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House of Representatives

Select Committee on Benghazi

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May 14, 2015

The Honorable John F. Kerry
Secretary
U.S. Department of State
2201 C Street, NW
Washington, D.C. 20520

Dear Secretary Kerry:

On March 26, 2015, I wrote to you seeking your assistance and commitment in obtaining compliance with a number of outstanding subpoenas and requests for information related to the Select Committee on Benghazi (Committee). The letter described three areas in which the State Department has yet to comply with the Committee's requests for information, including the November 18, 2014 letter and March 4, 2015 subpoena issued to the State Department seeking documents and communications relating to ten former senior State Department officials. These are individuals whose involvement in the policies, decisions and activities related to Benghazi, Libya has yet to be fully explored and is essential to our Committee's charge to write the final, definitive accounting on what happened in Benghazi.

Last week, on May 8, 2015, I issued a one year interim update detailing the Committee's work. Chief among the impediments described in the update was the State Department's lack of response to the Committee's November 2014 letter and March 4, 2015 subpoena. In fact, not a single document has been produced by the State Department pursuant to these requests, despite the Committee's successive efforts, at the State Department's insistence, to narrow its request.

As you may be aware, the Committee has invited former Secretary Hillary Clinton to appear before the Committee so our members, and the House as a whole, can better understand the policies, activities and decisions made before, during and after the terrorist attacks in Benghazi. In an effort to ensure her public record was complete, we invited the former Secretary to explore the unusual email arrangement she had with herself while serving as Secretary. Secretary Clinton rejected our request that she provide her server, which housed public records, to a neutral, third party arbiter. She also rejected our invitation to testify in a transcribed interview. Secretary Clinton has insisted she will appear before our Committee a single time. Consequently our Committee is equally insistent any appearance be as thorough and constructive as possible.

Since last fall, and continuing to the present, this Committee has clearly and consistently conveyed – to Ranking Member Elijah Cummings, to her personal counsel, and to the public at

large – its willingness to schedule the former Secretary's appearance whenever the Committee achieves the requisite assurance the Committee possesses the relevant official documents and communications informing and instructing the Secretary's Benghazi-related and Libya-related actions. The majority told Ranking Member Cummings it would schedule the former Secretary's appearance no later than 30 days after receiving a record sufficient to constructively ask questions of Secretary Clinton. To be clear, Secretary Clinton would also benefit from the ability to review such documents before or during her appearance. Our hope that the Secretary's appearance could occur sooner rather than later was adversely impacted by the revelation that not only did the former Secretary use private email to conduct public business but she exclusively used personal email to conduct said public business. Moreover, the former Secretary had her own personal server and maintained sole custody of her public record for more than 18 months after separating from the Department of State.

Assuring the public record is indeed complete is difficult enough given that the emails the State Department now belatedly possesses were only produced after the former Secretary's personal attorney reviewed those emails. The assurance the Committee needs that the record is in fact sufficient is necessarily dependent upon the Committee receiving the relevant records sought more than half a year ago. Simply put, the Committee must have the records of communication requested more than six months ago before the Secretary's appearance can be scheduled.

You pledged your full support and cooperation for the work of this Committee when you assumed your current duties. You said you were interested in making sure the relevant committees of Congress had the materials necessary to provide proper and constitutionally empowered oversight. You indicated you would even assign a specific person to ensure compliance with reasonable requests. Successive chiefs of staff at the Department have confirmed that pledge. Yet the Committee finds itself in the same place it was six months ago with respect to relevant communications from only ten former senior officials – not one single piece of paper or email has been produced to the Select Committee from 7th floor principals.

Not only is it impossible for our Committee to discharge the responsibilities assigned to it by the House, it is impossible for the Committee and the former Secretary to constructively discuss policies, decisions and activities related to Benghazi without your Department cooperating efficiently with legitimate requests for relevant and salient information. The production to date has failed to efficiently meet oversight requirements by any reasonably objective measure, and the Department's staff has made clear to us that its resources do not allow it to process more than one item at a time. Such stovepiped compliance is not acceptable notwithstanding your personal commitment to assist the Committee. At the current pace, it will take years to provide all necessary information. The Department must move forward promptly and with more urgency.

Respectfully, your assistance is needed to resolve this issue and enable the Committee to move forward in discharging our charter. And more specifically, the only thing standing between the Committee and the former Secretary being able to discuss her tenure as Secretary of

State as it relates to Libya and Benghazi is the Department of State's failure, in more than half a year, to produce a single, solitary email responsive to our request and subpoena.

The Committee has shared its concerns with those responsible for appropriating monies to the Department of State in the event reprogramming to ensure compliance with congressional inquiries is warranted. The Committee is also planning to schedule compliance briefings and hearings at regular intervals until such time as the Committee has the documents legitimately sought, and will consider other remedies available to it as warranted. There is still the possibility of scheduling the former Secretary's appearance soon, but that is contingent upon Department of State compliance.

Sincerely,

Trey Gowdy
Chairman

CC: The Honorable Elijah E. Cummings, Ranking Member