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May 10, 2013

The Honorable Harold W. Geisel  
Deputy Inspector General  
Office of Inspector General  
U.S. Department of State and the Broadcasting Board of Governors

Dear Ambassador Geisel:

The House Committee on Foreign Affairs is investigating the events surrounding the deadly terrorist attacks in Benghazi, Libya, on September 11, 2012. Part of this oversight includes an assessment of the report produced by the State Department's Accountability Review Board ("ARB") on the deaths of Ambassador Chris Stevens and three other Americans.<sup>1</sup> As you may be aware, I have raised a number of concerns about the process by which the Benghazi ARB conducted its investigation.<sup>2</sup> This week, these concerns were magnified in a hearing held by the House Committee on Oversight and Government Reform, in which three State Department officials testified to the Benghazi ARB's inadequacies.

While the ARB appeared to be thorough in some respects, it was regrettably lacking in others. For example, the ARB failed to interview the senior-most Department officials, including then-Secretary Hillary Clinton, Deputy Secretary William J. Burns, and then-Deputy Secretary for Management and Resources Thomas R. Nides. I believe that this was a critical omission from the ARB's review of the facts leading up to the attacks. It also raises broader questions about the universe of information accessible to the ARB, and when its members were provided access to this information.

The interim progress report recently produced for Members of the House Republican Conference also pointed to critical inadequacies in the ARB, which were acknowledged and elaborated on by all three witnesses who testified before the Oversight Committee this week. For example, Eric Nordstrom, the former lead security officer in Libya, stressed that "it is not what is contained

<sup>1</sup> Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, available at <http://www.state.gov/documents/organization/202446.pdf>.

<sup>2</sup> Letter from Reps. Darrell Issa, Edward R. Royce, and Jason Chaffetz to Secretary of State Hillary Clinton, January 28, 2013, available at <http://oversight.house.gov/wp-content/uploads/2013/01/2013-01-28-DEI-Royce-Chaffetz-to-Clinton-State-ARB-due-2-11.pdf>.

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within the [ARB's] report that I take exception to but what is left unexamined. Specifically, I'm concerned with the ARB's decision to focus its attention at the Assistant Secretary level and below."<sup>3</sup> Nordstrom explained that he had personally reviewed documents related to staffing and security that were "drafted and approved at the Under Secretary of Management level or above."<sup>4</sup>

In addition, the Oversight hearing raised concerns regarding the ARB's independence from the State Department. For example, former Deputy Chief of Mission in Libya Gregory Hicks testified that during the ARB's investigation, he met with "the Executive Secretary of the ARB, Uzra Zeya [...] to amplify a few issues." According to her State Department biography, Ms. Zeya most recently served as Chief of Staff to Deputy Secretary William Burns, and as Deputy Executive Secretary to Secretary of State Hillary Clinton.<sup>5</sup> Ms. Zeya was also apparently copied on email correspondence immediately after the Benghazi attacks, in which senior State Department officials acknowledged that the violence had been perpetrated by terrorist groups.<sup>6</sup> This raises the question of Ms. Zeya's impartiality when assisting the ARB with its investigation, particularly in its review of the events that transpired that night.

In response to these and other concerns, I have introduced the Accountability Review Board Reform Act, H.R. 1768. This bill restructures the ARB to increase its independence from the State Department, by limiting the number of ARB members the Secretary of State can appoint to two, and requiring two appointments to be made by the Chairperson of the Council of Inspectors General on Integrity & Efficiency. It also aims to prevent obvious conflicts of interest from arising during the course of an investigation, and requires that the ARB make its findings available to Congress.

In light of these developments, I was pleased to learn that the Office of Inspector General (OIG) will be conducting a review of past ARBs convened by the State Department to date. This is an important engagement that should enable both the Department and Congress to better understand the strengths and weaknesses of the ARB process. However, I would ask that this review place particular emphasis on the deficiencies of the Benghazi ARB, given the gravity of the attack and the ongoing nature of Congress's investigation, and the serious questions raised by it.

During your review, I ask that your Office consider the following questions with respect to Benghazi:

1. How did then-Secretary Hillary Clinton select the Benghazi ARB members?

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<sup>3</sup> Written testimony of former Regional Security Officer to Libya Eric Nordstrom before the House Committee on Oversight and Government Reform, May 8, 2013.

<sup>4</sup> *Id.*

<sup>5</sup> Biography of Acting Assistant Secretary of State Uzra Zeya. U.S. Department of State. Retrieved at <http://www.state.gov/r/pa/ei/biog/bureau/198396.htm>.

<sup>6</sup> Email from James Miller to Victoria Nuland, Cheryl Mills, Wendy Sherman, William Burns, Patrick Kennedy, et al., with courtesy copies to Uzra Zeya, et al., September 12, 2012, 12:46 PM.

2. Did any ARB member have a pre-existing relationship with anyone being investigated?
3. What is the process by which an ARB determines whether to interview officials? Why did the Benghazi ARB fail to interview the Department's senior-most officials, including then-Secretary Hillary Clinton, Deputy Secretary William J. Burns, and then-Deputy Secretary for Management and Resources Thomas R. Nides?
4. Was it reasonable for the Benghazi ARB to conclude that responsibility for the Department's security failures rested at or below the Assistant Secretary level?<sup>7</sup> Was the Benghazi ARB aware, or should it have been aware, of facts that would challenge this conclusion?
5. On what basis did the ARB assign blame to the Assistant Secretary for Diplomatic Security and the Deputy Assistant Secretary for Near Eastern Affairs, yet not the Assistant Secretary for Near Eastern Affairs?
6. The Foreign Affairs Manual contains provisions that address the convening and administration of ARBs, including the appointment of an Executive Secretary who, according to the Manual, is typically a senior Foreign Service officer.<sup>8</sup> Mr. Hicks testified that Uzra Zeya, now acting Assistant Secretary for Democracy, Human Rights and Labor, served as the Benghazi ARB's Executive Secretary. Given Ms. Zeya's clear ties to the senior-most policymakers within the State Department, and her awareness of events prior to the launching of the investigation, why was she selected as Executive Secretary? What was Ms. Zeya's role in the investigation?
7. According to testimony provided by Mr. Hicks, there was no stenographer present when he was interviewed by the ARB.<sup>9</sup> Is it the case that the Benghazi ARB did not use a stenographer to transcribe interviews with all witnesses? If so, then why? To what extent have previous ARBs used stenographers to transcribe witness interviews?
8. During the Benghazi ARB's investigation, was there any interaction between the ARB members and Department officials *outside* the course of the official investigation (e.g., outside of official interviews, interrogatories, administrative requests, etc.). If so, what was the nature and frequency of such interaction, and which State Department officials were involved?

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<sup>7</sup> At a press conference held in tandem with the release of the ARB's Report on December 19, 2012, a reporter asked Board ARB Chairman Ambassador Tom Pickering, "What is the highest level at the Department of State where you fix responsibility for what happened in Benghazi?" Ambassador Pickering responded: "We fixed it at the Assistant Secretary level, which is in our view the appropriate place to look, where the decision-making in fact takes place, where, if you like, the rubber hits the road." Retrieved at <http://www.state.gov/r/pa/prs/ps/2012/12/202282.htm>.

<sup>8</sup> 12 Foreign Affairs Manual 032.3.

<sup>9</sup> Testimony of former Deputy Chief of Mission Gregory Hicks before the House Committee on Oversight and Government Reform, May 8, 2013.

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9. Did the Benghazi ARB have access to – and review – the over 25,000 pages of internal records that the Department has made available to the Congress? If so, when were they made available? For purposes of your inquiry, please note that the Department did not make tranches 6, 7, and 8 available to Congress until January 2013 – one month after the ARB submitted its final report.
  
10. Did the Department provide the ARB with documents and information that it did not provide to Congress?

I thank you in advance for your consideration of these issues. Should you have any questions or concerns, please contact Thomas Alexander of my staff at 202-225-5021.

Sincerely,



EDWARD R. ROYCE  
Chairman