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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

September 17, 2024

Rachel Cotton
Deputy Counsel to the President
White House Counsel's Office
1650 Pennsylvania Avenue NW
Washington, DC 20502

Dear Ms. Cotton:

I write to repeat my request that National Security Advisor Jake Sullivan voluntarily appear before the House Committee on Foreign Affairs for a public hearing on a mutually agreeable date. As I explained in my letter dated August 23, 2024, the National Security Council (NSC), led by Mr. Sullivan, served as the nerve center for critical decision making for the U.S. withdrawal from Afghanistan.¹ In so doing, Mr. Sullivan systematically exercised powers delegated to the Department of State, and critical questions remain that only he can answer. The need for Mr. Sullivan's testimony is made vividly apparent in my historic, 355-page investigation report, which details the hundreds of witness and documentary references to Mr. Sullivan's role in the withdrawal. Should Mr. Sullivan refuse this request, my next step will be compulsory process.

Mr. Sullivan's testimony is needed to inform this Committee's legislative function. As I advised in my investigation report, "Congress should consider reforming the NSC to ensure Congress's ability to conduct its constitutional oversight over national security decision making," because the NSC went "well beyond [its] statutory role of advising the President on national security policy integration (50 U.S.C. § 3021) into operational control, including decision making regarding roles and responsibilities delegated in statute to the State Department."² Mr. Sullivan's testimony is critical for this Committee to effectively reform the NSC.

My investigation has found that, throughout the withdrawal from Afghanistan, the NSC repeatedly interceded in a decision-making capacity that belonged to the State Department. To start, Mr. Sullivan operated as director and chief-decision-maker of the inter-agency review

¹ Letter from Michael T. McCaul, Chairman, H. Comm. on Foreign Affs., to Rachel Cotton, Deputy Counsel to the President, Office of White House Counsel (Aug. 23, 2024).

² Michael T. McCaul, *Willful Blindness: An Assessment of The Biden-Harris Withdrawal from Afghanistan and the Chaos that Followed*, 118th Cong., 240 (Sept. 9, 2024).

process that led up to President Biden’s April 2021 go-to-zero order. Suzy George, Chief of Staff to Secretary of State Antony Blinken, testified that Mr. Sullivan “ran the Afghan policy review process.”³ Former Acting Deputy Assistant Secretary for Afghanistan Mark Evans likewise testified to the NSC’s lead decision-making role in that process.⁴ Counselor to the State Department Derek Chollet testified he took direction from the NSC regarding Afghanistan policy, and, more specifically, from Mr. Sullivan.⁵

Mr. Sullivan occupied that same decision-making role following the go-to-zero order and throughout the disastrous August 2021 evacuation. Former Deputy Secretary for Management and Resources Brian McKeon testified that the NSC led decision-making regarding Afghan populations eligible for evacuation and led the decision-making to shutter and move the U.S. Embassy to Hamid Karzai International Airport after Kabul was surrounded by the Taliban.⁶ Former U.S. Embassy Kabul Chief of Mission, Ambassador Ross Wilson, confirmed that NSC “drove” the Special Immigrant Visa process.⁷ Former Special Representative for Afghanistan Reconciliation, Ambassador Zalmay Khalilzad, referred to the non-combatant evacuation operation executed in August 2021 as an “NSC-centric period.”⁸ And, tellingly, it was Mr. Sullivan, not Secretary Blinken, whom the then-Chairman of the Joint Chiefs of Staff General Mark Milley called on August 12, 2021, to suggest that the State Department initiate a Noncombatant Evacuation Operation (NEO).⁹

Communications strategy, too, was directed by Mr. Sullivan and the NSC. According to former State Department Spokesperson Ned Price, State Department communications took direction from the NSC, which was the “focal point for engagement.”¹⁰ Former White House Press Secretary Jen Psaki said that her press conferences before the American people were “based on information gathered through the NSC press process where the NSC press team put together talking points and answers to questions that were coming up in the briefing.”¹¹

Not only did Mr. Sullivan direct public communications, but as my report detailed, he materially misled the American public.¹² Those misrepresentations extended throughout the inter-agency

³ Transcribed Interview with Suzy George, Chief of Staff of the Sec’y of State, U.S. Dep’t of State, in Rayburn House Office Bldg., at 17 (Dec. 14, 2023).

⁴ Transcribed Interview with Mark Evans, Amb., U.S. Dep’t of State, in Rayburn House Office Bldg., at 79 (Aug. 23, 2023).

⁵ Transcribed Interview with Derek Chollet, Counselor, U.S. Dep’t of State, in Rayburn House Office Bldg., at 22, 23, and 25 (Dec. 19, 2023).

⁶ Transcribed Interview with Brian McKeon, Deputy Sec’y of State for Mgmt., U.S. Dep’t of State, in Rayburn House Office Bldg., at 148 (Nov. 29, 2023).

⁷ Transcribed Interview with Ross Wilson, Amb., U.S. Dep’t of State, in Rayburn House Office Bldg., at 125-26 (Oct. 24, 2023).

⁸ Transcribed Interview with Zalmay Khalilzad, Amb., U.S. Dep’t of State, in Rayburn House Office Bldg., at 85-86 (Oct. 24, 2023).

⁹ Bill Roggio, Mapping Taliban Control in Afghanistan, The Foundation for Defense of Democracies’ Long War Journal (2021), <https://www.longwarjournal.org/mapping-taliban-control-in-afghanistan>.

¹⁰ Transcribed Interview with Ned Price, State Dep’t Spokesperson, U.S. Dep’t of State, in Rayburn House Office Bldg., at 13-14, 62 (Dec. 12, 2023).

¹¹ Transcribed Interview with Jen Psaki, Former White House Press Sec’y, White House, in Rayburn House Office Bldg., at 27 (July 26, 2024).

¹² *Willful Blindness: An Assessment of The Biden-Harris Withdrawal from Afghanistan and the Chaos that Followed*, at 185-91.

process, military withdrawal, and NEO. They came to a head on August 31, 2021, when Ms. Psaki told the American people, “I don’t think anyone assessed [the Afghan government and forces] would collapse as quickly they did. Anyone. Anyone in this room. Anyone in the region. Anyone anywhere in the world.”¹³ My report revealed Ms. Psaki’s statement to be false – senior military advisors predicted a rapid collapse during meetings with the NSC – and my report also established Mr. Sullivan was responsible for Ms. Psaki’s press briefings.

Mr. Sullivan has shown through word and deed that he exercised powers congressionally delegated to the State Department.¹⁴ His extraordinary usurpation of authority is only further confirmed by your August 30, 2024, letter, wherein you credit the White House, not the State Department, for making 15 State Department officials available for testimony, producing the State Department After Action Reviews and other Department documents, including permitting access to the State Department dissent channel cable.¹⁵ Of course, State Department testimony and materials were obtained through threats of subpoenas, issuance of subpoenas, and threats of contempt of Congress. My success in obtaining this critical evidence came despite significant interference by Mr. Sullivan and the White House into this Committee’s legitimate oversight of the State Department.¹⁶

It should by now be apparent that the independence of the executive branch is not threatened by my request for testimony. To the contrary, the oversight powers of Congress have been obstructed by the unlawful consolidation of diplomatic authority within the White House. Mr. Sullivan must testify before this Committee, not because of his title, but because of the power he wielded.¹⁷ Moreover, your reliance on letters and memoranda from the Department of Justice’s Office of Legal Counsel is neither applicable nor binding. Those sources are inapposite, as I seek

¹³ White House, Press Briefing by former Press Secretary Jen Psaki (Aug. 31, 2021), <https://www.whitehouse.gov/briefing-room/press-briefings/2021/08/31/press-briefing-by-press-secretary-jen-psakiaugust-31-2021/>.

¹⁴ See 22 U.S.C. § 2651a (explaining that the Secretary of State exercises principal authority to administer, coordinate, and direct the State Department and the Foreign Service); 22 U.S.C. 2656 (explaining that the Secretary of State serves as the President’s principal foreign policy advisor is responsible for the formulation and execution of approved policy); 22 U.S.C. 2671 (explaining that the Secretary of State is authorized to make expenditures for the evacuation of U.S. government employees and their dependents, U.S. citizens, and third-country nationals when their lives are endangered by war, civil unrest, or a natural disaster); 22 U.S.C. § 4802 (explaining the Secretary of State’s responsibility to develop and implement policies and programs to provide for the security of U.S. diplomatic missions and personnel overseas).

¹⁵ Letter from Rachel Cotton, Deputy Counsel to the President, Office of White House Counsel, to Michael T. McCaul, Chairman, H. Comm. on Foreign Affs. (Aug. 30, 2024).

¹⁶ *Willful Blindness: An Assessment of The Biden-Harris Withdrawal from Afghanistan and the Chaos that Followed*, 195-198; see also CLERK OF THE H.R., 118TH CONG., RULES OF THE H.R., Rule X(1)(i) (2023) (granting jurisdiction over “[r]elations of the United States with foreign nations generally,” “[d]iplomatic service,” and “[p]rotection of American citizens abroad and expatriation”); see also 22 U.S.C. § 2680 (“The 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 the jurisdiction of these committees.”); *Watkins v. United States*, 354 U.S. 178, 187, 215 (1957) (Article I of the Constitution vests in Congress a “broad” and “indispensable” power to conduct oversight and investigations that “encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them.”); *Barenblatt v. United States*, 360 U.S. 109, 111 (1959) (“The scope of the power of [congressional] inquiry, in short, is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.”).

¹⁷ See National Security Act of 1947, sec. 101.

testimony on Mr. Sullivan's exercise of State Department powers, not his national security advice to the President.¹⁸ Nor are advisory memoranda binding on this Committee. Moreover, as I explained in my August 23, 2024, letter, there is long history of National Security Council staff appearing before Congress.¹⁹

If Mr. Sullivan has not arranged by Tuesday, September 24, 2024, to appear on a mutually agreeable date for a public hearing, I will move forward with compulsory process.

Sincerely,



Rep. Michael T. McCaul
Chairman
House Foreign Affairs Committee

CC:
Rep. Gregory W. Meeks
Ranking Member
House Foreign Affairs Committee

¹⁸ Letter from Rachel Cotton, Deputy Counsel to the President, Office of White House Counsel, to Michael T. McCaul, Chairman, H. Comm. on Foreign Affs. (Aug. 30, 2024).

¹⁹ Letter from Michael T. McCaul, Chairman, H. Comm. on Foreign Affs., to Rachel Cotton, Deputy Counsel to the President, Office of White House Counsel (Aug. 23, 2024).