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# Congress of the United States

## House of Representatives

### Select Committee on Benghazi

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April 23, 2015

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STAFF DIRECTOR

W. Neil Eggleston  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, D.C. 20500

Dear Mr. Eggleston:

This responds to your letter dated January 23, 2015, and letters from your office dated February 27, 2015, and March 16, 2015, regarding the December 29, 2014 letter from the House Select Committee on Benghazi requesting documents from the White House. Your January 23, 2015 letter summarizes executive branch productions to other committees involved in previous congressional inquiries into the Benghazi attacks. Notably absent from your summary, however, is any mention of the National Security Council, or any other component within the White House structure. As the central entity of the executive branch, the White House played a central role in the decision to create a U.S. presence in Benghazi, the response to the Benghazi attacks, and public statements made about the attacks. Accordingly, the Committee must scrupulously examine those actions in order to fulfill its congressional mandate.

The Committee's December 29, 2014 letter seeks documents falling into twelve separate categories. Your January 23, 2015 response indicates that other "agencies are in the best position to consider the Select Committee's requests for information." Respectfully, we disagree. No other executive branch entity has custody over internal White House communications, and the fact that Congress has sought documents from other executive branch agencies is irrelevant. The Committee is entitled to obtain responsive documents within the White House's possession, custody or control, and the White House cannot rely upon production from other entities to satisfy its legal obligations.

Your January 23, 2015 letter also states that some of the Committee's requests represent an intrusion into "longstanding executive branch confidentiality and other institutional interests." A productive February 27, 2015 meeting between our staffs discussed these myriad interests, and the Committee recognizes and respects that you have a responsibility to protect legitimate executive branch interests. That being said, the White House must reciprocally respect the interests and powers of the legislative branch, which the Supreme Court has consistently upheld for the past nine decades.

The January 23, 2015 letter sets forth an unduly narrow interpretation of the Committee's authorizing resolution that, if accepted, would foreclose relevant lines of inquiry into the Benghazi attacks. The U.S. presence in Benghazi was a direct result of the United States' decision to intervene during the 2011 uprising in Libya. While the Committee does not seek to second guess the President's policy decisions that led to that intervention, at a minimum an understanding of those policies is essential because certain elements are inextricably intertwined with the security posture of the U.S. facilities in Benghazi. In fact, the Accountability Review Board's report—oft cited by the White House after its release—specifically noted that security failures in Benghazi resulted in part from “very real confusion over who . . . was responsible and empowered to make decisions based on both policy and security considerations.” The Committee must determine whether that confusion existed only within the State Department or whether the White House's policy considerations added to the confusion noted.

The Committee's enabling resolution makes clear that the Committee may review policies that may have impacted the security posture of the facility. The resolution states that:

[t]he Select Committee is authorized and directed to conduct a full and complete investigation and study . . . all policies, decisions, and activities that contributed to the attacks on United States facilities in Benghazi, Libya on September 11, 2012, as well as those that affected the ability of the United States to prepare for the attacks.

Additionally, the resolution authorizes and directs the Committee to examine “any other relevant issues relating to the attacks.” Therefore, the Committee's investigative mandate extends broadly to all aspects of the Benghazi attacks, including policy decisions that may have contributed to security lapses at the facility or hampered our ability to respond.

We understand that it may take some time to work through the process of sorting out our respective institutional interests and equities regarding this investigation. In the meantime, please prioritize your future production efforts based on the following guidelines, which correspond directly to the numerical categories listed in the Committee's December 29 letter:

- 1: Limit production of these documents to include only the period of March 17, 2011 to September 30, 2012. In addition, production of these documents should include documents that refer or relate to: (a) all letters from the President to Chris Stevens or Gene Cretz regarding U.S. foreign policy goals in Libya; (b) the limitation of U.S. military boots on the ground in Libya during, and subsequent to, Operations Odyssey Dawn, Unified Protector and Odyssey Guard; (c) the decision to send a Special Envoy to Libya; (d) the decision to establish and maintain a U.S. Government presence in Benghazi; (e) the security of the U.S. Government presence in Libya; (f) violent extremism in Libya; (g) counterterrorism in Libya; (h) the transfer of arms from or through Libya to any individual, group, or country; (i) the use of military force to

respond to the terrorist attacks on U.S. government facilities on September 11 and 12, 2012, including but not limited to, designating suspected attackers under the framework of the Authorized Use of Military Force resolution; and (j) the decision to pursue a law enforcement investigation into the attacks instead of directing a military response option.

- 2: Limit production of these documents to include only the period of September 11, 2012 to October 31, 2012. In addition, production of these documents should include any documents or communications to or from any member of the White House staff and any employee of the Department of State, Department of Defense, and Central Intelligence Agency. Production of these documents shall also include lists of attendees and Summaries of Conclusions from Deputies Committee and Principals Committee meetings, including but not limited to video teleconference (VTC) and secure video teleconference (SVTC) meetings, in-person meetings, and conference calls.
- 8: Produce all responsive documents.
- 9: Limit production of these documents to include only the period of September 11, 2012 to September 30, 2012.
- 10: Limit production of these documents to include only the protests in Cairo, Egypt on or about September 11, 2012.
- 11: Limit production of these documents to include only the period of September 11, 2012 to September 20, 2012.

Given the time that has passed since the Committee's initial December 29 letter, we expect that the White House will be in a position to make another production of documents by May 1, 2015, with full compliance by May 15, 2015. In addition, we suggest that our staffs meet again no later than May 1, 2015 to discuss differences and identify a cooperative path forward. Please contact the Committee's Chief Counsel, Dana Chipman, to schedule this meeting. Thank you for your attention to this matter.

Sincerely,



Trey Gowdy  
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Member