

Written Statement

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from September 21, 2011-July 26, 2012

At the request of Chairman Issa, and the Committee On Oversight

& Government Reform

Hearing on Benghazi: Exposing Failure and Recognizing Courage

08 May 2013

Good morning Chairman Issa, Ranking Member Cummings, and other distinguished members of the committee.

For the benefit of new committee members, my name is Eric Nordstrom and I currently serve as a Supervisory Special Agent with the U.S. Department of State's Bureau of Diplomatic Security. Since September 2012, I have been enrolled in long-term language training in preparation for my next assignment. I have served in federal law enforcement since January 1996, first as a Customs Inspector, before joining the Department of State, Bureau of Diplomatic Security in April 1998. I have served in domestic and overseas postings including Washington, DC, Honduras, Ethiopia, India, and most recently as the Regional Security Officer at the U.S. Embassy in Tripoli, Libya. I held this position from September 21, 2011 until July 26, 2012.

As the Regional Security Officer, or "RSO," at the U.S. Embassy in Tripoli, I served as the principal security advisor to U.S. Ambassadors Gene Cretz and Chris Stevens on security and law enforcement matters.

I thank the committee for the opportunity to appear before you again and provide further testimony in support of your inquiry into the tragic events of September 11, 2012. I would also like to thank the committee for your continued efforts investigating all the details and decisions related to the attack on our diplomatic facilities.

In addition to my testimony before this committee in October 2012, I also met with the FBI, Senate Homeland Security and Governmental Affairs

Committee, and the State Department's Accountability Review Board and discussed my experiences in Libya.

I'd like to comment generally on the Department's Accountability Review Board (ARB) report and recommendations. At this time, I have not been provided the opportunity to review the classified portion of the ARB report and therefore my comments are limited to the unclassified and publically available ARB report. I found the ARB process that I was involved in to be professional and the unclassified recommendations reasonable and positive. However, it is not what is contained within the report that I take exception to but what is left unexamined. Specifically, I'm concerned with the ARB's decision to focus its attention at the Assistant Secretary level and below, where the ARB felt that "the decision-making in fact takes place."¹ Based on my personal knowledge of the situation in Libya prior to the attack, I received and reviewed several documents, which included planning documents for operations in both Tripoli and Benghazi, drafted and approved at the Under Secretary of Management level or above. These decisions included the type and quantity of physical security upgrades to be implemented; types and locations of properties to be leased for the facilities in Benghazi and Tripoli; approval of occupancy of facilities that did not meet required Overseas Security Policy Board (OSPB) standards and provisions of Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA)²; approval for the usage of commercial aircraft into and out

¹ Press Briefing on ARB Report; ARB Chair Ambassador Thomas Pickering, December 19, 2012, <http://www.state.gov/r/pa/prs/ps/2012/12/202282.htm>

² Secure Embassy Construction and Counterterrorism Act of 1999; <http://www.gpo.gov/fdsys/pkg/BILLS-106s679is/pdf/BILLS-106s679is.pdf22>

of Libya in lieu of a Department of State aircraft; approval of all visitors, temporary duty (TDY), and permanent staff at post, as well decisions on all funding and resource needs.

SECCA establishes statutory security requirements for U.S. diplomatic facilities involving collocation and setback. Under SECCA, the State Department, in selecting a site for any new U.S. diplomatic facility abroad, *must* collocate all U.S. Government personnel at the post on the site. Each newly acquired U.S. diplomatic facility must be placed not less than 100 feet from the perimeter of the property. New U.S. chancery/consulate buildings, solely or substantially occupied by the U.S. Government, *must* meet collocation and 100-foot setback statutory requirements; otherwise, waivers to the statutory requirements *must* be granted by the Secretary of State. Furthermore, in accordance with 12 FAM 315.5, the Secretary {of State} must notify the appropriate congressional committees in writing of any waiver with respect to a chancery or consulate building and the reasons for the determination, not less than 15 days prior to implementing a statutory collocation or setback waiver.³

All U.S. diplomatic facilities must also meet Overseas Security Policy Board (OSPB) security standards, which are based upon the threat level of the post. The OSPB security standards are comprehensive physical,

Also, 22 USC § 4865 - Security requirements for United States diplomatic facilities

³ U.S. Department of State Foreign Affairs Manual Volume 12 - Diplomatic Security, 12 FAM 315.5
Congressional Notification and Report Requirements
<http://www.state.gov/documents/organization/88382.pdf>

technical, and procedural requirements that are based on threat ratings for the affected post. These standards establish minimum levels for a wide variety of security programs at post including: Armored Vehicles; Design and Construction of Controlled Access Areas; Physical Security; Special Protective Equipment; Local Guards, Residential, and Emergency Plans, and Technical Countermeasures designed to counter human intelligence and technical threats. ⁴

The OSPB standards for each post, and therefore the resources needed to comply with the standards, are based in turn on an evaluation of threats for the affected post, called the Security Environment Threat List (SETL). The list is mentioned in 22 U.S.C. § 4865, “Security requirements for United States diplomatic facilities,” which requires that such a list “shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.” ⁵ Based on the SETL, DS, in consultation with other agencies, assigns threat levels to each post.

⁴ U.S. Department of State Foreign Affairs Manual Volume 12 - Diplomatic Security, 12 FAM 314
OSPB SECURITY STANDARDS
<http://www.state.gov/documents/organization/88382.pdf>

⁵ Congressional Research Service, Securing U.S. Diplomatic Facilities and Personnel Abroad: Background and Policy Issues, November 25, 2012, <http://www.fas.org/sqp/crs/row/R42834.pdf>

According to the Government Accountability Office (GAO), six threat categories inform the SETL: international terrorism, indigenous terrorism, political violence, crime, human intelligence, and technical threat. A rating is then assigned for each category, on a four-level scale.

- Critical: grave impact on American diplomats
- High: serious impact on American diplomats
- Medium: moderate impact on American diplomats
- Low: minor impact on American diplomats

The protective measures for each post are dictated by the post's overall threat level.⁶ At the time of the Benghazi attack, only a small number of the 264 overseas diplomatic posts were rated either HIGH or CRITICAL in threat categories related to political violence, terrorism, and crime. Our posts in Benghazi and Tripoli were among those posts and the only two facilities that met no OSPB or SECCA standards. Furthermore, Benghazi and Tripoli were not located in a country where the Department of State could count on effective support or response from the host nation -- a fact that was clearly and repeatedly reported to policy makers in Washington, DC.

The SECCA requirements, OSPB standards, and SETL ratings are the critical foundation for all RSOs and Posts on which security measures are evaluated and deficiencies identified.

⁶ U.S. Government Accountability Office, State Department: Diplomatic Security's Recent Growth Warrants Strategic Review, GAO-10-156, December 7, 2009, pp. 7-8, <http://www.gao.gov/assets/300/298354.html>.

No waivers of SECCA requirements or exceptions to the required OSPB standards were prepared for either the Tripoli or Benghazi compounds. More importantly, senior decision makers in the Department, including the U/S for Management, determined that funding would not be provided in order to bring the facilities into compliance with the aforementioned standards. Neither SECCA nor OSPB allows for blanket waivers or exceptions simply due to the temporary nature of the facilities. Furthermore, SECCA waiver requirements for buildings solely occupied by the U.S. government overseas *must* be approved by the Secretary of State and cannot be delegated. Since there is no SECCA waiver on file, the obvious question for both the Committee and the ARB is if the Secretary of State did not waive these requirements, who did so by ordering occupancy of the facilities in Benghazi and Tripoli?

In early February 2012, as part of discussions about occupancy of newly acquired buildings in Tripoli, I advised relevant officials in Tripoli and Washington, DC that I did not and would not support occupancy of the buildings until required OSPB security upgrades had been completed. I was told by Diplomatic Security (DS) and Overseas Building Operations (OBO) officials that the U/S for Management had authorized occupancy of the buildings “as is”. Specifically, the responding official stated via email, “*It is my understanding that M {U/S for Management} agreed to your current compound being set up and occupied, condition as is*”. On February 8, 2013, I responded to OBO and DS officials in Washington, DC requesting confirmation of this decision and specifically asking, “*Is anything in*

*writing, if so, I'd like a copy for post so we have it handy for the ARB?"*⁷

I discussed and reviewed these same areas of concern during my meetings with the ARB, Senate and House Committees, and FBI.

I'm certain that senior policymakers are aware of these requirements and their importance. To wit, on February 14, 2013, U/S for Management highlighted the importance of the SECCA and OSPB security measures in thwarting attacks on diplomatic facilities during his testimony at a Hearing on Embassy Security before the House Appropriations Committee, Subcommittee On State/Foreign Operations. In his testimony, the U/S for Management noted that attacks similar to Benghazi's took place against our Embassies in September 2012 in Cairo, Sana'a, Tunis, and Khartoum, yet resulted in only property damage versus loss of life.

"Last September, we also saw violent attacks on our embassies in Cairo, Sana'a, Tunis, and Khartoum, as well as large protests outside many other posts where thousands of our diplomats serve. Our posts in Cairo and Sana'a were completed during the Inman building phase between 1986 and 1998, while Embassy Tunis was completed in November 2002 and Embassy Khartoum in March 2010, both post-SECCA.

All of these facilities ably withstood attack. The perimeter walls and controlled entrances provided time for our staff to reach safety inside the buildings and for the host government to respond.

⁷ Email from Eric Nordstrom to James Bacigalupo, Regional Director DS/IP/NEA, et al., February 8, 2012, 7:44 a.m., Subject: FW: Tripoli – Occupancy of Compound IV

While the perimeters were penetrated resulting in property damage, the physical security countermeasures at these facilities prevented any loss of life.

A compound security upgrade project in Sana'a, which constructed a new entrance hard line with reinforced doors and windows, and a forced entry and ballistic resistant door and window replacement project in Tunis had just been completed prior to the attacks.”⁸

For the ARB to ignore the role senior Department leadership played before, during, and after the 11 September attack sends a clear message to all State Department employees. The ARB's failure to review the decisions of the U/S for Management and other senior leaders, who made critical decisions regarding all aspects of operations in Tripoli, to include occupancy of facilities, which did not meet the aforementioned SECCA and OSPB requirements, is inexplicable. All of these decisions were integral to understanding how the events of September 11, 2012 unfolded.

Among the Department of State's most important responsibilities are the assistance of U.S. citizens overseas and the protection of U.S. Department of State personnel and facilities abroad. However, the Department has not provided either Consular Affairs or Diplomatic Security, sufficient stature within the Department's organizational structure. According to the ARB, Senate and House reports, several of the security resource requests, in particular staffing requests, were 'lost' within the

⁸ Testimony of U/S for Management Patrick Kennedy before the House Appropriations Subcommittee On State/Foreign Operations, Hearing on Embassy Security, February 14, 2013

Department's domestic bureaucracy. Senior Department officials, including former Secretary Clinton, assert that these requests were not raised to the Deputy Secretary or her level for resolution or support. The Diplomatic Security Deputy Assistant Security (DAS) for International Programs testified that the response cable to Posts July 09, 2012 staffing request was "lost in the shuffle" and a November 2011 funding and resource request related to Libya and routed to the Undersecretary for Management (U/S for M) for decision was similarly not acted on.

In recognition of the importance of security at overseas diplomatic posts after the 1998 East Africa Bombings, the Department moved overseas Regional Security Officers (RSOs) out from the direct reporting relationship to the Management Officer and created a direct reporting relationship to the Ambassador via the Deputy Chief of Mission. Likewise, heads of Consular sections overseas report to the Ambassador via the Deputy Chief of Mission. However, the State Department has failed to make the same chain of command shift within its own organizational chart. The Bureaus of Diplomatic Security and Consular Affairs, despite the gravity of their respective missions after both 9/11 attacks, remain under the umbrella of the U/S for Management. In my opinion, there is a better way.

Reorganization and an elevation of the leadership of the Bureaus of Diplomatic Security and Consular Affairs to respective Under Secretary of State levels would send a strong signal on the importance of these two core Department functions. Such reorganization could provide a more direct line of communication to the Secretary of State, and thereby increase accountability within these Bureaus. Alternatively, the Secretary of State has

a number of offices and bureaus with a *direct* reporting relationship, including: Bureaus of Intelligence and Research (INR) and Legislative Affairs (H); Office of the Legal Adviser (L); Office of Inspector General (OIG); Office of Policy Planning Staff (S/P); Office of the Chief of Protocol (S/CPR); Office of Civil Rights (S/OCR); Office of Global Women's Issues (S/GWI); Office of the Global AIDS Coordinator (S/GAC); as well as Special Envoys and Special Representatives.⁹ Under the current structure, there are also six Under Secretaries of State, who report to Secretary of State via two Deputy Secretaries of State. The six Undersecretaries are as follows: Under Secretary for Political Affairs (P); Under Secretary for Economic Growth, Energy and Environment (E); Under Secretary for Arms Control and International Security Affairs (T); Under Secretary for Public Diplomacy and Public Affairs (R); Under Secretary for Management (M); Under Secretary for Civilian Security, Democracy and Human Rights (J). Currently, both Diplomatic Security and Consular Affairs report to the Secretary of State via the U/S for Management and then to Deputy Secretary of State, adding an extra layer of management between the senior official within the Bureau of Diplomatic Security, the Assistant Secretary for Diplomatic Security, and the Secretary of State. It is remarkable to me that eleven Bureaus or Offices report to and vie for the attention of the U/S of Management, compared to the next largest, the Under Secretaries of Political

⁹ Department of State Organization Chart,
<http://www.state.gov/documents/organization/187423.pdf>

Affairs (P) and Civilian Security, Democracy and Human Rights (J), both of whom supervise only seven bureaus.¹⁰

Senior Department officials regularly state that the Department must operate in high-threat locations like Iraq, Afghanistan, Yemen, Sudan, Libya, Pakistan, and Somalia and that such work will increasingly be without the benefit of deployed U.S. military support. While Department employees are told that they may spend multiple tours in hardship and unaccompanied postings as part of the Department's new 'expeditionary' diplomacy designed to meet the challenges of the 21st century, the Department has not made the appropriate organizational and cultural changes to keep pace with the work expected of its employees. Former Secretary Clinton stated in her December 18, 2012 ARB report cover letter to Senate Foreign Relations Committee Chair, Senator John Kerry, in referring to the employees of the State Department, "Every one of them is my responsibility, and I will do everything in my power to keep them safe. I have no higher priority."¹¹ Elevating the position and role of the Bureau of Diplomatic Security within the Department of State organization will show the seriousness of this priority.

¹⁰ Department of State Organization Chart,
<http://www.state.gov/documents/organization/187423.pdf>

¹¹ Secretary Hillary Clinton ARB Cover Letter to Senate Foreign Affairs Committee Chair, John Kerry, dated 18 December 2013.
<http://www.state.gov/documents/organization/202447.pdf>

I'm proud of the work that our team accomplished in Libya under extraordinarily difficult circumstances. The protection of our nation's diplomats, our embassies and consulates, and the work produced there is deserving of the time that this Committee, other Congressional Committees, the Accountability Review Board, and no doubt future review efforts invest in making sure we get the process correct.

Thank you Mr. Chairman, and Members of the Committee, for the opportunity to appear before you today. I stand ready to answer any questions you might have.