Sabha—Two hand grenades targeted at marked UK vehicles outside of Sabha hotel. One detonated, damaged three tires and an oil pump. The second grenade failed to detonate;

06/06/2012—U.S. Mission Benghazi was targeted by an IED which detonated causing damage to the exterior wall of the compound. The Imprisoned Sheikh Omar Abdul Rahman Brigades claimed responsibility for the attack;

³⁹⁰ Email from Ms. Lamb to Mr. Bultrowicz (June 11, 2012, 4:16 PM) (on file with the Committee. C05388866).

³⁹¹ See Email from Diplomatic Sec. Agent 19 to Diplomatic Sec. Agent 25, James P. Bacigalupo, Regional Director, Bureau of Diplomatic Sec., U.S. Dep’t of State, and Diplomatic Sec. Agent (June 14, 2012, 11:40 AM) (on file with the Committee, C05388987) (summarizing staffing needs in light of prevailing security environment).

³⁹² *Id.*

³⁹³ Email from Diplomatic Sec. Agent 24 to Diplomatic Sec. Agent 25 (June 14, 2012, 1:56 PM) (on file with the Committee, C05388987).

05/22/2012—International Committee of the Red Cross building attacked by RPG—in Benghazi. The Imprisoned Sheikh Omar Abdul-Rahman Brigades claimed responsibility on 27 May. The brigade accused the ICRC of attempting to convert internally displaced members of the Tawergha ethnic minority to Christianity. It called for the NGO to close its offices; and declared Libya to be an Islamic state. It warned that the Americans would be targeted next.³⁹⁴

No additional resources were provided by Washington D.C. to fortify the compound after the first two attacks. No additional personnel were sent to secure the facility despite repeated requests of the security experts on the ground. In fact, the only inquiry from senior State Department officials about the trending violence against westerners was from Victoria Nuland, State Department Spokesperson, asking Stevens how to publicly message the incidents. Nuland wrote:

I know you have your hands full but we'd like your advice about our public messaging on the spate of violence in Libya over the past ten days.

Should we now move to something a bit sharper than calling on all sides to work it out? What cd/wd we say about whether the incidents are linked, why they are going after NGO and Western targets now, impact on electoral environment etc...³⁹⁵

This exchange is noteworthy. Stevens' expertise was being sought on the messaging of violence in Libya as opposed to his expertise being sought on how best to protect against that violence. Moreover, while the Secretary and others were quick to praise Stevens and his dedication to Libya, they were also quick to note "[h]e [Stevens] definitely understood the risks. Yes."³⁹⁶

Saying Stevens "understood" the risks without also acknowledging he repeatedly tried to guard against and defend against those risks is

³⁹⁴ *Id.*

³⁹⁵ Email from Victoria Nuland, Spokesperson, U.S. Dep't of State, to J. Christopher Stevens, U.S. Ambassador to Libya (June 13, 2012, 3:42 PM) (on file with the Committee, SCB 0079249).

³⁹⁶ Clinton Testimony at 151.

unfortunate. Yes, it is clear Stevens knew the risks associated with his service in Libya from the moment he landed in Benghazi in 2011 on a chartered Greek boat until his final phone call to Gregory Hicks saying “we’re under attack.” Washington D.C. dismissed Stevens’ multiple requests for additional security personnel, while also asking for help in messaging the very violence he was seeking security from.

Libyan Elections

On July 7, 2012, the first post-revolution democratic elections in Libya occurred, largely without incident.³⁹⁷ Being in Benghazi during the first national elections was a priority for State Department officials. Feltman told the Committee:

Libya is a big country. If we only had a diplomatic presence in Tripoli during those elections, I think we would have gotten a very distorted view of [sic] I was already gone from the State Department at this point, but I think it would have been a very distorted view if you are only reporting what's happening in Tripoli during something as critical as the first elections after Qadhafi's fall.³⁹⁸

The Principal Officer in Benghazi at the time described the environment in Benghazi leading up to the elections:

A: Broadly, the elections were the principal focus of attention. There was an international presence there, not just in Benghazi but across the country as these were nationwide elections. It was the object of great public focus. In the immediate run up to the election, there were a number of incidents. On election day itself, I was one of the international observers at polling stations in and around Benghazi.

Q: When you said there were a number of incidents leading up to the election day, can you elaborate further on those?

³⁹⁷ See Jomana Karadsheh, *Liberal coalition makes strides in historic Libyan election*, CNN (July 18, 2012), <http://www.cnn.com/2012/07/17/world/africa/libya-election/>.

³⁹⁸ Feltman Testimony at 64-65.

A: There were reports of attempts to ensure that polling stations did not open, for example. There were reports of attempts to interfere with ballots or ballot boxes, for example.

Q: Were these interferences by one particular organization, or were there multiple organizations involved in these events?

A: There were various allegations as to responsibility for the events. The prevailing theory at that time was that these were the efforts of separatist elements. I did not personally witness any of these events. I want to emphasize that these were largely based on reports in the media or elsewhere, and that in my contacts on election day, I did not see any effort to impede voters or to otherwise interfere in the process.

Q: Okay. And following the election, what was the environment like, within the in the timeframe of a week after the election, what was the environment in Benghazi, Libya, like?

A: There was euphoria, frankly, among most of the Libyans with whom I spoke. They felt that the elections had been successful in terms of their conduct. They thought that this demonstrated Libya's ability to clear a very important hurdle. They felt that the election results themselves represented a consensus for moderate government. And the majority of my Libyan contacts then identified the formulation of a constitution as the next hurdle.³⁹⁹

Making Benghazi a Permanent Presence

As he was awaiting ambassadorial confirmation and re-deployment to Libya, Stevens had lunch with Gregory N. Hicks, who had been selected to replace Polaschik as the Deputy Chief of Mission for Embassy Tripoli.⁴⁰⁰ They met in Washington D.C. to discuss their upcoming work together in Libya.⁴⁰¹ Part of their discussion centered on the future of operations in Benghazi. Hicks described their conversation as follows:

³⁹⁹ Testimony of Principal Officer 3, U.S. Dep't of State, Tr. at 14-15 (Mar. 26, 2015) [hereinafter Principal Officer 3 Testimony] (on file with the Committee).

⁴⁰⁰ Hicks Testimony at 7-8.

⁴⁰¹ *Id.* at 7.

I met with Chris, Ambassador Stevens—I may refer to him as Chris, and if I say Chris, that’s who I am referring to after his confirmation. And he was, of course, very excited. And we talked about our plans for moving forward, you know, particularly our hope that we could normalize the Mission and bring families back to, you know, to Tripoli in the summer of actually, this coming summer, 2013.

One of the things he said to me was that, in his exit interview with Secretary Clinton, she expressed the hope that we could make the special Mission in Benghazi a permanent constituent post. And Chris said that one of the first things he intended to do after his arrival was develop a proposal to move forward on that project.⁴⁰²

Hicks testified that shortly after he arrived in Libya on July 31, 2012, he asked Stevens about the progress of making Benghazi permanent. He put it as follows:

Timing was important in this, because we knew that in that particular fiscal year, which was I think 2012, fiscal year 2012, ending September 30th of 2012, we would probably be able to have the resources to do it. We could obligate the money to do that.

When I arrived on July 31st, I was surprised that the cable had not gone to Washington at that time. And I asked Chris about it, and he said just that things had been much busier than he expected.

And I basically said, well, we will you know, a friend of mine, a longtime friend of mine, at the time was principal officer in Benghazi. ... [O]ne of the finest professional officers I know in the Foreign Service. And I told Chris that I would work with [him] to get the project started.⁴⁰³

Hicks also described discussions about the Secretary traveling back to Libya, perhaps in October 2012.⁴⁰⁴ Emails indicate senior State Depart-

⁴⁰² *Id.*

⁴⁰³ *Id.* at 7-8.

⁴⁰⁴ *Id.* at 15.

ment officials, including Mills, Sullivan, and Huma Abedin, Deputy Chief of Staff, were preparing for a trip by the Secretary to Libya in October 2012.⁴⁰⁵ Hicks testified he and Stevens wanted to have a “deliverable” for the Secretary for her trip to Libya, and that “deliverable” would be making the Mission in Benghazi a permanent Consulate.

And I believe I transmitted the policy justification to Washington on August 31st. You know, we are only a month from the end of the fiscal year, so we have to get a [sic] or, we have to help Washington, the executive director’s office of the Near Eastern Affairs Bureau to put together a package to get it to Pat Kennedy for a decision by September 30th. Otherwise, we lose the money.⁴⁰⁶

August 2012

In August 2012—roughly a month before the Benghazi attacks—security on the ground worsened significantly. After a temporary lull around the election, violence escalated. As the security environment deteriorated, security personnel declined. On July 9, 2012, Embassy Tripoli submitted another staffing request on behalf of the Embassy and Benghazi to Washington. Benghazi requested at least one permanently assigned Diplomatic Security Agent from Tripoli be assigned to Benghazi, as well as for Washington to send a minimum of three temporary duty Diplomatic Security agents. The Diplomatic Security Agent in charge in Benghazi at the time explained his reasoning for the Benghazi staffing request:⁴⁰⁷

⁴⁰⁵ Email from Huma Abedin, Deputy Chief of Staff to the U.S. Sec’y of State, U.S. Dep’t of State, to Philippe I. Reines, Deputy Ass’t Sec’y, Communications, U.S. Dep’t of State, Cheryl D. Mills, Chief of Staff and Counselor to the U.S. Sec’y of State, U.S. Dep’t of State, Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep’t of State (Sept. 12, 2012, 9:15 AM) (on file with the Committee, SCB0051754) (“Tomorrow is also our first trip meeting for the libya oct trip which we need to discuss.”); Email from Huma Abedin, Deputy Chief of Staff to the U.S. Sec’y of State, U.S. Dep’t of State, to William Burns, Deputy Sec’y of State, U.S. Dep’t of State (Sept. 17, 2012, 1:21 PM) (on file with the Committee, SCB0070473) (“Before our Libya tragedy, we were also considering stops in Libya and Jordan. Given the recent developments, what’s your sense about the wisdom of her going to the middle east?”).

⁴⁰⁶ Hicks Testimony at 16-17.

⁴⁰⁷ Testimony of Diplomatic Sec. Agent 21, Diplomatic Sec. Serv., U.S. Dep’t of State, Tr. at 78-79 (May 19, 2015) [hereinafter Diplomatic Sec. Agent 21 Testimony] (on file with the Committee).

With all the security situation on the ground going on and putting everything in place, and all the transition taking place in regards to American personnel leaving and coming in, and after discussion with the RSO and chief of Mission, this was a cable suggesting at that time this is what we need to maintain operations in the best safe manner as soon as possible. We wrote this cable on July 9, prior to the Ambassador leaving for Benghazi.

At that time, MSD personnel were, [sic] when we started off with two teams; now there was less teams on the ground. Actually, I don't believe there was any MSD team on the ground. There was just TDYers and two permanent ARSOs on the ground. This is in July. I'm sorry. I'm confused on the dates. Not September. This is July 9. So, at this time, we had another ARSO on the ground that was permanent and myself and the RSO....

* * *

So we wrote this in July because all these elements were leaving. MSD was leaving. The SST team was leaving, or they were going to change their Mission from being in the Embassy to being outside of the Embassy so they could train the Libyan government military. So we came up with this as a suggestion, for example, in line 4, or paragraph 4, under the current arrangement, and this was the main one, 34 U.S. security personnel, the 16 SSTs, the 11 MSD, the 2 RSOs and 3 TDY RSOs, that was the number that we had there, and it was going to drawn [sic] down to 27. And we said: Wait, we're basically losing people. We need people, specifically because security is not in the best position now.

We requested weapons permits and weapons for the local ambassador bodyguard detail, and funding for security. Yes, and this was the cable that we sent out in concurrence with the Ambassador? [sic]⁴⁰⁸

No response was received. Lamb attempted to explain the lack of response to the Committee.

⁴⁰⁸ *Id.*

So when I read this cable in this format, ... wrote it as a reporting cable in paragraph format, and it's very hard to line everything up by the needs. So I asked the desk officer to have his [sic] ... at the time was the person working with ... [sic] for them to get on a conference call and to go through this cable, paragraph by paragraph, line by line, and to switch this into the format that shows how many people do you need for which activities, to support VIP visits, movement security, static security, a quick reaction force. Just tell me exactly what you need and then the numbers will pop out the other side showing what you need.

And they sat down and they did this. And all of that was compiled into the response that unfortunately never went out. But my guidance to them was before that cable went up to Scott Bultrowicz and Eric Boswell, I wanted it to be pre approved at post, because I didn't want to dictate to post their staffing needs, I wanted to support them. But in this format, it was not clear exact because they were coming up on the 1 year transition when everybody was going to leave post and the new team was going to come in, so I wanted it to be laid out, very clear, the current operating support that was being provided for security.⁴⁰⁹

Kennedy explained his involvement in the July 9, 2012 staffing cable and the decision to terminate the Department of Defense's Security Support Team (SST) protective responsibilities in Tripoli. He told the Committee: "I consulted, as I said earlier, with the subject matter experts in this field, and after consulting with them, I responded no, we would not be asking for another extension."⁴¹⁰ This is a much different description of Kennedy's involvement than what Cheryl Mills described to the Committee. She described the Under Secretary as the person "who managed security related issues."⁴¹¹

Beginning in August, the number of security personnel in Embassy Tripoli was 34. Throughout August, security personnel left Embassy Tripoli.

⁴⁰⁹ Lamb Testimony at 245-46.

⁴¹⁰ Kennedy Testimony at 46.

⁴¹¹ Testimony of Cheryl D. Mills. Chief of Staff to the U.S. Sec'y of State, U.S. Dep't of State, Tr. at 72 (Sept. 2, 2015) (on file with the Committee).

By the end of August, the number of security personnel at Embassy Tripoli dropped to six, excluding four members of the Defense Department's SST who were no longer able to serve in an official protective capacity but were on site.⁴¹²

Stevens initially planned to travel to Benghazi in early August. He cancelled the trip "primarily for Ramadan/security reasons."⁴¹³ On August 5, 2012, the International Committee for the Red Cross [ICRC] suffered its fifth attack in less than 3 months.⁴¹⁴ As a result, the ICRC suspended its operations in Benghazi and Misrata.⁴¹⁵ On August 8, 2012, the Benghazi Mission reported the changing security environment and the anti-western sentiment back to Washington D.C.⁴¹⁶ In particular, the report described:

Since the eve of the elections, Benghazi has moved from trepidation to euphoria and back as a series of violent incidents has dominated the political landscape during the Ramadan holiday. These incidents have varied widely in motivation and severity. There have been abductions and assassinations, but there have also been false alarms and outright fabrications.⁴¹⁷

With the violence continuing to escalate, the Benghazi Mission held an Emergency Action Committee meeting a week later to review the Mission's tripwires, the lack of host nation support, and the overall security environment.⁴¹⁸ Participating in the EAC were the Principal Officer, the Diplomatic Security Agent, and other U.S. government personnel on the ground in Benghazi.⁴¹⁹

⁴¹² See U.S. Embassy - Tripoli, Libya, Cable (July 9, 2012) (on file with the Committee, SCB0049439-41) (discussing emerging threats in Benghazi) (requesting staffing changes).

⁴¹³ Email from J. Christopher Stevens, U.S. Ambassador to Libya, to Principal Officer 3, U.S. Dep't of State (Aug. 2, 2012, 2:45 PM) (on file with the Committee, C05390855).

⁴¹⁴ See Email from OpsNewTicker to NEWS-Mahogany State Department (Aug. 5, 2012, 3:27 PM) (on file with the Committee, C05397147).

⁴¹⁵ See *id.* ("ICRC suspends work in Misrata, Benghazi after attack (Reuters)").

⁴¹⁶ See U.S. Embassy - Tripoli, Libya, Cable (Aug. 8, 2012) (on file with the Committee, C05262779) (discussing emerging threats in Benghazi).

⁴¹⁷ *Id.*

⁴¹⁸ See Diplomatic Sec. Agent 8 Testimony at 50.

⁴¹⁹ *Id.*

sion were already reduced to such levels that authorized and ordered departures were not applicable.⁴²⁴

The Benghazi Mission followed the EAC meeting with a cable back to Washington D.C. a day later.⁴²⁵ The cable described 1) the deteriorating security situation; 2) the departure of organizations such as International Committee on the Red Cross and a U.S. contractor; 3) the increase in hostile militias; 4) the lack of host nation support; and 5) the revisions made to the Mission's tripwires.⁴²⁶ The cable also put Washington on notice a request for additional security measures would be sent through Embassy Tripoli. The request was made to Embassy Tripoli on August 23, 2012.

A day after the EAC cable was sent to Washington D.C., the Secretary received an update on the security situation in Libya.⁴²⁷ The Secretary's Information Memorandum described "an upward trend in violence—primarily but not exclusively in the east—since May," and included a list of incidents such as the June 6 attack on the Mission, and the August 6 carjacking of American personnel."⁴²⁸ It noted "foreign residents of Benghazi have expressed concern about the risks living and working there."⁴²⁹ Finally, the memorandum noted "there is no coordinated organization behind the incidents."⁴³⁰ Absent from the Secretary's Information Memorandum was any discussion about the U.S. facilities in Lib-

"It wasn't new and novel in that I think it was . . . explained to me they had done something similar to this, I believe when they had the previous gelatina bomb incident at the front gate and they had labeled it as suspended operations, but, no, in my training and experience, I had not seen a suspended operations category before. . . .
I had been to places where we had done lockdown, so to speak, for a set period of time, and this seems like a logical outflow of that idea."

⁴²⁴ Cable, U.S. Embassy – Tripoli, Libya (Aug. 16, 2012) (on file with the Committee, C05261905).

⁴²⁵ *Id.*

⁴²⁶ *See id.*

⁴²⁷ *See* Information Memorandum from Beth Jones, Acting Ass't Sec'y of State, Bureau of Near Eastern Affairs, U.S. Dep't of State to Hillary R. Clinton, Sec'y of State, U.S. State Dep't (Aug. 17, 2012) (on file with the Committee, C05390124) (briefing Sec'y Clinton on the security situation in Libya).

⁴²⁸ *Id.*

⁴²⁹ *Id.*

⁴³⁰ *Id.*

ya and their security posture, or of potential resources and personnel needed in light of the deteriorating security environment.

The same day the Information Memorandum describing the security situation in Libya was sent to the Secretary, an Action Memorandum was also sent seeking her approval to designate Libya as an eligible country to receive funding from the Global Security Contingency Fund.⁴³¹ The Secretary approved this designation and the release of \$20 million to support Libya's security sector on August 23, 2012.⁴³² The Global Security Contingency Fund is a joint fund between the State Department and DOD authorized by Congress to help fledgling countries "overcome emergent challenges through security and justice sector assistance to partner countries. State must fund 20 percent of each project The assistance proposed here [for Libya] is for the security sector. Congressional notification will be required before funds are transferred to GSCF and before initiating any activity."⁴³³

Less than 2 weeks after the Mission's EAC—on August 27, 2012—the U.S. issued a travel alert for Americans traveling to from and in Libya.⁴³⁴ Two days later, the Libyan government issued a "state of maximum alert as from today and until further notice' in the eastern city of Benghazi."⁴³⁵

In his handover notes to his successor, the outgoing Principal Officer stated "we are treading water here We are, for example, on the fourth visit from an Embassy electrician of my brief tenure because we continue to repair rather than replace equipment."⁴³⁶ Similarly, in handoff notes to the incoming Diplomatic Security Agent, the departing Agent wrote about the dangerous environment in Benghazi, stating:

⁴³¹ See Memorandum from Thomas R. Nides, Deputy Sec'y of State, U.S. Dep't of State, to Hillary R. Clinton, Sec'y of State, U.S. Dep't of State (Aug. 17, 2012) [hereinafter Aug 17, 2012 Action Memo for the Secretary] (on file with the Committee, SCB0086134-36).

⁴³² *Id.*

⁴³³ *Id.*

⁴³⁴ Travel Warning – Libya, U.S. STATE DEP'T (Aug. 27, 2012) (on file with the Committee, C05261911).

⁴³⁵ Email to Gregory N. Hicks, *et al.* (Aug. 30, 2011, 1:59 AM) (on file with the Committee, C05397292).

⁴³⁶ Email from Principal Officer 3, U.S. Dep't of State, to Principal Officer 4, U.S. Dep't of State (Aug. 29, 2012, 6:01 AM) (on file with the Committee, C05390852).

there is nothing traditional about this post. Operating in a high threat environment where kidnappings, assassinations and bombings are weekly, if not daily occurrences, post enjoys neither the resources nor the host nation security support one would find at a similarly rated post. DS agents, for all intent purposes, are on their own.⁴³⁷

The only inquiry produced to the Committee from the Office of the Secretary to Stevens in August was an August 5, 2012 email from Sullivan asking: "What is the story here?"⁴³⁸ regarding another RPG attack on the International Committee of the Red Cross.⁴³⁹

HOST NATION SECURITY: FEBRUARY 17 AND LOCAL GUARD FORCE

At the time Stevens entered Libya in April 2011, there was no recognized government to provide security as required by international conventions.⁴⁴⁰ The Diplomatic Security Agent in charge of the initial entry into Benghazi described the lack of security resources.

There wasn't a formalized police I mean, there was probably somebody that called himself a police chief. And then you had the military somewhat of a military presence, you know, that really wasn't focused on anything to do with our security. They had, you know, they were trying to fight the war. Then you had February 17, a militia that assisted us a little bit.⁴⁴¹

⁴³⁷ Email from Diplomatic Sec. Agent 8 to Diplomatic Sec. Agent 3 (August 27, 2012, 11:49 AM) (on file with the Committee, C05396772-73).

⁴³⁸ See Email from Jacob J. Sullivan, Dir. of Policy Planning, U.S. Dep't of State, to J. Christopher Stevens, U.S. Ambassador to Libya (Aug. 5, 2012) (on file with the Committee, C05397147).

⁴³⁹ *Id.*

⁴⁴⁰ Vienna Convention on Diplomatic Relations, 1961, arts. 22, 29, Apr. 18, 1961, 23 U.S.T. 3227.

⁴⁴¹ Diplomatic Sec. Agent 6 Testimony at 33.

February 17 Martyrs Brigade

The February 17 Martyrs Brigade [February 17] was one of the largest militias operating in Benghazi and Eastern Libya.⁴⁴² February 17 was instrumental in the success of the opposition forces, which eventually overthrew Qadhafi.⁴⁴³ The emerging TNC recognized February 17 as a quasi- host nation security force—endorsing their efforts to perform basic security functions typically performed by law enforcement.⁴⁴⁴ For example, the TNC used February 17 to provide security at the Tibesti Hotel where westerners, non-government organizations, and journalists stayed.⁴⁴⁵

The TNC recommended to Stevens and his team in April 2011 the Mission deal with February 17.⁴⁴⁶ Despite being the alleged lead armed presence in Benghazi,⁴⁴⁷ Diplomatic Security Agents found February 17 to be undisciplined and unskilled.⁴⁴⁸ The Diplomatic Security Agent in charge told the Committee:

[T]hey were very undisciplined. You know, people over there, a lot of them were not familiar with weapons, you know, because they weren't allowed to have weapons during Qadhafi's rule. So we never could really count on them for much because they just didn't have training. They were undisciplined. We just tried to see if we could get them to post at a couple of locations around

⁴⁴² See Max Fisher, *Libyan Militia's Failed Security at Benghazi*, WASH. POST (Nov. 12, 2012),

<https://www.washingtonpost.com/news/worldviews/wp/2012/11/02/libyan-militias-failed-security-at-benghazi/> (“[T]he February 17 Brigade ‘eastern Libya’s most potent armed force,’ noting that it ‘nominally’ reports to the Libyan defense ministry. The command link between Tripoli’s senior leaders and on-the-ground militias has proven weak, but the central government still relies heavily on them.” (quoting a New York Times report)).

⁴⁴³ See *id.* (“[T]he central government still relies heavily on them.”).

⁴⁴⁴ See *id.*

⁴⁴⁵ See Diplomatic Sec. Agent 7 Testimony at 37 (“The security posture there was they had 17th February Brigade militia personnel that were assigned to the hotel.”).

⁴⁴⁶ See Diplomatic Sec. Agent 6 Testimony at 34.

⁴⁴⁷ See Diplomatic Sec. Agent 7 Testimony at 38-39.

⁴⁴⁸ See Diplomatic Sec. Agent 6 Testimony at 35.

the hotel at the entrance and in the parking lot, and to be around at night also in the parking lot.⁴⁴⁹

According to one of the Diplomatic Security Agents in charge, Stevens and his team relied on February 17 at the Tibesti Hotel “only in a case where we specifically needed their help.”⁴⁵⁰

When the Mission moved out of the Hotel, February 17 was retained to provide an additional armed security presence to Mission’s protective detail.⁴⁵¹ According to the Libya Desk Officer in Washington D.C., February 17 “would assist ... with our movements as well. So they would be in the vehicles, help ... get through checkpoints, allow us to get VIP access to certain locations through their very status as 17th of February Martyrs Brigade, which held in high regard in Benghazi, after the fighting.”⁴⁵² The February 17 members who lived on the Mission compound received an initial stipend of \$27/day for their services in addition to housing on the compound.⁴⁵³ The stipend was increased to \$35 in June 2012.⁴⁵⁴ In addition to the February 17 members on the Mission compound, a larger contingent of February 17 members lived in “close proximity to the compound” and provided a potential additional response force.⁴⁵⁵

As the number of Diplomatic Security Agents dropped, the need for the February 17 members increased. The Diplomatic Security Agent in charge testified: “we only had three [February 17] at the time. So I was

⁴⁴⁹ *Id.*

⁴⁵⁰ Diplomatic Sec. Agent 7 Testimony at 42.

⁴⁵¹ See Email from Diplomatic Sec. Agent to DS-IP-NEA (July 21, 2011, 3:22 PM) (on file with the Committee, C05396529) (“[W]e currently have three guards on duty. Ideally, we get two per compound ...”).

⁴⁵² Testimony of Diplomatic Sec. Agent 25, Diplomatic Sec. Serv., U.S. Dep’t of State, before the H. Comm. On Oversight and Gov’t Reform, Tr. at 88 (Aug. 8, 2013) [hereinafter Diplomatic Sec. Agent 25 Testimony] (on file with the Committee).

⁴⁵³ Email to Diplomatic Sec. Agent 19 (June 28, 2012, 1:38 PM) (on file with the Committee, C05389864); see also Email (Aug. 9, 2011, 12:41 PM) (on file with the Committee, C05396529) (discussing compensation for guards on the compound).

⁴⁵⁴ See Email (June 28, 2012, 1:38 PM) (on file with the Committee, C05389864) (“FPD approves the increase in stipend payments [from \$27 to \$35 per day].”).

⁴⁵⁵ Email from Diplomatic Sec. Agent 25 to Charlene Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State (June 11, 2012, 1:25 PM) (on file with the Committee, SCB0050094-95).

trying to befriend them, trying to get more activity, more interest, additional bodies, because three bodies on 24/7 is [sic] long days, long weeks.”⁴⁵⁶ Eventually, another guard was added.⁴⁵⁷

February 17 maintained between three and four guards on the compound throughout 2012. They performed drills with the Diplomatic Security Agents and the local guard force and “all plans to defend the compound rely on heavily on both the immediate QRF [quick reaction force] support and the support of their militia colleagues.”⁴⁵⁸ February 17 members played critical roles during the first two attacks on the compound. At the time of the first IED attack on April 6, 2012, February 17 members supported the sole Diplomatic Security Agent on the ground. The Diplomatic Security Agent described February 17’s role to the Committee:

I also called our QRF, basically reacted them. We had a plan: On a situation like that, they would take up positions throughout the compound. One of the positions would be outside of our building. As I stepped outside, one of the QRF members was already out there waiting for me. This is possibly, I don’t know, 3 minutes after the bombing.

At some point, the guard finally activated the alarm. Our guard force had a push button alarm; in case of any attack, they would activate it. As I step outside, the QRF member is there. We cleared our way to the TOC. Went inside the TOC. I turn off the alarm, and I use our camera system to view or to try to determine if there was any other people, any other attackers in the compound. That took approximately 3, 4 minutes.

I did not see anybody in our camera system. There are some blind spots, but we did have a pretty good system throughout the compound. I thought that with that, I would be able to determine

⁴⁵⁶ Diplomatic Sec. Agent 13 Testimony at 44.

⁴⁵⁷ See Email from Diplomatic Sec. Agent 25 to Charlene Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State (June 11, 2012, 1:25 PM) (on file with the Committee, SCB0050094-95) (“Currently we have three High Threat Trained TDY DS Agents on the ground and one TDY SST person.”).

⁴⁵⁸ Email from Diplomatic Sec. Agent 19 (June 17, 2012, 8:12 AM) (on file with the Committee, C05389864).

something, something blatant, something that would really stand out.

Afterwards, I stepped outside of the TOC. I had two QRF members with me, and we commenced on clearing the compound.

While we were doing that, I heard two shots. It sounded to me like rifle fire, something bigger than an M4, which is what I had. So I thought initially that it was shooting in the compound. One of the QRF members received, if I am not mistaken, a call that told him that a third QRF member was outside and had detained someone.⁴⁵⁹

At the time of the second IED attack on June 6, 2012, February 17 provided support to the three Diplomatic Security Agents on the ground. One of the Diplomatic Security Agents on the ground during that attack testified:

[t]he February 17th Martyrs Brigade showed up in a matter of minutes. Then from there we set up a perimeter outside on the street. As we had this large hole in our wall, we wanted to push our security perimeter back even further. We set up the large hole I mean set up the perimeter, sorry; and then from there, once that perimeter was set up, I went with one of our QRF guys [REDACTED]. And we went there and secured the rest of the compound.

As there was a security incident at the front of our compound, we had lost attention and lost visibility on other aspects of our compound. So, before we decided to let the principal officer out of the safe haven and call the all clear, we went through, me with my M4, him with his AK 47, and we just moved through the compound making sure nobody else had entered and there were no other devices. After that was done, we called the all clear.⁴⁶⁰

⁴⁵⁹ Testimony of Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep't of State, Tr. at 34-35 (Apr. 13, 2015) (on file with the Committee).

⁴⁶⁰ Testimony Diplomatic Sec. Agent, Diplomatic Sec. Serv., U.S. Dep't of State, Tr. at 50-61 (Mar. 24, 2015) (on file with the Committee).

Following the June attack, the Diplomatic Security Agents on the ground wanted to increase the number of quick reaction force on the compound. However, February 17 declined expressing “concern with showing active open support for the American’s [sic] in Benghazi.”⁴⁶¹ Beginning in August, the Diplomatic Security Agent in charge expressed concerns about the trustworthiness of those February 17 on the compound. He told the Committee “I think we, or at least I assumed that he was sharing information with Brigade about what he was doing on the compound and what we were doing.”⁴⁶² Days later, the Principal Officer at the time expressed concerns about February 17 to the Stevens and suggested moving more to a “government-government relationship.”⁴⁶³ Stevens responded “we should be in line with the GOL policy/law on this. What do the local police and SSC leadership recommend.”⁴⁶⁴

Two days before the Stevens’ trip to Benghazi in September 2012 the Diplomatic Security Agents on the ground were informed February 17 members on the compound would no longer support the Benghazi Mission’s off-compound movements—unless the Mission was willing to increase their stipend.⁴⁶⁵ In discussing the situation with Embassy Tripoli, one of the Diplomatic Security Agents described the move as “part of a power struggle between the government and brigades over security functions in Benghazi.”⁴⁶⁶ Nevertheless, the Diplomatic Security Agent expressed concern about the Benghazi Mission’s ability to move throughout the city and easily gain access to the VIP areas of the air-

⁴⁶¹ Email from Diplomatic Sec. Agent 19 (June 17, 2012, 8:12 AM) (on file with the Committee, C05389864).

⁴⁶² Diplomatic Sec. Agent 8 Testimony at 26.

⁴⁶³ Email from Principal Officer 3, U.S. Dep’t of State, to J. Christopher Stevens, U.S. Ambassador to Libya, & Gregory Hicks, Deputy Chief of Mission to Libya (Aug. 12, 2012, 5:56 AM) (on file with the Committee, C05411463) (asking if “it is the right signal to send to have a contract with a militia rather than a more usual arrangement with local authorities (the SSC? The Army?) to provide our security? Should we try to readjust to a government-government relationship given the political transition.”).

⁴⁶⁴ Email from J. Christopher Stevens, U.S. Ambassador to Libya, to Principal Officer 3, U.S. Dep’t of State, & Gregory N. Hicks, Deputy Chief of Mission in Libya, U.S. Dep’t of State (Aug. 12, 2012, 1:05 PM) (on file with the Committee, C05390836).

⁴⁶⁵ See Email from Agent 5 to Regional Sec. Officer (Sept. 9, 2012, 11:31 PM) (on file with the Committee, C05396013).

⁴⁶⁶ Email from Diplomatic Sec. Agent 5 (Sept. 8, 2012, 9:29 PM) (on file with the Committee, C05396013).

port.⁴⁶⁷ The issue remained unresolved at the time Stevens traveled to Benghazi, with the Diplomatic Security Agents using other U.S. government personnel on the ground in Benghazi to support Stevens' off compound movements.

Local Guard Force

In addition to the armed presence provided by February 17, Benghazi relied on an unarmed local guard force [LGF] to protect the compound. The local guards were stationed 24/7 around the perimeter of the compound as an "outer ring ... to give a perception of security."⁴⁶⁸ "Local guards provide[d] access control essentially for visitors as well as us moving on and off the compound, and they also serve as the first line of defense in the event of an attack or some other sort of security incident would happen on the premise."⁴⁶⁹ In particular,

they are checking badges, they are checking license plates, that sort of thing. They'll often itemize - the vehicles to make sure there aren't explosives in the vehicles. If something were to happen, for instance, a mob or bomb or some sort of scenario like that, they have the IDNS pendants, which sound our alarm, and then they also have radios so they are instructed to call out a certain thing, DS agents, to alert us what type of attack it is and where they are.⁴⁷⁰

The LGF consisted of 20-25 local guards who rotated in shifts of five to staff unarmed guard posts around the compound.⁴⁷¹ A Guard Force commander oversaw the performance of the guard members who participated in drills and other security operations led by the Diplomatic Security Agents and those February 17 on compound. After the second attack on the compound in June 2012, the Benghazi Mission temporarily increased the number of local guards stationed around the compound at

⁴⁶⁷ *See id.*

⁴⁶⁸ Diplomatic Sec. Agent 13 Testimony at 51.

⁴⁶⁹ Diplomatic Sec. Agent 8 Testimony at 15.

⁴⁷⁰ *Id.* at 15-16.

⁴⁷¹ *See* Email from Agent 19 to Agent 21 (June 7, 2012, 8:08 AM) (on file with the Committee, C05393670).

night to eight.⁴⁷² On September 11, 2012, there were five local guard force members on duty.⁴⁷³

AN ‘INTELLIGENCE FAILURE’

Intelligence Community Reporting on Deteriorating Environment

As security in Benghazi and Libya deteriorated throughout 2012, the intelligence community’s reporting on the burgeoning terrorist environment and the inability of Libyan leaders to curtail the terrorists activities increased in volume and became more alarming and specific in content. As the Office of the Director of National Intelligence told Congress, “[T]he IC [intelligence community] monitored extremist activities ... and published more than 300 disseminated intelligence reports and finished analytic assessments—for a range of policy makers, the military, and operators—related to Western interests in the region between 1 February and 10 September [2012].”⁴⁷⁴ Recipients of these intelligence reports included senior government officials such as the Secretary of State, who was briefed daily on the intelligence being collected and reported regarding Benghazi and Libya. The Secretary testified:

Every morning when I arrived at the State Department, usually between 8:00 and 8:30, I had a personal one on one briefing from the representative of the Central Intelligence Agency, who shared with me the highest level of classified information that I was to be aware of on a daily basis. I then had a meeting with the top officials of the State Department every day that I was in town. That’s where a lot of information, including threats and attacks on our facilities, was shared. I also had a weekly meeting every Monday with all of the officials, the Assistant Secretaries and others, so that I could be brought up to date on any issue that they were concerned about. During the day, I received hundreds of pages of memos, many of them classified, some of them so top secret that they were brought to my office in a locked brief-

⁴⁷² See Email from Diplomatic Sec. Agent 25 to Charlene Lamb, Deputy Ass’t Sec’y, Bureau of Diplomatic Sec., Int’l Programs, U.S. Dep’t of State (June 11, 2012) (on file with the Committee, SCB0050094-95).

⁴⁷³ See FN 83, Part I.

⁴⁷⁴ *Benghazi Intelligence Review*: Office of the Director of Nat’l Intel., Oct. 22, 2012.

case that I had to read and immediately return to the courier. And I was constantly at the White House in the Situation Room meeting with the National Security Advisor and others.⁴⁷⁵

Kennedy, who was responsible for the security of diplomatic facilities overseas, testified he also received daily intelligence briefings.

A: I received a notebook every morning.

Q: And that is a compilation of what?

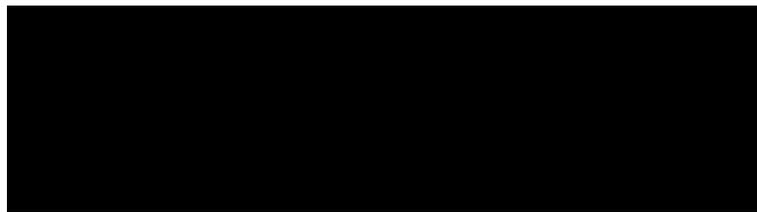
A: Compilation of intelligence material from throughout the intelligence community, as well as from the State Department's own Bureau of Intelligence and Research.

Q: As you sit here today, do you recall receiving anything that week that related to the attacks in Benghazi?

A: I don't recall anything specific, but I also am sure that there was something in one of the reports from one of the agencies about Libya.⁴⁷⁶

The reports and assessments issued by the intelligence community painted Libya as a country descending into chaos as 2012 wore on. As early as February 2012, "[T]he Community was noting disturbing trends regarding the ability of Islamic extremists to exploit the security situation in Libya."⁴⁷⁷

On February 23, 2012, the Defense Intelligence Agency reported:



⁴⁷⁵ Clinton Testimony at 49.

⁴⁷⁶ Kennedy Testimony at 121.

⁴⁷⁷ *Benghazi Intelligence Review*: Office of the Dir. of Nat'l Intel., Oct. 22, 2012.

[REDACTED] .478

The same day, the Central Intelligence Agency issued a report titled

[REDACTED] 479

A week later, on February 29, 2012, the Central Intelligence Agency published an assessment titled “Extremist Progress Toward a Safe Haven in Libya.” The assessment noted “[t]he progress of two decentralized, al-Qa’ida—aligned groups in Libya and their ability to operate with relative ease throughout many areas of the country suggest Libya is emerging as a terrorist safe haven.”⁴⁸² The Central Intelligence Agency assessed:

[T]he decimation of national-level security agencies—which during the Qadhafi regime made Libya a hostile environment for extremists—have allowed al-Qa’ida—associated extremists, including previously Pakistan-based al-Qa’ida members and al-Qa’ida members and al-Qa’ida in the Lands of the Islamic Maghreb (AQIM), to procure weapons and develop networks in line with the goals al-Qa’ida senior leaders to establish a permanent presence in Libya.⁴⁸³

⁴⁷⁸ *Libya: AQIM's Persistent Efforts*, J. Chiefs of Staff, J. Intel., Feb. 23, 2012.

⁴⁷⁹ [REDACTED]

⁸⁰ [REDACTED]

⁴⁸² *Extremist Progress Toward a Safe Haven in Libya*, Cent. Intel. Agency, Feb. 29, 2012.

⁴⁸³ *Id.*

AQIM's ability to procure a stable supply of newer, more reliable Libyan arms will almost certainly enhance AQIM's ability to counter regional security services and conduct high-profile attacks against local or Western interests.⁴⁸⁴

By mid-March 2012, the Central Intelligence Agency reported

[REDACTED]

⁴⁸⁶

On March 21, 2012 the Defense Intelligence Agency published a report titled

[REDACTED]

It stated:

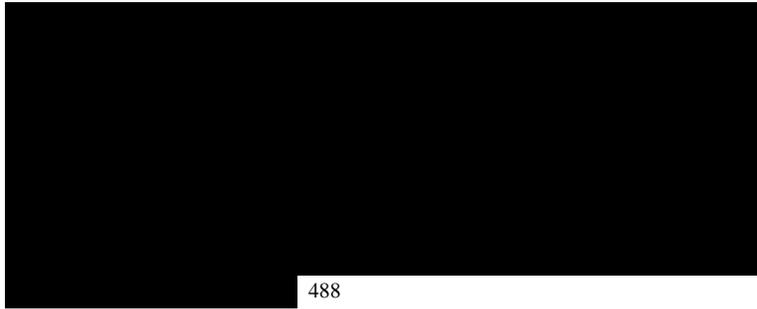
[REDACTED]

⁴⁸⁴ *Id.* at 2.

⁴⁸⁵ [REDACTED]



The Defense Intelligence Agency further stated:



488

Less than three weeks after the Defense Intelligence Agency's report on the potential for attacks against Western targets, the State Department compound in Benghazi was attacked by an Improvised Explosive Device (IED). An IED was thrown over the compound's perimeter wall. At the time, only one State Department Diplomatic Security Agent was at the Mission compound.

Less than a week after the first attack on the State Department compound, the Central Intelligence Agency published an intelligence piece titled "Libya as an emerging destination for foreign fighter training."⁴⁸⁹ The same day, the Defense Intelligence Agency issued an intelligence piece reporting "al-Qaida and al-Qaida in the Lands of the Islamic Maghreb (AQIM) are expanding their contacts with political figures, terrorists, and militia groups in Libya."⁴⁹⁰

AFRICOM issued its own assessment a week later, reporting



⁴⁸⁷ *Terrorists Using Local Camps and Militias for Future Operations*, Defense Intel. Agency, Mar. 21, 2012.

⁴⁸⁸ *Id.*

⁴⁸⁹ *Libya: Emerging Destination for Foreign Fighter Training*, Cent. Intel. Agency, Apr. 12, 2012.

⁴⁹⁰ *Terrorism, Libya: Terrorists Seeking Expanded Influence, Activity*, Defense Intel. Agency, Apr. 12, 2012.

[REDACTED]⁴⁹¹ That same day AFRICOM issued its assessment the U.S. was a target in Libya, the State Department denied Benghazi's request to have five Diplomatic Security Agents deployed in order to better secure the Mission's compound.⁴⁹²

The U.S. Army's National Ground Intelligence Center issued an intelligence piece on the 17 February Brigade.⁴⁹³ At the time, members of February 17 were housed on the State Department's compound in order to augment the State Department's security personnel at the Mission compound, and a larger contingent of February 17 members resided near the State Department compound. In its assessment, the National Ground Intelligence Center reported:



Two days later, the CIA assessed “[K]ey militia blocs will most likely remain reluctant to give up their organizational autonomy because of fear of local rivals, distrust of the Transitional National Council, and competi-

⁴⁹¹ *J2 Intelligence and Knowledge Development, Libya: Al-Qaida Intent to Target U.S. Aircraft in Libya*, U.S. Africa Command, Apr. 19, 2012.

⁴⁹² U.S. Dep't of State, Cable, Tripoli-Request for DS TDY and FTE (Apr. 19, 2012).

⁴⁹³ *Libya: 17 February Brigade*, U.S. Army Nat'l Ground Intel. Ctr., Apr. 25, 2012.

⁴⁹⁴ *Id.*

tion for leadership of newly formed government institutions.”⁴⁹⁵ The report further noted: “[T]he continued existence of dozens of autonomous militias could undermine Libya’s transition by engaging in violence, seizing national infrastructure, subverting election procedures or using coercion to influence the political process.”⁴⁹⁶

As the deteriorating security environment accelerated in late spring 2012, AFRICOM reported on the security vacuum created by the Transitional National Council’s inability to reign in the competing militias. AFRICOM assessed [REDACTED]

⁴⁹⁷ AFRICOM further reported [REDACTED]

On May 22, 2012, the CIA reported “the eastern city of Darnha, a religiously conservative and historically marginalized areas that was a disproportionate source of Libyan freedom fighters during the Iraq war, is the center of extremist activity in Libya, in part [REDACTED]

Darnah was located approximately 180 miles from Benghazi. Also on May 22, 2012 the International Committee for the Red Cross (ICRC) was attacked in Benghazi by a rocket propelled grenade (RPG), the first of five attacks that would occur against the ICRC in and around Benghazi during the summer 2012.

On May 30, 2012, in an assessment titled “Terrorism: AQ Bolstering Presence and Influence in Libya,” the Defense Intelligence Agency stat-

⁴⁹⁵ *Libya: Continued Militia Autonomy Jeopardizing Transition*, Cent. Intel. Agency, Apr. 27, 2012.

⁴⁹⁶ *Id.*

⁴⁹⁷ *J2 Network Analysis of Extremists Operating in Libya*, U.S. Africa Command, May 16, 2012.

⁴⁹⁸ *Id.*

⁴⁹⁹ *Libya: Weak Security Allowing Al-Qa’ida Associates To Become Entrenched*, Office of Terrorism Analysis, Cent. Intel. Agency, May 22, 2012.

ed

On June 6, 2012, less than a week after the Defense Intelligence Agency's reported on Al Qaida-associated groups planning to launch near term attacks, the State Department compound in Benghazi was attacked again by an IED for the second time in less than two months. According to the Defense Intelligence Agency,

On June 11, 2012, the Central Intelligence Agency assessed the "rocket propelled grenade (RPG) and small-arms attack in Benghazi ... on the British Ambassador's convoy—the third attack on a Western diplomatic target that week—highlights the vulnerability of Western interests posed by the permissive security environment in Libya."⁵⁰² Some within the State Department felt the Benghazi Mission compound was the intended target.⁵⁰³

The increased number of attacks against Western targets in May and June 2012 led the Defense Intelligence Agency to

On June 12, 2012 a Defense Intelligence

⁵⁰⁰ *Terrorism: AQ Bolstering Presence and Influence in Libya*, Defense Intel. Agency, May 30, 2012.

⁵⁰¹ *Brief Notes, Terrorism*, Defense Intel. Agency, June 6, 2012.

⁵⁰² *Libya: Attack on British Diplomatic Convoy Underscores Risks to Western Interests*, Office of Terrorism Analysis, Cent. Intel. Agency, June 11, 2012.

⁵⁰³ Polaschik Testimony at 84-85.

⁵⁰⁴ *Terrorism, Libya: Terrorists Now Targeting U.S. and Western Interests*, Defense Intel. Report, June 12, 2012.

Agency assessment titled “Terrorism, Libya: Terrorists Now Targeting U.S. and Western Interests” stated:



A June 18, 2012 Defense Intelligence Agency report titled “Terrorism: Conditions Ripe for More Attacks, Terrorist Safe Haven in Libya” assessed:



A June 18, 2012 CIA report issued the same day gave a broader assessment of the variables that would:

most likely ... affect the first stage of Libya’s transition and the runup to the planned July 2012 National Assembly election....[T]hese variables can be summed into two drivers: the level of effectiveness of the interim government and militias’ cooperation with the interim government. Wildcards, including possible attacks by former Libyan leader Muammar al-Qadhafi

⁵⁰⁵ *Id.*

⁵⁰⁶ *Terrorism: Conditions Ripe for More Attacks, Terrorist Safe Haven in Libya*, Defense Intel. Agency, June 18, 2012.

loyalists or al-Qa'ida-affiliated extremists could also impact events.⁵⁰⁷

The CIA assessment further provided “an attack on interim government officials or infrastructure by loyalists of former Libyan leader Muammar al-Qadhafi and his family or al-Qa'ida-associated extremists could undercut the transition's progress depending on the scope. [REDACTED] on the near-term intentions and capabilities of these groups.”

On June 26, 2012 the Central Intelligence Agency reported:

repeated clashes in the past few months underscores the interim government's weak nationwide presence and crisis management capabilities, almost certainly tarnishing public perceptions of its authority and highlighting the many security challenges that will face Libya's post-election government.... The government's attempts to stop recurring internal violence often rely on the intervention of local actors whose efforts help stabilize the situation but leave the underlying causes unresolved. The Transitional National Council (TNC) has made little progress toward implementing national reconciliation measures aimed at addressing fissures stemming from last year's conflict and Libyan leader Muammar al-Qadhafi's 42 years in power.⁵⁰⁹

The Central Intelligence Agency's assessment further noted:

[G]overnment still possesses few cohesive and professional Army and police units because many militias are reluctant to disarm, and its nascent security bodies lack the leadership and organizational capacity to rapidly integrate thousands of poorly disciplined fighters. Many militias that have received official

⁵⁰⁷ *First Stage of Libya's Transition: Key Drivers and Potential Outcomes*, Directorate of Intel., Cent. Intel. Agency, June 18, 2012.

⁵⁰⁸ *Id.*

⁵⁰⁹ *Libya: Recurring Internal Violence Highlights Security Challenges Facing Successor Government*, Office of Middle East and North Africa Analysis, Cent. Intel. Agency, June 26, 2012.

sanction to act as security units almost certainly remain at best loosely controlled by national leaders.⁵¹⁰

The Defense Intelligence Agency reported the same day:

if the current security vacuum persists, attacks against US and Western interests in Libya will increase in number and lethality. While specific targets of future terrorist attacks are unknown, the DoD presence at US diplomatic facilities and DoD Intelligence, Surveillance, and Reconnaissance assets operating in Libyan air-space may be considered as potential targets. According to AFRICOM's JPERSTAT, as of 21 June 12, [t]he Terrorism Threat Level in Libya is SIGNIFICANT.⁵¹¹

In addition to both the Central Intelligence Agency's and the Defense Intelligence Agency's assessment, AFRICOM issued its own assessment of the security environment in Libya, reporting:



AFRICOM further assessed:

⁵¹⁰ *Id.*

⁵¹¹ *Id.*

⁵¹² *J-2 Intelligence and Knowledge Development, Theater Analysis Report*, U.S. Africa Command, June 26, 2012.

[REDACTED]

[REDACTED]

By July 3, 2012, AFRICOM had assessed:

[REDACTED]

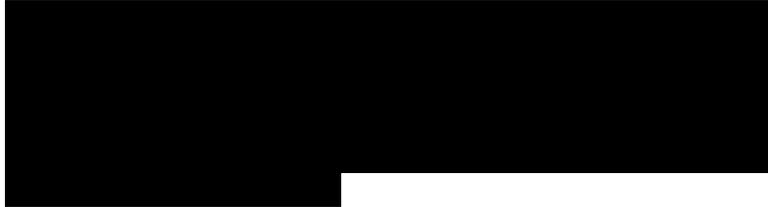
AFRICOM further pointed to Libya as a [REDACTED]
[REDACTED]

[REDACTED]

⁵¹³ *Id.*

⁵¹⁴ *J-2 Intelligence and Knowledge Development Theater Analysis Report, North Africa: Growing Threat from Al-Qaida Affiliated Extremists to Western Interests*, U.S. Africa Command, July 3, 2012.

⁵¹⁵ *Id.*



AFRICOM emphasized:

[N]o single group likely conducted the series of anti-Western attacks in Libya since 22 May 2012. On 12 June 2012, individuals attacked the International Committee of the Red Cross (ICRC) office in Misrata, wounding the landowner's son and seriously damaging the building. On 11 June 2012, rocket propelled grenades (RPG) fired from an elevated position attack a three-vehicle convoy carrying the British Ambassador to Libya. Two passengers in the lead vehicle were injured. On 6 June, a crude improvised explosive device (IED) detonated adjacent to the main gate of the U.S. Mission Benghazi compound, causing no casualties and minor damage to the compound's wall. The 'Brigades of Captive Umar Abd-al-Rahman' claimed responsibility for a 22 May rocket-propelled grenade attack on the Benghazi office of the ICRC and the 6 June attack on the U.S. Mission Benghazi.⁵¹⁷

On July 6, 2012, the Central Intelligence Agency issued its own assessment that Al-Qa'ida was establishing a sanctuary in Libya. In particular, the report assessed "Eastern Libya, particularly the city of Darnah, provides extremists with the space to plot and train operatives."⁵¹⁸

The report further pointed out 



⁵¹⁶ *Id.*

⁵¹⁷ *Id.*

⁵¹⁸ *Libya: Al-Qa'ida Establishing Sanctuary*, Cent. Intel. Agency, July 6, 2012.

[REDACTED]

The Defense Intelligence Agency was reporting:

[REDACTED]

In fact, Abu Sufian bin Qumu, a former Guantanamo Bay detainee who was released back to Libya in 2007, became the “leader of the Ansar Al-Sharia in the city of Darnah.”⁵²¹ According to the same report, “Qumu trained in 1993 at one of Osama bin Laden’s terrorist camps in Afghanistan and later worked for a bin Laden company in Sudan, where the al-Qaeda leader lived for three years.”⁵²²

It was widely reported “[M]ilitiamen under the command of Abu Sufian bin Qumu ... participated in the attack that killed U.S. Ambassador J. Christopher Stevens and three other Americans.”⁵²³

⁵¹⁹ *Id.*

⁵²⁰ [REDACTED]

Defense Intel. Agency, July 19, 2012.

⁵²¹ Adam Goldman, *Former Guantanamo detainee implicated in Benghazi attack*, WASH. POST, Jan. 7, 2014.

⁵²² *Id.*

⁵²³ *Id.*

On July 25, 2012, AFRICOM reported on the spate of attacks on Westerners in eastern Libya. AFRICOM assessed [REDACTED]

On August 1, 2012, AFRICOM assessed, “Benghazi’s level of violence has escalated following the 7 July 2012 elections; extremists with unknown affiliations are likely targeting foreign and government interests following Islamist groups’ poor showing in the elections. Degraded security, which follows recent efforts to establish a regular police force in Benghazi, is also likely a factor.”⁵²⁵

The same day, the Central Intelligence Agency issued its assessment of an attack on the Libyan military intelligence agency headquartered in Benghazi. The Central Intelligence Agency reported:

[T]he attack yesterday against the Libyan military intelligence headquarters in Benghazi underscores how unidentified assailants are exploiting the permissive security environment to conduct surveillance and attacks.... We do not know who was responsible for the strike, and most of the recent attacks do not appear to be linked.⁵²⁶

The assessment restated:

[REDACTED]

⁵²⁴ *J2 – Intelligence and Knowledge Development, Theater In-Brief*, U.S. Africa Command, July 25, 2012.

⁵²⁵ *J2 – Intelligence and Knowledge Development, Theater In-Brief*, U.S. Africa Command, Aug. 1, 2012.

⁵²⁶ *Libya: Recent Attacks Highlight Persistent Threats in Eastern Libya*, Office of Terrorism Analysis, Cent. Intel. Agency, Aug. 1, 2012.

[REDACTED]

On August 15, 2012, AFRICOM reported the “threat from extremist groups in Libya remains significant to Western interests.”⁵²⁸

On August 19, 2012 the Defense Intelligence Agency reported

[REDACTED]

The Defense Intelligence Agency assessed:

[REDACTED]

On August 23, 2012, the Central Intelligence Agency published an assessment finding “Al —Qa’ida-affiliated groups and Libyan militias with extremist ties increasingly are exploiting the permissive security environment in Libya—particularly in the east—to establish training camps, providing these groups with controlled areas in which to improve their operational capabilities.”⁵³¹ The Central Intelligence Agency’s assessment noted again “the proliferation of training camps in eastern Libya is likely to continue unabated absent significant improvements in the technical capabilities, source networks, and infrastructure [REDACTED]

[REDACTED]⁵³²

⁵²⁷ *Id.*

⁵²⁸ *J2 Intelligence and Knowledge Development, Theater In-Brief*, U.S. Africa Command, Aug. 15, 2012.

⁵²⁹ *Libya: Terrorists to Increase Strength During Next Six Months*, Defense Intel. Agency, Aug. 19, 2012.

⁵³⁰ *Id.*

⁵³¹ *Libya: Proliferation of Training Camps Aiding Extremist Networks*, Office of Terrorism Analysis, Cent. Intel. Agency, Aug. 23, 2012.

⁵³² *Id.*

On August 27, 2012 the Central Intelligence Agency was reporting:

Al-Qa'ida in the Lands of the Islamic Maghreb (AQIM) is weaving itself into a variety of Libyan extremist circles almost certainly to encourage neighboring extremists to work in concert toward shared goals and increase its influence there. We assess [REDACTED], that AQIM seeks a durable presence in Libya because it views itself as the natural jihadist leader for North Africa [REDACTED]

⁵³³

On August 29, 2012, the Central Intelligence Agency painted Libya as a country in chaos, reporting:

[A]ttacks by disparate individuals and groups since April against foreign and government targets in Libya underscore Tripoli's inability to prevent and respond to assassinations, bombings, and kidnappings. This violence highlights the magnitude of reform challenges facing the new government. [REDACTED]

On September 5, 2012, AFRICOM reported [REDACTED]

⁵³³ *Terrorism: AQIM Growing Diverse Network in Libya*, Office of Terrorism Analysis, Cent. Intel. Agency, Aug. 27, 2012.

⁵³⁴ *Libya: Struggling to Create Effective Domestic Security Systems*, Office of Middle East and North Africa Analysis, Cent. Intel. Agency, Aug. 29, 2012.

different security program, because the risks would have been pegged at a higher level.”⁵⁴⁰

It is not clear what additional intelligence would have satisfied either Kennedy or the Secretary in understanding the Benghazi Mission compound was at risk—short of an attack. The intelligence on which Kennedy and the Secretary were briefed daily was clear and pointed—Al Qaeda, al Qaeda like groups, and other regional extremists took refuge in the security vacuum created by the Libya government and its inability to take command of the security situation.

It is these same groups that were responsible for the spate of attacks against Western interests throughout the spring and summer of 2012. Yet, the risks to the State Department compound in Benghazi never mitigated. They were only exacerbated by the fact senior officials within the State Department failed to prepare for a worst case scenario in Benghazi. The Benghazi Mission compound not only lacked the resources to ensure the facility physically was secure but failed to ensure enough security personnel were on the ground to carry out the security program.

The volume of intelligence regarding extremist activities in eastern Libya in the spring and summer of 2012, in addition to the spate of attacks by these groups against Western interests in Benghazi, was substantial. This intelligence was provided regularly—if not daily—to Kennedy, the Secretary, and others who made decisions with respect to Libya policy and the security of the Benghazi Mission compound and should have manifested substantial risk that could readily have been inferred.

Although this intelligence was available, the analysis was not directed to potential direct threats to U.S. personnel in Libya or Benghazi or the potential consequences of having that many extremists in Libya with respect to U.S. interests.

PRE-ATTACK WARNING

In his interview with the Committee, Panetta bluntly stated his view “an intelligence failure” occurred with respect to Benghazi.⁵⁴¹ Former CIA

⁵⁴⁰ Kennedy Testimony at 169-170.

Deputy Director Michael J. Morell also acknowledged multiple times an intelligence failure did in fact occur in this respect prior to the Benghazi attacks.⁵⁴² This was not necessarily the result of one or two specific instances of inaction, but instead reflected a general lack of planning for a post-Qaddafi environment that began with the U.S. intervention in Libya.

After the fall of Qadhafi, both the NATO Secretary General and the President explained that democracy-building efforts would be up to the Libyans⁵⁴³—justified by language in United Nations Security Council Resolution 1973, prohibiting the presence of an “occupying force” in Libya.⁵⁴⁴ NATO declared it was concluding the operation “in a considered and controlled manner,” yet acknowledged “they [Libyans] still have a lot of work to do—to build a new Libya, based on reconciliation, human rights, and the rule of law.”⁵⁴⁵ NATO demonstrated a hands-off approach to post-conflict stabilization, leaving Libyans to sort out post-conflict stabilization.⁵⁴⁶ At the same time, the President praised the alliance on its successes in Libya, but stated the TNC, the nominally sovereign governing authority of the new Libya, would manage Libya’s post-conflict governance and democracy-building effort.⁵⁴⁷

⁵⁴¹ Testimony of Leon E. Panetta, Sec’y of Def., U.S. Dep’t of Def., Tr. at 111 (Jan. 8, 2016) [hereinafter Panetta Testimony] (on file with the Committee).

⁵⁴² Morell Transcript at 82-83; Morell Transcript at 211-212; Morell Transcript at 277.

⁵⁴³ Although Tom Donilon set up a post-Qadhafi task force to handle issues relating to post-conflict strategy, the group became entrenched with managing the intervention and unable to devote time to extensive stabilization planning. It did produce plans in conjunction with a Libyan reconstruction team, but it was unclear to what extent the plans were used. See CHRISTOPHER S. CHIVVIS, TOPPLING QADDAFI AT LIBYA AND THE LIMITS OF LIBERAL INTERVENTION 143–44. (2014) [hereinafter CHIVVIS, TOPPLING QADDAFI].

⁵⁴⁴ *Id.* at 60; see also Aaron David Miller, *Obama’s 21st Century War*, FOREIGN POLICY (Apr. 5, 2011),

http://www.foreignpolicy.com/articles/2011/04/05/obamas_21st_century_war.

⁵⁴⁵ Press Release, NATO, NATO Sec’y Gen. Statement on the End of Libya Mission (Oct. 28, 2011), http://www.nato.int/cps/en/natolive/news_80052.htm.

⁵⁴⁶ CHIVVIS, TOPPLING QADDAFI, *supra* note 522, at 164–68.

⁵⁴⁷ Lucy Madison, *Obama Congratulates Libya on Liberation*, CBS NEWS (Oct. 23, 2011), <http://www.cbsnews.com/news/obama-congratulates-libya-on-liberation/>. Despite the fact that the Administration justified the intervention under the doctrine of Responsibility to Protect, advocates for this approach such as Samantha Power, Secretary Clinton, and Susan Rice failed to act on rhetoric from those who helped write the U.N.’s 2001 Responsibility to Protect Report. Authors of the report emphasized that the doctrine embraced the “responsibility to rebuild.” See Jayshree Bajoria & Robert McMahon, *The Dilemma of Humanitarian Intervention*, BACKGROUND, COUNCIL ON FOREIGN RELA-

The TNC proved unable to exercise meaningful control over the country.⁵⁴⁸ After the conflict, Libya faced a growing number of kata'ibas—armed rebel groups not connected with rebels in Benghazi.⁵⁴⁹ The rise of these groups distorted efforts to govern from Benghazi, and led to factions within the nation's leadership as a whole.⁵⁵⁰ With tens of thousands of Libyans dead and hundreds of thousands displaced,⁵⁵¹ the country needed new a constitution, civil, social, and political institutions, economic management, and management of its oil wealth.⁵⁵² As NATO and its partners left Libya, some questioned whether the destruction in Libya would translate into compromising regional security.⁵⁵³

The Obama Administration opted to forego the use of military forces to stabilize a post-civil war Libya—an approach described by former Libyan Prime Minister Ali Zeidan as exercising “bad judgment.”⁵⁵⁴ The State

TIONS (June 12, 2013), <http://www.cfr.org/humanitarian-intervention/dilemma-humanitarian-intervention/p16524>.

⁵⁴⁸ See, e.g., CHIVVIS, TOPPLING QADDAFI, *supra* note 522, at 183; William Maclean, *If Libyan Rebels Win, Can They Rule?*, REUTERS, (Aug. 21, 2011, *available at*), <http://in.reuters.com/article/2011/08/21/idINIndia-58891320110821> (last visited Feb. 18, 2016); Jason Pack & Haley Cook, *Beyond Tripoli's Grasp*, MAJALLA, (Oct. 3, 2013, *available at*), <http://www.majalla.com/eng/2013/10/article55245761> (last visited Feb. 18, 2016)..

⁵⁴⁹ CHIVVIS, TOPPLING QADDAFI, *supra* note 522, at 94–95, 183. After the conflict, the State Department was more concerned with Security Council politics in the debate on how to respond to the war than transferring frozen Qaddafi regime funds to the TNC for post-conflict stabilization. *See id.* at 164.

⁵⁵⁰ *Id.*; e.g., *Armed Groups in Libya: Typology & Roles*, SMALL ARMS SURVEY, RESEARCH NOTES (June 2012), *available at* http://www.smallarmssurvey.org/fileadmin/docs/H-Research_Notes/SAS-Research-Note-18.pdf (last visited Feb. 18, 2016)..

⁵⁵¹ *Biggest Success? NATO Proud of Libya Op Which Killed Thousands*, RT (Oct. 28, 2011), <http://rt.com/news/nato-libya-operation-success-999/> (last visited Feb. 18, 2016) [hereinafter *NATO Proud of Libya Op*]; Max Boot, *Libya's problems are far from over*, L.A. Times (Aug. 24, 2011), <http://articles.latimes.com/2011/aug/24/opinion/la-oe-boot-libya-20110824>.

⁵⁵² Jayshree Bajoria, *The Perils of Libyan Nation Building*, WORLD POST, (Apr. 7, 2011), http://www.huffingtonpost.com/jayshree-bajoria/the-perils-of-libyan-nati_b_846080.html.

⁵⁵³ *NATO Proud of Libya Op*, *supra* note 529.

⁵⁵⁴ Mike Krever, *West Should Have Put Boots on the Ground in Libya, Says Former Prime Minister*, CNN (Mar. 25, 2014), <http://amanpour.blogs.cnn.com/2014/03/25/west-should-have-put-boots-on-the-ground-in-libya-says-former-prime-minister/>. *See also* Raphael Cohen & Gabriel Scheinmann, *Lessons from Libya: America Can't Lead From Behind*, TIME (Feb. 15, 2014),

Department exercised its own version of a light footprint, “expeditionary diplomacy,” in an attempt to quickly normalize its presence in a country with institutions devastated by more than 40 years of dictatorship, regional strife, and war.⁵⁵⁵ The administration also chose to forego post-war planning.⁵⁵⁶

In the aftermath of a multilateral intervention, Libya has erupted into chaos, with both al-Qaeda and the Islamic State of Iraq and the Levant using Libya as a safehaven.⁵⁵⁷ While the Secretary of State testified, without specifics, there were a “number of documents” prepared regarding planning for a post-Qadhafi Libya,⁵⁵⁸ Morell said otherwise:

One of the problems was not going into it with a very detailed plan for how you were going to maintain stability ... We never really had a conversation around the table about ‘what’s going to happen, how’s it going to look?’ The intelligence community never wrote that paper ... That conversation was not as rich and rigorous as it should have been.⁵⁵⁹

That view is supported by Anne Marie Slaughter, former Director of Policy Planning, State Department, when she wrote:

<http://ideas.time.com/2014/02/15/lessons-from-libya-america-cant-lead-from-behind/>; Stanley Kurtz, *Assessing Libya*, NAT’L REVIEW ONLINE (Aug. 22, 2011),

<http://www.nationalreview.com/corner/275181/assessing-libya-stanley-kurtz>.

⁵⁵⁵ Fred Burton & Samuel Katz, *40 Minutes in Benghazi*, VANITY FAIR, (Aug. 2013),

<http://www.vanityfair.com/politics/2013/08/Benghazi-book-fred-burton-samuel-m-katz>.

⁵⁵⁶ CHIVVIS, TOPPLING QADDAFI, *supra* note 522, at 143–46.

⁵⁵⁷ Pamela Engel, *How one major failure allowed ISIS to exploit the chaos in its newest hotspot*, BUSINESS INSIDER (Jan. 27, 2016), <http://www.businessinsider.com/isis-libya-rise-2016-1>.

⁵⁵⁸ The U.S. House Select Committee on Benghazi, *Hearing 4 – Part 1: Testimony from Former Secretary of State Hillary Clinton – 10/22/2015 (EventID=104082)*, YOUTUBE (Oct. 22, 2015), <https://www.youtube.com/watch?v=ABFWjZxCAAQ>; The U.S. House Select Committee on Benghazi, *Hearing 4 – Part 2: Testimony from Former Secretary of State Hillary Clinton – 10/22/2015 (EventID=104082)*, YOUTUBE (Oct. 22, 2015), <http://www.youtube.com/watch?v=0hv11LpZp3Q> [collectively hereinafter Benghazi Hearing 4].

⁵⁵⁹ Michael Hirsh, *‘Here’s What I Really Worry About,’ POLITICO* (May 11, 2015), <http://www.politico.com/magazine/story/2015/05/Michael-Morell-interview-cia-impending-terror-attack-117821#ixzz4BHB4izvu>.

It is so much easier to pound our chests and declare that the United States bestrides the world like a colossus and should be able to dictate any outcome it wants. That is no longer true, if it ever were. We found that out the hard way by ... toppling a government in Libya without any idea of what might come next.⁵⁶⁰

Morell told the Committee Libya was unique among countries involved in the Arab Spring because it was the only place where the United States made a choice to push the Arab Spring forward.⁵⁶¹ As a result, according to Morell, the intelligence community should have furnished the President a plan projecting likely conditions in Libya after the fall of Qadhafi.⁵⁶²

Morell attributes the failure to provide predictive intelligence to multiple parties across the spectrum: the intelligence analysts, the leadership of the intelligence community, and even the decisionmakers—including the President and the Secretary of State—for not asking those questions and fostering a conversation about what would need to be done to maintain stability in a post-Qadhafi Libya.⁵⁶³ The Secretary pushed back on this point when she testified: “[W]e can do all the planning we want in Washington, but it’s very important to ask the Libyans both what they want and what they expect from us, and so we had an ongoing dialogue that lasted over many months.”⁵⁶⁴ Her testimony, however, referred to the events after Qadhafi fell, (for example, Nides visited Libya in January 2012, nearly a year after the initial U.S. intervention) and not prior to the U.S. intervention.⁵⁶⁵

In describing this intelligence failure, Morell described to the Committee an additional “intelligence analytic issue.”⁵⁶⁶ He noted that in authoritarian societies, such as Qadhafi-era Libya, the personality of the leader is

⁵⁶⁰ Anne Marie Slaughter, *War with Iran is the only alternative to a deal*, USA TODAY (Aug. 20, 2015), <http://www.usatoday.com/story/opinion/2015/08/20/bombing-iran-only-alternative-deal-column/31940869/> (emphasis added).

⁵⁶¹ Morell Testimony at 82.

⁵⁶² *Id.*

⁵⁶³ *Id.* at 83.

⁵⁶⁴ Clinton Testimony at 177.

⁵⁶⁵ See Request for SST Extension from U.S. Embassy Tripoli, Libya, to Sec’y of State, U.S. Dep’t of State (Feb. 12, 2012, 11:58 PM) (on file with the Committee, SCB0049743-48).

⁵⁶⁶ Morell Testimony at 277.

“everything,” personal relationships with individuals in the rest of the government are “everything,” and institutions in that government are all personality-based.⁵⁶⁷ The institutions themselves are empty without the leadership, and when the leader goes away, the institutions simply break down.⁵⁶⁸ Morell contended the Intelligence Community did not fully appreciate these factors in the case of Libya.⁵⁶⁹ Instead, as he noted, the U.S. instead viewed itself as a “beacon of democracy” without understanding what was next:

It’s ingrained in us, this desire to spread democracy to the rest of the world. I think people’s weaknesses flow from their strengths, in organizations and countries. One of our strengths is seeing ourselves as a beacon for democracy. It becomes a weakness when we try to impose it on societies that aren’t ready for it. I think of Iraq, Gaza, Afghanistan and Libya. I think it’s probably both a failure of intelligence and a failure of policy, in two different administrations.⁵⁷⁰

While the CIA took this dangerous security environment seriously—they sent out a physical security specialist to review its compound in Benghazi and apply immediate upgrades—this analysis all occurred too late to enact meaningful change inside Libya and prevent this threat from emerging and eventually establishing a stranglehold on the country. No predictive analysis occurred within the intelligence community on the front end of the U.S. intervention regarding what might occur if Qadhafi were to lose power. No assessment was made that a power void may be exploited by al Qa’ida and other extremist organizations, and it was this front-end intelligence failure that contributed to the Benghazi attacks.

An additional critical question is why the United States did not have a specific, tactical warning about the attack. Morell addressed this issue when he spoke of what he calls “battlefield intelligence”:

... so that you’re picking up everything, from a signals perspective and from a humint [human intelligence] perspective. I think

⁵⁶⁷ *Id.*

⁵⁶⁸ *Id.*

⁵⁶⁹ *Id.*

⁵⁷⁰ *Here’s What I really Worry About*, *supra* note [559] (emphasis added).

the only way to have avoided Benghazi is to have that kind of intelligence footprint over the top of them ... the real lesson about Benghazi is how do we protect American diplomats, how do we protect American intelligence officers, how do we protect American servicemen and women overseas moving forward, in what is a very, very dangerous world.⁵⁷¹

Secretary Leon Panetta, himself a former Director of the CIA, also testified about the failure in Benghazi to have the kind of intelligence that would have tipped off U.S. personnel about a specific attack.⁵⁷² Panetta labeled this the “most important missing element” regarding Benghazi,⁵⁷³ and said it should be the first lesson learned about the attacks—improving the intelligence to make sure our personnel are aware there is going to be an imminent attack.⁵⁷⁴

This issue is discussed further in the classified annex to the report, as well as addressing the question of why U.S. government officials did not have what proved to be sufficient, specific, tactical warning about the Benghazi attacks.

The day before the Benghazi attacks, the President convened a phone call with senior administration officials concerning America’s preparedness and security posture on the anniversary of the September 11, 2001 attacks.⁵⁷⁵ A readout of the meeting notes the “[p]rincipals discussed specific measures we are taking in the Homeland to prevent 9/11 related attacks as well as steps taken to protect U.S. persons and facilities abroad, as well as force protection.”⁵⁷⁶ Panetta testified there was concern on the call about the anti-Muslim video that was coming out, and

⁵⁷¹ *Counterterrorism Efforts*, C-SPAN (May 18, 2015), <http://www.c-span.org/video/?326104-1/former-cia-deputy-director-michael-morell-counterterrorism-efforts&start=1060>.

⁵⁷² See Panetta Testimony at 119-20.

⁵⁷³ *Id.* at 71-72.

⁵⁷⁴ *Id.* at 119-20.

⁵⁷⁵ Press Release, The White House Office of the Press Secretary, The White House, Readout of the President’s Meeting with Senior Administration Officials on Our Preparedness and Security Posture on the Eleventh Anniversary of September 11th (Sept. 10, 2012),

<https://www.whitehouse.gov/the-press-office/2012/09/10/readout-president-s-meeting-senior-administration-officials-our-prepared>.

⁵⁷⁶ *Id.*

there was a specific discussion regarding Tripoli, among other cities in the region.⁵⁷⁷ Given the lack of any pre-attack force movement toward North Africa and the Middle East in the wake of the call—especially given the concerns about the video and the forewarning regarding protests in Cairo⁵⁷⁸—there appeared to be no indications an attack in Benghazi, or anywhere else in the region, was anticipated.

Nevertheless, on the morning of September 11, one of the local guards at the TMF witnessed a man, believed to be a police officer, in the second story of a building across the street looking into the State Department facility and taking photographs.⁵⁷⁹ Stevens was briefed about the incident,⁵⁸⁰ and Sean Smith referenced the incident just hours before the attacks began on an online gaming site.⁵⁸¹

⁵⁷⁷ Panetta Testimony at 10.

⁵⁷⁸ *Id.* at 10-11.

⁵⁷⁹ Diplomatic Sec. Agent 5 Testimony at 93.

⁵⁸⁰ Email from Assistant Regional Sec. Officer (Sept. 11, 2012, 5:00 pm) (on file with the Committee, C05271656)

⁵⁸¹ The posting by Sean Smith read, “Assuming we don’t die tonight. We saw one of our ‘police’ that guard the compound taking pictures.” *See, e.g.,* Lindsay Wise, *Libya attack victim: ‘assuming we don’t die tonight ...,’* SEATTLE TIMES, Sept. 13, 2012.