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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

March 3, 2023

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

Dear Secretary Blinken:

On January 12, 2023, I renewed and updated longstanding requests for documents and information regarding the Biden administration's catastrophic withdrawal from Afghanistan, with a deadline of January 26, 2023.<sup>1</sup> Many of the requests in this letter date back to an August 20, 2021 letter, sent days after Kabul fell to the Taliban.<sup>2</sup> These August 2021 requests, as well as others, were then renewed in an October 14, 2022 letter, which also requested the preservation of documents.<sup>3</sup>

Committee staff communicated in advance the expectation that the Department should produce a substantial initial production by the January 26 deadline.<sup>4</sup> However, more than seven weeks after the letter's transmission and over a month past the deadline, the Department has still only provided two small document productions to date.

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<sup>1</sup> Letter from Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff. (HFAC), to the Hon. Anthony Blinken, Sect'y of State, U.S. Dep't of State (Jan. 12, 2023), [https://foreignaffairs.house.gov/wp-content/uploads/2023/01/20230112190224869\[28\].pdf](https://foreignaffairs.house.gov/wp-content/uploads/2023/01/20230112190224869[28].pdf).

<sup>2</sup> Letter from HFAC Republicans, to the Hon. Anthony Blinken, Sect'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>.

<sup>3</sup> Letter from Michael T. McCaul, Ranking Member, (HFAC), to the Hon. Anthony Blinken, Sect'y of State, U.S. Dep't of State (Oct. 14, 2022), [https://foreignaffairs.house.gov/wp-content/uploads/2022/10/Preservation-of-documents-Dos\\_AF-DCA-Final-combined.pdf](https://foreignaffairs.house.gov/wp-content/uploads/2022/10/Preservation-of-documents-Dos_AF-DCA-Final-combined.pdf).

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

On January 26, 2023, the Department provided a 218-page initial production consisting of documents related to Afghanistan responsive to Freedom of Information Act (FOIA) requests.<sup>5</sup> Of the 218 pages produced, 88 consisted of a previously embargoed version of the Afghanistan Study Group's Final Report<sup>6</sup> – a document released to the public on February 3, 2021. Most of the remaining pages included extensive redactions that severely limit their usability and value.

Notably, many of the redactions appear to cover the prepared answers from the question-and-answer portion of talking points documents.<sup>7</sup> That is to say, the Department redacted information from Congress that it was prepared to share with the public at the time the documents were generated. Furthermore, the Department failed to provide any legal justification or privilege log for these redactions, as is standard practice.

On February 10, 2023, the Department made an additional production consisting of the texts of unclassified opening statements from a June 15, 2022 classified briefing on Afghanistan, totaling 18 pages.<sup>8</sup> These texts were initially requested at the June 15 briefing, and then again on June 21, 2022, and in the October 14, 2022 letter.<sup>9</sup>

The paucity of documents produced by the State Department to date comes despite the Committee having repeatedly requested that the Department begin identifying responsive documents and information following the November 2022 election in anticipation of the requests being reissued in a chairman's letter. The Department chose not to do so. The Committee is not aware of any provision of law that would have prevented the Department from doing such. In fact, the Department produced documents in response to requests from the Committee minority in cases where it chose to during the 117<sup>th</sup> Congress, clearly disproving any claim it was unable to do so.<sup>10</sup>

To assist the Department in identifying and producing responsive documents, Committee staff provided it with a list of initial priority items on January 30, 2023.<sup>11</sup> In an e-mail transmitting this list, Committee staff further identified three specific items from the list that they believed the Department could easily identify and produce and requested the Department provide them by February 7, 2023.<sup>12</sup> These included:

1. The Dissent Channel cable reportedly sent on July 13, 2021, by 23 State Department officials and the Department's response to it;

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<sup>5</sup> U.S. Dep't of State, Freedom of Information Act Document Prod. to HFAC (Jan. 26, 2023) (on file with author).

<sup>6</sup> *See id.* at STATE-2023-02-0000031-0000118.

<sup>7</sup> *See e.g., id.* at STATE-2023-02-0000002-0000030.

<sup>8</sup> U.S. Dep't of State, Freedom of Information Act Document Prod. to HFAC (Feb. 10, 2023) (on file with author).

<sup>9</sup> See Letter from Michael T. McCaul, Ranking Member, *supra* note 3.

<sup>10</sup> *See, e.g.,* Email from U.S. Dep't of State Bureau of Legis. Aff. to HFAC Minority Staff (July 22, 2022) (document production in response to HFAC Minority Staff inquiry); Email from U.S. Dep't of State Bureau of Legis. Aff. to HFAC Minority Staff (Nov. 4, 2022) (document production in response to HFAC Minority Staff inquiry); Email from U.S. Dep't of State Bureau of Legis. Aff. to HFAC Minority Staff (Nov. 29, 2022, 4:00 P.M.) (document production in response to HFAC Minority Staff's request) (on file with author).

<sup>11</sup> *See* Email from HFAC Majority Staff, *supra* note 4.

<sup>12</sup> *Id.*

2. The After-Action Report prepared under Ambassador Daniel Smith; and
3. Two iterations of U.S. Embassy Kabul’s Emergency Action Plan (EAP): The one in existence on January 1, 2021, and the final iteration of the plan before the Embassy’s closure.

Particularly notable among these three priority requests is the request for the Dissent Channel cable and response, which the Committee has identified to the Department as its top priority request on multiple occasions. Most of the requests in the January 12 letter were previously requested by me in my capacity as Ranking Member. However, the Dissent Channel cable was first requested by then-Chairman Gregory Meeks in an August 21, 2021 letter.<sup>13</sup>

Notably, Chairman Meeks issued the request with a three-day deadline of August 24, 2021 – a testament to the document’s significance and the request’s urgency. However, this longstanding Committee request, issued under a chairman’s signature by two successive chairmen of different parties, remains unfulfilled after nearly 18 months.

In a February 14, 2023 meeting Committee staff and the State Department officials responsible for coordinating the Department’s response to congressional oversight discussed the status of these and other items prioritized by the Committee.<sup>14</sup> Staff reaffirmed the prioritization of the request for the Dissent Channel cable and response. Given that the Department has yet to indicate when it intends to produce this document or present any legal grounds for withholding it, Committee staff additionally requested clarification of the Department’s position, which it has yet to provide.<sup>15</sup>

The Department also indicated on February 14 that Ambassador Smith’s After-Action Report had yet to be finalized. Department officials were unclear on the status of the report and timeline for its release, indicating they believed it was undergoing a Secretary-level review.<sup>16</sup> This is surprising, given that Ambassador Smith’s review was characterized by the Department as a “90-Day Review” in December 2021,<sup>17</sup> and in August 2022, State Department spokesman Ned Price stated, “[w]e are finalizing elements of that report.”<sup>18</sup> The Committee has requested clarification on the report’s status but has still yet to receive it.<sup>19</sup> Incredibly, when asked, Department officials were unwilling or unable to even provide the name or office of the After-Action Report’s official custodian.

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<sup>13</sup> Letter from Gregory W. Meeks, Chairman, U.S. House of Rep. Comm. on Foreign Aff., to the Hon. Anthony Blinken, Sect’y of State, U.S. Dep’t of State (Aug. 21, 2021).

<sup>14</sup> Meeting between HFAC Staff & U.S. Dep’t of State, in Washington, D.C. (Feb. 14, 2023).

<sup>15</sup> Email from HFAC Majority Staff to U.S. Dep’t of State (Feb. 16, 2023, 6:36 P.M.) (on file with author).

<sup>16</sup> Meeting between HFAC Majority Staff & Dep’t of State, *supra* note 14.

<sup>17</sup> Jordan Williams, *State, Pentagon Begin Reviews of Afghanistan Withdrawal*, THE HILL (Dec. 10, 2021), <https://thehill.com/policy/international/middle-east-north-africa/585324-state-department-pentagon-begin-reviews-of/>.

<sup>18</sup> *Department Press Briefing—August 15, 2022*, U.S. DEP’T OF STATE (Aug. 15, 2022), <https://www.state.gov/briefings/department-press-briefing-august-15-2022/>.

<sup>19</sup> See Email from HFAC Majority Staff to U.S. Dep’t of State, *supra* note 15.

The Department additionally indicated on February 14 that the EAPs would be produced in an early document production,<sup>20</sup> but the Committee has yet to receive them.<sup>21</sup>

The documents requested by the Committee are essential to its investigation of the Biden administration's withdrawal from Afghanistan in fulfillment of its constitutional oversight responsibilities and to inform potential legislation, including legislation which may be necessary to prevent similar failures from occurring again in the future. The Afghanistan withdrawal was identified as a "priority oversight matter" in the Committee's oversight plan, unanimously agreed to by Members of both parties on February 8, 2023.<sup>22</sup>

Concerningly, the State Department officials responsible for responding to congressional oversight asserted in the February 14 meeting that the Department's performance has been unprecedented in its efficiency and that Committee staff should be grateful for having received *any* documents after a month, as well as that it was exceptional for State to respond at all to any requests before the Committee's organizing meeting.<sup>23</sup> These statements are insulting to Congress and the American taxpayer. The Department's position cannot be taken seriously under any reasonable standard, particularly after 18 months of waiting.

Please *immediately* produce the Dissent Channel cable and response, a current draft of Ambassador Smith's After-Action Report (including any associated documents such as exhibits or appendices), and U.S. Embassy Kabul's EAPs without further delay. Please produce these documents completely and without redaction. In the event the Department's noncompliance persists, the Committee will be forced to proceed with compulsory process. The Department must provide complete responses to the Committee's requests in a timely manner and will be held accountable for its obligation to do so.

Congress' oversight powers are derived from the U.S. Constitution and have been repeatedly affirmed by the United State Supreme Court.<sup>24</sup> Under House Rule X, the Committee has 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."<sup>25</sup> Furthermore, 22 U.S.C. § 2680 states, "The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and

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<sup>20</sup> Meeting between HFAC Majority Staff & Dep't of State, *supra* note 14.

<sup>21</sup> See Email from HFAC Majority Staff to U.S. Dep't of State, *supra* note 15.

<sup>22</sup> Authorization and Oversight Plan: 118<sup>th</sup> Congress, HFAC (Feb. 8, 2023) (on file with author).

<sup>23</sup> See Meeting between HFAC Majority Staff & Dep't of State, *supra* note 14; Email from HFAC Majority Staff to U.S. Dep't of State, *supra* note 15.

<sup>24</sup> 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.").

<sup>25</sup> *Rules of the House of Representatives: One Hundred Eighteenth Congress*, U.S. HOUSE OF REP. 7 (Jan. 10, 2023), <https://rules.house.gov/sites/republicans.rules118.house.gov/files/documents/Rules%20and%20Resources/118-House-Rules-Clerk.pdf>.

responsibilities within the jurisdiction of these committees. *Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.*<sup>26</sup>

I look forward to your prompt reply.

Sincerely,



Michael T. McCaul

Chairman

House Foreign Affairs Committee

Enclosure

CC:

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

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<sup>26</sup> 22 U.S.C. § 2680(b) (emphasis added).