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Congress of the United States

House of Representatives

Select Committee on Benghazi

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SUSANNE SACHSMAN GROOMS, MINORITY
STAFF DIRECTOR

May 31, 2016

The Honorable Trey Gowdy
Chairman
Select Committee on the Events Surrounding
the 2012 Terrorist Attack in Benghazi
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to request information about the process you intend to use for the Benghazi Select Committee to review, consider, and vet our final report for accuracy before it is released to the public and voted on by the Select Committee Members. We would like to know when we, as Members of the Select Committee, will receive a copy of your proposed report and whether we will have an opportunity to offer corrections, additional context, or other input before you release it publicly. We would like to request basic information about your proposed schedule for completion and to propose a path forward.

Process for Ensuring an Accurate and Complete Final Report

In recent interviews, you have stated that you are close to completing a draft of your report and that you intend to release it in a matter of weeks—prior to the presidential party conventions. Since the Select Committee has never held an official business meeting, and since we have not held a public hearing in six months, we have very little information about how you plan to proceed.

We believe the American people would be best served by a joint report that highlights findings that all Members agree on—Republicans and Democrats—followed by areas on which reasonable people may disagree. We believe that all of our interview and deposition transcripts also should be released, consistent with classification guidelines. In this way, the public will have the benefit of the views of all Members of the Committee, as well as the underlying transcripts for their own review.

If you choose not to adopt this consensus approach, then we believe the American people deserve, at a minimum, a report that has been thoroughly vetted by all Members of the Select Committee—before it is released publicly. To accomplish this goal, we ask that you circulate your proposed draft report to all Committee Members with sufficient time to check basic facts, correct inaccuracies, and provide evidence to the contrary when necessary. Of course, we would agree to provide you with an advance copy of any “minority views” so the entire package could be released to the American people at the same time.

In our view, the worst approach would be for you to publicly release a partisan report drafted only by Republicans that has never been reviewed by nearly half of the Select Committee Members. Such a report would not have the benefit of robust vetting by all Select Committee Members and, as a result, very likely would include critical errors and other deficiencies. The public inevitably would view this approach as the partisan capstone to the Select Committee's two-and-a-half-year attack on Secretary Clinton.

History of Unilateral Republican Releases of Information

You have criticized the unilateral release of partial information, claiming that "serious investigations do not leak information or make selective releases of information without full and proper context."¹ Yet, that is exactly what you have done as Chairman of the Select Committee. You have repeatedly released documents and other information to the public unilaterally, forcing Democrats to correct the record after-the-fact.

Blumenthal Emails and Deposition Transcript

On June 22, 2015, you took the highly unusual step of publicly releasing emails that the Select Committee obtained from Sidney Blumenthal relating to his interactions with Secretary Clinton.² There was no Committee debate or vote before you made this decision. To many observers, it seemed obvious that you took this unilateral step to target Secretary Clinton for political reasons, particularly since you did not release anyone else's emails.

We objected to your selective release of Mr. Blumenthal's emails because you refused to release his deposition at the same time. Mr. Blumenthal answered hundreds of questions that put his emails into context, but you refused to let the public see his answers. You also refused to allow the public to see how Republicans asked questions that were completely unrelated to Benghazi, including more than 160 questions about his relationship and communications with the Clintons, more than 50 questions about the Clinton Foundation, and more than 45 questions about David Brock, Media Matters, and affiliated entities. Since you conducted his interview as a deposition, House Rules allowed you to block the release of this transcript.

Cheryl Mills Interview

On September 3, 2015, the Select Committee conducted a transcribed interview with Secretary Clinton's Chief of Staff, Cheryl Mills. After the interview, *Politico* reported that "one of the biggest surprises," according to Republicans, was that Ms. Mills "reviewed and made suggestions for changes" to the Accountability Review Board report, "raising alarms on the

¹ House Select Committee on Benghazi, *Interim Progress Update* (May 8, 2015) (online at www.benghazi.house.gov/sites/republicans.benghazi.house.gov/files/Interim%20Progress%20Update%2005-08-15.pdf).

² House Select Committee on Benghazi, *Select Committee Adds to Secretary Clinton's Public Email Record* (June 22, 2015) (online at www.benghazi.house.gov/news/press-releases/select-committee-adds-to-secretary-clinton-s-public-email-record).

right” and “call[ing] into question the ‘independence’” of the report’s conclusions. The article also inaccurately suggested that Ms. Mills questioned the veracity of Ambassador Susan Rice’s public statements, reporting that “according to the separate Republican source, she said she didn’t know why Rice went on TV to make such claims.”³ Again, these unilateral, selective Republican releases appeared designed to target Secretary Clinton for political reasons.

To correct the public record, on October 21, 2015, we released the full transcript of Ms. Mills’ interview with the Select Committee. Since it was conducted as an interview and not a deposition, House rules did not prohibit its release. The transcript showed that Ms. Mills did not interfere with the Board’s findings at all, but engaged in a routine process in which investigative entities give agencies the opportunity to review reports for accuracy and to provide comments before public release—a fact Republicans had known since 2013. The transcript also showed that Ms. Mills did not question Ambassador Rice’s public statements. Instead, Ms. Mills made clear that she “didn’t participate in her prep or in the materials for her prep.”⁴

State Department Documents

Most recently, you unilaterally leaked information about two documents without providing their full and proper context. According to *Politico*:

Many late-to-arrive State documents, Gowdy says, included information they wanted to ask Clinton staffers about. One was a December 2012 email between Mills and Kennedy discussing state’s internal investigation and several staffers deemed “deficient.” Another included a September 2011 Libya policy memo advocating for a reduction in the U.S. presence in Libya, in part authored by Jake Sullivan.⁵

You failed to mention that the “Libya policy memo” you referred to did not discuss drawing down the U.S. presence in Libya, staffing, or even Benghazi. You also failed to mention that the email chain with Ms. Mills and Patrick Kennedy discussed a staffing proposal that was in fact rejected.

Withholding Interview Transcripts from Democrats

In apparent retaliation for our decision to release the transcript of our interview with Cheryl Mills to correct the record, you began withholding interview transcripts from Democratic Members and staff in February.

Since then, you have been restricting the access of Democratic staff to reviewing only paper copies in your offices, and you do not appear to be imposing the same restrictions on your own staff who have access to the transcripts anytime on their computers.

³ *What Cheryl Mills Told Benghazi Investigators*, Politico (Sept. 3, 2015) (online at www.politico.com/story/2015/09/cheryl-mills-benghazi-testimony-213320).

⁴ House Select Committee on Benghazi, Interview of Cheryl Mills (Sept. 3, 2015).

⁵ *Gowdy Says Administration Slowing Benghazi Probe*, Politico (May 6, 2016) (online at www.politico.com/story/2016/05/trey-gowdy-benghazi-probe-222867).

These actions directly contradict House Rules, which require that all Members and staff “shall be accorded equitable treatment with respect to ... the accessibility of committee records.”⁶

On March 16, 2016, you sent a letter explaining that you were withholding these interview transcripts from Democrats because you feared that we might release more of them in response to your own unilateral releases. You wrote: “Committee transcripts will not leave the Majority’s control due to the Minority’s stated intention to selectively release them at will.”⁷

Preserving your own ability to unilaterally release selective information while trying to muzzle those who disagree with you is an abuse of the authority of the Select Committee, a violation of House Rules, and a distortion of the search for truth.

Conclusion

A week after the Select Committee was established, you predicted that “if we overplay our hand or if we engage in a process that is not fair according to the American people, we will be punished as we should be for that.”⁸

By cutting Democrats out of the process, selectively leaking misleading information to fit a partisan political narrative, withholding copies of interview transcripts in retaliation for correcting the public record, and dragging out the investigation until the eve of the political conventions, you are engaging in precisely the process you condemned.

Based on this lengthy record, we have already expressed our serious concerns about the Select Committee’s credibility. However, we want to make one final attempt to put politics aside by having Republicans and Democrats exchange proposed drafts of our final reports, correct any factual inaccuracies, and make both public at the same time, along with the unclassified transcripts of our interviews and depositions.

House Rule XI, clause 2(g)(3)(A) requires you to provide at least three days’ notice before scheduling a business meeting for Select Committee Members to vote on the final report. Before you take that step, we urge you to work with us to ensure that your proposed draft is a fair characterization of the facts, and we will commit to doing the same.

⁶ House Rules, Rule X, clause 9(g).

⁷ House Select Committee on Benghazi, *Gowdy Announces Rules to Ensure Equitable Access to Witness Transcripts, Preserve Integrity of Investigation* (Mar. 16, 2015) (online at <http://benghazi.house.gov/news/press-releases/gowdy-announces-rules-to-ensure-equitable-access-to-witness-transcripts-preserve>).

⁸ *Trey Gowdy Brings Reputation of Legal Skills, Bipartisan Praise to Benghazi Panel*, Washington Times (May 13, 2014) (online at www.washingtontimes.com/news/2014/may/13/trey-gowdy-brings-reputation-of-legal-skills-bipar/?page=all).

In order to make preparations to conclude our work, we request the courtesy of a reply to our request by June 3, 2016. Thank you for your consideration.

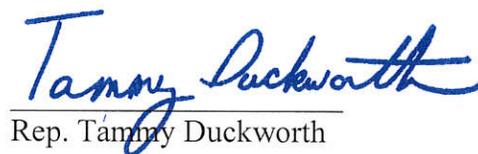
Sincerely,


Rep. Elijah E. Cummings
Ranking Member


Rep. Adam Smith


Rep. Adam B. Schiff


Rep. Linda T. Sánchez


Rep. Tammy Duckworth