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One Hundred Eighteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

June 8, 2023

The Honorable Antony Blinken
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Dear Secretary Blinken:

On March 20, 2023, I wrote to you regarding the Department's failure to produce documents and information concerning the Biden Administration's catastrophic withdrawal from Afghanistan and informed you that the Department needed to produce the U.S. Embassy Kabul Emergency Action Plans (EAPs) and the State Department's After-Action Review (AAR), including any associated documents, in "complete and unredacted form" or face compulsory process.¹ While the Department provided these documents to avoid the issuance of a subpoena, the productions contained significant redactions and omissions that are unacceptable to the Committee. Repeated requests to rectify these deficiencies have gone unfulfilled. If the Department fails to satisfy these requests by June 14, 2023, I am prepared to proceed with compulsory process.

As you are undoubtedly aware, these items were repeatedly requested before the March 20 threat of compulsory process became necessary. On January 12, 2023, I requested documents and information relating to the Afghanistan withdrawal.² Many of the requests in that letter were previously issued during the 117th Congress in an August 20, 2021, letter from the then-minority members of this Committee.³

At the Department's request, on January 30, 2023, Committee staff provided a list of initial priorities to guide the Department's production, detailing three specific, easily identifiable

¹ Letter from Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff. (HFAC), to the Hon. Anthony Blinken, Sec'y of State, U.S. Dep't of State (Mar. 20, 2023), <https://foreignaffairs.house.gov/wp-content/uploads/2023/03/3-20-23-McCaul-Letter-to-Blinken-Re-Afghanistan-Documents-Request50.pdf>.

² Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Anthony Blinken, Sec'y of State, U.S. Dep't of State (Jan. 12, 2023), <https://foreignaffairs.house.gov/wp-content/uploads/2023/01/20230112190224869f281.pdf>.

³ Letter from HFAC Republicans, to the Hon. Anthony Blinken, Sec'y of State, U.S. Dep't of State (Aug. 20, 2021), <https://foreignaffairs.house.gov/wp-content/uploads/2021/08/8.20-GOP-HFAC-Letter-to-Blinken-Re-Afghanistan-Letter33.pdf>.

priority items to be produced no later than February 7, 2023.⁴ These items included: the Dissent Channel cable sent on July 13, 2021, by twenty-three State Department officials and the Department's response to it; the AAR prepared under Ambassador Daniel Smith; and two iterations of U.S. Embassy Kabul's Emergency Action Plan (EAP).

Following the Department's failure to produce these documents, on March 3, 2023, the Committee sent another letter directing the Department to immediately produce these three priority documents, warning that the Committee would proceed with compulsory process should the Department's obstruction persist.⁵ The Department, once again, failed to produce the requested items.

On March 22, 2023, the day prior to your scheduled testimony before the Committee, the Department produced a set of U.S. Embassy Kabul EAPs and agreed to provide the State Department's AAR by mid-April.⁶ The AAR was ultimately produced on April 6, 2023. However, both of these productions failed to meet the terms of the Committee's request.

I. Prior Productions and Frustration of the Committee's Oversight Authority

The EAPs contained numerous unexplained redactions. Most notably, a roughly sixty-page section identified as "DoD and USEK NEO Planning Documents (Custom Annex NNNN)"⁷ was redacted in its entirety. The section redacted is of particular importance to the Committee, given that it appears to contain the Embassy's plans for a Non-Combatant Evacuation Operation (NEO). These pages are of critical and material importance to the Committee's investigation, given their potential to shed light upon the Department's planning for a potential NEO.

The issue of the redacted pages was raised with Department officials on March 26, 2023,⁸ but despite repeated requests the Department has still failed to produce the pages unredacted. After multiple inquiries, on May 3, 2023, a Department attorney stated that "[t]he page range you identified was redacted for Executive Branch confidentiality interests, including internal Executive Branch deliberations. However, based on your request, the Executive Branch is currently conducting another review to see if these redactions can be lifted as a further accommodation, and we will follow up with you."⁹ On May 31, 2023, Committee staff requested that these pages be produced unredacted no later than 12:00 pm on Friday, June 2, 2023.¹⁰ It is difficult to conceive of any legitimate basis for the redaction of these pages or the Department's failure to produce them within the more than two months following the Committee's inquiry on

⁴ Meeting between HFAC Majority Staff & U.S. Dep't of State, in Washington, D.C. (Jan. 19, 2023); E-mail from HFAC Majority Staff to U.S. Dep't of State (Jan. 30, 2023, 11:51 P.M.) (on file with author).

⁵ Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Anthony Blinken, Sec'y of State, U.S. Dep't of State (Mar. 3, 2023), <https://foreignaffairs.house.gov/wp-content/uploads/2023/03/3.3.23-McCaul-Letter-to-Stateon-Afghanistan-Documents-Productions8.pdf>.

⁶ *The State of American Diplomacy in 2023: Growing Conflicts, Budget Challenges, and Great Power Competition: Hearing Before the H. Comm. on Foreign Aff.*, 118th Cong. (2023) (statement of Antony Blinken, Sec'y of State).

⁷ The redacted pages are bates stamped STATE-2023-00001-0003209 – STATE-2023-00001-0003271. The section is identified on STATE-2023-00001-0003208.

⁸ See E-mail from HFAC Majority Staff to U.S. Dep't of State (March 26, 2023, 4:21 P.M.) (on file with author).

⁹ See E-mail from U.S. Dep't of State to HFAC Majority Staff (May 3, 2023, 4:57 P.M.) (on file with author).

¹⁰ See E-mail from HFAC Majority Staff to U.S. Dep't of State (May 31, 2023, 7:21 P.M.) (on file with author).

the matter. The rationales provided to date, “Executive Branch confidentiality interests,” and “internal ... deliberations,” are, at best, vague and wholly unsubstantiated. Moreover, neither rationale amounts to a valid basis that justifies the withholding of critical information from the House Committee with specific jurisdiction over the Department and its activities. It is also difficult to understand, in any event, how a section of an Emergency Action Plan could be withheld on the rationale of shielding internal deliberations.

The withholding of these documents is part of a larger pattern of obstruction. In addition to the matter of the improperly redacted section, the EAP production was entirely marked “SECRET” despite the fact that seven of the nine distinct documents in the production appear to be marked “Sensitive but Unclassified” in their entirety: the EAP Planning Guide print date 12/3/2020, EAP Immediate Action Guide print date 12/3/2020, EAP Master Emergency Contact List print date 12/3/2020, EAP Planning Guide print date 7/26/2021, EAP Immediate Action Guide print date 7/29/2021, EAP Immediate Action Guide print date 2/23/2023, and Master Contact List print date 2/23/2023.

The Department has also failed to produce the Afghanistan AAR files in a timely manner. On April 6, 2023, the Department took the long overdue step of providing its AAR to the Committee, a document dated March 2022 but withheld from Congress for over a year. The AAR contains numerous unexplained redactions, even including redactions of the names of documents cited in footnotes. The AAR also references a set of documents titled the “Afghanistan AAR files,” described as “an electronic and paper collection of all the materials the review team consulted and cited to prepare its report.”¹¹ As the collection of documents used in the preparation of Department’s own review of the withdrawal, the Afghanistan AAR files represent material evidence, which is critical to the Committee’s investigation into the withdrawal and will inform this Committee’s legislative and budgetary decision making to prevent future catastrophes.

In an April 25, 2023 follow-up letter, I requested that the Department produce the Afghanistan AAR files “in complete and unredacted form” no later than May 5, 2023.¹² More than a month after this deadline, the Department has still failed to provide any response to this request, despite the matter being raised directly with Deputy Secretary for Management and Resources Richard Verma by Oversight & Accountability Subcommittee Chair Brian Mast and Committee staff on May 23, 2023.¹³

II. Pending Requests and Need for Additional Information

It is disgraceful that nearly two years after the deadly and chaotic withdrawal, the Department has still declined to provide Congress with key documents and information regarding the withdrawal. The Department’s stonewalling is particularly unacceptable in light of the clear

¹¹ Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony J. Blinken, Sec’y of State, U.S. Dep’t of State, in Washington, D.C. (Mar. 3, 2023).

¹² Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony J. Blinken, Sec’y of State, U.S. Dep’t of State, in Washington, D.C. (Apr. 25, 2023).

¹³ Meeting between Brian Mast, Subcomm. Chairman, Oversight and Accountability, HFAC, & Richard Verma, D-MR, U.S. Dep’t of State, in Washington, D.C. (May 23, 2023).

statutory mandate of 22 U.S.C. § 2680(b), which provides that “[t]he Department of State shall keep ... the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within [its] jurisdiction Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.”¹⁴ The jurisdiction of this Committee is established by Rule X of the Rules of the House of Representatives, which delegates to the Committee on Foreign Affairs legislative and oversight jurisdiction over “[r]elations of the United States with foreign nations generally,” “[d]iplomatic service,” and “[p]rotection of American citizens abroad and expatriation.”¹⁵

Congress’ oversight powers are derived from the Constitution and have been repeatedly affirmed by the United State Supreme Court.¹⁶ Here, the consideration of potential future legislation to prevent similar catastrophes is an important part of the Committee’s oversight efforts.

Through its delay, the Department has denied the American people, many of whom have served their country or lost loved ones in Afghanistan, the transparency they deserve. It is even more unfortunate that two of three of this Committee’s prioritized requests remain unsatisfied. The Department must fulfill its obligations by providing this Committee with the following long awaited and repeatedly requested materials in complete and unredacted form:

1. The pages from the EAP production spanning STATE-2023-00001-0003209 to STATE-2023-00001-0003271; and
2. The Afghanistan AAR files.

Additionally, to shed light on the circumstances of the emergency evacuation from Afghanistan and the Department’s role within it, please produce the official order initiating a NEO in Afghanistan, as well as any clearance package and/or accompanying transmission documents. A memorandum of agreement between the Department and the DOD provides that the Secretary of State can request the Secretary of Defense “to make available military personnel and equipment to assist in an evacuation during crisis situations.”¹⁷ The Chairman of the Joint Chiefs of a Staff’s Joint Publication 3-68 on NEOs states that, “The decision to evacuate a US embassy is diplomatic and/or political and threat driven and is, therefore, retained by the [Chief of

¹⁴ 22 U.S.C. § 2680(b).

¹⁵ *Rules of the House of Representatives: One Hundred Eighteenth Congress*, U.S. HOUSE OF REP. at 9 (Jan. 10, 2023), <https://rules.house.gov/sites/republicans.rules118.house.gov/files/documents/Rules%20and%20Resources/118-House-Rules-Clerk.pdf>.

¹⁶ See generally U.S. CONST. art. I, § 8, cl. 8; *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927) (holding that “the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function”); *Eastland v. U.S. Servicemen’s Fund*, 421 U.S. 491, 504 (1975) (holding that “the power to investigate is inherent in the power to make laws”); *Barenblatt v. United States*, 360 U.S. 109, 111 (1959) (holding that “the scope of power of inquiry ... is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.”).

¹⁷ DEP’T OF STATE AND DEF., MEMORANDUM OF AGREEMENT BETWEEN THE DEP’T OF STATE AND DEFENSE ON THE PROT. AND EVACUATION OF U.S. CITIZENS AND NAT’LS AND DESIGNATED OTHER PERSONS FROM THREATENED AREAS OVERSEAS (1998), <https://prhome.defense.gov/Portals/52/Documents/PR%20Docs/DOS-DOD%20Memo%20of%20Agreement%20on%20Protection%20and%20Evacuation.pdf>.

Mission].”¹⁸ The Joint Publication explains that “[d]uring NEOs, the COM, and not the geographic combatant commander (GCC) or the subordinate joint force commander (JFC), is the senior [U.S. Government] authority for the evacuation and, as such, is ultimately responsible for the successful completion of the NEO and the safety of the evacuees.”¹⁹ According to an April 6, 2023, White House report titled the “U.S. Withdrawal from Afghanistan,” President Biden announced on August 14, 2021, that, “at the recommendation of his diplomatic, military, and intelligence teams, he had formally initiated the NEO and ordered the deployment of additional U.S. troops to Afghanistan to support the evacuation.”²⁰

This production should include any request from the Executive Secretary of the Department to the Executive Secretary of the Department of Defense (DOD) for a military-assisted departure or NEO, from Kabul, Afghanistan.²¹ Whether a NEO was formally invoked is important in determining the respective roles and responsibilities of the Department, the DOD, and other agencies in the Afghanistan evacuation operation.

The Department must comply with each of the Committee’s requests. As stated above, many of these requests date back to January 2023, and have gone without compliance. The Department has had ample time to fulfill these requests. We are giving the Department one week from today to provide the requested documents.

Please produce all responsive documents no later than 5:00 PM EDT on June 15, 2023, in complete and unredacted form. In the event that the Department fails to comply with these requests, this Committee is prepared to proceed with compulsory process.

If you have any questions about this request, your staff may contact Committee staff at (202) 226-8467. Thank you for your attention to this matter.

I look forward to your prompt reply.

Sincerely,



Michael T. McCaul
Chairman
House Foreign Affairs Committee

¹⁸ OFF. OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF, DEP’T OF DEF., JOINT PUBL’N 3-68, NONCOMBATANT EVACUATION OPERATIONS (2015), https://irp.fas.org/doddir/dod/jp3_68.pdf.

¹⁹ *Id.*

²⁰ EXEC. OFF. OF THE PRESIDENT, U.S. WITHDRAWAL FROM AFGHANISTAN (2023), <https://www.whitehouse.gov/wp-content/uploads/2023/04/US-Withdrawal-from-Afghanistan.pdf>.

²¹ DEP’TS OF STATE AND DEF., MEMORANDUM OF AGREEMENT BETWEEN THE DEP’TS OF STATE AND DEFENSE ON THE PROT. AND EVACUATION OF U.S. CITIZENS AND NAT’LS AND DESIGNATED OTHER PERSONS FROM THREATENED AREAS OVERSEAS (1998), <https://prhome.defense.gov/Portals/52/Documents/PR%20Docs/DOS-DOD%20Memo%20of%20Agreement%20on%20Protection%20and%20Evacuation.pdf>.

CC:

Rep. Gregory W. Meeks, Ranking Member
House Foreign Affairs Committee