

SELECT COMMITTEE ON BENGHAZI,
U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, D.C.

INTERVIEW OF: PATRICK KENNEDY

Wednesday, February 3, 2016

Washington, D.C.

The interview in the above matter was held in Room HVC-214,
Capitol Visitor Center, commencing at 9:07 a.m.

Present: Representatives Gowdy, Pompeo, Brooks, Roby, and

Duckworth.

Appearances:

For the SELECT COMMITTEE ON BENGHAZI:

PHILIP G. KIKO, STAFF DIRECTOR AND GENERAL COUNSEL

CHRIS DONESA, DEPUTY STAFF DIRECTOR

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For the U.S. DEPARTMENT OF STATE:

AUSTIN EVERS, SENIOR ADVISOR

ERIC SNYDER, SENIOR COUNSEL

ALISON R. WELCHER, ATTORNEY-ADVISED

Ms. Jackson. This is a transcribed interview of Under Secretary Patrick Kennedy, conducted by the House Select Committee on Benghazi. This interview is being conducted voluntarily as part of the committee's investigation into the attacks on the U.S. diplomatic facilities in Benghazi, Libya, and related matters, pursuant to House Resolution 567 of the 113th Congress and House Resolution 5 of the 114th Congress.

Mr. Kennedy, would you please state your full name for the record, please?

Mr. Kennedy. Patrick Francis Kennedy.

Ms. Jackson. And, Ambassador Kennedy, again, my name is Sharon Jackson, and welcome this morning. We appreciate your appearance here today for this interview.

I am one of the members with the majority staff. And so that we have a record of who is here today, we are going to go around the room and have people introduce themselves, and we will also give you an opportunity to find out who's who. So we will start in the back row -- well, actually, let me start with my left to Ms. Betz.

Ms. Betz. Kim Betz with the majority.

Chairman Gowdy. Trey Gowdy, South Carolina.

Ms. Clarke. Sheria Clarke, majority staff.

Mr. Missakian. Craig Missakian, majority.

Mr. Davis. Carlton Davis. I work for Mr. Gowdy.

Ms. Sawyer. Heather Sawyer with the minority staff.

Ms. Sachsman Grooms. I'm Susanne Sachsman Grooms with the

minority staff.

Mr. Kenny. Peter Kenny, minority staff.

Mr. Rebnord. Dan Rebnord, minority staff.

Ms. O'Brien. Erin O'Brien, minority staff.

Ms. Welcher. Alison Welcher, State Department.

Mr. Evers. Austin Evers, State Department.

Mr. Snyder. Eric Snyder, State Department.

Mr. Tolar. Mac Tolar with the majority staff.

Ms. Jackson. Ambassador Kennedy, before we begin I would like to go over the ground rules and explain how the interview will proceed. As with everything in government, there are procedural rules that we follow and this interview is no exception.

Generally, the way the questioning has proceeded is that a member of the majority will ask questions for up to an hour and then the minority will have the opportunity to ask questions for an equal period of time if they choose. Questions may only be asked by a member of the committee or designated staff member, and we will rotate back and forth, one side per hour, until we are out of questions and the interview is over.

Unlike testimony or a deposition in Federal court, the committee format is not bound by the rules of evidence. The witness or counsel that accompanies them may raise objections for privilege, which is subject to the review by the chairman of the committee. If these objections cannot be resolved in the interview, the witness can be required to return for a deposition or a hearing.

Members and staff of the committee, however, are not permitted to raise objections when the other side is asking questions. This has generally has not been an issue that we have encountered in the past, but I just wanted to make that you were clear on the process.

This session is an unclassified setting. If any question calls for a classified answer, please let us know and we will reserve it to answer until we move to a classified setting, and we have one set aside for later ~~are~~^{on} this afternoon.

You are welcome to confer with the counsel that has accompanied you at any time during the interview. But if something just needs to be clarified, we would ask that you let us know. But if you need to discuss anything with the counsel that are here with you today, we'll go off the record and stop the clock and afford you this opportunity to do so.

We will also take a break whenever it is convenient for you. Typically we do this after every hour of questioning, but, again, if you would like a break before then, please let us know and we'll accommodate you. If you need anything, water, use of the facilities, confer with counsel, please let us know and we'll just go off the record and stop the clock. We'd like to make this process as easy ~~an~~^{and} as comfortable as possible.

As you can see, we have an official reporting who is taking down everything you say to make a written record. So we ask witnesses to give verbal responses to all questions, yes and no as opposed to nods and shakes of the head. I am going to give the reporter permission

to jump in if we fail to do that.

The other thing I am going to give the official reporter free rein to do is, it's very easy to talk over each other, to start an answer before the question is finished or for me to start the next question before the answer is complete. To get a complete record, we should try not to do that as much as possible, but, again, I give the reporter free rein to say one at a time.

We have been joined by Phil Kiko, the staff director for the majority, and Chris Donesa, the deputy staff director for the majority.

We want your answers to our questions to be the most complete and truthful that they can be, so we'll take our time and repeat or clarify questions if necessary. If you have any questions or if you do not understand any of our questions, please let us know so that we can clarify, repeat, or rephrase or break down complicated question into smaller bits.

We would like you to give us your best recollections, but if you honestly don't know the answer to a question or do not remember, it's best not to guess. But if you don't know or can't remember, please inform us who, to the best of your knowledge, might be able to provide a more complete answer to the question.

Mr. Kennedy, do you understand that you are required to answer questions from Congress truthfully?

Mr. Kennedy. Yes.

Ms. Jackson. Do you understand that this also applies to questions that are posed by congressional staff in an interview?

Mr. Kennedy. Yes.

Ms. Jackson. Do you understand that witnesses who knowingly provide false material testimony could be subject to criminal prosecution for perjury or making false statements?

Mr. Kennedy. Yes.

Ms. Jackson. Is there any reason that you are unable to provide truthful answers to today's questions?

Mr. Kennedy. No.

Ms. Jackson. Okay. And, again, that's the end of my preamble. Again, I thank you ^{on} ~~or~~ behalf of Chairman Gowdy and the committee, for being here today and answering our questions. And I will ask the minority staff if they have anything they would like to add at this time.

Ms. Sawyer. We just welcome you. Thank you for agreeing to appear and answer our questions today. We understand you're here voluntarily and we appreciate that.

To the best of your recollection, in the time since the Benghazi attacks, how many times have you briefed or testified before Congress about Benghazi?

Mr. Kennedy. I believe it has been somewhere between 20 and 24 times that I have either testified or provided Member or staff briefings or participated in Member or staff briefings with others from the State Department or other agencies.

Ms. Sawyer. ^{of} One the prior times you testified was in a setting that was not publicly available for the House Permanent Select

Committee on Intelligence. This committee has the benefit of that transcript as well. I think it was November 15th, 2015. And the committee majority has allowed other witnesses prior to appearing the opportunity to review prior testimony. Were you given that opportunity with regard to your HPSCI testimony that we have?

Mr. Kennedy. No, I was not.

Ms. Sawyer. I'm sorry, November 15th, 2012.

Okay. Then we appreciate you being here to answer our questions, and we'll just look forward to hearing your testimony.

Mr. Kennedy. Thank you.

Ms. Jackson. In follow-up to that, Mr. Kennedy, did you request an opportunity to review your HPSCI testimony?

Mr. Kennedy. I was not aware it was available.

Ms. Jackson. Okay.

Chairman Gowdy. Well, hang on a second. I want the record to be perfectly clear.

Would you like to review your testimony? Did you ask and somebody not allow you not to do so.

Mr. Kennedy. No, Mr. Chairman.

Chairman Gowdy. All right. Well, I appreciate the candor with which you answered the question, which is much more clear than the question was posed. No one prevented you from reviewing that transcript. Is that correct?

Mr. Kennedy. No, sir.

Chairman Gowdy. If you would like to review the transcript, I

will make it available to you immediately.

Mr. Kennedy. Mr. Chairman, I do not believe, since I do not know what questions that would be asked for which I might need to recall my testimony, sir. I very much appreciate your offer and thank you. At the moment, I know of no reason I would need it, but I also can't say that I might not need it depending on a question that was ^{asked} ~~answered~~, Mr. Chairman.

Chairman Gowdy. We are going to have this arrangement, because your lawyer, Mr. Snyder, has always played face up poker with us and I am going to play face up poker with y'all. If you need to see something, nobody is trying to trick anybody today. If you want to see something, if you want to take a break, if you want to take a long break and read something, you can read whatever we have.

Mr. Kennedy. Thank you very much, Mr. Chairman. From talking to my colleagues, I fully appreciate that.

Chairman Gowdy. Yes.

EXAMINATION

BY MS. JACKSON:

Q Mr. Kennedy, the Benghazi ARB made the following finding, and I'm going to quote a couple of sentences from page 6 of that report. And it said, "Communication, cooperation and coordination among Washington, Tripoli, and Benghazi functioned collegially at the working level, but were constrained by a lack of transparency, responsiveness, and leadership at the senior level. 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 both policy and security considerations."

Do you recall that finding of the Benghazi ARB?

A I do.

Q Do you agree with it?

A From the results of their investigation and what happened in Benghazi, I cannot disagree with it.

Q Okay. So you agree that there was a lack of transparency, responsiveness, and leadership at senior levels?

A That is -- that is the finding of the Accountability Review Board and I do not disagree with it.

Q Okay. And do you also agree that the lack of leadership resulted in, as they said, very real confusion over who ultimately was responsible and empowered to make decisions based on both policy and security considerations?

A That was their finding and I do not disagree with it.

Q Do you feel that there were failures at the senior level?

A Obviously, there was a tragedy in Benghazi, and this is a situation in which there was a constantly changing series of activities on the ground, the threats were changing, conditions were changing. And, obviously, in a situation such as that there can be slip-ups, yes.

Q And there were slip-ups?

A There were, the Accountability Review so found.

Q And you agreed with that?

A I'm not going to disagree with the findings of the

Accountability Review Board.

Q Now, you are the Under Secretary for Management at the State Department. Is that correct?

A Yes.

Q A position that you have held since 2007?

A Yes.

Q And you have then direct responsibility for budget and planning?

A Yes.

Q So that's how the money of the State Department's spent?

A I set ^{targets} for budget and planning, we set allotments, we set targets that are then passed out to the various bureaus and operating elements of the Department. But I do not control how that money is spent after it is allotted to a particular operating office.

Q Unless of course you supervise that operating office. Is that correct?

A No.

Q No, that's not correct?

A That's not correct.

Q You have no say over how they spend their money once it's been allotted to them?

A I delegate authority to my operating units -- Overseas Building Operations, Finance, Security, Consular Affairs, and others. They are given an operating allotment. They then execute the policies of the Secretary of State and the State Department in conjunction with

the regional bureaus or the functional bureaus.

Q Secretary Kennedy, I heard you say that you delegated authority to these operational bureaus. So that's your authority that you've given to someone else?

A It's the Secretary's of State authority that's given to me and then I give it to the assistant secretaries or the directors of the operating elements.

Q And so since it flows through you, you can take that authority back.

A That is correct, I can.

Q And with respect to Benghazi, did you ever take that authority back?

A Not to the best of my recollection, no.

Q You never exercised authority that is typically delegated to someone else?

A I don't believe so. I don't recall doing so.

Q You didn't approve the number of people that could go in and out of Libya in 2011 and 2012?

A That is not -- that is not a budget function, which was the track you're on. So I'm responding to your particular question.

Q Okay. So for budget purposes with respect to Benghazi and Libya, you never took the authority back. Is that correct?

A To the best of my recollection, no.

Q In other aspects with regard to Benghazi and Libya in 2011 and 2012, did you retrieve any authority that is typically delegated

to someone else?

A That is -- that's a very, very complex and broad question, and I don't recall a specific element of doing that. But that is a very, very broad question. It's very difficult for me to answer given the wide range of responsibilities I have and the wide range of activities that were -- that are engaged in by any U.S. diplomatic or consular entity abroad.

Q You also said in one of your answers that the Secretary of State sets the policy and then the various offices and bureaus execute that policy. Is that correct?

A Correct.

Q If policies change in the middle of a fiscal year, how do you as the under secretary of management make sure that that shift is felt down the road for those offices and bureaus that you control?

A The policy shift is communicated to the operating elements. The operating elements within the management ~~area~~ sphere -- are working in coordination with either regional bureaus or functional bureaus of the Department. They then -- we have a midyear budget review. We also have other budget reviews ^{as} ~~are~~ necessary.

And so if a policy shift causes there to be programmatic changes that exceed the planning for the year, that would be raised up first to the budget office of the Department by the particular operating bureau or regional or functional bureau. The budget office then would do that as part of the midyear review.

Those requirements are then assembled. They are discussed

between myself and the budget director of the Department, and I would then discuss this with the deputy secretary. And depending, again, on the amount or the conditions, a congressional notification of reprogramming would be submitted to our committees of jurisdiction in order to reallocate or realign fundings in order to be able to respond to the new priority.

Q So there is a process in place to shift resources if needed midstream?

A That is correct.

Q And ^{now} ~~how~~ is there also a process to shift resources when you have an emerging situation at your fingertips?

A It would be the same process.

Q You just speed it up and do it faster?

A You just speed it up and do it faster, depending upon the amounts of money and the authorities that are inherent in some of the separate legislative provisions.

Q So if you have a pot of money to do X, and you have said we are going to do X in this country, but then you find out you need to do X in another country, can you use that same pot of money?

A Yes, you can.

Q Without going through the process?

A Not necessarily. It depends upon the volume of money. There are rules laid down by our committees of jurisdiction on when congressional notification and reprogramming lines are tripped.

Q So one of the offices then that you head as the under

secretary of management of budget and planning. Do you also head up human resources?

A There is -- the director of human resources of the State Department reports to me, yes.

Q Is that both domestic and overseas personnel?

A Yes.

Q You seemed to hesitate on your answer. Is there more to that?

A The Bureau of Human Resources, equivalent to a system in the military, is in charge of the equivalent of recruiting, training, retaining. But it is the operating elements of the Department that receive the personnel from the central personnel system, and they then dispose in terms of operating.

Q But the HR department, it oversees sort of the movement, the placement, the filling of positions both domestically and overseas?

A Filling of permanent positions, not filling of TDY positions.

Q And how are TDY positions filled?

A They are filled by either the operating element, the management element, or by the regional or functional bureau.

Q So they have to take from within?

A If there are no new and additional resources available, yes.

Q Can they ask to borrow from other bureaus or offices?

A Yes, they can.

Q And has that happened in the past?

A Yes.

Q Does it happen often?

A I wouldn't say it happens often. It happens in specific cases in response to specific circumstances.

Q You also head the Diplomatic Security?

A The Bureau of Diplomatic Security is also one of the bureaus that reports to me.

Q And they are in charge of the protection of all overseas facilities and personnel?

A All overseas facilities under a chief of mission, yes.

Q They also do the personal protective detail?

A For those individuals under a chief of mission.

Q And is another office or bureau that is under your secretariat the Overseas Buildings Operation?

A Yes.

Q And what is their function?

A Their function is to construct and maintain permanent facilities abroad.

Q Construct and maintain?

A Construct and maintain.

Q Are they -- does OBO, as I understand it is referred to, are they charged with ensuring that buildings meet physical security standards?

A They do that in combination with the Bureau of Diplomatic Security. It is a joint effort.

Ms. Betz. Just to be clear, OBO has the funding authority?

Mr. Kennedy. OBO has the funding authority for person -- for our permanent facilities.

Ms. Betz. So who has the funding authority for temporary facilities?

Mr. Kennedy. It ranges between the regional bureau in which the facility is located or the Bureau of Diplomatic Security.

BY MS. JACKSON:

Q And that funding responsibility did not change after Benghazi?

A No, I don't believe it did.

Q So for funding purposes the Department still differentiates between permanent and temporary or interim facilities?

A Between -- it differentiates between permanent and temporary. "Interim" is a term that we use that is also -- would be in the same class as permanent.

Q Interim and permanent mean the same thing for funding purposes?

A For funding purposes, yes.

Q Do they mean something different for other purposes?

A I'm afraid I do not understand the question.

Q Okay. For example, for physical security standards, does interim and permanent mean something different? Are there different standards that apply to interim and permanent facilities?

A There are two classes of security standards. The first are

those under the Secure Embassy Construction Act.

Q Also known as SECCA? *S-E-C-C-A*

A Also known as SECCA, ~~S-E-C-A~~. Those are the standards to which permanent facilities are built, i.e., if we were to decide to build a new U.S. Government diplomatic or consular facilities in Shangri-La tomorrow they would be built to SECCA standards.

Q Does SECCA only apply to new construction or does SECCA also apply to newly acquired?

A SECCA would apply to newly constructed or also to a major rehabilitation if we bought an existing facility and were repurposing it.

Q Can you explain what you mean by that, because I'm not sure I follow?

A For example, we have a facility in a country, and I would prefer not to name that country in an open session because it would disclose its physical vulnerabilities. The facility we have is not security sufficient, it is not adequate for our needs. We have identified another facility that is significantly greater in terms of its security capabilities. We have bought that existing building and we are reconstructing it, repurposing it to create a new American Embassy. That is Overseas Buildings Operation funding under the Embassy Security, Construction, and Maintenance ~~Act~~ *Account*.

Q I just want to make sure that I understand, because what you have said is that you apply the SECCA standards to newly acquired buildings that you are repurposing.

A Right.

Q To me, that means you are doing some sort of renovation to them. Am I understanding that correctly or do you just mean you've acquired them and you're turning them into an embassy or a consulate or some other type of diplomatic facility?

A When we do the latter, we are usually doing the former at the same time. We don't usually find a facility. I mean, I do not believe it is possible in this world, even with the best looking to find a facility, that we say that we could move into that facility tomorrow and turn that into a diplomatic facility without making changes to it.

Q So in other words, every newly acquired existing structure that is to be a permanent diplomatic facility must meet the SECCA standards?

A Or have exceptions or waivers granted.

Q Going back to the offices and bureaus that you supervise, we have talked about Budget, Human Resources, Diplomatic Security and Overseas Building Operations. You also head up the Administration Division. Is that correct?

A The Bureau of Administration also reports to me, yes.

Q What does the Bureau of Administration do?

A They are responsible for logistics, domestic facilities, which are not under the Overseas Buildings, things such as overseas schools, commissary and recreation activities within the State Department, transportation, shipping, the full range of logistics

supply, and also records.

Q So the Bureau of Administration is in charge of reports management?

A Yes, it is.

Q And you supervise that Bureau?

A Yes, I do.

Q And do you also supervise what is known ^{as} ~~and~~ the Information Management Resources?

A Yes. I supervise the Bureau of Information Management Resources.

Q And what does that Bureau do?

A That is the Office of the Chief Information Officer, and they are responsible for our telecommunications and computer systems.

Q So electronic communications?

A Electronic communications.

Q So in other words it appears to me that you're the guy who controls the money, the people, the security' and the security of buildings. Would that be correct?

A I direct the performance of the offices that do all of those things and others, yes.

Q So I want to go back to the Benghazi ARB that said there was very real confusion over who ultimately was responsible and empowered to make decisions based on both policy and security. From the security aspect, how could there have been confusion when you're the guy who's coordinating all of those activities?

A Because I am the under secretary, as you have so noted. There are lots and lots of discussions that take place. Some are raised to my level for arbitration and review. Some are not raised to my level. Some are to take place at a lower level. There could be decisions that should have been made, could have been made, but if they are not raised to my level, I do not run the day-to-day operations of every element of the State Department.

Q But you're to ensure that the people who are in place know when to raise issues to your level?

A I make very, very clear, I have twice-weekly meetings with every single one of my senior -- my direct reports. One is one-on-one meetings, other is meetings with -- that take place once a week. I bring all my senior management together for our meeting. In fact, one would be starting now.

Mr. Snyder. Congressman Pompeo.

Mr. Kennedy. Good morning, sir.

BY MS. JACKSON:

Q And did you have the same type of meetings in 2011 and 2012, these at least twice-weekly meetings with the operational heads of the various offices and bureaus that you direct?

A Yes.

Q And in 2011 and 2012, how often were you engaged in matters that involved Libya and Benghazi?

A It entirely depended on the event. Obviously, when we were engaged in the opening, the decision to open a post, the decision to

evacuate a post, when there was a crisis, those things were immediately brought to my attention. But for routine operations, those were carried out by -- essentially by the Near East Bureau, which is the owner, in State Department parlance, of the entity, the diplomatic entity that was in Libya, which is a bureau -- which is a responsibility of the Bureau of Near Eastern Affairs.

Q Did NEA own the security for the Benghazi post?

A NEA owns the facility, in State Department parlance of owned. That is in their region of responsibility. But these contributions are made by numerous other bureaus who are in a supporting role to the Bureau of Near Eastern Affairs because the Bureau of Near Eastern Affairs has that post within its geographic jurisdiction.

Q Did NEA have the authority to task diplomatic security to do anything, to supply agents for protection? Did NEA have the authority to task OBO to provide resources to improve the security of the Benghazi facility?

A NEA had the authority and did request those resources, and similar, from the various management elements. And if there were issues, then it was their ^{responsibility} ~~ability~~. And to their knowledge they had the right to raise that first to the assistant secretary or director of that operating bureau if the situation was not being resolved to their satisfaction, or to raise the issue to me if they thought that the intra-bureau coordination was inadequate.

BY MS. BETZ:

Q Just a point of clarification, just to go back you had

mentioned that NEA would be the owner of sorts at Libya, correct?

A "Owner" is, you know, is State Department parlance. There are, as you may be aware, six geographic bureaus --

Q Right, right, yes.

A -- and then the Bureau of International Organization^S. And each embassy, consulate, mission within a geographic region falls under the purview of the assistant secretary for the geographic region or for the Bureau of International Organization^SAffairs.

Q But for purposes of Libya it was NEA. And here's what I'm trying to reconcile, sort of your statement they were the owners of sorts, and then reconciling with the findings of the ARB. And, you know, if you look at the personnel issues that the ARB found issues with, three of the four were from DS versus NEA. So how do you reconcile ownership of Libya, Benghazi, with the ARB finding?

A I don't find it incongruent there.

Q You don't?

A I don't.

Q Okay. Why not?

A Because they -- the ARB said that four individuals who ranged across both the geographic bureau and Diplomatic Security, they found fault with their performance.

BY MS. JACKSON:

Q And the NEA Bureau at the time was headed by an assistant secretary. Is that correct?

A An assistant secretary for part of the time and acting

assistant secretary after the assistant secretary, I believe in 2011, retired at some point and the acting assistant secretary then took over.

Q And the assistant secretary was Jeffrey Feltman. Is that correct?

A The assistant secretary was Jeffrey Feltman, yes.

Q And then the acting assistant secretary was Beth Jones?

A Elizabeth Jones, yes, Beth Jones.

Q And about the summer of 2012 is when that transition occurred?

A I would have to refresh my recollection exactly when the change took place, but I think it was in the summer of 2012 to the best of my knowledge.

Q Obviously, before the attacks of September 11th of 2012?

A Yes, yes.

Q And was it in your opinion clearly understood that the assistant secretary for the regional bureau had the responsibility to ensure the security of the overseas missions that they had under their bureau?

A The responsibility is a joint responsibility.

Q Was it understood in 2011 and 2012 that it was a joint responsibility, in your opinion?

A I believe it was.

Q And how is that communicated to the assistant secretaries for the regional bureaus?

A It is just State Department practice that the regional

bureau is lead on activities involving their posts and they have at their disposal a range of supporting bureaus to assist them, whether it be on the policy side, the Bureau of Political-Military Affairs, the Bureau of Oceans, Environmental, and Scientific Affairs, or on the management side.

Q And what did you do as the under secretary for management to ensure that those regional assistant secretaries knew that that was their responsibility?

A I met from time to time with the regional assistant secretaries on any number of issues and just always made it clear to them, as I made it clear to every ambassador, chief of mission who came to see me that if any issue arose that they thought they were not getting the support they needed from any office within my jurisdiction, I invited them, I told them contact me, call me, email me, classified or unclassified.

Q You said you met from time to time with the assistant secretaries for the regional bureaus. How often would that be?

A It was ^{aperiodic} ~~a periodic~~.

Q Two or three times a year?

A It depended upon the bureau. But I see the assistant secretary for the regional bureaus, the six-plus-one, I see them at least a couple times a week at senior staff meetings, and I always take their calls or answer their emails or other queries, and therefore there was a constant available dialogue and available access to me on any issue that was of concern to them.

Q One thing that you said just a little while ago was that the heads of the operational bureaus that you supervised, that you met with once or twice a week, would bring you emerging issues or critical issues, but they would not bring you routine issues. Did I understand your answer correctly?

A That is correct.

Q What was routine about Libya in 2011 and 2012?

A It was an operating temporary mission facility. They were doing reporting, they were consulting with the embassy in Tripoli. Those kind of routine actions are within the orbit of the embassy and its constituent posts.

Q How many temporary missions did you have, like you had in Benghazi, in 2011 and 2012?

A I believe that there were probably two.

Q Benghazi being one?

A Benghazi being one.

Q Where was the other one?

A In Goma, G-o-m-a, Sudan.

Q So a temporary mission was not typical?

A Numerically it was not typical, absolutely.

Q And in the Sudan had the embassy closed there when you had a temporary mission there?

A We had had trouble, many troubles over the years, and our operations in Sudan had been open, had been closed, the staff had been drawn down over the course of probably two decades.

Q Was there an ongoing civil war in Sudan --

A Yes.

Q -- at the time?

A And eventually Sudan split into two countries, the Republic of Sudan and the Republic of South Sudan.

Q Let's go back to February of 2011 when we suspended operations from Embassy Tripoli. Do you recall that event?

A Yes.

Q That was a decision that you made?

A It was a decision that the Secretary of State made.

Q Okay. Or does the President make it?

A The Secretary makes it in consultation with the White House.

Q So closing an embassy is not a decision that is made by the President?

A We did not close the embassy, we suspended operations.

Q And that's a distinction in State Department culture?

A Closing implies that we are ceasing diplomatic relations and breaking diplomatic relations. Suspending operations means that our ability to operate, have our people remain on scene conducting diplomatic and consular business, is no longer possible, and so we are withdrawing our personnel and suspending operations at the site.

Q So that's what happened in late February 2011, is that we suspended operations in Tripoli and evacuated our personnel?

A Yes.

Q And assisted in the evacuation of American citizens?

A Absolutely. That is one of our prime responsibilities.

Q And at the same time there were discussions about sending an envoy or special representative into Libya to deal with the rebel leaders?

A That came up a little bit later, to the best of my recollection.

Q How much later?

A I don't recall.

Q Within 30 days?

A I think -- well, I believe Chris Stevens went in at least 2 months ^{later} ~~late~~. I don't recall honestly the specific dates of that.

Q Who made the decision to send in a special envoy, was it the Secretary, was it the President?

A Those kind of decisions are made on the basis of discussions between the Secretary of State and the White House.

Q How did you learn that Chris Stevens was going to Benghazi?

A I was informed by the Secretary.

Q And do you recall under what circumstances? Were you in a senior staff meeting? Were you told individually?

A I don't recall when I was informed.

Q And what was your role that you needed to fulfill in sending Chris Stevens into Benghazi?

A My role was a -- it was a logistics security platform role to ensure that he would be able to go into Benghazi with the personnel and the equipment he would need to carry out his mission, and obviously

the funding that underpins all of that.

Q So you were responsible for ensuring he had the money, a way to get into Libya, and security once he got there.

A I launched a working group, in effect, composed of the Near East Bureau and Diplomatic Security, assisted by communications, logistics, and transportation, to do all of that. But the program was carried out by the operating elements.

Q Okay. We have heard Chris Stevens referred to at that time as the special envoy, the special representative. Do you recall what his official title was?

A No, I don't.

Q Is there a distinction between an envoy and a representative?

A No.

Q Okay. We have been told that an envoy is appointed by the President and a representative is appointed by the Secretary of State. That does not ring true to you?

A I don't -- I don't recall ever seeing something in statute or in regulation that makes that distinction, no, I don't recall.

Q Was there official appointment papers of Chris Stevens to become the special representative?

A I don't -- in terms of a commission, that is not normally done for special envoys and representatives. There is no commission, unless they are being given the title of ambassador, which requires either Senate confirmation or it requires a Presidential action that

enables the President to temporarily afford the personal rank of ambassador to an individual for a period not to exceed 6 months. Neither of those circumstances applied in that case.

Q Do you know what role, if any, the National Security Council played in planning Chris Stevens' mission into Benghazi?

A I know -- I do not recall any role the National Security Council staff played in the operational planning. The policy planning is something outside of my jurisdiction.

Q And were you involved or at least aware of the policy planning for his mission?

A No.

Q You didn't need to know that from an operational standpoint, to know where he was going to go in country to see what kind of security he might need?

A I needed to know the destination.

Q When Chris Stevens went into Benghazi, did he have any type of diplomatic protections, such as privileges and immunities? Was he notified to the Libyan Government in any way?

A No.

Q He was not?

A He was not.

Q So he had no protections under the Vienna Convention?

A I would have to consult with my lawyers on that, not -- Mr. Snyder. Not these lawyers.

Ms. Jackson. You mean, I don't want to say real State Department

lawyers, but no.

Mr. Snyder. No offense taken.

Mr. Kennedy. I regard these three as quite real.

I am not a lawyer and there is an entire division of the State Department in the Office of the Legal Adviser called the Office of Diplomatic Law which deals with the important niceties of ^{diplomacy} ~~diplomatic~~. And I cannot answer your question because it is beyond my jurisdiction.

Ms. Jackson. We may reserve the right to ask you to supplement your answer after that consultation after this interview.

But you do know that Chris Stevens was not notified to the host government?

Mr. Kennedy. That is correct. To the best of my knowledge, he was not notified to the host government.

Ms. Jackson. What's the consequences of being notified to the host government? What does that give you?

Mr. Snyder. If you know.

Sorry, I don't want him speaking beyond what he knows.

BY MS. JACKSON:

Q What's your understanding of why that's important?

A Obviously, there are two conventions, the Vienna Convention of Diplomatic Relations and the Vienna Convention on Consular Relations, that come into play, and there are a series of rules and procedures within both conventions. But I'm afraid your question, again, is so broad that I am unable -- I want to be able to answer, but the question is so broad that I don't know how to answer

it.

Q Okay. Well, let me ask you this. Did you have any meetings with Chris Stevens before he left for Paris and from there went on into Benghazi?

A I believe I had two meetings with Chris before he went to Benghazi.

Q Okay. And those would have been in March of -- either late February or early March 2011?

A I believe so. Yes, obviously -- obviously.

Q For frame of reference, I believe he was in Paris with the Secretary around March 15th, 16th?

A Yes, yes.

Q Would it have been before the Paris meeting?

A I met with him once before he accepted the appointment to go to Benghazi and I believe I met with him once thereafter. I do not remember, other than that one-two sequence, I don't remember the dates.

Q And what was the purpose of the meeting before he accepted the appointment?

A To ask him would he consider accepting such an appointment.

Q Okay. So you were the one that extended the appointment offer from the Secretary?

A No. I asked him would he be willing to consider such an offer.

Q Okay. So were there other people who were being asked that same question?

A He was the leading candidate, and we always go to the first candidate on a list.

Q Okay. So when he said, yes, I would do it, then you stopped, you didn't ask anyone else?

A We did not ask anyone else, and then he subsequently met with the Secretary of State.

Q Was that the sum total of your meeting or were there other things discussed in that initial meeting?

A That was the sum total of that meeting.

Q What about the second meeting?

A As I said earlier, I believe there was a second meeting, but the only recollection I have of the follow -- the only recollection I have specifically of other meetings was there was a later meeting after he had been nominated and I believe just as he was about to be confirmed to be ambassador to Libya at a later period of time.

Q Oh, so that's the second meeting?

A No, no. I believe there was a short -- I believe I recall a short, brief meeting, but I don't remember the details of it.

Q And you said, after he said that he would accept the appointment as a special representative, that he then met with the Secretary?

A There was a followon meeting that he had with the Secretary of State.

Q And were you present for that meeting?

A No, I was not.

Q Was that one on one with the Secretary, to your knowledge?

A I have no knowledge.

Q Were there security planning meetings that occurred before Chris Stevens left to meet up with the Secretary in Paris?

A I know that the Near East Bureau and the Bureau of Diplomatic Security engaged in planning for his entry into Benghazi.

Q And were you kept briefed on those steps?

A Only in a general sense, because I do not engage in operational planning. I leave that to the professionals.

Q Do you recall that the initial plan for Chris Stevens to enter into Benghazi was to be with the assistance of the military?

A I have a general recollection that there was a wide range of options discussed, that all of that was being handled by the Near East Bureau and the Bureau of Diplomatic Security.

Q And you didn't play a role in that?

A I tasked -- I tasked it out to Diplomatic Security to make -- to put together a package. And that was my responsibility, was to make sure that we were providing the management support to the Near East Bureau to carry out this mission.

Q Was it your responsibility to brief the deputy secretaries and the Secretary regarding the planning that was going on?

A No.

Q Did you?

A No.

Q You did not?

A That would have been a level of detail that I didn't think was necessary.

Q Okay. Do you recall who made the decision that the military would not go in with Chris Stevens into Benghazi?

A I don't recall, no.

Q You don't recall that it was Admiral Mullen?

A I don't recall, no.

Q What position did Admiral Mullen have at the time?

A I believe he probably was Chairman of the Joint Chiefs of Staff.

Q Okay. And you didn't recall that he made the determination that having the military go in with Chris Stevens would violate the "no boots on ground" policy?

A I don't remember Admiral Mullen at all in that period of time on that issue, no.

Q Do you recall that the military did not go in with Chris Stevens?

A I believe that he went in with Diplomatic Security Service, yes.

Q And only Diplomatic Security Service?

A That, I believe, is to the best of my recollection.

Q The military went in when Tripoli was reopened in September of 2011.

A Correct.

Q Did you have to get a waiver of the "no boots on ground

policy" for that?

A We executed an executive secretary to executive secretary memorandum to the Department of Defense requesting a FAST, F-A-S-T, Fleet Antiterrorism Support Team, and they -- and the Department of Defense responded by providing the team.

Q Did someone have to ask the White House for an exception to the "no boots on ground" policy?

A I can only report on what the State Department did, which was follow our normal protocol for asking for Department of Defense support.

Q And are you the person who usually talks with the military about military assets?

A In emergencies or special circumstances I have had such conversations, but normally that is a planning that is done either by the Bureau of Political-Military Affairs or the Bureau of Diplomatic Security, depending on the circumstances.

Q Libya was pretty unusual in 2011 and 2012. Did you have conversations with the military regarding Libya in 2011 and 2012?

A There were -- I believe there was one exchange that I had with the military in 2012 and I cannot -- I believe there were the nights -- the night of the attack, I believe I did speak at some point to the Department -- to representatives from the Department of Defense, but I don't remember exactly who, as we were just checking on the status of the forces that they were flowing into Tripoli and the provision of the medical evacuation aircraft to take our person -- our wounded

personnel to a military facility in Germany.

Q We'll come back to the night of the attack. The other occasion in 2012 where you would have had contact with the military regarding their assets, can you tell us what that was?

A There was a discussion with the Joint Chiefs of Staff about whether or not the SST, the security support team, had or had not fulfilled the mission which we had originally requested it.

Q And you had those conversations with the military?

A I did.

Q Was it by phone, email? What was the nature or what was the type of communication?

A There was both phone and at least one -- one round of email.

Q And what was the substance of the discussion? Did you want the SST to stay? Did they want -- were they offering to stay?

A It was -- the only thing was an inquiry -- would you be asking for a third extension? -- I believe it was.

Q And what was your response?

A My response was I checked with my colleagues and I was advised that, A, the mission that we had requested the SST to perform had been achieved; secondly, that Diplomatic Security had both added additional personnel and trained up local national staff. So, in effect, the SST had worked itself out of a job.

Q Did you check with the Ambassador?

A That was done by be either NEA or Diplomatic Security. But I had no -- we never received any requests from Ambassador Stevens to

extend the SST for the third time.

Q You had not seen a cable from him in July of 2012 requesting, if not the SST, then additional resources?

Mr. Snyder. At that time, not subsequent to the attack, right?

Ms. Jackson. Right.

Mr. Kennedy. I do not remember seeing that, but I do know definitely that I never received an email, a telephone call or a telegram from Ambassador Stevens or anyone representing him requesting a third extension of the SST.

BY MS. BETZ:

Q Just taking a step back, were you a recipient of the staffing cables that were sent from Embassy Tripoli to D.C., Washington, D.C.?

A Not normally, no.

Q You were not on the distribution list?

A They may have been, but the State Department gets thousands of cables a day, and some of them are brought to my attention, depending upon the nature. An example would be brought up potentially by one of my subordinate units, it might be brought up by a regional functional bureau that has an interest in the subject matter.

Q But there is one under secretary that has oversight over security and that would be you?

A That is correct. But I am not engaged in operational security.

Q What was your understanding of the SST's mission?

A The SST's mission was fivefold. It consisted of two

individuals who did explosive ordnance disposal, two individuals who did airfield and helicopter landing zone surveys, there were two individuals who did communications, two individuals who did medical assistance, and eight individuals who were shooters.

Ms. Jackson. So by shooters you mean security?

Mr. Kennedy. Security, direct security.

Ms. Jackson. In your conversations that you had with the Joint Chiefs, had they communicated to you in any way that Ambassador Stevens was talking to General Ham and wanted the SST to continue, especially the security folks?

Mr. Kennedy. No.

Ms. Betz. You had mentioned that it was your understanding or you were told that DS had added personnel?

Mr. Kennedy. Yes.

Ms. Betz. Who told you that?

Mr. Kennedy. I don't remember the exact person. It was just part of a discussion, a general discussion that Diplomatic Security had deployed personnel and had also deployed one of our training teams, who are professional individuals whose responsibility and assignment is to train local national security personnel up to the standards that we require.

Ms. Betz. Well, here's what I'm trying to reconcile. So on July 9th, Embassy Tripoli is making a request for additional personnel, but yet you're telling me that they had been added?

Mr. Evers. Do you guys want to pull the cable out? That might

be helpful.

Ms. Betz. Yes.

Ms. Jackson. Well, that's fine, but the witness seems to be answering.

Mr. Kennedy. I'm answering general questions, I am not addressing any ~~thing~~ specific cable. You're asking my general recollections, and I'm telling you what I recall to the best of my knowledge.

BY MS. JACKSON:

Q Okay. While we are retrieving the cable, let me ask this. Why was it that you were engaged in the conversations with the military about the SST and Libya as opposed to letting it go through the normal course?

A Because the -- one of the JCS seniors contacted me. I did not reach out to him. He reached out to me.

Q Was that unusual?

A I had gotten to know the individual over the course of multiple events. He was the ops, the ops individual for the Joint Chiefs, and so we had had several conversations. I think I met him once at an event.

But it was -- when I receive a call or receive an email from a three-star general, I tend to be responsive to that, after consulting with my subject matter experts to make sure that I am capable, so to speak, of responding appropriately with full knowledge to the request from the Joint Staff.

Q And who were you conversing with?

A Then Lieutenant General Neller, N-e-l-l-e-r, Robert Neller.

Q Was there any hesitation on the part of the military of extending the SST if they were needed?

A Our arrangement with the U.S. military is we borrow -- and we get wonderful support from DOD -- we borrow a people for a specific mission set. And the understanding is that when that mission set is complete, those personnel revert to DOD.

Q Okay. That's helpful, but that's not my question. Did Lieutenant General Neller communicate to you any hesitation on the part of the military to have -- to continue its military presence at Embassy Tripoli?

A To the best of my knowledge, his question was, are you going to be asking for another extension?

Q To which you responded simply no?

A I consulted, as I said earlier, with the subject matter experts in this field, and after consulting with them, I responded no, we would not be asking for another extension.

Ms. Betz. Ironically, the subject matter experts have deferred to you and your 30-year expertise in terms of advising and --

Mr. Kennedy. I am not -- I am not and have never been a diplomatic security professional. Briefly once, I believe for 6 months during a gap, I was the acting assistant secretary for diplomatic security by virtue of my appointment as the assistant secretary of state for

administration. But I am not a security professional. I do not make security judgments. I ask questions, I listen to the subject matter experts, but I am not -- I am not a security officer.

BY MS. JACKSON:

Q So you've had no specialized training in law enforcement?

A No.

Q You've had no specialized training in protective details?

A No.

Q You've no specialized training in the physical security requirements?

A I am not an engineer either.

[Kennedy Exhibit No. 1

Was marked for identification.]

Ms. Jackson. All right. We have marked as exhibit 1 a July 9th, 2012 cable. The cable number is 12 Tripoli 690. It bears document SCB0049439. It is a 3-page document. And we're going to -- we'll go off the record for a couple minutes to allow the witness to review this exhibit.

[Discussion off the record.]

Ms. Jackson. We have been joined by -- Krista, could you identify yourself for the record as joining the interview?

Ms. Boyd. Krista Boyd. I'm with the minority staff.

BY MS. JACKSON:

Q Ambassador Kennedy, exhibit 1, the July 9th, 2012, cable, do you recall seeing this before?

A I do not believe that I saw it on July 10th or so when it was sent to the Department. I believe I may have seen it at a later date, but I don't recall ever seeing this cable when it was transmitted to us.

Q And I would assume that that would mean, correct me if I'm wrong, that you never saw this before the attacks in Benghazi on September 11th, 2012?

A I do not recall. I do not recall having seen it, although I, you know, I obviously could have. But I do not recall, to the best of my knowledge.

Q I want to highlight some portions of this cable. On the first page, in paragraph 1, under the summary and action request, it reads, "Embassy Tripoli requests continued TDY security support for an additional 60-days, through mid-September 2012. Post assesses a minimum of 13 TDY U.S. personnel, either DS MSD, domestically assigned HT trained DS agents, DS SPS, or DOD/SST personnel or a combination of these personnel, are required to maintain current transportation security and incident response capability while we transition to a locally based security support structure." Do you see that in that first paragraph?

Was the SST set to leave in early September -- or August, I mean -- August or September?

A Just one note. We are talking here about security staff in Tripoli.

Q Yes.

A Not security staff in Benghazi. I want to make sure that I'm following the question.

Q Correct.

A We're talking about Tripoli security, not Benghazi security.

Q That is what this paragraph says, yes.

A My understanding was that there were rotating length of time for the details of the SST, and I believe there were discussions underway about whether or not there would have been an extension, and that is in line with the questions you asked me several minutes ago.

Q And they were -- the current SST was to expire in early August?

A The current SST was actually to morph in August.

Ms. Betz. Point of clarification, though. You specified that this paragraph is related to SST in Tripoli, but you are aware that SST were sent to Benghazi on four separate occasions, correct?

Mr. Kennedy. And on at least two of those four occasions they had nothing to do with their security mission, they were following their other AFRICOM mission, which is a type of train and assist.

Ms. Betz. But SST were sent to Benghazi.

Mr. Kennedy. It was part of their train and assist on two of the occasions, yes.

Ms. Jackson. So what you're telling us is that you were unaware of this cable from Ambassador Stevens requesting 13 security personnel of whatever combination the State Department could muster for them?

Mr. Kennedy. As I said, I do not recall seeing this cable in the timeframe on the cable.

Chairman Gowdy. If I understood you correctly, Ambassador, you said you had not had conversations with Ambassador Stevens, be it telephone or email?

Mr. Kennedy. That is also correct, yes, sir.

Chairman Gowdy. But would either of those have been the way that he was supposed to bring this to your attention or would it have been via this route?

Mr. Kennedy. He -- I told Ambassador Stevens, sir, as I tell every ambassador, if they make a request for one of my divisions and do not get a satisfactory, prompt, or whatever answer that concerns them to please elevate their concerns to me. So his staff would have communicated, as any ambassador staff would do, would communicate to the appropriate office within the State Department. And if the ambassador was dissatisfied with the response, they were invited to elevate their concerns to me.

Chairman Gowdy. Where would that invitation manifest itself? Where would we find your invitation if you did not like the answer you got to elevate it to you?

Mr. Kennedy. It is in the discussion, sir, that I have with every chief of mission, every ambassador, is they see me before they go out

to post. It is an oral presentation that I make to them as they come call on me. And I have -- I usually spend anywhere from a half an hour to an hour with chiefs of missions as they come through before taking up their assignment, and then many of them come back and see me again during their visits to Washington.

Chairman Gowdy. If they can approach you orally, why go through this, why not just call the first time?

Mr. Kennedy. Because I am setting myself out, Mr. Chairman, since I am not the operations person for any of my divisions. I'm saying if you have a request and you are not receiving the support that you believe you need, please escalate that request to me. In other words, I am not the operating person, I am at a level above the operating personnel, and so please contact me if you are in need of assistance that you feel that you are not getting.

Ms. Betz. Just to follow up, taking a step back, you were aware of the April 6 attack on this facility, correct? Going off the exhibit, just generally speaking, you were made aware of the April 6 attack on the facility.

Mr. Kennedy. I knew there were two attacks, as I recall, one called the fish bomb attack and one was called the IED attack, and I do not remember. The first one -- a fish bomb is the equivalent of throwing firecrackers into a lake, they use these things as part of fishing. It is a very small thing. It's more of a bang than a bomb. The second one was a small bomb.

Ms. Jackson. And both of those had occurred prior to this July

9th, 2012, cable?

Mr. Kennedy. In Benghazi.

Ms. Jackson. Yes.

Mr. Kennedy. This cable is asking for security in Tripoli, which is and entirely different --

Ms. Betz. It's actually asking for both, for both Tripoli and for Benghazi. And we'll get to the paragraph on Benghazi, but we are going through the --

Mr. Kennedy. With all due respect, I see one reference in paragraph 5, in the last sentence, to Benghazi about one agent. I don't see any reference in this message to the SST or any of the other elements talked about in this cable for Benghazi except the one sentence at the end of paragraph 5.

[10:25 a.m.]

BY MS. JACKSON:

Q And in that sentence, it reads, in paragraph 5, "Post anticipates supporting operations in Benghazi with at least one permanently assigned RSO employee from Tripoli, however, would request continued TDY support to fill a minimum of 3 security positions in Benghazi."

So they wanted four total in Benghazi.

A No. That's not what it says.

Q One permanent and three continued TDY.

A I read it as one from Benghazi to ensure -- one from Tripoli to ensure that there are three in Benghazi.

BY MS. BETZ:

Q Well, let's take a step back there. How was Benghazi staffed?

A It was staffed by personnel from Washington or the field office.

Q Were they FTEs or TDYs?

A They were TDYs --

Q Right.

A -- because it was a temporary facility.

Q Correct. So this staffing request would have been consistent with the temporary nature of Benghazi.

A Staffing request --

Q For Benghazi.

A -- in the last sentence of paragraph 5.

Q So, to your point, though, Benghazi was staffed by TDY.

They are making a request for TDY.

A They're making a --

Q In addition to permanent.

A No. They are making requests for TDY for Tripoli in this cable, except one almost parenthetical note at the end of paragraph 5.

BY MS. JACKSON:

Q Well, let me take a step back and ask this question. Was it Ambassador Stevens' responsibility to ask for resources for Benghazi?

A Yes.

Q Okay. But you're saying he's not asking for resources for Benghazi in this cable?

A He's asking for resources for Tripoli in this cable.

Q To be used in Benghazi.

A To be used in Tripoli.

Mr. Snyder. I think you guys are looking at different paragraphs.

BY MS. JACKSON:

Q I'm looking at paragraph 5, where it says, "Post anticipates supporting operations in Benghazi with at least one permanently assigned RSO employee from Tripoli."

A That is -- I stipulated that. And I think in response to

your previous question about paragraph 5, the last sentence talks about one person. It does not -- the 13, the continuation, potentially the SST, those are all related to Tripoli. One position is -- in addition to the three, is related to Benghazi.

Q As Ambassador, would Chris Stevens have had the authority to take security assets in Tripoli and move them to Benghazi if needed?

A If that is what he wanted, he would have had that authority.

Q Okay.

Let's look at paragraph 2. The first sentence says, "Conditions in Libya have not met prior benchmarks established by Post, the Department, and AFRICOM, for a complete drawdown of TDY security personnel. Overall security conditions continue to be unpredictable, with large numbers of armed groups and individuals not under control of the central government, and frequent clashes in Tripoli and other major populations centers," end quote.

I read this paragraph -- and I'm asking if you read it the same way -- to be talking about the overall security situation in Libya, not just Tripoli. Do you read it that way?

A I don't. Because if you read -- if you go back up in the cable to the references, it's about Tripoli ECA, Tripoli EAC, Tripoli EAC, Tripoli EAC. There is ^{also}~~always~~ as a separate EAC, Emergency Action Committee, for Benghazi. And so a cold read of this by a State Department officer would say we're talking about a request for Tripoli because of its multiple references to Tripoli EACs.

Q Well, but the reference --

Chairman Gowdy. How would you interpret the last line of paragraph 5 then if --

Mr. Kennedy. That they also want to make sure that we're aware that he wants to have three people in Benghazi. Absolutely certain.

Chairman Gowdy. Well, this is what I'm struggling with, Ambassador. "Would request continued TDY support to fill a minimum of three security positions in Benghazi."

Mr. Kennedy. That's correct, sir.

Chairman Gowdy. And you read that to be one?

Mr. Kennedy. No, sir. No. I read it for three. I read it for three. But that -- there was, in effect, a separate complement of TDYers coming out of Washington dedicated to Benghazi and another complement of trainers and TDYers going to Tripoli. Two posts, one temporary, one interim, with two separate complements, meaning --

Chairman Gowdy. But this cable never --

Mr. Kennedy. -- table of organization.

Chairman Gowdy. It never made it to you.

Mr. Kennedy. No. I mean, I've been asked to read this -- I do not recall reading this contemporaneously with the July 9th date. No, sir, I do not.

Chairman Gowdy. You mentioned that in your interview, for want of a better word, with folks that you send out, you make it clear to them that you are the dissent channel, that if they want to go straight to you, they can.

Did you also feel any corresponding obligation to reach out to

them, even unprompted, if you were aware of circumstances that might make it appropriate?

Mr. Kennedy. I have done that from time to time on occasion. I also know that my colleagues in the State Department, especially at the senior ranks, did not get there be being shy. And I'm not being clever, sir. I'm just saying that I work with a group of people who feel very, very free to tell me what they think they're not getting, whether it's money, personnel, facilities. This is not a shy crowd. They come to me when they want something.

Chairman Gowdy. I know you say it's not a shy crowd, but have you seen the email from Ambassador Stevens where he joked about asking another country to provide the security for us?

Mr. Kennedy. I don't recall seeing that email, sir.

Chairman Gowdy. Well, in fairness to you, we'll get you the email at some point so we can talk about it.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. It just struck me as being an unusual thing for an ambassador to say, even in joking, that maybe we can get the security we need from another country.

Mr. Kennedy. I would have to see the cable, sir.

Chairman Gowdy. I'll get it for you.

Mr. Kennedy. Thank you, sir.

BY MS. JACKSON:

Q Along those same lines, did you instruct DS and the other bureaus that you managed to let you know when they were not fulfilling

the requests of overseas missions?

A No.

Q You stated that in the references it talked about Tripoli EACs, but that's not all the references that are in there. It talks about -- the references include the "interior minister discusses bilateral relationship and security concerns." It has a reference to "Libya's fragile security deteriorates." And the last one, "Mission Libya -- updated tripwires."

So those are countrywide, not just Tripoli.

A Several of them are.

Again, this is hindsight that you're asking me to -- hindsight. I do not believe I'm speculating. I am attempting to describe State Department parlance.

If he had been asking for security for the entire country, the first sentence in paragraph 1 would have read, "Mission Libya requests." When you say "Mission" and then a country, you're describing the totality of all U.S. Government operations in a country. So "Mission France" would describe our embassy in Paris and its subordinate posts.

But when it says "Embassy Paris" or "Embassy Tripoli," most often in State Department parlance it is describing just the city post that is specified in it. This is how State Department material is written.

Q And Chris Stevens, as a brand-new ambassador who'd only been on the job 6 weeks, would have known that?

A Yes, because Chris Stevens had been previously a deputy

chief of mission. And as a deputy chief of mission, he would have been both schooled and experienced in how terms are used within the State Department.

Ms. Betz. Let me ask you this. Did Benghazi have the ability to issue staffing cables or requests for staffing on their own?

Mr. Kennedy. It had the ability to communicate with Tripoli. And there are a number of messages that I have seen in preparing for this where there are -- Tripoli sends this for Benghazi." So, yes, they had the ability to communicate via the relay in Tripoli with the Department.

Ms. Jackson. But requests for security staffing and other security requests in July of 2012 for Benghazi would have come through the Embassy in Tripoli.

Mr. Kennedy. And would have been denominated as Benghazi requests.

Ms. Jackson. I think that's all the questions we have on this exhibit. I notice it's 10:30. We have gone a little longer than our first allotted hour. So we're going to go off the record, stop the clock, and take a short break.

[Recess.]

Mr. Kenny. We'll go back on the record. The time is 10:53 by my reading.

Thank you again, Ambassador Kennedy. Welcome back to the Hill. On behalf of the ranking member and all of the Select Committee minority members, we want to thank you again for being here today.

I'll take a moment just to reintroduce myself. My name is Peter Kenny, counsel with the minority staff. I'm joined here by our chief counsel, Heather Sawyer, as well as other colleagues from the minority staff. And we appreciate, again, your willingness to come and appear voluntarily before us today.

At the outset of the last hour, I think you'd indicated that you had appeared around two dozen times before Congress. So we just wanted to identify for you that, in the interest and out of respect for your time, we're going to do the best that we can to streamline our questions based on some of the publicly available testimony that you previously provided about the attacks, although from time to time we may return to some topics that you previously testified about just to make sure that the record is as clear as possible.

EXAMINATION

BY MR. KENNY:

Q And I did want to note or at least provide you the opportunity, sir, if we could walk through a little bit of your background, and provide you the opportunity to discuss your service at the State Department.

A Certainly.

I joined the State Department 43 years ago, in January of 1973. I served in Africa for a tour as a regional administrative officer. It's sort of like the utility infielder, the spare tire, of what were then many, many small embassies in Africa.

Went back to Washington, became the personnel officer for the

Bureau of African Affairs, responsible for working with our central personnel office to assign personnel to Africa.

In 1977, I became the special assistant to the then-Under Secretary of State for Management and served in that position for 4 years. Then went to Paris, France, as the general services officer. That is State Department lingo for logistics, supply, transportation, facilities, leasing.

Came back to Washington and became the executive director of the Secretariat at the State Department, which is, in effect, the administrative officer, the management officer, to the Office of Secretary, and served George Shultz and James Baker as their management officer for 5 years.

Was sent by the State Department for a year of senior training. Then went to Cairo as the administrative officer, meaning the chief management officer, chief operating officer, at our embassy in Cairo.

And then in 1993 came back to Washington to become, with the concurrence of the United States Senate, the Assistant Secretary of State for Administration. Served in that position for 8 years.

Then became -- under President Bush, for 4 years I was one of the assistant representatives of the United States at the United Nations. And I handled host country affairs, internal management, and was also the U.S. representative to the Fifth Committee of the United Nations, which is the United Nations Budget Committee.

During that period of time, I was twice detailed, once for 6 1/2 months, once for 3 1/2 months, to the Department of Defense, the first

time as chief of staff for the Coalition of Provisional Authority in Iraq and the second time as the chief of staff of the transition unit as DOD was closing down the CPA, the Iraqis were regaining sovereignty, and the American embassy was being reopened.

At the end of that 4 years, I came back to Washington, and I was the Deputy Director of National Intelligence for Management with also the responsibility of setting up the newly statutorily created Directorate of National Intelligence. Served there for 2 years.

Came back to the State Department in 2007. Was briefly the Director of Management Policy at the State Department. And then became Under Secretary of State for Management for Secretary Rice and President Bush, obviously, in late 2007. And then have been in that position now ever since.

Q Okay. Thank you. Then, by my math, I have you in at over 40 years. Is that right?

A Forty-three years --

Q Okay.

A -- this month.

Q And just to walk through a few of those positions, you indicated that you were the Assistant Secretary, at some point, for Administration. Is --

A Yes.

Q -- that correct?

And then, following that, you were appointed to the U.S. --

A Mission to the United Nations.

Q The USUN office?

A Yes, USUN New York.

Q Okay. And were you appointed to that position?

A I was appointed by President Bush with the advice and consent of the Senate.

Q Okay.

A It's a Presidential --

Q That's an appointment position?

A Presidential appointment, Senate confirmation.

Q Okay.

And then, during that time, you were twice detailed, following which you served in a variety of positions, including setting up the DNI. Is that correct?

A Yes, sir.

Q And then in 2007 you were appointed as Under Secretary for Management. Is that correct?

A That is also a Presidential appointment with Senate confirmation.

Q Okay. And when were you confirmed?

A November of 2007.

BY MS. SAWYER:

Q So, just to be clear, the first Presidential appointment was the first President Bush, as in H.W.?

A No. The first Presidential appointment was President Clinton back in 1993 as Assistant Secretary for Administration. Under

the first President Bush, I was -- it was not a Presidential appointment. I was James Baker's executive director of the Secretariat.

Q And then the Under Secretary for Management was the second President Bush?

A Yes, second President Bush, in 2007.

Q So it's just fair to say that over your 43 years you have served under both Republican administrations and Democratic administrations.

A Yes.

Q And including in presidentially appointed positions.

A Yes. I've had the honor to be nominated by both Republican and Democratic Presidents.

BY MR. KENNY:

Q And for the majority of that time, you were in the management cone within the State Department?

A Except for the assignment in Iraq, which was for the Coalition Provisional Authority -- it was almost a management position -- I have been involved in management activities for my entire career.

Q Okay. Thank you.

And just to preview and set up a bit into the next section, but during the time that you served as Under Secretary of Management under both President Bush and later under President Obama, can you explain for us, just generally speaking, whether management for security

matters, security resources, shifted or changed in a dramatic fashion throughout the Department?

A We have been the beneficiaries of excellent support from our Appropriations Committee subcommittees of jurisdiction. However, all congressional committees, appropriation committees, have caps they must operate against.

And the State Department has devoted significant resources to security all the time; however, between the time that we received an influx of funds in 1999-2000 following the bombings of our facilities in Nairobi, Kenya, and Dar es Salaam, Tanzania, the amount of money we received essentially remained static between 1999-2000 for security construction abroad until 2012.

And during that time, the inflation, foreign exchange changes, et cetera, simply had whittled away the amount of money we had available for new security construction. So we were doing six, seven embassies, new embassy construction, a year in 2001 or so, and by 2012 we were down to about three per year because of simply the results of inflation and foreign exchange changes or swings against the U.S. dollar.

Q Thank you. That's helpful.

Was that some sort of multiyear authorization, then, that carried through the --

A No, it was -- there -- no. The State Department has not had an authorization bill in 10 years, I believe. So most of this period of time, we were operating on waivers of authorization. And it was in our appropriations bills, our overseas construction account,

and our worldwide security protective account, which is the funding for Diplomatic Security, are both X accounts, both no-year accounts, available without fiscal limitation, which is obviously very, very necessary when you're doing construction, because what you start in one year -- you buy the land, you do the design, then you do the construction. So the no-year account is very helpful.

Q Okay.

And the money that you referred to that came out of the 1998 East Africa bombings, you referred specifically to new embassy construction.

A New embassy construction, yes, sir.

Q So that would come from an account that's known as the Embassy Security, Construction, and Management Account?

A Yes.

Q ESCM?

A Maintenance. ESCM -- Embassy Security, Construction, and Maintenance.

Q Okay.

And there was money that was provided on an annual basis, but that money was not indexed to inflation up until what time?

A It was not -- it is still not indexed. But we received a doubling of the account in 2012-slash-2013, which then enabled us to get back, relatively speaking, to the buying power of the funding that we had received in 2000.

Q Okay. Thank you. That's helpful.

And when you say 2012, you're referring to post-attack, post-Benghazi attack?

A Post-Benghazi, yes.

Q Okay.

So we may return to that section in -- or discussion of funding in a little bit, but the original question that I had asked you pertained more to your role and how you viewed your role as Under Secretary for Management and whether that changed from administration to administration.

A No, the -- no. The responsibilities of the Under Secretary for Management relate to the supervising of a series of departments, offices -- bureaus, excuse me -- bureaus and offices within the Department who provide essentially a platform -- people, medical, training, security, finance, budget, human resources, consular affairs -- that enable the Department to carry out its missions because there are physical and human resources available to do the job.

Q And, in the last round, you were explaining your responsibilities. Sounds like you have quite a waterfront of responsibilities within the Department. And you'd indicated with specific respect to Diplomatic Security and physical security, so responsibilities I think you described resided within the DS bureau or the OBO bureau. Is that correct?

A Yes.

Q And I thought you explained that you viewed your role as one level above what you consider to be an operational role. And I

was wondering if you could explain for us what you viewed the operational level to be with specific regard to physical security and personnel security.

A Sure. I think it is my job -- and I would describe it in three things.

One is to understand from the Secretary and my other senior colleagues the direction the Department is going to, so I can ensure that the platform moves, changes, in order to underpin whatever our national security policy is, as administered by the State Department.

Secondly, my job is to fight for the funding that we need and allocate the funding to those bureaus as it is given to us by the Congress unless it is specifically denominated.

And third is to empower them to carry out their operating requirements, to engage with the other regional bureaus, but always be available as the decider if there is a disagreement between two of my offices, they bring that to me to be resolved, or if there is a disagreement -- and I'm using that word almost in quotes -- between one of my units and one of the other bureaus within the Department, either, for example, the Political-Military Bureau or a regional bureau, such as the Bureau of European Affairs.

Q And how would you expect, if there were such disagreements -- and we'll focus first on within the M Bureau. If there were such disagreements there, how would you expect those to be elevated to your attention?

A I believe, as I may have said earlier, I have a one-on-one

weekly meeting with all my senior bureau chiefs, and they outline concerns or issues that they may have.

And then I make sure that, if necessary, I assemble people from the multiple offices in order to resolve that discussion between, say, Consular Affairs, which has a ever-expanding workload, and the Bureau of Overseas Buildings Operations and how they may or may not need to morph to increase the size of our consular facilities abroad.

But, secondly, also, if they would bring me, if there was a discussion, let's say, between the East Asian and Pacific Bureau and our budget director about necessary funding, then I would also assemble people from the East Asian^{and} Pacific Bureau and my budget director to go over why the East Asian Bureau feels that it was being shortchanged in a particular account.

And then I take step back and take a holistic approach about how does their need compare to the demands coming from every other bureau and office within the Department and then make sure that, to the best of my ability, I am pegging the result to the Secretary of State's overall policies for the Department.

Mr. Snyder. If I may, Secretary Kennedy, this is Congresswoman Roby who just --

Mrs. Roby. Nice to meet you.

Mr. Kennedy. Pleasure to meet you.

Mrs. Roby. Sorry I'm late.

BY MR. KENNY:

Q So is it fair to say, then, with respect to the sorts of

disputes or disagreements we were just discussing, that you relied on and expected your staff would elevate those directly to your attention?

A I expected either my staff to elevate them directly to my attention or, in effect, the other party to the discussion, a representative from an embassy or a regional bureau or a functional bureau, to elevate them to me.

It was not only internal, internal to my jurisdiction, but internal and external, i.e., another office within the Department, or potentially even another U.S. Government agency, because we do support other U.S. Government agencies at our facilities overseas. So I'm often discussing issues about the management platform overseas with a counterpart at the Department of Commerce or the Department of Homeland Security.

Q Okay. So did you consider yourself to have an open-door policy with respect to these sorts of disputes or disagreements?

A I tell senior people who come to see me that I have great people working for me but there are many, many issues, and so if there's any issue that you think you are not getting the kind of support that you need, please email me or call me, classified or unclassified.

Q Okay.

And I think you had explained in the last round that you had made clear or would make clear to ambassadors and also at the assistant-secretary level within the regional bureau that they could raise matters to your attention if they needed to be escalated. Is that right?

A Absolutely. And I repeat that to ambassadors, and I talk to the regional and functional assistant secretaries all the time. I see many of them. There are three major meetings a week that are convened by the Secretary or one of the deputy secretaries, and we assemble together. And there are many, many corridor conversations that take place on the margins of those activities, as well as more formal.

Q And did you also make that clear to your own staff, to include assistant secretaries under the M family?

A Absolutely. They are to bring issues to me if they feel that they cannot resolve them satisfactorily to the convenience of all concerned.

Q Okay. And that would include, for instance, the Assistant Secretary for Diplomatic Security?

A That is correct, yes.

Q Okay. Just as a general matter, had an Assistant Secretary for Diplomatic Security raised a matter to your attention when it was in dispute within the Department?

A I cannot remember right off the top of my head, thinking quickly, an example. But, yes, that was communicated to the Assistant Secretary for Diplomatic Security, who, if I might note, during this period of time, this was the second time he had been serving as Assistant Secretary for Diplomatic Security. He had also served as Assistant Secretary for Diplomatic Security in the 1990s. And he had also been the director of security for the intelligence community for 2 years.

So it was a very experienced professional.

Q And the name of that individual?

A Eric Boswell.

Q So, again, in trying to unpack your role as a supervisor, one level, as you described it, removed from the operational level, did you view the Assistant Secretary for Diplomatic Security to be at that operational level, as you described it?

A I think, in fact, the Assistant Secretary for Diplomatic Security would be slightly above the operational level. It was his job to coordinate all the elements within Diplomatic Security -- physical, technical, personnel -- just as the director of the Office of Overseas Buildings, an assistant-secretary equivalent in the protocol sense, was responsible to make sure that all the elements -- design, engineering, electrical, whatever -- were coordinated.

So they were coordinators of the issues within their area of responsibility, and then they would bring things together. They would resolve them if it was within their bureau, and they would bring things to me if they went outside their area of responsibility and they could not resolve them satisfactorily with the other party.

Q Okay.

And, again, you had mentioned earlier that you viewed yourself as one level removed, but it sounds like it might be more accurate to say that you were perhaps two levels removed from matters pertaining to Diplomatic Security. Is that accurate?

A I think so, yes.

Ms. Sawyer. And, presumably, your Assistant Secretary Boswell, in the same way you've described to us, in terms of now that you've kind of clarified that they also were removed from, kind of, operational details, would also be relying on their staff to elevate to them issues that on levels below them had not been resolved satisfactorily.

Mr. Kennedy. Yes. Yes, ma'am.

BY MR. KENNY:

Q So, returning to our general discussion of matters being elevated to your attention, what did you view your role to be in those instances when matters would come to your attention?

A If and when a matter was raised with me, I would essentially talk to all the involved parties, make sure that I understood the issue at hand, the limitations that they might be facing, make sure that I understood the other party's needs or concern, and then try within the limits of law, regulation, and finance to figure out a solution that achieved the correct outcome in light of the Secretary of State's overall policy direction for the State Department.

Q Okay.

I'd like to move the discussion to matters now specific to the Benghazi facility, the temporary mission facility in Benghazi.

There was a cable that was entered as an exhibit earlier, and there was some extended discussion about that. But just before we walk through some of the specifics of that cable, you had indicated that that cable, in your view, didn't relate to a request for Benghazi

security resources. Is that correct?

A That is correct. My reading of it, it was, with exception of one reference, and I believe it was paragraph 5, was a request for security resources for the U.S. Embassy in Tripoli.

Q So, taking a step back from that cable, and this is just a more general question, but did you receive or were matters raised to your attention relating to security disputes about the -- or disputes about security affecting the temporary mission?

A No. As I believe I stated before, I do not ever remember reading and seeing this particular cable that was cited, 12 Tripoli 690. I don't remember reading it contemporaneously. And no one from either the Diplomatic Security or the Bureau of Near Eastern Affairs raised security issues with me directly, no.

Q So the way I understand your response, you're referring specific to your awareness of this cable.

A Right.

Q I think that's helpful. But my question was a little bit more general. Were any disputes or disagreements about security staffing at the temporary mission facility raised or elevated to your attention?

A No. Nothing -- no general concerns were raised with me about security staffing.

Q At any time in 2012?

A At any time in 2012, to the best of my recollection.

Q And further to that point, did you discourage anyone from

raising any complaints or disputes about security at the temporary mission facility to you?

A No. Absolutely not. Absolutely not. I have always encouraged an open door. Anyone from any office that was under my jurisdiction or any other office was welcome and invited to raise concerns to me, because that's what I saw myself as, as a coordinator and administrator.

Q So the chairman, in the last round, had made reference to -- I think he described you as a form of a dissent channel. But, as I understand it, within the Department, that term actually has a rather specific meaning. Are you familiar with the dissent channel cables?

A Yes. The dissent channel is a formalized process used 99.9 percent of the time to challenge policy determinations.

But I took the chairman's comment as a symbol of, if there was disagreement between two parties at a lower level than myself, that if they were brought to me, would I arbitrate it if it involved my responsibilities. And the answer is yes.

Q No, and that is helpful. We were just hoping to understand the various channels by which --

A Sorry.

Q And if I understood the chairman correctly, I think he was asking whether an ambassador would feel free to call you, email you, or whether a cable might be the more appropriate way in which to convey a response to the Department.

A Any of those are possible. I invited the ambassadors to call me. I invited the ambassadors to email me. And there is a method in a telegram, which is the State Department's record electronic system; it is called -- it's usually called "to/from." And in a specific place when you're preparing the cable at a post, you'd say to or for the Under Secretary for Political Affairs, the Under Secretary for Management, from. Or it sometimes goes the other way, from the Ambassador for the Under Secretary. There's a specific place you can put that on the telegram. And the electronic intelligence that we have that distributes the cables, if it sees the "to" or "from," it then makes sure that the cable is routed directly to my office.

Q And just so I understand a little bit better, and taking a step back to what we were just discussing, the dissent channel specifically, I think you had referenced that those would be specific challenges to policy determinations. So that sounds like it may be a little bit different than security policy, for instance, at posts. Is that fair?

A As I say, 99 percent of them relate to substantive policy. But there are other means, as we just talked about, in a telegram to get to use the "to/from."

Q Okay. And so the "to/from" in a telegram would be a way of directing or ensuring that, for instance, information that was designated for your attention would be received by you.

A Yes, sir.

Q And if it was directed to you, it would go to your staff

and they would know to raise it to your attention? Is that how the process would work?

A It goes both to my staff and electronically to my own computer screen.

Q Okay. And do you recall during the period of 2012 receiving any "to" cable directed to you that related to security resources in Benghazi?

A To the best of my knowledge, I never remember receiving any such cable.

Q So, returning to the organization of the M family, the M Bureau, there's a Bureau of Diplomatic Security, a Bureau of Overseas Building Operations, OBO.

Can you explain the supervisory structure within the Bureau of Diplomatic Security?

A Certainly. There is an Assistant Secretary for Diplomatic Security, and, at the time this was taking place, I believe that there were four deputy assistant secretaries, which is the next level down. There was the Principal Deputy Assistant Secretary. There was the Deputy Assistant Secretary for International Programs. There was a Deputy Assistant Secretary for Countermeasures, which handled all the technical and engineering side of Diplomatic Security. And there was a Deputy Assistant Secretary who handled the Office of Foreign Missions, which was a co-responsibility.

The Assistant Secretary for Diplomatic Security actually carried at that point in time two Presidential titles, Assistant Secretary for

Diplomatic Security and Director of the Office of Foreign Missions, which is a statutory position. And so there was a Deputy Assistant Secretary who assisted the Diplomatic Security with that additional portfolio.

Q Okay. And was it the Assistant Secretary, the PDAS, who would also be dual-hatted as the Director of the Diplomatic Security Service?

A The Principal Deputy Assistant Secretary, P-D-A-S, PDAS, in State Department parlance, was the Director of the Diplomatic Security Service. That is a position that is called for in statute, but it is not either a Presidential appointment or a Presidential appointment with Senate confirmation. It is an appointment by the Secretary of State.

Q And what are the responsibilities of the DSS Director?

A The DSS Director is essentially responsible for the personnel and the investigative and the law enforcement activities of the Bureau of Diplomatic Security, the Diplomatic Security Service, as opposed to the overseas operational part or the technical, physical, engineering security, which would be, respectively, the Deputy Assistant Secretary for International Programs and the Deputy Assistant Secretary for Countermeasures.

Q Okay. Just so I understand clearly, the DAS for International Programs is the official who had responsibility for overseas protection? Is --

A Yes, sir.

Q -- that correct?

A Yes, sir.

Q Okay. So that would include the position of RSO, regional security officers, who would be deployed to post?

A Yes.

Q Okay. And, of course, understanding that that process has changed a little bit since the attacks, as we understand it, at the time, or during 2012, that official had responsibility for how many posts around the world?

A Would have been responsible for all 285 posts around the world.

Q Okay. And then that position, the DAS for International Programs, what would be that official's supervisory structure?

A That person would work for the Principal Deputy Assistant Secretary and, through the Principal Deputy Assistant Secretary, for the Assistant Secretary.

Q Okay.

So, in discussing or continuing our discussion about what you viewed to be supervisory versus operational roles, where would the operational role for Diplomatic Security personnel deployed overseas reside in that structure we just described?

A Well, the individuals at post were actually the tip of the spear. They were on the front end of the operational activities. And then there would be a regional division within the Bureau of Diplomatic Security. There would be a division within International Programs

that would focus on Europe and a division that would focus on East Asia, et cetera, et cetera. And then that unit would then work for the Deputy Assistant Secretary for International Programs.

Q And when you say individuals at post would be the tip of the spear, which individuals are --

A The regional security officers.

Q Okay. And, so I understand, they would work with the regional director under the DAS for International Programs?

A Yes, sir.

Q Who would then report to the DAS for International Programs?

A The regional director would report to the DAS for International Programs, yes.

Q Okay.

BY MS. SAWYER:

Q And just to be clear, at the time of 2012, who was the DAS for International Programs?

A Charlene Lamb, L-a-m-b.

Q And then in the structure you've described as supervisory to Charlene Lamb, who was filling the role of PDAS of ~~FSS?~~^{DSS?}

A Scott Bultrowicz.

Q And then that person, in turn, continuing up the chain, would have gone to the Assistant Secretary for DS, who you've identified as Eric Boswell?

A Yes, ma'am.

Q And then that person --

A Reports to me.

Q -- in a supervisory chain would report to you?

A Yes, ma'am.

BY MR. KENNY:

Q The DAS for International Programs had responsibility for worldwide posts. How many U.S. Government employees, if you can approximate, fell under their protective umbrella?

A Somewhere around 90,000. That would be American and local employees, all U.S. Government civilian agencies abroad under the chief of mission, obviously excluding military personnel under a combatant commander.

Q Would it have been typical -- you had indicated that you would make clear to chiefs of mission before they deployed to posts, ambassadors specifically, that they could raise for your attention any issues that they felt they weren't getting sufficient support.

Would that also apply for the individuals who you just described as the tip of the spear, so to speak, the RSOs? Would that have been a direct connection that would have been made within the M Bureau?

A No. I mean, personnel assigned at a post are all under the chief of mission and report to the Ambassador. But, given their functions, they also have, in effect, dotted lines. You know, if we have a building under construction, the chief Office of Overseas Buildings operations engineer at a post, he's under the Ambassador's authority because they're at the Ambassador's post, but they have a dotted line to the Office of Overseas Buildings.

The regional security officer would report to the Ambassador and, obviously, with the deputy chief of mission in there, but also would have a dotted line to headquarters and get certain kinds of guidance and assistance from the Bureau of Diplomatic Security or the Office of Overseas Buildings, depending what the issue and the individual was.

Q So, sorry to belabor the point, Ambassador, but, again, to just walk through as we understand what you've explained to us today, which is very helpful, the supervisory reporting structure within DS, there would be underneath you an Assistant Secretary for Diplomatic Security, correct?

A Yes, sir.

Q And underneath the Assistant Secretary for Diplomatic Security, there would be a Principal Deputy Assistant Secretary for Diplomatic Security. Is that correct?

A Yes, sir.

Q And underneath that individual, there would be a Deputy Assistant Secretary for International Programs, who had responsibility for all worldwide posts. Is that correct?

A Yes, sir.

Q And underneath that individual, there would be desk officers who would be assigned to a regional director.

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q And underneath those people would be the regional security

officers, who were, in fact, the Diplomatic Security agents deployed to post.

A Yes, sir.

But just one clarification at that bottom level. The actual supervisor of the regional security officer is the deputy chief of mission and the Ambassador, because all State Department employees assigned abroad report through an internal chain that is at the Ambassador. But they receive guidance, assistance, and support from headquarters elements, such as Diplomatic Security, Overseas Buildings, the budget office, the finance office, the medical office. But personnel work up their chain in some ways, but they are also, in effect, the employees --

Q Right.

A -- of the chief of mission.

Q No, I think that's a helpful distinction. But for the purposes of their DS reporting structure, that would flow through --

A Yes, sir.

Q -- the Bureau of Diplomatic Security.

A Yes, sir.

Q Okay. And if a regional security officer had a concern or a question about security resources that they had available or access to at post, would that traditionally flow up the DS chain of command? It could flow up the DS chain of command.

A It could flow up the DS chain of command. But it could also flow up in parallel if the regional security officer would inform

Diplomatic Security in Washington but also would inform the deputy chief of mission and Ambassador, who would then push that to the regional bureau and potentially up the regional bureau chain.

So you would have an issue of major import potentially coming back through two separate chains -- the regional bureau where the post is located and through the, in your example, sir, the Diplomatic Security channel.

[11:34 a.m.]

BY MR. KENNY:

Q And it's also the case it's not even that clean, correct, on the side of the Ambassador? They can go up to the Regional Bureau, but you also indicated earlier they could reach out to you?

A Yes, the Ambassador was always free, and many of them did.

Q So is it fair to say there were multiple ways of communicating then issues, concerns, questions, about security resources that might be available at the post?

A Absolutely.

BY MS. SAWYER:

Q Just as a general matter, that structure, so just taking, just a hypothetical request, whether it be a small request or a major request, presumably starts at post. It can go through the deputy chief of mission, up through that bureau. It could come also through DS. As I understand it, the structure is to try to have individuals who are authorized to resolve it at whatever level to go ahead and exercise that authority and resolve it. Is that a fair statement?

A Absolutely. It is the policy of the State Department to try to have any issue resolved at the lowest level because as you go up, the pyramid gets narrower, there are fewer people, and you want major issues to have the bandwidth at the top, that the smaller issues, if they can be resolved, do not escalate them. Resolve them. Resolve them.

Q As you go up, you not only have fewer people. You have a

broader swath of responsibility?

A Yes, ma'am.

Q What about expertise as you go up the chain in terms of hands-on expertise to deal with an issue?

A I think the hands-on expertise rises as you go up, as you go up the channel, until you reach a certain point. For example, within, since ^Ddiplomatic ^Ssecurity ^{and} ^Boverseas buildings have been two of the examples we have been talking about, as you come up through those channels, the people who are the desk personnel or the regional directors in Diplomatic Security would be former regional security officers with, in many cases, more experience than the RSOs in the field, obviously with certain exceptions, such as a place like Paris, which is so huge, that would be a more senior person there. But the level of expertise, and also the ability to confer laterally among peers exists at the Washington level.

Q So if the request was resolved at the post level, you wouldn't expect it, then, to be raised necessarily to the Regional Bureau level?

A No.

Q And if it were resolved at the Regional Bureau level, you wouldn't anticipate that it would then be elevated to the DAS or international program level?

A That is correct.

Q And if the reality or the perceived reality was that it had been resolved at the DAS or ^Iinternational ^Pprogram level, you wouldn't

expect it then to have been elevated to the PDAS or DSS level?

A That is correct.

Q And if it's resolved there, onward up?

A Yes.

Q But at every stage, it sounds like there are both fairly formalized ways to elevate things, as well as, from your perspective, informal ways that it could be elevated?

A Yes.

Q And it certainly doesn't require an official cable? That isn't the only way that a concern, if it hasn't been resolved at the appropriate level, can be raised?

A Absolutely correct. The invention or the deployment of both classified and unclassified email systems, and also the fact that as we have purchased huge bandwidth to support our operations, we are now able to, we have, in effect, a private telephone network as well. By private, I mean, you're going over lines we already own, and so the ability to communicate between posts and between posts and Washington ~~reversed~~ is much more capable, robust, and utilized than it was years ago.

Q And so when you were talking with my colleagues about the July 9, 2012 cable, which is exhibit 1, you had indicated that you did not see that cable request contemporaneous with when it was sent around July 9 or July 10 to Washington?

A Yes. To the best of my ability, I do not remember seeing this cable contemporaneously.

Q So this would just be one example of a communication about a request that was not brought to your particular attention?

A Correct.

Q So then just using the system that we talked about, would the assumption be that it was being dealt with at one of the levels below where it would have been elevated to you?

A Yes. Yes, ma'am.

Q And do you know, just with regard to this particular cable that we have been talking about, I assume you didn't necessarily know at the time, but have you come to learn where this particular cable, where the discussion on this particular cable ended?

A My recollection from information I've learned subsequent in preparing for hearings and conferences prior to this was that it was resolved within the lower levels of Diplomatic Security, at no higher than the Deputy Assistant Secretary for International Programs, but that is a recollection.

Q And when you say resolved, whether or not any particular individual were to say it was resolved satisfactorily, is it at least fair to say that it was not elevated further than the, you said the PDAS or DSS level?

A All I know for certain is that it was not elevated to me, and that's all I can absolutely, positively ascertain.

BY MR. KENNY:

Q So I think we have spent a fair amount of time discussing ways the information can come to your attention. Personnel can flag

or elevate or escalate, to use your language, decisions or information that may need your attention. I was wondering if, more generally, it was a customary practice for you to reach down through the chain of command, to reach out to lower-level employees throughout the M family in order to gather information, communicate about policies or decisions that might be ongoing?

A I try to follow the chain of command because I think that is only fair to my subordinates. However, I will say that if I have an informational question, not about a case or controversy, but if I need a piece of information, I have been well-known to reach out and call someone at the action level just to say I've got ~~an~~ a question.

I mean, it happens very often, for example, in the Bureau of Consular Affairs, I have a question from another agency or one of my colleagues about this element of consular law, so who can I address this to, rather than calling the Assistant Secretary and wasting his or her time to push it down.

So in terms of just random fact gathering that I need, I call down. But, as I believe we discussed earlier in this session today when there was a question about conversations, a query that had come to me from the Joint Chiefs of Staff, when that question came to me because it impacted important issues and a wide range of equities, I sent that email from the General down to the Diplomatic Security ^{Services} ~~service~~ and asked for their opinions and their knowledge and their analysis of the question that was posed.

Q And I think you'd explained this in the previous round, but

that was a request for information that originated outside of the Department. Is that correct?

A Well, yes.

Q And it came directly to you?

A It came directly to me.

Q And in order to gather information responsive to that request, in this case, a decision as to whether to extend SST for the third time, you reached out to the Bureau of Diplomatic Security?

A Yes, and sent the message that I'd received from the Joint Chiefs of Staff too, to the Diplomatic Security people to ask them, in effect, what is your professional opinion of the right answer to this query?

Q And in that instance, what was their response?

A Their response, essentially, was that the SST had worked itself out of a job, that eight of the functions that were being performed had been completed. And also they noted, to the best of my recollection, that of the other eight people, only two of those people were leaving country. Of the eight security people, as opposed to communications, airlift, medical and explosive ordnance, of the eight security people, six were remaining behind at the post in any case as part of a now Title 10 train and assist, but would be on the ground there and would be the same caliber as before.

Q So would you refer to the information you received as, was it information that was being provided to you? Was it a recommendation not to extend the SST? How would you characterize?

A I would characterize it as recommendation that the SST had worked itself out of a job, and there was no longer a need to ask DOD for the continued detail of those personnel.

Q And that was a recommendation made by the security personnel, professionals within the Bureau of Diplomatic Security?

A Yes, sir.

Q And you had no reason to question that judgment?

A I had no reason to question that judgment.

Q You were asked, in the last round, whether in light of this cable, which you'd already indicated you weren't aware of contemporaneously, but whether in the discussion about the SST you had a conversation with Ambassador Stevens. And I would just like to ask, would it have been your expectation in reaching out to the Bureau of Diplomatic Security to ask for information or a recommendation on the SST, that they would be in touch with the regional security officer at post?

A That would have been my anticipation of standard State Department practice. It would also have been my anticipation that if there was discussion, disagreement, at the post, that I would have received something in parallel, either from the Ambassador or from the Regional Bureau.

Q And on that point, so to understand a little bit better how these disputes would be elevated, if the dispute was between the regional security officer and personnel at DS headquarters, how would you become aware of a dispute in that instance?

A I could have become aware of it, should one have existed, either through Diplomatic Security informing me, or I could have received a note from the Ambassador, or I could have received a note, and I'm using note, telephone call, email, telegram, from the regional Assistant Secretary. It could have come to me in any one of three different ways.

Q Of course, and just focusing on the one channel through the DS chain of command, would you have expected DS supervisors, if there was a dispute between post and DS headquarters, to have also relayed or communicated that dispute to you? Was that at their discretion?

A It was at their discretion. They might have decided to inform me because, in effect, a heads up that I might be receiving something through one of the other two channels, and so they might have informed me.

Q And with specific respect to the decision not to extend the SST for the third time, did that occur?

A I received no such communication.

BY MS. SAWYER:

Q So is it fair to say that when you got the answer that you received when you made the inquiry, you believed that represented agreement among all of the stakeholders, that it was not necessary to put the request in to extend the SST?

A Yes, ma'am.

[Kennedy Exhibit No. 2

Was marked for identification.]

BY MR. KENNY:

Q At this point, we have a few minutes remaining. This shouldn't take long. We're going to enter into the record, this will be exhibit No. 2. I'll give you moment to review that. For the record, I'm going to read some identifying information about it. Exhibit No. 2 is a portion of a transcript from a hearing of the Committee on Oversight and Government Reform dated May 8, 2013.

A Yes, sir.

Q So I'm going to read into the record a portion of the exchange from this transcript. The exchange is between RSO [REDACTED], the regional security officer that was in Tripoli, and Congressman Woodall. It reads, quote:

"Mr. Woodall: Mr. [REDACTED], my questions are following up on my colleague from Wyoming. Thinking back to early July 2012, do you recall your back and forth with Charlene Lamb?

"Mr. [REDACTED] Vividly.

"Mr. Woodall: What do you think of that decision-making process? Were those decisions that Ms. Lamb was making, or were those decisions being kicked up to a higher level?

"Mr. [REDACTED] It was unclear. I think largely DAS Lamb. The one thing that struck me throughout the entire time that I was in Libya was the strange decision-making process. Specifically again, the Under Secretary for Management in many ways was dealing directly with DAS Lamb. As her supervisor two level's ahead, obviously he has that ability to do that. He's well within his right, but it was strange

that there was that direct relationship, and I never really saw interaction from Assistant Secretary of DS, Eric Boswell, or our Director, Scott Boltravix. It was even more clear in October when we were all sitting up here. There was two levels, if you will, that were not reflected, and it was quite a jump between DAS Lamb and Under Secretary Kennedy. So certainly, I felt that anything DAS Lamb was deciding certainly had been run by Under Secretary Kennedy." Close quote.

In this paragraph, the response that I just read, Mr. [REDACTED] seems to be saying that decisions within Diplomatic Security were largely made by DAS Lamb, but then he ends his comment by indicating that anything she decided was also run by you, and I'd like to ask if you have a response to that statement?

A I had known and worked with Charlene Lamb for a number of years. We had worked together on the transition ^{for} ~~from~~ the U.S. military departure from Iraq, and so I was well acquainted with her and well acquainted with her capabilities, and she is obviously one of the people that I would ask for information. And obviously she did, the decision that we are talking about, about the, at least about the SST, was run by me because I'm the one who initiated by sending it down to Eric Boswell, Scott Boltravix, and Charlene Lamb, if I remember the address pattern correctly. But as to the general comment by Mr. [REDACTED] that I was making technical, daily, operational decisions on issues in Tripoli, I do not believe that I was doing so.

Q Do you have any reason to think why RSO [REDACTED] was under

that impression?

A That would be entirely speculation, and I don't even know what I would speculate, sir.

Q In the instance you just described where you did reach down to DAS Lamb and contacted her perhaps directly to discuss whether to extend the SST or not, was there anything inappropriate about your decision to do so?

A If I might clarify, to the best of my recollection, I forwarded the email from the Joint Chiefs of Staff, I forwarded it to the three top people in DS: To the Assistant Secretary, to the PDAS, and to the Deputy Assistant Secretary for Information Programs. Because this was not an informational issue. This was a decisional issue, and so I sent it to all three, and I believe, to the best of my recollection, the email I received back from them may have been from Charlene Lamb. However, she copied on the email her two supervisors, which would be also in accord with sometimes you send something down and somebody sends something back up. But by copying the two people, they are essentially saying that there is no objection from the people on the cc line to the communication that you are receiving.

BY MS. SAWYER:

Q And that was the communication that --

A About the SST.

Q Right. And that as we had discussed earlier, you having the belief that that represented agreement --

A Yes.

Q -- all the way down the chain to include individuals at post and the chief of mission, which would have been Ambassador Stevens?

A Yes.

Q And that you didn't, otherwise, outside of that communication, either through informal, formal, any means available, hear from anyone, including the Ambassador, including the Deputy Chief of Mission, including the RSO at post, any communication to the contrary that would have let you understand, or believe that that there was not full agreement with the answer you had been given?

A I have no recollection of any communication of that nature at all, ma'am.

BY MR. KENNY:

Q Sorry, Ambassador. Just one more quick question to close out exhibit No. 2. There's a reference in here to a direct relationship, a direct interaction that you had with the DAS for international programs. I'd just like to ask whether you viewed that you had a direct relationship with the DAS for international programs on day-to-day security responsibilities at the temporary mission facility in Benghazi?

A No, I did not.

BY MS. SAWYER:

Q And this committee did have the opportunity to speak with DAS Lamb, and this is just my impression. I'm not quoting any portion. I just wanted to ask you a question of it. My impression from our day-long discussion with her was that she did believe that her

engagement and back and forth that you've described in this chain primarily occurred with her Regional Bureau representative and post. And from her perspective, I think she represented to us that she felt that there was a back and forth that was not unusual, and that issues had been resolved satisfactorily at that level. Were you ever informed otherwise?

A No, I was not.

Q So whether or not they were handled to everyone's satisfaction at DAS Lamb's level, to the best of your recollection, no one ever came to you and said things are not being resolved adequately at the principal Deputy Assistant Secretary level?

A I have no recollection of anyone ever raising that issue with me, no.

Q And that issue could have been raised either formally or informally, and it wasn't, to the best of your recollection?

A It could have been raised informally or formally by someone, by the Assistant Secretary of Diplomatic Security, the PDAS, or it could have been raised by a representative of the Regional Bureau, or by a representative from the post; and, in no case, did I recall anything of that nature.

Q I know that from our members' perspective, and I just want to foreshadow that I think what we really want to hear from you, a lot of the focus seems to have been in a backwards-looking way at trying to figure out what went wrong, and, at times, focused very heavily on who was responsible for what went wrong.

So I thank you and your efforts to help us understand kind of who might have been responsible or where there was a breakdown. But I think our members have made very clear they also want to make sure we're being forward looking and that our pledge to the families was to make sure we're doing what we can.

I think a lot of the questions go to this effort to understand, to the extent people were frustrated at the post level or frustrated at the Regional Bureau level, why didn't it end up being raised. So we do want to talk to you at our next opportunity from your perspective -- you have a vast amount of experience -- about what has been recommended to be changed, what has been changed, and whether there is more that Congress needs to be doing or that can be done to make sure, to the extent that a system that was set up to allow any disputes that might have existed, and those disputes didn't get elevated, have we taken care of that problem?

A I look forward to that discussion.

Mr. Kenny. Thank you. With that. We're out of time. We'll go off the record.

[Discussion off the record.]

BY MR. MISSAKIAN:

Q Ambassador Kennedy, again, I'm Craig Missakian. I'm one of the attorneys on the majority staff. I'm going to ask you a few questions. Let's go to the night of the attack, September 11, 2012. At any point that evening, did you understand that the U.S. military was contemplating sending in U.S. military to Libya?

A We had actually reached out to the U.S. military. We, the Department, reached out to the U.S. military to ask for assistance.

Q Who did that reaching out?

A I think it was done by the Secretary of State, and it was followed up on by, I believe, myself on at least one occasion to the best of my recollection, as well as Diplomatic Security.

Q Let's try to break those conversations down. So your best recollection is the Secretary, herself, spoke to somebody at the Department of Defense?

A To the best of my recollection, I believe the Secretary may well have spoken to the Secretary of Defense.

Q What is that recollection based on?

A Just in the hurried activities and the constant discussions starting that afternoon and going all the way through the night.

Q You weren't present for the call, I gather?

A No, I was not.

Q Do you have an understanding of what the Secretary of Defense and Secretary of State Clinton may have discussed in that call?

A No, I do not.

Q And as best you can recall, what was your understanding of the U.S. military response that was being contemplated?

A I, long ago, learned that it is best to, with our exceptional military colleagues, simply to say to them, I've got a problem, here's my problem, and leave it to them to analyze the problem and determine their own response to it.

Q Okay. Was that the sum total of your communications with the U.S. military that night? We have a problem, you guys take care of it?

A With the exception of specifically asking for an evacuation aircraft to come in to Tripoli later in the evening when it became clear that we had wounded and remains to evacuate. It was a specific request that I made for an aircraft to come in for that purpose.

Q Other than that, do you recall having any other conversations with anybody from the U.S. military that night?

A I have a vague recollection of a conversation with the joint staff about, you know, we're requesting assistance.

Q As you sit here today, your best recollection is you did not have any specific understanding of what the military response would have looked like the night of September 11?

A No. Because as I mentioned a moment ago, and if I might recall, I once had the mistake of saying to the chairman of the Joint Chiefs of Staff who I worked with in Iraq suggesting how he did something. And General Dempsey was very clear to give him the problem. Do not tell him what the solution is.

Q I think you testified earlier today that you spoke to somebody at the Department of Defense, and I wrote it down. This may not be an exact quote, but it will give you the gist of your testimony. You called, solely for the purpose of checking on the status of forces that were flowing into Tripoli. Does that refresh your memory at all in terms of your understanding of what the military effort was going

to look like that night?

A No. If I could?

Q Sir, please.

A This thing, as you remember, evolved from first Benghazi, then to the concerns about whether or not the situation might, you know, cross and move into Tripoli, and there might be an attack in Tripoli. At that point I think we did ask specifically for a FAST, Fleet Antiterrorism Support Team, from the U.S. Marine Corps, which are the kind of units we deal with regularly, and we knew that there was one in Moron, Spain.

Q That is solely intended for Tripoli. Correct?

A For Tripoli, yes.

Q Let's talk about Benghazi. Did you understand, at any point that night, that the U.S. military was going to send assets to Benghazi as opposed to Tripoli?

A This thing was playing out in real time. The request had been made for assistance, and it was DOD that was looking at the full range of their options, and so, I cannot address the DOD internal operating plans.

Q I'm not asking you to. I'm simply asking for your understanding that night. Did you have an understanding that the U.S. military was going to Benghazi in any shape or form?

A I think that was conceivably a possibility, but I'm hypothesizing now, and I do not like to do that. Remember, this was playing out over time, and we had lost one compound, and the second

compound then came under attack. And so how this was all playing out, it was playing all out in real time, and I don't remember sufficiently this minute versus that minute versus the next one. The request to DOD was we need your assistance because we are under attack.

Q Did you have an understanding of what the nature of the assistance would look like? For example, it could have been an armed or unarmed drone. It could have been a troop transport plane dropping actual bodies into Benghazi or Tripoli. Do you have an understanding of what the response was going to look like?

A No, because as I mentioned earlier, we asked DOD for assistance, and we leave it to DOD and their professionals to determine how that they are going to respond.

Q But these were your people in danger. You didn't have an interest in learning the details about what DOD was contemplating?

A These were our people. They were in danger. We certainly cared for them. However, I am not, and there may be retired U.S. military professionals at the State Department, but if I'm going to ask for military assets, I want DOD to determine what is the best way to get there and -- best and the fastest.

Q Sure.

A I think there's a Stonewall Jackson quote, "firstest with the mostest," so that's what we wanted. How they did it was entirely up to them because this is their mission and their professionalism.

Q That's fair, but you and other people at the State Department were speaking real time to the folks in Benghazi and Tripoli

about what was going on. Correct?

A Yes.

Q If the military was coming, don't you think it would have been important for you or somebody at the State Department to tell them what was coming and when?

A That's correct.

Q Did that happen?

A No, because they never got to Benghazi.

Q I realize that, but they didn't know that at the time, and presumably, you didn't know that at the time either, because you said this was happening in real time. The plans may have evolved during the evening?

A But if we didn't know it at the time, how could we tell them?

Q That's what I'm trying to understand. You didn't know at the time because you didn't ask or because DOD didn't tell you, or the plans hasn't gelled yet. What was it?

A My understanding to the best of my recollection was DOD was scrambling assets, and that is their mission.

Q But as you sit here today, you have no understanding of what those assets being scrambled consisted of?

A My understanding was that they were looking at their options, what was available, and what was close.

Q At any point that evening, did you express the concern that if troops went in, that they go in in civilian clothes?

A That was much, much later. That replies only to the request

for the FAST, F-A-S-T, team going into Tripoli later.

Q So you did express that concern?

A There was a concern expressed to the Libyan government for the reinforcement of the Tripoli Embassy, said that they would welcome the assistance, but they asked that the troops arrive in civilian clothes.

Q You expressed that concern that they arrive in civilian clothes on the night of September 11, correct?

A I'm not sure whether it was on the night of September 11 or into the morning hours of September 12. I can't recall with that degree of specificity.

Chairman Gowdy. Were you part of a SVTC at 7:30 on the evening of the 11th?

Mr. Kennedy. Yes, sir, I believe that there was a SVTC. I believe it was around 7:30, sir, yes.

Chairman Gowdy. If I understand the chronology, and this is just kind of in round numbers, but the attack is brought to the attention of our President, and he says do everything you can to help our people. He says that to the Secretary of Defense.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. And the Secretary of Defense testimony to us is he said deployed whatever assets are necessary, active tenets. You need no further instruction. You need not come back to me. It doesn't need to be amplified or modified. Go. Deploy active tense. This would have been before 7 p.m. on the 11th. So what was the conversation

on the SVTC? What was left to determine, and what role did the State Department play in any of those determinations?

Mr. Kennedy. So I make sure I understand your question, Mr. Chairman, is the question what role did the State Department play in determining which U.S. military assets to deploy, the answer is none. We did not put constraints. We did not tell. We asked the military for assistance, and the military, the appropriate military planners and executors were working through getting people into the scene.

Chairman Gowdy. If there were, and there is, an email from Jeremy Bash, do you know who Jeremy Bash is?

Mr. Kennedy. I believe he was the executive assistant or chief of staff, may be the title, to the Secretary of Defense.

Chairman Gowdy. Have you seen his email where he uses the phrase "spinning up"? It's an email to State Department folks?

Mr. Kennedy. I cannot recall that specific email, Mr. Chairman.

Chairman Gowdy. I'll get you a copy of that. I'm not going to ask you about anything in it specifically other than there was a conversation about obtaining host nation approval. And I was trying to determine who is the host nation, and what are we seeking approval for?

Mr. Kennedy. Without seeing the cable, Mr. Chairman, it would be only speculation, but usually when you are injecting aircraft and/or troops into a host nation, you ask them for landing clearance for the aircraft. And as I responded to a question a few minutes ago, the Libyan government had given us permission to come ahead into Tripoli.

Chairman Gowdy. Do you know when that permission was given?

Mr. Kennedy. No, sir, it was given early. I would have to go back and research that.

Chairman Gowdy. Do you know who had the conversation with the Libyan government?

Mr. Kennedy. No. I do not know whether it was from the State Department or State Department via our Embassy in Tripoli.

Chairman Gowdy. It strikes some of us that that would have been also a good opportunity to say, by the way, our facilities are under attack. Can you help us until our assets can get there? Would that also not have been the proper time to raise that issue? If you got the Libyan Government on the phone, why not go ahead and discuss both of them?

Mr. Kennedy. To the best of my recollection, Chairman, that request had already been made earlier. It had been made earlier by our Embassy in Tripoli for assistance in Benghazi. So that was an earlier request. This later request that I believe we're discussing with your counsel is related to the deployment, deploying of troops into Tripoli. There was an earlier request for Libyan Government assistance, to the best of my recollection, for Benghazi.

Chairman Gowdy. What is your recollection of what was discussed on the SVTC?

Mr. Kennedy. The SVTC was mainly, to the best of my recollection, simply a conforming of information, a sharing of information. Make sure everybody had the same understanding and everyone was doing

whatever they could in their lane of responsibility to proceed.

BY MR. MISSAKIAN:

Q To ask a quick follow-up question on that SVTC, you're familiar with the infamous video that was responsible in whole or in part for the protests in Cairo?

A Yes, sir, I am.

Q Was that video discussed during the SVTC?

A I honestly do not recall whether it was discussed or not.

Q At any point during that night, did you receive information that the video played any role as a catalyst in what happened in Benghazi?

A From my perspective, what I was doing, I wasn't focusing on cause, I was focusing on effect. Our facility was under attack. We had people in danger, missing, under attack again. That was my entire focus. What do we do to work, to get them assistance and then to get them evacuated to safety?

Q That's fair, but simply because that was your focus doesn't mean you couldn't have received information. So I gather that the answer to my question is no?

A My recollection is that I don't remember if it was discussed, and, therefore, I don't really remember any particulars of it being discussed.

Q At the SVTC?

A At the SVTC.

Q My question is a little broader than that. At any point

that night, did you receive information that connected the video to what had occurred in Benghazi?

A I don't remember that, but I will go one step farther. And that is, for those of us who had been at the State Department for some period of time, we have a vivid recollection of, I believe it was 1979, and the attack on our Embassy in Islamabad where our Embassy was attacked because of press reporting, erroneous press reporting, of an attack by the United States Government on Mecca.

So I think, at least, going through many of our minds, maybe even only subliminally -- and I'm violating my own rule of speculation for context -- is that we remember where a press report caused an attack. And so to have someone suggest that a press report may have caused an attack, it would be not out of the ordinary for people to think that that could be a cause.

Q Do you recall believing that that night, that you saw a press report and drew the conclusion that the video may have been a catalyst for the attacks?

A I cannot tell you with absolute certainty, but I think it probably did run through my mind, at least.

Q You don't recall that happening?

A I don't recall that happening. But as I said, the concept of a press report causing an attack is not something that would have been totally dismissed.

Q Well, that's certainly not what we're talking about here. We're not talking about a press report that caused an attack. At the

worst, we're talking about press reports that had reported the video caused the attack. Isn't that correct?

A I'm sorry. I don't understand.

Q You said it may have crossed your mind. Your mind may have gone back to 1979 when a press report, an erroneous press report led to an attack?

A Right.

Q That's not what occurred here.

A Playing a video and discussing a video, in my mind, is the same thing.

Q And I believe you testified that at some point the government of Libya gave the United States permission to fly into Tripoli?

A Yes.

Q To your knowledge, to your knowledge, did anyone from the State Department or the military or the U.S. Government, ask for permission to send military assets into Benghazi?

A By the time we requested assets into, for Tripoli, we had already withdrawn our personnel from Benghazi.

Q So there would have been no reason to?

A There would have been no reason to send people when we had already pulled our people out.

Q For example, when the Secretary spoke to the President of Libya that night at about, I think it was about 6:00, 6:30 local time, are you aware of that call?

A I know the Secretary was making telephone calls, yes.

Q Did you know that night that she had spoken to the President of Libya?

A I believe I may have known that then, but I know she was making many telephone calls.

Q Was there any discussion that when she actually got on the phone with the President of Libya, that she would make that request, to allow the United States to send military assets into Benghazi?

A I do not know the exact nature of her call. She was calling the Libyans to request their assistance with the attack.

Q I also believe you testified that the permission that was requested and the permission that was granted by the country of Libya was to allow a FAST team to go into Tripoli. Is that correct?

A That was a request.

Q A request. What were the other requests?

A General requests for assistance because we were under attack.

Q Okay. I just want to ask you about a request for permission to send in military assets. We've seen some evidence that the U.S. military was contemplating sending in --

[Discussion off the record.]

BY MR. MISSAKIAN:

Q Let me be more general. Aside from the FAST team, are you aware of any other specific assets that the United States asked to send into either Benghazi or into Tripoli?

A No. Because as I mentioned earlier, we asked the Department of Defense to mobilize resources, and which resources DOD decided to mobilize were not something the State Department was focusing on.

Q That's not what I'm asking. I'm asking about the permission to send whatever assets they may be into Libya, be it Benghazi or Tripoli. Is that something you expected the Department of Defense to do? And by that, I mean to get permission from the government of Libya?

A No. The Department of State would have handled that.

Q So are you aware of whether or not the Department of State asked for permission to send in any other assets other than the FAST team into Tripoli?

A I'm not aware of any other requests for assets of Tripoli, to the best of my knowledge.

Q And I believe you also said that you expressed, well, you relayed the Government of Libya's concern about troops showing up in uniforms?

A I said it was relayed. I don't remember personally relaying it.

Q It was relayed. How was it relayed from the Government of Libya to the State Department?

A I believe it came in, to the best of my recollection, through our Embassy in Tripoli.

Q How did you hear about it?

A In some discussion during the night.

Q When you say during the night, can you just put it in the context of during the attack at the State facility, during the attack at the CIA Annex?

A I do not recollect. I was there all night, and everything kind of glides together in terms of timing. The focus, as I said earlier, was on certain specifics, and this wasn't one of them.

Q Did the government of Libya, to your knowledge, express any other concerns about how U.S. troops should go into Libya, how they should appear, what they should do, anything like that?

A I don't recall anything of that nature.

Q Do you recall the government of Libya expressing concern about vehicles that could be used to transport military personnel?

A I don't recall.

Q How did you first learn about the attacks in Benghazi?

A I received a telephone call.

Q From who?

A I believe it was from someone in Diplomatic Security.

Q And how would you describe your involvement in the ongoing events that night?

A I stayed in my office, except for the SVTC the chairman referred to, monitoring my telephone, monitoring my emails, and making telephone calls or coordinating activities as were required.

Q Did you have a chance to observe Secretary Clinton that night and how engaged she was during these events?

A I went up several times to brief the Secretary on the latest information that I was receiving from Diplomatic Security, which was receiving it from the ground.

Chairman Gowdy. Can we get this exhibit marked if we're going to go into the SVTC. I want to go chronologically. I want to give the Ambassador a chance and give Mr. Snyder a chance and whatever other counsel wants to look at exhibit 3. Let me know when you've had a chance to look at it.

[Kennedy Exhibit No. 3

Was marked for identification.]

BY MR. MISSAKIAN:

Q For the record, we have just marked as exhibit 3 a one-page document. The document control number is C05562028. It consists of an email chain with two emails. The one at the top is from Jacob Sullivan to Jeremy Bash, and others dated September 11, 2012 at 7:21 p.m.

A I have read this one, and I also note that I am not on this email.

Chairman Gowdy. That was the first thing I was going to say, is in fairness to you, you're not on the email, but I still want to ask you about it, particularly the bottom part. State colleagues, colon -- and of course this is at 7:19 p.m., so it would have been before the SVTC.

Mr. Kennedy. Right.

Chairman Gowdy. And, again, just to provide the information to

you, there's been testimony, which can be believed or not believed, I suppose, that the President of the United States told the Secretary of Defense do everything you can to help our people. And the Secretary of Defense testified that he said deploy active tense. Don't plan to deploy. Don't prepare to deploy. Deploy. All of which took place before 7:19, just to give you a little bit of predicate. I just tried you on the phone, but you were all in with S. You've had a long distinguished career with the State Department. Do you have any idea what S may stand for.

Mr. Kennedy. The Secretary of State.

Chairman Gowdy. After consulting with General Dempsey, General Ham and the Joint Staff, we have identified the forces that could move to Benghazi. Some of your previous testimony had been Tripoli-specific, but you would agree with me this is a specific reference to Benghazi?

Mr. Kennedy. I agree, sir. If I might, I thought I was responding in time sequence to the question.

Chairman Gowdy. And you may very well have. I'm not suggesting that there was any contradiction. You said Tripoli, and I want us to talk about specifically deploying to Benghazi.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. They are spinning up as we speak. In your long and vast career with the U.S. Government, do you know what "spinning up" means?

Mr. Kennedy. That means getting the order, telling the troops

to grab their kit, find an airplane, and start going, nonmilitary lingo.

Chairman Gowdy. Would that be kind of an active tense, or would that be more tantamount to prepare to do something?

Mr. Kennedy. It is an active tense. It's an active tense. In this context, spinning up is not the equivalent of the colloquial spinning around in circles. It is winding up the propellers, grabbing kit, drawing weapons and ammunition. It is active tense.

Chairman Gowdy. They include an SOF element that was in Croatia, which can fly out of Souda Bay, Marine FAST team out of Rota, Spain. Last paragraph, assuming principals agree to deploy these elements, in your vast and distinguished experience with the United States Government, what do you think principals, particularly since it's capitalized, might mean in that clause?

Mr. Kennedy. That would refer to cabinet level officials and the Chairman of the Joint Chiefs of Staff.

Chairman Gowdy. As you understand the chain of command, how many principals are there?

Mr. Kennedy. Principals, Mr. Chairman, is a term that refers to cabinet level officials, and how many principals there are in any given review would depend upon the issue at hand. So, for example, the Attorney General can be a principal in some cases, and the Attorney General could not be a principal in some cases, because it is specific to the issue at hand. So I can't say, Mr. Chairman, that there is a standard definition of who a principal is, meaning a cabinet level official, the Chairman of the Joint Chiefs of Staff, National Security

Advisor, but going farther than that, to a given issue, it then changes the ~~complex~~^{context}.

Chairman Gowdy. All right. Assume arguendo, that our information is correct. The President has already said, Do everything you can to help our people to the Secretary of Defense, and the Secretary of Defense has said deploy active tense, what would these principals you referenced, what would they need to agree to at that point?

Mr. Kennedy. I can't -- I don't think I can speculate on this one.

Chairman Gowdy. Can you see how it might be vexing for some of us reading this if the Commander in Chief and the Secretary of Defense have already said to do X --

Mr. Kennedy. Right.

Chairman Gowdy -- who's left to weigh in on the analysis?

Mr. Kennedy. Mr. Chairman, the only thing I can comment on, because I can't speak to particulars of the thinking of Mr. Bash.

Chairman Gowdy. I know you can't.

Mr. Kennedy. Just from my experience, when the military has forces around the world, and they're in various stand-by statuses, so some are N-plus-2, N-plus-4, N-plus-8, N-plus-72, the fact that they're already spinning up, meaning these two elements are getting ready to go, but it is not that they are sitting on the runway being held; and beyond that, I can only describe structures that I have dealt with in the past which may or may not be an exact parallel to this, but it's an active spinning.

Chairman Gowdy. Fair enough. Last clause of that sentence is: We will ask State and security approval from host nation. I think some of us were under the impression that that conversation had already taken place, given the fact this is 7:19, and the attack started almost 4 hours previously?

Mr. Kennedy. Mr. Chairman, I would have to go back and refresh myself, but I think Mr. Bash is doing everything in the context of we were about to meet at 7:30. This is informational. We are doing what the President and the Secretary of Defense had told us to do. We are identifying forces, and they are going through their preparations to launch.

Chairman Gowdy. So is it fair to say or not that the Secretary's conversation with the Libyan government had already taken place or had not yet taken place.

Mr. Kennedy. I do not know the answer to that question, Mr. Chairman. I know that there were multiple conversations between multiple people throughout the night. I do not have sufficient information in front of me to assemble and put this against a timeline.

Chairman Gowdy. Do you believe host nation referred to Libya, or would it have referred to one of the countries where we had to deploy as a launching point to Libya?

Mr. Kennedy. I can only speculate, Mr. Chairman, and my speculation, just on the basis of linguistics, is it's referring to destination, but that is entirely speculation, which I should not be doing.

Chairman Gowdy. Last question in the last sentence, I'm going to reference: "Please advise how you wish to convey that approval to us." That strikes me as being written by someone who does not believe that we currently have approval from the host nation to enter. Does it strike you that way?

Mr. Kennedy. Again, I cannot put myself in Jeremy Bash's mind. I do not know what he means by that.

Chairman Gowdy. I will settle for Ambassador Kennedy's mind and his 43 years of service.

Mr. Kennedy. Unfortunately, Mr. Chairman, never having seen this document before, I've read it, but there were lots of things going on. It all relates to various telephone conversations, various timelines, and I'm willing to speculate probably more than I should, but I also know when I can speculate on the basis of context and previous and where something is so specific, so situational, to determine that it would be improper for me to speculate, because I would be going beyond my knowledge and the knowledge of the context. I'd have to refresh myself as to various timelines.

Chairman Gowdy. Let's do it this way: I'm going to turn back over to Craig. If at some point today, if upon further reflection, you have something you want to say to amplify, or if something else strikes you as being relevant to this, just interject and insert that. And, otherwise, it's noted that the email was not to you. It was not from you. I've asked you to speculate, and in some instances you have, and it was me that asked you to do that. You weren't doing it -- you

were not doing it sua sponte.

BY MS. JACKSON:

Q Can I ask one follow-up question? When the State Department secures host nation support to enter into that country with military assets, is that decision documented in some way?

A It depends. For example, if we were holding an exercise in a given country, diplomatic notes would be exchanged, and it would be documented. In a crisis like this, you call a senior level in a host nation who has the authority to say yes; he or she says yes, and you act. You don't wait. You don't wait for us to type up a diplomatic note and have it faxed or couriered over to the foreign ministry or the presidency and wait for them to respond. People are in danger, and you act now.

Q Beyond formal diplomatic notes, is there some other mechanism to record decisions that are made in the State Department, such as if this is reported out at the SVTC, there's a write-up at the SVTC. If the Secretary had a conversation with the President of Libya, is there a write-up of her conversation with the President of Libya? Are actions that are verbal in response to a crisis memorialized in some way?

A Sometimes yes, sometimes no. Again, if this had been our team at Embassy Tripoli going to the foreign ministry and getting it, it just might have been they call over. They get a call back. They call Washington and say green light. And, you know, when fast-moving situations like this, people aren't stopping to write MEMCONS, excuse

me, memorandums of conversation. They are acting with speed and dispatch because of the nature of the activity.

BY MR. MISSAKIAN:

Q Is there a person at the State Department whose job it would ordinarily be to reach out to the Government of Libya and ask for this kind of permission?

A It would be the senior-ranking official at our Embassy, or it would be the Assistant Secretary for the Near East, the Under Secretary for Political Affairs, the Deputy Secretary, the Secretary. There is a line of people who normally deal with countries and which are divided regionally in the State Department's table of organization.

Q I believe you said you were at the State Department all night?

A Until 6 a.m.

Q Until 6 a.m. and then you left?

A And came back at 7 a.m.

Q I had assumed that. When you left at 6 a.m. in the morning, just describe for us generally what you understood had occurred in Benghazi that previous night?

A There had been an attack on our facility. We had lost two people. We evacuated to the Annex. The Annex came under attack. We got an aircraft in. We had wounded. We evacuated from the Annex to the airport, loaded out the wounded, and then the people there held at the airport until the second evacuation aircraft arrived. At that point, we were then totally out of Benghazi, and we were consolidated

in Tripoli.

Q Generally speaking, how were you getting information about what was going on in Benghazi that night and then into the morning?

A Usually from the Diplomatic Security Services command center.

Q Do you recall any specifics about where you were getting information that night?

A From the Diplomatic Security command center.

Q How was that?

A They were talking to people on the ground in Benghazi, and then in Tripoli.

Q How would they convey that information to you?

A Orally.

Q In a regular briefing? Every few minutes that night? Or as new information came in, ad hoc?

A As new information came in, I was being updated.

Q How would they do that? Would someone come to your office?

A Telephone.

Q Somebody would call you?

A Yes.

Q Do you recall who that person or persons was, or were?

A It was a variety of people. It was Eric Boswell. It was Charlene Lamb. It was one of the watch officers, meaning the officers in the Diplomatic Security command center. It's also possible, but I can't fully recollect, there also may have been information that came

to me from the State Department operations centers. We have two that back each other up.

Q I understand that some people that night were able to actually speak over the telephone with folks in Tripoli and in Benghazi. Did you have any calls like that yourself?

A No, I did not.

Q Was there a reason for that?

A Yeah. You don't have too many people bothering the people who are trying to execute.

Q Was there a decision made that one or two people would be points of contact for the folks in Libya?

A It was the operations center, the Diplomatic Security command center, were the points. They try to get a line, and they try to keep it open. That's standard protocol.

Q And did they make any record of what's being communicated, in this case, from the people in Libya?

A Someone may or may not have been taking notes. I don't recall.

Q That's not, to your knowledge, part of standard protocol?

A Sometimes it is; sometimes it isn't. I don't know if they put a logger on or not. Crises come up fast. Sometimes there's a logger. Sometimes there's not.

Q What is a logger?

A A person who just makes notes that at certain such and such a time something happened.

Q Is that person listening in real time to the conversation?

A Sometimes yes, sometimes no.

Q And what did you learn, if anything, about the nature of the attack on the CIA Annex that night? This is, again, as you're leaving the building at 6 a.m.

A I've got a problem with that question. Another setting. Mr. Missakian. Off the record.

[Discussion off the record.]

BY MR. MISSAKIAN:

Q So my question to you, Ambassador, is what was your understanding of the nature of the attack at the Annex when you left the State Department that morning?

A The attack at the Annex had been small arms fire, mortar, and RPG.

Q How did you learn that?

A On the telephone.

Q You were on the telephone?

A No. I was informed via the telephone.

Q And who do you recall informing you?

Mr. Missakian. Off the record.

[Discussion off the record.]

BY MR. MISSAKIAN:

Q Now, with respect to the information you were receiving about the attacks that night and then during the subsequent days, did you receive any information about what had occurred in a classified

form? I'm not asking you to disclose the content. I'm simply asking if you received classified information or not?

A Yes.

Q And was that in writing or through a briefer or both?

A Telephonically.

Q Telephonically. And do you recall who you received it from?

A Yes.

Q I'm not going to ask you to disclose who that was. Was that on one occasion or multiple occasions?

A Several occasions.

Q Do you recall any specific occasion as you sit here today?

A I would prefer to continue this conversation in another setting.

Q Okay. That's fair. Other than the information, the classified information you received telephonically, do you recall receiving any information in written form?

Mr. Snyder. That night?

BY MR. MISSAKIAN:

Q That night or in the subsequent days?

A Well, I received lots of information over the course of time, including information that I did not receive contemporaneously, but I read because I was making, as I think I reported, stated earlier, that I may have appeared 20, 24 times in various formats on the Hill; and, therefore, I was constantly updating information in order that

my presentations to the Congress could be as complete as possible.

Q That's fair. Let me make it easier for you. In the period from September 11 through, say, the end of September, do you recall -- let me make it even more narrow for you. From the period of September 11 through the end of that week, September 15, do you recall receiving any classified information in written form?

A I honestly don't recall. There were lots, there were lots of things going on at that time, and I can't honestly remember. I can't honestly remember.

Q Did you receive a regular intelligence briefing?

A I receive a notebook every morning.

Q And that is a compilation of what?

A Compilation of intelligence material from throughout the intelligence community, as well as from the State Department's own Bureau of Intelligence and Research.

Q As you sit here today, do you recall receiving anything that week that related to the attacks in Benghazi?

A I don't recall anything specific, but I also am sure that there was something in one of the reports from one of the agencies about Libya.

Q If I understand you correctly, you did a couple of briefings in the days following the September 11 attacks. My understanding is you did a Hill briefing, and then you did a background press briefing. Is that correct?

A That is correct.

Q Have you had a chance to review what I believe to be the transcript from the background press briefing?

A I don't believe that is one of the things I looked at in preparation for today.

Q Have you reviewed any notes or any record of the Hill briefing that you provided?

A No, because I do not believe that first Hill briefing was transcribed. I believe it was a briefing, the first one I believe was a briefing for senior staff of committees of jurisdiction.

Q And when you gave each one of those briefings, did you provide the best information that you had at the time?

A Yes.

Q Were you involved at all in the drafting of what's commonly referred to as the HPSCI talking points?

A I was not part of the drafting team, no.

Q You're aware of them?

A I'm aware of the talking points, yes.

Q Did you have any involvement in clearing those talking points?

A I don't believe they ever came to me for clearance.

Q Did you have any involvement in clearing the Secretary's statement that went out at about 10 o'clock on September 11?

Mr. Snyder. 10 p.m. or a.m.? I'm sorry.

BY MR. MISSAKIAN:

Q 10 p.m. on September 11.

A I don't recall whether I cleared that statement or not.

Q Do you recall clearing any of the Secretary's statements that week?

A I think I did clear one subsequently later that week.

Q Do you recall any specifics of that process? Okay. We will save that question for another setting.

Did you have any involvement in preparing Susan Rice for her appearances on the Sunday talk shows?

A No, sir.

Q Do you know if anybody from the State Department took part in a preparation call that we believe occurred on Saturday, September 15?

A I have no recollection of that at all.

Q Were you aware that it had been requested that Secretary Clinton appear on the Sunday talk shows?

A I subsequently read of that, but I do not recall being aware of it beforehand.

Q In one of your statements to Congress, and I'll just read it to you, I believe this was testimony you gave before the House Oversight and Government Reform Committee in October of 2013. You said, quote: "If any administration official, including any career official, were on television on Sunday, September 16, they would have said what Ambassador Rice said." Close quote.

Do you recall making that statement?

A Yes, sir, I did.

Q And I believe I saw a similar statement in an email that you sent, although I don't remember who you sent it to. Do you recall sending that email as well?

A I don't recall the email, but if I said it once, I would have said it again in the same context.

Q So I assume that this is meant to be an example of hyperbole because obviously you didn't speak to all administration officials before making the statement, correct?

A I don't regard it as hyperbole. I regard it as description. I'm not wishing to quibble.

Q You are aware that there were certain State Department officials the day after Ambassador Rice appeared on the talk shows referred to her comments as being off the reservation, so they would not have said the exact same thing that she said, as you stated in this quote?

Ms. Sawyer. Just for the record, you testified that there are State Department officials who have said that.

Ms. Sachsman Grooms. They're employees.

Mr. Missakian. Thank you. Let me clarify that.

Ms. Sachsman Grooms. I think the quote is about administration officials. It's about high level officials or --

Mr. Missakian. This isn't your quote, so please don't testify. I'll ask the witness what he meant.

Mr. Kennedy. May I look at the document again?

Mr. Missakian. Yes. The quote is right here. I'll show you.

Ms. Sachsman Grooms. We thought it would be appropriate to show him the off-the-reservation quote, Craig.

Mr. Kennedy. I'm talking here about the administration official. That says a senior official, including a senior official, who was also a career, rather than a political appointee. So I'm talking about senior officials, and I stand by the statement.

BY MR. MISSAKIAN:

Q The person or persons that was referring to are, I guess, employees within the NEA Bureau, so you were not intending to include people at that level?

A I'm talking about senior officials in that statement.

Q Now, let's see. You also, I believe, later on you said, this is a quote: The information she, meaning Susan Rice, had at that point from the intelligence community is the same that I had at that point.

Mr. Snyder. Can I just have a moment?

Mr. Missakian. Sure. Let's go off the record.

[Discussion off the record.]

BY MR. MISSAKIAN:

Q Did you want to add something?

A No.

Q You may not have heard what I just read, but you had also said that the information, quote, "the information she," meaning Susan Rice, "had at that point from the intelligence community is the same that I had at that point." Closed quote.

A Yes.

Q How do you know what information she had?

A It goes, in the context of that question, in the context of the public controversy that had taken place between Dr. Rice's statement and subsequent events, I believe that, I took that in context, and I had received briefings that comported with what she said.

Q Okay. But you didn't know what she had at the time?

A I had read the transcript of her statement because I missed the statement, and in the course of her context, and so I know what she said, and I know what information I had, and, therefore, I made the statement.

Q But you didn't know what she had on September 15 when she was preparing? You didn't know what materials she had in her preparation binder. Is that correct?

A No.

Q It's not correct?

A No, I do not know what materials she had in her preparation binder.

Q And you don't know what intelligence she reviewed prior to her appearances on the show as well, correct?

A I responded that way because I know what intelligence I had been given.

Q Yeah, but you did not know what intelligence she had been given?

A No.

Mr. Missakian. I'm going to turn it over to my colleague. He has a few questions at the end of our hour.

BY MR. DAVIS:

Q Sir, just two quick, clarifying questions. Number one, I wanted to make sure that the 7:30 SVTC you said you attended, the forces that were spun off or were being diverted to the area, the discussion there was strictly about Benghazi at that point. Is that correct?

A I'm trying to recall when the attack took place on the Annex, and I believe that attack was after midnight. So if my time calculation and recollection is correct, it's yes. But I would need to refresh myself against a timeline.

Q And you say after midnight. Why is after midnight significant?

A Because there's a 6-hour time difference between Libya and Washington, so I'm going from 7:30 p.m. --

Q Right. I guess my point is whether the attack on the Annex took place after midnight or before midnight, why did you bring up midnight?

A Simply because I'm adding 6 hours to 1730, and I'm getting after midnight. I'm getting to 1:30 in the morning.

Q I'm sorry. The SVTC was at 1930, 7:30 p.m. East Coast time.

A That's right. So 1930 plus 6 is 2530, which is 1:30 in the morning in Libya. And I'm trying to recall when the attack on the facility, the Annex, occurred. So it is relevant to what we're discussing when -- you have to line up the Washington time zones and

adjust to the Libyan time zones.

Q I understand. You testified earlier when Craig was asking you about the FAST team responded, you said that was specifically to Tripoli. Is that right?

A That is correct.

Q You also testified earlier, I believe you said you left at 6 o'clock and arrived back at 7 o'clock?

A I left at 6 a.m.

Q You left where at 6 a.m.?

A I left the State Department at 6 a.m., went home, took a shower, and was back at 7 a.m.

Q Okay. [REDACTED]

[REDACTED]

[REDACTED] ?

A Because they're incorrect.

Mr. Kenny. Hey, Carlton, are those documents marked in any way?

Mr. Davis. We can get into that in a different setting.

Mr. Kenny. Well, no, I think it's appropriate to deal with it now. We're in an unclassified setting, so if you're deriving from a document that's marked, I think that would be inappropriate in this setting.

BY MR. DAVIS:

Q Were the whereabouts of your location on the night of the attack, is that classified information? The fact that you're at the Department on the night of the attack, is that classified information?

A No it's not classified. It's not a classified duty station.

Q So if there were documents that said you left at midnight, that document would be incorrect?

A That portion of the document would be incorrect.

Q Which recalls the questions that were asked of other parts of the document as well.

Mr. Evers. I suppose it would be relevant only that you can't show him the document in this setting. You're making representations --

Mr. Davis. I want to get it all on the record in this hour, and we'll show him the document in a later hour.

Mr. Kennedy. I would prefer to look at the document before I make comments on it.

BY MR. DAVIS:

Q I'm just asking if there were documents that said you left at midnight?

A That's a hypothetical question, and I would prefer not to answer a hypothetical question.

Chairman Gowdy. Let's look at it this way. If there are documents that can only be reviewed in another room, and you feel like you need to review them to be able to answer the question, in fairness to you, let's just all do it in the other room and show you whatever you need to see, as opposed to answering it this hour and then 3 hours later seeing the document and having to change the answer. Let's just

do it once.

Mr. Kennedy. Mr. Chairman, thank you, sir.

Mr. Missakian. I believe our hour is up. Off the record.

[Discussion off the record.]

[2:21 p.m.]

EXAMINATION

BY MR. KENNY:

Q Ambassador, I'd like to pick up where we left off at the end of the last round where you were asked a series of questions about your recollection of certain reports you may have been receiving on the night of the attacks. You indicated the one source of information that you'd been receiving was through diplomatic security channels. Is that correct?

A Yes.

Q And I would just like to ask, I know you touched on this a little bit, but do you recall the content of those specific reports at that time during the night of the attacks?

A They were very, very short. They were very, very operational. We are under attack, the ambassador and the IMO, information management officer are secured in the safe room, the attack is continuing, there is a fire. It was just -- they were ops, what we would call sitreps, situational reports on what was happening on the ground.

Q In the last round, I believe you characterized your focus at the time as being on effects of what was occurring in Benghazi, not

the causes of what was occurring. Is that fair?

A Yes, sir.

Q These reports that you were receiving, you describe them as operational in nature. Is it your understanding that they were also more focused on the effects rather than the causes?

A Yes. They were reporting, they were reporting on what they were doing. And they requested assistance from the Annex, et cetera, et cetera.

Q And based on some of these reports that you were receiving, was it clear to you at the time, was it completely clear what was happening or unfolding in Benghazi?

A In the sense that I knew there was an attack. How many, what -- how many, who, and why were all unknowns and actually, to an extent, not what we were focusing on.

Q Do you recall any conflicting reports coming in, or information that you may have received that somehow seem to be in conflict with other information you received that night?

A No, generally the more -- we had more -- we were focused more the next day on trying to piece together what happened and then the strains of conflict were more evident the next day on the 12th than they were on the night of the 11th.

Q So in our interviews with other individuals we've heard a term "fog of war," it may be a bit imprecise, but we understand it to be that some things were knowable, other things less so on the night of the attacks. Did you have a general sense of that?

A I would fully agree with that description.

Q You believe there was a fog of war there that night?

A There was a fog of war and we were -- we were focused on aiding our people.

Q In the public domain, there has been extensive criticism of some initial intelligence products that may have indicated that there were protests occurring in Benghazi on the night of the attacks. With specific reference to your DS channels through which you were receiving information, do you recall if the personnel on the ground were focused on conditions or events before the attacks occurred?

A No, they were not. There -- the -- there were no prior reports before the alarm was sounded.

Q By "prior reports," you mean prior reports of a demonstration?

A Of a demonstration, there were none.

Q Okay. But at the time the reports of the attacks came in, were those reports focused at all on conditions in and the temporary mission facility before the attack occurred?

A No, they were focused on -- it started with their -- there was a loud noise and then the diplomatic security special agent in the command center on scene looks at his cameras and sees people beginning to try to storm through the gates.

Q In the subsequent reports that you received through DS channels that night were on events subsequent to that, beyond the onset of the attack?

A Yes, that is correct.

Q So they didn't include information again about conditions or events that might have been occurring in or around the temporary mission facility before the attacks?

A No, they did not.

Q You were asked in the last round a little bit about your recollection with Secretary Clinton on the night of the attacks, I believe you mentioned that you had briefed her. Is that right?

A Yes, sir.

Q Do you recall what specific steps she took during this timeframe?

A I know she was in contact with the White House, and I know that she was making telephone calls to various people that I -- I do not recall, at this moment, specifically, who the calls were or the sequence of them.

Q Okay, that's fair. And that's because you weren't collocated with her?

A No, I was down the corridor. We were all -- had offices on the seventh floor. I was at one end of the building, she was at the middle of the building.

Q But you did have occasion at different intervals in the night to check in with her?

A As I got information that came in, I would walk up the corridor to inform her.

Q Did you ever get the sense or impression that the Secretary

was not fully engaged in the crisis response that night?

A Absolutely not.

Q Did she strike you at all as uncertain as to how to respond to the events?

A No. I would say she was, as she always was, as forceful, you know, focused.

Q Did she remain forceful, focused throughout the entirety of the crisis response continuing through the next --

A In my opinion, yes.

Q During the night of the attacks did she ever do or say anything to you to indicate that the U.S. military should not engage fully and do whatever it could to assist personnel on the ground?

A I never heard that at all.

Q Returning to your role on the night of the attack, I think you'd indicated that you had remained at the State Department for an extended period of time that evening and returned early the next morning. It sounds like you yourself were also focused on the crisis response. Is that fair?

A That is correct.

Q And we have also seen some of the watch logs that have been produced to this committee. It seemed to also indicate that you had been reaching out to other officials, either in the Department or the interagency, perhaps related to the crisis response. Do you recall?

A Everything I was doing that night was related to that -- to the crisis in Benghazi, and then the evacuation of Benghazi. I was

not doing anything else but that.

Q So as the Under Secretary for Management, maybe we should take a little step back. How did you view your role in the crisis response?

A As I have said earlier, the Under Secretary for Management, in my belief, is not an operational, it is a policymaking and coordination role with potentially one exception. The Under Secretary for Management is the coordinating figure specifically on evacuations and crisis. And therefore, when you are talking about a crisis, ~~proposed under~~ ^{an} attack, the potential for evacuation, it is my office that coordinates evacuation, whether it's American citizens coming out of Haiti, the result of the Fukushima earthquake should there have had to have been an evacuation there. So natural or manmade disasters, the Under Secretary becomes, in effect, a kind of team leader for evacuation crisis response.

Q So because it was your role, had you had experience in the past with effecting evacuations of Americans?

A I evacuated my -- on my first assignment in the Foreign Service in 1973, I evacuated the American embassy in Kampala, Uganda during the Arab-Israeli War in 1973. So my experience -- and subsequently, in the African Bureau, which is always having ~~crisis~~ ^{crises} that require evacuations; plus the Bureau of Administration, which I headed for a number of years, also has the responsibility, as part of the crisis management effort, to locate aircraft, boats, or whatever to effect an evacuation. So I have been working on evacuations for many years.

Q And including in your role as the Under Secretary?

A Including in my role as the Under Secretary.

Q So we can better understand the mechanics of how an evacuation might work, when that process begins or is underway, is it your sense that it is a matter of minutes, hours or days? How long does it usually take to effect an evacuation?

A Anywhere from almost a day to many days. It depends upon the nature of the circumstances. Is it man-made or is it natural, earthquake, whatever. Is it -- are there many, many Americans to evacuate, or just a few? It took us, I think, about a week to evacuate 16,000 American citizens from Haiti after the earthquake, the airport had been destroyed. We partnered with the U.S. military, diplomatic security actually secured part of the airport. And we then moved those people out as we could get planes in to bring them out. So an evacuation is both complex, multifaceted, but it comes in many different flavors and guises.

Q And you seem to describe what sounded to me like a continuum, it can be from days to many days to effect an evacuation?

A Yes.

Q Would one of the factors that would affect how long it could take be the availability of U.S. military resources?

A It depends on both the availability of commercial or military resources. We attempt to use commercial resources in what we describe as permissive environments. And so if commercial aircraft are willing to go in, we will use those, because commercial aircraft

actually have more seats on them than your average military plane.

However, in a non permissive environment, certainly our actions in Benghazi with the ongoing, first the attack on the temporary mission facility and then the attack on the Annex, that would put it in the category of non permissive, we would go to our colleagues in the U.S. military to assist as first choice.

Q And to be clear, you just described Benghazi's non permissive environment, you are referring to the night of the attacks?

A The night of the attack.

Q Not time prior?

A No, no, not prior to that.

Q Okay. And you'd explained a little bit about your previous position of the Bureau of African Affairs. Did you have an understanding of where military assets were located in relation to the continent of Africa?

A We had a general knowledge that there were no U.S. military air bases in the northern -- I mean, in the southern Mediterranean. I know that there were U.S. -- there was only one real U.S. air base in Africa, and I knew that the assets were most likely to come from our U.S. bases in Europe. But as I said in response to a different question, slightly parallel context, that I long ago learned that if you have an issue, you ask the Defense Department for assistance. You tell them the where and the what, and then they will tell you the how.

Q And again, referring to the time it can take, we talked about some of the factors, that could perhaps draw the process, make the

process last a little bit longer. When you said it can take anywhere from a day to many days, is a day usually considered the best possible outcome?

A If you are in -- it depends on the nature of the emergency, but if you have an emergency in a crisis you want to get the maximum number of people out as fast as you can. But there is the question of if you are in this non permissive, or if you are going to use the U.S. military, I have learned over the years that U.S. military units have what amounts to muster times. Units are on -- are not sitting in the ready rooms ready to jump in the planes, certain ones are, but not everywhere. And so, you have to ask the military for assistance, and then they find the U.S. military unit that is nearest and that can scramble, muster, spin up the fastest to get to the location you want them to go to with the resources and context that are needed at that location.

Q With specific respect to the retrograde from Benghazi to Tripoli, and I'm going to use eastern European time, so Libyan local time.

A Yes.

Q But it is our understanding that the attacks began somewhere around 9:40 p.m. The first plane departs Benghazi somewhere in the 7:00, 7:30 a.m. timeframe; and the second plane leaves sometime around 10 a.m. on September 12, which, to us, our calculation it is about 12 or 13 hours from when the attack began to when all American citizens or all Americans, official Americans are retrograded from Benghazi to

Tripoli. Did that seem like a fast response without U.S. military assistance?

A Yes, yes, it did.

Ms. Sawyer. And just to clarify on that last question, with regard to U.S. military assistance, assuming it was U.S. military assistance coming from outside of Libya.

Mr. Kennedy. Yes, there -- there were no U.S. military aviation assets in Libya. So the assets that we drew upon were first assets that we assembled from Tripoli, first a commercial charter, and then later, a Libyan Air Force aircraft.

[Discussion off the record.]

Mr. Kennedy. When you are talking also about military, I should add that at about 2 hours into the attack, there was a drone, an unarmed, unmanned drone with no passenger capability, [REDACTED]

[REDACTED]

and immediately diverted that drone overhead, but with apologies, I had not been thinking of the drone as an aircraft. I was thinking of it as a drone.

BY MR. KENNY:

Q So returning briefly to our discussion of some of the phone calls made in the night of the attacks, it sounds like you had communications with, perhaps, many others within the State Department that night?

A Yes.

Q I would like to just ask for your understanding of what was

your sense of how seriously your colleagues at the State Department were treating the crisis?

A Absolutely seriously. An attack on one of our facilities, ~~is~~ outside of an attack on the United States, ^{has} ~~as~~ the highest attention of the State Department, both on the policy side and on the management security and logistic support sides.

Q It seemed everyone was doing everything they could to assist personnel in Benghazi and Tripoli?

A I had -- I had never -- I never had the feeling that anyone wasn't doing everything that they could possibly think of to assist.

Q Did the Secretary ever tell you to stand down or slow any request?

A Absolutely not.

Q Referring to the SVTCs that occurred on the night of the attacks, this was referred to as a 7:30 p.m. SVTCs, you explained what occurred during that SVTCs. You used some language you indicated that they were sharing information. But you also used the word conforming information. I would just like to understand what you mean by that?

A Conforming, conforming means, in effect, reconciling. That I have heard this, you have heard that, what have you heard? Trying to make sure that we all, meaning across the entire U.S. Government, had the clearest coherent understanding of what was going on in the fog of war.

Q So if I understand you correctly, you seem to be suggesting to develop a more complete and accurate picture of what was important?

A Yes.

Q So not to set a narrative about how to prevent the attacks?

A No, no, just simply to make sure that each one of us were taking actions and you want to take actions against a common understanding, the maximum you can get in the fog of war.

Q Sure.

A And not potentially make a mistake, because you have an assumption that could have been disabused by somebody else.

Q To the best you can remember, what was the focus of the SVTCs, there may have been many topics covered, but was there one more dominant than the other?

A No, I think it was to -- what is going on and what do we do about it?

Q So is it fair to say the safety and security of U.S. personnel was --

A Yes.

Q -- of foremost concern?

A Yes.

Q -- in that SVTCs?

A Yes. Safety and security would be a good heading for our efforts.

BY MS. SACHSMAN GROOMS:

Q And you said what do we do about it, but did that also include what are we currently doing about it?

A Yes, yes. We would relate what step, what information we

had, what steps had been taken and, therefore, what steps -- what further information was needed and what steps should be taken, singularly or collectively, but in a coordinated fashion.

BY MR. KENNY:

Q Did the discussion in that particular SVTCs, did that touch on the potential for violence to spread to other locations, for instance, Embassy Tripoli?

A That was a concern. And that was also discussed during the evening, and eventually it was collectively decided that we also had two facilities, a primary and an Annex in Tripoli. And so the decision was made to pull all American personnel into one facility because that would increase the security capability because you had massed, you had massed your people, but you had also massed all the various security forces that were available on scene.

Q And whose decision or recommendation was it to consolidate personnel in Tripoli?

A I think it was part of a discussion that I know that I certainly advocated for it --

Q Okay.

A -- and I can't remember how we finally -- it was not a long time, but we finally coordinated and decided that that was the right thing to do.

Q And was that based, in your understanding, that there had been some open source threats made against Embassy Tripoli?

A There had been -- we had heard some reports, we had also,

obviously, taken note of the mob of a few who climbed over the wall at the American Embassy in Cairo as well.

Q To the extent that these discussions encompassed a potential for violence in other locations, did the focus on Benghazi diminish in any way?

A No, no. They were two parallel streams, but, obviously, taking care of Benghazi was one prime and what was -- could potentially happen in ~~Benghazi~~ ^{Tripoli} was one. We knew equally important, but obviously, those people who are actually under attack come slightly ahead of those people. But since there were two separate locations and we could deal with them, ⁱⁿ ~~an~~ effect simultaneously.

Q And there was a discussion just before our break about one particular team whose mission would be to reinforce security in Tripoli, the FAST team, the Fleet Antiterrorism Security team?

A Yes.

Q To the extent there was a discussion about deploying a FAST to Embassy Tripoli, that didn't preclude the possibility of you discussing sending military assets to Benghazi, right?

A No, it did not.

Q So did Benghazi, at any point, become a secondary consideration on how to respond on the night of the attacks?

A Only in the early morning hours, local time, when after the attack on the Annex the determination was made to withdraw personnel from the Annex. And once the determination had been made to withdraw all those personnel and the assets who were in place to safely withdraw

them and then they were withdrawn. The focus then shifted to Tripoli.

Q But up until that point, Benghazi was still --

A Was still -- until the last person was wheels down in Tripoli that the focus was Benghazi first.

Q I would like to return to our discussion about, we referred to it as host country, host nation clearance seeking the Government of Libya's permission in order to deploy outside U.S. military forces into the country. One thing I think would be helpful for us to maybe establish at the outset here is whether you ever told that the U.S. Government did not ask for host Nation permission in order to enter Libya?

A I recall no such discussion whatsoever.

Q Do you recall being told that such a request or placing a request to the Government of Libya had been denied?

A I recall no such statement.

Q Were you ever told that the process for requesting the Government of Libya's permission to enter the country was a reason that U.S. military forces could not get to Benghazi in time?

A No.

Q You had mentioned action officers, or action levels for where seeking the government of Libya's permission would get worked. I think you indicated several levels, including at the embassy level. Is that right?

A Yes, sir.

Q Were you aware that the embassy that evening was working

on seeking the Government of Libya's permission?

A I generally recall only that it was being approached both from the Washington angle and from the local angle.

Q Okay. On the local angle, do you have an understanding of who the embassy would reach out to in order to facilitate that request?

A I can't -- I cannot be specific just knowing generally -- our highest, our senior ranking person on the ground would reach out to the most senior ranking person that they could reach, including, and I'm now speculating, reaching out to multiple people, and it depends on the country. Is it the presidency? Is it the foreign ministry? Whoever it might be, but you reach out to your most senior-level contacts to request such a permission.

Q The reason I ask that question in that way is I believe you had mentioned the ministry of foreign affairs, for instance, in the last round?

A That was an example, ministry of the foreign affairs and/or the presidency. That is all country-specific. I will -- I am not enough of an expert on the formation, meaning the structure, the organizational structure of the Government of Libya to know who would be the right person to call, which is why that wasn't in my jurisdiction, that was being run by the Near East Bureau and the Under Secretary for Political Affairs, because they are the ones who engage with host nations.

Q So you didn't have direct insight into the status of that process?

A No. I knew it was underway, but I was not following it.

Q In your experience, is it unusual to coordinate U.S. Government activities with the host Nation, even in a crisis response?

A If you are going to go into the host Nation, it is --

Q It is unusual?

A No, it is usual. If you are going to go into a country, it is usual to do so.

Q And with specific respect to deploying U.S. government military resources into a country, is one of the reasons, aside from respect for sovereignty, the obvious concern is -- another concern -- were you concerned about friendly-fire incidents in responding to a specific crisis response?

A Obviously, that is something that is always of consideration is that you want to go in to do what is needed to do, and you would like to seek the approval of the host nation.

Q We had a brief discussion a little earlier today about the evacuation of Embassy Tripoli in February 2011?

A Yes.

Q I believe you indicated you had a role or were involved in that evacuation. Is that correct?

A I was coordinating the operation as the Under Secretary for Management's office does for evacuations, yes.

Q And at the time that the embassy was evacuated, had the security situation in Libya, Tripoli specifically, it had deteriorated. Is that correct?

A It deteriorated -- it was affecting different deteriorations. Fighting had broken out in the city between the forces of Qadhafi and those who were seeking to remove him as the dictator.

Q And do you recall in the process of that evacuation that the U.S. had chartered an aircraft to help evacuate some of the remaining, or the last U.S. personnel?

A We achieved -- we had chartered -- attempted to charter several aircraft. It was the last lift of Americans that was on a chartered aircraft, we also had a chartered ferry boat because of the proximity to Malta.

Q Was the aircraft itself, was that coordinated in any way at any level of the Libyan Government at the time?

A Yes. We needed over flight and landing clearances, and we sought and we obtained them.

Q So you described the threat at that time as slightly different than Benghazi being that, as I understand it, the government itself had engaged in some sort of hostilities. Is that --

A Well, no, there was -- I would describe it as an incipient civil war, or revolution had broken out in the capital. And as fighting was taking place, there is always the danger when you see activity reach a certain level, it reaches a level where we feel we cannot mitigate the risk to our personnel. There is a national security value of remaining in a country as long as possible, and then you take whatever steps you can to mitigate the risk to our personnel. But at some point, the risk-reward equation, the reward being the national security value in

remaining, the risk, even mitigated, so greatly exceeds the reward for staying there that it is time, it is time to suspend operations and leave. But it is a process that also goes usually, but not always, takes several steps.

Q But even in this instance you described as an incipience of a war had broken out, there was still a decision to coordinate the evacuation of American personnel through the Libyan Government. Is that correct?

A We had to seek the -- we had to seek the -- we sought and received both the permission for the ferry to come in to their territorial waters and dock#, and we sought permission for the aircraft to get what is called overflight and landing permission, which is the norm.

Q Is that, or can that just be a simple bureaucratic process of exchanging or submitting some sort of application to say the civil aviation authorities? Is that your understanding?

A It can be, but it also can be a situation in which if the country is in chaos, or beginning to be in chaos, or the civil institutions are beginning to be ^{disrupted} ~~disruptive~~, it could be that you have to bolster simply the electronic filing of an overflight and landing request. You have to follow that up, because the planes we were using are chartered, are not regularly scheduled service, and you sometimes need political intervention to obtain the overflight and landing permits.

Q Throughout the evening the following day of the attacks,

did anyone ever express to you that seeking the Government of Libya permission to enter the country would significantly delay the military response?

A No.

Q Did you ever hear that the Government of Libya would not approve a request in a timely manner?

A No.

Q There seems to be some speculation that the delay to the military response on the night of the attacks was caused by the State Department waiting for Libyan's permission or not lodging a request in time with the Libyans. I'd like to mark as exhibit 4 --

[Kennedy Exhibit No. 4

Was marked for identification.]

BY MR. KENNY:

Q This is a declassified a -- so for the record, this is a declassified transcript, it was conducted by -- a transcribed interview conducted by the Committee on Oversight and Government Reform jointly with the Committee on Armed Services, dated January 31, 2014. It is of the defense attache at Embassy Tripoli. Although not identified as such on the page, they redacted the name off. This is a document publicly available on the Web including gop.gov. I will give you a second to review.

A Thank you.

Q And I will also in conjunction with this marked Exhibit 5.

[Kennedy Exhibit No. 5

Was marked for identification.]

BY MR. KENNY:

Q This is a portion of a hearing transcript February 7, 2013, Senate Armed Services Committee hearing. The exchange I'm going to refer you to here is at the very bottom.

A Yes, sir.

Q So in exhibit No. 4, I would just like to read one portion of the question and answer into the record, the questioner asked: "Can you recall when the actual the relevant information that was needed like tail numbers and things when that was transmitted to the Government of Libya?"

"Answer: I don't, but I would also come back to the fact that we had a green light from the Government of Libya to bring it in. It was just a question of when we were going to know the specific information, it goes into a standard flight clearance request.

Just to finish that out: "So it had to have been, I would say, sometime mid morning to noon on the 12th, it could have been a little bit after that."

I'd just like to also read that in conjunction with exhibit 5, the bottom exchange where General Dempsey, the former chairman of Joint Chiefs of Staff, testified in response to a question, he testified, quote, "I want to assure you had we been able to there's been a whole bunch of speculation about we were risk adverse, we needed the country's permission to come in. If we had we been able to get there with anything, we would have gone in there under the command of the commander

of U.S. AFRICOM." Closed quote.

And with specific regard to the chairman's testimony, it sounds like there were military assets that could be brought to bear that night that would have required country clearance at least with response to the Benghazi attacks. Is that your understanding?

A No, that's not the way I read it.

Q Okay. How do you read it?

A I -- the way I read it is General Dempsey saying that if we had had resources that could have arrived on scene, while the attack was going on, we would have gone in, country clearances or not, because it would have been an active fighting underway, and the U.S. military would have intervened, country clearances or not to protect U.S. Government employees. That's the way I read it.

Q So does this suggest to you then -- well, so the Defense Department was doing everything it could and didn't wait for the State Department to obtain country clearance. Is that correct?

A That is what this is saying here. He's saying if we had been able to, if we had been able to get there, "there" being and I'm assuming -- because I don't have page 70, I'm certain we're talking about Benghazi. If we had been able to get there, and I'm assuming for the purposes of this discussion, Benghazi with anything, we would have gone in there under the command of commander of the U.S. AFRICOM, meaning we would have gone under Title 10 military authorities, not under Title 22 State Department authorities.

Q So that suggests to you the military wasn't waiting for the

State Department to seek clearance?

A It suggests that he was ready to go in no matter what clearances we had or had not. Yes.

Q But it also sounds from exhibit 4 like the Government of Libya, at least according to this, an embassy official had provided some sort of generalized clearance.

A I read this, again, from my experience, is this is what is known as a blanket clearance where you approach the government and say, we need to do something that is not yet fully defined, maybe one aircraft, we may need 10 aircrafts and a blanket clearance usually gives you a number, and you use that number over and over again as your -- when you file your flight plans. You still have to file a flight plan in order to deconflict airplanes from running into each other, but a blanket clearance means come on in.

Q These statements by the defense attache, does it suggested to you that a blanket clearance was requested or obtained on the night of the attacks?

A It suggests that a blanket clearance was obtained. We have the green light -- I would like to come back, we had the green light for the Government of Libya to bring it in. Now, he's referring to, it's not clear from this page, what it is, but it clearly he's talking about the movement of aircraft into Libyan territorial areas.

Q I wonder if I could just direct to you actually above the middle of the page where there is a reference to a FAST platoon.

A Yes, and a medevac, yes.

Q So just before we move on to clarify a little bit between this idea of a blanket clearance, a blanket authorization, and some of the specific details that would need to be provided, it's possible you can obtain a blanket clearance first and then provide specific details at a later point in time. Is that right?

A That is correct. It is my understanding -- I'm not an aviation expert, but my understanding you obtain a blanket clearance, and then you say that you are using -- you are sending a C-141, you are sending a C-17, you are sending a C-130, you are sending a C-9 at the altitude and you are going to cross in, and you're landing at such-and-such an airfield at such-and-such a time. Those are the details that follow, but once you receive the blanket clearance, the planes just move.

Q And you would have to know details such as tail numbers on the planes? Is that correct?

A That's only -- that's when you file a flight clearance.

Ms. Sawyer. And just referring briefly back to exhibit 4.

Mr. Kennedy. Yes.

Mr. Snyder. Congresswoman Duckworth, this is Under Secretary Kennedy.

Mr. Kennedy. Hello.

BY MS. SAWYER:

Q Exhibit 4, at the top of what is page 142 of that where the conversation continues, there is a question, he is answering kind of when from the page before, when he says "We have the green light from

the Government of Libya to bring it in, just a matter of getting them that information into a standard flight clearance request." And that standard flight clearance information would indicate to me he's indicating happens sometime mid-morning to noon on the 12th?

A Yes.

Q So that information would have been kind of the details needed to make sure that from an aviation perspective the flight wasn't going to cross other flights and technical --

A It's technical information for ~~the~~ aviation security -- I worked with the U.S. military a little bit on air lift for VIPs and others. And you file -- you file -- you have the clearance, if you have a blanket clearance you file a document that says this is your airplane, this is the call sign, this is the tail number, and you are going to cross certain highways in the sky at such and such a point at such and such an altitude, and you are going to land in such and such a land field at such and such a time. It is the technical. It is really air traffic control safety, if I might describe it as that. It's not -- you already have the clearance, you already have the clearance, you just have to intersperse yourself with the other flights that are going so that you don't run into someone else.

Q So it is just in lay and practical terms, it would indicate that permission has been granted, you give us the details as soon as we have them, and we will make sure that we clear everything from an air traffic perspective?

A Exactly, ma'am, yes.

[Kennedy Exhibit No. 6

Was marked for identification.]

BY MR. KENNY:

Q This will be exhibit 6. For the record, this is exhibit 6. It is a portion of the House Armed Services Committee's February 2014 report examining the attacks, included a few pages here the portion I will direct you to is at the top of page 22, the two paragraphs there, but I can give you a moment to --

A Yes.

Q So we will read this portion into the record, it reads, quote, "As far as the Marines are concerned according to General Dempsey, once one FAST platoon was on the way, it also stopped at a forward-basing location so the Marines could don civilian clothes. This was apparently done at the request of the Libyan Government conveyed by the Department of State, presumably warfighters changed out of uniform because of concerns at the arrival the combat-ready-troops might unduly alarm or inflame Libyan observers.

Although General Dempsey acknowledged to the Senate that this action delayed the platoons arrival in Libya, he said it was not enough to prevent it from getting to Benghazi before the attacks survivors departed. In sum, once we started moving forces, General Dempsey told the Senate nothing stopped us, nothing slowed us. However, at least in the case of the FAST platoon, there seems to have been some challenges in proceeding expeditiously." Closed quote.

The Armed Services Committee had investigated this particular

topic, it seems here that they acknowledge that there were some challenges proceeded expeditiously, but any delay that may have resulted did not prevent the FAST team from reaching Benghazi before the survivors departed. Do you have any evidence that would contradict the Armed Services report or General Dempsey's testimony in that regard?

A I know of nothing that would contradict General Dempsey.

Q We see here that there is a reference to a concern that the arrival of combat-ready troops could inflame the situation. Was there a worry or concern that inserting a small contingent of forces might actually make the situation worse?

A Obviously, it had the attacks in Benghazi. We had had the incidents in Cairo, and we certainly wished to take all the steps that were necessary to protect our personnel, but you wanted to make sure that the steps we were taking would enhance the security of our personnel, not potentially diminish the security of our personnel. Our personnel had been consolidated in Tripoli in one location, and all of them were there with the multiplied security forces of both the prime building and the Annex building. And I recall this discussion, generally speaking, and it was determined that the delay was not going to be significant and it was better to have the forces arrive in civilian clothes and then move expeditiously to the Tripoli Annex than to be spread out between the Tripoli Annex and the Tripoli main building.

Q And when you say it was determined that it would not significantly delay, who was making that decision?

A It was a collective decision made in Washington after consultations with the post, as I recall.

Q Okay. So that, what you expressed, reflected also the Department of Defense's view to the best of your understanding?

A Yes. I think you have General Dempsey saying nothing stopped us. Once we started moving nothing stopped us, nothing slowed us.

Q Okay. So nobody in the Defense Department expressed to you that deploying troops in uniforms -- try that again.

Nobody in the Defense Department expressed to you a concern that deploying troops in civilian attire would significantly delay them in a way that would compromise the safety and security of the Americans?

A Not -- no one said there would any kind of significant delay.

Q Ambassador, I'm now going to mark what will be Exhibit 7?

[Kennedy Exhibit No. 7

Was marked for identification.]

BY MR. KENNY:

Q In the interest of time, I believe we have enough time to move through this. It is a lengthy document. So I will give you an opportunity to review it. I will just identify it for purposes of the record. The top is an email from [REDACTED] to [REDACTED] and others dated September 13, 2012. The subject is just re: And the document ID is C05580110.

So I will just note at the beginning here, this is an email chain, a couple emails here. Your name doesn't appear in this email chain.

A [Nonverbal response.]

Q So I wanted to note that for the record. However, this does appear to be a subject line at the bottom of the first email that indicates "Writeup of U/S Kennedy Call with Hill Re: Libya." That email was sent September 12th, 2012, 7:55 p.m. It says "The call ended starting around 6:30 p.m. Here are the raw notes."

Do you recall this briefing?

A Yes, this was a telephone call I had with staff of committees of jurisdiction of the State Department, which is something that we do, either offer an in-person briefing or if we can do something initial, totally unclassified, we offer it to our committees of jurisdiction whenever something happens.

Q And that's certainly appreciated, sir. This occurred within 24 hours of the attack.

A Yes, yes.

Q You indicated in the last hour you weren't aware of any transcripts or Hill briefings that you initially gave were transcribed. I take it you have not reviewed this document?

A No, I'm talking about a different -- I was talking about a different briefing, an in-person briefing I gave to what were senior House of Representatives, and to other staff that had been organized by the Speaker's Office, that was an in-person briefing. I do recall this; I do recall seeing this shortly afterwards. When I got it, I realized that I had made two technical mistakes in here.

Q Okay.

A One was to say we'd gone to DEFCON 5, I had reversed the order, never use a DOD image if you can't pull it off. DEFCON 1 is crisis. The scale goes from 1 to 5, and I had simply had gotten it backwards, and there was another small error here about cameras. We were able to recover.

Q So I can understand, you had reviewed this shortly after?

A I had reviewed it in a couple of days after, the legislative person that works for me and does -- my legislative liaison with our congressional affairs office showed me this.

Q Okay. Just would like to note on the second page, again, this is within 24 hours of the attack, you noted what appears you noted halfway down the page, quote, "This is a fog of war less than 18 hours. This is initial report have not having been able to interview everyone yet." Closed quote. I think we talked a little bit about that, your information picture --

A Yes.

Q -- as of this time. I wanted to ask you about a few specific portions of this. You had indicated in the last round that this briefing, or maybe we are talking about two separate briefings, but in the last round, you'd indicated that the briefing you gave to the senior staffers provided the best information at the time. Were you referring to this briefing or were you referring to the senior staff briefing?

A The senior staff briefing.

Q Not this briefing?

A No, not this briefing. But every briefing I gave to anyone was always the briefing with the most current information because I would inform myself, my discussions with the State Department colleagues so when I came up to the Hill, I always had the information that was current as I got in a car to come up to the Hill.

Q If I could direct you to the top of page 3 where the SFRC?

A Yes.

Q The question appears "Would there be any reason to think this wasn't premeditated? How effect operations regionally? There is a hashmark, it reads "I'm not prepared to render formal opinion, except to say an attack of this nature. This is a semi-complex attack. This is personal opinion." Do you recall making that statement?

A Yes, sir, I do.

Q What were you basing your opinion on at that time?

A The fact that we had attacks on two separate U.S. Government compounds located some distance away, and that one was a massed human attack, and the other was a stand-off attack using semi-heavy weapons, RPGs and mortars on the second one, and a small bomb and then human wave attack at the first.

Q At the time you gave this, provided this briefing, did you have any information that confirmed that the attacks were premeditated?

A No. But because it was -- I did not have anything -- I rendered the opinion I had because it was -- because of the nature of attacking two separate buildings in two separate ways.

Q Did you mean to suggest when you used the phrase of the term

"semi complex," did you mean to suggest there had been a premeditated component to this attack?

A I wasn't -- I was not able to answer that question. Therefore, I gave the best answer I had, based upon the information that was available to me at that moment. And acknowledging that semi complex usually implies some degree of planning. You don't do something that is semi complex without planning.

Q Just to direct your attention to page 4, the third individual down, the question reads, "Was this an attack under the cover of protest?" And it reads, "No, this was a direct breaching of that."

A Right.

Q What was that statement based on?

A The statement -- it was based upon the fact that we had never gotten a call from the post saying that there was a protest ongoing before they came through the wall. It does not preclude there having been a protest, though, because the range of the cameras of the -- from our tactical operation center only went so far. So if the protest had been at a square a block away, we would not have caught this. I was just saying we didn't see a protest on our cameras, but our cameras are short-ranged; they don't cover the city. So that doesn't foreclose a protest, but it doesn't confirm one, because we didn't see it.

Q So which cameras were you referring to?

A I'm talking about the cameras that the security personnel had. We had installed, part of our security upgrades to the compound was that the officer in our TOC, T-O-C, tactical operations center had

radios, had communications gear, and had monitors for cameras that were pointed around the compound and on the fence line. So he had not reported there's a demonstration, and then there was the breach.

Q So you weren't viewing the footage personally?

A No. I was going back solely on what the call-ins had been, which is why I was being -- I prefaced the whole report, this is the fog of war, this is the initial information we have.

Q And the call-ins were from the DS agents in Benghazi?

A The DS agents in Benghazi.

Q While they were in Benghazi?

A While they were in Benghazi.

Q Some of the intelligence products around this period of time sort of portions of it has been classified, they have been studied in Permanent Select Committee on Intelligence's report that they issued on November 2014. A few of those reports suggested or indicated that there was a protest that occurred. Does that refresh your recollection about whether you had access to indicating there was a protest outside the Benghazi facility before the attack?

A There at this moment, at this moment, I did not know whether there was a protest or whether there wasn't. I'm just saying that it had not been reported that there was a protest.

Q So you are taking the absence of a report to suggest that there wasn't --

A I'm saying I can't say yes or no because all I have is one fact, that is, what the officer in the tactical operations center had

not reported seeing such, that's all I'm confirming or not confirming.

Q So it is the absence of the fact, not the fact itself. The absence of a report --

A Yes.

Q -- from which you inferred there was no protest?

A I said we saw no -- I said no protest was reported on the basis that we did not have a report.

BY MS. SAWYER:

Q Just a couple more questions on this, and we are almost done with our time. So that -- these notes I don't think we -- maybe we did, may or may not have. Would these notes have been taken by somebody who was there with you and just kind of recording kind of the back and forth, because it looks to me that it says "Rob Carter dash," I assume that that means a staffer asked that question, Was this an attack under the cover of a protest?

A This was a telephone call and when we do these briefings, our standard procedure is I sit in my conference room in front of the speaker phone, a member of our Bureau of Legislative Affairs, in effect, chairs the call, announces it and then asks everyone to identify themselves who is on the call; and then as they ask the question, we ask them to identify themselves again since I can't see them. And then these are shorthand -- these are just quickly scribbled notes, we did not have a court stenographer, we have never done it for these kind of things. We did not make a tape recording to be transcribed. These were just the handwritten notes of an officer from our Bureau of

Legislative Affairs who is sitting in the room with me listening to my statement, and listening to the statement -- listening to the questions and answers as they come from the other end of the line.

Q So in those notes, it doesn't indicate -- you explained to us, I think, what you believe was the basis of your answer there --

A Was.

Q -- was that there weren't reports of a protest from the DS agents on the ground --

A That is correct.

Q -- who they, themselves, would have had access to the cameras?

A Yes.

Q Or presumably might have heard or otherwise seen a protest and reported it, even if they didn't see it on camera?

A Correct. If the protest had literally been right at the front gate, because the cameras, the cameras and the angle of the cameras would not report a protest that had taken place a block away followed by a march on the compound, but they did not report in that there was once again -- I'm not saying that there was or there wasn't, I'm saying that there was no report by the individuals who had a short horizon effect.

[3:33 p.m.]

BY MS. SAWYER:

Q And so given that this, within 18 hours and with your caveat that it was fog of war, this was your initial impression when asked was this under cover of protest.

A Yes.

Q But your initial impression was that there was no protest that there had been the cover of. Is that accurate?

A My initial impression was there was no protest because I -- because no one told me there was.

Q And then when -- at some point in time it was reported --

A Yes.

Q -- and it was widely reported by the administration that there had been a protest.

A There were other reports that we received that said that there were protests. And so one person sitting at a camera versus both the reports that there were a protest.

Q And so was that surprising to you, that the official position of the U.S. Government for some period of time was that there was a protest that preceded the attacks?

A No, not on the basis that I was informed that there were multiple sources for the story that there was a protest.

Q And in terms of kind of -- because some might ask, given that your initial impression was there was no protest, the U.S. Government and the intelligence community, the interagency concluded

differently for a period of time, did you take any steps to question that assessment?

A No. This was coming to us from the intelligence community, who I respect their -- the quality, and I usually don't challenge the accuracy of their reporting, because I assume that they are vetting their reports.

I had a single thread with a limited horizon. They were reporting that there were -- they had multiple reports. And so I then accepted the intelligence community's statement that there were protests.

Q And earlier, in an earlier round, you had indicated with regard to Ambassador Rice, because on the Sunday talk shows --

A Yes.

Q -- she did say, and we've now spoken -- strike that portion. You indicated with regard to Ambassador Rice that any -- the administration official, you were given a quote, looking at the intelligence that you were looking at when you clarified it to us --

A Yes.

Q -- would have said in essence what the Ambassador said, which certainly was that with regard to Benghazi and the attacks in Benghazi --

A Yes.

Q -- that it had spontaneously evolved from demonstrations?

A Yes.

Q So is that an indication that with regard to the intelligence you were being briefed on between September 13th, 2012,

when you provided this briefing, and certainly September 16th, when Ambassador Rice appeared on the shows, that what she said was consistent with the contemporaneous intelligence you had been reading?

A She was -- yes. The information was provided to me after my briefing on the 12th.

Q And so this --

A And before -- and before her testimony on the 16th -- testimony -- excuse me -- before her appearance on the television shows.

Q Okay. So my apologies. I had said that briefing was on the 13th. You're right, that initial email's on the 12th. So your briefing was on the 12th.

A Right.

Q And that in fact had it been you on the Sunday talk shows, would you have on those Sunday talk shows on September 16th, if asked was there a protest preceding the attacks --

A I would have --

Q -- what would have been your answer?

A I would have been -- said yes, because I had been provided assurances by the intelligence community that there had been protests.

Q And this notion that information -- I think you clarified when my colleague was asking, you said any time you brief it is your goal to provide to the best of your ability the information that the U.S. Government has at the time kind of accurately and completely. Is the fact that that evolved and changed an indication in any way that

there was an effort to make it change to fit a particular political narrative?

A No, not that I'm aware of. I saw -- I heard nothing, I saw nothing of anyone suggested this was -- this was a ~~twisting~~^{torqueing} of the facts.

Q And the fact that -- the reality that information evolved over time, that additional facts come in and that assessments sometimes change, that reality, was that unique to the attacks in Benghazi?

A No. Unfortunately, I have given briefings to the -- on the next day to Hill -- to Hill representatives, and, you know, we end up giving more comprehensive briefings a day, a week, or a month later as more facts come to bear. But these were -- this was the facts that I had on that day, and later in the week I had a different set of -- and expanded facts, multithread, as it was represented to me, rather than single thread. And so I accepted the multithread from the intelligence community.

Q And even if components of what you knew on Friday or Sunday then also later evolved, the fact that it was, as you understood it on that Friday and that Sunday, that was not false information at the time, it was just as the U.S. Government understood the information at the time. Is that accurate?

A That is correct. This was -- this was later information that had been assembled because the intelligence community reaches out, and then they get information, they assemble it, and then they publish it. And so they were still collecting information on that date.

Ms. Sawyer. Okay. Well, thank you. I think we are a little bit over time. So I'm going to go off the record.

[Discussion off the record.]

Mr. Pompeo. So I'm going to jump around just a little bit. I hope you'll bear with me for that.

So sort of a top-level question. In the Senate report, Dianne Feinstein said this incident was preventable. Do you agree or disagree with that statement?

Mr. Kennedy. It was -- it was preventable, but we did not have the information as -- because as the Director of National Intelligence said, there was no actionable intelligence. We acted on the basis of the intelligence and other information that was available as we fitted out that compound.

Mr. Pompeo. Right. That's not what she said. I'm trying to get -- I'm trying to get -- she said -- she said it was preventable. There were no caveats. And my question to you, so granted you say you didn't have certain sets of information, wasn't available, and your judgement, all of that, was it preventable?

Mr. Kennedy. Sir --

Mr. Pompeo. Or do you think her report was wrong? I mean, those are -- there's only two options.

Mr. Kennedy. Any -- anything is preventable.

Mr. Pompeo. That's not -- okay. I'm just looking for a yes or no. It's not true that anything is preventable. Some things are preventable and others aren't, and she concluded this one was. And

so I just wanted the person who was responsible for diplomatic security at the facility to tell me whether he thought it was preventable.

Mr. Kennedy. With additional information, we would have known -- we would have known more, we would have executed a different security program, because the risks would have been pegged at a higher level.

Mr. Pompeo. Fair enough. I will take that as a no. Given the information you had, you do not believe it was preventable.

Why were the U.S. personnel under the chief of mission authority in Benghazi working in separate facilities, right? They had multiple facilities there in 2011 and 2012.

No, no, no. This is -- this is separate buildings inside.

Ms. Jackson. Within the compound?

Mr. Pompeo. Yeah, within the compound.

Mr. Kennedy. Within the one compound?

Mr. Pompeo. Yeah, there were multiple buildings there.

Mr. Kennedy. Because -- because that was the best facility we could find. Because the major threat that we had been seeing in the Middle East in recent years were car bombs, large VBIEDs. And so we went looking for a facility, because there had been a car bomb in the parking lot of the hotel. And so what we did was we looked for a facility which had what we call setback, Congressman, which is the distance between the street, the wall, and our buildings, because the blast will dissipate with distance.

Mr. Pompeo. Got it. And who made the decision to select that

site?

Mr. Kennedy. It was a survey done by Diplomatic Security. And I believe there may have been, but I cannot specifically recall, someone from the Office of Overseas Buildings. But a survey was conducted in the city of Benghazi looking for the safest possible ^{site} so that our upgrades would start at a higher base.

Mr. Pompeo. Fair enough. And I understand also in Tripoli there were multiple buildings as well. Is that correct?

Mr. Kennedy. There were multiple buildings on our compound, and there were two compounds in Tripoli as well. It was two compounds in Benghazi.

Mr. Pompeo. Who approved the waivers for Benghazi and Tripoli of the Secure Embassy Construction Counterterrorism Acts which require the chief of mission personnel to work from a single facility?

Mr. Kennedy. The SECCA act, Congressman, only applies to newly constructed buildings that we build. It does not -- it does not apply to the agglomeration that we put together here. We used the separate Overseas Security Policy Board standards which are de facto parallels for others.

Ms. Betz. But just to clarify, has OSPB incorporated aspects of SECCA into its standards?

Mr. Kennedy. There are -- my recollection is there are 18 separate OSPB standards, including setback, walls, distances, hardening, safe rooms. So there are -- there are parallels. It is simply not possible, Congressman, when you go into a city --

Mr. Pompeo. Oh, I understand that.

Mr. Kennedy. -- to find a building that is to all the standards we would wish. The standards we obtain when we build a building with finding land, assembling the funding, doing the designs, et cetera, it takes 4 or 5 years. And when you have to go into a building immediately, you don't have 4 or 5 years, sir.

Mr. Pompeo. That's why you have waivers. Exactly. I understand exactly. That's why you have a waiver process that says: Here we are, we don't have 5 years to wait. That's why there a waiver process under SECCA.

But you're telling me that SECCA applies only to new construction. So it is the case that the State Department could, if it so chose, go to existing facilities all around the world and never have to comply with SECCA?

Mr. Kennedy. That is correct.

Mr. Pompeo. All right.

Mr. Kennedy. That is -- it is certainly not our goal nor our policy. When you are faced with a national security requirement to be in a country immediately, I can't wait 5 years while I assemble the funds, the land, and build a new building. It's simply not possible.

Mr. Pompeo. And are there waiver requirements for the other set of rules? Or is it just ollie ollie oxen free and you can --

Mr. Kennedy. No.

Mr. Pompeo. -- you can -- any person can make any decision --

Mr. Kennedy. No.

Mr. Pompeo. So SECCA has a very rigid set of rules. It says the Secretary of State shall sign. You're telling me there's another set of rules for preexisting facilities when there's a national security requirement to do that. Tell me who is able to approve that.

Mr. Kennedy. The assistant secretary for diplomatic security approves them for what we call interim facilities, facilities that we are occupying or will occupy for a committed long period of time until such time as funding is obtained to construct under the SECCA regime.

Mr. Pompeo. Was your Benghazi compound classified as a residential facility?

Mr. Kennedy. No, sir. It was classified as a temporary facility.

Mr. Pompeo. And what regs apply? Where are the regs that create that creature?

Mr. Kennedy. It is just our practice, sir --

Mr. Pompeo. Some made-up name?

Mr. Kennedy. We have temporary, we have interim, and we have a permanent. And there are three -- we divide the world into three categories because that is the world we live in.

Mr. Pompeo. So the State Department is free to declare a facility temporary and in the national security interest, and essentially have someone in a very low level approve the security situation. No need for the Secretary or yourself to get involved in the security decisionmaking.

Mr. Kennedy. The assistant secretary for diplomatic security

can sign waivers.

But can I add one thing?

Mr. Pompeo. Of course.

Mr. Kennedy. When we go into one of these temporary facilities, we take the Overseas Security Policy Board standards -- OSPB is how we refer to them -- we take the OSPB standards as our goals. We look at the distance. We then add height to the walls. We add barbed wire. We add lights. We add alarms. We add safe rooms. We do all these things. We treat the temporary facilities as if we were heading towards interim by using the OSPB standards as our goal.

But given time constraints, as I mentioned to you earlier, sir, we can't -- we can't move in tomorrow if we have to. We then add this, we meet this. And I believe that about half of the OSPB standards had already been met. And we were in fact installing a generator there to give us power for the cameras and the alarms should city power have ever failed us.

Mr. Pompeo. Okay.

Ms. Betz. So just to be clear, though, when you talk about the security specialist going in in 2011, it's fair to say that they only looked at Villa A?

Mr. Kennedy. No, they looked at the compound.

Ms. Betz. Well, the compound wasn't the compound at the time that he was there.

Mr. Kennedy. Well, they looked -- my recollection, subject to correction, is that they looked at all the buildings on the compound,

and that later, when the number of people to be assigned to Benghazi was reduced, we jettisoned one of the buildings, and I can't remember whether it was A or D. But we reduced the number of villas we were using by one.

Ms. Betz. Well, from what the documents that have been produced to us, the security specialist was there in June and July, which is at the time that Villa A was becoming the compound, and that the leases weren't signed until August. That the waiver -- the documents show that the waiver or any discussion about the compound was Villa A only. So B and C, which you ultimately resided in or extended, were the two villas that were not assessed by the assessment, by the physical security individual.

Mr. Evers. Is there a question?

Ms. Betz. Well, I guess I want to clarify what the documents that have been produced to us show versus what the witness --

Mr. Evers. I only interject because that's a lot of documents, a lot of prior testimony. I'm not sure --

Ms. Betz. Okay, we can move on. Okay.

Mr. Pompeo. I want to -- I think -- did they call votes? Do you know?

This is a long series. I'll get started.

So I want to talk to you about the documents produced by State Department to this committee. How did State Department search for the 15,000 pages of new emails provided to the committee in August of 2015? Can you give a summary?

Mr. Kennedy. I'm --

Mr. Pompeo. I'm sorry. I'll try it again.

How did the State Department search for the 15,000 pages of new emails that it's not previously provided to Congress, not previously provided to the committee either, in August of 2015?

Mr. Kennedy. The records office of the Department does work for me, but I would have to go back and research that because I am not the operational element of that office. And so I presume they conducted whatever searches they deemed appropriate.

Mr. Pompeo. So you don't know what search methods were used.

Mr. Kennedy. There are multiple search methods.

Mr. Pompeo. But you don't know what any of those multiple methods are.

Mr. Kennedy. I can describe the multiple methods, but I cannot say -- because I'm not sure were these 15,000 documents transcripts, were they emails, were they -- because we have different means of archiving emails versus what we call hard copy paper documents.

Mr. Pompeo. Right.

Mr. Kennedy. Those are the two principal kinds of documents we have. And, therefore, we would have searched through our paper archives and we would search through our electronic archives. And, in fact, the paper archives are actually then scanned into a system which is searchable.

Mr. Pompeo. In August of 2014, the committee received a production which contained just a handful, just a few emails, from a

personal email address belonging to Secretary Clinton. Do you know when and how the Department first saw this personal email address and what steps it took as a result of learning of this personal email address?

Mr. Kennedy. When we discovered that there was a personal email address, we then reached out to obtain additional information.

Mr. Pompeo. So do you know when that was?

Mr. Kennedy. I would have to -- I don't have that date in my --

Mr. Pompeo. When did you first learn of it?

Mr. Kennedy. I think I first learned of it in the newspaper, I think.

Mr. Pompeo. And do you have any idea what year that was?

Mr. Kennedy. Probably '14.

Mr. Pompeo. Okay. And then what steps, when you learned of it -- I guess I'll ask for you, and then I'll ask if you know what the Department did -- what steps did you take when you learned about that personal email address?

Mr. Kennedy. I know at one point, and I'm trying to recall the sequence, I know we were in contact with the Secretary to ask for any State Department emails that she may have in her possession. And we subsequently received -- received emails. And I'd have to refresh my --

Mr. Pompeo. Yes, you did.

Mr. Kennedy. I would have to refresh my mind on the timing sequence. But I know we've been working through those since we --

Mr. Pompeo. So you can't tell me with a timeline at all other than to say at one point I learned about it and then later we got some stuff.

Mr. Kennedy. I would be hesitant to pick a specific date for something --

Mr. Pompeo. Because it's important.

Mr. Kennedy. It happened almost a year and a half ago.

Mr. Pompeo. Yes, I know. And the reason we're here this late is because these documents have just come to us. So I appreciate the distance in time, but if we're going to attribute responsibility for that timing, I think it's very important that the record reflect that we've been waiting on these very documents for an awfully long time, and you're today and not at a time your recollection might have been more contemporaneous with these issues.

Do you know if there was any consultation with or approval by the State Department with respect to the decision by Secretary Clinton to exclusively use a personal email account on her private server?

Mr. Kennedy. I am not aware of any approval given by any official of the State Department.

Mr. Pompeo. Have you asked others if they provided approval -- I'll break this up. You didn't provide the approval.

Mr. Kennedy. Correct.

Mr. Pompeo. Have you asked other if they provided the approval?

Mr. Kennedy. The inspector general is conducting such a review at this moment, sir.

Mr. Pompeo. I understand. I'm asking you, are you aware of whether anyone else provided approval for this?

Mr. Kennedy. Personally, I am not aware of anyone else. But the inspector general is carrying on --

Mr. Pompeo. Yes, sir.

Mr. Kennedy. -- investigation right now.

Mr. Pompeo. Did any -- did you or any other State Department official, to the best of your knowledge, provide advice to Secretary Clinton either with respect to the propriety or advisability of establishing a private email account?

Mr. Kennedy. I am not aware of anyone who did. And that is also a subject the inspector general is reviewing now.

Mr. Pompeo. What actions have you taken in response to your knowledge that the Secretary of State did not have an official government account?

Mr. Kennedy. We now have -- we now have received the emails that she turned over to us. They're in the process of being reviewed. And we hope to process the last tranche under a Freedom of Information request by the end of this month.

Mr. Pompeo. What other actions?

Mr. Kennedy. We have --

Mr. Pompeo. Are there policy changes that have been -- I'm looking sort of prospectively now.

Mr. Kennedy. Oh, prospectively.

Mr. Pompeo. But I guess it's not prospective with respect to your

actions. They would have taken place in the past.

Mr. Kennedy. Right.

Mr. Pompeo. But as you're looking forward --

Mr. Kennedy. We have gone out and reminded all State Department employees of this requirement. We have adopted a process that has subsequently been recommended by the National Archives and Records Service. And it's called journaling.

And so we have identified all the senior officials of the State Department -- i.e., the Presidential-appointed individuals plus their equivalents who are secretarial appointees -- and all those emails are now being automatically journalled and recorded by our central servers.

Chairman Gowdy. Mr. Ambassador, how would FOIA requests have been processed before the emails were returned to the State Department, FOIA requests that her emails would have been specifically responsive to?

Mr. Kennedy. Mr. Chairman, when an email request comes in, there is a central office that receives the email request. They look at the email request. They look at the subject matter. They then --

Ms. Jackson. Are you talking FOIA requests?

Mr. Kennedy. FOIA requests. Yes.

Ms. Jackson. Okay. You said email requests.

Mr. Kennedy. FOIA requests. Excuse me.

Chairman Gowdy. I know what you meant.

Mr. Kennedy. Thank you. They then -- the office then determines which offices within the State Department might be in

possession of information relative to the requests. A tasking goes out to those offices requesting they search their files. Those -- that information then comes back from those offices. And then teams within the Freedom of Information Act office process those documents for release or retention, in whole or in part, based upon the statute -- the statute and the regulations set forth to -- that govern the FOIA process.

Chairman Gowdy. Are you aware of any requests, related to our committee or otherwise -- related to Libya or otherwise, not our committee -- that would have included requests for her emails prior to them being returned to the State Department by her?

Mr. Kennedy. I don't follow the details of every FOIA request, Mr. Chairman. I do know that we process them, we process them as they come in, and we task out to the offices that might be holding that information, receive the information back, and then, either in response to a congressional request or in response to a FOIA request, these are handled by the same office but under two separate rubrics, so to speak, in order to be responsive.

Chairman Gowdy. I guess what has folks vexed is how you would do that search and not a single solitary email would pop up, or certainly not many. At what point would you be alerted that we're missing something?

Mr. Kennedy. I will admit, sir, no one ever alerted me that they were not seeing lots of emails. That may not have surprised people, though, because -- and we have confirmed this -- neither Secretary

Rice, who is Secretary Clinton's immediate predecessor, or Secretary Albright never used -- never used -- never used emails at all. And, therefore, emails of the Secretary of State were not a commonly produced item by most previous Secretaries of State.

Chairman Gowdy. But if I understand your testimony correctly, they didn't use email at all.

Mr. Kennedy. That's right.

Chairman Gowdy. There were people at the State Department who knew full well that she was using email, she just wasn't using state.gov email.

Mr. Kennedy. I do not think, Mr. Chairman, that that was a commonly known fact.

Chairman Gowdy. You mentioned congressional inquiries. There was a letter written by a past Oversight chairman that specifically asked whether or not principals, and may have even named the Secretary of State by name, was using personal email. Who would a congressional inquiry go to? Who would be responsible for answering that direct question?

Mr. Kennedy. Congressional inquiries, Mr. Chairman, go to the Bureau of Legislative Affairs, who then consults with the other elements of the Department. And since I'm not aware of this letter, I can't do anything more than describe the first step in, so to speak, sir.

Chairman Gowdy. All right.

Mr. Pompeo. Is it the State Department's position that

provisions of the Foreign Affairs Manual are applicable to the Secretary of State in the same manner as other Department employees?

Mr. Kennedy. Yes.

Mr. Pompeo. I guess I asked it in the present tense. Has it been all along, to the best of your knowledge? That hasn't changed?

Mr. Kennedy. Well, that -- if you're asking a legal question --

Mr. Pompeo. No, I'm asking for your understanding. You're a senior person. I'm asking for your understanding. There's a Foreign Affairs Manual, it applies to all employees. Would that include the Secretary?

Mr. Kennedy. The Secretary of State is an employee of the State Department.

Mr. Pompeo. Did you email Secretary Clinton?

Mr. Kennedy. As part of this process, I did -- I received over the course of 4 years, I think -- I think that we discovered there were 44 emails I got. Almost all of them were after hours or on the weekend. Most of them, by my recollection, were she was at some kind of social event or other thing and someone asked her a question about the State Department. And most of them she'd say: I've been asked this consular question. Who can I refer this person to?

And so they were not record emails in the sense that they were not making major decisions of the State Department. They were, in effect, informational requests. And I get informational requests like that from friends and colleagues. So I just assumed that she was emailing me from her personal BlackBerry, iPad, or whatever, and I was

answering a request that said: Yes, so and so should contact so and so.

There were a few -- there were a few of them that did come at other times. And I know one of them came when, I remember specifically, she was riding in a car. And so she sent me an email asking me about a timing of a certain event that was to take place.

Mr. Pompeo. But you wouldn't have gotten those from Secretary Rice or Albright because they didn't email.

Mr. Kennedy. They didn't email at all.

Mr. Pompeo. So this was different. And you knew it was different. You knew that Secretary Clinton was a user of email.

Mr. Kennedy. I knew that she was a user. She had a personal email account.

Mr. Pompeo. On which she was conducting State Department informational inquiries.

Mr. Kennedy. It was information about --

Mr. Pompeo. She was calling another State Department official. I mean let's not be too clever by half. I mean, she was -- it was State Department business. She was the Secretary of State. You worked for her. She was looking for information to answer a question in her capacity as Secretary of State. She wasn't asking you what was for dinner. She was asking you about State Department business, sir. Is that not right?

Mr. Kennedy. I am not -- I'm not trying to be too clever by half. I'm just saying that when I saw these type of queries I did -- nothing

in my mind rang a bell that this is a record email of the kind that should be recorded in the State Department archives because I then -- I had them in my archives. So they were recorded in the State Department archives. And I put her in touch with -- or the person who was making the inquiry -- with another State Department officer who was acting on consular matters, is a good example.

So they had been -- they were now in the State Department archives because I had them, and I regarded them as in the nature of query, personal, temporary, not permanent.

Mr. Pompeo. Well, I'm a little confused. First you said you didn't consider them State Department business. Now you said: But I knew they were in State Department archives so it was okay.

Mr. Kennedy. No, I just said I knew I had them. If anyone ever needed them, I had them.

Mr. Pompeo. Did they call votes? Is that what that --

Chairman Gowdy. Well, the light's not blinking, but the buzzer went off.

[Discussion off the record.]

Mr. Pompeo. I apologize for that.

Mr. Kennedy. No problem, sir. I'm prepared to stay here as long as you wish.

Mr. Pompeo. Well, thank you very much.

You all are welcome to continue.

Chairman Gowdy. Why don't we vote and then you all do what you can in our absence to not hold him to what he just said, stay here as

long as -- and then we'll come back. I've adjusted some things this evening, because if you're going to be here --

Ms. Jackson. I'm sorry. We can be off the record.

[Recess.]

Ms. Jackson. Let's go back on the record.

BY MS. JACKSON:

Q Mr. Kennedy, are you known as what is a senior agency official for the State Department for purposes of the National Archives?

A Yes.

Q Okay. And what are your duties and responsibilities as a senior agency official?

A To ensure that there is coordination among various elements of the State Department adhering with records standards.

Q And so are you the person that's over the records management for the State Department?

A I am over the officer who is over the records management. The person who is the director of agency records, so to speak, is a deputy assistant secretary of state within the Bureau of Administration. And that individual reports to the assistant secretary of state for administration, who reports to me.

Q Okay. Do you recall putting out a notice in October of 2014 regarding the responsibilities of Department employees with respect to records maintenance?

A I have a general recollection of that, yes.

Q Okay. Do you recall stating in that message that went out that, and I quote from that, is, "As a condition of our employment with the USG, employees at every level have both a legal responsibility and a business obligation to ensure that the documentation of their official duties is captured, preserved, managed, protected and accessible in official government systems. This includes email."

A I assume you're reading that correctly to me from the document. I don't have it in front of me. But I will accept -- I will accept that you're reading it correctly.

Q Let's just go ahead and mark it as exhibit 8 and have you identify it.

[Kennedy Exhibit No. 8

Was marked for identification.]

BY MS. JACKSON:

Q I hand you what's now been marked as exhibit 8, which is entitled a "United States Department of State Department Notice. Office of Origin: M. Date of Announcement: October 17, 2014," and entitled, "A Message from Under Secretary for Management Patrick F. Kennedy regarding State Department Records Responsibilities and Policy." And I'll give you a minute or two to take a look at that.

A Thank you.

Q Okay. So is this a Department notice that you issued in October of 2014?

A Yes, it is.

Q Okay. And is the part that I read into the record just a

few minutes ago the part that is in bold and underlined in the middle of the first page?

A Yes, it is.

Q Okay. And I would like to then turn to the back page of this document, at the end of the first full paragraph, where it says, about halfway through, "Departing employees are also reminded that they may take with them only personal papers and non-record materials, subject to review by records officers to ensure compliance with federal records laws and regulations. All federal records generated by employees, including senior officials, belong to the Department of State." And, again, is that part of the guidance?

A That is part of the Department notice, yes.

Q Okay. And is that true? Are both of those parts true?

A They are true.

Q Okay. Were they true in -- for all of 2014?

A I would have to check, but I believe so.

Q What about 2013?

A You're asking me to go back on and construct when guidance from the National Archives may or may not have changed. I have -- and that is something that I would have to consult with the records management staff to see if the National Archives requirements had changed at any point. But I -- this does appear to be something that does go back at least several years, but I cannot confirm that.

Q In the time that you've been with the State Department, have departing officials ever been allowed to take with them the official

records of the State Department?

A The official records -- the official records of the State Department? No.

Q Okay. Because the official records of the State Department belong to the State Department?

A The official records of the State Department belong to the State Department.

Q And in your 43 years of being with the State Department, has that always been true?

A The definition of what is an official record is a very, very complex matter that does not --

Q That's not my question to you, Mr. Kennedy.

My question is State Department -- no departing official has ever been allowed to remove official records from the State Department in your 43 years.

A That is a different question than you just asked. But the answer is that is, no, you cannot take official records with you.

Q Okay. Then why did Secretary Clinton take official records with her?

A You will have to ask Secretary Clinton that question.

Q Were you aware of it at the time she did?

A No.

Q Okay. Are there procedures -- when she left office, were there procedures in place that governed the review of her records before she left?

A Yes.

Q Okay. And was she under a legal obligation to leave the official records with the State Department?

A I am not a lawyer and therefore I'm not going to answer legal questions.

Q According to State Department policy, was she required to leave official records with the State Department when she left?

A She is required to leave official records with the State Department.

Q And she's not allowed to take them with her.

A She's not allowed to take official records with her.

Q And she's not allowed to retain those official records when she leaves office.

A She is not allowed to take official records with her.

Q And that includes emails if they're an official record.

A If the emails are an official record, yes.

Q Okay. Back to the front page, you write in this notice that "employees at every level have both a legal responsibility and a business obligation to ensure that the documentation of their official duties is captured, preserved, managed, protected and accessible in official government systems." Was that true in 2011 and 2012?

A I believe so.

Q Okay. And what was the legal responsibility that you reference here?

A I'm sorry. I'm not following.

Q You say that "employees at every level have both a legal responsibility and a business obligation." I'm asking you what you mean by legal obligation in this notice that you authored.

A I did not say I authored it. I said I issued it.

Q You issued it. You issued it.

A This was authored by professionals who work in one of my divisions and therefore I'm going to stand by what they say.

Q Okay. You believe this to be true?

A Yes.

Q Okay. Are you aware of the Foreign Affairs Manual provision governing email communications?

A I'm generally aware of it, but I could not ask a -- answer a specific question without being provided a copy of it.

Q Okay. Do you recall that in approximately 1995 the principles governing email communications was promulgated within the Foreign Affairs Manual and required Department employees to ensure that their emails were properly stored and preserved?

A I can't say that I am aware of the specifics of something that was issued 21 years ago.

Q Are you familiar with the general provision in the Foreign Affairs Manual that email communications, if they include official business, must be stored and preserved?

A Official records must be stored and preserved, yes.

Q And that has been the requirement the entire time that you've been with the State Department?

A Official records must be retained, yes.

Q Okay. And what are some of the reasons why they have to be retained? Why do the official records have to stay with the State Department?

Mr. Snyder. If you know.

Mr. Kennedy. I assume because it is -- it records the activities of the State Department.

BY MS. JACKSON:

Q So for just the record of the proceedings, is that correct, records of the proceedings of the State Department?

A Records -- that is a term of art that I'm not sure that I find familiar. But obviously I am acknowledging that the retaining the official records of the State Department are important in order to follow the conduct of foreign relations of the United States, which is why we publish, for example, the Foreign Relations Series of the United States.

Q Are you familiar with the Foreign Affairs Handbook at 5 FAH-4 H200 that requires that departing officials must ensure that all record material they possess is incorporated in the Department's official files?

A I know that we have guidance for our records officers and the Foreign Affairs Handbook is that which provides guidance to our records officers. But I can't say that I have memorized the entire content of 5 FAH.

Q Okay. What about the general concept that departing

officials must ensure that all record material they possess is incorporated in the Department's official files?

A I accept that as the same -- for the same line that we've been going over, yes.

Q Okay. And one of the reasons given for that is because that those records are required to respond to FOIA, congressional, or litigation-related document requests.

A If that is the reason given, that is the reason given.

Q Okay. Is that also a reason why the State Department needs to keep its official records, so that they are available for FOIA, congressional, or litigation-related requests?

A That is why we have official records.

Q Did Secretary Clinton do this when she departed?

A You will have to ask Secretary Clinton that question.

Q You don't know that she retained official records when she departed that were not in the possession of the State Department?

A That material is being -- is currently the subject of an inspector general review. She did pass back to us 53,000 pages of emails, and those are being reviewed now, yes.

BY MR. KIKO:

Q Can you tell me what the process is for a departing employee with some detail? What's the exit -- what's the policy for an employee of the State Department on when they -- when you know that they're exiting? What process do they have to --

A On retirement?

Q Or leaving. Not necessarily retirement, but just -- just leaving. Somebody changes jobs. What do they have -- what's your process, especially let's say it's -- or if they leave the government, change jobs, leave the government, should be the same.

A We're going here -- I can give you that in generalities --

Q That's fine. I appreciate that.

A Then the records are -- each bureau or office has records officers who follow the guidance and then advise those individuals on what steps may be taken to preserve official records.

Q Is there a records officer in the Office of the Secretary?

A Yes.

Ms. Jackson. Who was that person when Secretary Clinton was there?

Mr. Kennedy. I'm afraid I do not know.

Ms. Jackson. Who did that person report to?

Mr. Kennedy. It probably would report to the executive secretary of the State Department.

Ms. Jackson. And who was the executive secretary of the State Department when Secretary Clinton left?

Mr. Kennedy. That would have been January of --

Mr. Snyder. 2013.

Mr. Kennedy. 2013.

Mr. Kiko. You can get back with us on that.

Mr. Kennedy. It's either one of two individuals because they changed -- they changed very close to each other.

Ms. Jackson. And those two names are Stephen Mull and who?

Mr. Kennedy. Stephen Mull or John Bass.

Ms. Jackson. B-a --

Mr. Kennedy. -- s-s.

Ms. Jackson. -- s-s. Okay.

Mr. Kiko. We can move on. We're fine.

BY MS. JACKSON:

Q You said that you couldn't -- or that it was the subject of an inspector general report that -- whether Secretary Clinton followed the procedures for parting officials. Let me just go back and ask you to restate your answer to that.

A I said there is an -- Secretary Kerry, in addition to appointing a transparency coordinator, also asked the inspector general to review the entire matter of both records management and ancillary issues, and that investigation is ongoing.

Q And is it your position that that investigation prevents you from providing answers to this congressional committee?

A No, I did not say that.

Q Okay. Is that your position?

A I did not say that.

Q Okay. Is it your position that an ongoing inspector general investigation would prevent you answering questions of this congressional committee?

A If I knew the answers, I will answer them. But if the answers are going to be derived from the inspector general's review,

I do not have those answers now and therefore cannot answer them.

Q When Secretary Clinton left office, did she retain in her possession official records of the State Department that the State Department did not possess?

A It appears that there were materials in the 53,000 that we did not have copies of.

Q Okay. And was she required when she left to leave those documents in the possession of the State Department?

A If they were official records for which we did not have copies.

Q And are you treating them as official records of the State Department?

A I'm not trying to be clever, but you're asking me some very, very technical questions which the inspector general is reviewing -- is reviewing the material. And so official records must be maintained. On the other hand, at times, if there is a copy in the State Department's archives, something can be a duplicate copy and therefore it is not an official record as long as there is a copy. A duplicate copy of the same material is a duplicate copy.

Q And that's generally understood to mean a duplicate copy within that particular person's file, not in someone else's file. Is that your understanding?

A You're going beyond my operating technical competence.

Q But you're the senior agency official. You are the designated person who is supposed to understand and implement the

records management system for the State Department.

A I have a large number of highly professional and trained staff, including a records officer at the Department who is steeped in this and who is the professional.

Q And who is the records person that you're referring to?

A It is either -- it's either [REDACTED] -- there's both [REDACTED] and [REDACTED].

Q Okay.

Mr. Evers. You mean [REDACTED]?

Mr. Kennedy. [REDACTED]

Ms. Betz. Who testified.

Mr. Evers. Who did speak before the committee.

Ms. Betz. Yes.

BY MS. JACKSON:

Q The State Department is involved in reviewing the 55,000 pages of emails that Secretary Clinton returned to the State Department and is reviewing them and posting them on your FOIA-Web site. Is that correct?

A That is correct.

Q Okay. So the State Department's treating those as if they are official records, the ones that are being posted?

A We are reviewing -- we have reviewed them, and to identify those which are official records. And those which are identified as official records are processed and treated under FOIA.

Q Okay. And that is the large percentage of the records that

were returned by Secretary Clinton to the State Department?

A That is correct.

Q Do you have a percentage of the records that have been found and determined to be official records of the ones she returned?

A Round number, 95 percent.

Q Ninety-five percent of -- I believe it's about 30,000 emails of 55,000 pages. Is that a correct number that was returned?

A I think it's closer to 53,000 pages, but --

Q But it was approximately 30,000-some emails?

A I believe that's, to the best of my recollection, that's the number.

Q Okay. And of that, you're telling us that 95 percent of those records, those email records that have been returned, have been determined to be official records of the State Department?

A They have been -- yes, they have been processed under FOIA as such.

Q Okay.

A May I ask a question? May I ask what this has to do with the purpose to which I was invited here today, which is to discuss Benghazi?

Q The completeness of the record of the materials that have been provided to this committee and the delay in which this committee has received records is highly relevant to our investigation.

Mr. Snyder. I would just point out, you know, while --

Ms. Jackson. Do we need to go off the record?

Mr. Snyder. No, I think the point of his question is that he was prepared to answer every and all questions about Benghazi. And this seems to be getting very far afield of what happened on the tragic night of September 11th, 2012. But that's -- I think the understanding or the question is coming out of that. So I don't know how much more --

Ms. Jackson. Certainly it's within the charter of this committee to deal with how the State Department has complied with congressional oversight.

Mr. Kennedy. Let's march on.

Ms. Jackson. Okay. When did you first learn that Secretary Clinton was using a personal email account to conduct official business?

Mr. Kennedy. Since I was not prepared for this line of questioning, I will have to say to the best of my recollection, I believe that I learned about it in the newspaper.

Ms. Jackson. But when, was my question.

Mr. Kennedy. I don't recall.

Mr. Snyder. Can I have just 1 second?

Ms. Jackson. Sure.

[Discussion off the record.]

Ms. Betz. I just want to go back and clarify, you gave a percentage of 95 percent of the approximately 30,000 emails. In totality, of those 30,000, 95 percent are official records?

Mr. Kennedy. I'm doing a rough mental calculation.

Ms. Betz. Right. I'm just trying to distinguish between

whether or not those were already captured in your network or are those --

Mr. Kennedy. I was not making such a distinction.

Ms. Betz. Okay.

Ms. Jackson. So the 95 percent deals with 95 percent of the 30,000 and some emails that were returned have been deemed official records.

Mr. Kennedy. Yes.

[4:41 p.m.]

Ms. Jackson. Regardless of whether they were captured anywhere else?

Mr. Kennedy. You're posing -- you're conflating two separate lines of questioning and inquiry.

[Kennedy Exhibit No. 9

Was marked for identification.]

Ms. Jackson. Okay.

Mr. Kennedy, I'm handing you what I've marked as exhibit No. 9. And for identification purposes, this is a January 24th, 2009, email from a Lewis Lukens. Your name is at the top of this. It bears a FOIA case number of F-2015-05052, and it's from a Lewis Lukens to you on that date. And I will give you a moment to review this document.

Mr. Evers. Are we off the record?

Ms. Jackson. Yeah, we can go off the record for a moment.

[Discussion off the record.]

BY MS. JACKSON:

Q Mr. Kennedy, do you recall this email exchange?

A I recall it now, I think, having have read it.

Q And this was 3 days after Secretary Clinton took office?

A I believe it's 2 days. I think she came in on the 22nd, not the 21st. But that's a minor matter. Yes, it was contemporaneous with her arrival.

Q Okay. Prior to her coming in, had you or others set up a state.gov unclassified email account for her?

A I do not manage to that level.

Q Do you know now whether one was set up for her prior to her coming into office?

A I do not know because that is handled by a different office. It's handled by the Executive Secretariat. They manage the terminals for email for the Office of the Secretary.

Q Okay. This email exchange talks about having an encrypted BlackBerry for her. If I can refer you to the second page, in the middle of the page, where Cheryl Mills is writing to Lewis Lukens. You and Huma Abedin are copied. And the middle sentence says, "is there any solution to her being able to use an encrypted bb like the nsa approved one he has in the vault and if so, how can we get her one."

A Yes.

Q So there was discussion of having the Secretary have an encrypted BlackBerry?

A Yes.

Q Would that have been a classified BlackBerry?

A I do not -- there are two kinds of encryption. There is encryption for sensitive but unclassified, and there is national security encryption at three or four different levels. So I do not remember specifically what kind of BlackBerry there was. However, I can tell you that in the end we discovered there was no such thing as an encrypted BlackBerry.

Q At this time?

A At this time and later.

Q Okay. And so following this email exchange, did the Secretary of State, Secretary Clinton, receive any type of State Department device to conduct email, any type of BlackBerry or other device to conduct electronic communications?

A I do not know whether she did or not.

Q This email exchange also talks about setting up a stand-alone separate computer for her to check email. Is that correct?

A Yes.

Q And what was the purpose of that?

A Secretary Clinton's office is [REDACTED] [REDACTED] which does not permit personal -- personal BlackBerrys. Therefore, this request related to how could she communicate with her family while she was [REDACTED] And this was a technical discussion of the possibility of installing what is usually called a DIN, a D-I-N, a direct Internet connection, that would permit her to communicate with her family [REDACTED] [REDACTED] without violating what are called the DCIDs, D-C-I-D, that are the directives on the protection of sensitive classified material in an electronic environment. So this was setting up -- this was a question about setting up a BlackBerry for her to communicate with -- I'm sorry, a PC for her to communicate with her family without compromising the DCIDs.

Q Okay. Did that get done?

A No.

Q And do you know why not?

A Because Secretary Clinton, as is said in here, does not use -- as it says in the email from Mr. Lukens at the very first paragraph, is that the Secretary of State does not know how to use a computer to do email. So it was never set up.

Q But he goes on to say: But it would not take much training to get her up to speed. Did that ever happen?

A It was never set up.

Q She didn't want to do that?

A It was never set up.

Q Do you know why it was never set up?

A No, but it was never set up.

Q All right. Let me show you another exhibit from August 30th, 2011. I'm marking it as exhibit 10.

[Kennedy Exhibit No. 10

Was marked for identification.]

BY MS. JACKSON:

Q I'll give you few moments to look at it. For identification purposes, it bears FOIA case number F-2015-12685. It is dated August 30th, 2011. At the top it is from Huma Abedin to Stephen Mull. You are copied in some middle transmissions on this. And I will give you a few moments to take a look at this.

A I'm aware of this.

Q Okay. This is in August of 2011, and this pertains to a discussion as to whether the Secretary is going to get a Department-issued BlackBerry to replace her personal unit which is

malfunctioning. Is that correct?

A No. That is the secondary subject at the end of the email. The primary subject is communications. And this is a discussion here about -- it is blacked out -- about secure telephonic connections.

Q And where were these secure telephonic communication devices going to be?

A Installed between her residence and the State Department, as we do for every Secretary of State.

Q And did she have secure communications at her home at this time?

A We were -- we were -- they were some secure devices. And the telephone -- secure telephone system that was then installed was not functioning properly, and so the discussion was how do we ensure that the U.S. Government-approved system could be made to function appropriately.

Q I'm going to come back to that in a moment, but the secondary issue discussed in here then is discussing a request to have a Department-issued BlackBerry to replace her personal unit which is malfunctioning. I'm summarizing from the second page, the first full paragraph. Did that happen? Did she get a Department-issued BlackBerry?

A I don't know.

Q You don't know?

A No.

Q Okay. She had a Department-issued BlackBerry. Would she

have had a state.gov account?

A If she had a Department-issued BlackBerry that was on the State Department system, she would have had a State Department address.

Q Are you saying that there were State Department BlackBerrys that were not on the State system?

A No.

Q So a State Department BlackBerry would have on the State system?

A Yes.

Q Okay. And you're saying to us that that did not happen?

A To the best of my knowledge it -- I don't know, because I do not -- units that were in one of my direct chains handled secure voice. BlackBerrys are handled for the Secretary of State and other senior officials by the Executive Secretariat. So whether she was given one or not, I simply am unaware.

Q Can you, back in 2011, could you conduct personal email on a State BlackBerry?

Mr. Snyder. If you know.

Mr. Kennedy. At one point you could. But I do not recall -- I know also that at one point you could not, and I know that because I had a State Department-issued BlackBerry and I could communicate on the State Department system, but there are times when I could not reach my Hotmail account.

BY MS. JACKSON:

Q Was that episodic or was that like a ban?

A I do not know the technical reason for it.

Q Did it last for a very long time?

A It was a period that it could, and then now there were periods that it couldn't.

Q And which came first?

A I don't recall.

Q Going back to the passage that I just referred to on the second page, where it says, and I quote, "Separately, we are working to provide the Secretary per her request a Department issued Blackberry to replace her personal unit which is malfunctioning (possibly because her personal email server is down)."

Was this the first time you knew that she had a personal server?

A Actually, when I got this message, which as you know I was only an info copy on, I was only focused on the first couple of paragraphs, which related to classified secure voice, which is my responsibility. I don't believe I even noticed the reference to a personal server because it was not in my jurisdiction. I was focused on, as I mentioned earlier, I was focused on the issue within my jurisdiction. And additionally, I was not an action addressee on these emails.

Q When did you learn that the Secretary had a personal server that was handling her personal email account?

A Several years later.

Q Approximately when?

A Approximately sometime in 2014, early 2015. I do not

remember the date. I think it was -- I think that that story broke in a New York Times article, and that's the first I learned she had a personal BlackBerry -- personal server.

Q Was the New York Times article?

A That's what I believe.

Q When it broke in 2015?

A When it broke in The New York Times. I can't remember exactly what month it was.

Ms. Betz. So just to be clear, that was the first time that you learned that she had a personal server?

Mr. Kennedy. Correct.

Ms. Jackson. And you knew before then, though, that she had a personal email account?

Mr. Kennedy. Yes. One can have a personal email account and not a personal server.

Ms. Jackson. Correct.

Mr. Kennedy. And so I knew one but not the other.

Ms. Betz. So just to be clear, so are you saying that in March 2015, that was the first time that you were aware that her records were not on site?

Mr. Kennedy. Records were not on site?

Ms. Betz. Her emails were not retrievable, were not housed?

Mr. Evers. We got them back in December 2014.

Ms. Betz. I understand, but I'm trying to reconcile his knowledge of a personal server and obtaining the email -- the return

of records, his knowledge of the return of records. So you're saying that -- we'll eliminate the question.

BY MS. JACKSON:

Q Okay. Let me just move on.

So, again, just to circle back, the first time that you -- when was the first time that you were aware that Secretary Clinton had used her personal email account to conduct official business?

A As I think I said before, over the course of 4 years of her period as Secretary, I think I got about on the average of 1 email a month, and I think there were 45, 46, 48, something like that. I knew early on that every once in a while I would get an email from her personal BlackBerry, but they were not of high order. They were not -- some of them, I believe, may not even have tripped the wire of being official government records. As I mentioned in response to an earlier question, there were things that came in, she would be asked at a cocktail party about how she dealt with a consular question, or she would send me a question about the timing of something.

Therefore, I knew that she had a personal email account, but I got no emails in large volume from her, and therefore I did not know the volume of her usage, the extent of her usage, and I did not know that she had a personal server.

Q Do you recall whether you got an email from her from her personal email account asking about the evacuation of Embassy Tripoli?

A The only email I got from her that I recall on that was asking me simply if the ferry had sailed.

Q That was the official business of the State Department, wasn't it?

A I do not -- that I would have to defer to my professional colleagues, but I'm not sure that asking that simple question would qualify as a record email as opposed to a temporary email.

Q When did you first learn that there was a large volume of emails of Secretary Clinton that needed to be returned to the State Department?

A Sometime in late 2014, I believe.

Q Late 2014 or early 2014?

A As I said, I do not remember what the date was.

Q And how did you learn that?

A Again, I don't remember when I learned ~~for~~^{of} it, and that is not, as I said, this is not a subject I prepared for, for this interview.

Mr. Snyder. There was a letter that he sent which might time stamp it, but we didn't review that with him because we didn't understand that to be part of the substance of this interview.

Ms. Jackson. Well, I do understand that I'm out of time, so at this point let's go off the recorded.

Mr. Kiko. No, I just have one point. You asked a question about why this came up. And I guess we had sent an email that had 27 questions. A lot of these were the 27 questions that have just been asked, not all of them, in April. And this issue has come up with your Legislative Affairs people, when are we going to get responses. We haven't received responses.

I specifically asked the inspector general if they were looking at these responses because somebody told me unofficially that these

were being reviewed by the inspector general. I then asked the inspector general if they were aware of these questions, and they said they were not.

So from what I gather, this issue came up at a meeting last week that I was not in attendance, but these questions have been -- they were member-driven at the time. They have not been answered. And I'm sorry that you were not prepared, but we have been asking for answers to these questions for quite some time.

Mr. Kennedy. My comment was I would have been better prepared as to exact dates. I always try to make sure that I can provide any congressional group that I meet with full and complete information, and dates are very important, but very complex across a period of time that goes back, you know, to Benghazi.

Mr. Kiko. I just wanted to give some context about why we were asking these questions. I mean, I'm a straight shooter on this one. That was the reason why.

Mr. Kennedy. Thank you, sir.

Ms. Jackson. With that, we'll go off the record.

[Off the record.]

Mr. Kenny. Go back on the record. Time is 5:20 p.m.

Ambassador, it's been a long day already. We appreciate your patience.

We did want to begin this round picking up where we left off in the last round. There was an extensive discussion of email policy, email practices at the State Department involving the Secretary.

You'd indicated that you had not personally prepared for that in this briefing, so I want to be a little more limited in the questions that we ask of you, especially given some jurisdictional issues that may also arise if we get into that inquiry.

We'll use a document here to kind of guide our discussion for the next few minutes. You were obviously asked a lot of questions about Secretary Clinton's personal email practices. You had also in response to some questions brought up Secretary Condoleezza Rice, as well Secretary Madeleine Albright, and their email practices, which we understand that they didn't use email for official purposes.

We wanted just for the completeness of the record to discuss another Secretary during this timeframe, during the early 2000 timeframe, understanding, of course, you're shifting positions in the Department as well as outside the Department around this time period.

So we'll mark this as exhibit 11.

[Kennedy Exhibit No. 11

Was marked for identification.]

BY MR. KENNY:

Q For the record, this is a portion of a book authored by former Secretary Colin Powell, the title, "It Worked for Me," excerpted pages 108 through 112.

Ambassador, just in the interest of time, I'm just going to focus on one paragraph, it's is on page 109, but of course we included the full discussion here if you'd like to take a moment to review it. So it'll be in the second paragraph from the bottom on 109.

A I have read page 109, sir.

Q Okay. And I'd just like to read into the record, this is a paragraph that appears on page 109. It begins, quote, "To complement the official State Department computer in my office, I installed a laptop computer on a private line. My personal email account on the laptop allowed me direct access to anyone online. I started shooting emails to my principal assistants, to individual ambassadors, and increasingly to my foreign-minister colleagues who like me were trying to bring their ministries into the 186,000-miles-per-second world," close quote.

And, sir, just at the outset of our discussion here, the former Secretary makes a reference to the 186,000-miles-per-second world, the speed of light, the changes that were at the Department. Given your length of service at the Department, sir, could you just describe for us the change within the Department with regard to the use and prevalence of email to conduct official business at the Department?

A Yes. Obviously, the State Department has, I guess, the entire U.S. Government agency has moved forward. And whereas once record material was conceivably only paper material, or in the case of State Department it's telegrams, which are in effect record emails, formatted record emails, now email is a major tool. We are able to move lots of material via email. This has built up over time, obviously.

Still, the State Department, while it uses emails a lot, still is a big consumer of both records. So if I make a formal decision, I

receive a formal memo. It comes to me electronically. I can respond. But it is a formatted document so that it easily records and is traceable of a policy or managerial policy decision. And we still use our telegram system, which, as I said earlier, is truly a form of email because it has serial numbers and it is traceable.

But email has certainly taken over the State Department. We do hundreds of thousands of emails a year. Because it's simply when you have time zone displacement, as the State Department has, when you're operating around the clock, people have weekends that are different from yours, plus the fact that playing telephone tag with someone is certainly one of the most egregious wastes of time possible, it's a lot easier now to send someone an email than to telephone them and potentially have them not be there.

Q So thank you for that background.

With respect to Secretary Powell's comments in his autobiography, here he indicates that he installed a computer with a private line and also maintained a private email account. Did you recall that Secretary Powell at the time used a personal email account to conduct official business?

A I left the State Department for New York and Iraq and did not come back to Washington, to the State Department, until after Secretary Powell had left. So I only learned of this when someone mentioned to me that they had seen it -- seen it in his biography. I never received an email from him. But apparently it's more and more widely known that he -- that he did -- that he did use a personal email

for State Department business, as he says.

Q And presumably any emails he conducted on a system such as the one described here, if they were conducting official business, those would possibly be official records. Is that correct?

A That is correct.

Q And, of course, some of those emails, he refers here to emails he may have had with his principal assistants. Would that include his under secretaries, for instance. Is that correct?

A I am guessing when he talks about his principal assistants and then goes on to say to individual ambassadors, it would be a logical assumption that he was talking about assistant secretaries, under secretaries, the deputy secretary, yes.

Q To include officials like an under secretary for management possibly?

A Yes. Yes.

Ms. Sawyer. Can I just ask a quick question. In the portion you guys have been discussing it also says, quote, "and increasingly to my foreign-minister colleagues." So to the extent he was emailing foreign minister colleagues from a laptop on a private line, would that have been caught in the state.gov official system?

Mr. Kennedy. No, because the fact that it was on a private line, it would not have been caught. A private line, it would be a DIN, a direct, D-I-N, a direct Internet connection. It would go from that terminal directly to the Internet and back and bypass the State Department's system.

Ms. Sawyer. So with regard to those type of emails, whether or not they're official records or not, those emails, given that there are emails that he acknowledged here that went to foreign minister colleagues that he says were about the business of him being the Secretary of State, has there been an effort to reach out to Secretary Powell and ask him whether he has them in his possession, if he can return them to the State, or provide a copy of those to the State Department?

Mr. Kennedy. I wrote all the previous ^{four} ~~five~~ Secretaries of State, I believe in October -- I know it was in the fall, it was in October of 2014 -- and asked them to please provide the State Department with any record material, emails that they had in their possession that were not already in the possession of the State Department. I wrote to the representatives, and I wrote to Secretary Powell's, in effect, chief of staff, executive assistant, as well as Secretary Albright, Secretary Rice, Secretary Clinton, and I got back an answer from Secretary -- got back a response from Secretary Powell's office that he did not have access anymore to that material, and therefore he was unable to provide us copies because he had no access to them.

BY MS. SACHSMAN GROOMS:

Q What does that mean, he had no access to them?

A I think he was saying that he could no longer retrieve them from whatever address he was using. His point was he could not positively respond to my request for the material because he did not have it.

Q So you didn't get anything back from Secretary Powell?

A There was not -- the letter was responded to, but there was no material provided.

Q And did you take any additional steps to try to obtain those emails?

A We have no way of obtaining them. They would have to be obtained by the author.

Q The author, Secretary Powell?

A Yes.

Q Did you take any steps to ask Secretary Powell to obtain them?

A We did in our letter ask him to produce them, and he said he could not.

Q Did you take any additional steps, like asking him to reach out to his former Internet service provider to get them?

A No, we did not.

Mr. Snyder. One second.

[Discussion off the record.]

Mr. Kennedy. If I might, thinking about this harder and then running all ~~five~~^{four} Secretaries of State through my mind, I do recall now that there was a second transmission to Secretary Powell asking him if he could contact the Internet company, and we never received a response to that letter.

Mr. Kenny. What was the date of that letter?

Mr. Kennedy. I would say it was probably in winter 2014-15.

Mr. Evers. That letter, I believe, is attached to a public FOIA filing.

BY MR. KENNY:

Q Thank you. We'll certainly go take a look at it. But to the best of your recollection, did that ask him or specifically request that he contact an Internet service provider to retrieve documents?

A My recollection is a little fuzzy, but I believe, since it was the second letter, the response to the first had been: I don't have them. And so we then asked him to go back to the ISP, to the Internet service provider, to see if they were recoverable, and we have never received an answer to that letter.

Q And his representative's response to your initial letter, you had characterized it as him saying he didn't have access to the documents any longer.

A Yes.

Q Did you take that to mean that the documents didn't exist?

A I did not know how to take that, which is, now that I recall, which is why there was a second letter sent asking him, if he did not have them, if he could -- if he could -- could he take additional steps to attempt to obtain them.

Q And just to be clear, the Department hasn't received any documents returned by Secretary Powell?

A No, to the best of my knowledge, no, we have received neither documents nor a response to our ^{second} letter.

Q So any potential Federal records that might be responsive

to a FOIA request, you're unable to --

A We would be unable to incorporate that material into our response.

Q And the same would apply to congressional requests for information?

A Yes.

Ms. Sawyer. And on that subject, I just want to explore, and hopefully just briefly, I think we would like to move off this topic and just get back to some of the prospective things that the committee might be able to learn about the Benghazi attacks. So just briefly, I mean, one of the things he comments on is one of his ways of testing whether or not a system was adequate was he would -- and this is on 109 -- he said, "I tried to get into my private email account" wherever he was, overseas or here, whenever he visited an embassy. "If I could, they passed."

So I'm just kind of wondering, I mean, it is the case, is it not, that State Department employees do sometimes use personal email accounts? I mean, they were not, Secretary Powell and Secretary Clinton were not the only two in the history of time that have used personal email accounts at the State Department, were they?

Mr. Kennedy. I am honestly unaware of the volume of people, because if you go onto the State Department system, you can jump to the Internet. Then you can sign on to your personal email. But you are then, in effect, you've jumped out of the State Department system onto the Internet, and you're going back and forth, and then you close

out that window, since we use a Microsoft product, and you move back into the State Department email system, state.gov. And the other, you could be on Hotmail, Google mail, whatever.

Ms. Sachsman Grooms. But even in the course of our investigation on Benghazi, we have seen the RSOs in Benghazi deciding to use a personal email account, like a Google or kind of Gmail, email account, because they were having, I think, one would presume, because of connectivity issues with the State Department's system. And people have told us that ambassadors and others used personal email accounts.

Mr. Kennedy. We have a very robust bandwidth capacity at all of our permanent installations. However, if you go to a very small installation where you're having -- which is not in a country with a robust Internet service provider system, and you're setting up what is a small satellite dish, we call it a VSAT, and then trying to draw a circuit off of that dish from a satellite, it can be convoluted. But at any of our other installations we always have at least two paths out, one for regular and one for backup. It's command and control.

BY MS. SAWYER:

Q And just in terms of the question I had asked you about emailing with foreign minister colleagues, that one you said would bypass the State if he was using a private email?

A If he was using a private email, any of the principal assistants, the individual ambassadors, and foreign minister colleagues would all be bypassing the State Department system depending on how he was addressing them. If he was addressing them on ~~their~~ ^{his}

government accounts, it would be in the system. If he was addressing them on ~~their~~^{his} personal account, it wasn't in the system. If he was addressing any foreign government official, it would be bypassing -- there would be no record of it in the State Department system because neither the sender nor the receiver were in the State Department system, so there would be no record.

Q So if, for example, emailing from a personal account to you at your state.gov, that would be captured in the system?

A That would be captured in my system, yes.

Q If one were to email you on a personal email, that would not?

A That would not.

Q And certainly in that latter, to the extent that email constituted an official record, there would be, one would hope, some effort to make sure that got captured in the official system.

A I retain all my emails that I have sent, and right now, as I mentioned in response to a new National Archives and Records ~~Service~~^{Administration} initiative, we are now -- and I believe the Archives uses the term journaling -- we are now journaling the emails of all senior officers in the Department, assistant secretaries and equivalents and above. It's a new NARA initiative which we have subscribed to.

Q So that part, I mean, part of it is that part certainly takes out of the equation the discretion of determining whether it's an official record. Is that accurate?

A Well, actually it could be accomplishing, accommodating,

journaling more than official records. An example, let's say we are State Department employees, and I sent you an email saying: Can we move lunch from 12 to 12:30? I think my records officer would sit here and tell you that that is not an official -- that is not a record email. And then there is a kind of -- there's nonrecord, and then there's temporary records, and then there are permanent records. And so a question of has our meeting changed from 1 to 2, that may not be a permanent record.

Q And who makes the determination of whether in the first instance, with regard to an obligation to preserve it, who makes that?

A It is the employee that we have under this new NARA initiative, which was recently announced. We are now recording all the emails of all the Department seniors to ensure that we have those.

Q So in terms of a prospective looking, I mean, you heard part of the explanation as to why this issue is being explored by this committee, is to make sure that there's a capacity for responsiveness to congressional requests, a responsiveness to FOIA. Is that, from your perspective, is that a solution that will help with any delay problem or not being able to find emails?

A No. Absolutely it will mean that those emails, as long as one or the other of the individuals were in this senior level, that means those emails would be available, and we do have search engines to do that.

We are, as part of our continuing and ongoing efforts, looking at ways to possibly record and sort every single email sent to and from

the State Department. That is a huge effort. But I have a team that has been working on this. We have an Electronic Records Management Working Group that has been going on for over a year looking at the big picture, simply because emails are now more and more utilized every year. And we need to figure out how to capture them for our own records, for FOIA, congressional, or other official purposes.

Q And then just to be clear on this, so the underlying use of personal email at the time that Secretary Powell was there, at the time that Secretary Clinton was there, that was not prohibited by law or by rule?

A Steps would have had to have been taken to ensure that a copy of the email was either put electronically or paperwise into the system if it was a record email.

Q So if a determination was made this is a record email, some steps should have been taken to --

A Either copying it to another system within the State Department or, until very recently, and I regret that I cannot give you the exact date, the NARA rules actually called for us to print out all emails and file them, rather than keep an electronic copy.

Ms. Sachsman Grooms. But back in the days of Secretary Clinton and Secretary Powell, there was no timeframe, there was no rule or law that set into place a timeframe by which you had to print and file a copy of your personal email. Is that accurate?

Mr. Kennedy. That is correct.

Ms. Sachsman Grooms. And that law changed in November 2014. Is

that right? Now there's a 20-day requirement?

Mr. Snyder. If you know.

Mr. Kennedy. I read materials sent to me, and I remember reading something. I'm not sure that it's November, and I'm not sure it's 20, not that I am challenging you. But, yes, I know that there have been changes implemented by both by NARA and by statute in 2014.

BY MS. SAWYER:

Q And just the Presidential and Federal Records Act amendments was actually, Mr. Cummings, the ranking member of this particular committee's bill, and that is the legislation that does now place a time limit of 20 days within which to put the copy within the record.

So I think really just one last question hopefully. So if a personal email account is used, steps are then taken, the guidance that we have looked at indicated forwarding it would be one way to make sure it was captured in the official system, forwarding it into the official system.

I'll just use me. If I'm an employee of the State Department and I happen to use my personal email account and I then do then forward it, do I have an obligation to actively delete that from my email account? And is my failure to do so considered kind of taking an official record against some rule or law?

A I would want to consult with my lawyers, but I believe that you have met the requirements. Every once in a while State Department people on the road or other places cannot get into a State Department

system and they can get into a private ISP. And then we do counsel them to send the email to whomever and send the email to yourself at the State Department address, therefore ensuring that the email has been, in effect, sent and it is then in the State Department system.

Q But you're not aware of any guidance that says then please delete from your personal email any email that may have touched on official business?

A Not to the best of my knowledge, no.

Q And if one were to immediately delete it and then to find out later that somehow, when they thought they had forwarded it, if they had deleted it, there would be, as may have been the case with Secretary Powell, no ability to then go back and capture it?

A That would be technically correct, yes.

Ms. Sachsman Grooms. I think in the last round you said something that my colleague thought might be misinterpreted, so I just wanted to hit on it. I think you were trying to draw a distinction between personal email and personal server as in when you can use personal email and not use a personal server and when you can use a personal server, that they're not synonymous, when you were talking?

Mr. Kennedy. All I was trying to do, I believe I recall the question, was I believe the question related to something in one of the exhibits. I believe it was exhibit 10. The last paragraph on -- the penultimate paragraph on the reverse side. The distinction I was trying to make was the question was, well, you saw in there the parenthetical "because of her personal email server is down." And I

was attempting to say I was reading this cable, actually this email, for the purpose of dealing with the secure voice in the first part. But I had no recollection of that. I knew that the Secretary had a personal email because from time to time I did get one, but it did not register with me at all the use of the word "server" as meaning anything other than she had a, you know, a dot-com account.

Ms. Sachsman Grooms. So just to be clear, you weren't saying that there was some rule or problem with the fact that she used a personal server?

Mr. Kennedy. I was just saying, no, that I was unaware that she had a personal server.

BY MS. SAWYER:

Q So then in terms of that question, I asked you the prospective question, focusing prospectively on what this committee might recommend.

A Yes.

Q You know, my -- and this is just a broad understanding, is that with the Presidential Federal Records Act Amendments, to the extent that a nongovernmental account is used, there's now a requirement to make sure it is captured in the system within 20 days, no matter who you are --

A Yes.

Q -- whether you're a high-ranking official or anyone. Is that also your understanding?

A That is my understanding of the law, yes.

Q And then you indicated, you call it journaling, I think it was explained to us maybe under the name of Capstone. I don't know if that's quite the same?

A Capstone is the name of NARA's program, and my technical experts call it journaling. So it is -- Capstone is journaling. Journaling is Capstone.

Q So that would mean, with regard to all senior officials, their emails, certainly on the official system, and then anything they would forward within 20 days are going to be automatically kept without any discretion or need to determine is this an official record or not.

A Yes, they would be there. And then subsequently, if there was a FOIA request or other thing, one would have to go through and determine if there were personal/nonrecord traffic in there. For example, if you received -- you have received an email from your sister on your government account, just because she knows you're a workaholic at your desk all the time, and asking you to do something, that would be considered, as my records experts have explained to me, a personal email still.

Q So those would potentially be taken out, but there wouldn't be a need necessarily to add things in, is the goal.

A That is correct. That is correct, yes, to make sure we have a comprehensive collection.

Q So those changes certainly appear to have been put in place, at least some of them, obviously, subsequent to Secretary Clinton's tenure. Are there other things in addition to those two that you feel

like we should be recommending, or do you think those will enhance the ability of the Department to respond to inquiries, whether they be congressional or FOIA?

A I believe that this will certainly solve the technical issue of ensuring we have a comprehensive records system. This may be going farther than your question, but we still, while we will -- we intend to respond always to congressional inquiries, the volume of FOIA requests is rising at an astronomical rate, reaching a point that I am ~~not~~ sure that any U.S. Government agency which is popular in the FOIA sense will be spending ever-increasing amounts of the taxpayers' money responding to requests that I am not sure really have a cost-benefit analysis that is favorable to the taxpayer.

Q So the capacity certainly will be there, in terms of the records will be there. You may not have the resources to review them all in as timely a fashion as some might request, demand, or like?

A I do not think it is possible, given the volume of emails that exist now in the U.S. Government, as opposed to paper records that existed before, I do not see how it is humanly possible for any agency to fully respond to these FOIA requests within 20 days, which is the statutory requirement. And if we do not meet 20 days, we are subject to lawsuit, which then consumes even more time of government employees to do that.

So I am not saying we do not wish to be good stewards, we do not wish the public to know, but some of these requests are for tens of thousands of pages, and when you look at them on the face you do wonder

what public benefit is served by this. And I believe that it is my responsibility to uphold the laws as passed by the Congress, but also to ensure that we do this in as efficient and effective and positive way possible.

And the original FOIA 20 days was passed many, many years ago when Internet emails were not a common occurrence, and there are now so many of them replacing telephone calls that there's volume.

Q So that addresses FOIA, and understandably maybe looking at the statutory deadline would be something that Congress could do.

Just very briefly, obviously, congressional requests are a different matter, and there may be a volume of those, but --

A Congressional requests are something that we take very seriously, and we strive to the maximum extent possible to be as responsive as possible as quickly as possible within the limits of our overall resources, obviously.

Q And in that dynamic, how helpful and what guidance would you give congressional committees in terms of being able to give you the greatest clarity on their requests and prioritizing their requests in terms of what information they need first? And is that a legitimate aid to your ability to get a committee exactly what it wants as quickly as you can?

A The more precise a definition there is of a requirement, the faster that we can respond. If we get a request on everything you ever did in Xanadu, that is a massive project. If you say we are very interested on your activities on this project in Xanadu, that narrows

it significantly, and then we can, obviously, respond to congressional inquiries with greater speed.

Q And is it helpful in terms of an investigation committee, et cetera, prioritizing order of responsiveness? Is that also a way to make sure a committee is getting what it needs first as fast as it can?

A Absolutely, because if we do not know the priorities across a range of requests, we are dealing with it in bulk, as opposed to you have one request which says this is our first request, this is our second request. And they're not just numerical listings, they're actually a prioritization. We need this information in order to deal with our first witness are the subject of most concern, and a prioritization of that will mean that we can respond to, in effect, a portion of your request, but it is the portion that you, the Congress, wants, and then the second and the third.

Mr. Kenny. So thank you, Under Secretary. I think at this point we have a few minutes remaining, and we would like to shift gears a little bit. And to preface this section, as you know there was an Accountability Review Board, issued a report that contained 29 recommendations delivered to the Secretary.

This committee, at the request of Congressman Schiff shortly after it was stood up, held a series of public hearings on the State Department's implementation of those recommendations, as well as some recommendations that have been made by other reports and other panels established to examine the attacks as well. I'd like to ask for your

insights into a few of those general topics. I won't ask you for status updates on specific -- where the Department stands with respect to specific recommendations. I'd like to kind of engage with you at a higher level.

This is something that our members in particular have been very focused on, is what more the Department can do, what more Congress can do as a partner with the Department to improve the security of our personnel, diplomatic personal, around the world.

One of the first recommendations or early recommendations in the ARB report relates to this notion of risk management within the Department. And the Department -- I'm sorry, the ARB rather -- issued a particular recommendation that the Department should strengthen security for personnel in platforms beyond the traditional reliance on host government security support, and specifically the high-risk and high-threat posts. They've provided some additional guidance as well as far as how to manage that risk, high-threat, that they deemed or considered high-risk and high-threat posts.

So I'd just like to begin our discussions by asking, since the attacks, what have been some of the most important changes that the Department has made to better help manage that risk and protect our diplomats abroad?

Mr. Kennedy. Let me do this in three buckets: finances, personnel, and facilities.

In terms of finances, the Congress did double the budget of the overseas secure embassy construction, and that has enabled us to

essentially double the number of embassies that we are -- new embassies we are constructing which are built to the Secure Embassy Construction, SECCA standards, that we have talked about elsewhere in this hearing.

We have also provided additional funding for Diplomatic Security, and that has been very, very helpful, including providing funding for a new training center that we are in the process of standing up that will allow us to push more people through training.

Secondly --

Mr. Kenny. That's the Fort Pickett facility?

Mr. Kennedy. The Fort Pickett facility, yes. It's actually adjacent. It shares some land with Fort Pickett and is adjacent to it.

Secondly, additional funding and resources have been provided to both the State Department and the Defense Department. We were able to hire an additional 151, I believe, ~~15~~ additional Diplomatic Security personnel. We have increased the number of posts with marine security guards from about 150 to about 175.

We have also been able to expand the language training for Diplomatic Security personnel so that they have some of the language capabilities, more language capabilities they need. So that has been a huge step.

Also, with the cooperation of the Defense Department, we have set up a group of marines who are based at Quantico, Virginia. They're called Marine Security Augmentation Units, MSAU. These are units that deploy when we see a potential problem potentially arising in a country,

and we can deploy those marines to supplement the marine security guards. Those have been great.

[5:59 p.m.]

A And then, on processes, we have looked very, very carefully -- sorry, construction is the third one. That's derivative of the first one, really.

And then the other third one, the fourth one, I guess, in my litany, is that we have always had a rather rigorous process for looking at risk versus reward. But it was a process that was essentially oral. You would convoke some people around the table, they would discuss the reasons for being there, discuss the risk, discuss the mitigation strategies, and at the end of the meeting conclude that the national security requires you to stay.

We have institutionalized that process into something we now call VPVP, or VP2, the Vital Presence Validation Process. The regional bureau sits down and constructs the reasons for being in a location. Diplomatic Security measures the threat and then measures the mitigation strategies that we can undertake. This results in a conclusion that it is necessary for national security for us to remain, given the circumstances as measured then.

That memo is sent from this working group to the Under Secretary for Political Affairs and to the Under Secretary for Management. We review those processes, we review their analysis, and if we conclude yes, we send them on to both deputy secretaries.

If both deputy secretaries concur, it ^{goes}~~guess~~ on to the Secretary, not for his decision but just as the building has taken a very, very hard, documented, metric-driven look at the situation.

So those are, I think, the three -- four major activities that we've engaged in.

BY MR. KENNY:

Q And thank you. We certainly appreciate that. We've been following the VP2 process, as well, and we've received briefings from the Department. It was a focus of a hearing, as well.

A Yes.

Q I just would like your understanding of how the VP2 process has worked in practice.

A I think it has worked in practice. We have not yet reached a point where we have said that we should close any post, but I think it does provide a rigor to our efforts.

It has got both Diplomatic Security and the regional bureau focusing continuously on this, because we do not regard this as a static process that you do once and then you forget about it for a decade. For a high-threat post, it will probably be reviewed every year and have shorter intervals if anybody, either Diplomatic Security, the regional bureau, the Bureau of Intelligence and Research, sees that the factors that they use, the metrics that they use have shifted.

So I think it has contributed to a more continuous, rigorous evaluation.

Q Has the Department identified any challenges in implementing the VP2?

A No challenges in implementing the VP2, but it does call the attention to the fact that the State Department needs continual funding

to maintain the level of Diplomatic Security, to maintain the level of Marine security guards, to maintain the level of the elements of the platform, whether they be medical, training, or whatever, so that we are capable of continuing to operate as we should.

Q So would it be fair to say that this is -- is it still a work in process, or is it a process that's been stood up, it's running?

A It's a process that's stood up and running and, so far, has resulted in probably at least a dozen posts being put under a very tight microscope.

Q Okay. And could you maybe just walk us through that process then?

A Well, what happens is, as I said, the regional bureau will look at a post, look at the national security goals we wish to achieve, identify the number of personnel that are needed overall to do that, whether they be State or other agencies, direct or platform.

Then the Diplomatic Security looks at the host government capability, the host government willingness, the threats in the region, looks at the physical plant. We can be a lot safer in a building that was constructed as part of the new secure embassy construction program than we can be in a building that was retrofitted out of an old mansion.

Then they come up, and then the Bureau of Intelligence and Research, the management planning staff, numerous other players in the Department sit down, review this equation, the reasons for staying and the risks of staying, and make a determination that the mitigated risks are such that the reasons for staying, the rewards, are still

significantly above that.

That is then written up and sent to the under secretaries and then to the Deputy ~~Secretary~~ ^{Secretaries}.

Q One of the things that's been of interest to our members in the past is whether this process is only focused on high-threat posts to the exclusion of other posts that may be rated at medium-threat levels. Because if you remember the 1998 bombings, I believe one of the facilities there was only rated at a medium threat level.

Can you help us understand how the VP2 process will help encompass those posts as well?

A We believe that we will undoubtedly have to expand this now that we are getting some traction and better understanding and also, in effect, figuring out how to do -- any process ~~as~~ ^{has} a work-in period where you figure out the best modalities of moving ahead promptly.

And I've talked to Diplomatic Security, and they believe that we need to potentially look at posts that are just below -- you know, we have -- I was asked the question once, name the 20 most dangerous posts in the world. And I said, I can probably do that, but I'm not sure that the 21st is anything but a hair's breadth ~~more~~ ^{less} dangerous.

So Diplomatic Security is looking farther down that list to see if some of those posts also need to be run through the VP2 process. No final decision has been made yet, but we are seriously considering that.

Q You had mentioned or referred to the risk management processes as an equation where, on the one hand, you have the policy,

perhaps the justification, the need to be in country, and, on the other hand, security and additional steps you can take to mitigate. Is that correct?

A Correct.

Q Do you believe that some of the recommendations, some of the steps the Department had taken in the wake of the attack and the ARB's recommendations have helped bolster the mitigation side of the equation?

A Absolutely. The constructing of more embassies, the expansion of up to 35 new Marine guard detachments -- so I think we're already way past the midpoint of that -- more Diplomatic Security professionals there, it has made a big difference. We have increased our ability to mitigate. That means we can take more risk. Because the possibility of the risk coming into being has been reduced by the steps we've taken.

BY MS. SAWYER:

Q I'm going to just try to also tie some of the things you've talked about to something you had indicated about funding. You had indicated certainly with regard to the budget for actual construction, there was a doubling of that by Congress and that there was an increase in funding that allowed for some of the personnel stuff.

You have now indicated to us that potentially one thing that you will be looking to do is expanding VP2, and presumably that takes additional resources. What kind of -- and I am by no means an appropriator or budget expert, but can you just help us understand,

like, continuous funding streams versus --

A I think the additional amount of money to do a modest expansion of VP2 is not a very expensive activity -- maybe one or two people who are in Diplomatic Security, in their planning shop, one or two more people elsewhere. If you're examining Xanadu for the first time, the Xanadu desk officer can work on this along with the person in ~~ICR~~^{INR} who works on Xanadu, because you're not levying that again on the Shangri-La desk officer who just went through it.

So I think the more important thing is funding for Embassy Security, Construction, and Maintenance; funding for Diplomatic Security; funding for the medical division; funding for the training division that allows us to deploy more and more mitigations, if that's a word, in order to help get more weight on one side of the equation.

The threats are going to continue to go up. There are more terrorist organizations than there ever were before. And, therefore, we need to increase our capability of mitigating those risks. And that is where the big money comes in -- Diplomatic Security and embassy construction. Plus, obviously, you want the right training, you want the right medical backup, et cetera.

Ms. Sachsman Grooms. And for that, do you need, as the threat streams go up, increased funding? Is it an issue of more funding? Is it an issue of more consistent funding over years? Is it both?

Mr. Kennedy. It's both. It's both. The State Department needs 3 percent more in funding each year simply to keep static. Inflation, foreign exchanges that are negative, other things mean that a budget

of \$1 this year is actually a budget of 97 cents the next year. And so we need 3 percent more each year, plus -- that's just to keep static. If you wish to increase our ability to mitigate, you then need additional funding streams.

Our committees of jurisdiction on the appropriations side have been stellar supporters of us. However, when you have the State Department not in the national security cap and us competing against many other government agencies, it is a serious -- it is a serious cap, and serious tradeoffs have to be made. And I would not like to be an authorizer or an appropriator.

Ms. Sachsman Grooms. Uh-huh.

And then how does a continuing resolution end up impacting those issues?

Mr. Kennedy. Continuing resolutions slow down our ability to make larger decisions on staffing, potentially on construction, and on the procurement of specialized equipment.

If I do not get the State Department's operating budget for 90 or 180 days in the fiscal year, I cannot allocate money the way I would like to, because if I don't know what the final budget of the State Department is going to be and I say to you as chief of diplomatic security, "Your budget for the year is going to be a dollar," and therefore you spend it, halfway through it I come back to you and say, "Your budget is 97 cents," you're having to make up not a 3-percent cut but you're having to make up a 6-percent cut against the second half of the year because you've spent half of your money and now you

don't have another half left. You have the cut and its twin from the first 6 months. And we have had many occasions where we have been on continuing resolutions for over 3 months and ^{up to} ~~not~~ 6 months.

So a constant funding stream, very important. But a growth in the funding stream, both to cover inflation, foreign exchange losses, and to continue to enhance with new tools, either human or material, that we discover in our continual research.

BY MR. KENNY:

Q And my colleague had mentioned a continuing resolution, but there is also the threat of what is referred to or called the sequester. Has that injected any uncertainty into your budget and planning in recent years?

A It was in the past, but the sequester period is -- we're now beyond the sequester period. That did constrain -- that constrained the top line, the total funding we received.

Q And can you just explain for us what those effects were at that time, to the best of your recollection?

A To the best of my recollection, I don't really have any details at the top of my mind, but they were essentially less -- slower procurement and potentially less procurement. Because we have a certain going rate, we have certain mandatory obligations for salaries, rents, utilities, and other things that we must pay every year. And if the funding drops, we have to take it out of investments, because I have to pay base.

Q And typically when we've discussed funding, you have done

so in the context of the ESCM and embassy build-outs.

A Yes.

Q Is that right? But it sounds like, based on our discussion, that there is a funding component to many other aspects, including Diplomatic Security staffing. Is that fair?

A Yes, sir.

Q Okay.

And when a continuing resolution is in place, does that limit or constrain your ability to transfer or reprogram money in any way?

A Yes. When a continuing resolution is in place, you're essentially bound to follow the rules of last year. Now, if you moved money around the previous year, you can then seek congressional notification approval to move the funds again. But under a continuing resolution, you are to undertake no new initiatives, no increases over the prior year.

Q Okay.

And at the very beginning of the day, you were asked about how you respond to or manage and plan for emerging incidents that can affect the bureau. And I would just be interested for your perspective on that in light of what we talked about, continued resolutions and having to then go through a notification process.

A You simply have to reprioritize. For example, if we were told tomorrow to go back into Syria, that's not in our base, but we would then make adjustments across all the lines of the State Department to assemble the funds necessary. Because, obviously, if the

President, the Secretary of State, and the National Security Council ~~has~~ ^{have} made a decision that it's time to go back to Syria, that it's clearly a now number-one priority, we would shift.

And that means that projects that we had planned to do in some locations would be deferred to the next fiscal year. They would still be high on the priority list, but they would have been jumped, so to speak, on that list by a new higher priority, and they would be deferred for, you know, however long it took.

Q Thank you. That has been helpful.

We will go off the record.

[Recess.]

Mr. Jordan. Mr. Secretary, let's start with -- and I know you went over some of this when I may not have been here, and I apologize.

When Secretary Clinton went through the process of determining which emails were private, which emails were public, what involvement did you have in that process?

Mr. Kennedy. Nothing, sir.

Mr. Jordan. Nothing at all --

Mr. Kennedy. No.

Mr. Jordan. -- in that determination?

Mr. Kennedy. In that determination.

Mr. Jordan. So she decided -- my understanding is roughly 60-some-thousand emails; approximately half were deemed private, and half came then to the State Department. You were not involved in any part of that designation of which went where.

Mr. Kennedy. No, sir.

Mr. Jordan. Once they came to the State Department, what role did you play in that? How did that work?

Mr. Kennedy. I --

Mr. Jordan. Well, let me back up a second.

Mr. Kennedy. Okay.

Mr. Jordan. So you weren't involved, but do you know how that process was done? And as the guy who's the -- my understanding is you're the official in charge of records management at the State Department, correct?

Mr. Kennedy. Yes, sir.

Mr. Jordan. Okay. So do you know how that process was done, specifically things like date parameters, search terms, and individuals who may have been involved in that determination?

Mr. Kennedy. No, sir, I'm not aware of how it was conducted.

Mr. Jordan. Okay.

When they get to the State Department, are you aware of how, then, the search was done to determine which emails then came to this committee?

Mr. Kennedy. Those were carried out by a team from the Bureau of Legislative Affairs and the Bureau of the Legal ^{Adviser} ~~Adviser~~.

Mr. Jordan. Okay.

Mr. Kennedy. That was a special team that was set up to respond to congressional document requests because we were beginning to get so many. And we will always put a priority -- so we diverted, I did,

additional resources from elsewhere in the Department to establish a congressional document group.

Mr. Jordan. So you were obviously involved in deciding more resources needed to be devoted to this endeavor.

Mr. Kennedy. Yes, sir, I decided -- but I am not operational in saying, this document goes to the committee, this document does not. I leave that to the professionals.

Mr. Jordan. Okay. And how was that done by those professionals?

Mr. Kennedy. They determined which documents were responsive to the committee's request. I can't say anything more in detail because their instructions were from the Secretary, from the Assistant Secretary for Legislative Affairs, to respond with responsive documents.

Mr. Jordan. Okay. Let's move to it in a different way then. Let's go to the front end. Were you involved in this whole setting up this email arrangement that the Secretary established?

Mr. Kennedy. No, sir.

Mr. Jordan. So, again, as the chief records management individual at the State Department, you didn't know that she did this, had set up an email arrangement, private arrangement, and did not have email at the State Department?

Mr. Kennedy. I knew that she from time to time sent emails, because over the course of 4 years I got --

Mr. Jordan. No, I heard that part earlier. Did you know that she didn't have any type of email set up at the State Department?

Mr. Kennedy. I knew that she did not have any State -- email set up at the State Department, but that --

Mr. Jordan. And you knew that from the time her tenure at the State Department began?

Mr. Kennedy. Yes, sir. But that did not ring any bells because her predecessor did not have an email account at the State Department either.

Mr. Jordan. Okay.

Mr. Kennedy. And neither did one Secretary before that.

Mr. Jordan. Okay. I think I heard that earlier.

But then when you got some, I think you said, from time to time from her private email set-up, that didn't bother you or concern you at all either?

Mr. Kennedy. No, Congressman, because the emails I did get were so minor, bore no relationship to the kind of high policy that I regard as tripping the line for a record that I -- and I tended to get them on weekends --

Mr. Jordan. Okay.

Mr. Kennedy. -- and in the evening, with just a few exceptions, that, for example, if I might, she is clearly out at some kind of a dinner party and sends me an email because someone has asked her a question about who should contact whom about a consular matter.

Mr. Jordan. Yeah.

Mr. Kennedy. And so I then took her email, sent it to the --

Mr. Jordan. Okay.

Mr. Kennedy. -- appropriate person in Consular Affairs, "Please reach out to the Secretary's question."

Mr. Jordan. Okay. Yeah, I think you said something like that to Mr. Pompeo earlier.

Chairman Gowdy. So, to be clear, just to summarize your exchange with Jimmy, you knew early on in her tenure that she did not have an official email account.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. It was just a question of how pervasively she used her private email account with which to conduct business.

Mr. Kennedy. That is correct, Mr. Chairman. As I said, since the previous Secretary of State did not have an email account at all either, that --

Mr. Jordan. Well, that's my question.

Mr. Kennedy. -- did not ring any bells with me, the fact that Secretary Clinton didn't have an email account, that neither did Secretary Rice.

Mr. Jordan. So did you -- I think when we had our -- before we were on the record, we were talking, and I was asking how long your tenure has been at the State Department. I think you said 43 years --

Mr. Kennedy. Yes, sir.

Mr. Jordan. -- you have served at the State Department and served this country, and we appreciate that. And in that 43-year tenure, you've had a number of Secretary of States.

Mr. Kennedy. Yes, sir.

Mr. Jordan. How many of them emailed you from their private email account, whether it was from a cocktail party, as you described with Secretary Clinton, or some other matter?

Mr. Kennedy. No one.

Mr. Jordan. No one ever?

Mr. Kennedy. No one ever, because I'd say directly I've have worked for Secretary Shultz and Secretary Baker, who were in the pre- era. Secretary Christopher and then -- why has my mind gone blank?

Mr. Jordan. Rice? Powell? Albright?

Mr. Kennedy. Oh, Albright. Secretary Christopher, Secretary Albright did not use emails at all as the State Department was moving into that.

I was de facto out of Washington, either in New York or in Iraq, during Secretary Powell's tenure. So the odds of his ever emailing me, because I was not in a senior position in Washington, were nigh unto zero.

I returned to Washington and began working for Secretary Rice, who did not have an email account.

Along comes Secretary Clinton, who doesn't have an email account --

Mr. Jordan. Well, but --

Mr. Kennedy. -- a State Department email account. And so the fact that someone doesn't have a State Department email account --

Mr. Jordan. That's not what I asked you. I asked you, did any of the predecessors -- and based on what you just described, did

Secretary Rice ever email you from her personal account?

Mr. Kennedy. No, sir, she did not.

Mr. Jordan. Okay. So the only Secretary to ever email you was Secretary Clinton, and that came from her personal account.

Mr. Kennedy. Yes, sir.

Mr. Jordan. Okay. Just wanted to be clear.

All right. Let me ask you about Mr. Pagliano. What was his title at the State Department?

Mr. Kennedy. He was --

Mr. Jordan. Bryan Pagliano.

Mr. Kennedy. I don't know his exact title. He was in the Bureau of Information Resource Management as some kind of a technical officer.

Mr. Jordan. And did he answer to -- chain-of-command-wise, did he answer eventually to you? Was he part of -- as your being the senior administrative official for records management, was he under your chain of command, in one of the bureaus you were overseeing?

Mr. Kennedy. Not in the records management chain, sir. He was in an entirely different chain. He worked for the Chief Information Officer, and the Chief Information Officer handles --

Mr. Jordan. Is that one of --

Mr. Kennedy. -- mainframe computers and telecommunications and tie lines, telephones, et cetera. The records management is in a different chain, both of which reported to me.

Mr. Jordan. Okay.

Mr. Kennedy. But Mr. Pagliano had nothing to do with records

management.

Mr. Jordan. But he did report to you.

Mr. Kennedy. Through several layers.

Mr. Jordan. I understand. And when was Mr. Pagliano -- do you know when he was hired, when he was brought on?

Mr. Kennedy. I don't recall. I think it was early in Secretary Clinton's tenure, but I don't remember an exact date.

Mr. Jordan. Uh-huh. And, again, his responsibilities at the State Department were what exactly?

Mr. Kennedy. He was an officer within the Chief Information Officer's ambit, and I honestly do not know what his specific duties were.

Mr. Jordan. Did you know that he was the one who also set up Secretary Clinton's personal system?

Mr. Kennedy. I did not know that. And I know, because I have asked one of his previous supervisors, and neither did that person know it either. We did not know that he was doing that for Secretary Clinton.

Mr. Jordan. Okay. Okay.

You sent a letter to, I think, four previous Secretaries of State --

Mr. Kennedy. Is that the one, sir, back in the fall of 2014?

Mr. Jordan. It would be. I believe it was October 28th of 2014.

Mr. Kennedy. Yes, sir.

Mr. Jordan. -- letting them know that there was now a different

policy going to be used at the State Department regarding records retention. Is that right?

Ms. Jackson. Mr. Jordan, we have a copy of the letter. We're going to mark it as exhibit 12.

[Kennedy Exhibit No. 12

Was marked for identification.]

Mr. Kennedy. Yes, sir. This was in response to a National Archives and Records Administration new policy that they had put out.

Mr. Jordan. Uh-huh. And the letter came from you?

Mr. Kennedy. The letter came from me, yes, sir.

Mr. Jordan. And --

Mr. Kennedy. It went to the representatives of I believe it was four previous Secretaries of State.

Mr. Jordan. Why did it go to the representatives?

Mr. Kennedy. That was just a decision that we would write the representatives because it would more likely get the kind of attention, immediate attention, if we sent it to the representatives. And I personally knew all the representatives of Secretary Powell on forward. And so I would write them because I would make sure that they would take -- it would not get lost, potentially, in the junk mail category.

Mr. Jordan. Okay. And just give me in your words, so I don't have to reread and go through this letter -- in your words, what were you trying to accomplish exactly with this letter? What were you concerned about?

Mr. Kennedy. We wanted to make sure that we had in our possession

any Federal record that had been created during their tenure that we might not have in our possession.

Mr. Jordan. Uh-huh.

Chairman Gowdy. And what prompted you to write the letter when you wrote it?

Mr. Kennedy. It was basically the NARA, the NARA --

Chairman Gowdy. Rule?

Mr. Kennedy. The NARA rule.

Chairman Gowdy. And when was the NARA rule promulgated, do you recall?

Mr. Kennedy. I believe that it was in late 2013.

Chairman Gowdy. If it was late 2013, why did you wait until late 2014 to write the letter?

Mr. Kennedy. Because this is when I received it, sir.

Chairman Gowdy. When you received what?

Mr. Kennedy. When my staff called this to my attention.

Chairman Gowdy. Can you see how the timeline might appear to have been influenced by other factors? Are you at least open to the optics of a congressional committee continuing to ask for her emails, and none are forthcoming, and the State Department says not one word about not having her record?

And I will say again for the record, for the court reporter, because this may be a new court reporter: The person that's currently assigned to aid Congress in collection of records, Mr. Snyder, could not be more professional and easy to work with and fair. And if it's

no, it's no, and if it's yes, it's yes, but at least we have an answer. Previous to Mr. Snyder, it was not that way.

So we ask, and we hear crickets. And then we see these letters from you to all the way back to John Jay and Alexander Hamilton saying, can you please produce records. And the rule was promulgated a year before you sent the letter, Ambassador.

Mr. Kennedy. Mr. Chairman, I absolutely understand your concerns and absolutely agree that your request for records rang some bells in the State Department. Absolutely.

Chairman Gowdy. That's what I'm getting at.

Mr. Kennedy. But, you know, if we wanted to hide something, I would have never sent this letter.

Chairman Gowdy. Well, there are two ways to look at that. You sent the letter to more than just Secretary Clinton, which was a very good way to deflect attention onto other Secretaries of State, even though the ones that you -- some of the ones you dealt with in the past never sent you an email. Now, the letter does say records and not just emails, I will grant you that.

Mr. Kennedy. That is correct, sir.

Chairman Gowdy. But it is curious why you would wait years and years and years to make sure the public record is complete. Meanwhile, you're getting FOIA requests and congressional inquiries and a host of other things. And yet you wait until our committee is in the throes of asking for her emails for this letter to be sent.

Can you see how that would look suspicious?

Mr. Kennedy. I can see how it looks suspicious, but, Mr. Chairman, I acted after discussion with my colleagues. You know, you called something to our attention, and we thought, "We could have a problem here." We are now in the email era at the State Department. And the email era of the State Department, access to the Internet, et cetera, et cetera, essentially goes back only to -- let's see -- goes back to about late 19- --

Chairman Gowdy. Whenever Al Gore invented it.

All right. I'm going to turn it back over to Jim.

Mr. Kennedy. So that we went back to the period of time before Secretaries of State who were, in the opinion of myself and others in the State Department, in the Internet email era. And so we went to those four Secretaries of State --

Chairman Gowdy. I'm with you.

Mr. Kennedy. -- to make sure that -- we had your concerns. We also had the NARA concerns. And it seemed to be a rational decision to reach out across the board, because it was only going back --

Chairman Gowdy. But you would concede you had been getting FOIA requests and you had gotten other congressional inquiries, none of which prompted you to write this letter.

Mr. Kennedy. This is the first time it had been brought to my attention.

Chairman Gowdy. And you've said "brought to your attention." Who specifically brought this to your attention?

Mr. Kennedy. I don't remember. I think it was some combination

of our records officers and the Bureau of Legislative Affairs.

Chairman Gowdy. All right. You wrote Ms. Mills, among others.

Mr. Kennedy. Yes.

Chairman Gowdy. Did you have any conversations, correspondence, emails, face-to-face meetings with Ms. Mills prior to sending this letter?

Mr. Kennedy. Not on this subject.

Chairman Gowdy. So, out of the cold blue air, you sent Ms. Mills a letter saying, essentially, "Send Secretary Clinton's emails back to the State Department," no warning?

Mr. Kennedy. I also sent [REDACTED], who was going -- I wrote who I regarded to be the senior staff officers for four --

Chairman Gowdy. And you're saying Ms. Mills had no notice that this letter was coming.

Mr. Kennedy. I did not call her and tell her it was coming, sir. And I am unaware of anyone else who may have called her.

Chairman Gowdy. Did you meet with her and tell her it was coming?

Mr. Kennedy. No, sir, I did not.

Mr. Jordan. The other three designees for the three previous Secretaries of State, did you communicate with them in any fashion prior to them receiving the letter on behalf of the Secretary of State?

Mr. Kennedy. No, sir, I did not.

Mr. Jordan. And just to be clear, with your question from Chairman Gowdy, you said you did have conversations with Cheryl Mills prior to this letter being sent?

Mr. Kennedy. Not about this topic, sir. Every once in a while, I would see Cheryl Mills at a social function. I think I even had lunch with her once, discussing old business not related to Secretary -- I had worked with Cheryl Mills for 4 years.

She was, under the statutes, a designated researcher, which is an Executive order provision where a former Secretary of State -- and all of them do it -- can continue to access and help a former Secretary of State write their books or something. So I believe I had a conversation with Cheryl once about her status as a researcher. Cheryl Mills --

Mr. Jordan. Did you have any --

Mr. Kennedy. If I could?

Mr. Jordan. Yes, sure, sure, sure.

Mr. Kennedy. Cheryl Mills also was until shortly before this, including a period after Secretary Clinton departed, remained on the State Department rolls as an uncompensated what we call expert to advise on Haiti, which had been within her portfolio. So I had numbers of conversations with Ms. Mills -- not large numbers -- about Haiti because that is something -- I had been the officer in charge of the Haiti evacuation and had actually accompanied Ms. Mills to Haiti on one of the trips. And so --

Mr. Jordan. All I'm asking, Mr. Secretary, is, between the time when you learned that you needed to do something different, as far as record retention goes, and when you actually sent the letter, you had numerous conversation with Cheryl Mills, but you're saying none of them

dealt with this issue?

Mr. Kennedy. I never tipped her off, if I can anticipate or try to define your question.

Mr. Jordan. I'm not -- again, I want to make sure I got it right. But you had numerous conversations with her either in person, in phone, and at least one time you had lunch with her.

Mr. Kennedy. Numerous meetings, more than one or two, but none of them related to this subject matter.

Mr. Jordan. Did you have any contact with any of the other designees of the other Secretaries of State where you were also trying to glean and get the same information?

Mr. Kennedy. Not prior to the letters. I mean, one of the -- some people -- not Cheryl Mills -- others called me after this.

Mr. Jordan. No, I would expect that.

Mr. Kennedy. But Cheryl Mills and I -- and I have scratched my brain in thinking that I might get asked a question like this. I cannot recall any conversation with Cheryl Mills on this subject prior.

Mr. Jordan. What about anyone else on part of --

Mr. Kennedy. On part of Secretary Clinton?

Mr. Jordan. -- Clinton's team, like Mr. Sullivan, Jake Sullivan?

Mr. Kennedy. No, sir.

Mr. Jordan. David Kendall?

Mr. Kennedy. I don't believe I have ever spoken to David Kendall.

Mr. Jordan. Heather Samuelson?

Mr. Kennedy. I did not talk to Heather Samuelson about this either.

Mr. Jordan. Okay.

Chairman Gowdy. The chronology -- just to make it more full --

Mr. Kennedy. Yes, sir.

Chairman Gowdy. -- we received eight emails in response to our request. And, again, we're just talking about Libya- and Benghazi-related emails.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. The rest were public records, none of our -- it's out of our jurisdiction. So we received that in early August.

On August the 28th, you issued a memo to a whole host of people, subject: "Senior Officials' Records Management Responsibilities."

I want to make sure he gets a copy of that so he's looking at the same thing I'm looking at. And we can mark it as committee exhibit 13 here.

[Kennedy Exhibit No. 13

Was marked for identification.]

Chairman Gowdy. Does that look familiar? I'm not going to go through the whole thing with you. I just want to --

Mr. Kennedy. Yes, sir, this is familiar. This is something that we did in response to a NARA program that we call journaling but NARA's official name is Capstone.

Chairman Gowdy. And what prompted you to promulgate this memo?

Mr. Kennedy. NARA's program.

Chairman Gowdy. I thought you and I had established that NARA rule had taken place the fall of 2013.

Mr. Kennedy. The journaling effort, Mr. Chairman, I cannot remember the exact date and how my people had worked this through. But the request to journal these records is something that -- I'm just reading this now to see if anything else reminds me.

Mr. Chairman, if I am slow, I am slow. But I have --

Chairman Gowdy. Having spent the day with you, you will never convince me that you are slow. You will never convince me of that.

If you would look at page 3 for me, kind of in the middle, it's a bullet that starts, "As a general matter."

Mr. Kennedy. Yes.

Chairman Gowdy. "As a general matter" -- I'll let you read the rest of that. You can read it for the record whenever you feel comfortable.

Mr. Kennedy. Yes, sir, I am ready.

Chairman Gowdy. Will you read that for us, for the court reporter?

Mr. Kennedy. "As a general matter, to ensure a complete record of their activities, senior officials should not use their private e-mail accounts for (e.g., Gmail) for official businesses. If a senior official uses his or her private e-mail account for the conduct of official business, she or he must ensure that records pertaining to official business that are sent from or received on such e-mail account are captured and maintained. The best way to ensure this is to forward

incoming e-mails received on a private account to the senior official's State account and copy ongoing messages to their State account."

Chairman Gowdy. All right. I'm going to turn it back over to Jimmy. I just want you to see it from our perspective.

The committee is formed. We've made a request. We get, if memory serves, eight emails responsive to our request. A couple weeks later, this memo is promulgated. Not that long after that, letters start going out to past Secretaries of State, some of whom did not use email, saying, "Please return the public record to the public domain."

And then, again, I'm making it incredibly clear, Mr. Snyder had nothing to do with this, but there were other people at the Department of State who didn't bother to tell us about any of this until the Friday before the whole world knew.

Mr. Kennedy. Mr. Chairman, I was unaware of that.

If I could add just one other thing, we were aware -- we had become aware -- I had for the first time before aware of one other Secretary of State who publicly wrote that he used private email. And I think, thinking back, that part of it -- we were bracketing that period. Secretary Powell wrote that he used private email, so I think part of -- I'm just now trying to reconstruct it. I should not be hypothesizing.

Chairman Gowdy. No, no, no, no.

Mr. Kennedy. We bracketed backwards --

Chairman Gowdy. I'm going to dust off my old lawyer hat for a second. When did General Powell write that?

Mr. Kennedy. I don't know. He did not write that -- he did not write that -- I was not aware of it until this period of time. Because I never --

Chairman Gowdy. Whenever he wrote that, it would have been a great time to write him and ask him to send his stuff back, right?

Mr. Kennedy. Mr. Chairman, I am not going to disagree with you, but I am talking about -- I was not in Washington serving in any position of responsibility when Secretary Powell was ~~that~~^{there}. And I also state that I have never read Secretary Powell's book, so I was unaware of this. I was unaware of it.

Ms. Jackson. How did it come to your attention then?

Mr. Kennedy. Someone mentioned it to me as we were discussing the need to write the letters to the Secretary of State, and I asked, why are we picking this group? That's my recollection.

Ms. Jackson. And who was that person?

Mr. Kennedy. I don't remember. This was a long -- this was a discussion. This was, to me, a very serious issue.

Chairman Gowdy. I want to ask you this. Did you ever use personnel email with which to conduct official business?

Mr. Kennedy. I don't ever remember doing that, sir. I use my government account.

Chairman Gowdy. And why did you use your government account?

Mr. Kennedy. To be blunt, sir, I have -- my wife has a Mac. I hate the Mac. And so it's just easier for me to use my government BlackBerry and my government account, and I wouldn't think of trying

to figure out how to get her Mac to work for me. And I also know the rule. But I have a BlackBerry, I have my account, I work 6 days a week, and I can just churn out my material on my machine a lot faster with these 10 fingers than I can with my thumbs.

Chairman Gowdy. Fair enough.

Mrs. Brooks. Quick question with respect to, prior to the memo on August 28th as well as the letter, November 14, November 12th, 2014, did you have a discussion with Secretary Kerry or his chief of staff about this issue, David Wade?

Mr. Kennedy. I honestly don't remember. Ma'am, I don't remember. It would have been practice for me if I was writing other Secretaries of State or putting out a memo to the entire senior cadre of the Department as a courtesy to inform the chief of staff that I was exercising a function that belonged to me but I was touching the entire department. But I honestly don't remember if I told Mr. Wade.

Mrs. Brooks. Would this have been discussed? I know that certainly Ms. Mills did, and I don't know if Mr. Wade did. Did he conduct regular senior-level meetings with the senior officials --

Mr. Kennedy. He did.

Mrs. Brooks. -- to discuss issues of concern?

Mr. Kennedy. Yes, ma'am.

But if I could point out one thing, if you look at this document, in the upper left-hand corner, it has a distribution code on it. And this distribution code means that a copy of this memo was given to the Office of the Secretary, the Office of the Deputy Secretary. That's

what code 1, code 3 and 4. So I knew it was going to be distributed to the Office of the Secretary.

I know your question was about did I do it before. I honestly do not remember if I told them before. But I had an excellent relationship with David Wade, who let me manage my accounts the way I saw it was best for the Department.

Mrs. Brooks. Well, I understand that, but you have no recollection of any discussions with Secretary Kerry's chief of staff about the issue you were dealing with once it came to light about Secretary Clinton's server?

Mr. Kennedy. Oh, I'm sorry. I thought we were talking about this email.

Mrs. Brooks. Well, talking about --

Mr. Kennedy. Or this message. Excuse me.

Mrs. Brooks. Or, I'm sorry, talking about her emails being generated from her private account.

Mr. Kennedy. I don't remember. I don't remember talking to the Secretary or Mr. Wade about this. I could have, but I do not remember. I talked to Mr. Wade a couple, two, three times a day on a range of issues.

Mrs. Brooks. Then it's likely that you probably talked to him. Would that be a fair assessment?

Mr. Kennedy. Maybe. Maybe.

[6:59 p.m.]

Mr. Kennedy. But I cannot -- I have no direct recollection.

Chairman Gowdy. Mr. Ambassador, I want to switch gears a little bit. Some of the members -- and, first of all, on behalf of all of us, I know it's been a long day. Quite honestly, you're one of the few witnesses who actually touches several different areas.

Mr. Kennedy. Understood.

Chairman Gowdy. So I appreciate your patience. And the fact that there are a handful of members still here 2 hours after we usually quit work, we appreciate it.

Mr. Kennedy. Thank you, sir.

Chairman Gowdy. I want to jump around a little bit, and then Mr. Pompeo and Mrs. Brooks, and then our time will be up.

The ARB, what role, if any, did you play in selecting the members of the ARB?

Mr. Kennedy. In one case I was asked to provide a list of people who I knew who might be qualified in the area of State Department facilities. And I provided one name, Richard Shinnick. That was the only name that I was solicited and asked to provide a suggestion for, in effect, a type of expertise.

Chairman Gowdy. Do you recall the members of the ARB, who they were?

Mr. Kennedy. Yes, sir.

Chairman Gowdy. Give them to me in the order you recall.

Mr. Kennedy. Thomas Pickering.

Chairman Gowdy. Did you have any relationship with Mr. Pickering, personal or professional?

Mr. Kennedy. Thomas Pickering had served in the State Department. He was under secretary for political affairs when I was assistant secretary for administration. I had worked with him, but I had never worked for him. I had never served at any geographic post with him.

So I had met him and provided support services to his embassy or support services to him as under secretary for political affairs from my position. But I won't say I had a personal friendship with him.

Chairman Gowdy. And you would not have had a role in picking him as one of the co-chairs?

A I had nothing to do with picking him, sir.

Q All right. Admiral Mullen.

A Admiral Mullen. I had met Admiral Mullen only at Deputies Committee meetings, the National Security Council, when he was the JCS representative and I was either the State Department representative or a backbencher to the deputy secretary or the Secretary.

Chairman Gowdy. All right. Who else?

Mr. Kennedy. The CIA representative. And I don't know if that is a public name or not. I had nothing to do with him. That is a designee of the, per statute, the Director of Central Intelligence, by ~~statutory~~ ^{statute}, the Director of National ^{Intelligence}. I had never met the man. Never served with him. Never crossed paths with him.

Chairman Gowdy. All right. Next one.

Mr. Kennedy. Catherine Bertini. I had met Catherine Bertini when I was one of the alternate representatives to the United Nations and she was at the United Nations as the -- she was I think at that point the senior American serving in the United Nations Headquarters Secretariat. So I worked with her on a professional basis because I was representing the United States and she was a senior official within the United Nations. I did not recommend her for the position.

Chairman Gowdy. All right. Next one.

Mr. Kennedy. And Richard Shinnick, the man I addressed earlier, sir.

Chairman Gowdy. All right. There was -- and I want to ask this question as respectfully as I can of Admiral Mullen -- but he did testify before Oversight Committee that he had placed a phone call to Chief of Staff Cheryl Mills indicating that Charlene Lamb would not make a good witness before a committee of Congress. Did he have that same conversation with you?

Mr. Kennedy. No, sir.

Chairman Gowdy. Did you and Ms. Mills have any conversations about whether or not Charlene Lamb would make a good witness?

Mr. Kennedy. I think I was informed at some point that Admiral Mullen had expressed -- had expressed his concern that she had never -- she had never testified before Congress and he thought that was an important factor. This was such an important event that a -- and this is now my term, not his -- that a first timer, a novice, should not be a State Department witness before an important committee.

Because it is -- I remember the first time I testified before the Congress. That was a scary moment.

Chairman Gowdy. Looking at it from the committee's perspective, would you have considered her to be a fact witness, an important fact witness, in light of how often her name came up this morning?

Mr. Kennedy. From the committee's perspective, I could see why you would have selected her. But there were other people in the diplomatic security hierarchy who could have testified as well, sir.

Chairman Gowdy. She was the author of an email in June of 2012, the game changer email, that if you'd been a Member of Congress you would have most assuredly wanted to -- and I don't know if you've seen that email or not, but I would invite your attention to it at some point.

Mr. Kennedy. Yes, sir. I'm writing down the title, and I will make sure I find it.

Chairman Gowdy. Do you know whether or not Secretary of State Clinton was going back to Libya in the fall of 2012?

Mr. Kennedy. I am not aware of any plan for her to do that. No, sir.

Chairman Gowdy. Would you have been part of those conversations if that trip were being planned?

Mr. Kennedy. I would only probably have been peripherally notified by the head of Diplomatic Security because injecting a Secretary of State into a -- into a location which had some risk would have been something that Diplomatic Security would have informed me about. But I -- my unit, or none of the units that work for me, none

of them planned Secretary of State travel. That's handled -- Secretary of State travel is handled by a unit within the Executive Secretariat, which supports Secretary's travel.

Chairman Gowdy. All right. We'll bring Mr. Pompeo in. But did Ambassador Stevens or Greg Hicks, either one, at any point up until September 11th alert you of any concern they had about the Internet video?

Mr. Kennedy. No, sir.

Chairman Gowdy. Okay.

Mr. Pompeo. Thank you, Mr. Chairman.

I just have a few questions. I didn't quite get gone with the email issue. So I wanted to close it out. And so I apologize for being disjointed.

So you testified that you first learned of Secretary Clinton's use of private email when?

Mr. Kennedy. Sometime in the -- well, to an extent, sometime in 2009 I saw -- I saw a reference that she wished to set up an operation in which she could reach her family using her private email account. And there was a discussion about how to do that in such a way that it would not compromise the ^{sensitive} ~~special~~ compartmented information facility, the SCIF, which there are rigorous rules about SCIFs and firewalls and things like that. So there was a discussion about how she could set up a way to communicate privately with her family.

In the end, it was determined that, though we could make a system available, that Secretary Clinton did not like to use keyboards and

PCs. And so that proposal was dropped. So I knew that she wished to communicate with her family.

Sometime later, sometime between 2009, I did get my first email, out of several dozen from her, that was from a nongovernmental source. But as I mentioned previously, it was on a matter that was not a command, it was not something that I regarded as a record, something that should be officially recorded. Although -- and I responded to her -- it was recorded because I religiously keep, I have every single email I have sent since I came into this job, [REDACTED]

Then there was, you know, a process rolled out, as we have outlined previously, sir.

Mr. Pompeo. In fact, you thought, according to your email, you thought it was a great idea to set up this private server. Your email says, quote, "The stand-alone separate network PC is a great idea."

Mr. Kennedy. The reason for that, Mr. Chairman, is having spent 2 years at the intelligence community, I was well aware of what ^{are} ~~her~~ called DCIDs, D-C-I-D, small "s." These are Director of Central Intelligence directives on how you -- how you work with highly classified information. And they set up SCIFs, ^{sensitive} ~~special~~ compartmented information facilities.

The office that Secretary Clinton uses, [REDACTED]. And therefore to -- she could not bring in, you know, handheld devices [REDACTED]

[REDACTED] So setting up what is called a DIN, a direct Internet

connection, with the right kind of controls by us, using fiber optics so it transits the SCIF and all kinds of rules -- I probably shouldn't go any farther -- this was a great idea. We were solving her request to communicate with her family on private emails, but we were making sure that we were absolutely going to rigorously adhere to the DCIDs so we could continue to use -- she could continue in her office to have the most highly classified conversations in the U.S. Government and totally completely adhere to that standard. So that why it's a great idea to me.

Mr. Pompeo. So the workaround was just so she could talk to her family.

Mr. Kennedy. That is -- that is what her staff had told me.

Mr. Pompeo. You had no idea that she was ultimately going to use that to transit information or receive information that the State Department now can't release?

Mr. Kennedy. I had no -- I had no knowledge of her expanded use of that system, no, sir.

Mr. Pompeo. Okay. That's all the questions I have.

Chairman Gowdy. Mrs. Brooks.

Mrs. Brooks. I'm curious because when you talked a bit this morning going through your history, were you -- what was your role in 1998? Were you actually acting director of Diplomatic Security then?

Mr. Kennedy. I was both the director -- both the assistant secretary for diplomatic security and the principal deputy -- the director of the Diplomatic Security Service. Both were offered

spectacular jobs on the outside, retired at the same week, month, leaving a gap. I was the assistant secretary of state for administration at that time, and thus, under the laws, the President could designate me as a -- since I was a confirmed officer -- to act for another confirmed officer.

There was a nomination pending on Capitol Hill for a new director, assistant secretary for diplomatic security. And for reasons that I don't recall, that nomination was held up and held up and held up, and the decision was made by the Then-Secretary of State that the more junior deputy assistant secretaries of state for diplomatic security, none of them should be elevated to be the acting assistant secretary. So they took another assistant secretary, me, and said: Be acting for a -- and I was acting for a brief period of time until the Senate confirmed the new assistant secretary.

Mrs. Brooks. And because -- I'm sorry. Because I don't know the exact timing, so were you acting director when East Africa --

Mr. Kennedy. Yes.

Mrs. Brooks. -- happened?

Mr. Kennedy. I had been in the job a few weeks on an acting basis.

Mrs. Brooks. And did you read that 1999 East Africa ARB?

Mr. Kennedy. I read it -- I read it both -- I read it -- that came out much later, after I had gone back to being assistant secretary for administration, and I read it word for word, page for page. Because my bureau then, the Bureau of Administration, had responsibilities derived from the recommendations of the ARB.

Mrs. Brooks. And at that time do you recall -- well, the -- do you -- and I assume you've read the Benghazi ARB.

Mr. Kennedy. Yes, I have, ma'am.

Mrs. Brooks. And at that time the Benghazi ARB contains a passage, and I quote, "We must remember the lessons of the past. Board members reviewed the 1999 Nairobi, Dar Es Salaam Accountability Review Boards' combined report and were struck by the relevance of several of its recommendations, which have not been fully implemented," end of quote.

Do you recall that there were multiple areas that were in both reports?

Mr. Kennedy. The area that I most recall is the statement that we needed a consistent funding source in order to construct new embassies. We had achieved such a secure -- a security construction funding source in 1999 or 2000. Unfortunately, for reasons that I don't totally recall why, although I remember pushing back very hard, that appropriation level was not indexed to inflation.

And so between 2000 and the Benghazi tragedy in 2012, the amount of money available essentially was halved by inflation and the dollar's depreciation. And so what the Pickering-Mullen ARB was saying: You got to do something to get the construction. Which we were doing six to eight embassies of new construction had fallen to three.

Mrs. Brooks. And I appreciate that being in charge of it and being overseeing management, a lot of construction issues and the funding are key. But yet areas that were in both reports include issues

such as collocation, marine security guards, adequate emergency equipment, failure of host nation support, physical security standards, which you've talked about, and what I'd like to talk to you a little about, the Secretary's role in ensuring ~~secure~~^{security}. That was in both reports.

Mr. Kennedy. But I think the first three that you read out, as well as one of the latest, all relate -- all relate to funding. We did not -- we did not have the funding, neither did the Department of Defense, to push the number of marine security guard detachments over -- I think we reached 152 out of 285. We had been seeking to increase the marine security guards for many years, but there was simply no funding for it. And several of the others relate to a more consistent stream of funding.

Our committees of jurisdiction, our appropriators, have done great. They have stood by us. They are provided us incredible support. But there are caps.

Mrs. Brooks. And in fact, though, there has never, even though it was recommended then and it's been recommended yet again, the under secretary for diplomatic security.

Mr. Kennedy. Yes.

Mrs. Brooks. And is that a funding issue to --

Mr. Kennedy. No.

Mrs. Brooks. -- restructure an org chart or an organization as massively large as the State Department and not create a position of under secretary for diplomatic security, giving it a much higher level

of prioritization than it currently has?

Mr. Kennedy. Two things, if I might.

Mrs. Brooks. Please.

Mr. Kennedy. First of all, that was not a recommendation of the Pickering-Mullen. They did not make that recommendation.

Secondly, and this may seem to be me, under secretary for management talking, but I and the Secretary of State, several Secretary of States, after looking at that, have concluded that security of our overseas facilities should be spelled ~~w~~^{with} a small "s."

Mrs. Brooks. Why?

Mr. Kennedy. Security is not the sole responsibility and province of the Diplomatic Security Service. If you want to achieve security for our personnel and the personnel for other U.S. Government agencies, you have to combine training. You have to combine recruitment. You have you to combine medical. You have to combine construction. You have to combine finance. You have to combine budget. You have to combine Diplomatic Security. A whole range of activities constitute what security is for our posts.

To have one under secretary who is the under secretary for diplomatic security and one under secretary who is responsible for everything else, actually, in the collective wisdom, actually results in less security.

I can coordinate and I do coordinate. If there is an issue of debate between the Finance Office and Diplomatic Security or the Overseas Buildings Office and Diplomatic Security, I fix those, I fix

those immediately, because all of the elements that constitute security come together and I make sure all the pieces are stitched together so that we can have things done fast. And that is why multiple Secretaries of State have decided that a separate under secretary for diplomatic security actually would result in less rather than more.

Mrs. Brooks. Was that ever discussed with Secretary Clinton, to create a position, even though it had been recommended in the '98-'99 ARB?

Mr. Kennedy. It had been recommended in the -- Secretary Albright who did not act on it, neither did Secretary Powell, neither did Secretary Rice, neither did Secretary Clinton, and neither did Secretary ^{Kerry} -- all of them.

Mrs. Brooks. My question, sir, was, was it ever discussed with Secretary Clinton to create such a position?

Mr. Kennedy. I don't remember it ever being discussed with her. I think it was -- I think that it had been a recommendation of the 1990s that throughout the aughts, that ~~the~~ people had adopted the philosophy that I have just laid out.

Mrs. Brooks. And that philosophy was to not remove and make Diplomatic Security a separate under secretary position, keep it small "s" --

Mr. Kennedy. No. No. Keep Diplomatic Security big "S," but treat security of an embassy as not solely the responsibility of the Diplomatic Security Service. The Diplomatic Security Service is not responsible for the full panoply of issues that create security at a

post. There are all these other pieces that come together. And it has been the under secretary for management, whether it has been me or Grant Green for Colin Powell or whoever, who have stitched all the pieces together.

Mrs. Brooks. But did you recall that Secretary Albright actually accepted that recommendation?

Mr. Kennedy. She never acted on it. I cannot address that because I was -- that was at the very end of her tenure and then I left. I know that Secretary Powell and Secretary Rice also did not accept that recommendation because I believe that they saw that the coordinating ability of the under secretary for management, not Pat Kennedy, but the coordinating abilities of that position of stitching all those pieces together to create true comprehensive security is a reason to do it that way, not the recommendation of the --

Mrs. Brooks. That '99 ARB.

Mr. Kennedy. -- of Admiral Crowe's ARB.

Mrs. Brooks. Okay.

Mr. Kennedy. Because it was one ARB for both posts.

Mrs. Brooks. And speaking of the ARB, with respect to the recommendation, if a committee -- if the Secretary's supposed to convene the ARB, and I know that the chairman went through the lists of the names --

Mr. Kennedy. Yes.

Mrs. Brooks. -- of ARB members, I'd just like to delve into that a little bit more. How are those names supposed to come about? So

I know the chairman asked you about the different names of the ARB members, but what does the foreign service, what does the FAM recommend with respect to how the ARB is supposed to be constructed?

Mr. Kennedy. Well, the law requires four nominees by the Secretary of State and one nominee by now the Director of National Intelligence. And it leaves to the Secretary of State to select four and the Director of National Intelligence to select the fifth.

And so it is up to the Secretary of State. The Secretary of State can ask for recommendations. The Secretary of State can conduct his or her own research and select eminent people. And I think the results kind of speak for themselves here. You picked somebody who had been a U.S. representative of the United Nations, under secretary for political affairs, I think ambassador four other times. You picked a four-star admiral who had been Chairman of the Joint Chiefs of Staff.

Mrs. Brooks. Who picked them? Where did they come from?

Mr. Kennedy. The Secretary -- I think -- I believe --

Mrs. Brooks. Were you a part of that?

Mr. Kennedy. As I said earlier, I was asked only to make one recommendation -- name somebody who was not in the State Department but knew a lot about Secretary of -- excuse me -- Department of State construction activities. So I made one recommendation and I made no recommendations for any of the other four.

I was advised, because I also head the unit that publishes the names in the Federal Register, I was advised that the selections were Pickering, Mullen, Turner, I think it was, Bertini and Shinnick.

Mrs. Brooks. And so did Cheryl Mills ask you for that, or did Jake Sullivan? Or who asked you for --

Mr. Kennedy. Cheryl Mills asked me for the name of someone who knew about State Department facilities management and construction.

Mrs. Brooks. And did she share with you who the other members who she was thinking about --

Mr. Kennedy. No.

Mrs. Brooks. -- appointing?

Mr. Kennedy. No. I was informed who the selections were.

Chairman Gowdy. I knew this would happen, Ambassador, if I sat here long enough and listened to a good lawyer like Susan. It would prompt me to -- I want to go back just for a second to the letter of Ms. Mills towards the very end. I'll give you a chance to get it if front of you, sir.

Mr. Kennedy. This is the November 12 letter, Mr. Chairman?

Chairman Gowdy. Yes, sir. I'm sure it's got an exhibit number on there somewhere.

Mr. Kennedy. Twelve. Yes, sir.

Chairman Gowdy. Last full paragraph, sentence beginning, "Accordingly, we ask that your principal or his or her authorized representative be aware or become aware in the future of a" -- "we ask that should they become aware in the future of a federal record, such as an email sent or received on a personal email account while serving as Secretary of State, that a copy of this record be made available to the Department."

Did Ms. Mills contact you and say, "We have some information that would be responsive to the letter we received from you"?

Mr. Kennedy. No, sir. There was a letter -- there was a response letter to that letter.

Chairman Gowdy. A response from Ms. Mills?

Mr. Kennedy. Yes.

Chairman Gowdy. Okay. To you?

Mr. Kennedy. I believe it was to me because -- because I wrote the letter, and so she responded to me.

Chairman Gowdy. Do you recall in general terms, and I won't hold you to it -- here it is, right here, I think.

Can we give the Ambassador a copy of this so --

Ms. Jackson. Fourteen.

Chairman Gowdy. Took a little while to get back to you. When'd you send your letter?

Mr. Kennedy. November 12, sir.

Chairman Gowdy. That's when you sent it?

Mr. Kennedy. Yeah, that is the date stamp on the letter.

Chairman Gowdy. That's my date stamp too, but I thought -- for some reason, I thought somebody said it was October.

Mr. Kennedy. There were -- there was a glitch in one of the letters that repeated -- that repeated -- this was the same letter. It repeated the wrong Secretary of State's name to the wrong person.

Chairman Gowdy. Okay.

Mr. Kennedy. But the official letter went out November 12.

Chairman Gowdy. All right. Well, then it didn't take that long. So, all right, you get this back.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. "The Secretary's electronic mail has been reviewed. Please find enclosed those electronic mails we believe respond to your request." And they sent you, what, all 33,000?

Mr. Kennedy. Yes, sir.

Chairman Gowdy. That actually is a pretty quick turnaround, to produce 33,000 in, what, about less than 4 weeks?

Mr. Kennedy. Yes, sir.

Chairman Gowdy. Doing it the way Secretary Clinton did it, it strikes me that makes her kind of the sole determiner of what is a public record.

Mr. Kennedy. Under the rules that existed, and I still believe exist to the best of my understanding, it is the responsibility of each employee who is generating a document or a record -- I'm sorry, document or an email or anything that has archival possibility, it is up to the individual to make the determination whether it is a Federal record or not.

That has subsequently been changed, and that is why we -- the Capstone program and then other programs have been and are being put into place. But at that moment, it was the responsibility of every employee to say record, nonrecord.

Chairman Gowdy. You may be correct. But if she had done it the Pat Kennedy way, she wouldn't be the sole arbiter, because all of your

emails are on the state.gov system. So your FOIA coordinator would also be involved in that. You couldn't identify something on the state.gov account that clearly was work related and then just determine sua sponte this is not a public record, could you?

Mr. Kennedy. Yes, sir, I could.

Chairman Gowdy. You can?

Mr. Kennedy. Because right now when we receive a FOIA or a congressional document request, different processes, but accord, we go out to everyone who could potentially be involved and say: Send us what is relevant to this request. And so --

Chairman Gowdy. But if you had a searchable database, a third party could do that. Could they not?

Mr. Kennedy. That's right. We have been struggling for over a year with a team that I have set up composed of experts from throughout the Department, and I believe it's called the Electronic Records Management Working Group, that is trying to see if we can stitch everything we've got into one huge, you know, server farm, records farm, at a facility. And I'd be glad to tell you where it is, but not -- therefore, then we can truly effectively automate everything.

So the email would go in and at a central location somebody with -- because all the material is now on servers. And someone goes in and puts in the search terms and a search engine (witness makes whirring noise) and out comes everything.

Mr. Snyder. Do you need the spelling of (whirring noise)?

Mr. Kennedy. My apologies.

But right now we do not have -- no government agency, to my knowledge, Mr. Chairman, I could be wrong, but no government agency has that crosscutting single-source capability. So right now individuals are responsible for designated records and individuals are responsible for attempting to locate records that are responsive to congressional requests or to individual.

Chairman Gowdy. This is what I find a little vexing, then. If it can be done your way, then why send out the memo not to use private email?

Mr. Kennedy. Because --

Chairman Gowdy. If the individual is the sole arbiter about whether or not it's on state.gov or not, then why not just let anybody use Gmail and just, we trust you, it will be on the honor system?

Mr. Kennedy. The honor system is good, Mr. Secretary -- Mr. Chairman.

Chairman Gowdy. Don't promote me.

Mr. Kennedy. But we are -- because of changes in NARA and other things, we are moving in this direction of a comprehensive, you know, single repository, if I might use that word.

Chairman Gowdy. But even without NARA, I think the President sent out guidance not to use personal email. I could be mistaken. I thought the Secretary herself may have sent out guidance not to use personal email. Have I mis-recollected?

Mr. Kennedy. I don't remember -- I don't remember a memo from Secretary Clinton about that. There may well be one. I just at this

moment -- one of your staff may be --

Chairman Gowdy. All right. We'll get that for you.

Two more things and then I have referenced an email from Ambassador Stevens before his death where he had commented on another country providing security.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. And I intended for you to have a copy of that. I don't know whether you got it or not.

Mr. Kennedy. Yes, sir. Your colleagues were good enough to provide me with a copy.

Chairman Gowdy. I'm just wondering, as a 43-year-long diplomat that's served our country, what was your reaction to seeing that?

Mr. Kennedy. Chris Stevens had a sense of humor. And also if you go -- if you go down to the last paragraph of the incoming memo to him from our then-representative in Benghazi, it says: The Qatari consul wants to rent the property adjacent to ours, as he told the landlord that the safest place is always next to the Americans.

Chairman Gowdy. Next to the Americans.

Mr. Kennedy. And so I think Chris was making a joke: Oh, if the Qataris move in next to us, maybe we can, you know, get them to upgrade our entire perimeter because we're their next-door neighbor, and anything that happens to us would happen to them. So I regard it as a touch -- it's a touch of humor in light of the evidence in the incoming email from our principal officer in Benghazi.

Chairman Gowdy. All right. My last question.

Ms. Jackson. Mr. Chairman?

Chairman Gowdy. Yes.

Ms. Jackson. May I mark that as exhibit 15 so that we have it identified for the record.

Chairman Gowdy. Sure.

[Kennedy Exhibit No. 15

was marked for identification.]

Ms. Welcher. And can we go on the record that I don't believe Ambassador Kennedy is on that email.

Chairman Gowdy. No, no, no, no. He's not on that.

Mr. Kennedy. And I should say, yeah, I'm reading it at the chairman's request because I honor any request from the chairman.

Chairman Gowdy. Last question. I'm not going to pull it up, the old ARB that you and Mrs. Brooks were discussing from, I guess, Tanzania and Nairobi maybe.

Mr. Kennedy. Yes, sir.

Chairman Gowdy. There's a recommendation that the Secretary of State should himself or herself personally review the security. And then I'm going to mess up the rest of the word. Are you familiar with that recommendation?

Mr. Kennedy. Yes, sir.

Chairman Gowdy. What do you think it means, and why do you think they included that?

Mr. Kennedy. I think it is a -- I'd have to speculate, Mr. Chairman, and I don't know if I should speculate.

Chairman Gowdy. I would have no trouble qualifying you as an expert in the field of diplomacy and service to our country and the Department of State and probably ARBs. If they could solicit your input on a number of the ARBs, I can certainly solicit what you may think "personally review" means.

Mr. Kennedy. Then I think it is a result of the chairman of then-ARB, Admiral William Crowe. And the Navy has more of a tradition that the captain of the ship is solely responsible for everything that goes on in the ship. That is a wonderful tradition, but I can see that morphing from Admiral -- we're all the product of our upbringing.

And so he says the Secretary is the captain of the ship. That is good. But the State Department is 285 ships in 285 different locations around the world, and it's with a span of control, I think, larger than even the captain of the largest U.S. nuclear aircraft carrier. That the Secretary of State is absolutely concerned.

But having the Secretary of State review security to a level of granularity which would be meaningful would mean the Secretary of State would do nothing but review the security at 285^{locations} -- she, he delegates that to under secretaries, deputy secretaries, assistant secretaries to -- whose responsibility is, if a post is seen as to being in trouble or seeing where the risk/reward balance is out of whack -- I could give you one example.

We had our embassy open in Damascus, Syria, while there was building trouble in the streets, you know, beginning a potentially incipient civil war. Also rockets being fired. Robert Ford, our

ambassador there, came in and said: It's time to go. He told the assistant secretary for diplomatic security that. He came up and saw me about 3 minutes later. I saw Secretary Clinton about 5 minutes later. And I had in 3 seconds: Get him out.

That is how I think it should work. The Secretary of State, if he or she was solely responsible for security, I don't -- I honestly don't believe they have the time. The process has to work from the post, from the regional bureau, from Diplomatic Security, from inspectors general, from everyone are feeding into the equation. And then a recommendation is made to the Secretary of State about whether or not we should suspend operations.

Chairman Gowdy. All right. I'm over, but I don't want to wait another hour to say 15 more seconds' worth.

Mr. Kennedy. Please, sir.

Chairman Gowdy. To do it this way, though, you get the benefit of a high-minded recommendation that the public can fall in love with and think: What a wonderful ARB. But what I hear you telling me is there's no realistic expectation that that recommendation has any weight.

I mean, do you see the frustration? We had this recommendation that from now on the Secretary of State is personally going to review it. And there's another entry, by the way, in that same ARB where they explain why they think it's important. But there's no expectation that anyone means what they just wrote.

Mr. Kennedy. Mr. Chairman, I think there is something that we've

also done post the Benghazi attack, and it's called -- and I believe some of your colleagues may have been briefed on that -- it's called VP2, Vital Presence Validation Process, ~~VP, VP~~^{VPVP}, VP2, in which we have the regional bureau write a descriptor of the resources and the reasons to be in a country.

That is then reviewed by the Diplomatic Security Service, the Bureau of Intelligence and Research, any other relevant arm of the State Department. And they then collectively write a paper that says: Stay, reduce, suspend. There may be variations in between. It's more of a continuum than that.

That memorandum done by this collectivity of the management *and* policy people, of all the people I mentioned, comes to the under secretary for political affairs and to me simultaneously. So the under secretary for political affairs and the under secretary for management review it and decide is the risk-reward balance there. If we agree, we send it on to both deputy secretaries for another review, and then it goes on to the Secretary of State to advise the Secretary of State that the deputies, the unders, the assistant secretaries, have all concluded this.

I think, humbly, with all due respect to Admiral Crowe, that is a better way to do it to get you a better result.

Chairman Gowdy. All right. Thank you.

Mr. Pompeo. Can I ask one question real quick? When you got 30,000 emails from Cheryl Mills, what was your reaction, that were Secretary Clinton's emails that Cheryl Mills delivered on December 5th,

what was your reaction when you got 30,000 emails?

Mr. Kennedy. I usually don't use profanity --

Mr. Pompeo. No, let's go.

Mr. Kennedy. -- in a --

Mr. Pompeo. It's late.

Mr. Kennedy. -- in an official setting, sir.

Chairman Gowdy. What's it start with?

Mr. Kennedy. Oh.

Mr. Pompeo. You were surprised.

Mr. Kennedy. I was surprised. Because, as I said earlier, I had gotten, I believe it was 46 emails from Secretary Clinton over the course of 4 years.

Mr. Pompeo. How many did you get from the other Secretaries of State that you asked for?

Mr. Kennedy. Two of them have certified that they never used email. One of them, Secretary Powell, said that he could not get access to those. We wrote him back again saying: Could you please try with the Internet service provider. And we have never gotten a response to the second letter, sir.

Mr. Pompeo. Thank you, sir.

Mr. Kennedy. I don't know if it's my prerogative, but I will be glad to stay longer if the representative from Indiana has other questions. I am prepared to stay here as long as you need me.

Mrs. Brooks. Well, I wanted the chairman to know, I mean, there are certainly lines of questioning that I know I certainly haven't even

gotten into yet.

Chairman Gowdy. The fact that I'm leaving doesn't mean anything.

Mrs. Brooks. No, I understand. I understand. But I actually believe that whether I can give you ideas of the different categories, and I guess I'm just curious as to how late you want to go, to be quite honest, and including possible questions in a classified setting with respect --

Chairman Gowdy. I don't want to put words in the Ambassador's mouth. I think that he would like this to be his one and only visit with us. He indicated earlier, he's free to change his mind, he's indicated earlier he's prepared to stay as late -- I'm not leaving because I've ^{lost} ~~lost~~ interest. I'm leaving because I had a commitment almost 40 minutes ago. I think if we take a break, he's ready to keep going, although it's the Democrats' turn to go.

Mrs. Brooks. I certainly understand that. But I also would like everyone to understand that -- and in part because members jumped in and started asking questions, you know, staff has a lot more questions because of your role, to be quite honest.

Chairman Gowdy. I think he's ready to stay until it begins to impact the Eighth Amendment, and then we'll --

Mrs. Brooks. So I just don't want when -- and I'd like the minority staff to realize that just if I were to leave it doesn't mean it's done.

Chairman Gowdy. I think the Ambassador knows he's a unique witness that crosses almost every field of inquiry.

Mrs. Brooks. And so I just wanted that to be clear to everyone, because while I might have a couple and it's based on lines that I have focused on in past hearings and other things, but there are certainly, for instance, and unless I missed it, have you been asked any questions yet, sir, about issues surrounding the FEST?

Mr. Kennedy. I would be -- I have addressed that in public testimony before, but I would be glad to address it again. I can address it in 1 minute.

Mrs. Brooks. And, I'm sorry, only because I have been in and out, of course, I don't know what all has been asked. Have you been asked questions about quadrennial review?

Mr. Kennedy. No.

Mrs. Brooks. I mean, so there are certain lines of questionings that I just would like the minority staff to understand --

Chairman Gowdy. Nobody's talking about leaving.

Mrs. Brooks. Okay.

Chairman Gowdy. He may want a break, and he may want supper, but he --

Mr. Kennedy. If everybody concurs, I will --

Ms. Sawyer. And just for the record, I just want to make clear that you began this round an hour and a half ago. We have not once objected. We want to make sure you get to ask your questions. We do ask and suggest that to the extent it's a topic he's briefed Congress and we have transcripts, we have public transcripts, if it's a topic he's been asked 2 years ago, we would ask that we not cover it again.

If there are new grounds to explore, we do not want to foreclose that.

But we've been here since 9. We have taken, I think, two full rounds. We've deferred otherwise to make sure that both you and your staff, and we will ask questions that we need to ask, we have not once indicated that we are not willing within the capacity of the witness.

I also think as a matter of just human capacity, whether or not the witness or any of us in this room think we're fine, it is tiresome. It is hard to answer clearly. And I think with have to acknowledge that we may not get as clear and easy a response from a witness who's been answering questions nearly for 13 hours.

Mrs. Brooks. And I completely agree with that. And that's why I, quite frankly, Mr. Chairman, would recommend that we break and that we resume at another time to complete the questions. And I believe it is counsel's --

Ms. Sachsman Grooms. I just don't -- respectfully, I just don't think you can ask someone to come at 9 a.m. and then ask them to stay until 8 p.m., have them still be willing to answer questions because they have expressly specifically said that they won't get it all done in 1 day, and then ask them to come back again for another day, especially considering he has testified twice publicly before Congress and briefed Congress more than 20 times.

Chairman Gowdy. Well, those are the two options. With all due respect, those are the two options. He's either going to stay until Mrs. Brooks and the others run out of questions or he's going to come back again. And I think what the Ambassador said is he would prefer

to get as much, if not all of it done tonight.

Have I misread you, Ambassador.

Mr. Kennedy. No, sir.

Chairman Gowdy. So we're going to do that. I don't want him to come back either. He's been here a long time. But we're not going to short circuit the questions we have.

Mrs. Brooks. And that's what you're asking me to do.

Ms. Sachsman Grooms. I have not asked you to do that, ma'am. Not once.

Mrs. Brooks. And so that's why --

Ms. Sachsman Grooms. I have not asked you to do that. I said, he wants to stay.

Do you want to go off the record? Do you guys want to take a break?

Mr. Kennedy. Well, I would prefer to keep --

Ms. Sawyer. While we're on the record, I would just like to get a sense just in terms of scheduling.

Ms. Jackson. Let's go off the record.

[Discussion off the record.]

[8:07 p.m.]

Ms. Jackson. We will go back on the record.

BY MS. JACKSON:

Q Ambassador Kennedy, I just had a question or two in followup to sort of the email question.

You mentioned in one of the emails that we saw, talked about communications that were in Secretary Clinton's home. Is that correct?

A Yes.

Q Okay. Did she have secure communications in her home?

A Yes.

Q Okay. Did she have the capability to store classified information in her home?

A Yes, because her home, because she is a former First Lady, was protected by the Diplomatic Security Service. The State Department and the U.S. Secret Service split the responsibilities. The State Department would move her; the U.S. Secret Service would secure her at whatever residence.

So her residence was under 24-hour guard by cleared personal of the United States Secret Service. So there was no risk of -- it's not as if it was an unsecured residence.

Q Sure. Did she have a SCIF in her home?

A I do not know the answer to that question.

Q Okay. But she had the ability to communicate by telephone, by secure telephone?

A Secure telephone, secure fax.

Q Did she have a secure computer?

A No. Secure telephone, secure fax.

Q Okay. Safe?

A Yes, I believe so.

Q Okay. But higher than Secret you're not sure of, that she could have handled higher than Secret level?

A You don't have to be in a SCIF, necessarily, to go to TS.

Q Okay.

A There are rules, but rules are related to how the facility is secured and protected.

Q Okay.

All right. I'm going to jump around a little bit to try and hit some topics that may have been touched on before but I want to explore a little bit more.

We had talked many hours ago, when we began, about Diplomatic Security, OBO, and other agencies or bureaus reporting to you as the Under Secretary for Management. And we also talked at length about, if there were issues or disputes or something, you waited until they were brought to your attention. Is that a fair summary of our discussion earlier today?

A I think it's a fair summary. Obviously, if I heard about something earlier, I might query my subordinates at whatever session I was having with them, one of my weekly meetings individually or one of my weekly collective meetings. But I'd let my people do their job

and would stand by, ~~with~~ ^{while} providing appropriate program direction, for one of them to report an issue or somebody, as I mentioned, in another bureau, a regional bureau, a functional bureau, another under secretary, to ask for my assistance.

Q But you didn't operate in a vacuum, did you? You weren't a one-man show, as it were, as being the Under Secretary of Management. You had a staff that assisted you, --

A Yes.

Q -- your M staff. Is that correct?

A I actually have two staffs. I have what is called a personal staff. They are not personal; they are the professionals in my immediate office. And I also have a management policy staff who assist me, and when I see special projects or crosscutting issues, I put one of them on it to work with the bureau. So I have professional staff backing me up, in addition to all the bureaus under my responsibility.

Q And would that professional staff go out and attend meetings on whatever they were assigned and coordinate with other offices and bureaus to help keep you informed as to what was going on?

A It depends on the issue.

Q Let's take Libya in 2011 and 2012. That was a hot topic for the Management Bureau, was it not?

A Yes.

Q Okay. Did you have a staff member by the name of your [REDACTED]

[REDACTED] ?

A Yes.

Q Okay. And for the court reporter I'll spell it.

██████████, last name ██████████.

Did she work on Libya issues for you?

A She was the one who -- she followed the Near East Bureau, and therefore Libya, being in the Near East Bureau, was part of her portfolio.

Q Okay. So she would attend meetings to represent you and your positions?

A She would do that. She would also attend meetings to collect information. But I would be surprised if she attended every single meeting on every single topic.

Q Sure. And that's a given. But she was to be your eyes and ears in other areas of the State Department for Libya issues. Is that a fair assessment?

A I'm not trying to be picky, but "eyes and ears" sounds a little bit not what the State Department would describe it as. She was someone who ensured that people in bureaus had the opportunity to have someone to talk to, to send up paper to. And she also checked paper on the way in to make sure that if I received a proposal it had all the appropriate coordination -- we call them clearance lines -- completed. So it's a variety of duties.

Q Okay. And what's the significance of those clearance lines?

A To ensure that when I get a piece of paper that makes a

recommendation that it has been coordinated appropriately at the building, that all the diverse elements in the building who have equities in this have either signed on to it or -- every once in a while, you can get something, but I do not ever remember one being, it's called a split memo. I would get a paper with two recommendations that were opposed to each other, and the memo would explain that these people recommend this, these people recommend that. And then I would read that, look at who was recommending what, look at the arguments, and make a decision.

Q And by the clearance, did that also mean that the relative bureaus agreed with what was in there, that if it was something for you to approve and it said, "We're going to lease this facility," or something, that the relevant bureau said, "Yes, we have the money to lease it, we're committed to lease it, and we're going to follow through"?

A If a clearance there -- if it says okay, means that that officer, representing whatever organization he or she belongs to, is concurring in the recommendation.

[Kennedy Exhibit No. 16

Was marked for identification.]

Q Okay. For example, I'm going to show you what we've marked as exhibit 16. It is a December 27, 2011, action memo for Under Secretary Kennedy. The subject line is "Future of Operations in Benghazi, Libya."

And you've seen this document before?

A Yes.

Q And did you approve this document?

A My signature is on it.

Q So that means you approved it?

A Yes.

Q Okay. And can you describe for us what this document is?

A This document is essentially in a prime part and a secondary part. The prime part is that I am authorizing us committing to extend the lease on this facility through the end of calendar year 2012.

And I am doing that because they have made representations to me that the facility is needed. My conversations with others of my peers indicated that no decision had yet been made about whether to make this operation permanent, continue at interim, or close it. And since our leases that we use have what is called a diplomatic escape clause and rents are usually rising, if I can tie up a property for a period of time, then I can exercise a diplomatic escape clause to get out of the lease. It is in the interest of the taxpayer to ensure that I have, in effect, a fixed-price option.

And then, secondly, it also sets a ceiling on the number of personnel that will be assigned.

Q So this was an action memo for premises and personnel to be in Benghazi through 2012.

A Not to exceed 2012.

Q Not to exceed 2012. So if the --

A The end of 2012.

Q So if the presence needed to be extended before that, you would have received another action memo?

A Correct.

Q Okay. And the ceiling was set at 35.

A The ceiling is set at --

Q In Recommendation 1?

A Yes.

Q Yes, it's set at 35?

A Yes.

Q Okay. And that included, of that 35, 8 were going to be State Department personnel. Is that correct?

A Eight were going to be State Department or USAID personnel.

Q Okay.

If I could direct your attention to page 2, the second full paragraph that starts that, "Although our presence," they are asking that the eight people be comprised of -- and I believe it's the second full sentence:

"Headed by an FS-02 or GS-14 officer, this office would work in close coordination with Tripoli on political and economic reporting, public diplomacy and commercial work in the eastern part of Libya and serve as 'host' for the activities of USAID, PM, and any other U.S. government TDY personnel in Benghazi."

The eight were to be a head officer, a second reporting officer, a TDY IMR person, and five Diplomatic Security. Is that right?

A It's five plus five, yes.

Q Five plus five?

A Five substantive or management personnel and five Diplomatic Security personnel.

Q Okay. And did the Diplomatic Security sign off or clear on this memo?

A They did.

Q So Diplomatic Security has, by this memo, by clearing on this memo, agreed to provide five Diplomatic Security agents to Benghazi.

A To protect five -- to protect five other employees.

Q Well, some of them were to be TDY. Is that correct?

A Still, it's five to protect five.

Q And what wording in there are you looking at that tells you that?

A It says eight U.S. direct-hire employees and two slots for political military and USAID. So that's 8, plus 2 is 10, of which 5 are substantive or management and 5 are Diplomatic Security. So you have five to protect five.

Q Okay. What if it had only been four, would you still have needed five agents?

A Given the composition here, the answer is no.

Q Does the size of the complex or the compound have any bearing on the number of DS agents that are needed?

A There are two factors at play. There is the size of the complex, and then there is the movement, the activity of the personnel.

If you have a principal officer, a reporting officer, a second reporting officer, a TDY PM officer, a TDY AID -- if you have lots of people going out and about all the time, you need more security for movement than if you have less people.

The information management officer does not travel. He is responsible for maintaining the communications equipment, so he is, in effect, tied to the facility. And so, if you have less people making sorties into the city, you need less security officers to protect them.

Q But what was the purpose of the Benghazi mission but to go out and gather information, to interact with the interim government --

A Right.

Q -- and provide information back to the State Department? Wasn't that their primary purpose in being there?

A That is correct. But how many people the Near East Bureau, looking at what was going on, how many people the Near East Bureau ultimately decided to deploy, kind of a cost-benefit analysis. How much activity are they going to do? How much reporting do they want to do? That's a call made by the Near East Bureau.

My point is that you judge the number of Diplomatic Security on two factors. It's the facility and the number of sorties that you need to make out into the city.

Q And the more volatile the security situation is in a particular area, does that also play into the factor of how many DS agents? If security is not permissive or barely permissive, will you need more DS agents?

A It depends on the volatility, and it depends upon whether the U.S. Government is threatened. There are locations in the world where situations are volatile but we are not the target.

Q Does it also depend on whether the host government is able to provide any type of security for the facility?

A That is one factor, host-nation capability.

Q Okay. And if the host-nation capability doesn't exist, what --

A If the host-nation capability is zero and no one ever shows up, then certainly that is a factor. If the host nation has some capability, that is also a factor.

Q Okay.

And we're talking a memo that talks about having a political -- headed by a political officer or principal officer. That's significantly different than an ambassador, is that correct, in stature and notoriety and the need for protection?

A This is not an embassy; therefore, it is not headed by an ambassador. The title we use at any subordinate post -- consul general, special mission facility -- we use the title of principal officer. It just means you are the senior officer present.

Q Okay. But that type of officer generally needs a lesser degree of security than an ambassador does.

A Yes and no. I mean, there are locations in this world now where we have places where the volatility at a constituent post is greater than the volatility in the capital city. So it can go either

way. Everything that we do around the world is site-specific.

Q Okay.

The mission in Benghazi was not a consulate. Is that correct?

A It was a temporary mission facility, yes.

Q Okay. Was it a post?

A It was not a permanent post, no. It was a temporary mission facility --

Q Okay.

A -- because no decision, as I have pointed out before, no decision had been made to make it permanent.

Q Okay. Had it been formally recognized to the Libyan Government? Had the Benghazi presence been formally notified to the Libyan Government?

A It had been notified to the government in Tripoli. I'm not sure that I can describe a situation where the Government of Libya was very, very good on paperwork.

Q And was that only after Tripoli reopened, the embassy in Tripoli reopened?

A Oh, yes. Under Colonel Qadhafi, the Government of Libya was very, very specific, if not difficult, on paperwork.

Q Well, let's talk about the timeframe between the time that you suspended operations at the embassy in Tripoli until it reopened in September of 2011, so the period of February 2011 through September of 2011. During much of that time, Chris Stevens and his crew were in Benghazi. Is that correct?

A Yes.

Q Was there any formal notification of their presence to any government?

A No, because there was a civil war raging, a de facto civil war, raging between the forces in the east and the government. And we had sent in someone to represent us to what amounted to an alternate government.

Q Okay. Well, let's talk about what happened July 15, 2011, before we reopened Embassy Tripoli but we recognized the TNC as a legitimate representative of the Libyan people. Did you provide formal diplomatic notice of Chris Stevens and his mission in Benghazi to them at that time?

A I believe that oral representations were made to that government. I doubt if there is a paper record, given the situation on the ground in Benghazi.

Q Well, 2 weeks later, you sent something to them asking that Chris Stevens be recognized as the Ambassador. But you don't think formal paper went saying, we have a mission in Benghazi?

A You asked me if anything was done to the TNC in Benghazi. You're now asking about after the government of Qadhafi has been overthrown and we are now reopening our embassy in Tripoli.

Q No, I'm talking July. I'm talking July of 2011.

A I'm sorry. I'm confused by your question, by the time horizons.

Q Okay. July 15th of 2011 --

A Right.

Q -- the United States recognized the TNC as the official representative of the Libyan people, recognized the TNC as the interim government.

A Just because I don't have a complete set of notes in front of me, what is the seat of the TNC? Is it in Benghazi or is it in Tripoli at that point?

Q Does it make a difference?

A Yes, it does.

Q Why?

A Because one is the capital of the country and one isn't.

Q Isn't the capital where the government is?

A Not necessarily.

Q Is the government the people or a location?

A The government is the government.

Mr. Snyder. You know, if I may, he's the Under Secretary for Management. It seems like this is far afield from what his responsibilities were. He wouldn't know to -- we should establish whether he's involved with notifying the host government or is that some other entity within the State Department. Yes?

Ms. Jackson. It has to do with whether physical security standards apply.

Mr. Kennedy. No, it does not.

Mrs. Brooks. So ask that question.

Mr. Kennedy. It does not.

Ms. Jackson. Under SECCA, does the definition of diplomatic facility hinge on whether an office has been notified to the host government or the personnel have been notified to the host government?

Mr. Kennedy. No, it doesn't. SECCA only applies to new embassy construction, where we are building a new embassy. That is what SECCA applies for.

Ms. Jackson. Doesn't SECCA apply to newly acquired facilities?

Mr. Kennedy. If you acquiring a newly acquired -- if you are buying and rehabbing a building -- if you bought and rehabbed a building to be an embassy, then SECCA would apply, just as we recently bought a building in a country in Europe and are converting that into an embassy.

Mrs. Brooks. So if you're renting or leasing, it does not apply?

Mr. Kennedy. The Overseas Security Policy Board standards would apply then. That's a separate set of standards.

Mr. Evers. Would it be helpful to -- I'm sure we have folks who can sort of --

Ms. Jackson. We have an email that we're going to show that was then shared with Diplomatic Security as to whether physical security standards apply. So we're looking for the document right now.

Mr. Evers. Okay.

I think what Eric was raising was that I think we're slipping into "you" and "we" kind of at the State Department level without establishing the role of the Under Secretary for Management.

Mr. Kennedy. Yeah. On that, I mean, certainly it is the

responsibility of the Near East Bureau and the post to do notifications. The exchange of diplomatic notes are done at a post level. They're not done by anyone within the ambit of the Under Secretary. A post sends a diplomatic note announcing people's arrival.

[Kennedy Exhibit No. 17

was marked for identification.]

Ms. Jackson. For the record, what I've marked as exhibit 17 is an email exchange bearing document number C05396431, dated June 20, 2010. At the beginning, it's from a [REDACTED] to an [REDACTED].

It's multiple pages, multiple exchanges. And I'm going to allow the witness an opportunity to review it, but it's generally about the leasing of a villa and compound in Benghazi and whether waivers and exceptions are needed for the security status of that compound.

So I'll allow the witness to have an opportunity to look at it.

Ms. Sawyer. Sharon, is the Under Secretary on this thread?

Ms. Jackson. It's not relevant.

Ms. Sachsman Grooms. Well, it's relevant for the record at least. Can you just tell us whether he is on it?

Ms. Jackson. No.

Ms. Sawyer. Can we go off the record just for a second?

Ms. Jackson. He is not on it.

Ms. Sawyer. Okay, great. And can we just go off the record for a second?

Ms. Jackson. All right. Let's go off the record.

[Discussion off the record.]

BY MS. JACKSON:

Q Ambassador Kennedy, have you had an opportunity to review this email exchange?

A I have. And I note that I was not a recipient of this email in any form.

Q Okay. Do you understand the concepts that are being discussed in these email exchanges?

A It is a discussion between an officer in Diplomatic Security and an attorney in the State Department about the necessity for waivers.

Q Okay. Waivers and exceptions. Is that correct?

A Waivers, exceptions, yes.

Q And in State Department parlance, are waivers and exceptions different things?

A They are different.

Q Waivers apply to SECCA requirements. Is that correct?

A I would have to sit and think for a very long time about that. I know one applies to SECCA, one applies to OSPB, and since I don't deal with either of them on a regular basis -- one applies to one; one applies to the other.

Q Okay. But this email exchange is between the legal department and Diplomatic Security, and you have Diplomatic Security under your bailiwick. Is that correct?

A Correct.

Q Okay. And this has to deal with whether physical security requirements are going to be required for the Benghazi compound. Is

that correct?

A No, that is not correct.

Q Okay.

A This is about a set of security requirements that may or may not apply. There is a whole other set of security standards called the OSPB, Overseas Security Policy Board standards, which are interagency standards developed by the security community within the United States Government.

And so this is, in effect -- whether or not SECCA applies or not is not relevant to this discussion, because our efforts in Benghazi were based upon the OSPB standards, in which we took a property, as I answered to an earlier question on this same subject, we took the best property we could find that had the greatest attribute that we needed -- since the biggest threat to date in that region of the world was car bombs, we took a compound that had the longest distance, the greatest distance, between the wall of our compound and those facility structures that would be occupied. And we did that, and then we proceeded to take the OSPB standards and begin to implement them up and up and up and up, adding height to the wall with razor wire, adding barriers, adding drop-arms, adding lights, adding cameras, adding alarm systems.

And so the OSPB standards are the ones that apply in this case. And that is the standards we were using, and that is the standards we were building to.

Q Do you agree or disagree with the analysis that [REDACTED]

did as to whether SECCA applied to the Benghazi compound that is found at the bottom half of page 1?

A I am not a lawyer. One reading of this was it doesn't apply. And that's why my understanding was, not being a lawyer, is why we were using the OSPB standards there.

The SECCA standards relate if you are building something anew or so transforming something. You can never go into a place, when the national security requires you to go into a place tomorrow, and find a location that is going to meet SECCA standards. It is simply not possible. So --

Q But that's why it has a waiver component to it.

A But you apply, though, in that set, the OSPB standards, which are the appropriate standards to apply for a rental facility.

Q Let me show you another exhibit. I'm going to mark this one as 18.

[Kennedy Exhibit No. 18

Was marked for identification.]

BY MS. JACKSON:

Q For the record, this is document number C0539277. It's an email exchange between [REDACTED] and [REDACTED] on the same day, June 20, 2011, at 3:20 in the afternoon.

And, again, Mr. Kennedy, you are not on this email exchange, but I want to ask you if you were aware of this document.

A I was not aware of this document.

Q Do you agree with the fact that was stated?

Well, let me just read it into the record. It's a simple sentence that says, "This is to confirm that a determination has been made by DS that no waivers or exceptions to security standards are needed for the Benghazi compound property." And that was a quote.

Were you aware that DS had made the determination that no waivers or exceptions to security standards are needed?

A I believe I was informed of that at some point during the string, and I agree in response to your question before you read it into the record. Also, I also agree with the determination that they made.

Q Okay. So they didn't have to go through the process to look at the standards and see that exceptions were needed, a formal exception was needed, to anything that didn't meet a security standard?

A This was, as I've explained previously, a temporary mission facility. When you go into a country and you have to be there tomorrow, you are not going to find anything that meets the standards.

Q But that's a different question than whether you go through the formal process of looking at the standards and deciding that there's a reason to be excepted from the standards than they just didn't apply.

A I'm sorry. I disagree with your conclusion. It was the policy of the State Department, for temporary facilities, we would find the best facility we could, and then we would proceed to implement the OSPB standards continuously and to the maximum extent possible.

In response to a previous question -- and I'm trying not to take up too much time -- I noted that there were temporary facilities, there

were interim facilities, and there were permanent facilities. This is how we handled temporary facilities. Send security people to review the situation, to look at the security situation, and then decide, "This is the best property we can find because we have to be there." And then we will take the OSPB standards and we will keep adding improvements to the property until we achieve the highest level.

If we then make it a permanent facility or an interim facility, then we will go through and formalize the paperwork when it's either interim or permanent.

Q And that was the problem with Benghazi, wasn't it? That was one of the criticisms that the Benghazi ARB made, is that you made up these categories of temporary, interim, and permanent and said --

Ms. Sawyer. Hold on. I'm sorry, but they did not say they made them up. So if you want him to agree or disagree with the ARB, that isn't in there. So I understand, you know, and I appreciate if you're trying to be efficient, but they did not say that the State Department made up categories.

Mr. Kennedy. I don't recall that in the ARB either.

Ms. Jackson. Do you recall it in the Best Practices Panel report?

Mr. Kennedy. The Best -- we're talking about the ARB. We had three categories. We live in a real world. It is logical to have those standards in order to advance the U.S. national security. And we mitigate the risk by running down the OSPB standards.

And as I outlined before and I'd be glad to outline again, all the steps we took pursuant to the OSPB, the interagency standards, all

those steps we took to meet the highest possible level of security at a temporary facility.

[Kennedy Exhibit No. 19
Was marked for identification.]

BY MS. JACKSON:

Q Let me hand you what I've marked as exhibit 19.

And for the record, this is an action memo for Under Secretary Kennedy, subject matter: "Affirmation that Overseas Policy Board Standards Apply to All Overseas Facilities."

I note that it is dated January 24, 2012, but, Under Secretary Kennedy, I'd ask you if think that might be a misprint and it was January 24, 2013?

A It's 2013. My signature says that I signed it on January 24, 2013.

Q Okay. It often happens in January that the year gets typed wrong.

A And the date stamp on the document says 2013, as well.

Q Okay. And is this an action memo that you signed and approved?

A Yes.

Q Okay. And the recommendation that you approved is, quote, "that you affirm our current policy that the interagency Overseas Security Policy Board's standards for facilities apply to all facilities regardless of their nature (temporary, interim, or permanent)."

A Yes. This simply validates what I have been saying through the last series of questions, that it was -- it's asking me to validate what our current policy is. And our current policy was that the OSPB standards applied to temporary facilities.

And because, if you read the background, it says the ARB wanted this recorded, what the standards are. They wanted it recorded somewhere. I have simply recorded what the facts and practices were.

Q Okay.

Let's go back into "Background," because at the bottom it says, "Diplomatic Security will recommunicate this long-established policy to all posts, as well as the need for a waiver or exception to applicable standards, and the process for obtaining a waiver or exception."

A The ARB recommended that we paper what we were doing. So we were --

Q Didn't the ARB recommend that you actually do it, not just paper it?

A I'm sorry. I don't understand the question.

Q Well, we have in here that you're not going to go through the exception process for Benghazi for OSPB.

A That is what I call papering it. As I have said before, we took the best property we can find, we took the OSPB standards, we kept adding layers of security, driving towards the ultimate, at this temporary facility, of the maximum number of OSPB standards that could be implemented.

Q But it says exceptions were not needed for Benghazi.

A That's correct.

Q So they didn't have to go through the analysis.

A That is incorrect. We would not have been implementing all those improvements unless we were using the standards.

Why did we put razor wire on top of the wall? Why did we build a chicane -- c-h-i-c-a-n-e -- outside so no one could ram the front gate? Why did we put in drop-arms? Why did we have an imminent danger notification system? Why did we have alarms? Why did we build safe havens? We did all those things because those were in compliance with the OSPB standards.

Ms. Betz. Well, let me ask you this. What was the SETL rating in Libya at the time?

Mr. Kennedy. I don't know.

Ms. Betz. The SETL rating.

Mr. Kennedy. S-E-T-L.

Ms. Betz. S-E-T-L, Security Environment --

Mr. Kennedy. ^{Security}~~Secure~~ Environment Threat List. I don't recall. I am sure it was high, if not critical.

Ms. Betz. Well, for the record, it was [REDACTED] for political violence and it was [REDACTED] for terrorism.

[Kennedy Exhibit No. 20

Was marked for identification.]

Ms. Jackson. That's exhibit 20, if you could further identify it, please.

Ms. Betz. So, for the record, it is State Department doc

C05388931. And just for the record, the witness is not on this email, but the witness was asked whether he was aware of what SETL ratings are.

Mr. Kennedy. And I responded it was either critical or high. And it was -- two were high, and one was critical.

BY MS. BETZ:

Q And what does "critical" mean?

A "Critical" means there is --

Q A grave risk to American diplomats?

A Yes.

Q And what does "high" mean? Serious risk to American diplomats?

A I don't believe that we use those kind of adjectives.

Q But that's what it means, I mean --

A Yes.

Q -- when you're talking about a "critical" rating.

A "Critical" is higher than "high."

Q So, in your opinion, when you talk about OSPB standards, there are OSPB standards for critical ratings in political violence, correct?

A Yes.

Q And did those OSPB standards, when you talk about them at the mission, did they meet those standards?

A No. As I said earlier, when you go into a country and you have to be there tomorrow, you take the best facility that you can take.

You then take the OSPB standards and you keep layering them on, to the maximum extent possible, using the considered judgment of the security professionals.

Mr. Evers. Can we go off the record for just a second?

Ms. Betz. Uh-huh.

[Discussion off the record.]

Ms. Betz. Mr. Ambassador, I want to go back, because I thought you made a very important point to the Congresswoman's question about whether or not the State Department should create this Under Secretary for Diplomatic Security. And what I thought was interesting was your explanation on everything that encompasses security.

And so security, would you agree, is not just sort of the physical elements? It has to do with funding. It has to do with, to your point, ensuring that batteries are available in the IDNS pendants. It's everything that goes into making a facility secure.

Mr. Kennedy. Yes. Security is a package composed of numerous parts.

Ms. Betz. And some of those parts, as I just mentioned, would be being able to fund a mission or a facility, ensuring that you have the appropriate staff, the staff can get the appropriate visas. So these are all things that go into ensuring the security of the mission and the people.

Mr. Kennedy. Security is a package.

Ms. Betz. Great. Thank you.

BY MS. JACKSON:

Q Switching gears, I want to go back to the attack and the immediate aftermath.

You had said earlier today that you received a lot of information from the DS Command Center. Is that correct?

A I said I was receiving telephone calls periodically all through the night updating me on the situation on the ground both from Benghazi and from Tripoli.

Q Okay. And I believe that you also said that the DS Command Center endeavors to keep an open line with whatever location is having the crisis?

A I do not remember whether they were able to achieve that. I remember, at one point, we lost our line to Benghazi. However --

Q When you say "we," who do you mean?

A The State Department -- Washington lost its line to Benghazi. But Tripoli still had its line to Benghazi, so Tripoli was relaying those reports. And that's why we have multiple paths that we like to have.

Q Okay. So when you were getting information from Benghazi, you were getting the information from the eyewitnesses to the attack. Is that correct?

A Correct.

Q Okay. And when the agent in the TOC did not report a protest, he was your eyewitness to the attack. Is that correct?

A No. What I said was that the agent in the TOC did not report that he had seen a demonstration before he took the actions that he

took as the attack commenced.

Q Okay.

If there is social media out there that there's going to be a demonstration and it may be targeted at the Americans, is that something that your agents are trained to report in? Do they send a spot report or a sit report or something like that if they had --

A The agents work on that. The Political Section works on that. The Public Diplomacy Section works on that. The foreign -- I'm trying to remember the new acronym. The OSC works on that. Numerous U.S. Government agencies work on whether or not there is social media. It is part of our newer rubric, since social media has become a means of communication that never existed before.

Q For example, for the protests that were in Cairo earlier that day, they had warning that those protests were going to occur. Is that correct?

A It was picked up on social media by, I believe, the Public Diplomacy Section. I recall reading that somewhere.

Q Okay. Nothing similar happened in Benghazi, did it?

A Not that I'm aware of.

Q Okay.

And then going back to the night of the attack, through the Command Center or through Tripoli, you were getting essentially firsthand or secondhand accounts of what happened.

A Yes.

Q Okay. From the people who were on the ground experiencing

what was happening.

A Yes.

Q Okay.

When the agents were evacuated to Tripoli, did they talk with the Tripoli Embassy personnel there?

A They were -- one of them was severely injured. One of them had severe smoke inhalation. One of them had been blown off a ladder because the bomb, the mortar, I believe, or RPG had hit. So we had agents that were physically wounded, we had agents that had been going in and out of a very toxic smoke environment. We were treating them as patients, not interviewing them.

Q I'm not asking about formal interviews, but did any of the Tripoli Embassy personnel go and talk with them?

A I am not aware of any reporting of that nature.

Q Okay. So you're not aware that [REDACTED] met with the agents and they talked about what had happened and he reported that back to NEA. You are not aware of that.

A I'm not aware of that, no.

Q Okay.

When the agents were then taken to Germany, did the State Department send any agents over there to be part of the debriefing process?

A At that point, because of the death of Americans, this moved from being a Diplomatic Security case to an FBI case, and the FBI conducted the interviews, as per protocol.

Q Were there any Diplomatic Security agents assisting the FBI?

A There was one member of the Diplomatic Security Service on the FBI team, but he was operating at that point under FBI rules, reporting through the FBI, not back to Diplomatic Service.

This is a law enforcement practice in place. The case passes to the FBI. We have a member of their team, but he is, in effect, an FBI agent during that and not a Diplomatic Security agent.

Q Okay. So you're completely shut off from his information?

A Until the -- because we are not -- two points. And this is information that I was briefed on subsequently to the attack as part of a presentation I had to make.

If the Diplomatic Security special agent learns something in the briefing that would constitute an imminent threat to any other U.S. Government facility, then that Diplomatic Security special agent is free under the State-Department of Justice rules to advise whoever.

However, absent that, a Diplomatic Security special agent participates with the FBI, and then the FBI files a form, which I don't remember the number of, and that becomes the official report of the interview.

Q Okay.

A Well, are you trying --

Q Could you wait?

A Yes. Sure.

[Discussion off the record.]

BY MS. JACKSON:

Q But are you trying to tell us that you did not have -- you or no one else in DS had access to the information that the agents told?

A Not until the FBI released it.

Q And when was that?

A Sometime late the following week.

Q Late the following week?

A That's my -- to the best of my recollection, it was not until the following week.

Q Okay.

[Kennedy Exhibit No. 21

Was marked for identification.]

Ms. Jackson. I'm going to hand you what I've marked as exhibit 21, which is an email exchange between Eric Boswell and yourself, dated September 19th, and bears -- oh, man. Well, we won't read the document number since I can't. I believe it's SCB00, I think, 98125.

Mr. Evers. 425.

BY MS. JACKSON:

Q 98425. But, anyway, it's an email exchange between Eric Boswell and yourself, dated Wednesday, September 19th, 2012.

A Yes.

Q And I'll give you a moment.

A I have read it.

Q You have read it?

Eric Boswell writes to you that the "interview notes of the DS

witnesses indicate that there was an initial explosion followed by gunfire. No mention of RPG or mortar fire against the Mission by DS witnesses. DS witnesses report hearing mortar fire and observing RPG impacts at the Annex."

And that's the end of the first thing.

A Uh-huh.

Q So what is PII?

A It's a division of DS.

Q Protective Intelligence Investigations?

A Yes.

Q Okay. And do they do investigations when there are threats against overseas missions?

A Yes.

Q Okay. And was a member of PII sent to Germany?

A I do not recall.

Q Okay.

A There was a Diplomatic Security special agent with the FBI team under the rubric I previously described. I do not know if that officer, whether he or she was a member of PII or from another unit.

Q And it doesn't say "interview reports." It says "interview notes." So the notes of this agent were available to Eric Boswell?

A I have clearly received this email, but I have no recollection of any context other than what is presented here.

Ms. Sachsman Grooms. Did you put the date of the email into the record? I'm sorry.

Ms. Jackson. Yes, I did.

Ms. Sachsman Grooms. Okay. Great.

BY MS. JACKSON:

Q You have no independent recollection of why you asked for him to check this, why you thought he would have this information?

A I don't recall asking for this information. I don't see an email from me to Eric asking for the information. I think he was just keeping his boss informed.

Q So he certainly had access to these interview -- from the information from the interviews?

A I do not know whether he had the notes or whether he had been orally informed himself. That is not evident in that message, and so I cannot speculate.

Q Uh-huh.

Following the attacks in Benghazi, did you gather your leaders of your various offices that were impacted and institute any type of formal or informal after-action or lessons-learned report?

A We do not do that until after the FBI investigation is complete in order to avoid us compromising an FBI investigation. We also have the statutory requirement for the convening of an Accountability Review Board, and we also wish to make sure that we do not take steps that would compromise the ARB investigation. We're very careful to follow protocol.

Q Well, where is it forbidden that you do that?

A It is good practice to avoid compromising two independent

entities that are taking action that they are required to undertake by statute. It is the FBI's responsibility to investigate the death of American citizens overseas of this kind of violent nature, and it is also the statutory responsibility for the Accountability Review Board to conduct their inquiry.

Q Well, let me ask you this. Have you ever convened an informal group for an after-action or lessons-learned group for a security incident that occurred that did not result in an ARB?

A I don't convene such groups. Diplomatic Security may do that, but I am not an operations officer for Diplomatic Security. If that was done within DS and it was appropriate, I would have no knowledge of whether they were doing it or not.

Q Well, you could convene an after-action or a lessons-learned group just to see what you're doing within the State Department, whether your Management Secretariat could have operated better. It doesn't have to be in response to -- just for security purposes.

A We use the Accountability Review Board for that purpose. It is an independent group, and I believe that independent groups are preferable.

Mr. Evers. Sharon, it's been a long time, but last January you got a presentation that is used for DS agents to review tactics and lessons learned. And agents take that as part of the course.

Ms. Jackson. We'll discuss this offline.

[9:05 p.m.]

BY MS. JACKSON:

Q Mr. Kennedy, in the summer of 2009, right after taking office, Secretary Clinton announced she was convening something called the Quadrennial Diplomacy and Development Review. You're aware of that?

A Yes.

Q And after 18 months did that group -- did that review produce a report?

A Yes.

Q And was sort of the risk and reward, risk management that you have talked about earlier part of that report?

A I do not recall all the recommendations, nor how they all were phrased. I would need to be refreshed on this.

Q Okay. After the QDDR came out, was one of the recommendations that by the end of 2010 the Secretary will convene a senior-level committee from relevant State and USAID offices, including both management and policy officials, to begin a top-to-bottom review of how we manage risk overseas?

A Yes.

Q And did that senior-level committee come into existence?

A I recall, yes.

Q Were you part of that group?

A I think it was -- to the best of my recollection, they were supposed to make a recommendation to me. I was not part of the group.

I was to receive the recommendation.

Q And did that ever occur?

A I remember generally receiving a draft.

Q Okay. That group that was convened was to institute procedures to integrate security and risk management into every stage of policy and operational planning in Washington and the field. Was that part of the committee's charge and responsibility?

A I only remember that such a committee exists. I do not remember the specifics of it.

Q Okay. And you recall getting a draft of something?

A I recall receiving a draft, but I do not ever remember seeing anything being finalized because the draft was totally inadequate.

[Kennedy Exhibit No. 22

Was marked for identification.]

BY MS. JACKSON:

Q I'm going to hand you what I've marked as Exhibit 22, which is an email exchange. Let's see, it bears document SCB 0095037. It's from a [REDACTED] to you, copying [REDACTED]:
"Subject: Forward: Risk Management - draft action memo to S includes "Senior Review Panel," and has an imported attachment called risk management action memo.docx.

Do you recall receiving this email exchange?

A I generally remember that I got a document that was wholly inadequate and did not represent the agreed way forward by a number of senior officers. And to the best of my knowledge, I think it was

recommitted for further work and never came back.

Q Okay. I want to read from the first page.

Mr. [REDACTED] -- and that's [REDACTED] -- writes to you -- and who is Mr. [REDACTED]?

A Mr. [REDACTED] was the senior management officer. I believe at that point he may have been the executive director of the Near East Bureau. But Mr. [REDACTED] has occupied a number of senior positions in the Department, and I'm just not sure which one he had in 2012.

Q Okay. And this is January of 2012. Is that correct?

A Yes.

Q And he writes to you: S/P provides a draft that includes the Risk Management "Senior Review Panel" idea. I replied D/S and M do not support" -- and that's underlined -- "this idea, which has clear potential to undercut/dilute COM authority and security responsibility. The COM has reach-back to the regional assistant secretaries who can call on a range of views for advice. Emphasizing the "regular order" back through the chain of command is more in line with the separate Secretary QDDR initiative to underscore the regional assistant secretaries' responsibilities for leadership and management of the COMs in their region.

Is that an accurate assessment of what you felt about this when it says that D/S and M do not support the idea?

A I would have to go back and read the entire package again, and I can attempt to do that. This would take me about 15 minutes.

But I generally remember that a number of us were concerned that

we had a QDDR initiative recommending that regional assistant secretaries take on more leadership responsibilities for the management of chief of missions in their region, and then, which all of us agreed with, vesting the assistant secretaries with more coordination, more responsibilities to coordinate crosscutting issues.

And then we had this recommendation, which then proceeded to undercut the authority of the chief of mission, and that's why it was recommitted back to the policy planning shop, which is a think tank within the State Department, and it is not composed -- though of brilliant people -- it is not composed of practitioners of the overseas arts.

Q Was that headed by Jake Sullivan at the time?

A I think Jake Sullivan may have headed it. At some point, it passed from the dean of Princeton's Woodrow Wilson School to Jake Sullivan. I cannot.

Q Anne-Marie Slaughter.

A Anne-Marie Slaughter. Thank you. [REDACTED]

Q [REDACTED]

What was the problem, in your mind, with the Senior Review Panel?

A The Senior Review Panel was undercutting the chief of mission's responsibilities, which is ensconced in both statute and in Presidential executive order to be responsible for all United States Government personnel and operations under his or her authority,

excepting those under combatant commander. So this was undercutting chief of mission at the same moment we were trying as a matter of policy to vest more responsibility in the assistant secretary and the chief of mission.

Q If you could go to the fourth page of this document, at the bottom, under subparagraph 5, and I quote. It says, "Guidelines for institutionalizing a senior risk management review panel comprised of M, DS, P, D(B), D(N), and the relevant geographic A/S" -- or assistant secretary -- "to make decisions or recommendations to S on high profile/high impact situations." This is the panel that you opposed?

A Yes.

Q So you would have been a part of it?

A Yes.

Q DS would have been a part of it?

A Yes.

Q The under secretary for political affairs would have been a part of it?

A Yes.

Q Both deputy secretaries would have been a part of it?

A Yes.

Q And the relevant geographic bureau. Is that correct?

A Yes.

Q But you didn't want that to happen?

A The Secretary agreed with us that the cutting into the responsibilities of the chief of mission, and undercutting his or her

activities at a post, and undercutting the regional assistant secretary by substituting a group of people at a higher level is not the way to proceed. This --

Q I thought you said this didn't go to the Secretary, that it got sent back to --

A It did get sent back. It never reemerged.

Q So what did the Secretary sign off on?

A Nothing.

Q So how did the Secretary get a recommendation to either agree or disagree with?

A She didn't.

Q So she didn't make a decision on this?

A The situation never came to fruition, which is the Secretary never decided not to pursue this recommendation for the QDDR.

Q So the Secretary never made a decision on this?

A That's correct.

Q Okay.

Well, I see I am past an hour, let's go off the record.

[Discussion off the record.]

BY MR. KENNY:

Q Back on the record. The time is 9:27.

Ambassador, it has been a long day. We are now well underway over 12 hours now. Appreciate what will hopefully be our last round. Also appreciate working with our colleagues to be able to streamline our questions and facilitate -- answer our questions and hopefully send

you on your way.

A Thank you.

Q I am just going to be back and very briefly touch on some topics that arose in the last 2, 3 hours and move quickly. Just a few topics I just want to clean up and just ask a few questions about.

The first was in a discussion that you were having with my counterparts about a proposal to elevate the position of the assistant secretary for diplomatic security to an under secretary level-type position. Do you recall that discussion?

A Yes, sir.

Q In the course of your response to that question I had notated that you had made a statement that security should be spelled with a small "s," and I believe you had elaborated on that at another point. I don't think you meant this, but I just want to be clear, as clear on this as possible on the record, that you didn't mean to diminish the role of security within the Department. Is that accurate?

A Absolutely not. My point was that security is a package of multiple functions and it is not just the Diplomatic Security Service, as important as it is. It is composed of training and facilities and personnel and logistics and buildings, et cetera, et cetera. So it is a package of multiple parts of the State Department that come together to create the highest level of security and risk mitigation that we can attain.

Q Moving on now, there was --

Ms. Sachsman Grooms. And when you're talking about that total

package, are you talking about just the stuff that's under you as the under secretary or also the chief of mission and --

Mr. Kennedy. Well, obviously, the security also, it takes place at posts and it's the chief of mission. But I was talking about headquarters, you know. ^{One}~~What one~~ does not serve the general interest of security to take elements of the platform and disaggregate them so you have logistics and training and finance, medical buildings in one place, and the Diplomatic Security Service in another. All of those pieces need to work together seamlessly.

And because they are big and important organizations, there are times that there are questions that have to be resolved. And having them within one under secretary enables those resolutions to come very quickly and very effectively?

Ms. Sachsman Grooms. I see. But you are just talking about then the headquarters function of security and how to do that --

Mr. Kennedy. Yes, the headquarters function of security.

Ms. Sachsman Grooms. With the recognition that security as an entire package includes, obviously, more than just the headquarters function.

A It includes the regional bureaus operating as they do and the posts operating. I think if I could offer you one example, the new VP2 process has this working to the under secretary for management with all the platform elements in one and working to the parallel in tandem to the under secretary for political affairs who has the regional bureaus and the posts.

And so you have two people who are then able to resolve something and not potentially three, or rather than the management under secretary resolving something, having then to convene large groups to resolve something between, one, a ^{management bureau} ~~Management Bureau~~ and now the Diplomatic Security Service, this is not part of management. This gets you better, tighter security.

BY MR. KENNY:

Q Just very briefly. When the special envoy went into Benghazi in the spring of 2011, do you recall where he resided?

A He first resided in a commercial hotel that was the place we could go -- the only place we could go to immediately off the boat. We had assistance from another nation that was already there and from the Turkish -- not the Turkish -- the Transitional National Council, the TNC. But we immediately began looking for another property that potentially provided more security because we were a little worried about the hotel, and that was exacerbated when a car bomb went off at the hotel. And we knew that car bombs were very prevalent in the Middle East and therefore we wanted to get to a place where we could put significant distance between our buildings and the street.

Q And I appreciate that. So the decision to move out of the hotel was driven then by a concern or worry about the threat of --

A Car bombs.

Q Vehicle-borne explosives.

A Yes, sir.

Q And we understand that there may have been a few interim

steps, but eventually within a sequence of a serious threats, the special envoy moved into a facility that eventually became what we believe is either Villa A or Villa B. Is that your understanding as well?

A I recall us directly going into one of the villas on the compound. And as I said in response to earlier questions, we kept adding security upgrades to the compound using the Overseas Security Policy Board standards as our guide.

Q And that decision to move into that facility, that set of facilities, did that alleviate or begin to alleviate the concern about vehicle weapons?

A Absolutely, because we were -- there was a wall. We could put in a chicane, c-h-i-c-a-n-e, to slow down cars so they were not able to ram the wall. We had heavy-duty drop arms, we had barbed wire on top of the walls, we had lights and cameras. We had a huge ability to add additional OSPB standard items because we now had this compound.

Q And do you recall how large the facility was, how far the main facilities were set back from the roadways?

A I think it was somewhere between -- somewhere usually around 200 feet on the front and the back, which were the only sides it could be approached by a vehicle. I would have to confirm that fact, but I know it was over 100 feet, which is our security standard.

Q Okay. And so because of that setback, it's your belief that that addressed the concern about that particular threat, right?

A Yes, sir.

Q And in fact, one setback is a component of SECCA, which we discussed a little bit earlier.

A Yes. And it's one of sort of the baseline factors because I can add height to a wall, I can put a bigger drop arm in, I can add more lights or alarms, but I cannot create distance. If it's 50 feet, it's 50 feet. I'm not going to be able to increase that distance.

So getting maximum distance possible is almost a sine qua non of finding a temporary facility. Let's get one with the maximum amount of distance, provided that there are no other huge, offsetting, negative factors.

Q And these facilities then provided some sort of advantage to staying in a hotel specifically with respect to --

A Absolutely. It was significantly more advantageous than the hotel.

Q Okay. And it's our understanding, we'd just like to ask if it's your understanding as well, that the setback requirement helps address the possibility -- the contingency of a car bomb.

A Absolutely.

Q But then on the night of the attacks, did you understand that there was no car bomb used at either facility? Is that accurate?

A There was no car bomb, but our experience in the Middle East had been that car bombs were one of the most prevalent means of causing damage to an entity you are opposed to.

BY MS. SAWYER:

Q I think I have a couple of quick questions. I just wanted

to return us briefly to exhibit 22, which is I think the last one.

Do you have your copy?

A Yes, yes, I have.

Q I think you had said that you agreed with the determination not to support the proposal, that you did not support the proposal?

A That is correct.

Q And you had indicated I think what is reflected here that it had the potential to undercut/dilute chief of mission authority and security responsibility.

Did you feel at the time that your failure to support this would have in any way a negative impact or impair the ability of either the chief of mission or the Department to be able to assess what resources were needed and get them to a post?

A Absolutely not. I thought this would actually -- if this had been implemented, this would have impaired the chief of mission's responsibility. By not implementing it, I think we were increasing the chief of mission's responsibility, in parallel with another one, of the QDDR recommendations, that there would be no negative impact on funding security operations whatsoever by suggesting that this not be implemented.

Q So it was your position that it would not improve and it potentially could harm or impair the ability of the chief of mission and the Bureau and the Department overall to be able to assess and get security resources?

A Yes, ma'am, absolutely.

Q And if you had felt the reverse, that it would enhance --

A Then I would have endorsed it wholeheartedly. But it did not.

Q And then I'm going to just enter into the record exhibit 23 for identification purposes.

[Kennedy Exhibit No. 23

Was marked for identification.]

BY MS. SAWYER:

Q And just for identification purposes, this is the Accountability Review Board report, at least the publicly available excerpt, the 33 pages. And I just wanted to briefly ask you a question. I just will have you turn to page 30.

So this had come up in the last -- when you were talking to one of my colleagues, and there was a pretty thorough discussion of designation of temporary facility and the issue of SECCA standards and OSPB standards. I don't intend or want to revisit that. You know, I had taken exception to the characterization of what the ARB said, the State Department had made up certain categories.

I don't think that's what they said. That isn't to say that they didn't have criticisms, however. And so I just wanted you to take a look at that bottom paragraph, which is, "Another key driver behind the weak security platform in Benghazi was the decision to treat Benghazi" -- that paragraph, and the one that goes on to the top of page 31. And then I just have a couple of questions.

A Yes, ma'am.

Q So one of the -- and I know that in particular the ranking member had wanted us to just kind of confirm, and with regard to particular things of concern, you know, there is a remark in here, quote, "Benghazi's initial platform in November 2011 was far short of OSPB standards and remained so even in September 2012, despite multiple field-expedient upgrades funded by DS. (As a temporary, residential facility, SMC" -- which I think is the Special Mission Compound or the temporary facility in Benghazi -- "was not eligible for OBO-funded security upgrades.") A comprehensive upgrade and risk-mitigation plan did not exist, nor was a comprehensive security review conducted by Washington for Benghazi in 2012," end quote.

To the extent that those factors, it didn't meet the standards and it wasn't up there and there hadn't been a comprehensive upgrade and risk-mitigation plan, what exists now to have it go differently going forward?

A I think several things. First is the VP2 process, the Vital Precedence Validation. Should ^{we} ~~be~~ decide to open a post temporary, interim, permanent, a new post, we would, A, use the VP2 process, even if it was a very short, fast one, lock people in a room and get it done professionally, but don't let it lag if there was an urgency.

Secondly, we did accept also the ARB recommendation that we set up -- and I'm trying to remember -- it was coordination cells to bring all the players together as you're planning to open a new post to make sure that all the pieces -- logistics, security, funding, et cetera, et cetera -- are brought into and discussed in advance.

This was always done, but just essentially, like the VP2, there was no formal metric to do it. The regional bureau always took the lead, as it will do now, in convoking these people. It has a name and it has a defined process rather than, as are many things in the State Department, there are traditions that achieve things, but there are also processes that, in effect, standardize, publicize, regularize traditions into a given rather than just a fact.

Q So in terms of some key components here, a comprehensive security review would be conducted?

A We will ensure that that takes place. I'm not sure, and though I have said extensively that I accept all the recommendations, this is an example where a comprehensive security review -- you can never do a comprehensive security review before you take a place, because you've got to take -- you send in people, you take the best facility with the most extant security and with the greatest security potential in order to protect our people to the highest level possible, and then you begin adding.

And they -- the ARB refers to it being far short of OSPB standards in the initial. Well, what it's missing is the initial platform was not the temporary mission facility. The initial platform in Benghazi was the hotel. And so we upgraded from the hotel significantly for the reasons I responded to your colleague a couple of minutes ago in terms of setback and other things. And so we did. And despite the field-expedient upgrades. I mean, the field-expedient upgrades were following the OSPB standards. We were using that as our goal, our

guide, our plan, and we just kept doing that.

In my humble opinion, doing all those things constitutes a comprehensive plan. We were going to make this facility, temporary that it was, as close to OSPB compliant as was possible, and doing this because it was then the best possible facility. And we were going to keep looking at it and we were going to keep monitoring the situation. And as the Director of National Intelligence said, there was no, you know, there was no warning intelligence, actionable intelligence on this. And so we were building this out to the maximum extent possible.

But we know we have to do better in the future. And so I can say assuredly that no one in the State Department, if we went back to Damascus or opened in Xanadu and Shangri-La, that all the tragic lessons of Benghazi are not going to be on everybody's mind to the nth degree.

Q And is there, in addition to what you have explained with regard to the VP2, kind of formalizing the --

A Risk management.

Q -- risk-management framework, is there more that you would suggest that the committee recommend need be done or could be done?

A I cannot think of any additional process steps. I think the VP2 process, the cell, the working cell to open a new post, I think those are two excellent process definitizations that will make for a better situation.

But the opening of any new post, especially one that if it was opened after any kind of trouble and turmoil, it's always going to be a bumpy and messy process, because we don't have the ability, as we

would do -- as we are now, for example, building new -- we're building new embassies in Nouakchott and N'Djamena and Niamey.

We have an existing facility. We have upgraded those facilities. And now, [REDACTED], we are building new facilities. But we have the opportunity of having a good interim facility and we're not stuck in a temporary facility.

Ms. Sachsman Grooms. What about streamlining the funding process? So part of this said, you know, the temporary residential facility wasn't eligible for OBO-funded security upgrades. Is that something we could work on?

Mr. Kennedy. I don't think that is necessary, because at least our review -- and I did not see anything in the ARB analysis. It says it was not eligible for one type of finding, but what it did not say, because it was ~~not a~~ ^{the} fact, that other buckets of money were available.

We have money from the Embassy Security, Construction, and Maintenance account, we have money from the worldwide protective security account, we have money from the regional bureaus that come out of the D&CP account. All those funding streams are available depending upon the circumstances we must deal with.

And changing the ESCM account, the OBO account, I'm not sure that -- it would be fine. I always welcome maximum flexibility across lines of authority. But it was not an impediment. Yes, we took funding from different buckets to achieve that, but most State Department operations take funding from multiple buckets and apply it to the problem at hand, whether it's a grade problem, a security

problem, or just routine operating accounts.

Ms. Sawyer. And so a little earlier there was a fair amount of discussion about a recommendation where the Secretary shall personally review security. The VP2 process doesn't -- and taking that to mean what is one potential interpretation, which is that the Secretary shall actually personally review discrete security requests on kind of an operational day-to-day basis, the VP2 process wouldn't require that level of personal review, would it?

Mr. Kennedy. The VP2 process now presents to the Secretary of State, having gone from the collectivity of bureaus, through two under secretaries, then through two deputy secretaries, the end product is a memo to the Secretary saying that this entire panoply of offices at three levels within the Department have reviewed the situation and determined that the national security interests is high enough over the mitigated risk that we should remain.

And the Secretary gets that assurance now in writing. The Secretary used to get that assurance orally. But there was no written document that inscribed all the analysis that had been done to reach that conclusion, and that was not available to the Secretary. Now the Secretary gets all of this information in the VP2 process, and I think that meets the intent of that old recommendation.

Ms. Sawyer. So even the --

Mr. Kennedy. The 19 --

Mr. Kenny. '99.

Mr. Kennedy. '99 ARB's.

Ms. Sawyer. So even though it still wouldn't require then that Secretary Kerry personally review everything that is reviewed to make that assurance?

Mr. Kennedy. No, it would not. But he, she, the Secretary of State, has a written record that comes to him that says all these offices have reviewed the full panoply of issues and have determined at three different levels that this action is appropriate.

Ms. Sawyer. And then to the extent this panel might change that to say that Secretary Kerry should actually personally review, do you think that would be a positive? Is that something we should be doing? Do we want the Secretaries to --

Mr. Kennedy. I don't think so. I mean clearly the Secretary of State is responsible for the entire operations of the State Department, just as any Cabinet officer is responsible for the entire operations of his or her Department.

At the same time, it is, I think, physically impossible in terms of time and other responsibilities. And I say that knowing full well that security is one of the highest responsibilities of any Cabinet officer. But you have to construct a process to enable the Cabinet officer to assure himself or herself that this has been done and not task them to do it themselves. Because if they had to do it themselves, I think they would probably do potentially less work, less comprehensive a process than the VP2 does, because where would they find the time.

BY MR. KENNY:

Q Thank you, Ambassador. We're going to shift gears a little bit. I'm going to read to you a series of public allegations. It will be our final section of our portion of the interview. Notice we're reaching perhaps the end of the calendar day here, it is almost 10 o'clock. And I'm going to read a set of allegations. What I'm asking for here is just whenever you have firsthand knowledge about any of these allegations, not for you to speculate or offer your opinion. So we can just go ahead and dive right in.

It has been alleged that Secretary of State Clinton intentionally blocked military action on the night of the attacks. One Congressman has speculated that Secretary Clinton told Leon Panetta to stand down, and this resulted in the Defense Department not sending more assets to help in Benghazi.

Do you have any evidence that Secretary of State Clinton ordered Secretary of Defense Panetta to stand done on the night of the attacks?

A No.

Q Do you have any evidence that Secretary of State Clinton issued any order to Secretary of Defense Panetta on the night of the attacks?

A No.

Q Next, it has been alleged that Secretary Clinton personally signed an April 2012 cable denying security to Libya. The Washington Post Fact Checker evaluated this claim and gave it four Pinocchios, its highest award for false claims.

Do you have any evidence that Secretary Clinton personally signed an April 2012 cable denying security resources to Libya?

A No.

Q Do you have any evidence that Secretary Clinton was personally involved in providing specific instruction on day-to-day security resources in Benghazi?

A No.

Q It has been alleged that Secretary Clinton misrepresented or fabricated intelligence on the risk posed by Qadhafi to his own people in order to garner support for military operations in Libya in the spring of 2011.

Do you have any evidence that Secretary Clinton misrepresented or fabricated intelligence on the risk posed by Qadhafi to his own people in order to garner support for military operations in Libya in spring 2011?

A No.

Q It has also been alleged that the U.S. mission in Benghazi included transferring weapons to Syrian rebels or other countries. A bipartisan report issued by -- an unclassified report issued by the House Permanent Select Committee on Intelligence found that, quote, "The CIA was not collecting and shipping arms from Libya to Syria," close quote, and they found, quote, "no support for this allegation," close quote.

Do you have any evidence that contradicts the House Intelligence Committee's bipartisan report finding that the CIA was not shipping

arms from Libya to Syria?

A No.

Q Do you have any evidence that the U.S. facilities in Benghazi were being used to facilitate weapons transfers from Libya to Syria or to any other foreign country?

A No.

Q A team of CIA security personnel was temporarily delayed from departing the Annex on the night of the attacks to assist the Special Mission Compound, and there have been a number of allegations about the cause and appropriateness of that delay. The House Intelligence Committee issued a bipartisan report concluding that the team was not ordered to, quote, "stand down," close quote, but instead there were tactical disagreements on the ground over how quickly to depart.

Do you have any evidence that would contradict the House Intelligence Committee's findings that there was no stand-down order to CIA personnel?

A No.

Q Putting aside whether you personally agree with the decision to delay or think it was the right decision, do you have any evidence that there was a bad or improper reason behind the temporary delay of CIA security personnel who departed the Annex to assist the Special Mission Compound?

A No.

Q A concern has been raised by one individual that in the

course of producing documents to the Accountability Review Board, damaging documents may have been removed or scrubbed out of that production.

Do you have any evidence that anyone at the State Department removed or scrubbed damaging documents from the materials that were provided to the ARB?

A No.

Q Do you have any evidence that anyone at the State Department directed anyone else at the State Department to remove or scrub damaging documents from the materials that were provided to the ARB?

A No.

Q Let me ask these questions also for documents provided to Congress.

Do you have any evidence that anyone at the State Department removed or scrubbed damaging documents from the materials that were provided to Congress?

A No.

Q It has been alleged that CIA Deputy Director Michael Morell altered unclassified talking points about the Benghazi attacks for political reasons, and that he then misrepresented his actions when he told Congress that the CIA, quote, "faithfully performed our duties in accordance with the highest standards of objectivity and nonpartisanship," close quote.

Do you have any evidence that CIA Deputy Director Mike Morell gave false or intentionally misleading testimony to Congress about the

Benghazi talking points?

A No.

Q Do you have any evidence that CIA Deputy Director Morell altered the talking points provided to Congress for political reasons?

A No.

Q It has been alleged that Ambassador Susan Rice made a, quote, "intentional misrepresentation," close quote, when she spoke on the Sunday talk shows about the Benghazi attacks.

Do you have any evidence that Ambassador Rice intentionally misrepresented facts about the Benghazi attacks on the Sunday talk shows?

A No.

Q It has been alleged that the President of the United States was virtually AWOL as Commander in Chief on the night of the attacks and that he was, quote, "missing in action," close quote.

Do you have any evidence to support the allegation that the President was virtually AWOL as Commander in Chief and missing in action on the night of the attacks?

A No.

Q It has been alleged that a team of four U.S. military personnel stationed at Embassy Tripoli on the night of attacks who were considering flying on a second plane to Benghazi were ordered by their superiors to, quote, "stand down," close quote, meaning cease all operations. Military officials have stated that those four individuals were instead ordered to, quote, "remain in place," close

quote, in Tripoli to provide security and medical assistance at that location.

The republican staff report issued by the House Armed Services Committee found that, quote, "There was no stand-down order issued to U.S. military personnel in Tripoli who sought to join the fight in Benghazi," close quote.

Do you have any evidence to contradict the conclusion of the House Armed Services Committee that, quote, "There was no stand-down order issued to U.S. military personnel in Tripoli who sought to join the fight in Benghazi"?

A No.

Q It has been alleged that the military failed to deploy assets on the night of the attacks that would have saved lives. However, former Republican Congressman Howard "Buck" McKeon, former chairman of House Armed Services Committee, conducted a review of the attacks, after which he publicly stated, quote, "Given where the troops were, how quickly the thing all happened, and how quickly it dissipated, we probably couldn't have done more than we did," close quote.

Do you have any evidence to contradict Congressman McKeon's conclusion?

A No.

Q Do you have any evidence that the Pentagon had military assets available to them on the night of the attacks that could have saved lives but that the Pentagon leadership intentionally decided not to deploy?

A No.

Ms. Sawyer. So thank you for the time that you have given us today and your willingness to answer all the questions. We truly appreciate it.

I think, given the extensive number of questions we have asked of you, I just wanted to give you the opportunity, if there's anything you wanted to add or have the committee know or take into consideration, we certainly wanted to give you that opportunity.

Mr. Kennedy. No. One brief thing for the record. I think in all of this it is very, very important -- let's see how to phrase this -- to recognize the heroic actions of the Diplomatic Security agents at the compound that night.

Ms. Sawyer. We thank you for that. And certainly we thank you again for your time today. I think that, you know, certainly on behalf of the Democratic members, I'm sure all of our colleagues, quite frankly, would join us in just thanking you for your more than four decades of service to this country. It is truly appreciated. Thank you.

Mr. Kennedy. I will gladly cede a couple of minutes if you want a final remark. I don't know, if you have any final remarks.

Ms. Jackson. Again, we join in thanking you for your service, and we concur in that the Diplomatic Security agents were very heroic that night.

[Whereupon, at 10:02 p.m., the interview was 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

Errata Sheet

Select Committee on Benghazi

The witness reviewed the accompanying transcript and certified its accuracy by providing the following corrections. These corrections are reflected in the transcript as identified below.

<u>PAGE</u>	<u>LINE</u>	<u>ALL CORRECTIONS MADE BY WITNESS</u>
6	8	Replaced “later are” with “later on.”
6	20	Replaced “an” with “and.”
8	10	Replaced “thank you or behalf” with “thank you on behalf.”
8	24	Replaced “One the prior times” with “One of the prior times.”
10	6	Replaced “answered” with “asked.”
12	11	Replaced “I set for budget” with “I set targets for budget.”
14	16	Deleted “fear are.”
14	19	Replaced “are” with “as.”
15	10	Replaced “how” with “now
19	3	Replaced “S-E-C-A” with “S-E-C-C-A.”
19	22	Replaced “Act” with “Account.”
21	7	Replaced “and” with “as.”
23	19	Replaced “ability” with “responsibility.”
24	5, 8	Replaced “Organization” with “Organizations.”
26	18	Replaced “a periodic” with “aperiodic.”
28	20	Added a comma between “business” and “is.”
29	11	Replaced “late” with “later.”
32	6	Replaced “diplomatic” with “diplomacy.”
41	6	Replaced “anything specific cable’ with “any specific cable.”
41	19	Replaced “conversation” with “conversations.”

<u>PAGE</u>	<u>LINE</u>	<u>ALL CORRECTIONS MADE BY WITNESS</u>
51	21	Replaced "There is always as" with "There is also."
54	19	Replaced "post" with "posts."
55	8	Added quotation marks around "Tripoli sends this for Benghazi."
63	13	Added comma between "medical" and "training."
65	11	Replaced "East Asian Pacific" with "East Asian and Pacific."
72	4, 21	Added quotation marks around "to/from."
76	19	Replaced "TSS" with "DSS."
78	5	Replaced "Overseas Building" with "Overseas Buildings."
82	7	Replaced "diplomatic security in overseas buildings" with "Diplomatic Security and Overseas Buildings."
82	25	Replaced "international program" with "International Program" in reference to the State Department bureau.
83	18	Deleted "reversed."
85	11	Replaced "gotten" with "got."
85	22	Replaced "services" with "Services."
90	15	Replaced "from" with "for."
103	15	Added comma between "work" and "to."
112	2	Replaced "complex" with "context."
125	6	Changed punctuation from a question mark to a period.
135	9-10	Replaced "a crisis proposed under attack" to "a crisis, an attack."
135	21	Replaced "crisis" with "crises."
135	24	Replaced "aircraft boats or whatever" to "aircraft, boats, or whatever."
140	3-4	Replaced "our facilities is outside of an attack on the United States as the" with "our facilities, outside of an attack on the United States, has the."
143	8	Replaced "Benghazi" with "Tripoli."
143	11	Replaced "an effect" with "in effect."
147	25	Added "in" after "value."

<u>PAGE</u>	<u>LINE</u>	<u>ALL CORRECTIONS MADE BY WITNESS</u>
148	11	Replaced "docks" with "dock."
148	19	Replaced "disruptive" with "disrupted."
151	12	Added commas around "country clearances or not."
154	9	Deleted "an" before "aviation security."
168	3	Replaced "twerking" with "torqueing."
171	4	Added "site" in between "possible" and "so."
211	11	Replaced "for" with "of."
214	25	Replaced "record" with "records."
217	9	Replaced "five" with "four."
218	20	Replaced "five" with "four."
219	24	Added "second" between "our" and "letter."
221	25	Replaced "their" with "his."
222	2	Replaced "their" with "his."
222	17	Replaced "Service" with "Administration."
229	9	Deleted "not."
233	15	Deleted "is."
235	23	Replaced "guess" with "goes."
238	3	Replaced "Secretary" with "Secretaries."
238	14	Replaced "as" with "has."
238	20	Replaced "more" with "less."
240	7	Replaced "I&R" with "INR."
242	3	Replaced "not 6 months" with "up to 6 months."
243	11	Replaced "move" with "moved."
244	2	Replaced "has" with "have."

<u>PAGE</u>	<u>LINE</u>	<u>ALL CORRECTIONS MADE BY WITNESS</u>
245	21	Replaced "Advisor" with "Adviser" in reference to the State Department's Office of the Legal Adviser.
262	8	Replaced "that" with "there"
266	23	Replaced "statutory" with "statute."
266	23	Replaced "Director of National" with "Director of National Intelligence."
269	20	Replaced "special" with "sensitive."
270	18	Replaced "her" with "are."
270	21	Replaced "special" with "sensitive."
274	4	Replaced "secure" with "security."
275	9	Replaced "well" with "with."
276	12	Added "Kerry" after "Secretary" in reference to the current Secretary of State.
276	17	Deleted "it."
286	18	Added "locations" after 285.
288	3	Replaced "VP, VP" with "VPVP."
288	11	Added "and" in between "management" and "policy."
290	12	Replaced "lot" with "lost."
296	1	Replaced "with" with "while."
316	17	Replaced "Secure" with "Security."
334	5	Deleted "What."
335	4	Replaced "a Management Bureau" with "a management bureau."
335	15	Replaced "provide" with "provided."
338	17	Replaced "another one, the QDDR" with "another one of the QDDR."
340	17	Replaced "be" with "we."
343	14	Replaced "it was not a fact" with "it was the fact."

NOTE: On page 236, line 16, the witness noted that high-threat posts are reviewed every year.