



A Judicial Watch Special Report:

The Benghazi Attack of September 11, 2012

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*Analysis & Further Questions from a Diplomatic Security Service
Regional Security Officer and Special Agent*

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January 22, 2013

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Introduction

Judicial Watch promotes transparency, integrity and accountability in government, politics and the law. We carry out our mission through investigations, research, litigation and public education. From time to time we produce Special Reports on important public policy matters to illuminate the operations of government in a way that informs the public and holds our trusted public servants accountable.

We have prepared this Special Report with the analysis, insights and expertise of Mr. Raymond Fournier, a recently retired Diplomatic Security Service Special Agent with more than thirty years of extraordinary experience managing all aspects of security, to include being a Regional Security Officer in United States Embassies in such countries as: Honduras, Sierra Leone, Belgium, and Lebanon – as well as other sensitive overseas postings to include Afghanistan and Israel. Specifically, Mr. Fournier possesses expertise in: assessing and managing risk; developing and executing security budgets and plans; organizing dignitary protection details; as well as technical, procedural security development and implementation to augment physical security. Mr. Fournier's assistance has been invaluable.

Judicial Watch has opened its own investigation of the Benghazi attack. Our staff of investigators and researchers includes former intelligence officers, analysts, military officers, attorneys, and journalists. Judicial Watch has more than ten (10) Freedom of Information Act (FOIA) requests pending with various Executive departments and agencies seeking all manner of records relating to the attack. We are prepared to file lawsuits in the United States District Court for the District of Columbia to compel the Obama administration to comply with the FOIA law and release the records we seek. In the interim, we pursue additional avenues of investigation in an effort to provide the American people with complete, accurate, factual information concerning a deadly attack costing the lives of United States Ambassador Christopher Stevens and three additional brave Americans.

Thomas Fitton
President

Washington, DC
January 22, 2013

Background

At 9:40 p.m. on the evening of September 11, 2012, a group of approximately 150 heavily armed Islamist militia members attacked the United States' diplomatic mission in Benghazi, Libya. The ensuing 8-hour assault on the Special Mission Compound (SMC, and hereafter: "Compound") and the nearby CIA annex claimed the lives of four Americans: Ambassador Christopher Stevens, U.S. Foreign Service Specialist Sean Smith, and former Navy SEALs Glen Doherty and Tyrone Woods. Stevens, who had previously served as the U.S. Special Envoy to the Libyan Transitional National Council, was the first Ambassador killed in the line of duty since the 1979 shooting of Ambassador Adolph Dubs in Kabul, Afghanistan.

In the aftermath of the attack, President Obama and senior administration officials were quick to identify Muslim outrage over an obscure Internet video mocking Mohammed as the motivation for the attackⁱ. In a September 12th statement about the incident, the President remarked, "Since our founding, the United States has been a nation that respects all faiths. We reject all efforts to denigrate the religious beliefs of others."ⁱⁱ

At a September 14, 2012 event honoring the four victims, Secretary of State Hilary Clinton stated, "We've seen the heavy assault on our post in Benghazi that took the lives of those brave men. We've seen rage and violence directed at American embassies over an awful Internet video that we had nothing to do with."ⁱⁱⁱ

Those in Libya did not share this theory. During a September 15th television interview, Libyan President Mohamed al-Magariief observed that, "It's clear from the timing on September 11th and from the detailed planning of the attacks that behind it there were experienced masterminds. It was not a spontaneous act in protest of a movie. This has been prepared for a long time on this specific day. . . . If you take into account the weapons used, like RPGs and other heavy weapons, it proves that it was preplanned. It's a dirty act of revenge, and it has nothing to do with religion."^{iv}

Nevertheless, top administration officials continued to claim that the attack was spontaneous and the result of the video. During a September 16th television interview, U.S. Ambassador to the United Nations Susan Rice infamously assessed the situation as follows:

"There was a hateful video that was disseminated on the Internet. It had nothing to do with the United States government and it's one that we find disgusting and reprehensible. It's been offensive to many, many people around the world. That sparked violence in various parts of the world, including violence directed against western facilities including our embassies and consulates. That violence is absolutely unacceptable, it's not a response that one can ever condone when it comes to such a video. And we have been working very closely and, indeed, effectively with the governments in the region and around the world to secure our personnel, secure our embassy, condemn the violent response to this video."^v

At a September 18, 2012 press conference, White House spokesman Jay Carney told reporters that, “based on what we knew at the time, knew initially, what we know now, the facts that we have, the video was a precipitating cause to the unrest in the region and specifically in Libya.”^{vi}

President Obama continued to link the attack to the video on September 25th, telling his audience at the United Nations, “At a time when anyone with a cell phone can spread offensive views around the world with the click of a button, the notion that we can control the flow of information is obsolete. The question, then, is how do we respond? And on this we must agree: There is no speech that justifies mindless violence. There are no words that excuse the killing of innocents. There's no video that justifies an attack on an embassy.”^{vii}

Eventually, the administration was forced to acknowledge what many observers knew from the beginning-- that the attack in Benghazi was neither spontaneous nor the result of an Internet video. On September 28th, the Office of the Director of National Intelligence reported that their revised assessment had determined it to be, “a deliberate and organized terrorist attack carried out by extremists” and that, “some of those involved were linked to groups affiliated with, or sympathetic to al-Qa'ida.”^{viii}

ARB Report/Summary of Findings

As required by the Omnibus Diplomatic and Antiterrorism Act of 1986, the State Department convened an Accountability Review Board (ARB, and hereafter “Board”) to investigate the attack on October 1, 2012.^{ix} Secretary Clinton chose former Ambassador Thomas Pickering to chair the board. Pickering is also a member of the advisory board of the National Iranian American Council (NIAC)^x, a left-wing advocacy group that opposes the imposition of economic sanctions against Iran and that, in the estimation of national security expert Kenneth Timmerman, “has been lobbying Congress to win support for an agenda that mirrors the goals of the Tehran regime.”^{xi} In 2009, former FBI counterterrorism agent Kenneth Piernick reported that the group, “may be lobbying on behalf of Iranian government interests. Were I running the counterintelligence program at the bureau now, I would have cause to look into this further.”^{xii}

In her 2009 paper *Rise of the Iran Lobby*, published by the Center for Security Policy, former CIA officer Clare Lopez wrote that, “Ambassador Pickering’s positions on Iran include calls for bilateral talks without preconditions and a plan for a multinational uranium enrichment consortium in Iran. Iran has proposed a similar plan to the UN Security Council. Ambassador Pickering advocates a process leading to mutual diplomatic relations between Iran and the United States. He also cites positive experiences as a tourist in Iran, where he recalls that ordinary Iranians on the streets expressed friendliness towards him.”^{xiii}

The other members of the Board were former Chairman of the Joint Chiefs of Staff Admiral Michael Mullen, former United Nations Undersecretary for Management Catherine Bertini, former State Department Interim Director of Overseas Building Operations Richard Shinnick, and former Deputy CIA

Director Hugh Turner. Despite State Department regulations requiring that Board members, “must possess expertise that will contribute to the work of the Board, e.g., knowledge, experience or training in areas such as foreign affairs, law, security, embassy construction, intelligence, and other areas appropriate to the Board’s work,”^{xiv} no security professionals were selected to the board convened to investigate the Benghazi attack.

On December 18th, the Board released the unclassified version of its final report regarding the attack in Benghazi. The report highlights a myriad of failures by State Department officials and contains five key findings:

1. The attacks were security related, involving arson, small arms and machine gun fire, and the use of RPGs, grenades, and mortars against U.S. personnel at two separate facilities – the SMC and the Annex—and en route between them.
2. Systemic failures and leadership and management deficiencies at senior levels within two bureaus of the State Department resulted in a Special Mission security posture that was inadequate for Benghazi and grossly inadequate to deal with the attack that took place.
3. Notwithstanding the proper implementation of security systems and procedures and remarkable heroism shown by American personnel, those systems and the Libyan response fell short in the face of a series of attacks that began with the sudden penetration of the Special Mission compound by dozens of armed attackers.
4. Intelligence provided no immediate, specific tactical warning of the September 11 attacks.
5. Certain senior State Department officials within two bureaus demonstrated a lack of proactive leadership and management ability in their responses to security concerns posed by Special Mission Benghazi, given the deteriorating threat environment and the lack of reliable host government protection.^{xv}

Notably, the report contradicts the earlier claims by administration officials that the attacks resulted from a protest that escalated into violence. The Board, “concluded that there was no protest prior to the attacks, which were unanticipated in their scale and intensity.”

Despite its finding that security at the Compound was, “grossly inadequate,” that State Department officials demonstrated a, “lack of proactive leadership and management ability,” and that “systemic failures and leadership and management deficiencies” led to the inadequacy of the security posture at the compound, the board incredibly reported that it, “did not find reasonable cause to determine that any individual U.S. government employee breached his or her duty.”

The extent to which the unclassified version of the report that was released to the public omits pertinent information about the attack has also drawn congressional scrutiny. Shortly after its release, House Oversight and Government Reform Committee Chairman Rep. Darrel Issa told reporters that he was, “deeply concerned that the unclassified report omits important information the public has a right to know. This includes details about the perpetrators of the attack in Libya as well as the less-than-

noble reasons contributing to State Department decisions to deny security resources. Relevant details that would not harm national security have been withheld and the classified report suffers from an enormous over-classification problem.^{11xvi}

Advance Warning

Congressional testimony by senior State Department officials and other evidence that has come to light since September demonstrate that, in the months before the attack, the government had ample reason to believe that the security situation in Benghazi was deteriorating rapidly. The Board report identified 20 specific security incidents involving the Compound, international organizations, non-governmental organizations, and other diplomatic facilities in 2012. These include a bomb being thrown over the perimeter wall of the Compound in April, an improvised explosive device (IED) attack against the motorcade of the UN Special Envoy to Libya, an RPG attack against a Red Cross facility, the kidnappings of several aid workers, and an RPG attack against the British Ambassador's convoy. On June 6, 2012, an IED attack targeting the Compound blasted a large hole in its exterior wall. As a security contractor to the U.S. African Command presciently reported in July 2012, "Benghazi has seen a notable increase in violence in recent months, particularly against international targets. These events point to strong anti-Western sentiments among certain segments of the population, the willingness of Salafi-jihadi groups in the city to openly engage in violence against foreign targets, and their capacity to carry out these attacks."^{xvii}

In addition to these overt incidents, U.S. intelligence agencies issued numerous classified reports documenting the dangerous situation in Benghazi in the months preceding the attack. The Senate Committee on Homeland Security and Governmental Affairs' December 30, 2012 report regarding Benghazi noted,

"The Committee has reviewed dozens of classified intelligence reports on the evolution of threats in Libya which were issued between February 2011 and September 11, 2012. We are precluded in this report from discussing the information in detail, but overall, these intelligence reports (as the ARB similarly noted) provide a clear and vivid picture of a rapidly deteriorating threat environment in eastern Libya—one that we believe should have been sufficient to inform policymakers of the growing danger to U.S. facilities and personnel in that part of the country and the urgency of them doing something about it."^{xviii}

State Department personnel in Libya were well aware of the escalating violence in Benghazi and the potential threat it posed to the U.S. Diplomatic mission there. On several occasions, our diplomats in Libya requested additional security resources to address the growing threat; tragically, those requests were not honored. In an October 2, 2012 letter to Secretary Clinton, House Oversight and Government Reform Committee Chairman Rep. Darrell Issa (R-CA) and Subcommittee on National Security, Homeland Defense, and Foreign Operations Chairman Rep. Jason Chaffetz (R-UT) wrote that, "multiple U.S. federal government official have confirmed to the Committee that, prior to the September 11

attack, the U.S. mission in Libya made repeated requests for increased security in Benghazi. The mission in Libya, however, was denied these resources by officials in Washington."^{xi}

The State Department was clearly aware of the security situation in Libya, as evidenced by the fact that the danger pay allowance for diplomats stationed there was increased from 25 percent to 30 percent on July 15, 2012.^{xx} Nevertheless, as the ARB found, "the number of Bureau of Diplomatic Security (DS) security staff in Benghazi on the day of the attack and in the months and weeks leading up to it was inadequate, despite repeated requests from Special Mission Benghazi and Embassy Tripoli for additional staffing. Board members found a pervasive realization among personnel who served in Benghazi that the Special Mission was not a high priority for Washington when it came to security-related requests, especially those relating to staffing."

Despite the self-evident fact that the security resources dedicated to the Compound in Benghazi were insufficient, State Department officials continued to defend their staffing decisions in the aftermath of the attack. Under questioning by Rep. Darrell Issa during a House Oversight and Government Reform Committee hearing investigating the attack, State Department Deputy Assistant Secretary for International Programs Charlene Lamb asserted, "We had the correct number of assets in Benghazi at the time of 9/11."^{xxi} According to published reports, the Regional Security Officer in Libya, Eric Nordstrom, told Congressional investigators that Lamb, "wanted to keep the number of U.S. security personnel in Benghazi 'artificially low.'"^{xxii}

Fallout

The day after the release of the Board's report, numerous media outlets reported that four State Department officials responsible for the management and security of the Compound in Benghazi had resigned. Three were identified as Assistant Secretary of State Eric Boswell, Charlene Lamb, and Deputy Assistant Secretary of State Raymond Maxwell.^{xxiii} In the weeks that followed, however, it became unclear whether the officials had really resigned or even faced any significant disciplinary measures. On December 26th, the *New York Post* reported that, "The highest-ranking official caught up in the scandal, Assistant Secretary of State Eric Boswell, has not 'resigned' from government service, as officials said last week. He is just switching desks. And the other three are simply on administrative leave and are expected back."^{xxiv}

The uncertainty over the situation has outraged at least one member of Congress. On the day of the *Post's* report, House Foreign Affairs Committee Chairwoman Rep. Ileana Ros-Lehtinen (R-FL) told reporters, "State Department officials proclaimed to the world that heads would roll after the deception related to the deceitful video excuse and the non-existent spontaneous protest outside the consulate. Now we see that the discipline is a lie and all that has happened is the shuffling of the deck chairs."^{xxv}

The State Department has given only vague and evasive descriptions of the officials' current status, reporting that Boswell had resigned as Assistant Secretary of Diplomatic Security but declining to comment on his current duties. According to a State Department spokesman, "The Secretary has

accepted Eric Boswell's decision to resign as Assistant Secretary for Diplomatic Security, effective immediately. The other three individuals have been relieved of their current duties. All four individuals have been placed on administrative leave pending further action."^{xxvi}

Additional Questions Raised

The degree to which State Department officials are guilty of the "systemic failures and leadership and management deficiencies" in Benghazi is just one of the unresolved issues regarding the event. According to an analysis conducted exclusively for Judicial Watch by former State Department Diplomatic Security Special Agent Raymond Fournier, the Board report leaves a number of critical questions unanswered.

1. Who at the Department of State was responsible for opening and continuing the operation of the "Special Mission Compound" in the unstable environment of Benghazi, overriding physical security standards for diplomatic facilities?

In Special Agent Fournier's assessment, the most "critical error" leading to the deadly attack in Benghazi was, "the Department's unexplained decision to create a new category of diplomatic structure, i.e. the 'Special Mission Compound'," for the purpose of, "skirting the established physical security standards" for embassies and consulates around the world. He describes the level of security at the Compound as, "meeting or slightly exceeding the established security standards for a residence (not a diplomatic mission or workplace) in a high or critical threat environment."

Diplomatic personnel in Benghazi were apparently aware of these shortcomings. An August 16, 2012 cable summarizing an emergency meeting held the previous day reported that the State Department's Regional Security Officer, "expressed concerns with the ability to defend Post in the event of a coordinated attack due to limited manpower, security measures, weapons capabilities, host nation support, and the overall size of the compound"^{xxvii}

The unique designation of our diplomatic outpost in Benghazi and the inadequate security posture that designation allowed posed unique concerns with regard to the safeguarding of classified information. Fournier notes that, "one can reasonably assume that the Compound contained classified documents and/or classified communications equipment. However, it is self-evident that the Compound failed to meet security standards required of all diplomatic facilities regarding the minimum stand-off time required for cleared American staff to destroy classified holdings and equipment." The Board report contains no details regarding the classified documents and equipment that may have been lost during the attack.

Regarding the consequences of the unique "SMC" designation applied to the Compound in Benghazi, the Board report notes that,

"Another key driver behind the weak security platform in Benghazi was the decision to treat Benghazi as a temporary, residential facility. . . even though it was also a full time office facility.

This resulted in the Special Mission Compound being excepted from office facility standards and accountability. . . A comprehensive upgrade and risk-mitigation plan did not exist, nor was there a comprehensive security review conducted by Washington for Benghazi in 2012. The unique circumstances surrounding the creation of the mission in Benghazi as a temporary mission outside the realm of permanent diplomatic posts resulted in significant disconnects and support gaps."

Because the Benghazi mission appears to have been designated as an "SMC"-- something "anomalous amongst the Department's inventory of approximately 285 embassies and consulates worldwide"-- for the purpose of evading appropriate security protocols, the question of what State Department official authorized the leasing of the house to be utilized as the Compound is critically important. The Board reported that State Department Undersecretary for Management Patrick Kennedy, "approved a one year continuation of the U.S. Special Mission in Benghazi" in December 2011. As Fournier points out, however,

"the Board failed to identify the person or persons within the Department responsible for leasing the unsecured house otherwise known as 'SMC Benghazi' in the first place, i.e., before its operation was 'continued' in December 2011. Arguably the organizational entity within the department that had the authority to continue the U.S. Mission Benghazi was the same entity that initiated the mission by leasing the house. A review of the Department's organizational chart reflects that the Undersecretary for Management has the Bureau of Diplomatic Security and the Bureau of Overseas Buildings under its authority. Therefore, we can reasonably assume that Undersecretary Kennedy approved the initial lease."

Fournier also questions the Department's decision to "depart from accepted practice by contracting with a local militia group loosely connected to central government forces" to provide security for the Compound. The militia, 17 February Martyrs Brigade, had been one of several militias that participated in the overthrow of the Qaddafi regime. This, according to Fournier, led Department officials to "use an old paradigm, 'my enemy's enemy is my friend,' to trust the 17 February Martyrs Brigade to protect American lives and property." During the attack, however, the militia members "failed to respond to repeated calls for assistance."

2. Did the Director of Diplomatic Security or his immediate subordinates have authority to countermand the Department's desire to open "SMC Benghazi?"

As noted, the decision to lease the Compound in Benghazi and the approving authority for security and staffing decisions was Undersecretary Kennedy. What remains unknown, however, is whether security professionals within the State Department advised against this action; what their initial recommendations for appropriate security measures were; the extent to which Department management took those recommendations under advisement; and, whether the Director of Diplomatic Security had the authority to prevent the opening of the Compound.

After almost two decades as a Diplomatic Security Agent, Fournier identifies systemic cultural problems within the Department that hinder the efforts of the security professionals to keep our diplomats safe:

"A far-reaching idea touched upon in the Board report suggested that the Department 'reexamine DS reorganization with an emphasis on span of control for security policy planning for all overseas U.S. diplomatic facilities.' Although a good recommendation as a matter of academic discussion, the reality is that the Department has historically not seen DS as equal partners in the day-to-day pursuit of diplomacy. Frequently, security policy and standards are set aside as inconvenient, restraining, time-consuming or simply less important relative to loftier foreign policy goals prosecuted by the Department's elite. One need go no further than Benghazi to see an example of the aforementioned managerial arrogance within the Department."

3. Why did Ambassador Stevens travel to Benghazi, so close to the anniversary of the September 11, 2001 attacks?

As noted above, the extreme risk of anti-Western violence in Benghazi was well known to State Department officials in the months before September 11th. A July 18, 2012 worldwide travel caution advisory by the Department reported that, "Credible information indicates terrorist groups also seek to continue attacks against U.S. interests in the Middle East and North Africa."^{xxviii} On August 27th, the Department issued a travel warning specific to Libya that read in part, "The Department of State warns U.S. citizens against all but essential travel to Libya. . . Political violence in the form of assassinations and vehicle bombs has increased both in Benghazi and Tripoli."^{xxix} And, of course, the Department was well aware of the increased threat of terrorist activity on significant anniversary dates. The travel warning issued in advance of September 11, 2011 noted that, "U.S. citizens should be aware that al-Qaeda affiliates and allies have demonstrated the intent and capability to carry out attacks against the United States and our interests around the world. In the past, terrorist organizations have on occasion planned their attacks to coincide with significant dates on the calendar."^{xxx}

In this context, the decision for Ambassador Stevens to travel to Benghazi on that date seems odd. According to the Board report, his travel was, "timed in part to fill the staffing gaps between TDY [temporary duty] principal officers as well as to open an American Corner at a local school and to reconnect with local contacts." It is also known that the Ambassador met with the Turkish Consul General Ali Sait Akin on the evening of the attack. The purpose of that meeting has not been disclosed. In October, *Fox News* reported that Stevens, "was in Benghazi to negotiate a weapons transfer, an effort to get SA-7 missiles out of the hands of Libya-based extremists."^{xxxi}

Some experts believe that the Ambassador's work in Benghazi may have been related to Administration efforts to transfer arms to Syrian opposition groups. As former Deputy Assistant Secretary of State and President of the Center for Security Policy Frank Gaffney wrote, "One of the places in Libya most awash with weapons in the most dangerous of hands is Benghazi. It now appears that Stevens was there — on a particularly risky day, with no security to speak of and despite now

copiously documented concerns about his own safety and that of his subordinates — for another priority mission: sending arms recovered from the former regime’s stocks to the “opposition” in Syria.^{“xxxii} Former CIA Officer Clare Lopez has characterized U.S. activities in Benghazi as “gun running” and reported that Administration officials were, “working with the very same al-Qaeda linked relationships in Libya to gather up and buy back and collect weapons from Gaddafi’s stockpile that were missing from the revolution in Libya last year and what it looks like is that they were shipping them onwards to Syria.”^{“xxxiii}

Further substantiating the theory that the Obama administration was involved in arms transfers to Syrian groups is a *Times of London* report published on September 14, 2012, “Syrian Rebels Squabble Over Weapons as Biggest Shipload Arrives from Libya.”^{“xxxiv} According to the report: “Among more than 400 tonnes of cargo the vessel was carrying were SAM-7 surface-to-air anti-aircraft missiles and rocket-propelled grenades (RPGs), which Syrian sources said could be a game-changer for the rebels.” The connection to Benghazi was established by *The Times* through an examination of the ship’s port authority papers, “*The Times* was shown the Libyan ship, *The Intisaar* or *The Victory*, in the Turkish port of Iskenderun and papers stamped by the port authority by the ship’s captain, Omar Mousaeb, a Libyan from Benghazi and the head of an organisation called the Libyan National Council for Relief and Support, which is supporting the Syrian uprising.”

4. Why were two unmanned aerial vehicles requested to record the deadly events as they unfolded in Benghazi while more lethal air support options were not on station?

According to the Board report, United States Africa Command (AFRICOM) deployed two unmanned aerial vehicles to survey the events in Benghazi – one to the Compound and the other to the airport during the evacuation of American personnel. However, the report gives no description of the images captured by the UAVs. In addition, the involvement of AFRICOM in the response raises the important question of why lethal air support or other military assets were not deployed in response to the attack.

According to the Department of Defense, there was not sufficient time to deploy resources to Benghazi once the attack began. In addition, Secretary of Defense Leon Panetta later claimed that officials lacked sufficient real-time information about the situation to commit troops, saying, “You don’t deploy forces into harm’s way without knowing what’s going on.”^{“xxxv}

Conclusion

As the Board’s report makes clear, the September 11, 2012 attack in Benghazi resulted from a wide range of strategic and tactical failures by State Department officials. Chief among them were the fateful decision to circumvent established security regulations by designating the diplomatic post in Benghazi a “Special Mission Compound,” ignoring repeated requests for additional security resources by Diplomatic Security personnel on the ground, and entrusting the security of the Compound to a local militia group with suspected ties to radical Islamists. As Special Agent Fournier notes in his assessment

of the tragedy, there were also long-standing cultural problems within the Department of State that hinder the ability of Diplomatic Security agents to adequately protect our diplomats overseas.

Even after the Board report and separate investigations by the House Oversight and Government Reform and Senate Homeland Security and Governmental Affairs committees, numerous questions remain:

- Who at the State Department authorized the lease of the house utilized as a mission facility in Benghazi?
- What input from the Bureau of Diplomatic Security did the authorizing State Department official receive, and was that input acted upon?
- Have the officials responsible for the "systemic failures and leadership and management deficiencies" identified by the Board been disciplined, and what positions, if any, do they now hold in the State Department?
- What was the purpose of Ambassador Stevens' travel to Benghazi on the anniversary of the worst terror attack in American history?
- Is the administration involved in transporting weapons from Libya to Syrian opposition forces?

Hopefully, Secretary Clinton will be forthcoming in addressing these issues during her scheduled Congressional testimony.

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