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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

DEPOSITION OF: AMBASSADOR THOMAS R. PICKERING

Tuesday, June 4, 2013

Washington, D.C.

The interview in the above matter was held in Room 2157, Rayburn House Office Building, commencing at 10:05 a.m.

Appearances:

MEMBERS PRESENT:

REPRESENTATIVE DARRELL ISSA

REPRESENTATIVE JIM JORDAN

REPRESENTATIVE JASON CHAFFETZ

REPRESENTATIVE JAMES LANKFORD

REPRESENTATIVE ELIJAH CUMMINGS

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REPRESENTATIVE PETER WELCH

REPRESENTATIVE MARK POCAN

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CHRIS KNAUER, MINORITY SENIOR INVESTIGATOR

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For THE WITNESS:

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Mr. Castor. Good morning, Mr. Ambassador, my name is Steve Castor. I am a staffer here with the committee's majority staff. This is a deposition of Ambassador Thomas Pickering conducted by the House Committee on Oversight and Government Reform. This deposition is occurring pursuant to a subpoena issued by the chairman on May 28th as part of the committee's investigation into the attacks on U.S. diplomatic facilities in Benghazi that resulted in the deaths of four Americans, including the Ambassador Christopher Stevens.

Our committee is interested in developing a better understanding of the work of the Accountability Review Board, and that is why the chairman has asked you to come in, and just for the record, would you state your name.

The Reporter. Do you want me to swear him in?

Mr. Issa. Oh, yes.

Mr. Castor. He can state his name, and then you can swear him in.

The Witness. My name is Thomas R. Pickering.

The Reporter. Do you want to raise your right hand, please?

The Witness. Sure.

The Reporter. Do you solemnly swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

The Witness. I do.

Mr. Castor. I think it might make sense to introduce at least the folks at the table. Everyone in the room will be captured on the

record. So you are here with your counsel, Mr. Downey, so why don't you just introduce yourself for the record?

Mr. Downey. Good morning. Good morning, Mr. Castor. Kevin Downey and Samuel Davidoff from Williams & Connolly here as counsel to Ambassador Pickering.

Mr. Castor. Also Mr. Issa, why don't you introduce yourself for the record?

Chairman Issa. Congressman Darrell Issa, and I guess the chairman and the convening authority.

Mr. Cummings. Congressman Elijah Cummings, ranking member of Oversight.

Mr. Lewis. James Lewis with the majority staff.

Mr. Castor. The committee appreciates your appearance this morning at this deposition as a precursor to a future hearing. Your decades of dedicated and diverse experience with the State Department offer a unique insight that is extremely valuable to the committee and its work. You have undoubtedly earned the title of Mr. Ambassador, and I will strive throughout the deposition to use that title. There may be occasions where I don't, and so please excuse me. It is certainly no disrespect.

The Witness. It's very kind, Mr. Castor, and don't feel constrained.

Mr. Cummings. Are we going to start the clock?

Mr. Castor. This is sort of an intro. Some of the questions today will likely appear very basic and will hopefully be very easy

for you.

The Witness. Sure.

Mr. Castor. This is not intended to demonstrate a disrespect for the work of the Accountability Review Board or your time and experience. The committee has staff with State Department experience. We have Foreign Service officer experience, and many of our Members, both Republican and Democrat, are versed on this, but we, you know, we are working to create a clear record that can help all of our Members understand the work of the ARB.

Before we begin, I will go over some of the ground rules. I know we talked a little bit before we got on the record, the way the questioning will proceed, and this is all pursuant to our committee rules, you know, Rule 15(g) talks about the questions in depositions shall be propounded in rounds, alternating between the majority and the minority. A single round shall not exceed 60 minutes, and we have the timer here, unless there is an agreement of everyone that we ought to continue. In each round, a Member or a staff attorney designated by the chairman or the ranking member will be responsible for asking the questions.

Any objection made during the deposition can be made by you or your counsel, and, you know, relating to privilege only, and we just ask that you state it concisely and not argumentative, a nonsuggestive manner under the rules, and the witness may refuse to answer a question to preserve that privilege, and the chairman at a point later will rule on it. There won't be any rulings here at the deposition. There is

a provision for appeals, and I am sure you have seen that in the rule. This isn't like a deposition in Federal Court. The committee format is not bound by the Federal Rules of Evidence, so we just point that out.

You are welcome to confer with your counsel at anytime throughout the deposition. If something needs to be clarified, please, let me know. We would like to take a break whenever it's convenient for you. Often we'll do it at the end of each round or each hour of questions, but we're by no means limited to that. If you need some water or to confer with your lawyer, that's perfectly fine.

This deposition is unclassified, so if a question calls for any information that you know to be classified, the best idea is just to give us as much as you can, and you can alert us. We do have a way, the chairman can have witnesses in and have one of these in a classified setting.

There may be votes called during the deposition. If you would like to continue during votes, you can waive the Member requirement. The rules ask that it's done in writing, so we point that out for you.

And, you know, our preference is not to unnecessarily burden your schedule. You're a distinguished witness and a very busy person; we recognize that. I anticipate that this may go the length of the day. By my calculation, I probably have three or four rounds of questions, but to the extent we get going, it might be substantially shorter.

There's an official reporter, of course, taking down everything you say, making a written record, so we ask you give verbal responses,

yes and no, as opposed to nods of the head and so forth. Every now and then there might be a situation where we're talking over one another. Our reporters might have to raise their hand and have us slow down.

The Witness. Sure.

Mr. Castor. We want you to answer the questions in the most complete and truthful manner possible, so we will take our time. I'm happy to repeat any questions. If you honestly don't know the answer to a question or don't remember, it's best not to guess.

The Witness. Sure.

Mr. Castor. Just give us your best recollection, or if there is people you want to refer us to that can help us on there, that would be fine.

This deposition is under oath. You've taken the oath. You understand you're required to answer questions to Congress truthfully.

The Witness. [Nonverbal response.]

Mr. Castor. Yes?

The Witness. Yes. You were nodding, so I nodded. I'm sorry.

Mr. Castor. Yeah, we go through that with all our witnesses.

Chairman Issa. At least here we're not asking you to speak closer into the microphone.

The Witness. I have a question for my counsel, so if you would give me the opportunity.

Mr. Castor. Of course.

[Discussion off the record.]

The Witness. Thank you.

Chairman Issa. I would only add two things, both for the ambassador and for all of us. If at any time you need to consult with your attorney, if it's a second or two, we're not going to stop the clock. If it needs to be longer, she'll stop the clock.

The Witness. Sure. Right.

Chairman Issa. We will remain on the record unless I ask or whoever is sitting in my chair asks to go off the record.

This is not -- Mr. Cummings, as you know, this is not a hearing, so points of order and requests [inaudible] for information of that sort, you know, none of those privileges apply. However, if either yourself or anyone on either side behind us has a question as to the order, the only thing I ask is they direct it through either your designated staff or yourself, and then we'll go off the record if you or whoever, if you leave, you're designating wants to have a discussion about it, but we won't, I will not entertain anything in general from outside.

Obviously, the witness at any time can make an assertion pursuant to what Mr. Castor had done. We don't do depositions that often. Most of ours are interviews. So I think that clarifies the only differences, and other than that, Mr. Castor has the hour.

EXAMINATION

BY MR. CASTOR:

Q Could you tell us when you first heard there was going to be an Accountability Review Board convened for the Benghazi?

A I'm not sure of the exact date. Probably in the press at sometime after September 11th.

Q And when was it convened, if you recall?

A October 5th.

Q And the report was released?

A December -- was it 17th? Probably.

Q December 17th?

A In that area, uh-huh.

Q And as I understand it, after the work of the ARB is completed, it goes away?

A The report becomes, as I understand it, the property of the Secretary. And I received a letter from the Secretary thanking me for my service, which I understood, I believed to be the dismissal.

Q Was this your first experience serving on an Accountability Review Board?

A Yes.

Q Could you walk us through how -- is it staffed?

A Yes.

Q And could you explain to us how it's staffed?

A I believe that the State Department provides the staff for the ARB. They're all serving Foreign Service or civil service officers.

Q And how many staff members were there?

A Let me think. I would guess five or six, plus two lawyers.

Q Are you aware of how the members of the Accountability

Review Board are selected?

A Only very generally.

Q Are you aware if there's a list of eligible members?

A No. No.

Q And when you were asked to serve, how did that transpire?

A I received a call from the Deputy Secretary of State asking if I would serve, and I said, yes.

Q And from there, what was the next step in terms of convening the board?

A I was informed of the other members, and then we began meetings on or about the 4th or 5th of October.

Q Did you have any discussions with department officials prior to your service about how the review board would work?

A Yes.

Q And could you maybe walk us through some of those.

A I was given a copy of the Act and the regulations under the Act and the memorandum with the Department of Justice covering the activities of the ARB. I spoke with Under Secretary Kennedy about the timing, and he asked me for some ideas about how and what way the ARB should be conducted.

Q Did you have any discussions with other State Department officials outside of the formal proceedings of the ARB?

A For the whole time of the ARB or at the beginning of the ARB?

Q Before you had your first --

A Based on my recollection, no.

Q So you didn't have any communications with Under Secretary Kennedy?

A I did, and I noted that in my answer to the last question.

Q Okay. But nothing further?

A No, sir.

Q How about Secretary Clinton?

A No.

Q Okay. Did you have any role in the other members of the board?

A I may have met Secretary Clinton on one social, at a social engagement for a very brief period and told her before we convened that we were going to convene on the 4th or the 5th, but that was the only communication I had with her.

Q And did you have any role in the selection of the other members?

A I was asked for my ideas, and I provided my ideas, yes.

Q And were any of the individuals that you -- did you recommend any specific individuals?

A I did, yes.

Q And who did you recommend?

A The one that I recall who has served, did serve on the board was Catherine Bertini.

Q Any of the other?

A I made other recommended names. None of them appeared on

the board. I was asked by Mr. Kennedy for those thoughts.

Q Did the board have office space, or how did you conduct your work?

A Yes, it had office space in the State Department.

Q And the staffers that you described that helped you, were they 100 percent dedicated to the work of the board?

A Yeah, they were full-time staff for the board.

Q And did all of the staff participate in all of the interviews, or was it divided up?

A No. It was divided up. There were some interviews in which not all members could be present, and there were some in which not all staff were present.

Q And roughly how many interviews did the board conduct?

A A hundred.

Q And for the most part, did the board make an effort to have the whole board there for each interview?

A Yes, that was the standard pattern, but there were a few exceptions.

Q And when those few exceptions occurred, was it because a board member had a conflict or something of that sort?

A Yes. Although there was one other occasion with the badly wounded diplomatic security officer at Walter Reed where I had hoped to interview him as a one-member interview. Unfortunately, I had a conflict, and so Richard Shinnick interviewed him.

Q Did you have any discussions with the Secretary's counsel

or Cheryl Mills before the ARB was convened?

A No.

Q Or during the work of the ARB?

A Yes.

Q And how frequently?

A I perhaps filled her in by telephone on the progress of the ARB about 2 weeks in, and maybe then 2 weeks before we completed the ARB.

Q How about with Under Secretary Kennedy?

A No.

Q Any other State Department officials --

A No.

Q -- at the senior level?

A We met once with Deputy Secretary Thomas Nides in connection with the department's wish to inform the full board of the steps they were taking prior to the release of the ARB and to seek in connection with the ARB our positive response to those.

Q The board is designed to be independent, that's correct?

A Yes.

Q Once you started your work, were there any firewalls or guidelines propounded that helped the board keep it independent or preserve its independence?

A Yes. We generally occupied a separate suite that we had our deliberations with staff present, sometimes only with the staff director present, often with the lawyers present, but we did not bring,

to the best of my knowledge, any outsiders of the ARB staff or membership.

Q Did you see any unique challenges with, on one hand, the independence of the board and, on the other hand, a lot of the staff and the members of the board had deep State Department experience?

A No. Of the members of the board, three were not State Department experienced and two were, but my strong sense was that we strived together to do an independent job, and the agreements at the end on what we produced were unanimous among board members.

Q Were there any perceived conflicts of interest with the board and State Department officials? For example, you know, we've been told that Mr. Shinnick had worked with Under Secretary Kennedy before, and they had a professional relationship. Was anything of that sort discussed or --

A No, I saw no evidence of that.

Q As the ARB began its work and you began collecting facts, is it fair to say that the two bureaus it focused on was the Bureau of Diplomatic Security and the Bureau of Near East Affairs?

A Yes, although we also discussed events with members of other bureaus.

Q Did you ever have any discussions outside of the ARB, or do you know if any of the members of the ARB had any discussions with officials in those two bureaus, Diplomatic Security and Near East Affairs, about the work of the ARB?

A I know of none.

Q Okay. Was there a protocol to how and in what order you interviewed some of the 100 individuals that you spoke with?

A Yes. Our priority was to interview people who were firsthand fact witnesses as early as possible. That had to be done in conjunction with the FBI.

Q And from there, was there any protocol for selecting witnesses?

A From there, we attempted to move sort of on the basis of people we felt had the most knowledge and the perhaps most extensive testimony to offer from what we knew about where they sat.

Q Now, was the work of the board designed to be a full-fledged investigation, or was it something short of that, a review or an opportunity to, you know, find out what happened and present recommendations?

A I'm glad you asked that question. We were all volunteers. We all operated in accordance with the statute. The statute has five specific questions that need to be addressed by an ARB, almost all in one way or another closely tied with security, and the output of the board is to make findings and recommendations to help the State Department improve security dealing with these kinds of incidents to help prevent, deter or otherwise ward off any future actions of this sort. In that regard, it was a review board because it wished to look at everyone's experience and at what was actually the best recounting of what took place.

Q The regulations that you've mentioned, the board has the

authority to administer oaths and affirmations, and there's a number of protocols laid out in those regs about witnesses having lawyers present. Were those considerations adhered to?

A That certainly the question of witnesses and witness rights were very important to me. We provided each witness with a letter in writing of their rights, and it was my role as chairman at the opening of every discussion with witnesses to remind them of those rights and to tell them at anytime if they wished to have an attorney had they not arrived with one that they could. We did not need to issue subpoenas or administer oaths, and we felt we got complete and truthful testimony in an essentially more cooperative vein.

Q Before you met with various witnesses, how much notification were they provided, for the most part?

A It probably varied, and I didn't do this, this was done by the staff.

Q Okay.

A And so having consulted frequently with the head of the staff on witnesses and witness availability, I've suspected it varied between 2 weeks and a few days just depending on what could be the arrival at a common time and date.

Q Was there a specific staff person responsible for setting up the interview?

A I worked most closely with the head staff person of the ARB.

Q And who was that?

A Her name was Uzra Zeya.

Q And was she responsible for arranging the witnesses?

A She took responsibility with the staff, I believe, for doing this, and I don't know how the work was parsed out actually.

Q I know you had -- the board met with individuals in groups during some of the interviews. What was the breakdown between group interviews versus one-on-ones?

A I don't have it statistically, but maybe only a few groups and mostly one-on-ones or mostly us-on-one, I'm sorry.

Q And were there some individuals that met with the board more than once?

A Yes.

Q And how many of the witnesses?

A I think three or four had multiple interviews.

Q Okay. And by multiple, do you mean more than two or --

A No, Mr. Castor, no more than two as far as I can recall.

Q And that would include a group meeting?

A Yes.

Q How many group meetings do you recall having?

A As I said, I recall maybe three or four, but there were times when meetings took place when I had to be absent, and I'm not sure beyond that.

Q And do you remember what three or four were convened in groups?

A I remember two of them.

Q Okay.

A One with the Diplomatic Security Bureau and one with the administrative portion of the Near Eastern Bureau.

Q And of the group meeting that you had with the Diplomatic Security Bureau, how many individuals came back to have a one witness with the board get together?

A Look, I would have to look at the record here. I can think of two. There may have been more.

Q Okay. Two in the Diplomatic Security Bureau?

A Yeah.

Q How about for the Near East Bureau?

A Again, at least one, but I would have to look at the record to be sure.

Q Okay, fair enough. As you probably -- I know you did see our May 8th hearing, we had a witness --

A Let me just -- for the Near Eastern Bureau now I can think of two, but again I would have to go to the record.

Q Okay. And who were they in the Near East Bureau?

A The acting assistant secretary, Mrs. Jones, and the -- I think she was also the acting principal deputy assistant secretary, Mrs. Dibble.

Chairman Issa. Was that Beth Jones?

Mr. Castor. Correct.

BY MR. CASTOR:

Q Okay. And how about in the Diplomatic Security?

A The Assistant Secretary, Mr. Boswell, and the Deputy

Assistant Secretary, Charlene Lamb.

Q Do you know if the Deputy Assistant Secretary of the Near East Bureau --

A And I would just add the Principal Deputy Assistant Secretary, Mr. Bultrowicz.

Q Okay.

A I'm sorry to interrupt you, excuse me.

Q Do you know if the -- do you have a recollection whether the Deputy Assistant Secretary in the Near East Bureau, Mr. Maxwell, came before the board more than once?

A I don't believe he did. Certainly, I remember attending only one interview of Mr. Maxwell.

Q And was that Mr. Maxwell with a group of other State Department officials?

A No, sir, he saw us alone.

Q At our May 8th hearing, we had a witness, Mark Thompson. He was the Deputy Coordinator for Operations in the Bureau of Counterterrorism.

A Yes.

Q And he testified that he requested to be interviewed by the board but was not. Were you aware that Mr. Thompson had requested to be interviewed?

A No.

Q If you were aware --

A Not prior to his revealing that in testimony or perhaps news

stories to that effect.

Q So to the extent, if you were aware that he wanted to be interviewed, do you think he would have been interviewed?

A Certainly. It was our policy for anybody who requested an interview to accord an interview.

Q Since you've heard Mr. Thompson make that statement, have you had any chance to figure out what happened there?

A No. I think that I looked at the communications. They were not what one would say absolutely crystal clear, and then the string of communications sort of dwindled out, and I suspect that if our staff had been less busy, they would have given more time and attention to Mr. Thompson, and to some extent if Mr. Thompson had been more assiduous, we would have made the connection. I certainly in no way would have in any fashion denied someone an opportunity to appear before us who said they had information or thoughts to convey to us, and that was our general attitude.

Q Okay. Are you aware of any other witnesses that had subsequently stated they wanted to participate in a board interview that you didn't get a chance to interview?

A To the best of my knowledge, no.

Q Okay. I understand these interviews weren't transcribed with a court reporter. How were they recorded? Was there an audio recording?

A No. They were recorded by note takers who prepared what was essentially, I think familiar to you, something like but in my view

slightly more elaborate than an FBI 302 form. It was a record of the interview.

Q Okay. And they weren't recorded by a tape recorder or anything?

A There was no verbatim record made in any fashion.

Q And the note takers were a part of the board staff?

A Yes, they were, sir.

Q Which were State Department officials?

A Uh-huh, yes. And the notes were then circulated to board members to help if there were corrections to be made through their recollections and notes.

Q Some of the witnesses that we had at our hearing who did participate in an interview with the board have lamented that they didn't get a chance to read the nonpublic version, the classified version of the final report. Was that a decision that the board made, or was that a decision that the State Department made?

A No. All decisions on access after we turned the final drafts over to the State Department were made in the State Department.

Q Okay. Do you think it would have been -- you know, is it a good procedure to recommend that those who were interviewed by the board get a chance to examine the final report, whether it's classified or obviously the public version everyone can read?

A I mean, I haven't thought about this in any detail, but I would see no reason not to if it, in fact, didn't hinder the work that we were working under a deadline, and obviously in the interests of

fairness and accuracy, that perhaps should be considered. I haven't really at this point made any decision in my own mind about it.

Q If it was appropriate and there was the right venue or avenue to do it, would you be willing to make a recommendation to State Department management now that the individuals who were interviewed, you know, be afforded the opportunity to look at the classified report?

A Mr. Castor, I would like to take a harder look at that --

Q Okay.

A -- and review it, and certainly hear from the individuals. If they wish to approach me, that's their business what they would like to say, but I would rather reserve judgment on the issue because I'm not chairman of an ARB. I'm now just a private citizen.

Secondly, there were many complex and somewhat I guess interlaced recommendations made by the ARB that I would want to look at this particular procedural idea against those. As I said earlier, I was concerned that one should not introduce something that brought about excessive delay.

Q Fair enough. Mr. Hicks, for example, you know, he was the principal diplomat after Ambassador Stevens died on the ground in Libya; he laments that he hasn't had an opportunity -- you know, he read the public report obviously, but feels that that doesn't capture everything, and, you know, I think it's fair to say since he's come home he's conferred with folks who were there, and, you know, he expressed to us the frustration that, you know, had he had a chance to review the classified report, he might have, might be in a better

position to say that the work of the board was as complete as possible. Is that a fair criticism?

A I understand his concern. I would just like to leave it there at the moment.

Q Okay. Would you be willing in the case of Mr. Hicks, would you be willing to make a recommendation that he's afforded the opportunity to look at the classified report?

A As I said, I think my original answer to that question stands.

Q Okay. Yeah, I was just trying to draw out whether there was a distinction between Mr. Hicks and the other 99 folks. Obviously, he has an intense involvement in the facts.

A Sure. No, I've expressed my appreciation for his work in public, so I understand.

Q Roughly, you know, how many pages of documents did the board have access to and including the staff? I recognize that -- is it thousands, tens of thousands, hundreds of thousands?

A Two points of judgment.

Q Okay.

A Classified files were about this high.

Q Okay.

A Newspaper reporting, which I tried to read everything in, because I thought it would be a source of both ideas and criticisms, exceeds this height. I have to tell you, we can't put that in, but I would say a foot and a half of classified maybe and maybe 2 and a

half, 3 feet of just newspaper reports.

Q Okay. How did the board obtain these documents? Did you put requests out to --

A Yes.

Q -- the different bureaus?

A Yes, Mr. Castor. When we started, we asked different organizations and bureaus for information in their purview that would be germane to our work.

Q And who was primarily responsible for reviewing the documentary evidence? Was that the staff?

A Yes, but, for example, the intelligence material was reviewed by the officer who was appointed by the Director of National Intelligence, who was both an expert in his field and in North Africa but also a former member of the Intelligence Community, so he served that purpose.

Q In the nonpublic version of the report there is a -- you identify the witnesses that you worked with. Were there any folks who the board worked with that wasn't identified in that?

A I would have to review the material. We had concerns, and I think the bureau shared concerns about Libyans and their safety if they were identified, but I would have to review the material to give you a full answer on that, and I think you can understand what we were concerned about.

Q Yes. How did the report preparation process unfold? You were working with a very short time frame, so --

A Very early on, I worked closely with Mrs. Zeya first on the interviews and the document collection, and then we turned to report outline, and then we wrote things we knew could be written early. She did early drafts of the introductory section and things of that sort, all of which went through many drafts over quite a long period of time, and in which other people participated, and the general pattern was that the report drafts would often, if she and I felt were particularly sensitive, we would between us try to get it right and then circulate it to the other members of the ARB for their comments, but every draft went to every member of the ARB for their comments in each round of drafting, and different sections were being drafted, as you can imagine, at different times.

Q So is it fair to say that the staff was primarily responsible for putting the words actually on paper?

A The staff did the original drafts, but I have to say that board members made major contributions, including redrafting sections, including in particular looking at critical findings to get it right.

Q Do you recall when you stopped conducting interviews, when your last interview was roughly if the report came out December 18th?

A We had one interview 3 days after we finished.

Q Okay. And what was the circumstances of that?

A It was interesting. The Department of State technical experts were reviewing the videotapes from the cameras, and after, they said, 2 weeks of staring, they found that they had an image of people coming in, maybe one or two over the gate for the original entry into

the compound. Up until then we -- and it is in the report -- believed that they entered somehow, we were not sure, and since the gate had been left open in the past, that may have been the case. It turned out this later information gave us some mid-course correction. So, in effect, your committee and we both appreciate the notion that things change, that new information comes up. It's the principal reason why I want to do everything I can to make sure that we get this right so that in fact people's lives who are on the line on a regular basis are not hazarded unduly.

Q Other than that interview, for the most part, did most of the interviews wrap up in the November time frame?

A I would say, again, I have to go look at the schedules. I think we did interviews into December. I think David Ubben, the security officer at Walter Reed, we waited until as late as we could, recognizing that he was recovering from terrible wounds, and that we had to be totally committed to doing everything with him in a way that didn't in any way make anything worse.

Q How long did interviews of the key witnesses last for the most part?

A An hour, 2 hours, just a guess. I don't think we timed them, but in that ballpark.

Q And how did the questioning proceed in those?

A Generally speaking, as chairman I took the lead, made an opening statement that set out the things we believed they had to know before they began, both about their rights, about the treatment of the

material in question, and then making sure that they had decided about an attorney and wanted to know whether, in fact, they wished to go ahead with or without an attorney. Some showed up with them. Then we began with questions, which I took the lead in, and others came in at any point they wanted to. It was very informal, it was very free flowing, and at the end, we always asked, to the best of my knowledge this was something we did with everyone, whether there was anything they wanted to add, whether there was anything we hadn't discussed that they should have an opportunity to say, and so that was, I think, basically the format we followed.

Q Okay. So you did give for the most part witnesses when they came to meet with you knowledge or heads up that they could have an attorney present?

A Yes, Mr. Castor, we did it in writing for the formal invitation, but then we did it orally before we began. I wanted particularly to make sure that witnesses knew that they had rights, that they were not going to be in any way eclipsed by our review, and that they should therefore be reminded orally even before they began that that was the case.

Q And was it the case that any witness showed up to meet with the board and decided after hearing that that they wanted to come back later with a lawyer?

A Not to my knowledge, no.

Q But you would have certainly afforded that?

A Of course, certainly. In fact, I said in the oral portion

of my presentation, if at any point in this discussion, you would like to stop and go and bring in an attorney, please let us know.

Q Okay. And if the -- if a witness felt that they were caught off guard, you know, for the meeting, they didn't have enough notice, what was the -- were they able to reschedule?

A The meetings were all scheduled at a mutually convenient time, so that was the premise under which we operated, and there were some people who were occupied and busy and we couldn't do that, so we then scheduled them later.

Q And just, again, were there any witnesses that, you know, came in for their meeting and decided to come back at a later time?

A To the best of my knowledge, no, but I didn't interview absolutely everyone. I attended what I would call the large bulk of interviews, but not every one.

Q During the report preparation process, did you have any communications with folks at the State Department that weren't part of the interview process?

A Yes.

Q And how did that work? Was that a formal process, or was it informal?

A It was informal. I felt that since the report was to go to the Secretary, I should keep through the staff her informed of the progress, and I mentioned earlier the occasions in which we did that.

Q And did you receive any feedback from the Secretary's staff about how the Secretary would like the report to look?

A I did not. Through the staff, with respect to a document we made available to the Secretary prior to our discussion meeting with them. I believe subsequent to the discussion meeting they provided us with three or four or five thoughts that they would like us to consider. They had no editorial rights. And we reviewed those, all of us at the end, and some we thought were acceptable and some we thought were not acceptable.

Q Before the report was released publicly, did you have an opportunity to meet with any senior State Department officials?

A Yes, we did.

Q And who were those?

A We, of course, interviewed both Assistant Secretary Boswell, Acting Assistant Secretary Jones, Under Secretary Kennedy. We met with Deputy Secretary Nides in connection with a specific request on his part related to their interest in moving quickly on three ideas that they had that they felt were important, and generally, we agreed with those. We met with the Secretary I think within 15 days of finally submitting the report to brief her on our findings up to that point and what our recommendations would be. That was done orally, but an early copy of findings and recommendations to the best of my knowledge was provided as a preparatory device for the meeting so she would, in fact, also know where we were, and we met briefly with Deputy Secretary Burns to give him a similar briefing on where we were at that point, specifically focused, as I recall, on findings and recommendations, but I would refer to other's recollections of a broader record, but

that's essentially what I believe.

Q The meeting with Under Secretary Kennedy, you described it as an interview. That was more of an interview than a briefing?

A Yes, it was.

Q Did the board make any specific personnel recommendations as far as accountability is concerned?

A We made personnel recommendations.

Q And what were those?

A We made a recommendation that two people we concluded had failed in the performance of their duties and should not continue in those duties.

Q And were there other -- I understand there were four total that were --

A We made a recommendation with respect to two other members that they had not carried out their duties in what would be the full expectation for their performance.

Q And who were those four people?

A Those names are in, unfortunately, the classified report. Apparently, we put them there to protect those individuals.

Q So the reason it's classified is?

A To protect those individuals.

Q Is there privacy interests or --

A Privacy interests. Since they have been in the press, I see no reason not to tell you.

Q Okay.

A In whatever -- Assistant Secretary Eric Boswell, Deputy Assistant Secretary Charlene Lamb, Principal Deputy Assistant Secretary Bultrowicz, and Deputy Assistant Secretary Ray Maxwell.

Q Okay. And with regard to those --

Mr. Lynch. Can we go over -- I'm sorry, can you go over the individuals again, the names again, Bosch, Lamb.

Chairman Issa. If you would, please, repeat it a little louder.

The Witness. Assistant Secretary Boswell, Deputy Assistant Secretary Charlene Lamb, Principal Deputy Assistant Secretary Bultrowicz, and Deputy Assistant Secretary Maxwell.

Mr. Lynch. Thank you.

BY MR. CASTOR:

Q The first three you mentioned are within the Diplomatic Security Bureau?

A That's correct.

Q And Mr. Maxwell is in the Near East?

A The Near Eastern Bureau.

Q And how did you communicate the information about accountability to the department other than through the classified version of the report?

A It's in the report.

Q Okay. You didn't have any one-on-one meetings with State Department management?

A No, except the Secretary, which at the early stage then we were certainly, I believe, and again I would have to perhaps check my

recollection here, but I believe we discussed the, what you would call the accountability, what I would call our finding and recommendation of personnel.

Q Okay. Were there any other folks that the board identified as having failed in some respect that were not relieved of their duties?

A No. We identified people for the opposite, for praise and awards.

Q Are you aware of how the -- you know, if the board recommended that these four officials be separated from their positions, did they -- do you know -- have any role in the arbitration process?

A We did not recommend four people be separated from their positions. We recommended two.

Q Okay.

A We had no subsequent involvement.

Q So the board or yourself hasn't been involved in any arbitration proceedings? I use that with a small "a".

A To the best of my knowledge, no, sir.

Q Okay. The witnesses that we had at the May 8th hearing, Mr. Nordstrom, Mr. Hicks testified that they thought the accountability portion of the report may not have gone high enough. Mr. Nordstrom, for example, testified that it's an accountability of mid-level officer review board, and the message to my colleagues is that if you're above a certain level, no matter what your decision is, no one's going to question it. And that is my concern with the ARB Mr. Nordstrom

testified. How did the board conclude the appropriate level to assign accountability for what went wrong?

A We assigned accountability where the evidence was clear the decisions were made and in at least two cases where they were reviewed or should have been reviewed.

Q Do you think Mr. Nordstrom's statement, his testimony is fair or unfair?

A With all respect, I spent 42 years in the State Department. I don't consider an Assistant Secretary of State or a Deputy Assistant Secretary of State a kind of minion. They are serious jobs, they report certainly in my day directly to the Secretary. They have responsibilities for billions of dollars in some cases, which is not trivial.

Q As we understand it, the security situation in Benghazi and in Libya more generally, at least within the Near Eastern Affairs Bureau, was something where the assistant secretary, the Acting Assistant Secretary Jones and the Principal Deputy Dibble were heavily engaged in and zeroed in on. Is that something the board found?

A I believe that it was clear in our findings that they paid careful attention to the security situation in the region as a whole.

Q Did the board find any fault with the way those two officials conducted themselves?

A We did not.

Q And can you explain why that was the case?

A We reviewed with them their performance of duties, and we

looked at that very carefully, and we found no fault that we were able to identify.

Q The Deputy Assistant Secretary Maxwell, on the other hand, was identified as, you know, falling short in his responsibilities. What's the difference between Mr. Maxwell's role and Assistant Secretary Jones and Principal Deputy Dibble?

A Mr. Maxwell had the authority and responsibility and the accountability of dealing with the Maghreb, the North African states, including principally Libya, and we felt he failed, fell short in the performance of his duties with respect to Libya.

Q Did Mr. Maxwell at anytime communicate to the board that he had the Libya component of his job stripped away from him?

A No.

Q During the relevant time period?

A No.

Q Would it surprise you if he has said that?

A Yes. I mean, again, I'll go back and look at the record, but I don't believe that that was the case. He was the Deputy Assistant Secretary.

Q Okay. So to the extent, to the extent the responsibility for Libya or Benghazi was stripped out of his portfolio, would you say it would be that he should not have been disciplined?

A No, of course not.

Q Okay.

A I would not say he should not have been disciplined.

Q Okay.

A I believe that his approach, which he described to us, his principal failing was that he made it apparently a practice not to read the intelligence.

Q Okay. And specifically what type of intelligence do you recall him not reading?

A I took the statement to cover all intelligence.

Q Okay.

A It was not described, as I recall, Mr. Castor, in any less or any more kind of detailed way.

Q Were there any other aspects of his performance that were lacking?

A That was our principal concern.

Q That he didn't read the intelligence generally or just the daily intelligence?

A He said intelligence.

RPTS JOHNSON

DCMN HERZFELD

[11:05 a.m.]

BY MR. CASTOR:

Q Okay. But to the extent the Libya component of his portfolio was stripped out during times relevant, is it fair to say that he should not be held accountable?

A I would certainly --

Ms. Sachsman Grooms. I am going to object.

The Witness. -- not believe that somehow --

Ms. Sachsman Grooms. I am going to --

Chairman Issa. No objections. No objections are to be heard. If you want to convey them to Mr. Cummings, that was the rule, as we said at the beginning, please.

The Witness. I have no --

Mr. Downey. Why don't you wait?

The Witness. Sure.

Mr. Castor. Our rules are pretty clear that objections can be stated by the witness or the witness' counsel exclusively.

Mr. Cummings. Will you repeat the question?

Chairman Issa. Go ahead and repeat the question, please.

[The reporter read the record as requested.]

Mr. Cummings. Objection.

Chairman Issa. What is your objection? It actually isn't an objection, but please go ahead.

Mr. Cummings. You know, I am just trying to figure out is this based on something -- is this based on the report or what? What's it based upon?

Chairman Issa. Well, as you know, and I am going to answer this one time, although the gentleman controls the hour, so he can pretty much ask whatever we he wants --

Mr. Cummings. Sure.

Chairman Issa. -- but as you know, we have had other interviews. Your folks have been in other interviews. I suspect, even though I wasn't in those interviews, that this is at least getting to an assertion made by Mr. Maxwell. That's my assumption. But to be honest, the gentleman controls the time. It's not unreasonable to ask those questions.

Mr. Cummings. Well, can you provide a copy of the statement so he can properly answer the question?

Chairman Issa. Well, he asked him a hypothetical, and he wants a hypothetical answer based on if you knew X, if you knew Y. There's nothing unreasonable here. So to be honest, I have nothing to rule on because there is no point of order here. So please continue.

Mr. Castor. Okay.

Mr. Downey. I'm sorry, could I ask, Mr. Chairman, he ask the question again?

Chairman Issa. Fair enough.

Mr. Castor. You want to read it back?

[The reporter read the record as requested.]

Mr. Downey. Mr. Chairman, I just object to it as an incomplete hypothetical. I don't -- I think Mr. Castor is representing what the witness said. I accept what Mr. Castor says on its face, but if the witness can review what Mr. Maxwell said, he can give, I think, a more thoughtful answer.

Chairman Issa. No. I understand that. Mr. Castor's question -- if you could make it a little more thorough, I think we'd all appreciate it, but the ambassador has made statements as to what --

Mr. Lynch. Mr. Chairman --

Chairman Issa. Please. The ambassador has made statements as to why the person was disciplined, apparently. And this assertion, which obviously does come from public statements, Mr. Maxwell's, as far as my understanding, is an assertion that we are only asking would it have affected an otherwise decision based on other items. So if you phrase that in a way that sort of summarizes that, we'll continue.

Mr. Lynch. Mr. Chairman, just one point.

Mr. Cummings. The other thing.

Chairman Issa. Mr. Cummings. Mr. Cummings. Mr. Cummings.

Mr. Cummings. I think you were going to -- my very point, Mr. Chairman. I want to make sure that there is no mischaracterization. In other words, that's why -- the only reason I wanted him to be able to see it is so that he would be able to know what he's talking about. I think you want truth, we want truth, he wants to give an accurate answer. That's all.

Chairman Issa. The whole point is this is not a Federal court.

It is a hypothetical: If this be true. Now, nobody here is asserting that it's true whether somebody said it publicly, whether it was reported in the press. The reason for it is that a disciplinary recommendation was made. And again, I am not going to do this a second time in any other objection, but to the extent in this case a disciplinary recommendation was made, counsel is trying to get a, well, if this assertion -- which we may find out is not a proper assertion, may find it is -- would it have affected the decision? And I think it's a very simple question. It's not a particularly evidence-based one.

Mr. Lynch. Mr. Chairman?

Chairman Issa. I'm only out of courtesy working with the ranking member. This is a deposition, not a hearing.

Mr. Lynch. Mr. Ranking Member, can I ask you a question?

Chairman Issa. You may speak to him quietly.

Does that answer your question that it is based only on that narrow assertion?

Mr. Downey. But, Mr. Chairman, I see your statement as a modification of the question. I accept that modification.

Chairman Issa. Please continue. We're going to begin with the question being restated from scratch, Mr. Castor, and let's see if we can move forward.

BY MR. CASTOR:

Q This is not -- with respect to myself -- not a crazy hypothetical. It's been reported in the press that there that's been

a Daily Beast story that Maxwell said he had no role in security; that, you know, Jones and Dibble were responsible for security in Libya. And when Maxwell was promoted to the Deputy Assistant Secretary position in August 2011, most responsibility for Libya was carved out of his portfolio. I mean, that comes largely from a press account. I mean, are you aware of that press account and Maxwell's statement?

Mr. Downey. Mr. Chairman?

Chairman Issa. Wait, wait, wait. There's no objection to are you aware of something. Please.

Mr. Downey. No. Mr. Chairman, I don't disagree with that. There is no objection. But I think if -- and I think Mr. Castor would agree with this. I think if he's reading from a press statement and asking the witness whether he recalls it, I think in fairness he can just show a copy. I have no problem with the question.

Mr. Castor. Sure, we have copies of that.

Chairman Issa. Go ahead and stop and let the witness have time to look at it.

Mr. Cummings. Mr. Chairman, this was not something that was presented in an interview. This is about a press -- something that came out in the press. You said a moment ago it was something that was in an interview.

Mr. Castor. No, it was in an interview as well.

Mr. Cummings. Okay. Can we see that, too?

Chairman Issa. You were in the interview. Your staff was in the interview.

Ms. Sachsman Grooms. We were there. We would like to get copies of the transcript where he actually said what your staff is saying that he said.

Chairman Issa. And that is not in order. You sit in an interview, you take notes. The fact is this is not a rule-of-evidence procedure. The hour controlled by Mr. Castor, same as the hour controlled by your side, does not have to have those questions. So thank you very much, but there is no basis for that. Let's please continue, if the gentleman is finished reading.

Mr. Castor. We're marking it.

Chairman Issa. Okay.

Mr. Downey. Mr. Chairman, if I might just say while this proceeds, not to interrupt Mr. Castor's examination --

Chairman Issa. Of course.

Mr. Downey. -- but Mr. Castor has made a number of statements today representing what witnesses have said in interviews. I have assumed to date that that's the Gospel truth as the witness has answered questions. I don't know that the witness' answers to those questions are valid if the representation made is not consistent with the record.

I only say that for purposes of the record. I don't think I'm asking for a ruling, but I am noting for purposes of a review of the record later that if, in fact, either the committee or we know that those representations aren't correct, I think it's fair to strike those questions and answers from the record.

Chairman Issa. Well, we'll give you a ruling. There will be no

striking, obviously, under our rules. As you might note, Mr. Hicks has testified, and there's been no debate, that he hasn't been allowed to see the classified portions even though he undoubtedly is mentioned in those. So one of the reasons that this hearing -- this deposition is necessary is we are reviewing whether the ARB was complete, with many omissions and with testimony of people, with growing numbers, that they felt that they were excluded although they asked included, but not allowed to review. It's the reason for the process. This happens to be a public statement and apparently is also repeated in an interview, bipartisan interview.

Mr. Lynch. So can I take it as true?

Mr. Downey. Mr. Chairman, all I'm asking for is I think it should be -- the representation should be verified. I think Mr. Castor, as a member of the bar, I assume in making those representations they're true. I'm not questioning the truth of his representations; I'm saying I've been assuming the truth of them.

Chairman Issa. Please continue to do so.

Mr. Castor.

BY MR. CASTOR:

Q Were you aware of that media report prior to this morning, or is this the first time you have --

A No, I was aware prior to this morning.

Q Okay. And now you've had a chance to look at it, is that something you were aware of prior? Or when you saw the media report, was that the first you understood it to be --

Mr. Cummings. What is the --

Chairman Issa. The gentleman controls the time.

Mr. Cummings. I just want to know what he's reading from.

That's all.

Ms. Sachsman Grooms. Could we mark it as an exhibit?

Mr. Castor. Sure.

Chairman Issa. Please.

[Pickering Exhibit No. 1
was marked for identification.]

Chairman Issa. Mr. Cummings, do you have one of these?

Mr. Cummings. Thank you.

Chairman Issa. There is Exhibit 1.

Mr. Castor. I will grab this. I will read what I have marked
for you.

The Witness. Surely.

BY MR. CASTOR:

Q Exhibit 1 is a Daily Beast story dated May 20th. Mark the
first paragraph, and I will read that.

"Following the attack in Benghazi, Libya, senior State Department
officials close to Hillary Clinton ordered the removal of a midlevel
official who had no role in security decisions and has never been told
the charges against him. He is now accusing Clinton's team of
scapegoating him for the failures that led to the death of four
Americans last year."

Also marked on page 2, the last paragraph before the space, that

said, "I had no involvement to any degree with decisions on security and the funding of security at our diplomatic mission in Benghazi, he said," "he" being Maxwell.

And on page 4 of 6, the reporting -- this isn't a quote from Maxwell, but it is reporting, "Jones and Dibble were responsible for Libya, Maxwell and three State Department officials said. What's more, when Maxwell was promoted to his Deputy Assistant Secretary position in August 2011, most responsibility for Libya was carved out of his portfolio, which also included Algeria, Morocco, and Tunisia. Although Maxwell did some work on Libya, all security-related decisions were handled by Dibble and Jones, according to the three officials."

A I have that.

Q Okay. So do you have any comment on that?

A I saw this first 2 weeks ago, whenever it came out, yes.

Q And do you think it's fair, or was that the first you've heard of Mr. Maxwell's --

A The first that I heard of these points of view.

Q So you were not aware of his belief that he had been stripped of --

A Yeah, to the best of my knowledge -- and, again, I probably have to go back and look at the record to be sure -- this did not impinge in my memory for that time.

Q And if it, you know, was the case that he wasn't involved in those security decisions, do you think the Board would have had a different recommendation?

A That's a hypothetical, and I don't know what the truth is here. And I'd rather leave this for an opportunity to see what the record says.

Q Did the Board make a recommendation about Maxwell based on the understanding that he had responsibility for the security portfolio?

A It made no recommendation about Maxwell; it had a finding about Maxwell. The finding was that he failed in the performance of his duties, principally based on his failure -- his admission to us, his statement to us that he didn't read the intelligence.

If it would be helpful, I will tell you he explained he didn't read the intelligence because he was afraid if he read the intelligence and he gave public speeches, he wouldn't keep one set of data separate from the other. I found that peculiar, because he was reading State Department classified material at the same time. But I put that in only to give you a sense of what we heard.

Q Are there any other areas where his performance fell short?

A Those -- that's the principal concern.

Q At the May 8th hearing, Mr. Hicks testified that -- this is with regard to Under Secretary Kennedy and his roles -- his role in decisions related to the Benghazi security situation. He testified, we had to provide a daily report of who was in country to Under Secretary Kennedy, and he made the decision as to who came to Tripoli and Benghazi or who didn't. That budgets came to his table, and that security threat environment reports also came to his table

would suggest that there was some responsibility there.

Did you -- did you see our hearing? Did you hear Mr. Hicks testify to that?

A I heard Mr. Hicks testify.

Q Were you aware that Under Secretary Kennedy was receiving daily reports of this nature?

A Not before this. Not before his testimony. I'm also not sure that I would agree with your conclusion in your question.

Q Okay.

A Yeah.

Q And the conclusion you would disagree with was what?

A He bore a responsibility for something.

Q Okay.

A We believed that he did his job effectively, and found no fault with the way in which he did his job.

Q How long was the interview with Under Secretary Kennedy?

A Two interviews, I would say each one between an hour and an hour and a half, maybe an hour and three-quarters.

Q And was Kennedy the only witness before the Board?

A In those -- in those interviews, yes.

Q Was he with counsel?

A No. To the best of my knowledge, no. I'm pretty sure that that's the case.

Q Do you doubt the accuracy of Mr. Hicks' statements?

A I have no reason to make a judgment on that. I'd like to

see what the evidence is for that, and what's the relationship, and for what purpose or task of Mr. Kennedy's they were provided.

Q In his testimony Mr. Hicks testified that Ambassador Stevens traveled to Benghazi in advance of the establishment of a permanent presence in Benghazi. Were you aware of the proposal to establish a permanent presence in Benghazi?

A I'm not sure which visit of Ambassador Stevens you're talking about.

Q Okay.

A Could you be specific about that?

Chairman Issa. The final one.

BY MR. CASTOR:

Q The final visit.

A Yes. Please repeat the question again.

Q Hicks testified that Ambassador Stevens traveled to Benghazi to advance the establishment of a permanent presence there. Were you aware of the proposal to establish that permanent presence and that this factored into Stevens' plans for the trip?

A I was aware of the fact that the authority for staying in Benghazi would run out at the end of the calendar year, and therefore it needed -- it was an issue that needed to be addressed; that it was a subject of conversation, and that Mr. Hicks had drafted a memo for Ambassador Stevens in this regard; that it was certainly possible that it was one of the numerous reasons why Ambassador Stevens went to Benghazi.

Q Hicks also told the committee that prior to Stevens coming over to Libya, he had a meeting with the Secretary. And it was Hicks' understanding that in that meeting the Secretary communicated to Ambassador Stevens that she had an interest, State Department leadership had an interest in establishing a permanent presence in Benghazi. Was the Board aware of that?

A Yes.

Q And was that reflected in the report?

A I'm not sure whether that was or not. I'd have to review the classified portion of the report to give you a full answer, but you have that available to you.

Q But you think it's relevant?

A It's, in my view, a factor, but it was very clear to everybody that a decision would have to be made about the future of Benghazi certainly before the end of the year since the decision made by Under Secretary Kennedy, in fact, would have run out.

Q Were you aware of any initiative to try to get funding from the Iraq contingency fund for the Benghazi --

A I had understood that that was being discussed, yes.

Mr. Downey. Mr. Castor, can I just caution the witness again to wait until you have finished your question --

The Witness. I'm sorry.

Mr. Downey. -- so the transcript doesn't appear muddled as he answers? I think we will all end up with a better transcript.

Mr. Castor. Fair enough.

BY MR. CASTOR:

Q Were you aware, or to your knowledge was anyone on the Board aware, of any plans by the Secretary to travel to Libya at the end of 2012?

A That I'm not sure about. I'd have to look at the record on that.

Q But as you sit here today, that doesn't -- that's not something that you remember?

A It's not something that I remember our being aware of at the time the report was prepared. I'd want to recheck that.

Q Again, Hicks testified on May 8th that, I did tell the Accountability Review Board that Secretary Clinton wanted the post made permanent. Do you recall him telling you that?

A I believe there is in the record something along those lines, yeah, in those specific terms, yes.

Q He indicated that Ambassador Pickering was surprised. Hicks stated that he looked both ways to the members of the Board, referring to you, saying something, does the seventh floor know about this? Do you recall?

A Yes, I do. And I wanted to know whether that particular bit of information had been conveyed to other officials at the Department.

Q Specifically what does the reference to the seventh floor mean?

A Seventh floor means essentially the Secretary and her

principal assistants, the two Deputies and the Under Secretaries.

Q And did you cause that to be -- that information to be asked?

A He did not have an answer for that, and I didn't pursue it further.

Mr. Castor. Okay. My time is up, so I am going to --

Chairman Issa. Ambassador, would you like to take a short break?

The Witness. Yeah. Okay. If I can.

Chairman Issa. Why don't we use this time since you know how long the next round will be.

[Recess.]

Mr. Cummings. Ambassador Pickering, I want to first start off by thanking you for your service to our country --

The Witness. Thank you.

Mr. Cummings. -- and throughout your esteemed career. It's an honor to have you with us.

I understand that you and your fellow Board members volunteered; is that right?

The Witness. Yes, sir.

Mr. Cummings. And you volunteered a substantial amount of time to conduct a review of what went wrong in Benghazi, with an eye towards making recommendations that will help to protect our State Department personnel in high-risk and high-threat posts; is that correct?

The Witness. Yes, sir, including in all posts.

Mr. Cummings. All right. And why did you take this on?

The Witness. Because the Secretary of State asked me if I would

do it.

Mr. Cummings. And so I would like to spend some time asking you about the many recommendations, because, as you know, we had four members of our diplomatic corps to be tragically killed, and we want to see if we can get to preventing these things from happening in the future. So you made -- the Board made some recommendations to strengthen the embassy security. And I want to also discuss the role we can help play here in Congress.

Mr. Ambassador, your recommendations are designed to prevent the future loss of life of diplomats serving throughout the world. Could you elaborate on how an ARB is set up to do just that?

The Witness. Yes. An ARB, Mr. Chairman, pulls together people of varying experience on an occasion when there has been loss of life or extensive loss of property. And the process is established in the State Department with representatives of other agencies to recommend to the Secretary that she should create this ARB.

There's a statutory basis for the ARB that I know you're familiar with, and it relates five principal questions to be addressed by an ARB. They are all very much focused on the issue of security.

And the 18 previous ARBs, as well as ours, then examines the evidence, speaks to individuals, looks at documents, both classified and unclassified, and then brings conclusions, findings we call them, with respect to germane issues regarding the questions, was this a security incident? Was the security adequate? Was it properly implemented? Was anyone in breach of duty? Was the intelligence

adequate, useful, helpful? Are there any other issues there that need to be discussed? And from that, in the consideration of the five people who are members of the ARB, they make recommendations to the Secretary of State, and that report then is turned over to the Secretary for whatever use the Secretary then wants to make of it.

In our case, as you know, Secretary Clinton and now Secretary Kerry have both said that they will implement all of the 29 recommendations of the ARB as part of a process to do precisely what you described, providing the State Department, hopefully, a better security posture to defend its people all around the world. And I would say more than the State Department, because the State Department is the host for other government departments and agencies in the embassies and other facilities overseas which are under its purview. So it is all U.S. official, and I would hope, obviously, extending as well to private citizens wherever that comes in.

Mr. Cummings. Well, what was your timing like? You described a little earlier how you set up the ARB. But how did you set up to achieve the goals that you just talked about and to conduct a thorough and effective review? Because that seems to be an issue here. So I'm sure you --

The Witness. Thank you, Mr. Cummings. I now understand where your questions -- we began on the 5th of October. The Secretary asked us to report 60 days from our first meeting. We had the option of extending that, and we did slightly. I think that we were probably 2 weeks over.

We immediately met, worked out a program for the interview of individuals, as I testified or said just a moment ago, that particularly related to those with firsthand field responsibility and experience respecting the events. But we also looked down the chain of decisionmaking and activities that led to the security posture at the mission in Benghazi and then examined all of the other facets that we could develop or find, including working with witnesses and documents from other departments and agencies of the U.S. Government where they were appropriate, and interviewing private individuals where we thought that was appropriate. We relied on the sum total of documents, video footage, and interviews to begin to formulate our recommendations, which were incorporated in a written report.

Mr. Cummings. As I listen to people attack the ARB's report and the Board's unanimous conclusions -- they were unanimous; is that right?

The Witness. Yes, all of our conclusions, sir, were unanimous. That was my objective as chairman, and I believe others shared in that. But they were -- we came to agreement on all of these, sir.

Mr. Cummings. And considering all of that, I wonder, frankly, whether they have actually read the report.

The Witness. I don't know. That was something in my mind when some of the criticisms were made, because they seemed not to be familiar with elements of the report.

Mr. Cummings. You know, my reading of the report concluded that you all did not go easy on the State Department. I would like to read

from page 4 of the ARB report, if I may, and it says this, and I quote: "Systemic failures and leadership and management deficiencies at senior levels within two bureaus of the State Department resulted in a special mission security posture that was inadequate for Benghazi and grossly inadequate to deal with the attack that took place," end of quote.

In a general sense, I want to give you a chance at the outset to address the public accusations that you and the ARB were somehow, quote, "easy," unquote, on the State Department. And I just wonder what's your response on that, with regard to that.

The Witness. Thank you, Mr. Cummings. My response is that to the best of my knowledge, no other ARB was so extensive and far-reaching in its findings of personal responsibility or personal accountability, or made such far-reaching recommendations at such high levels in the State Department.

Mr. Cummings. And how did you come to that conclusion that you just made?

The Witness. I came to that conclusion by speaking to and asking our staff to review all of the other ARBs that were reported on. We had those reports in our possession, so we made a comparison, and we arrived at that conclusion after reviewing the recommendations of the other ARBs.

I believe as well that the reaction of the State Department and the press reaction when this report came out was that it was tough. And we wanted to make it tough, and we said so. We thought that there

needed to be a degree of toughness if we were going to avoid these kinds of tragedies in the future.

Mr. Cummings. Let me ask you as well, you had asked the staff to read previous reports. And what was the aim there? In other words, were you trying -- did this review come after you had pretty much made findings and trying to compare to what other folks had done in other ARBs, or were you -- this come from the outset to try to figure out what would be a reasonable framework to, you know, come up with recommendations and findings? You understand my question?

The Witness. I do. There are two aspects to the answer to that question. One is we relied on the facts, data, information, analyses, and reports that we were able to assemble as the basis for our recommendations. And we did not wish in any way, if I could put it this way, to pull any punches. We felt we had a serious obligation under the law and from the Secretary to do that. We looked carefully at what we were doing. Where it was necessary, we checked those particular pieces.

Secondly, I was deeply concerned, as others were, that previous ARBs, previous Accountability Review Boards, had been excellent in their recommendations, but the follow-through had dwindled away. And indeed, I caused to be put at the head of each chapter of the ARB some recollection from the past. The first chapter begins with George Santayana's statement that those who cannot remember the past are condemned to repeat it. But throughout the report you will see each chapter headed by something that recalls a prior recommendation or a

prior event, including in the chapter on what happened the night of September 11th a very moving account from a 1967 attack on the consulate general in Benghazi shortly following a Middle East war, I believe.

So it was an effort to try to instill in the readers a sense that we were not doing as much as we should do about these reports that also concerned me. And I believe that this hearing, this discussion, this whatever it is that we are engaged in now is an opportunity, in fact, to find a way to assure that the recommendations, insofar as they needed to be supported here in the Congress, do get supported. And I'm very pleased to have the opportunity to do all I can here to reinforce that.

Mr. Cummings. And there were 29 recommendations, 24 unclassified; is that right?

The Witness. Yes, sir.

Mr. Cummings. And how many of those did the Secretary accept?

The Witness. She accepted all 29, and so did Secretary Kerry.

Mr. Cummings. I'll turn the questioning over to Mr. Cartwright.

[Pickering Exhibit No. 2
was marked for identification.]

Ms. Sachsman Grooms. I would just like to note for the record that we entered the ARB report as Exhibit 2.

Mr. Cartwright. Ambassador Pickering, I am Matthew Cartwright. I also want to thank you for appearing today, and also for your distinguished service to our Nation.

The Witness. Thank you, Mr. Cartwright.

Mr. Cartwright. Ranking Member Cummings just touched on the 29

recommendations that your Board made, and I would like to walk through some of these recommendations in detail, if I may, and understand their significance to the events in Benghazi and, just as importantly, how they might help protect our diplomats serving abroad in the future.

Your first overarching recommendation, which is set forth clearly on page 8 of the ARB report, says that the Department must strengthen security for personnel and platforms beyond traditional reliance on host government security support in high-risk, high-threat posts. And you recommended that the Department, quote, "urgently review," unquote, the proper balance between acceptable risk and expected outcomes in high-risk, high-threat areas.

Ambassador Pickering, can you explain the reasoning behind this particular recommendation?

The Witness. Yes. There are two principal bases for this recommendation. One was that traditionally, and certainly codified in treaty law from the 19th century on, host countries are responsible for the full protection of diplomatic and consular missions and personnel. And it was very clear in Libya that despite whatever good intention the new government in Tripoli might have had, it was woefully deficient in being able to take this on.

Secondly, there had been a long-term debate, certainly over a period of years, between the danger associated with being a diplomatic representative overseas, the risks being run, and the actions on the part of the United States Government to find ways to moderate, reduce, palliate those risks, and how and in what way that debate should unfold.

And so the five enumerated points here were our effort in the ARB to seek to put down on paper how one could achieve the proper balance between high danger and high interest on the part of the United States in conducting its overseas business.

Mr. Cartwright. Well, to that point, how do you think the State Department should determine the proper balance between acceptable and unacceptable risk in some of these most dangerous parts of the world?

The Witness. Just to summarize briefly the five points, it needs to be very careful in defining and prioritizing the purpose for being overseas. It needs to have an ongoing clear assessment of the risks and costs. It needs to know which of those risks and costs can be reduced or mitigated. As the process goes ahead, it has to pay constant attention to the changing situation, including the problem of deciding when to leave and, obviously, perform the mission from a distance rather than on site. And then it gives general admonitions, including being self-reliant and enterprising in developing alternative structures and strategies where the risks were judged too high to be present, and that it needs to do this on a constant case by case basis. There is not a one size fits all, and it needs to be repeated frequently, particularly as circumstances change.

All of these, I would suppose, you would -- and I would -- define as rules of good reason, reasonable reason, but to some extent they were not codified in anything we found. And we felt it was useful to provide these to the State Department as the kind of guidance that it should use in balancing risks and costs with needs.

Mr. Cartwright. So that's how you get to the acceptable or unacceptable risk balance.

The Witness. Yes, sir.

Mr. Cartwright. But that's been described as something to be urgently reviewed. How should the State Department go about doing this urgent review of the proper balance?

The Witness. The State Department, at the time that this report was being prepared, immediately focused and announced a focus on some 19 posts, 19 embassies and consulates and other missions, that fit the category of high-threat, high-risk and sent an interagency team, including both State, Defense, and other people, to review on the ground the security situation at those missions so that it would have an immediate snapshot of the issues and indeed the problems that were portrayed here, with the idea in mind of providing recommendations for any remediation that was necessary in those places. I thought that that was a good application of this particular recommendation as a first event, but that clearly it had to go beyond here to other places, other missions, and other needs.

Mr. Cartwright. So they have started with 19 posts --

The Witness. Yes.

Mr. Cartwright. -- but it goes on.

The Witness. Goes on I hope. There is a public report in a prominent newspaper within the last 2 weeks of what the State Department has had to say about how it is carrying out the 29 recommendations.

Mr. Cartwright. Okay. It being a continuous security assessment, your first recommendation says the U.S. must pay constant attention to changes in the situation, including, as you just said, when to leave and perform the mission from a distance. How should this continuous security assessment process work?

The Witness. We believed, and there is a subsequent recommendation, that one facet of this, not the totality, ought to be something that we found in our interviews with the British, the British Ambassador and British security experts in their Foreign Office, to bring in and incorporate in the State Department individuals with special knowledge from other walks of life, police, intelligence, military, and use those as a kind of red team to assist in constantly evaluating the situation; provide them with the flow of information; continue to ask them to look, as well as to use the individuals in the State Department, particularly in the Bureau of Diplomatic Security, who we found in a small unit watched the changing intelligence threats around the world to our missions and posts. But we thought they had, the existing group, too little opportunity to distribute their findings. They were distributed to highly technical people at a very low level of authority, mainly the Foreign Buildings Office, the Office of Overseas Buildings, and we thought that ought to be enhanced. So those recommendations for how to, Mr. Cartwright, I think complement this recommendation for what.

Mr. Cartwright. Now, the report also recommends, again on page 8, that the State Department establish -- and I am going to quote from

it -- a panel of outside independent experts, military, security, humanitarian, with experience in high-risk, high-threat areas to support Diplomatic Security, identify best practices, and regularly evaluate U.S. security platforms in high-risk, high-threat posts.

Ambassador Pickering, can you explain how this panel of outside experts will work and what its relationship should be to the internal reviews that the State Department would do on its own?

The Witness. This is precisely the British model that we recommended be adopted by our people. And our ideas here were that we should very much copy what the British were doing, which is that it had to sit in the State Department and have all the information and data coming to it, but it shouldn't be of the State Department bureaucracy. It should be outside eyes looking in at this. It's the kind of red-team approach that I know you're all familiar with.

Mr. Cartwright. And now the report also raised a number of concerns regarding training. Specifically on page 11 it recommends that the State Department design -- and again I'm going to quote from it -- "joint courses that integrate high-threat training and risk management decision processes for senior and midlevel DS agents and Foreign Service Officers and better prepare them for leadership positions in high-risk, high-threat posts."

Ambassador, can you explain the importance of improved specialized training to ensuring that personnel at high-risk, high-threat posts are more protected?

The Witness. We found that particularly in -- among nonsecurity

people, but also in some of the security people that were sent to Benghazi, there was a lack of what we considered to be the necessary level of training. For the nonsecurity people, it was essentially the fact that they had had very little experience and very little security training in their careers up to that point.

I was ambassador a number of times. I was acutely conscious of the fact that I was fully responsible for security. And my sense was that I had no specialized training, I relied on my security specialists, but it would help if individuals, particularly as they came up through the ranks, were exposed to much of the same material that the security officers were.

It was also, in my view, very helpful to have them go through training together. That early bonding would help with what had become a cultural problem in the State Department, the "we-they" issue between security specialists and regular Foreign Service officers doing political, economic, consular, administrative, and public diplomacy functions. And we needed more of that. They needed to, in fact, have gone to the same school together, Mr. Cartwright, to have to build that bonding and understanding. And I think that we felt it was very important that this recommendation be put in because it had relevance not only to some of the learning in Benghazi, but it had relevance to what some of our experience had been.

Mr. Cartwright. Well, having to do with training, what about language training? How would better language training skills improve the situational awareness of American personnel serving abroad?

The Witness. I don't remember the number, but there is a language training recommendation here -- and I'm not sure I can find it right away -- particularly related to security officers, because security officers didn't get the same kind of opportunities for language training that their brothers and sisters in the other parts of the State Department got. And so it was, from our perspective, important to include that in recommendations.

Mr. Cartwright. Now, the Board also recommends that before the State Department opens a critical threat or high-risk, high-threat post, the Department should establish a multibureau support cell residing in the regional bureau to expedite the approval and funding for establishing and operating the post, and then help implement the physical security measures, the staffing, the equipment, and the other needs of the post.

Ambassador, can you explain the purpose of this recommendation and how this multibureau support cell would work?

The Witness. Yeah. In standing up a new post, or reopening a post that's been closed, or changing the status of a post significantly from a consulate to an embassy, there are numerous decisions and numerous tasks to be performed. The people who do that are distributed in various parts of the State Department. And we thought the distance, and indeed as a result some of the problems of communication, added to delay and added to the possibility of serious oversight in the sense that they would have failed to understand the needs and the purposes.

Admiral Mullen and I -- he much longer than I -- grew up in the

Navy. I'm very much, as he is, attached to the task force idea. And the idea was to create a cell in the form of a task force with all of the relevant people sitting in one section of the building. So they get up from their desk and walk over to the other guy's desk and say, hey, are you doing this? Or how are you doing it? Or how does it fit? So that things like real estate, construction, security, fire protection, all of those things get treated as a unified whole in the planning and execution process that has to go on when this happens.

We found that Benghazi had too much of I would call distributed support and too little pulling together. And we felt that that ought to be located in a place and in a way where the funding was apparent, where the responsibility was apparent, where the authority was apparent, and where the execution could be heavily coordinated.

Mr. Cartwright. In that kind of a system, the task force approach, how would that have prevented some of the problems experienced at Benghazi?

The Witness. I think it would certainly have helped in two aspects for which we faulted the State Department very heavily. One was the physical security requirements attached to Benghazi, even as a new post, and even one that was, in fact, only approved for a year, would have been taken on, in our view, because another recommendation has that you have to have even minimum standards for temporary posts. You can't have things that don't have standards. And it would have allowed us to do something which another agency of the U.S. Government briefed us they were doing, which was setting goals and plans for new

posts as they opened them so that, in fact, money and, obviously, people were committed so that even if they had to open below standards, they had milestones to get there. And so this kind of a cell would have been very efficient both in setting the milestones and assuring, in fact, that the wherewithal to get behind them was undertaken.

It's a kind of an adaptation of ideas that people have about whole of government. But we have the same problem. We have to have whole of State Department where it has the responsibility. But for all the obvious reasons, it's spread around in the bureaucracy for normal work.

Mr. Cartwright. And now on page 9, the report recommends that the Department revise its guidance to posts on tripwires, and require key offices to perform in-depth status checks of post tripwires.

Ambassador, what is a tripwire?

The Witness. A tripwire is a part of planning in a Foreign Service post that is supposed to signify you have passed from one state to a worse state with respect to security, and it is supposed to drive decisionmaking.

What we found instead was we're already in a terrible state, the tripwires have been passed, go find new tripwires. Not a very wise approach to dealing with this. So we felt something like this was get real. Make tripwires meaningful. Make them have relevance, and make them drive decisionmaking.

Mr. Cartwright. Instead of moving the goalposts?

The Witness. Instead of moving goalposts. You can't make the goalposts, you move them.

RPTS HUMISTON

DCMN CRYSTAL

[12:09 p.m.]

Mr. Cartwright. All right. On page 16 the report also says this, and I'll quote: "The longer a post is exposed to continuing high levels of violence, the more it comes to consider security incidents, which might otherwise provoke a reaction, as normal, thus raising the threshold for an incident to cause a reassessment of risk and mission continuation."

Is that what happened in Libya?

The Witness. We found that there was a process of rationalization that went on, that each of the incidents -- and you will see them catalogued in the main on page 15 and 16 -- was explained in terms that in effect made it one-off, unlikely to happen again, not part of a buildup of activity, and treated as basically, if it affected us, we could cure that, but it didn't really mean that us -- the threat against us had increased or was serious.

And we found that a failing on the intelligence side, and we found it a failing on the perceptual side, that you get used to hard times, worse times make hard times look like picnics. So we were concerned about that, and we were concerned in the fact that people got caught up in this kind of an environment, and with busy, heavily hectic days, they tended to lose sight of the responsibility they had both to alert and then get the decisions made and then to follow up.

Mr. Cartwright. And so how would the Board's recommendations on

tripwires prevent that?

The Witness. We would tell the State Department, you have got to put a process with tripwires, that once a tripwire is passed, it has to be notified, that the central system people in Washington and the field people are required to say, what are they going to do about this? Are they going to go home? Are they going to build more walls? Send more security people? Send the security people for longer periods of time, which was also a huge problem in Benghazi?

The churn rate was an average of 40 days for security personnel at Benghazi. You can't get much done, you can barely find the john. But it was difficult, obviously. And there was huge pressure in the personnel system that allowed them to morph in this direction. I believe they've now changed, because we made recommendations for much longer periods of service, however the hardship is.

Mr. Cartwright. I want to go right into that area, Ambassador.

The Witness. Yes, sir.

Mr. Cartwright. One of the major concerns raised in the report was regarding the staffing problems faced by the Benghazi post. The report found that because the Benghazi post relied on volunteer staff on temporary assignments of 40 days or less, it tended to have inexperienced staff with a lack of institutional knowledge. And the report recommended that the Department should assign key policy, program, and security personnel at high-risk/high-threat posts for a minimum of 1 year.

Can you elaborate on why --

The Witness. Yes, sir. Can you tell me what the number of that recommendation is just so I can see it?

Mr. Cartwright. Oh, let's see.

The Witness. Number 13 relates to length of stay. There are other -- other ones that supplement that, including having adequate local staff. And number 15 relates to language, which I was looking for but didn't find for you before.

Mr. Cartwright. Right.

The Witness. And number 13 is basically the embodiment of the description you read in a recommendation, and certainly was designed to do precisely as you described in reading that portion of the report.

Mr. Cartwright. My question, Ambassador, is can you elaborate more on why the staffing in Benghazi was so difficult to do and the impact that the short-term staffing had on the post's security and mission?

The Witness. Yes. I believe it was because people did not want to serve long periods overseas in high-threat hardship posts away from their families. And so the easy thing to do was to go to new officers from the security area serving in field posts in the United States, which do things like background investigations and visa fraud examinations, and pull them out for short periods on a rotational basis to give them experience in overseas posts.

The difficulty there was that it was their first time overseas in the State Department. The other difficulty was that while they had had so-called high-threat training, they had not had training that is

given to officers who are to be in charge even in small posts, of the security detachment, what we would call regional security officer training.

So there was a lack of training. There was high churn. There was uncertainty in turnover between one officer and another. There were elements of one person's recommendations that dropped between the stools because they were not part of the collective memory of moving ahead. And, of course, Benghazi had to report through Tripoli. And so this churn in Tripoli meant in fact that you faced two facets of the same problem in trying to coordinate how Tripoli would support Benghazi with the State Department on what their needs were.

Mr. Cartwright. So how would your recommendations prevent this kind of situation in the future?

The Witness. It would put people in for a minimum of 120 days, and that would mean three changes a year, which I think is still high. But we would also -- somewhere recommended that individuals who were in charge of security at the post would stay a year at least?

Mr. Cartwright. Okay. Now, Mr. Ambassador, I have only covered some of the many recommendations you've made in your report. While we're hoping that each and every one of these recommendations will be implemented, and soon, which in your mind are the most critical recommendations that will help save future lives in our diplomatic missions abroad?

The Witness. They're all interrelated, Mr. Cartwright, so they're part of a web or a pattern. And it's a little like saying,

you know, to the man facing a death sentence, which do you want? And so I would say we would like to have them treated as a corpus, as a grouping, because that's the way in which we put them together, and each one of these was an effort to try to plug up a chink that we found that had developed in the State Department's security armor, if I could phrase it that way, and therefore we'd like to have it go.

A number of these are big dollar items, sir. One of them says what you started in Nairobi and Dar es Salaam at the turn of the century of building 10 Inman-type buildings -- that is, high security buildings -- each year had fallen to below three through a combination of cost growth and a decline in congressional funding, decline of some 20 percent in security funding, but I think \$300 million is a number that I recall from the press last year. That meant that we should commit ourselves for at least a 10-year program.

I think roughly half of our facilities don't meet Inman standards. Not all of them have to meet Inman standards, but we know from Nairobi and Dar es Salaam the terrorists go where the weaknesses are, so we can't always depend on that. And so it is important to look at that.

And I would think that for me sitting here with you on Capitol Hill in the Rayburn Building, the really important thing is to emphasize those are most important where you are most important, where your role in supporting the State Department, supporting the funding and the legislative authorities that we have recommended. And you will see there are a number of those throughout. Some of the ones that you chose to discuss with me involve very heavy congressional input, and I would

hope certainly we would see that.

Mr. Cartwright. Well, thank you, Ambassador Pickering, for your time. And I yield back to the ranking member.

Mr. Cummings. Mr. Pocan is coming forward now, but let me ask you, as he comes, let me ask you this. As I'm listening to you -- you're 81?

The Witness. Yes, sir, I am?

Mr. Cummings. And as I'm listening to you, I just want you to tell us how seriously you took this task and what does it mean to you to get it right. I assume you want to get it right and be effective and efficient. Can you just tell us?

The Witness. Mr. Cummings, you know when you lose friends, when you lose colleagues and fellow employees, that's the most urgent and demanding of all situations, and if you can make a contribution and make it right, it's important.

Chris Stevens worked for me as my special assistant for 2 years when I was Under Secretary of State. This was not any kind of vendetta, but I felt that Chris gave me two wonderful years of his life in supporting me in very difficult circumstances, that I owed him, his family, and the families of the other people who died the best possible report we could put together.

And I have to tell you, the five of us, I think, time and time again mentioned how important this was, how significant it was to get it right, and how important it was to -- what our work product would be, what our end result would be, would be deeply scrutinized, and it

should be, there's no reason it shouldn't be, but that we had to work as hard as we can to make it stand up, that we had, with all respect to everybody in this room, no sense of political attachment on this particular issue. We wanted to do it in the best way we could. We got lots of advice from all areas. We attempted to synthesize that and put it into those 29 recommendations in the most serious way that we could.

So it was on obligation, maybe a debt of honor on our side. And I considered it an honor to be asked by the Secretary of State just to be on the Board, but in a more distinct one, to be asked to be chairman. And I felt that it was my responsibility, working with the others, and we worked in a very collegial way, but we certainly had differences and discussions in our views. We had a lot of give and take, which was good, and I felt it was very useful. And we brought in experts, and they were extremely helpful to us in looking at the way in which the report was put together and prepared.

Mr. Cummings. Let me yield to Mr. Pocan.

Mr. Pocan. Sure. Thank you.

And, Ambassador Pickering, let me also say thank you for your service --

The Witness. Thank you, sir.

Chairman Issa. -- and for your willingness to have done this in a more transparent way in public rather than in this setting.

The Witness. Well, I still look forward to that, and thank you for raising it. I thank the chairman and Mr. Castor for having

mentioned that in their remarks.

Mr. Pocan. Sure. Ambassador, over the last month certain members of this committee have leveled serious accusations in public against the Accountability Review Board members and their report. In my opinion, that's fundamentally unfair to this committee. This committee has gone so far as denied you or other Board members the opportunity to respond directly to these allegations in a public hearing, so I'd like to ask you some of those questions here and now to provide you the opportunity to respond to some of those allegations directly?

The Witness. Thank you, sir.

Mr. Pocan. Thank you. On May 5th of this year, Chairman Issa appeared on CBS's "Face the Nation." And I'd like to introduce this transcript from the show as an exhibit.

What exhibit?

Ms. Sachsman Grooms. Five.

[Pickering Exhibit No. 3

Was marked for identification.]

Mr. Pocan. Five. During the interview, the chairman described the investigation --

Ms. Sachsman Grooms. I'm sorry, 3.

Mr. Pocan. I'm sorry, 3?

Ms. Sachsman Grooms. Yes, sir.

Mr. Pocan. Three. All right.

During that interview, the chairman described the investigation

in the following way, and I quote: "The State Department's questionable investigation, because it clearly meets a statutory requirement to do an investigation, but it doesn't answer any real questions or place blame on people who were involved in this failure," end quote.

I'd like to address the statements one at time, Ambassador. Do you agree with the allegations that the ARB report, quote, "doesn't answer any real questions," unquote?

The Witness. No, sir.

Mr. Pocan. Okay. By statute, as you said earlier --

The Witness. I would just say that our 29 findings and recommendations were efforts precisely to do that?

Mr. Pocan. Thank you. And as you addressed a little bit earlier, by statute the ARB must address five categories of questions or topics. This includes the adequacy and implementation of the security systems and security procedures at the mission. In your view, are these questions real and important?

The Witness. Yes, sir.

Mr. Pocan. And did your written report answer all the substantive questions required under the statute.

The Witness. We believed we worked hard to do so.

Mr. Pocan. I'd like to turn to the other statement Chairman Issa made during the May 5th "Face the Nation" interview, that the ARB report did not, quote, "place blame on people who were involved in this failure," unquote.

Ambassador, do you -- how do you respond to this allegation?

The Witness. Well, I believe the questions that have already been asked of me today by Mr. Castor have begun to show, in fact, that we did do that.

Mr. Pocan. And can you explain in detail why the ARB decided to place blame where it did.

The Witness. Because we in our review of the data and evidence and information found that the decisions that were made at that level and reviewed were the appropriate place to place blame.

Mr. Pocan. Was the determination of accountability unanimous -- a unanimous decision by the Board members.

The Witness. Yes, sir.

Mr. Pocan. Why did the report not place responsibility on Ambassador Patrick Kennedy.

The Witness. The report met with Ambassador Kennedy, had, I believe, two long interviews, and at the end concluded that he had performed his functions in a satisfactory way.

Mr. Pocan. And why did the report not place responsibility on Acting Assistant Secretary for Near Eastern Affairs Beth Jones?

The Witness. For precisely the same reasons, but related to our evaluation of her performance we found no fault with her performance.

Mr. Pocan. Okay. Was the placement of responsibility at all impacted by your or any other ARB member's personal relationships with any individuals?

The Witness. I can't believe it could have been in any way at

all.

Mr. Pocan. Okay. Was the placement of responsibility at all impacted by an interest on the part of any members to protect any individuals, to the best of your knowledge?

The Witness. I can't believe that, either.

Mr. Pocan. Was it based on any political considerations?

The Witness. No, sir.

Mr. Pocan. And was it directed by the Secretary of State?

The Witness. No.

Mr. Pocan. Let me give another example. I'd like to introduce the transcript from a May 12th interview with NBC's "Meet the Press" as Exhibit 4.

[Pickering Exhibit No. 4
was marked for identification.]

Mr. Pocan. During the interview Chairman Issa stated, and I quote, "One of the problems with this ARB report is it doesn't seem to find anybody at the high level of State Department or anyone else to have failed," end quote.

Ambassador, do you agree that the Board did not find anyone to have failed, including high level officials within the department?

Mr. Downey. Might I just ask, could you give us a moment to --

Mr. Pocan. Oh, sure.

Mr. Downey. -- to just catch up with you here and maybe -- maybe the staff could let us know where you're -- what you're quoting. Again, I know you're -- assume, as with the majority, you're accurately

quoting it, but just so he can get the full context.

Mr. Pocan. Sure. That's fine.

Ms. Sachsman Grooms. We're at the bottom of page 3.

The Witness. Bottom of page 3?

Ms. Sachsman Grooms. Last paragraph.

Mr. Castor. John, you can stop the clock while they're having a chance to catch up here.

The Witness. Okay.

Mr. Pocan. So do you agree that the Board did not find anyone to have failed, including high level officials within the Department?

The Witness. No.

Mr. Pocan. No. And isn't the Assistant Secretary of State Department position a position that requires Senate confirmation?

The Witness. Yes.

Mr. Pocan. Thank you. Again, during his May 12th appearance on Meet the Press, referring to the ARB, Chairman Issa stated, and I quote, "We believe it was insufficient. We believe that it's likely that they did not interview all the people. We have one witness who said, 'I want to be interviewed and I wasn't,'" end quote.

That witness was Mark Thompson, the State Department's Deputy Coordinator for Counterterrorism. Ambassador, have you read Mr. Thompson's testimony from this committee's hearing on May 8th?

The Witness. Yes, I have.

Mr. Pocan. I would like to enter a press statement made by Ambassador Daniel Benjamin, Mr. Thompson's boss, into the record as

Exhibit 5.

[Pickering Exhibit No. 5
was marked for identification.]

Mr. Pocan. Are you familiar with this response by Ambassador Benjamin indicating that the Counterterrorism Bureau was, in fact, included in the Department's response, which completely refuted the claims to the contrary?

The Witness. I am familiar with the response. I leave to you the characterization of the response.

Mr. Pocan. How many individuals did the Board interview during the time in existence? Didn't you say a hundred.

The Witness. One hundred, sir.

Mr. Pocan. One hundred? Okay.

The Witness. About a hundred.

Mr. Pocan. About a hundred. Is there any reason that your findings or recommendations based on those interviews are incomplete or inaccurate following the testimony from Mr. Thompson and the response by his boss, Ambassador Benjamin?

The Witness. No. I believe that the issue which he raised was not an issue which made any difference in the end into what were the most important needs at the time in Tripoli and Benghazi. That was a decision made apparently in the same time period, I believe, that a Marine team of 55 Marines in Rota in Spain, trained and equipped to support embassies in this kind of a situation that required special security support, would be sent. And that team indeed arrived on the

evening, the early evening of the 12th of September in Tripoli.

Mr. Pocan. During his --

The Witness. I also believe, from my own personal knowledge, again subject to be checked, that the FEST organization, which Mr. Thompson talked about, had different kinds of responsibilities and different sorts, other sorts of attributes, but it was not principally an armed security organization. And it was, I think, quite clear, as I reviewed the record for that time, that the uncertainties in Tripoli would be best dealt with by providing more armed security.

Mr. Pocan. During his May 12th appearance on "Meet the Press," Chairman Issa made the following statement. When criticizing the Board's work and you personally, he said this, and I quote, "Ambassador Pickering heard what the administration wanted to hear." He also said, and I quote, "He was simply acting as an appointee of the -- the Secretary," end quote.

What is your response to this? Did you hear only what the --

The Witness. Could you give me the -- roughly the page citation for this or where I might find it?

Mr. Pocan. Sure.

Do you have the page citation?

Mr. Castor. John, do you want to stop the clock while they catch up?

Ms. Sachsman Grooms. Page 2. It's sort of halfway down the page here.

Cummings. Ambassador?

Ms. Sachsman Grooms. Ambassador?

The Witness. Yes.

Ms. Sachsman Grooms. You're welcome to look.

The Witness. I've got it here now. It's after David Petraeus?
Yeah.

Mr. Cummings. Yes.

The Witness. Could you just rephrase or just provide the context
again?

Mr. Pocan. Sure. Yes.

The Witness. Sure.

Mr. Pocan. Did you hear only what the administration and former
Secretary Clinton wanted you to hear?

The Witness. No.

Mr. Pocan. Were you beholden to the Secretary in any way?

The Witness. No.

Mr. Pocan. Did you shield her from criticism because she
convened the Board and appointed you as chairman?

The Witness. No.

Mr. Pocan. I'm going to ask you this: Did political
considerations play any role in this investigation?

The Witness. No.

Mr. Pocan. On April 30th Oversight Committee member Gowdy
appeared on Fox News. I'd like to enter the transcript from his
appearance as Exhibit 6.

[Pickering Exhibit No. 6

was marked for identification.]

Mr. Pocan. Mr. Gowdy made the following statement, and I quote: "After 7 months, it's become patently obvious that the sole function of the Accountability Review Board was to insulate Hillary Clinton," end quote.

Do you want time to find that?

The Witness. I have it, sir.

Mr. Pocan. You've got it? Okay.

The Witness. Uh-huh.

Mr. Pocan. What is your response to that allegation, and was the function of the Board to insulate the former Secretary?

The Witness. No, it was not our function. The function's in the statute and it's clear.

Mr. Pocan. In your review, did you determine whether Secretary Clinton had a role in establishing the Benghazi compound or approving its security profile?

The Witness. Yes, we did.

Mr. Pocan. And what did --

The Witness. She did not have such a role.

Mr. Pocan. Excuse me. Please repeat that.

The Witness. She did not have such a role.

Mr. Pocan. Thank you.

The Witness. We, as I said earlier, found that the decisions that were made with respect to the Benghazi compound were made in the Bureau of Diplomatic Security, principally, and at the level of the Assistant

Secretary and the Deputy Assistant Secretary.

Mr. Pocan. Okay. And when did you find that Secretary Clinton was involved in the decision -- I'm sorry. Did you find that Secretary Clinton was involved in the decision-making that led to the lack of security in the days and weeks leading up to the attack?

The Witness. We did not make such a finding.

Mr. Pocan. And why did you not?

The Witness. Because she wasn't.

Mr. Pocan. She wasn't?

The Witness. The decisions were made at a different level by different people.

Mr. Pocan. During the committee's May 8th hearing, Chairman Issa stated that the message being sent by this investigation is, and I quote, "The next ARB will probably whitewash the same as this one," end quote. I would like to introduce the portion of the May 8th hearing where Chairman Issa made this statement as Exhibit 7.

[Pickering Exhibit No. 7
was marked for identification.]

Mr. Pocan. Ambassador, is the ARB part of a whitewash?

The Witness. No.

Mr. Pocan. Do you have any reason to believe that the Department or the administration intentionally withheld any evidence from you?

The Witness. No.

Mr. Pocan. If you suspect that you were not being provided relevant evidence or could not obtain the cooperation of witnesses,

what would you have done?

The Witness. We would have obviously not just repeated our demand for the information, but used the authorities under the law to obtain it.

Mr. Pocan. And what recourse was that?

The Witness. We had the subpoena authority, as well as the authority to administer oaths.

Mr. Pocan. What effect do these accusations of a cover-up have on the important task of implementing recommendations made by the Board to improve diplomatic security at posts around the world?

The Witness. I believe if the Board -- if the Accountability Review Board is being attacked for being incomplete, whitewash, flawed in any way at all, it's an attack on the credibility of our findings. And obviously we would hope -- and it was the reason why, I think, both Admiral Mullen and I asked for opportunities to appear in public to reassure the public that we did not believe, from our vantage, that these particular charges had any veracity to them.

Mr. Pocan. And do these accusations make it harder for future Secretaries of State to find members willing to serve on a future ARB?

The Witness. I would, without being a genius, imagine that's the case.

Mr. Pocan. Thank you, Ambassador.

The Witness. Yes, sir.

Mr. Pocan. I appreciate it.

Mr. Cummings. Thank you. Going to yield our final minutes to

Mr. Connolly.

Let me just ask you this one question: If you had found Secretary Clinton to be responsible here, what would you have done?

The Witness. We would certainly have included it in our report. There was no way that we would have been limited in our findings.

Mr. Cummings. And I assume that having the five members there, they unanimously concluded that the Secretary was not responsible here.

The Witness. Yes. Correct.

Mr. Cummings. Mr. Connolly.

Mr. Connolly. Thank you, Mr. Ranking Member.

Ambassador Pickering, welcome.

The Witness. Thanks.

Mr. Connolly. And thank you for your very honorable and long service to this country. And I, like you, certainly hope all of this can be aired in public, along with your colleague, Admiral Mullen.

There have been allegations or charges or statements made that the defense response, or lack thereof, to the tragedy in Benghazi was inadequate and could have been so much more effective. Did you and the ARB look into the defense posture, the defense response to the tragedy in Benghazi?

The Witness. Yes, we did, Mr. Connolly.

Mr. Connolly. About what did you find, Mr. Ambassador?

The Witness. We found that with respect to the various options that were possible to consider for providing military support or assistance to Benghazi and Tripoli, none had the capacity to provide

that within a relevant time period.

Mr. Connolly. Mr. Ambassador, one of those -- as I understand it, there's an emergency program called FEST? Is that correct?

The Witness. That's right.

Mr. Connolly. And that is based where, Mr. Ambassador?

The Witness. That's a civilian program based in the United States that has a deployment capacity.

Mr. Connolly. It's, in fact, based at Andrews Air Force Base? Is that correct?

The Witness. I understand that's probably right.

Mr. Connolly. So had that been activated, could it have responded in a timely fashion to the events unfolding in Benghazi.

The Witness. It's not a defense program. It's an interagency program. The decision was made, I understand, at an interagency meeting that took place after the events of Benghazi but on the same day; that it was decided not to employ it, for reasons that it was not relevant to the needs, whereas deploying Marines from Rota were.

In response to your question, I understand the FEST has a 4-hour standup period with assigned aircraft. I'm not an expert in logistics, but one would imagine perhaps then an 8 or 9-hour flight. But then you have to presume that aircraft arrival clearance could be procured in time. And so the time periods we're talking about now don't seem to be in any way relevant to Benghazi, which was evacuated between 6:00 and 6:30 the first people left on the morning Benghazi time, or roughly 9 hours after the events began at 9:42.

Mr. Connolly. Is there any evidence, Mr. Ambassador, to suggest that relevant officials at the Defense Department reviewed and actively refused to provide any assistance as the events unfolded in Benghazi?

The Witness. There is a statement by the Defense Department, recently released, about the time of the May 8th hearings, which attempts, and I think does so seriously, to explain why four special forces soldiers on duty in a training assignment with Libyans in Tripoli on the night of the event were not deployed on a second aircraft that was to go to Benghazi. And I believe that that is, from everything I know, a true and clear statement of the rationale for that.

Mr. Connolly. Did the ARB report find that U.S. military forces, in fact, did all they could to respond?

The Witness. Yes.

Mr. Connolly. And that was based on what, Mr. Ambassador?

The Witness. Extensive briefings in the State Department, meeting with the combatant commander, General Ham, certainly the particular expertise we enjoyed in having a former Chairman of the Joint Chiefs to help us both interpret the data and ask the appropriate questions?

Mr. Connolly. As you may know, Mr. Ambassador, we had Mr. Hicks before the committee in an open hearing who testified that based on a conversation he had with the military attache in Tripoli that the military response was insufficient and that, in fact, they could have done more, based on Aviano or some other base.

Did your -- did the ARB look into that?

The Witness. Yes, we did. And I was struck, Mr. Connolly, by the fact that Mr. Hicks' testimony contained the answer to his own question when he was told, according to his testimony, by the defense attache, Lieutenant Colonel Keith Porter -- I'm not sure I've got the names right -- that the aircraft based at Aviano were 2 to 3 hours away, but there was no tanker support for them. Again, I'm not portraying myself as a military expert, but that seems to have been an answer to the question that he posed.

It was also subsequently addressed by former Secretary of Defense Mr. Robert Gates. And Mr. Gates said that had he been asked to approve the deployment of aircraft such as those at Aviano, the F-16's, to fly low over Benghazi, he would not have done so without paying careful attention to the fact that significant numbers, mainly, I believe, of Soviet-origin MANPADS, shoulder-launched anti-aircraft missiles, had gotten loose in Benghazi, in the Benghazi area, and presented a threat to low-flying aircraft.

So there were a number of expert testimonies here that I think indicated clearly the reasons why that particular advice was on the one hand unfeasible and on the other hand perhaps unwise.

Mr. Connolly. Thank you, Mr. Ambassador. Our time is up.

Mr. Chaffetz. This being the end of the first hour, we'll break. There's lunch available. And we'll convene sooner rather than later. Thank you.

[Recess.]

Chairman Issa. Go on the record.

Ambassador, I'm going to ask you just two very, very -- or probably two very quick questions that are outside of the line of questioning that Mr. Castor has.

As you, I'm sure, are aware, your job was to execute on the ARB, and we're reviewing your execution of the ARB. Our job is, of course, to review that, but it's also to ask the question as the Reorganization and Oversight Committee of is this process that has gone through now 19 times, is it sufficient? You mentioned earlier in your testimony, citing from previous 18, and I think particularly noteworthy, although I can't quote it, I'll paraphrase, that perhaps the previous 18 had not been properly heeded and executed sufficiently or some of these things would not have happened.

So in your own words, if you would do me just two questions. One is, some of the areas of past ARBs that from your recollection you would say would have diminished or mitigated or maybe not made some of your 29 recommendations as necessary had they been heeded sooner.

And then secondly, any thoughts you have on, if you will, ARB reform, the whole question of -- because there have been questions about whether or not a process in which the Secretary puts together a group of people, says, do this, the guidelines which allow a lot of "may" but not "must," this whole process.

And I know that's a long question, but the short question is, one, what should they have done in the past they didn't on 18, and two, what changes to the ARB process would be helpful in the future, in your opinion?

The Witness. Well, thank you, Mr. Chairman. Both are important questions and I appreciate them. If you'd allow me to just look at the --

Chairman Issa. Uh-huh.

The Witness. -- recommendations. The one that relates to Nairobi and Dar es Salaam in particular, it's number 10 on page 9 of the unclassified text that I have before me, it recalls --

Chairman Issa. Do you have a copy, an extra copy?

The Witness. It recalls the recommendations of Nairobi and Dar es Salaam and says the State Department must work with the Congress to restore capital security cost-sharing program at its full capacity, adjusted for inflation, to approximately \$2.2 billion in fiscal year 2015, including an up-to-10-year program addressing that need, prioritized for construction of new facilities in high-risk/high-threat areas. It also should work with the Congress to expand the overseas contingency operations funding to respond to emergency security threats and vulnerabilities and operational requirements in high-risk/high-threat posts.

That one, I think, is particularly pertinent and appropriate. And we repeated it because we felt that that program, as I explained earlier, had fallen both as a result of cost growth, but also obviously as a result of budget constraints. And so in that sense --

Chairman Issa. I don't mean to interrupt you, but budgets grew disproportionately during the intervening period.

The Witness. But there were cuts in DS budgeting.

Chairman Issa. In the last one or two budget cycles.

The Witness. Yeah. I'm not the expert on that, but I have to say, in my humble view and with all respect, Mr. Chairman, I feel there's blame on both sides here. And we phrased that particular recommendation to try to capture that as best we could. And you were kind to ask me, and I'm not trying to pin you here into some corner in any way at all. I'm just trying to give you what I think is true.

I think that that -- and then there are other questions here that come out. There have been past ARBs, I believe, that have experienced fire. And I had an embassy burn up on me. And so I have had firsthand experience with fire and fire danger, and I think it's a serious shortcoming. And I don't pin that on you at all --

Chairman Issa. No.

The Witness. -- or the Congress, but I think --

Chairman Issa. But I don't know that people thought about storage of fuel as much as they -- that they now will.

The Witness. Well, then there's the storage of tools of convenience that you leave lying -- you know, all of those things that -- that came across. And I think that we would share with you a common sense of the importance that attach to those things. I think they're there.

In terms of improving the ARB, we made a recommendation to deal with discipline. We were concerned that breach of duty had been defined, both in statute and regulation, in part through what are the normal processes of negotiation with labor unions and the State

Department to the point where it required an element of extreme negligence and some element of willfulness.

And the meaning of that, Mr. Chairman, is that you can't exercise what's called discipline, and the disciplines are three -- reprimand, suspension, and separation -- without finding the evidence sufficient to establish that.

And we said, look, we did our best, but that was not there, but we found people so deficient in their performance of their duty that we felt that there should have been some discipline available, and therefore we recommend the State Department come up to you here with an amendment in the acts, whatever legislation it is, so they could do that.

And in the meantime, we did what we could on the basis of precedent and where we were in our recommendations in categorizing that performance and making a recommendation with respect to two of those people that they not continue in their present job, all of which you know.

So I think that that's, in my view, the answer to your first question. I would find other things here that might be connected in one way or another with the past that would represent remedies that would help and that would make ARBs more effective.

Now, I would say, without any personal animus at all, if we do as you suggested on "Meet the Press" and we work with you and you with us to take a look at what we did and where it fits -- and I'm perfectly willing to admit, we're not omniscient. I mean, none of us are.

Chairman Issa. Uh-huh.

The Witness. But if we come out of this in a way that says, okay, there were new facts or new pieces of information that have to be taken into account, sure, but you also said that if you find that we do a good job, we'll have done our job in this committee very well. And I'd like to see that also be on the screen, sir --

Chairman Issa. Uh-huh.

The Witness. -- as we go through this. I just think there has been, frankly, throughout this whole process, as I said to Brian, too much politicization, but we live in a world of politics, and I'm not a naif and I understand where those things are coming from. And I hope that we could find a way to go forward here that would make some real difference.

I think there's only one thing that counts with me, only one reason I accepted the Secretary's call: I don't want to see more people die. I don't think you do, either. And I don't want to see more property torn up and I don't want to see more terrorists or whoever create an opportunity to affect us in our vulnerabilities, and I don't want to see more grieving families. And if we can meet that standard and we can do a better job, anything that can be brought forward to make that happen is very much in my interest and I would hope in yours.

Chairman Issa. Well, I appreciate that. And in closing my questioning, we continue to be a little confounded in our discovery in trying to get access to the same documents and people that you had access to.

The Witness. Uh-huh.

Chairman Issa. But I do look forward to going through that and perhaps with the Secretary, Secretary Kerry's permission, the possibility of reopening the ARB and allowing for some of the things that are known now that were not known then. You know, you mentioned the over-the-wall video, which squeaked in at the end.

The Witness. You know, it was -- it was -- the video was available. There was nothing new. It was just that the guys who were interpreting --

Chairman Issa. Right.

The Witness. -- had finally reached a conclusion.

Chairman Issa. Right. And the 11th hour --

The Witness. Yeah. Sure.

Chairman Issa. -- recognition there, I think "Meet the Press" certainly was a time to discuss it --

The Witness. Yeah.

Chairman Issa. -- but that -- that there's now 12th and 13th hour statements, and that's part of the reason that Mr. Castor has a lot of questions and I'll let him get to them.

The Witness. Okay.

BY MR. CASTOR:

Q Did the Board look into the motivation for the attack?

A No, sir. That was clearly under the memorandum of the Department of Justice, and in accord with the statutes for law enforcement, the province the FBI, according to my understanding.

Q And the Board did not look into the public response, the talking points and so forth?

A Thank you. No, as I made clear on numerous occasions.

Q And had previous ARBs looked at any aspect of the public response?

A I don't know, in all honesty, they're publicly available -- or what's publicly available -- but they could be reviewed for an answer, but I just don't know, sir.

Q Do you think in the future it would be helpful if, you know, future Accountability Review Boards could look into the public component if something like this does arise where there's some type of controversy?

A In all honesty, no. There is something from science called terminus ad quem; that is, after that, nothing else happens. And to do a review, you need a terminus ad quem to work on so that in effect you have a finite jurisdiction.

And I would say, just my own personal opinion here, that if you had an ongoing effort to quibble over how things were presented, it wouldn't be a board like this that could do it. And it would be an endless job. Politics goes on forever. You know, I think -- I rely on --

Chairman Issa. Only for John Dingell.

The Witness. No. I rely -- for John Dingell. I rely on the First Amendment, you know. I think the First Amendment is designed to try to find an answer to that question.

BY MR. CASTOR:

Q Was there anything that you thought or other Board members thought should have been part of your mandate that wasn't?

A I honestly don't. We discussed things often in that particular -- in the context of your question and said -- and I think we all agreed that we had the right scope, as we understood it, and did the right body of work.

Q Now that you've had an opportunity for some -- for some time to pass and you can do your own Monday morning quarterbacking, was there anything about the report that -- or the process -- that you might do differently now having the benefit of the -- of some time and some public discussion about it?

A No. In all humility, I think it wasn't me, it was us, it was we, and I thought that was pretty good. It would be a terrible mistake to have one person do an ARB. It would probably be a mistake to have 10. Five is about right. And you had 10 -- five people I thought well selected with a variety of backgrounds and experience and skills, and I thought that helped. And different people played different roles. So we had people who were reminding us of, you know, we got to pay attention to this or we got to pay attention to that, I thought was good.

Q At our hearing May 8th, Mr. Hicks testified that there was a second flight from Tripoli to Benghazi at dawn on September 12th. And my reading of the report, the report talks about one flight chartered by the U.S. authorities. Is there any reason that wasn't

in the report, the second flight that he talks about?

A I believe it is, sir. It's referred to as the Libyan Air Force C-130.

Q Okay?

A And it may possibly -- this is, you know, maybe in this -- in the -- in the classified portion for reasons of the fact that it was a Libyan Air Force aircraft, but I don't really know. And we could check that and you could certainly look at it. But we were certainly very aware of it and I believe it was mentioned.

Q And it's your understanding it was a Libyan asset?

A It was a Libyan Air Force aircraft, yes.

Mr. Downey. Mr. Chairman, can I just --

Chairman Issa. Sure.

[Discussion off the record.]

BY MR. CASTOR:

Q Mr. Hicks also testified, it's now received its due coverage, about the four U.S. military personnel?

A Would you accept an answer to that question that said it was apparently classified because it was an aircraft with an official connection?

Q On my last question?

A Yeah.

Q Okay.

A Rather than to refer to -- change the record to instead of saying it was a Libyan Air Force C-130, it was -- it was -- it was

probably classified because the aircraft had an official connection.

Q Okay.

A Okay?

Q Okay. Thank you.

A Yeah. Thank you. I just want to stay away from anything at all that looks classified.

Chairman Issa. And for the record -- and, Susanne, chime in if you're the representative now -- to the extent that there are comments made that exist in the public domain, we will assume for the record that you were commenting from --

The Witness. The public domain.

Chairman Issa. -- the public domain. And to the extent that you were not the classifying authority, we will assume that you're speaking from that standpoint. So I realize that in some cases we're going to have to all be careful not to cross the line, and we will look into redacting the record if we believe either side afterwards has inadvertently crossed it. But at this point this is an unclassified only, so I'm cautioning us all to --

The Witness. And I'm trying my best to stay --

Chairman Issa. Thank you.

The Witness. -- within the guidelines.

Ms. Sachsman Grooms. Mr. Chairman, if I may.

Chairman Issa. Of course.

Ms. Sachsman Grooms. On page 27 of the unclassified report --

The Witness. Yes. I think it was.

Ms. Sachsman Grooms. -- it refers to this as the Libyan government -- to have a Libyan Air Force C-130.

Chairman Issa. Okay.

The Witness. Okay. Then it's fine, and you can leave it exactly the way it is.

BY MR. CASTOR:

Q Okay. Getting back to -- Hicks had testified that four U.S. military personnel were told by their chain of command not to board the flight going over to Benghazi. Why was that not included in the report?

A Because, I believe, it didn't make any difference --

Q Okay.

A -- in the security situation, and it was later reflected in the Defense Department public announcement --

Q Okay.

A -- of some time around May 8th.

Q So that was information that was made available to the Board?

A It was, and we understood that.

Q You processed it --

A Yes.

Q -- and made a decision not to include it?

Did the Board look into in any great detail the specifics of that, like such as who made the decision and why the decision was made?

A We did. And we had understood that the decision was made,

quote, "in the military chain," but we had difficulty finding where it was. But that was later clarified by the Defense Department's statement I referred you to which said that it was SOF Africa that made the decision, and they made the decision on grounds that we had already understood to be the case: that there was no security need for them, they would be an additional burden to a place that was evacuating, but there was a security need for them in Tripoli. There was an exercise going on in Tripoli of combining two separate compounds because of the inadequacies of one and a shortage, because of the six people who left earlier on the plane to Benghazi, of security officers or people equipped to provide security. And there was an additional consideration of dealing with the wounded coming in, in the Tripoli airport from Benghazi, where the SOF's soldiers were presumed to have special training.

RPTS BLAZEJEWSKI

DCMN HERZFELD

[1:22 p.m.]

BY MR. CASTOR:

Q Did the Board look into whether those four officials personally requested to go or wanted to go?

A No. I am familiar with Mr. Hicks' testimony on the subject, but with all respect, that's irrelevant --

Q Okay.

A -- in military decisionmaking.

Q And did the Board speak with those four?

A No, we did not.

Q And I will state for the record that, you know, our Members do have a number of questions about military support and the role of the military. A great deal of that is classified, so we're not able to get into that today, but I just wanted to state that for the record.

I would like to go through the report and call to your attention some --

A Certainly.

Q -- passages that our Members have flagged and go through that with you.

A Sure.

Q Let me know if --

A If you could tell me roughly the page you're on, if you know.

Q Okay.

A Then I will be able to follow through and see the context, which I think will be helpful.

Q Turning to page 4 of the report.

A Yes.

Q Number 2 of the findings. Systemic -- would you prefer that I read it out loud, or would you prefer that I just called your attention to it, and we could go from there?

A Why don't you just ask me the question since I can find it.

Q Okay.

A And then if I want you to read it out loud, then --

Q Okay. I was just trying to -- whatever works best.

With respect to number 2, the paragraph that begins with Systemic Failures, which two bureaus does this refer to?

A The Bureau of Diplomatic Security and the Bureau of Near Eastern Affairs.

Q And how did the Board define "systemic failure"?

A Long-standing, continuing failures that were reflected in processes that the State Department pursued.

Q And is it fair to say that a systemic failure would mean a failure throughout the system?

A No. It meant a recurrent and continuing failure, one example of which was the churn I spoke of in diplomatic security personnel, which we identified in specific terms.

Q The term "senior level," I think we may have discussed this in our first hour. Maybe you could just help me again, how did the

Board define "senior level"?

A We certainly assumed that everyone would know that an Assistant Secretary of State was a senior-level official.

Q Okay. And is the Assistant Secretary on up at the senior level or --

A Yeah. It's a fair judgment.

Q Okay.

A You know, some would say even Deputy Assistant Secretaries are senior level.

Chairman Issa. What about Senior Foreign Service officers under that category?

The Witness. Individuals in the State Department have three ways of defining them. One is by their personal rank or grade, and that was what the chairman was referring to a minute ago; and there is something called the Senior Foreign Service, which begins at a grade above FSO-1. They have their official job title, which we have been referring to, where certainly Assistant Secretary and, I believe, Deputy Assistant Secretary qualify as senior level. And overseas they have diplomatic titles which we don't need to bother you with, but they also would indicate seniority or lack of seniority.

BY MR. CASTOR:

Q Were there systemic failures in leadership and management deficiencies within the NEA Bureau?

A Yes.

Q And what were they?

A The identification of Mr. Maxwell's failure fully to perform his duties as expected was the major identification that supported that judgment.

Q And were there any systemic failures in leadership and management deficiencies with any other officials in the NEA Bureau?

A No.

Q So Mr. Maxwell is --

A Not that we found, no.

Q I'm going to flip over to page 30.

A Sure.

Q The sentence relating to Egypt and Syria in the third paragraph.

A Uh-huh.

Q The paragraph states that the DS Bureau showed a lack of proactive senior leadership with respect to Benghazi, failing to ensure that the priority security needs of a high-risk, high-threat post were met. At the same time, with attention in late 2011 shifting to growing crises in Egypt and Syria, the NEA Bureau's front office showed a lack of ownership of Benghazi security issues and a tendency to rely totally on DS for the latter.

When referring to NEA Bureau's front office, is there anyone other than Maxwell that falls into that category?

A Well, I think to be clear here, we believed that Maxwell and his job should have been the central locus of, in fact, standing up, if I could put it this way, for his ambassadors and his posts with

DS. There was testimony that also the Principal Deputy and the Acting Assistant Secretary followed these issues, but this was also put in to explain that they had a big region on their heads and a lot of other things to do, which, in my view, in its own terms reinforces the importance of Mr. Maxwell and his role.

Q Was the Board able to identify which individuals within the NEA Bureau were responsible for Benghazi security issues? Obviously the U.S. has its primary responsibility, but within the NEA Bureau did the Board look at which officials had that responsibility?

A Yes.

Q And who were they?

A Mr. Maxwell.

Q Any other --

A There were other people who parlayed supportive functions, but we felt that he was the officer in charge of the Maghreb. You had another officer in charge of Libya, but we felt given the fact that a Deputy Assistant Secretary is looked at as a primary player in the intradepartmental sphere, it was important to have the Deputy Assistant Secretary fully engaged.

Q And was that ---your evidence for that, was that -- obviously it's from Mr. Maxwell's interview?

A Yes.

Q Was it also from the interviews with other officials in the NEA Bureau?

A No, I don't believe that they were aware of his attitude

toward the intelligence material, unfortunately I think.

Q Do you know whether they were aware of whether he was consuming the intelligence material?

A I don't know that they were.

Q Did the Board get into how security requests, you know, in actuality moved from the embassy to Washington, D.C., and how that actually unfolded? There's, of course, the official channels with cables, but there's also an unofficial meaningful back-and-forth that occurs outside of official cables. Did the Board look at that entire --

A Yes, we did.

Q And was there anything about that process that concerned you?

A Yes, there was.

Q And do you think the report adequately, you know, provides recommendations for performing that in the future?

A Yes, we did.

Q At our October 10th hearing -- we have been talking about the May 8th hearing, so going back to the earlier hearing -- Charlene Lamb was asked about the Department's policy of normalization --

A Yes.

Q -- with respect to the security personnel used to protect the diplomatic facilities. The normalization policy involved replacing U.S. security personnel with Libyans, and, of course, the report gets into that.

A Yes, sir.

Q Did the Board look at whether the normalization in Libya contributed to the lack of readiness of our compound to repel an attack?

A Yes, we did.

Q And what ultimately was the conclusion of the Board?

A That the normalization process was part of what was grossly inadequate for the night of the attack and part of the inadequacies of the facility; that is, we relied on Libyans who did not perform.

Q So had the policy of normalization not been implemented, there might have been a different result?

A It's a really hypothetical question, again, of some difficulty. The choice was a stark one between somewhat reliable Libyans and highly unreliable Libyans. And then it got into the complications of whether you needed one, three or five U.S. security officers to back them up. And so they were all interrelated, and I think you can see this very easily.

Q Who made ultimately the decision about normalization? Is there a State Department official that can be identified with that decision?

A Charlene Lamb.

Q And did the Board consider --

A I think "normalization" is a buzz word that somebody's invented --

Q Okay.

A -- for a term called "the new normal," which is meant, I think, principally to describe a situation where the host government

is not doing its job, and where, therefore, we have to decide whether we stay in the context of our major recommendation on that subject or leave; stay and provide or leave as a way of dealing with the risks and costs, yes. And it doesn't mean that all security problems are problems of host country failure, but it means some are.

Q Turning to page 30, calling your attention to the first sentence in the last paragraph: Another key driver behind the weak security platform in Benghazi was the decision to treat Benghazi as temporary a residential facility, not officially notified to the host government, even though it was also a full-time office facility.

Eric Nordstrom, in his testimony, made the point that because of its temporary status, the only person who could grant waivers or exceptions to the standards was the Secretary of State. Is that something the Board considered or --

A Yes, we did. And the best of my recollection, these were delegated authorities, and so the normal process, as I understand -- and, again, you may know more about it than I do here -- is the act may say the Secretary of State, and unless it's decided it's not delegable, then it gets delegated in the State Department. And in this case I know for OSPB that Eric Boswell may have had that authority.

I also know that there is some confusion, and it appears the best we have been able to -- we were able to find out is that temporary excuses you from SECA and OSPB, and we made strong recommendations you'll see in the report to close that loophole, that there should be no place

without standards. And I described in earlier testimony how some of that might work, including plans, benchmarks, and allocation of funds to close the gaps.

Q Who at the Department did the Board determine was responsible for the decision to occupy the facilities that did not meet the formal requirements?

A That goes back to Ambassador Stevens' arrival -- I would like to say early 2011, but I'm not sure -- and as the special representative to the Benghazi people who were fighting Muammar Qadhafi, and it evolved because he had to live someplace, and he was in a hotel for a while and then in residential facilities, and then the residential facilities morphed into office as well as residential facilities. And so they just evolved, and they were of a temporary nature. And in December, as you know, of 2011, they were extended for a year by a decision of Under Secretary Kennedy on the recommendation of the NEA Bureau, but supported by the Diplomatic Security Bureau.

Q So ultimately --

Chairman Issa. Could I --

Mr. Castor. Yes.

Chairman Issa. During that time -- and you're obviously very familiar with that extension -- there were significantly greater U.S. assets armed. Did you look at the decision process where security forces, U.S. armed security forces, including Colonel -- Lieutenant Colonel Wood and so on were reduced while that recommendation for 1-year extensions stayed in place?

The Witness. We did, but, Mr. Chairman, with the greatest respect, those were 600 miles away in Tripoli.

Chairman Issa. Actually, no. We have testimony on October 10th that they were regularly, a portion of them, there.

The Witness. There were visits of a small number, several, I believe.

Chairman Issa. Yes.

The Witness. Best of my recollection that's the case, yes, sir.

Chairman Issa. Okay. So you didn't feel that the withdrawal of those individuals is a factor in Benghazi?

The Witness. No. It was hard for me in the extreme to believe that that was a factor in Benghazi unless they had been deployed there, and, as you know, the evening of the event -- and I think this is not classified, but let's treat it as potentially -- two of the six people who went on the first chartered aircraft were military.

Chairman Issa. Well, they were under chief of mission authority.

The Witness. They were under chief of mission authority. They were from the -- six members of the SOF unit, the other four of whom we discussed.

Chairman Issa. Right. Okay. Thank you.

BY MR. CASTOR:

Q Turning to page 6 of the report, the Board concluded -- I'm sorry, this is the third paragraph, the last sentence -- among various Department bureaus and personnel in the field, there appeared to be very real confusion over who ultimately was responsible and empowered

to make decisions based on policy and security considerations.

A Yeah. Let me see if I can see what the context is a little more clearly.

I believe this is a general paragraph, Mr. Castor, designed to describe the specific deficiencies we found in decisionmaking.

Q Uh-huh.

A We made another recommendation that decisionmaking follow a predictable and rapid course, which I believe stems from this, and that course would be security decisions where the regional bureau disagreed should be taken up immediately by the two Assistant Secretaries. If they could not agree rapidly, it should go to the Under Secretary for Political Affairs and the Under Secretary of Management to resolve. If they could not resolve it, it had to go to the Secretary. And we believe that's the way in which you can get rid of what is essentially this pussyfooting and difficulty in who shot who or who's responsible for what. So we stated that in very clear terms is what we thought should be the decision chain. This reflected advice we had from senior people and experience.

Q Is it fair to say that there were senior leaders who did not sort that out who should have?

A I would say no, because specifically a senior leader suggested this chain to us in his testimony.

Q And who was that?

A Under Secretary Kennedy.

Q Ultimately, though, who is responsible for preventing such

confusion?

A Ultimately --

Q Is it DS, is it somebody in the regional bureau?

A I think in this instance we clearly found that the DS Bureau was deficient, and we also found a deficiency in the Near East Bureau in failing to read the intelligence, which, in my view, hindered their ability to be fully supportive.

Q One more question going back to the status of the special mission and the extension. Ultimately was it decided who made the decision to clear for another year?

A Oh, yes, it's very clear. There's a memorandum from Under Secretary Kennedy --

Q It was his decision?

A -- with the boxes checked. Yes, sir.

Q And do you think that decision had any, you know, material impact on what occurred?

A No, because it was, in our judgment, the security decisions that were required to implement the decision to stay. So there's a distinction between the decision to stay and the decisions from the supporting bureaus about what has to be done to facilitate staying, including doing so with the best security you can get.

Q Okay. Hicks testified at the May 8th hearing about a very positive experience he had with the Board, and he said that after the attacks John Martinec, the Regional Security Officer, and Hicks worked on a list of physical security improvements that had to be made in

Tripoli in order for the mission to be as safe as possible, and Hicks testified that he cabled that list in to the Department and learned later that that cable was not well received by leadership in Washington. To the ARB's credit, he said that when specifically you became aware of that, you brought that to Under Secretary of Management Kennedy's attention, and according to Hicks, he believes that you urged Kennedy to, you know, implement every single aspect of that. Is that the way you recollect?

A Maybe Mr. Hicks is more grandiose in his praise than he needs to be. I did two things, to the best of my recollection. Admiral Mullen and I jointly felt as we began to understand the situation in Tripoli that Tripoli was still in jeopardy in the case of an attack similar to a copycat of Benghazi, and that there were copycats that were possible. And so we put directly to the Secretary through her chief of staff a recommendation that she personally do everything she could to get Tripoli back functioning and secure, and then I think we either followed up or had it proceeded with whatever reinforcement we could make with Pat Kennedy to get it done. But this was something we felt was so exigent that it couldn't wait the 60 days for our report.

Q Do you know why it wasn't well received by the folks in Washington?

A I don't know. And, you know, I have no idea what was going on, and sometimes people have a tendency to overreact when things take time to carry out. I just don't know, and I wouldn't -- beyond that, I wouldn't want to venture any guess.

Q When you did have your communications with Cheryl Mills or Under Secretary Kennedy, was there a sense that they were already working on it?

A Yes, and a sense that they got it. Yeah. I think we were pushing on an open door on that, but --

Q Turning back to page --

Chairman Issa. Before you go on, these recommendations in Tripoli, I presume you would say that by definition these are recommendations substantially of things that should always have been there? In other words, the embassy facility had deficiencies; is that correct?

The Witness. Yes, but we were not charged in specific terms with making recommendations on Tripoli except insofar as Tripoli was a support base for Benghazi.

Chairman Issa. Right, and I appreciate that to the extent that you --

The Witness. But we were, Mr. Chairman, concerned by what we thought was a situation that was dangerous, and so that's the reason why we took steps to try to close off that.

Chairman Issa. And even though ambassadors have lanes, and you had seven lanes over your decades of service, certainly any ambassador who doesn't mention something they believed is a problem wouldn't be doing their duty, and in a sense I appreciate that you did it even though it wasn't within your mandate.

The reason I'm following up with these questions, though, is if

it wasn't for us, for Mr. Cummings and myself, and for the Foreign Affairs Committee, the deficits that existed that were recognized and thus fixed, do you believe from what you know -- and we'll be looking into it further, of course -- that the exact same culpability exists in Tripoli, or that we should look more thoroughly at how a permanent embassy, actually two facilities, I guess, managed to have so many, if you will, insufficiencies that needed corrected? Do you get my --

The Witness. No, I'm not sure. Do you mean Tripoli being a permanent embassy, it had --

Chairman Issa. Well, so much has been said about Benghazi being temporary, and we understand the history.

The Witness. Uh-huh.

Chairman Issa. Our committee tends to look at the blowing up of the wall and it being rebuilt, but not made any better and so on. So we look at certain things down there. But that's a facility that isn't quite a consulate; as you say, a residence that became an office and a residence and so on. But when you look at the facility in Tripoli and the deficiencies recognized and quickly fixed in this 60-or-so-day period after September 11th, do you -- since it wasn't your charge to look at the history of those failures, the need for them, and so on, do you believe, though, that that's something that we should look beyond the scope of the same people you held accountable; in other words, in case of facilities, obviously, from Patrick Kennedy down through the whole chain to see why those things were deferred or not done?

The Witness. I would make two remarks, Mr. Chairman. We did not

look into this, but in the course of looking into Benghazi, we became aware of a number of the events and features in Tripoli.

Secondly, you must look at the history of Tripoli. We had an embassy that about the time of Qadhafi's fall we were burned out of, we had evacuated. So we had no embassy building. We had to go and rent compounds, and those compounds were inadequate, but all we had. And one of them was a little better off than another, so we combined on the morning of the 12th of September as soon as it got light, according to Mr. Hicks' testimony. So we were working off a jury-rigged mess in Tripoli as well, not something that looked like what we would call an Inman building.

Chairman Issa. I'm very familiar with those standards from my time on Foreign Affairs.

The Witness. Interestingly enough, both in Cairo and Tunis, within days of each other, those Inman buildings withstood fairly tough attacks.

Chairman Issa. Well, and --

The Witness. But they weren't there. So Tripoli could not be considered, even though it was an embassy, under that set of circumstances anything like a fully -- you know, fully protected, fully defended, met standards type facility. We have a lot of facilities that don't meet standards now.

Chairman Issa. I appreciate this, and I know that this is off of ARB with your indulgence because this is an overall investigation, obviously. As you probably know, we went to the region afterwards.

The Witness. Yes, I did. So you know better than I do what I'm speaking of.

Chairman Issa. Well, I've certainly been in the Tel Aviv embassy many, many times, and it is only slightly better than when you served there, and it is a challenge facility if not for our host. And I've been in the Beirut compound, and if there's ever been a challenge facility, that's it.

But I asked that question because if the process in Tripoli gets reviewed before, we were, for example -- I guess it was when we were in Morocco where they're building a new embassy, we discovered that immediately afterwards, without any new appropriations, money was suddenly thrown all over the place in Morocco, including they had tens of thousands of dollars, actually I think about 100,000, to throw up this secondary facility for USAID into a temporary office facility, which they were leaving as soon as the new embassy was being built, and we visited the new embassy under construction. So a lot of those questions of process even came in other countries, and that's why I asked if you had looked at the process.

The Witness. And I have to be very careful, very direct, we did not look into Tripoli. It was not part of the review. Anything I say about Tripoli is just incidental to what I learned in Benghazi.

Chairman Issa. Last question that was also part of Mr. Castor's line. When you mentioned the difference between the stay-go that Ambassador Kennedy, Under Secretary Kennedy, had to make versus the separate decision on security if you stay --

The Witness. Yes.

Chairman Issa. -- it's your testimony, and I believe the ARB holds this forward, that that can never again be a separate decision; that the stay-go is contingent on whether or not you can support the security; that you can't say, let's stay, assuming there's security if security then doesn't happen. Would that be fair to say?

The Witness. It's explicit, Mr. Chairman, in our recommendation that you needed standards for the kinds of facilities that were Benghazi-type, so that there would be no facility without standards, and the standards ought to be met or waived. And then we said particularly where you have high-threat, high-risk posts, you need a plan and funding to get up to speed as soon as you can.

Chairman Issa. Well, let me just close with one more question, because I've been fairly critical of Ambassador Kennedy because he is the senior person that we see in the chain of facilities.

Isn't it fair to say that there has to be a quality loop that the -- when you make a decision to stay, even if there are standards, if then, for whatever reason, funding or some decision by a Charlene Lamb or somebody else in her position in the future, that you're not going to do something or that it won't be well received, doesn't that -- shouldn't that create a quality loop that goes back to the original decision that, no matter what the decision is, if some part of the contingent isn't met, you have to go back up? And I know you have a conflict process, but sometimes these are sequential decisions one has to make.

The Witness. I think to go back to an earlier question I had. Recommendation number 1 was an attempt to get at that in a philosophical way, but that other recommendations that are here are to carry out the process that you described, that you can't make a decision in theory and not implement it in fact. And that's what we tried to close the loop on, and I think that those -- the sum of our recommendations as you look at them, in part they're meant to do that. In part they're meant to close other loopholes and deal with other issues.

Chairman Issa. I appreciate that. I appreciate it, Mr. Castor. The reason I asked it is to try to get it in those plain English terms, because both for the members that will read this from our committee and the members from Foreign Affairs, it may be to us a legislative fix to ensure that there's certain nondelegatable events and so on.

The Witness. I think my concerns on that would be that fixes that are institutional and bought into are better than fixes that are legislated and become part of an overall process. If you could get the State Department to buy into an institutional fix, the cell that we recommended to set up new posts, those kinds of things, in my humble view that would make more sense in doing this, and that was where -- that was the approach that we came at this. We could have said all of this should go back to the Congress, and the Congress should legislate every --

Chairman Issa. You wouldn't do that to your friends at State Department, would you?

The Witness. No. I wouldn't do it either to you because you

would laugh me out of court probably if I tried something like that. And I think that would have been the first reaction, let me be frank, would be you're putting all the blame on me, and that's not my job. It's the executive branch job. So we were trying to fix this as close to where we thought the fix had to take place. Money, yours; some legislative authority, yours; but the rest of it, operating the State Department in an effective way, we pushed it to them because we thought it should be theirs.

Chairman Issa. I appreciate it. Thank you.

BY MR. CASTOR:

Q The Board concluded -- this is on page 6 of the report -- that regarding the Ambassador's trip --

A Yes, it's the first paragraph on page -- the first full paragraph on page 6, uh-huh.

Q Plans for the Ambassador's trip provided for minimal close protection security support and were not shared thoroughly with the embassy's country team, who were not fully aware of the planned movements off the compound.

Do you recall what the Board -- what evidence the Board used to reach that conclusion?

A Yeah. The testimony of various people who were involved and came and talked to us; some from Tripoli, perhaps our RSO Martinec, but I'm not sure, who would have had reason to know because his own people were involved. You remember that Ambassador Stevens arrived in Benghazi with two security officers from Tripoli.

Q There is an email which we're not allowed to have. I don't know how much familiarity you have with the process. The State Department brings documents in every day, and they take them away every night. So I'm going to read to you the contents of an email and represent to you that it is what it is.

Chairman Issa. It's an unclassified email.

BY MR. CASTOR:

Q In a September 8th email to a host of embassy staff, the Ambassador wrote, would very much appreciate your help in putting together a schedule for me in Benghazi. I'm cc'ing other relevant --

Ms. Sachsman Grooms. I would object at this point. Are you reading from an email? And if so, could we provide a copy of that email to the witness?

Chairman Issa. The problem is the State Department brings them every day and takes them away. Your people have seen the same emails. Since it's not available to us, and it's unclassified, he's asserted that it's true, and that will be sufficient for me to accept any question as relevant. If you want to check the original source and debate the question later, you may.

Please continue.

Ms. Sachsman Grooms. With all due respect, Mr. Chairman, we have access to the documents. So does your staff. In fact, we have our documents on hand, and we could bring in documents to show them to the witness.

Chairman Issa. With the State Department keeper?

Ms. Sachsman Grooms. Yes, of course.

Chairman Issa. Thank you.

Ms. Sachsman Grooms. But we can bring them in and show them to the witness so the witness could respond with the assistance of reading the document.

Chairman Issa. It's the gentleman's time to ask a question. At least let him ask it.

Mr. Castor. I'm not going much further with this. I think if I just finish the question, you can help us, or maybe you can't.

Mr. Downey. Could we put you through the burden of starting over? I'm sure --

The Witness. I don't think -- I wasn't sure we got to the question.

Chairman Issa. When we finish the question, it may be self-explanatory.

Mr. Castor. If you can't help me with it, you can just say -- I didn't mean for this to turn into some sort of dramatic --

Mr. Downey. Mr. Castor, before you ask the question, I certainly am sympathetic to the circumstances that you describe, and if you say you're incapacitated in showing witnesses documents, again, I'll accept your representation. However, the witness is here testifying under oath, and you're asking him for recollections of that. I understand that you're limited in doing it. I'm very reluctant to allow him to comment on those kinds of documents, and I'm not faulting you. I'm just saying that's the circumstance of representing someone

who's appearing under oath and is asked about particular documents.

Chairman Issa. Sure, and I appreciate that. What I will mention is the Ambassador has spoken about thousands of things from recollection today over documents that he once had in his control and does not have them with him here today. So let's let the witness hear the entire question in context, and then we can all talk about it if necessary.

Mr. Downey. Mr. Chairman, I agree with that process, and I was not raising an objection to it. I'm just noting for the record that's the circumstance.

Chairman Issa. Sure.

Mr. Downey. I would ask the chair and staff if it's possible upon our review of the transcript to make the documents available in case there's any modification required. If that's an arrangement that can be made, we would appreciate it.

Chairman Issa. We have sought to make all these documents available since they're unclassified. They are subject to a subpoena, and to the extent that the executive branch refuses to honor traditional production, we will continue to try to get that honored.

Please.

BY MR. CASTOR:

Q Again, we're limited in the questions we can ask you for this very reason, but there is an email from Stevens that, you know, I started to read, and I can read it again, that just talked about his trip, and it was sent, you know, throughout the embassy I'll represent.

And my question, and I'll go back and be happy to reread the email, was the folks that you spoke to, you know, that were in Libya at the time, were they completely unaware that the Ambassador was going? Was this news to them? Were they surprised, or was there a sense of, yes, we knew he was coming, and we knew that there was some, you know, email traffic and talk about the security situation?

Again, this has nothing to do with the Board, you know. Just simply wondering whether this fact was touched on in the back-and-forth that you had with the embassy personnel?

A Look, I haven't seen the document.

Q Okay.

A It appears to be what an ambassador would normally do with his staff, is there anything you want me to take up when I go to Benghazi on the document. That's for inputs.

The document that I'm looking at now on page 6 says that plans for the Ambassador's trip provided for minimal close protection security support and were not shared thoroughly with the embassy's country team.

There's a difference between the solicitation of input and what the output is. It's also clear that Ambassador Stevens, like many ambassadors whom I know, operate very flexibly and may well make changes in their schedule as they go ahead.

Q Okay. I'll just --

A I mean, I hope that's helpful. I don't -- you know, I'm talking about general ways of proceeding.

Q And the question was did the Board have meaningful back-and-forth with the embassy personnel about the preparation for the Ambassador's trip?

A We believe we did, which was the reason why we gave this conclusion in our report.

Q So the fact that an email exists doesn't -- does it surprise you?

A It wouldn't surprise me. If it does exist, it wouldn't surprise me, because, as I said, it appears to be, from what you have put forward, a request for input rather than the schedule itself.

Q Okay. And --

Mr. Downey. Can I just mention to the chair without objection --
Chairman Issa. Sure.

Mr. Downey. -- Mr. Chairman, I don't think it's fair for the witness to speculate when being asked questions or answering questions. I think if you don't -- you know, I would suggest the witness be directed by the chair if he doesn't know, then he ought not to speculate and comment.

Mr. Castor. Okay.

Chairman Issa. Just to respond, we believe that these documents were reviewed by the ARB. The fact that they've been produced to us, we have a high belief that these were documents available to the ARB. One of the challenges is we not only do not have direct custody of these, we don't have a copy of everything you reviewed.

The Witness. Sure.

Chairman Issa. Even the unclassified. So, Ambassador, it is not our attempt to waste your time or to ask any hypotheticals that we don't have to, but we are in an odd situation in which there's a little bit of blind man's bluff or liar's poker or something here, but it's not that we're not giving you the most direct information we have.

The Witness. And I said I have no basis for knowing what this document is.

Chairman Issa. Well, it could have been one you reviewed. We have no way of knowing.

BY MR. CASTOR:

Q Just to sort of close this loop, we became aware of the email and wanted to share that with you to see if you had any thoughts on it. You gave us your thoughts, so I think we're good. I'll read it just because I said I was going to read it for the record.

The Ambassador said in the email, would very much appreciate your help putting together a schedule for me in Benghazi. I'm cc'ing other relevant embassy staff who can assist with contact info for people and their areas of activity; i.e., USAID and PD. The plan is to arrive on Monday midday and depart Friday afternoon in [inaudible]. The American corner opening will be on Thursday, I believe.

And we have an ellipse here that there's some information I don't have written down here, but it follows up with, for security reasons we'll need to be careful about limiting movement off compound and scheduling as many meetings as possible in the villa.

And my round is up. I will conclude. Before we do go off the

record, I understand there's a vote, so --

Chairman Issa. You can use this as a break. Are you going to have a Member asking questions in the next round?

Ms. Sachsman Grooms. I don't know. We'll have to figure that out. But possibly.

Mr. Castor. Okay. Well, anyway, we'll take a break because our hour is up.

Chairman Issa. Well, it's now your time.

Ms. Sachsman Grooms. Uh-huh.

Chairman Issa. What's your decision?

Mr. Cummings. We're going to hold up to vote.

Chairman Issa. Then you get an unforced error. We'll see you in about, I don't know, 30 minutes or whenever it's done.

The Witness. Okay. I mean, I'm willing to go ahead if the minority wants to ask questions.

Mr. Cummings. The problem is we have to have a Member in, and we're voting.

Chairman Issa. No, he can waive that, and it's very quick, and Susanne could continue with the line of questioning. That's why we were asking.

The Witness. You know, whatever the minority wants to do. I don't want to force anybody here.

Chairman Issa. If it were our time, Steve would continue asking questions, and we would ask for a waiver so that we could go, and there would be no loss of time.

Mr. Cummings. I understand. Why don't you go ahead. You have questions, right? Why don't you go ahead, and then we'll get back, and then we can pick it up.

Chairman Issa. Okay. And the paper is a one-time waiver. As far as we're concerned, you hand it back, say it was only for this break, that's fine. It doesn't matter to us. We just don't want to waste your time. Okay, so if you'll take care of that, we'll see you when we get back.

Mr. Downey. Might we just take a short break?

Chairman Issa. Yeah, please.

Mr. Castor. Our rules require it has to be in writing, so we put that together. If you would rather do something else, that's fine.

Mr. Downey. If you have an agreement, that's fine with us. If you don't, then we'll proceed per the -- we don't want to be the arbiter of any dispute on that subject.

Mr. Castor. Okay.

[Recess.]

RPTS JOHNSON

DCMN HERZFELD

[2:32 p.m.]

Mr. Castor. Just going back on the record, I will state that the witness and his counsel and Republican and Democratic staff have agreed to proceed without the Member in attendance. And just wanted to sort of state that for the record.

Mr. Downey. I guess I thought the discussion we also had was that in the event there is an objection that needs to be ruled on, our understanding is that for some portion of each round of examination, some Member will be available to rule and resolve those --

Mr. Castor. Yeah. I mean, I think ultimately the chairman would be the only person. And so hopefully he will be back, if anything comes up. And if he is not, we certainly can go off the record and caucus about the best way to proceed.

Mr. Downey. Okay. Thank you, Mr. Castor.

EXAMINATION

BY MS. SACHSMAN GROOMS:

Q So I will reintroduce myself. My name is Susanne Sachsman Grooms. I am the minority chief counsel. I want to thank you very much for being with us today. I think this has been extremely helpful, as we are starting to, I think, get a very good understanding of the recommendations of the ARB.

So a couple quick things I want to clarify through in the beginning, and then I have a series of questions. I think you might

find them a little bit repetitive. I would ask you to bear with me --

A Sure.

Q -- as I am just trying to cover some ground in slightly different detail.

Just to start, I think you described a series of different sizes of feet of documents that the ARB reviewed. I want to call your attention to Exhibit 2, which is the ARB, and a statement within it on page 29 --

A Uh-huh.

Q -- which refers to under, I guess, finding 2, the Board reviewed thousands of pages of documents. Is that accurate?

A Yes. I described only the intelligence documents and the press documents --

Q I see.

A -- in the two descriptions I gave.

Q I think on a previous round you were discussing the fact that some of the accountability section has become classified. And I think you may have said that the people -- personnel actions or personnel recommendations were put into the classified version in order to protect the individuals, and I just wanted to be clear on what you meant by that. Did you mean to protect their privacy from being released to the public, or were you talking about protecting them in some other way?

A The former.

Q So their privacy?

A [Nonverbal response.]

But if we are talking about the entire universe of people, not just those who were involved in findings, then there is the question of their security, particularly for Libyans, that I had raised earlier in discussion. I just didn't want the answer to appear to be inconsistent with my statements earlier.

Q And you have described that you had -- the ARB had a five- or a six-member staff of State Department staff that assisted you full time; is that correct?

A Yes. Six plus two lawyers, more or less. Some of the staff changed in between, some of the office staff changed.

Q And how did you find the quality of the staff?

A Very high.

Q And I understand that they took notes and wrote up what you described as interview notes or similar to a more detailed FBI 302.

When you received those interview notes, did you find that they reflected what had been in the interview, or that they were inconsistent?

A No, I found that they reflected what had been in the interview. And the ARB members all had an opportunity to make corrections if they felt that they failed to note something or did not note it correctly.

Q And did you have any concern that any members of the staff were preventing you from having access to information or providing you with inaccurate information?

A No.

Q I'd like to talk a couple minutes about -- let's go back to the findings and the recommendations of the ARB. I think we talked quite a bit about the staffing problems which the ARB called woefully insufficient. But I want to call your attention to page 5 of the unclassified report, which is Exhibit 2.

A Uh-huh.

Q On page 5 it says, the number of bureaucratic Diplomatic Security staff in Benghazi on the day of the attack and in the months and weeks leading up to it was inadequate, despite --

A Can you tell me what the first words of that paragraph are?

Q Sure. It's "In the weeks and months leading up to the attacks."

A I have that. Thank you. Uh-huh.

Q No, that's not it. I'm sorry. It's the first sentence of the --

A "Overall, the number" --

Q Yes.

A Yes, uh-huh.

Q It says, in the months and weeks leading up to --

A Right.

Q -- the attack was inadequate despite repeated requests from Special Mission Benghazi and Embassy Tripoli for additional staffing.

A Yes.

Q And I wanted to talk to you about those repeated requests

for more security staffing. Who did the ARB find was making those requests?

A They came from generally DS, Diplomatic Security, personnel in Benghazi through Tripoli.

Q And --

A There also is reference here to Tripoli requests for additional staffing.

Q And were those all on the DS side as in the RSO sending up requests for more security, or were there some requests coming also from the chief of mission?

A Look, I'm not sure. It's conceivable that in the normal practice would be for one hand to support the other.

Q Do you know who was sort of receiving the requests and not acting on them?

A They went to Charlene Lamb, who had the responsibility for making the decisions.

Q And what was happening at that point? Why was she not providing that additional security?

A She explained -- and I think it's available in the classified report, but if not, she explained that she felt that it was important to build up local staff; that the ratio of security personnel to substantive personnel in Benghazi was extremely out of sync; that the people who were assigned as security officers were doing jobs which local staff could have done, drivers, and they could have arranged a workaroud for taking care of classified communications devices that

they had to look after.

And so it was a combination of advice on ways to make better use of the people they had and/or to supplement those with local hires, all of which had been done in other places. On the other hand, it was clearly extremely very difficult to get reliable local hires in a place like Benghazi.

Q And is that what you were talking about before when you were describing the sort of normalization term?

A I would not use "normalization" or "new normal."

Q Uh-huh.

A But as I understood it, new normal related to the situation where the local -- the foreign government was not able to provide or would not provide the protection required, and therefore you had to seek other ways of providing that protection. And this would have fitted into the category, because it was clear the local government was unable to provide the protection required in Benghazi for our facility.

Q And when Ms. Lamb was making those decisions, was that based on a policy that she was getting from above her or direction she was getting from above her?

A No. She said on several occasions it was related to her feel for the situation.

Q So you didn't find that that new normal policy was sort of coming down on high to Ms. Lamb?

A No. If you're asking about factors that may have played

a role, on one occasion there was a memorandum that I believe she authored saying to a regional bureau, if you want more people, you fund them. On another occasion she referred in discussion to 20 percent cuts in the DS budget.

To some extent we attempted to take this into account in a broader discussion in the report where we talk about the State Department having a serious attitude -- nothing wrong with it -- of being very careful about how it spends its money, in large measure because it has such a hard time getting it. And so there was this tension between funding and money and providing security, which was one of another set of tensions. We discussed earlier the tensions between dangers and mission. And we were aware of that and reflected it in the report.

Q So I appreciate that you brought that up, because Ms. Lamb, when she came before the committee, was asked about the role of funding in her decisions not to provide additional security. And my recollection of that is that she said that there was no role for funding in those decisions. Can you elaborate further on what the ARB found?

A Well, I gave you two examples of Mrs. Lamb's own statements that seem at least to be inconsistent with the broader point she made. Someone would have to ask her what they meant. I don't want to speculate.

Q Despite the repeated requests for more security, and I want to call your attention to page 4 of the report, in the second paragraph under the second finding, the report explains that Embassy Tripoli did not demonstrate strong and sustained advocacy with Washington for

increased security for Special Mission Benghazi. Do you see that?

A Yes, I do.

Q Can you explain how the findings fit together; that there were repeated requests coming, but it was not strong and sustained advocacy?

A Yes. The requests almost always originated in Benghazi. And because Benghazi was, since February 2011, considered a constituent post of the embassy at Tripoli, subordinate to it and dependent upon it, they were forwarded through either DS channels or open channel, regular channels from Benghazi to Tripoli to Washington. And there were cases, more than one, we believed, where Tripoli was not effective in following up and not strong in pushing forward the Benghazi concerns that it received from Benghazi.

Q And who was it in Tripoli then who wasn't moving it forward? Was that someone on the DS side or the --

A I think that principally on the DS side, but there was personnel churn. So the "who" relates to multiple personalities, and possibly the fact that there was such churn that past recommendations were not followed up well because the new people were not necessarily clued into the past recommendations or aware of the fact that they had to be followed up.

Q Did you -- did you find that the Ambassador himself was involved in making some of those requests, or was it mostly just on the DS side?

A No, in, I think, one or two occasions, again subject to a

review of the record here, there were times when Ambassador Stevens also weighed in.

Q And when he was weighing in, if you recall, do you remember who he was weighing in to?

A Normally, but I don't really recall -- normally it would be through the regional bureau.

Q And that would have been up to Mr. Maxwell?

A I'm not sure. We can take -- you know, I'm just telling you what the normal is. I'm not sure I can fix on this exactly. I would have to go back and look at the cables or the emails. So I want to be careful here.

Q Was the staffing a problem -- I understand that the staffing was a problem on the Diplomatic Security side. Was the staffing also a problem on the policy side?

A In Benghazi, yes.

Q Yes. And did that -- on the non-Diplomatic Security side, did that impact the security at post? So that's to say the policy staff, which I understand was also temporary and had the same churn, did that impact the security?

A Yes, in the following way. The policy staff was two, one substantive officer and one communications officer; that the average stays there were from 10 days to several months; that that individual was called -- the policy person was called the principal officer, who was the officer in charge of the post. He would or she would have normally worked with the security people to reinforce and strengthen

their requests for security improvements. Insofar as that was subject to churn, it also meant that their follow-up and capacities and interests in weighing in were not those of a full-time permanent person who was going to stay there for considerable time. And it was another reason why we recommended that the churn couldn't be kept up the way it was.

Q And was concern about that sort of staffing and the gaps and the churn, was that raised up through the NEA Bureau?

A I believe it was certainly were more than aware of it. They had to recruit people to fill the jobs. It was also clear that Ambassador Stevens was actively engaged himself in recruiting principal officers from Benghazi.

Q And whose role in the NEA Bureau would it have been to assist with ensuring that Benghazi got that staffing that it needed?

A In the end it was Mr. Maxwell's, and below him the people in the management section of the bureau who were kind of jointly responsible for that.

Q Okay. What about the people above him?

A They were "go to" in the event the system wasn't working, or couldn't be cracked, or that it had to go outside the bureau.

Q When we spoke to Mr. Maxwell, my understanding from him was that he saw the staffing requirement to keep the staffing going as a responsibility of a person named Lee Lohman, who was the --

A He was on the administrative manager side, the Executive Director of the bureau.

Mr. Castor. Could we just stop, go off the record? I thought we had a bit of a -- we don't have to go off the record. You can just stop the clock. I thought we had a, you know, minor, you know, major disappointment from you earlier when we were introducing things that, you know, weren't in the public record. And the chairman has indicated that the witnesses that appear before committee -- I mean, that's not -- I mean, that's not something that should be a part of this record.

[Pickering Exhibit No. 8
was marked for identification.]

Ms. Sachsman Grooms. I'm sorry. So we've marked the transcript. I'm happy to show it to the witness so that he can talk about it.

Mr. Castor. But witnesses that come through interviews, okay, we shouldn't take -- the chairman -- you know, we shouldn't take the whole transcript en masse and just enter it into the record.

Ms. Sachsman Grooms. I mean, I'm happy to enter into the record individual, you know, pages, if that assists you in some way. He's not going to get a copy of the record anyway, so I'm not sure that it makes much difference.

Mr. Castor. The point is that witness testimony, you know, obtained in that venue, you know, shouldn't necessarily be introduced. I mean, it's one thing if it's a public hearing.

Ms. Sachsman Grooms. I'm not clear. So what you're saying is you don't think it's appropriate to ask him questions and actually quote from and show him the transcript of where Mr. Maxwell made comments?

I'm just trying to show him the words on the page so that he can understand what I'm asking him a question about.

Mr. Castor. The back-and-forth between the committee and witnesses to our investigation, I mean, if the witness here today isn't -- you know, isn't a party to that communication, I mean, I just don't think that it's appropriate to enter the whole transcript en masse and put it into this record.

Ms. Sachsman Grooms. Okay. I will enter pages where I'm quoting from. How about that?

Mr. Castor. You know, I'm not sure that -- I'm not sure that works either, because you are dealing with incomplete, you know, out-of-context statements. I mean, I think the chairman's preference is that as these interviews occur, they maintain some integrity. So as we interview other witnesses, the types of questions that your staff is asking, that our staff is asking isn't, you know, in the public domain.

Ms. Sachsman Grooms. I'm sorry. I'm confused by what you're saying, because during your round, you asked him questions about what Mr. Maxwell said.

Chairman Issa. We characterized.

Ms. Sachsman Grooms. You want me to characterize it instead of showing it to him?

Mr. Castor. We ultimately used a news report, and we decided that was the appropriate way to go.

Ms. Sachsman Grooms. You think it's more appropriate to

characterize the testimony that other people have given us than to show it to him? I can take this, and it's not a -- there is no rules around this. I could release this publicly right now, I mean, in whole.

Chairman Issa. Are you considering that kind of reckless behavior?

Ms. Sachsman Grooms. No, sir. But my point is I would like to ask the witness a question. I think it was a fair point that you made that I was quoting from the transcript or referring to something in the transcript that he has not seen, and so I'm happy to show him that page, the pages around that page. You don't want to enter the whole transcript in, I'm happy not to do that.

Mr. Castor. I think there's a distinction between public testimony at hearings and testimony obtained during the course of our investigation that hasn't been made public.

Ms. Sachsman Grooms. I'm pretty sure that throughout the approximately 30 to 40 transcribed interviews that we've done before, we have often used quotes and questions about other people's interviews. That's how we gather information. I'm not really sure what the concern is.

Mr. Castor. The concern is, you know, taking that deposition transcript or transcribed interview transcript of other witnesses that haven't even been disclosed publicly, you know, runs the risk of getting this whole transcript out there, runs the risk of other witnesses seeing the types of questions that both staffs are asking, and it could taint our efforts to obtain information.

Ms. Sachsman Grooms. Okay. Well, I note your concern, and I will not enter the entire transcript into the record.

Mr. Castor. And the witness and the witness' counsel has also made pretty clear on the record that they don't want to go down the path of trying to understand what testimony was in the mind of another witness, you know, in a proceeding that they didn't have complete access to for context purposes.

Ms. Sachsman Grooms. Well, I will not ask them about the information and another witness' view.

Chairman Issa. At this time I am not going to allow the transcript to be placed in the record. If you want to read from it, and if the witness wants to see what you're reading from for that purposes. I don't think it's terribly important to the witness that he have anything other than if this be said, what is your comment on it?

Again, I'm sure that the ARB did not -- they didn't do transcribed interviews, but they didn't take one person's testimony into another into another. That's not a normal or appropriate way. But you certainly can read into the record the necessary characterization or quotes that you need to. I just would caution that, you know, we have an integrity of how we do investigations, and this is -- the entire transcript would obviously be inappropriate.

Ms. Sachsman Grooms. That's fine.

Mr. Castor. And there might be colleagues of Mr. Maxwell's that we want to bring in and ask questions about. And to the extent those

colleagues had an opportunity to see in a public forum -- because this transcript ultimately could be made part of the public record. I mean, both the ranking member and the witness have, you know, expressed concern about these types of back-and-forth being conducted behind closed doors. And, you know, it's conceivable that somebody will ask the chairman to release the transcript of today's proceedings. And, you know, if somebody does ask the chairman that, he doesn't have a whole lot of -- you know, he may have to make that decision.

Chairman Issa. Right. Susanne, to the extent that you have a question that generates from the transcribed, please go ahead. I want to have you be able to ask your questions at this point. Let's keep the actual exhibit out.

Ms. Sachsman Grooms. Okay. Not a problem.

Mr. Downey. Mr. Chairman, to the extent necessary, will you allow us to just ask about the context so that the witness is not put in a position that I think all counsel --

Chairman Issa. Sure. Like I said, if the witness needs to read or see it, I have no problem. I just think we all would like to all keep as much as possible the integrity of separate ones. I understand where sometimes an assertion made by one person is important. And, Ambassador, because we don't want to play a back-and-forth, I'd like to have the questions answered now, if possible.

Mr. Downey. Counsel, I don't know, is there a pending question, or is there --

Ms. Sachsman Grooms. Hold on 1 second. I'll see if I can find

it.

BY MS. SACHSMAN GROOMS:

Q I think we were referring to Lee Lohman, who was the manager.

A Executive Director.

Q Executive Director. Okay. But we haven't found that quote from the transcript. So while he is looking, I will keep going.

Mr. Downey. Mr. Chairman, I might just note that as some of your staff know, I spend most of my life in court. We pursue a procedure there that, if it's helpful, I just mention it, which is oftentimes transcripts are marked but not entered into the record of evidence in order to avoid this concern. We have no objection, if the witness is shown that transcript, to not at this time have it entered into the record. If it becomes a subject of dispute later, we would likely seek its release. But if that procedure would be comfortable --

Chairman Issa. And counsels on both sides, I know, will be marking the starting and ending lines in the transcript so that everyone does know.

Mr. Downey. Thank you.

Mr. Castor. And we have no objection to the Ambassador flipping through the transcript and trying to get his own context. The issue that we raise is primarily with other witnesses that would come in.

Mr. Downey. And we have no opinion on this committee procedure.

Chairman Issa. Are you ready to continue?

Ms. Sachsman Grooms. Yes.

BY MS. SACHSMAN GROOMS:

Q So my question primarily, while he is still looking for this section, is what role you viewed the -- Mr. Lohman's to be in the staffing requirements or in ensuring that the Benghazi post received the appropriate staffing?

A We, I don't believe, went into that in extensive detail. He was part of a panel we looked at. To the best of my recollection, he and the Ambassador cooperated on the staffing of the policy jobs. The security jobs were staffed out of the DS Bureau and were done by them, and the communicator out of the appropriate portion of the State Department that assigns communicators and IT people to jobs. So each one was a little different.

Mr. Lohman would normally play a big role in the staffing, but the substantive people in the bureaus, the regional bureaus, also look after staffing. And I can't tell you now -- it's usually a cooperative enterprise gets done.

Q And since, I guess, part of the staffing is coming from Diplomatic Security, and part of it is coming from Mr. Lohman on the policy side, and part of it's coming from this communications area, whose responsibility is it to ensure that all of that is being coordinated and it's actually going and it's working?

A Well, I would say certainly Mr. Maxwell in the bureau should have responsibility, and Mr. Roebuck in the bureau. Both of those two people should have some significant responsibility to make sure that Libya was being staffed.

Q And Mr. Roebuck reported up to Mr. Maxwell?

A That's right. In the field it was the principal officer and the Ambassador and the Ambassador's administrative counselor in the embassy who usually looked after staffing.

Q Did Mr. Maxwell, when you interviewed him, ever tell you that he was not responsible for the staffing?

A I would have to check the record to be sure. I would want to do that.

Q Do you recall whether he ever told you that he was not responsible for security?

A No, I don't recall. I answered that question earlier by saying to the best of my knowledge I don't recall that.

Q Do you recall what Mr. Maxwell told you about whether he was communicating with the chief of mission, with the Ambassador at post?

A He said something to the effect that he relied on Mr. Roebuck to do that.

Q And would that have been in your -- was that, in your view, an appropriate thing for him to be doing?

A It would have been appropriate as long as he was informed, and critical questions that required his attention got to him, and he did it.

Q And you also interviewed Mr. Roebuck?

A Yes, we did.

Q What was your view of Mr. Roebuck? Was he identifying critical questions, and were they getting to Mr. Maxwell?

A Yes. And Mr. Roebuck made it clear that he was in daily contact every morning with the key players in Libya in order to stay up with what was going on. It's not quite so clear what he may have passed to Mr. Maxwell. I would have to maybe take another look at that.

Q But the ARB didn't find Mr. Roebuck at fault?

A No.

Q And why is that?

A Because we believed from his description of his work, and how he carried out his duties, and the description of others who dealt with him that he was performing up to standard.

Q And is it -- and I don't want to put words in your mouth -- is it fair to infer that, because you found that he was performing up to standard, that when he was receiving security concerns from Benghazi and staffing issues from Benghazi, that he was sending those up his chain to Mr. Maxwell?

A Normally he would have pursued those himself and/or talked to Mr. Maxwell or others, Mr. Lohman, about them.

Q So just to be clear, if Mr. Roebuck was doing those things generally himself, how come Mr. Maxwell -- how come the ARB found Mr. Maxwell responsible?

A We found Mr. Maxwell responsible because he told us that he didn't read the intelligence.

Q Can you talk to me a little bit about what it was that you found that he -- or that he told you he was not reviewing without describing actually classified material?

Mr. Downey. Counsel, can I just confer with the witness for 1 minute?

Ms. Sachsman Grooms. Yes.

[Discussion off the record.]

The Witness. Could you repeat the question again?

BY MS. SACHSMAN GROOMS:

Q Sure. Could you -- without divulging any classified information, can you explain what it was that the Board understood that Mr. Maxwell was supposed to be reviewing, but that he was not?

A Yes. And I'm responding that he indicated a general inclination, decision maybe, not to read intelligence, which was material that came from the Intelligence Community.

Q And can you explain why receiving that intelligence the Board felt was important enough that you needed to identify it in the ARB report?

A We felt it was a fundamentally important part of the knowledge base to understand what was happening in Libya, and it meant a serious failure in performance not to be aware of and taking into account the intelligence material.

Q Did you understand at the time that he was receiving classified cables from Libya describing the security situation?

A Well, yes, we assumed that that was the case, absolutely. But the intelligence material goes beyond the reporting. But it struck me as extremely strange that he said he wasn't using the intelligence because he was giving public speeches and didn't want to slip over and

having the classified material in the intelligence appear in his public speeches, while at the same time, as you just brought out, he was reading classified cables from Benghazi and Tripoli describing the situation. I found that unusual.

If your question is were the classified cables sufficient, the answer obviously is no. We have an intelligence system which gathers other information by other methods, which is complementary to and supplemental to the embassy reporting.

Q Would it have made a difference to your review to know that Mr. Maxwell was -- when there was some specific need, Mr. Maxwell was called into a room to review a specific piece of intelligence?

Mr. Downey. Let me just -- I just offer the same objection that I asserted in connection with questions of that same kind before. And I'm happy to explain what I consider that kind, but --

Ms. Sachsman Grooms. That's fine.

BY MS. SACHSMAN GROOMS:

Q Did the Board identify -- just sticking to Mr. Maxwell, did the Board identify any other concerns about Mr. Maxwell's performance that went beyond his failure to read the daily intelligence briefing materials?

A I believe we considered that sufficient unto itself. And I don't want to take it any further without going back again and looking, but I think it's -- essentially that's the reason.

Q Do you think that if Mr. Maxwell had been reading those intelligence materials, as my understanding is Ms. Jones was and

Ms. Dibble was, that that would have caused him to act differently? Is that what the sort of conclusion was? Or was it just that on its face not reading the intelligence materials was its own problem?

A This is very hypothetical. Let me just make one comment. Mr. Maxwell, Mr. Roebuck, Mr. Lohman, Mrs. Jones, Mrs. Dibble were all working in jobs where their performance is undoubtedly clear in the aftermath of Benghazi one way or another could have affected life and death and the security, safety, and preservation of U.S. property. It seemed to us such a serious dereliction in duty not to read material collected at great expense by the United States to keep decisionmakers informed that one has to take that most seriously into account. And I think that was my view, but I think it was reflected in the view of the others on the Board.

Q I'm going to show you a copy of the transcript portion I have marked but will not enter as Deposition Exhibit 8. I am going to call your attention to page 80 and 81. Let me see if I can find it. It's the bottom of page 80 and the top of page 81.

Mr. Castor. Jon, you can stop the clock while the witness has a chance to --

The Witness. Okay. Thank you.

BY MS. SACHSMAN GROOMS:

Q And I want to specifically ask you about that bottom of page 80, just the last couple lines, the first couple lines on page 81. Mr. Maxwell, when he was recalling his interview with the ARB, recalled that Mr. Mullen said on three separate occasions -- and now I'm quoting

Mr. Maxwell quoting Mr. Mullen -- "This has to stop at the Assistant Secretary level." And then Mr. Maxwell explains, "Those were his words." And he says, "Now, Eric Boswell wasn't in the room. He was talking about the interview with me. He was talking about the NEA." And later he refers to, "The 'this' is the accountability, the process, the blame. The fault lies at the Assistant Secretary level. He said it on three separate occasions."

Do you recall Mr. Mullen making that statement during Mr. Maxwell's interview?

A No, I don't. But I don't know that necessarily after 6 months, 100 interviews I would.

Q Did you, in your conversations with Admiral Mullen, ever have the impression that Mr. -- that Admiral Mullen, let me give him his title -- was -- had predetermined during the course of the process where the fault laid?

A No.

Q And did you ever have the impression that if the fault laid at the Assistant Secretary level, or beneath that, or above that that Admiral Mullen would not have identified that where he felt that it was?

A Your question is a little bit convoluted.

Q Yes.

A Let me say this: Did I have a sense that Admiral Mullen had a predisposition to assign responsibility or exclude responsibility at a particular level?

Q Uh-huh.

A No.

Q Did Admiral Mullen advocate for holding the Assistant Secretary of the Near Eastern Bureau accountable?

A I think you should talk to Admiral Mullen about that.

Q But ultimately the decisions of the ARB were made unanimously.

A They were.

For the record, for clarity, my statement about Assistant Secretary level was given at the press conference on the 19th of December, shortly after noon, at the State Department, and I was referring to Assistant Secretary Boswell. And I can see how it would be confusing or ambiguous and wanted to clarify that for the record.

Q I appreciate that.

I want to talk to you for a couple minutes about the physical security.

A Uh-huh.

Q On page 5 of the ARB report, it discusses that -- it states, and I am going to quote --

A Sure.

Q "Special Mission Benghazi's uncertain future after 2012 and its 'nonstatus' as a temporary, residential facility made allocation of resources for security and personnel more difficult." Generally, can you explain what the facts were that led you to determine that the compound's status as a temporary facility contributed to the lack of

security resources?

A I believe that we found that its temporary status was in the decisionmaking process apparently incorporated as a factor in deciding negatively, or not deciding positively, on certain decisions respecting particularly facility physical security, because the personnel situation was already in the crack, if I could put it that way, that I described.

Q And who was -- who was making those decisions on the physical security?

A I think that they tended to center around Mrs. Lamb's decisionmaking process and people who were engaged with her in that process.

Q Is it unusual to have that kind of a 1-year temporary facility?

A Yes.

Q And was it necessary here; and if so, why?

A Benghazi grew out of a situation. Normally what would happen would be that a place like Benghazi would emerge as a consulate. Consulates are more bureaucratically difficult to start, including a congressional process that has to go ahead. It was, in effect, a residence, then a residence office, and then a facility, and in order to fund it, decisions had to be made at the Under Secretary level to allocate funds because it wasn't in the regular scheme of things. This is my best understanding.

Rather than make a decision for longer periods of time, given the

uncertainties that attended events in Libya, and whether over a period of time Benghazi would become more permanent or nonexistent, the recommendation from the NEA Bureau apparently was let's do it for a year. DS and others agreed, and that's the way they proceeded.

But as we pointed out in our report, that also attached, if I could use the phrase, its own barnacles to the ship, made it harder to convince people to make decisions and to invest in things of that sort. On the other hand, some things were. So lighting was improved, and other things were done. It just that it was in kind of a limbo, neither fish nor fowl. And given the worsening security situation, the idea of more clarity, more certainty was clearly uppermost in our mind when we made the recommendation that places like Benghazi, of which there were very few, ought to have minimum security standards and be part of a process of meeting them regardless of whether it was there for a year or less.

There were places like Goma in eastern Congo, Bukavu in eastern Congo, Peshawar in Pakistan in a different situation, that tended to resemble the Benghazi anomalies, but they had different characteristics. But in some ways they were the kind of strangers in the otherwise 280-some post mix of regular consulates and embassies.

Q I think you said part of the problem was that decisions would have had to go -- would have to go -- on physical security improvements would have to go all the way up to the Under Secretary for Management for a decision.

A No, I didn't say that.

Q Okay.

A I said the Under Secretary for Management had to decide to keep the post in existence.

Q I see.

A What he characterized as the real estate decisions in his own testimony to us. But the decision that this post will stay there.

Q So the decisions about additional physical security, who were those made by?

A The Bureau of Diplomatic Security.

Q And they didn't go up to the Under Secretary for Management?

A No.

Q How high up did they go?

A To Assistant Secretary Boswell principally, but to Charlene Lamb in fact. But it was clear that in our review of Assistant Secretary Boswell's supervision of Charlene Lamb, he showed serious deficiencies.

Q When Mr. Nordstrom came before the committee, he expressed some concerns which I believe Mr. Castor sort of asked you about previously, but I just wanted to go into a little bit more detail. We will mark this then as Exhibit 8.

Mr. Downey. I think this should be Exhibit 9.

Ms. Sachsman Grooms. It should be 9, yeah.

[Pickering Exhibit No. 9
was marked for identification.]

BY MS. SACHSMAN GROOMS:

Q Okay. I' going to call your attention to page 4.

A Yes.

Q Where he is talking about these SECCA requirements?

A Yes.

Ms. Sachsman Grooms. Can you hold the clock?

Mr. Castor. We'll hold the clock for the witness, but when you guys are conferring, we got to run the clock.

Ms. Sachsman Grooms. I think he's reading.

Mr. Castor. Oh, I'm sorry.

The Witness. I am not sure that I have been asked a question yet.

BY MS. SACHSMAN GROOMS:

Q Okay. So I'm going to refer you actually to page 7, the top of page 7. Mr. Nordstrom explained that in his view there were no waivers -- and I am quoting here -- "No waivers of SECCA requirements or exceptions to the required OSPB standards were prepared for either the Tripoli or Benghazi compounds." Is that a correct statement?

A I don't believe so. But if you would let me check that, because this is a technical security question, and I don't want in any way to denigrate from Mr. Nordstrom's knowledge. But I had at least an understanding when we went through the ARB that the temporary nature of these facilities did not provide for SECCA or OSPB standards application to them.

Q Okay.

A And then the question of whether waivers were required in the condition of nonapplication is something that I would need to get back to you on in some way. And I will try to check this with the State

Department security people and get back to you. Or, in fact, why don't you check it with them since it's not my --

Chairman Issa. We would much rather that somebody who would get an answer ask.

The Witness. This may be one you can get an answer on.

Chairman Issa. We'll see.

The Witness. Your minority friends.

RPTS HUMISTON

DCMN HERZFELD

[3:31 p.m.]

BY MS. SACHSMAN GROOMS:

Q Did the ARB look into --

A And this would be --

Q Yes.

A -- in little bit of contrast to my earlier testimony.

Q Yes.

A And I want to be sure that you understand that whatever official answer you get back is the official answer.

Q Understood.

A Okay.

Q So I want to call your attention to page 6 now --

A Uh-huh.

Q -- of the report.

A Of -- no.

Q I'm sorry?

A No. Okay.

Q Of Exhibit 2.

A Sure.

Q The ARB report.

A Uh-huh.

Q Specifically the area that discusses Ambassador Stevens in that first full paragraph.

A Sure. Uh-huh.

Q And I think we covered to some extent this previously, but it says here, and I'm quoting, "Timing for his trip was driven in part by commitments in Tripoli, as well as the staffing gap between principal officers in Benghazi."

A Yes.

Q Where did that information come from?

A It came from the testimony we received from, I believe, one of the principal officers, perhaps by Mr. Hicks, but it's somewhere in that nexus.

Q So from some of the people who were discussing it with Mr. -- with Ambassador Stevens before he left?

A Yes.

Q And did anyone tell you at the time that he was leaving to go to Benghazi on that date, the September 2012, September 11th date --

A He left on September 10th to go to Benghazi.

Q Yes, sir.

Did anyone tell you that he left on December 10th to take that particular trip at the Secretary's urging?

A No.

Q Did anybody raise to you that his trip was related to some need to make the special mission permanent?

A It was clear that one of the subjects that was under discussion and one that I believe there is evidence that played a role in his decision to go to Benghazi, not at any particular time, but to

go, was to provide suggestions, ideas or recommendations to the State Department, and that before that Hicks and Stevens had prepared what I can only describe as a kind of strawman memo recommending a permanent facility at Benghazi perhaps to be still a U.S. mission or a branch office of the embassy, but that it was also thinking out of some of the record in conversations that Stevens had with others, which was the subject of written communication, that he had also begun to recruit a new principal officer for the autumn with the idea in mind that he might be the last principal officer in Benghazi. So it was clear that Stevens was having thoughts about the future of Benghazi that were not yet fully settled, and that's as far as I can take it.

Q But nothing specifically related to him going on September 10th?

A No. The -- it appears as if the date had been scheduled earlier. There were other obligations in Tripoli, and that, as a result made, the date, that one, that the principal officer in Tripoli, who was in -- in Benghazi, who was assigned in Tripoli, had to leave the morning of Ambassador Stevens' arrival, I believe, to go back to Tripoli for other reasons. And so there was a kind of happy coincidence, if you can call it that, that --

Q The opposite.

A -- Ambassador Stevens was actually there to fulfill the role of a principal officer while he was there, while it was still empty, because we didn't want to leave that place empty for any length of time, if at all.

Not a happy coincidence in terms of the events, obviously, but in terms of the staffing responsibilities issue that was there.

Mr. Downey. Will you excuse me for just one --

Ms. Sachsman Grooms. Yes.

[Discussion off the record.]

The Witness. Yeah. Let me make sure the record says that it was an unfortunate coincidence, because I think my explanation still doesn't help. And let me say I don't think any of this is classified. If it turns out to be, then you'll take it into account.

Chairman Issa. Can I -- I want to ask the attorney a question. You're cleared by the State Department at what level?

Mr. Downey. Top Secret.

Chairman Issa. Okay. Thank you.

BY MS. SACHSMAN GROOMS:

Q Did the ARB learn who was responsible for deciding how much security the Ambassador brought with him from Tripoli to Benghazi on the trip?

A We looked at that, and we had testimony from Martinec and from others, and it appeared as if two was the minimum. Some hoped for a larger number, but there were things that had to be covered in Tripoli as well. That's the best of my recollection of the issues.

Q Who ultimately made that decision?

A In the end the Ambassador would be the one who would be consulted by the Regional Security Officer and say, yeah, what -- you know, if your advice is X, I'll take X; or I want -- I want to take

a minimum of two, whatever that is, yeah.

Q And -- and just still on page 6 at the bottom of that paragraph, it discusses that the Ambassador, and I'm reading here, did not see a direct threat of an attack of this nature and scale on the U.S. mission in the overall negative trendline of security incidents from spring to summer of 2012.

A The bottom of page 6?

Q No. I'm sorry. It's the bottom of that same paragraph we were on on page 6.

A Okay. Uh-huh.

Q So not quite the bottom.

A Uh-huh.

Q How did the ARB learn that information about the Ambassador, that he wasn't seeing this direct threat?

A From what he was writing and saying.

Q And the ARB goes on to describe this, and what -- what the report calls Washington giving an unusual deference to his judgments, to Ambassador Stevens' judgments. Can you explain what -- what you meant by that?

A Yes. He had been in Benghazi for a considerable period of time; knew many, if not most, of the leaders; was seen to be well thought of in Benghazi; and had -- if not adulation, he had a status of high favorable profile in Benghazi. And it was the combination of his background and experience and his knowledge of Benghazi, which exceeded that of many others in the State Department at least, that had people

turn to him for advice and counsel on Benghazi.

Q And I guess who in D.C., who in Washington, D.C., was giving him this deference to his judgments on -- on Benghazi?

A Well, I think that his reporting that came in and things of that sort carried weight because they were from him.

Q I see.

A This is also in the context of the opening sentence of the paragraph, his decision to travel, which was his decision alone to make.

Q And -- and how did you determine that his decision to travel was his decision alone?

A Because that's the way ambassadors work.

Q You mean standardly?

A Uh-huh.

Q But in this particular case, did you see any evidence that -- that there was some other -- something outside of this -- the norm?

A We didn't see any evidence that his decision in any way was up for consultation or discussion with anybody else. He may have talked -- I suspect he did, and we have to look at Martinec's testimony -- with Martinec about it and maybe with Mr. Hicks about it. But normally when an ambassador decides he's going to go somewhere in the country to which he's accredited, he's the final authority on whether he should go.

Q And in this case, did you see him consulting with or asking for permission from anybody in Washington, D.C., before he took this

trip?

A No. It would not be normal. Only were he to visit a country outside of the country to which he's accredited would he be required to ask for permission to go.

Q And I understand that that would not be the normal practice, but I'm asking in this instance, did you --

A No.

Q -- see any evidence that he did that?

A No, no indication that we found, at least to the best of my recollection, that he didn't follow the normal procedures, which are no procedures.

Q I think you discussed this earlier, but after the ARB's report was released, were you involved in any way in any of the personnel decisions?

A No.

Q I want to ask you about a recommendation --

A Just in case there might be any misunderstanding of your question and my answer, neither before nor after the release was I or the ARB, to my knowledge, involved in any personnel decisions. We made decisions on our findings and recommendations that had personnel implications, but I would not call them personnel decisions. We had no authority over personnel.

Q And in your view, from what you learned as part of the ARB, what -- what was the value of the State Department being in Benghazi?

A The main values of being in Benghazi were that Benghazi had

been the center of a Libyan seat of authority separate from the rest of the country. Eastern Libya was in a sense politically away from Tripoli. And indeed the Italians, when it was their colony, had three colonies in what is now Libya.

Secondly, this was an area of independent political activity and perhaps the center of anti-Qadhafi activity. It was an area from which early volunteers went to Afghanistan to fight against the Soviets, and so there was a longstanding connection with the Mujahidin movement in Afghanistan and later perhaps with al Qaeda. So that was important.

Next, there were people from Benghazi who played an important role in the new government in Tripoli after the fall of Qadhafi, so being in touch with their base, and with them in their home area, and with their families and friends was an important political insight and activity for us in understanding what was happening.

It was also clear that eastern Libya was a really growth medium for militias, some of which were fundamentalistly oriented, and so keeping in touch and track of those activities made some sense. Eastern Libya had some oil production and economic interests and activity, and so it was important as well to keep track of that.

So there were numerous factors that made eastern Libya important to the United States, particularly as a new Federal government tried to take charge and deal with, in fact, a country which was essentially broken up into pieces.

There were estimates that there were hundreds of militia, many of them in eastern Libya, and there was no question at all that the

militias were characterized by, in fact, revolving personnel arrangements so that people who were in one militia one day might move to another one, and it was very hard to keep track, and a lot of that had to do with friendships, it had to do with money, it had to do with tribal affiliations, it had to do with religious proclivities. It was a swirl.

And so, in effect, those were the major reasons. That there was also another opportunity in the sense that Ambassador Stevens was going to open what was essentially an information outlet in a local school that was provided by the United States and would be an exercise in public diplomacy access to Libyans in eastern Libya. That was another reason for his going and another reason why we were pursuing a diplomatic footprint in eastern Libya.

Q Is it fair to say that Ambassador Stevens was the primary advocate for a presence in -- in Benghazi?

A No, but he was perhaps the most knowledgeable of them and maybe the most forceful. But I have to tell you that there are indications that he was having mixed thoughts by the time of his death.

Ms. Sachsman Grooms. My time is up.

Chairman Issa. Ambassador, do you need another break?

The Witness. I'm fine, sir. Thank you.

Chairman Issa. Okay.

The Witness. But I don't want to in any way impose on everybody -- anybody else's serenity here.

[Recess.]

Mr. Chaffetz. Ambassador, thank you again for your generosity of your time, and your experience, and your -- your commitment to our country. Appreciate that.

The Witness. Thank you very much.

Mr. Chaffetz. Help me understand from your perspective, what -- what do you believe is the role of Congress in -- in the ARB?

The Witness. Sure. Several facets of it, sir. One is that you passed the statute --

Mr. Chaffetz. Uh-huh.

The Witness. -- I believe in cooperation with the executive branch at the time, to seek to get order and clarity and what I would call sustained capacity to look at circumstances when people lost their lives or there was very serious --

Mr. Chaffetz. Right.

The Witness. -- property loss by the United States.

Secondly, you appropriate the money, some of which eventually supports the ARB.

Thirdly, the ARB makes recommendations for the executive branch as a whole, and certainly we did, not limit it to the executive branch, but also relating to executive branch in terms of that ultimate necessity that these two branches have to make our government work. And so we clearly felt that there were things that we should put in our report that were at least our findings and recommendations to the Congress as well as to the executive branch.

Mr. Chaffetz. Do you -- and I appreciate you saying both

branches of government need to be involved and engaged in this.

The Witness. Yes.

Mr. Chaffetz. Do you believe it's unreasonable for the Congress to look into what the ARB saw?

The Witness. Not at all, sir, no.

Mr. Chaffetz. Is it --

The Witness. I think I've already stated that.

Mr. Chaffetz. Is it unreasonable for the Congress to see the same documents and talk to the same people that the ARB did?

The Witness. That's, of course, something that you and the executive branch have to work out. With all respect, that is not a position into the middle of which I would like to get.

Mr. Chaffetz. And I guess I'm asking about your personal perspective in the decades of service.

The Witness. I believe that I'm here today because you asked me to come, because under your rules this seemed to be the best way to get here; that I hope you understand and appreciate that we, I believe, should share the same objective, which is the protection of life and property and America's interests. And that remains my major motivation, motivating force, for being here.

And I would at this stage, really with the greatest respect, like to avoid trying to tell either the Congress or the executive branch what to do. I believe there are authorities and relationships and arrangements that should protect the interests of both.

Mr. Chaffetz. And I -- I, too, share the desire to protect life

and limb and to make the country better, but I hope you can appreciate how difficult it is to even have that discussion when it's -- when the Congress can't see the same documents that the ARB saw, can't talk to the same people that the -- the United -- that the ARB talked to, and even to get to the position, with all due respect, to chat with you, we had to issue a subpoena.

I sent you a letter on February 22nd inviting you to come talk in a public forum. We had discussions and dialogue to try to have a more informal discussion. All of that was rebuffed, to the point where you're here on a subpoena today, which is not my first choice and I don't think Chairman Issa's first choice.

The question that I want to get to is moving forward and how do we deal with this in the future, is it unreasonable for me to suggest that the Congress should also be able to see the -- get the same perspective that the ARB got, because right now the Congress is operating in the dark?

The Witness. With the greatest respect, I'm not aware of what it is that you want to see that you have not seen.

Secondly, I accept that what you had to say represents your considered view, no question about that, but I'm not in a position to know. I'm here on oath, and I want to be extremely cautious about what I say. And I believe that you wrote me, and I believe I responded that I was not available at the time; that I received a second letter, and, I'm not sure, a second offer, and I'm not sure whether it was from the chairman or from you, to appear informally, and I indicated I was

positive. I was asked about Admiral Mullen, and I said Admiral Mullen will have to speak for himself. That apparently did not prosper.

Then subsequently through the minority and then through the White House, I indicated a serious interest in joining the hearings on May 8th and was told that was not possible. Then Admiral Mullen and I indicated an interest in public hearings. And then my counsel wrote a letter indicating that I would come here either under deposition and subpoena, or I would come for a transcript interview if you would work with us on conditions that were at least parallel to the deposition conditions.

And I believe that's a fair summary of the situation. And I believe, in fact, it represents something a little bit different than the way you put it, but you have obviously your own interests here.

Mr. Chaffetz. Well, and I would beg to differ on the perspective of those details --

The Witness. Sure.

Mr. Chaffetz. -- and those facts. I don't -- from my perspective, that is not how it happened, but we will hash that out for the record at a later time.

The Witness. Sure.

Mr. Chaffetz. We obviously disagree on this point. Going back to your earlier premise, I do hope that you would at least consider and future people who will consider legislation moving forward, that I think it's reasonable for the Congress to have the same access and same purview of the information and witnesses when we're having to make very difficult decisions.

The very beginning of the ARB report talked about learning from history and understanding where we've been in order to make the best decisions moving forward, but my personal perspective is this administration has done nothing to be cooperative and has done a -- a consistent job of impeding our ability to access people and information at every step of the turn, and that's my perspective.

I'll turn it back to Steve.

BY MR. CASTOR:

Q Who -- who in the White House did you speak with about participating in our hearing?

Ms. Sachsman Grooms. Objection. This is really outside the scope of what this interview's actually about and the scope of the committee's current investigations.

Mr. Chaffetz. This -- I think it is relevant to -- to what the ARB was doing and the ability to have Ambassador Pickering come -- come chat with us and -- and to participate in a public hearing.

Ms. Sachsman Grooms. I don't believe that he referenced speaking to the White House about what the ARB was doing. In fact, earlier he's testified that he didn't talk to anybody about --

Mr. Castor. All right. Any objections can be stated by the witness or the witness's counsel --

Mr. Chaffetz. So let's keep going.

Mr. Castor. -- and with respect to privilege. So the witness can answer the question.

Mr. Downey. So I do think the point is well taken, because the

witness did not say he had spoken to the White House.

BY MR. CASTOR:

Q I thought earlier, if I'm not mistaken, you indicated that you had had some communications with White House about the May 8th hearing?

A No. I said that the White House had requested that I appear, according to information I had.

Q Okay. So did the White House contact you?

A No. It was received through the State Department.

Q Okay. Have you had any communications with White House officials about your appearance here today?

A No.

Q Of the thousands of pages of documents reviewed by the Board, what percentage roughly would you say originated from the State Department as opposed to the Defense Department or the Intelligence Community?

A I have no idea, sir.

Q Okay.

A I didn't personally review all of the documents.

Q We had discussed earlier there were five or six staffers that were helping the Board?

A Yes.

Q Along with two -- two lawyers?

A Yes.

Q Would you identify those folks, if you know their names?

A I just don't have their names now.

Q Okay.

A I mean, you can make inquiries to the --

Q Okay.

A -- State Department.

Q And I apologize if you talked about this before, but do you know how the staff were selected and who --

A No. No, I don't.

Q And did you have any input on any of the five to seven folks?

A No. I was told the name of the staff director and some of her background, and I said it sounded fine to me, but I had no real input into that.

Q Fair enough.

You had mentioned earlier that the Board had brought in experts in the context of assisting with the report, and I just wanted to follow up. Was that experts with writing reports, or was that experts with specific subject matters?

A No. It was specific subject-matter experts.

Q And how many, roughly, experts and what were some of the subjects, just -- just by way of illustration?

A Some of the 100 people we interviewed were experts. So if you consider General Ham an expert, he was. We talked to experts on -- in reviewing the security camera photography, for example, who helped with their interpretation of the photography and things of that sort. We talked to people who were security experts from different

agencies who either participated or could give us advice on various aspects of security arrangements. We talked to military experts.

Q As we've -- you've seen play out here in this deposition, there are documents that we think that we ought to be able to review to help our Members do their job, and the State Department hasn't allowed us to -- to have those materials. In our continuing efforts to follow up with the State Department, who are the people that we ought to be asking these questions of? Like, do you have a State Department official that you correspond with when it comes to talking about your work on the Board?

A No. I have been in touch with the Board's lawyer, and I have been in touch with the Director, but she's no longer associated with the ARB. She has another job. And this was only to sell -- settle my recollection of certain events.

Q And who's the Board's lawyer? Is that a State Department --

A It was a State Department -- deputy legal advisor to the State Department who served as the principal legal advisor to the Board.

Q So in terms of the -- the custodian of the documents presumably is --

A There is --

Q -- is the State Department?

A There is an organization within the State Department which maintains custody of the documents in accordance with the statute. The intelligence material is stored separately.

Q You had mentioned that the Board identified individuals who ought to be singled out for praise in the awards?

A Yes, we did.

Q I thought it might be useful to ask you who that was.

A We particularly were impressed with the work done by the State Department security officers on the scene, particularly Mr. Wickland and Mr. Ubben. Ubben was badly wounded, and Wickland was in the facility with Ambassador Stevens and Sean Smith.

Q Any other officials?

A We also obviously felt the other two security guards from the State Department were there. I think we indicated certainly we should have -- the people from the annex who came to assist and helped to relieve the siege in the evening were important.

Q Earlier you mentioned that the Secretary's staff provided the Board with specific thoughts on items that should be possibly included in the report?

A That's right.

Q After they had read a draft of the report?

A They had read by that time the findings and recommendations. I'm not sure whether we also had anything after they got the final report, but I don't believe so.

Q Did -- were there any recommendations that they offered to the Board that you hadn't considered that ultimately made their way into the report?

A Yes. There was one that I was particularly interested in.

Q And which one was that?

A That's the one that had to do with -- let me show you here -- systemic failures in leadership and management deficiencies at senior levels within two bureaus of the State Department resulted in a special mission security posture that was inadequate for -- for Benghazi and grossly inadequate to deal with the attack that took place.

Q And you mentioned that there were some suggestions that were offered to the Board that the Board chose not to incorporate?

A Yes. There was a suggestion that the word "grossly" be taken out, and we left it in.

Q Were there entire recommendations that were offered that weren't included in the report?

A I believe so, but that -- I don't have a clear recollection of the others.

Q Maybe you said it this morning, but do you know who at the State Department had a chance to review the draft before it went final?

A No. It went to the Secretary's chief of staff, but I don't know beyond that.

Q And when --

A And it was, to the best of my knowledge and belief, the findings and recommendations, not the entire report.

Q Not the report?

A And it was a draft at a somewhat early stage.

Q Was that the only draft that was shared?

A I'm not sure, but I believe it was, yeah. This was done

staff to staff.

Q Okay. And that was with Cheryl Mills?

A Yes.

Q And you subsequently had an in-person meeting with her to discuss some of that?

A No. We had only the meeting with the Secretary, which she attended, and there was no discussion of that issue at the meeting which the Secretary attended.

Q So to the extent the feedback was communicated, was that staff to staff, or was that --

A Staff to staff.

Q Okay.

A But it was very clear that we were responsible for the draft; that we were not according editing rights, but we were certainly willing to look at concerns and issues, particularly if they help us to sharpen the accuracy and the focus of our recommendations.

Q The decisions, the unanimous decisions, that the Board reached with respect to the four individuals that were ultimately -- had -- the State Department ultimately made a personnel decision on, did the Board have any discussions about individuals that you couldn't reach a unanimous decision, so -- so those individuals fell out of --

A No.

Q Okay. In February, General Dempsey testified before the Senate.

A Yes.

Q And he had an exchange with Senator McCain. Do you recall that generally or --

A No. I only recall the statement that General Dempsey made that I have seen somewhere that it would have taken some number of hours, but I don't know what that referred to. I'd have to look at the context to --

Q General Dempsey also made some comments about the State Department didn't request additional assets from the Defense Department. Is that --

A I never heard of that. I'm surprised, because the FAST team in Rota was requested and provided immediately.

Q Okay.

A But it may have been additional to the FAST team, but I don't want to parse words, and I don't know precisely the context. If you have it, I'd be glad to look at it.

Q I guess the -- the statute governing the Board and the -- the regulations are such that four of the five members come from the -- or three of the five members come from the State Department?

A No.

Q Or four of the five?

A No.

Q Okay.

A Four of the five are chosen by the Secretary of State.

Q Okay.

A One is chosen by the Director of National Intelligence.

Q And the -- the staff that supports the ARB is coming from the State Department?

A That's correct.

Q You know, maybe I asked it this morning, and pardon me if I'm asking it again, but looking back on things, is there any question of the -- the independence of the Board, given the fact that there is a State Department heavy, at least from the staffing perspective, component?

A None. It would be, in my view, if you'll pardon my language, a serious slight on public service to believe that an independent review of this character would be subject to political manipulation by the staff or by the appointees.

Q And just to be clear, I wasn't -- I wasn't trying to suggest there were political independence issues; just more of the fact that there could be State Department officials that, you know, fell down in the carrying out of their duties. And to the extent State Department staffers are helping the Board, the question is looking back on it --

A The Board formulates the recommendations, approves the findings, beats the staff up when it doesn't --

Q Okay.

A -- do what the Board wants, and certainly acts as a very independent organization.

Q Okay. So you wouldn't see any necessity to staff the Board --

A No.

Q -- in the future?

A And I think that to some extent your question borders on the confusion, which I find pretty consistently, that this has to be an adversarial gotcha process rather than an effort to seek to find what actually went wrong and get it corrected. And, of course, there were personnel consequences, and we took them on board, and I think were quite forthright in finding them. But it was here a serious effort to find the correctives. And the Department of State had obviously 29 things that we found that should have been implemented, or instituted, or followed up or -- or worked at, almost all of them in one way or another relating to State, and I can't possibly consider that any kind of whitewash.

I was particularly struck, I have to say, the chairman is here, by some of his characterizations of the ARB. And my sense was that I should have an opportunity in public, as he did, to respond to him about those characterizations, and I would do it in the friendliest of ways. But it is not, in my view, a fair and straightforward practice in the interest of the country or the interest of saving people to do one set of things in public and then not afford -- afford the opportunity to come to the Congress, and appear in public, and try to respond to what was there that seemed to be generalized characterizations of the ARB, but with specifics that seemed to be hanging in the air somewhere.

Q The --

Mr. Chaffetz. Can --

Mr. Castor. Sure.

Mr. Chaffetz. Go ahead.

The Witness. And, I mean, and I say that with the greatest respect --

Mr. Chaffetz. There must be --

The Witness. -- I in no way want to impugn any of your motives. I just found that it was a very difficult situation for me. I've spent my life in public service. I had always counted on having a fair hearing.

Mr. Chaffetz. There's never been a discussion of not having a public hearing with you. So we've done our best to --

The Witness. Uh-huh.

Mr. Chaffetz. You were invited to a public hearing; were you not?

The Witness. I was invited by you to public hearing, and I was unable to appear.

Mr. Chaffetz. And we did invite you to continue to -- to come in and visit with us.

The Witness. Yes, but that seemingly had to be under conditions that I couldn't fulfill.

Mr. Chaffetz. It was a public hearing.

The Witness. Yeah.

Mr. Chaffetz. But we did invite you to a public hearing.

The Witness. You did, but you were not able that arrange a date when I could come.

Mr. Chaffetz. We were offered no other suggestions as to when you wanted to make that happen.

The Witness. I assumed that because you were inviting, you would make a suggestion if you --

Mr. Chaffetz. I did. March 14th.

Ms. Sachsman Grooms. I'm going to object.

The Witness. Yeah.

Ms. Sachsman Grooms. I think this is getting a little bit argumentative.

The Witness. Sure. If --

Ms. Sachsman Grooms. I --

Mr. Lewis. Objections from the witness and the counsel.

Mr. Chaffetz. Thank you.

Mr. Castor. Objections are to be made by the witness or the witness' counsel.

Chairman Issa. Steve, we're -- you can keep going with the record. We're certainly happy to have a productive dialogue --

The Witness. Thank you.

Chairman Issa. -- as part of today's activities.

The Witness. I welcome that.

Chairman Issa. And, you know, your -- your statements publicly and my statements publicly, they're part of the public record. It has always been and is our intention to have appropriate public hearings.

I'd ask you a question, though. Having gone through these hours, can you imagine in any hearing you've ever seen the kind of -- of

lengthy, thoughtful dialogue both of us have gone through, both the majority and minority, to get a number of items on the record that can then be used appropriately in a public hearing as part of the process, including, quite frankly, Susanne's line of questioning about what did the chairman say, and is this right, or is this wrong?

So the only thing I'd ask you is for your own impression. Isn't this part -- in your opinion, now that you've been through this, part of the process where it will probably lead, along with all the other transcribed interviews we intend to take, when we're looking at legislation or, if you will, the final report on your final report, that this is a thoughtful part of the process, including today's interview?

Mr. Downey. Mr. Chairman, let me say, I think the witness can answer the question, and I don't want to interfere with that, but I just think he should answer your question, but I think further dialogue beyond that on the procedure to set this up is -- is not productive.

Chairman Issa. And I appreciate that.

Mr. Downey. Yeah.

Chairman Issa. I actually am responding to the witness', to the Ambassador's statement is the only reason that I thought that this form of dialogue was welcomed by the witness.

Mr. Downey. I understand your statement, and I think just as a matter of the -- the scope of what you're trying to achieve here and what I think everyone has said they're trying to achieve more generally, I think you've exhibited a desire to look at the circumstances around

the events in Benghazi. I think that's laudable, and I think that's the spirit in which this should continue.

The Witness. And I agree. And I hesitated, as you know, to bring this up, but the line of questioning had touched on it, and I felt that I at least owed you --

Chairman Issa. Sure.

The Witness. -- a frank opinion.

I'll only say this, that I have dealt with the Congress since the early 1960s. I've probably had a lot of hearings of various kinds.

Chairman Issa. You knew the young John Dingle.

The Witness. I did.

And my sense was that those were always seemingly adequate and useful. But I fully respect your authority, Mr. Chairman, to have this. In no way did I want to deprecate it.

It was not comfortable to be subpoenaed in the sense that from my personal perspective, it appeared that somehow I was being dragged into something that I was unwilling to talk about, when my view had been the other way around, and it was the question of whether it was public or not. I think we're over that. I hope we're over that.

Chairman Issa. I hope so.

The Witness. I hope that we can continue, and I take you at your word. And I have appreciated the way in which you've run the questioning, and I thank you for that. And I understand your effort to try to examine these issues in detail, and I respect that.

That's -- and I think we have a common interest, that we don't want

to see more people killed in the line of duty.

Chairman Issa. And I will close with this --

The Witness. Sure.

Chairman Issa. -- on my side, anyway. You know, our intention is to do a thorough review, which includes, obviously, a question of whether the ARB process is sufficient --

The Witness. Sure.

Chairman Issa. -- whether it has sufficient authority outside of State.

The Witness. Uh-huh.

Chairman Issa. And part of this is based on Mr. Chaffetz's work and travel --

The Witness. Sure.

Chairman Issa. -- and other -- I use the term whistleblowers, people who have come forward who have statements which are not reflected in the ARB. Now, they may be considered and rejected, but our process will be to look at all of those.

The Witness. Uh-huh.

Chairman Issa. And then, to be honest, I have lots of other things I have to do.

The Witness. I understand you do.

Chairman Issa. Well, including the boring. I mean, we have the -- we have the postal reform, we have personnel reform. We have plenty of things that we'd like to get to.

So, Mr. Castor, I thank you. It's -- I think this has been a

productive movement of -- down the road.

Mr. Castor. To the extent the State Department hasn't made some of these materials available to us as part of the predicate for having to have today's deposition, so to the extent that participating in today's proceeding is a -- is unhelpful for future boards and future possible Members, we certainly would offer the point of view if the State Department had met us even halfway, I think, with some of the document requests, if we could have seen all of the materials that -- that the Board looked at, we may very well have been in a position -- the chairman, Chairman Chaffetz as well, might have been in a position that we wouldn't have had to look to a vehicle like today to get to where -- where we've been.

And I'll just say one more thing before I wrap up, that the back-and-forth we had about the email that we had to take notes on, you know, had we had access to some of those documents --

The Witness. Sure.

Mr. Castor. -- I think we would have been able to have a much more productive back-and-forth with you. I think if the State Department changes their mind and delivers all the emails, I'm -- I'm fairly hopeful we won't --

The Witness. You will give me my day back.

Mr. Castor. We -- you know, certainly don't, you know, anticipate that we would want to have a replay of -- of, you know, the type of proceeding that we had today.

The Witness. No. Let me just say -- and I thank you. You run

a fair proceeding. I was allowed to have counsel. They were enormously helpful to me; they have been. I appreciate the questions you asked. I thought and tried hard to give you as clear and as frank an answer as I could. I appreciate what you're about. And I certainly had said earlier that it's more than welcome if you can find ways to improve your process to point out new things that have developed since we did it or correct any errors. I don't yet see those, with all frankness, but I'm going to keep an open mind, and I look forward to -- to coming back.

Mr. Castor. Okay. Thank you, sir. Thank you --

The Witness. Thank you.

Mr. Castor. -- for your service.

The Witness. Sure.

Mr. Castor. Thank you for answering our questions today.

Mr. Chaffetz. Thank you. Thank you.

Ms. Sachsman Grooms. We still have a little bit left.

Chairman Issa. Well, then in that case, he can be mad at you.

BY MS. SACHSMAN GROOMS:

Q And I'll be -- I'll be brief.

A Take what time you need.

Q I think the chairman in the last round brought up a concern about the ARB possibly not being able to obtain documents or information from entities outside of the State Department. In the course of the -- the ARB process, did you have any difficulties with obtaining information from outside of the State Department?

A None that I know of.

Q Okay. And did you have any difficulty with obtaining information inside of the State Department?

A None that I know of.

Q And I just wanted to talk to you briefly about the draft findings and recommendations that you had explained you had sent up to Ms. Mills. Why did you send those up?

A Because we were going to have a meeting with the Secretary, and we felt adequately to prepare her for that meeting, we should give her our latest thinking. We also briefed her orally, but we wanted her to have an opportunity to digest that material before she came.

This was in large measure predicated on two principles: one, that we wanted to keep her generally informed as to where we were going and the direction; and two, it was extremely important to me that we signal in advance where we were going in order to get the maximum amount of cooperation with the Secretary in implementing the recommendations as we went ahead.

It turned out that, seemingly without much hesitation, she endorsed and said she would implement all the recommendations. Whether it was that process that was successful or not I leave to you.

Q And do you know whether that was the practice of previous ARBs?

A I believe, because as Under Secretary I sat in on a similar meeting with Secretary Albright and Ambassador Admiral William Crowe, who did the Nairobi and Dar es Salaam ARBs, that at least for that

particular ARB, that was also done.

RPTS BLAZEJEWSKI

DCMN HERZFELD

[4:32 p.m.]

BY MS. SACHSMAN GROOMS:

Q And did you, either when you met with the Secretary -- well, when you met with the Secretary, did she try to influence the outcome of the ARB's findings in any way?

A No.

Q What about her staff Ms. Mills?

A No.

Q And you had said that they did not have editing rights, but that you were open to listening to their suggestions?

A Yes, as we were with other people who reviewed the report.

Q And one of the suggestions, I believe, in the last round that you explained was to the second finding --

A Yes.

Q -- of systemic failures.

A Uh-huh.

Q And was the suggestion there just to take out grossly or -- I'm not sure that I understood. Or was it to add something?

A The draft, as I believe it went to her, said the security posture was grossly inadequate for Benghazi, period. And we made the editorial correction recognizing that there was certainly a very real point that "grossly" was probably not applicable to Benghazi in light of the changes that the State Department had made, but it was clearly

applicable to dealing with the specific circumstances of the attack.

Q Oh, I see. So the recommendation was for, in part, that first half of the sentence?

A Yes.

Q And --

Mr. Downey. Ms. Grooms, I do want to say he obviously doesn't have those drafts in front of him. There may be deviations in the suggestions. I think he's giving you his general recollection.

The Witness. It's my best recollection of the drafts, and, you know, if it turns out to be just slightly different or different, I will accept that.

BY MS. SACHSMAN GROOMS:

Q And to the extent that the recommendation or the comments or the suggestion, however you would phrase it, from Ms. Mills caused you to change the findings, was that based on your independent analysis that that was the right thing to do?

A Yes, of course.

Q And then there were other suggestions that were made that you did not adhere to?

A I just don't recall, in all honesty.

Mr. Lynch. Ambassador, thank you again for your willingness. I think you've suffered enough, but we have a couple more questions.

The Witness. Sure.

Mr. Lynch. You know, during the hearings from various witnesses there was the suggestion that the special mission in Benghazi was more

of a CIA operation as opposed to a State Department.

The Witness. We're in classified material, I'm sorry.

Mr. Lynch. I'm sorry?

The Witness. We're in classified areas, I'm sorry.

Mr. Lynch. Oh, okay, okay. Well, let me not go there, then.

Earlier in the hearing, at the very beginning, you were instructed by the chairman -- in questions regarding statements in the press, you were instructed by the chairman that you were to answer those questions accepting the truthfulness of those statements in the press.

The Witness. I'm not so sure that that was what was meant. I understood what was meant was that if there was an open source in the press from material classified in the report, I could depend on the open source of the press to discuss that to the limits allowed by the open referral.

Mr. Lynch. Funny, I was sitting here, and I did not get that.

Chairman Issa. That was my intention.

Mr. Downey. Will you excuse me 1 second?

Chairman Issa. So that we would not potentially in any way, shape or form have the Ambassador trapped into something that may exist in classified material he may have access to, we would presume that all of our questions and all of his answers are based on publicly available --

Mr. Lynch. Yeah, I'm not talking about the classified versus unclassified.

Chairman Issa. No, when I made that statement, the intent of it,

and I think the Ambassador will confirm, the intent was that if he needed to rely on classified material not available, not -- materials not seen in public, that he could not answer, and he was not authenticating public information, he was discussing public information -- because we set this up to be unclassified, we want it to be 100 percent unclassified, although it can be reviewed to make sure, just dot our I's before this thing would ever be considered for release, that we fly speck to make sure that we --

Mr. Lynch. Reclaiming my time --

Chairman Issa. Well, actually we're holding time.

Mr. Lynch. -- if I could.

Mr. Downey. I do want to say, Congressman, I don't know what you're referring to. I know there was an instance where Mr. Castor was quoting from the record.

Mr. Lynch. Exactly.

Mr. Downey. And I indicated that I assumed they were true because Mr. Castor was quoting from the record, and the chairman said we should assume that for purposes of answering the question. And I sought a remedy with respect to that, and he overruled that objection. That's one piece of this. I don't know if that's --

Mr. Lynch. That's exactly what I was talking about.

Chairman Issa. But that was unclassified.

Mr. Lynch. It was unclassified. It was just a -- it was a clipping in the newspaper, and you were instructed by the chairman to assume that it was true.

The Witness. Pardon me.

Mr. Lynch. That's quite all right.

So I want to go back to that point in time where Mr. Castor was actually reading a clip from the newspaper. I think it was citing either Mr. Hicks or Mr. Nordstrom.

The Witness. Yeah.

Mr. Lynch. And the chairman instructed you to respond, accepting the statement in the press as being true.

The Witness. Sure.

Mr. Lynch. My question is would any of your responses be materially different if you were not instructed to accept those statements as being true?

The Witness. It's been a while.

Mr. Lynch. It has.

Mr. Downey. Congressman, are you asking him to recall the content of those, or are you just saying as a matter of --

Mr. Lynch. No.

[Discussion off the record.]

The Witness. I don't believe so, but I really want to look at that transcript later on.

Mr. Lynch. Okay. All right. I'll let it go.

The Witness. I want to be cautious about this. This is sworn testimony, and I want to take it seriously.

Mr. Lynch. Yeah, sure. Exactly. My point. All right.

Mr. Castor. We just talked about one news story, I think, and

we made it part of the record. And then the other things that we were quoting were things from the public hearing.

Mr. Lynch. I'm not questioning what the paper says, I'm questioning the instruction to accept the statement as being true as an instruction.

Mr. Downey. We have the opportunity when we review the transcript to give you the appropriate answer to that. I think the witness doesn't know what you're referring to, and I think when he sees, has the opportunity to look back, that might be the best time to answer the question.

Mr. Lynch. Okay.

The Witness. I would be happy to do that, to get back to you.

Ms. Sachsman Grooms. Well, with that, I think our round is done, and my understanding is that that will conclude the deposition, but I leave it to your authority.

Mr. Castor. Yes.

Chairman Issa. Thank you, Ambassador.

The Witness. Thank you. Thank you, Mr. Chairman.

Chairman Issa. We'll let you get out before the sun goes down.

Mr. Castor. I will say before we go off the record, it is 4:41, so we're not here late at night.

Chairman Issa. Into the wee hours of the morning.

[Whereupon, at 4:41 p.m., the interview concluded.]

Certificate of Deponent/Interviewee

I have read the foregoing ____ pages, which contain the correct transcript of the answers made by me to the questions therein recorded.

Witness Name

Date