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Congress of the United States

House of Representatives

Select Committee on Benghazi

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May 15, 2016

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STAFF DIRECTOR

The Honorable Trey Gowdy
Chairman
Select Committee on the Events Surrounding
the 2012 Terrorist Attack in Benghazi
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to object to your repeated, unnecessary, and ever-changing demands for information from the Department of Defense. Our nation's warfighters are charged with a solemn responsibility, but your evolving list of increasing demands is now putting a strain on the Pentagon that is completely unwarranted, unreasonable, and unjustified.

Contrary to your claims that the Select Committee has made "significant breakthroughs," the information we have received over the past two years is consistent with many previous investigations into the attack, including those conducted by the independent Accountability Review Board, the Senate Select Committee on Intelligence, the House Permanent Select Committee on Intelligence, and the House Committee on Armed Services.

In some cases, witnesses have provided new details, but they do not alter the fundamental conclusions of these previous investigations. None of the witnesses has provided any evidence to support reckless allegations made by Republicans to justify the creation of the Select Committee, and we have obtained no evidence that the Defense Department was ordered to stand down or withhold critical aid to those in need.

Objections from Department of Defense

On April 28, 2016, the Department of Defense condemned the Select Committee's "recent crescendo" of "duplicative or unnecessary" requests for interviews, writing:

[I]t is unfortunate that the Committee has identified the need for these interviews only now. The number and continued pace of these requests since February 2016 are in tension with your staff's statements that the Committee expects to finish its investigation in the near term.¹

¹ Letter from Assistant Secretary for Legislative Affairs Stephen C. Hedger, Department of Defense, to Chairman Trey Gowdy, Select Committee on Benghazi (Apr. 28, 2016) (online at http://democrats-benghazi.house.gov/sites/democrats.benghazi.house.gov/files/documents/2016_04_28_DOD_Letter_to_Gowdy.pdf).

For example, the Department objected to being asked to search for an individual identified only by his first name and home state who called into Sean Hannity's radio program:

The Committee has requested to interview an individual identified as "John from Iowa" who described himself as a Remotely Piloted Aircraft (RPA) camera operator on a talk radio show, where he described what he allegedly saw in the video feed from the night of the attack. The Department has expended significant resources to locate anyone who might match the description of this person, to no avail.

In another instance, the Department objected to an interview request based on Facebook postings:

The Committee requested to interview an individual who claimed on his Facebook page that he had been a mechanic at an air base in Europe the night of the attack and alleged that planes at his base could have been deployed to Benghazi in time to make a difference.

This individual's Facebook posting included the political hashtag #ifyouvoteforhillaryyouarebeyondstupid.

The Defense Department also objected to the Select Committee's repeated attempts to ask witnesses hypothetical questions, warning that such action "poses the risk that your final report may be based on speculation rather than a fact-based analysis of what a military officer did do or could have done given his or her knowledge at the time of the attacks."

Statements By Select Committee's Republican Chief Counsel

In response to the Defense Department's legitimate concerns about the Select Committee's ongoing abuses, you wrote a lengthy letter dismissing the Pentagon's objections as "overtly partisan."² Unfortunately, your letter failed to include any statements from your own former Republican Chief Counsel—a retired three-star general with more than 33 years of service in the United States Army—who repeatedly commended the military's actions on the night of the attacks during closed interviews with Defense Department officials.

For example, on January 8, 2016, the Select Committee conducted a transcribed interview with former Secretary of Defense Leon Panetta. During that interview, your former Chief Counsel stated:

I think you ordered exactly the right forces to move out and to head toward a position where they could reinforce what was occurring in Benghazi or in Tripoli or elsewhere in

² Letter from Chairman Trey Gowdy, Select Committee on Benghazi, to Secretary of Defense Ashton B. Carter, Department of Defense (May 6, 2016) (online at <http://benghazi.house.gov/sites/republicans.benghazi.house.gov/files/documents/5.6.16%20TG%20letter%20to%20SecDef%20Carter.pdf>).

the region. And, sir, I don't disagree with the actions you took, the recommendations you made, and the decisions you directed.³

Your former Chief Counsel acknowledged that it is clear from the time and distances involved that none of the military forces could have gotten to Benghazi in time to save lives. He stated:

And, again, sir, I don't mean to suggest that anything could have been done differently to affect the outcome in Benghazi, and I think you would agree with that.⁴

In addition, on January 13, 2016, the Select Committee conducted a transcribed interview with the Defense Department's former Chief of Staff, Jeremy Bash. During that interview, your former Republican Chief Counsel stated:

I would posit that from my perspective, having looked at all the materials over the last 18 months, we could not have affected the response to what occurred by 5:15 in the morning on the 12th of September in Benghazi, Libya. So let me start with that positing or that stipulation.⁵

Your former Chief Counsel also stated:

I don't see any way to influence what occurred there. But what I am worried about is we're caught by surprise on 9/11, we've got nothing postured to respond in a timely manner—and you can debate what's timely, what's untimely, but **nothing could have affected what occurred in Benghazi.**⁶

The conclusions of your former Republican Chief Counsel match almost exactly the findings—from more than two years ago—of the House Committee on Armed Services, which conducted its own investigation into the attacks in Benghazi. Rep. Buck McKeon, the Republican Chairman of the Committee who led that investigation, concluded at the time, “I think I've pretty well been satisfied that given where the troops were, how quickly the thing all happened and how quickly it dissipated, we probably couldn't have done more than we did.”⁷

Increasing Demands of Defense Department

Based on this record, it appears that following the 11-hour-marathon hearing with Secretary Clinton, Republicans have exponentially increased their interview requests to the

³ Select Committee on Benghazi, Interview of Secretary of Defense Leon Panetta (Jan. 8, 2016).

⁴ *Id.*

⁵ Select Committee on Benghazi, Interview of Chief of Staff Jeremy Bash (Jan. 13, 2016).

⁶ *Id.* (emphasis added).

⁷ *Chairman Satisfied with Military on Benghazi*, Associated Press (Apr. 10, 2014).

Department of Defense to pad their numbers in a desperate attempt to redeem the Select Committee's credibility.

The Select Committee's hearing with Secretary Clinton was widely condemned even by many Republicans. For example, Donald Trump, now the presumptive Republican presidential nominee, called the hearing with Secretary Clinton "a total disaster" that "was not good for Republicans and for the country." He also tweeted, "Face it, Trey Gowdy failed miserably on Benghazi." He then referred to you as "Benghazi loser Gowdy."⁸

Other conservatives agreed, calling the hearing a "carnival road show,"⁹ "overkill,"¹⁰ a "PR disaster for the GOP,"¹¹ a "big fat flop,"¹² and "a very bad day for Trey Gowdy and the Republicans."¹³

You waited until after the hearing with Secretary Clinton—more than a year and a half after the Select Committee was established—to request more than 40 additional interviews that could have been conducted much earlier.

These delays were entirely avoidable and had nothing to do with "obstruction" by the Administration. For example, in February of 2015, you declared your intention to interview several top officials, including Defense Secretary Panetta and CIA Director David Petraeus.¹⁴ As widely reported, you abandoned those plans in order to focus on Secretary Clinton instead.¹⁵ In fact, you waited until the day after the hearing with Secretary Clinton to finally invite

⁸ *Trump Slams Trey Gowdy: Benghazi Hearings "A Total Disaster,"* Washington Examiner (Dec. 27, 2015) (online at www.washingtonexaminer.com/trump-slams-trey-gowdy-benghazi-hearings-a-total-disaster/article/2579114).

⁹ Erick Erickson, *The Benghazi Hearing Should Not Be, But Is, A Waste of Time*, Erick on the Radio (Oct. 22, 2015) (online at www.erickontheradio.com/2015/10/the-benghazi-hearing-should-not-be-but-is-a-waste-of-time/).

¹⁰ David Brooks, *Week in Politics: Clinton Benghazi Testimony, Paul Ryan's Bid for Speaker*, NPR (Oct. 23, 2015) (online at www.npr.org/2015/10/23/451213654/week-in-politics-clinton-benghazi-testimony-paul-ryans-bid-for-speaker).

¹¹ Charles Krauthammer, *Skip the Investigations, Win the Election*, Washington Post (Oct. 29, 2015) (online at www.washingtonpost.com/opinions/skip-the-investigations-win-the-election/2015/10/29/fdfafd2e-7e70-11e5-b575-d8dcfedb4ea1_story.html).

¹² *Exclusive—Ann Coulter: Trey Gowdy's Endorsement of Marco Rubio Will be No More Effective Than His Benghazi Hearings*, Breitbart (Dec. 31, 2015) (online at www.breitbart.com/big-government/2015/12/31/exclusive-ann-coulter-trey-gowdys-endorsement-marco-rubio-will-no-effective-benghazi-hearings/).

¹³ Joe Scarborough, *Morning Joe*, MSNBC (Oct. 23, 2015) (online at www.msnbc.com/morning-joe/watch/joe--a-very-bad-day-for-gowdy-and-gop-550056515958).

¹⁴ Letter from Chairman Trey Gowdy to Ranking Member Elijah E. Cummings, House Select Committee on Benghazi (Feb. 5, 2015).

¹⁵ *See, e.g., Clinton Emails Became the New Focus of Benghazi Inquiry*, New York Times (Oct. 11, 2015) (online at www.nytimes.com/2015/10/12/us/politics/clinton-emails-became-the-new-focus-of-benghazi-inquiry.html?_r=0%22%20%5C1%20%22_blank).

Secretary Panetta and Director Petraeus to participate in interviews.¹⁶ There is no legitimate reason these interviews could not have been conducted sooner.

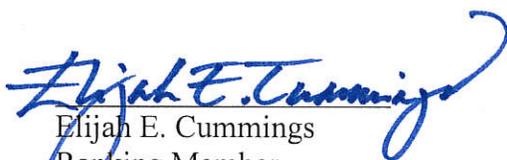
Conclusion

Your accusations that the Defense Department is politicizing this investigation are completely baseless, do a disservice to our service members, and appear calculated to deflect attention from the fact that Republicans have dragged this investigation deep into an election year. As Fox News' Greta Van Susteren warned more than a year ago:

Dragging the investigation into 2016 looks political—and worse, reports are that the Committee's report will be released right before the 2016 election. That looks awful. It sends a bad message about fairness. ... I have done big investigations and if you want an investigation finished by a certain date, you can get that done. ... If the Committee fails to get the report finished this year, rather than in the election year of 2016, it is fair to draw an adverse inference against the Committee—an adverse inference of playing politics. ... Whatever the findings are in this investigation—it will forever be plagued by allegations of unfairness, and politics if this investigation is dragged into 2016. That would not be fair to the American people.¹⁷

By dragging out the investigation so close to the presidential election, demanding that the Defense Department waste countless hours and taxpayer funds tracking down individuals who call into Sean Hannity's radio show or post political messages on Facebook, and threatening to subpoena military service members who are serving our nation overseas, your actions have damaged the credibility of the Select Committee beyond repair.

Sincerely,



Elijah E. Cummings
Ranking Member
Select Committee on Benghazi



Adam Smith
Ranking Member
Committee on Armed Services

¹⁶ Select Committee on Benghazi Democrats, *Cummings Statement on Panetta Interview* (Jan. 8, 2016) (online at <http://democrats-benghazi.house.gov/news/press-releases/cummings-statement-on-panetta-interview>).

¹⁷ *Benghazi House Committee Should Not Politicize Its Report by Waiting Until 2016*, Huffington Post (Apr. 22, 2015) (online at www.huffingtonpost.com/greta-van-susteren/benghazi-house-committee-report-2016_b_7118214.html).