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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

April 5, 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 28, 2023, the House Foreign Affairs Committee served a subpoena compelling you to produce in unredacted form “[t]he Dissent Channel cable sent on or about July 13, 2021, reportedly signed by 23 State Department officials and the official response to it.”¹ This subpoena followed the Department’s failure to comply with repeated requests by the Committee for these documents dating back to August 2021, issued by successive chairmen of both parties.²

The Department’s March 31, 2023 response letter stated that it “is committed to accommodating your need for information.”³ As a proposed accommodation, the Department has offered a briefing “describing all of the concerns raised and the challenges identified by Embassy Kabul personnel and by other government officials, including through the Dissent Channel, as well as the substance of the Department’s response to those communications.”⁴

¹ *Subpoena from the U.S. House of Rep. Comm. on Foreign Affs. to Antony Blinken, Sec’y of Dep’t of State*, 118th Cong. 4 (Mar. 28, 2023).

² See Letter from Gregory W. Meeks, Chairman, U.S. House of Rep. Comm. on Foreign Aff., to the Hon. Anthony Blinken, Sec’y of State, U.S. Dep’t of State (Aug. 21, 2021)(on file with author); Letter from Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff., to the Hon. Anthony Blinken, Sec’y of State, U.S. Dep’t of State (Jan. 12, 2023)(on file with author); Letter from Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff., to the Hon. Anthony Blinken, Sec’y of State, U.S. Dep’t of State (Mar. 3, 2023)(on file with author); Letter from Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff., to the Hon. Anthony Blinken, Sec’y of State, U.S. Dep’t of State (Mar. 20, 2023)(on file with author).

³ Letter from Naz Durakoglu, Assistant Sec’y, U.S. Dep’t of State, to Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff. (Mar. 31, 2023).

⁴ *Id.*

The Department's proposal for a briefing was previously discussed and responded to during a March 22 phone call, at a March 23 in-person meeting, and during a March 27 phone call.⁵ The Committee is willing to engage the Department in the accommodations process in good faith. However, as we previously discussed, the Committee requires the actual Dissent Channel cable and response, and a briefing is simply not sufficient to meet the Committee's needs.

As outlined in detail in my March 20, 2023 letter, the Committee is investigating the failures surrounding the Afghanistan withdrawal in fulfillment of Congress' constitutionally-derived power and responsibility to conduct oversight of the executive branch.⁶ The Committee has an obligation to investigate the withdrawal and determine what actions, including potential legislation, are necessary to help prevent a similar catastrophe from occurring again in the future.

The Dissent Channel cable and response are critical and material to the Committee's investigation. The Dissent Channel cable is key contemporaneous evidence, providing concerns from U.S. officials on the ground in Afghanistan. The Department's formal response similarly offers crucial insight into Department leadership's view of these concerns and what actions they took to address them.

The Department has cited then-Secretary Henry Kissinger's refusal to provide Congress with a Dissent Channel cable in 1975 as a justification for withholding the 2021 cable and response.⁷ However, the facts of the 1975 case demonstrate precisely why a briefing or summary characterizing their contents would be insufficient and unsatisfactory. The cable referred to by Secretary Kissinger concerned events in Cyprus and was written by Thomas D. Boyatt (who later served as U.S. Ambassador to Burkina Faso and Colombia and is a past president of the American Foreign Service Association.) As an accommodation, the State Department provided Congress an "amalgamation" of interspersed excerpts of State Department documents, including Ambassador Boyatt's dissent cable.⁸

Ambassador Boyatt later made clear that this amalgamated document did not accurately represent the contents of his memorandum, stating "the Boyatt memorandum was cut into pieces,

⁵ Telephone Conversation between Michael T. McCaul, Chairman, U.S. House of Rep. Comm. On Foreign Aff., & Antony J. Blinken, Sec'y of State, U.S. Dep't of State (Mar. 22, 2023); Meeting between Michael T. McCaul, Chairman, U.S. House of Rep. Comm. On Foreign Aff., & Antony J. Blinken, Sec'y of State, U.S. Dep't of State, in Washington, D.C. (Mar. 23, 2023); Telephone Conversation between Michael T. McCaul, Chairman, U.S. House of Rep. Comm. On Foreign Aff. & Antony J. Blinken, Sec'y of State, U.S. Dep't of State (Mar. 27, 2023).

⁶ *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 farreaching as the potential power to enact and appropriate under the Constitution").

⁷ Letter from Naz Durakoglu, Assistant Sec'y, U.S. Dep't of State, to Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff. (Mar. 27, 2023).

⁸ Letter from Henry Kissinger, Sec'y of State, U.S. Dep't of State, to Otis G. Pike, Chairman, U.S. House of Rep. Select Comm. on Intel. (Nov. 3 1975).

and those pieces were interspersed with other drivel made up by S/P designed to disguise what was the Boyatt memorandum because Dr. Kissinger was so concerned for protecting my anonymity. (Laughter) If you believe that, you will also believe anything.”⁹ In a statement to the Committee, Ambassador Boyatt wrote that these events reaffirmed his belief in the importance of congressional oversight and that Secretary Kissinger’s refusal to release the memorandum was a means of shielding the Department’s failures from scrutiny, stating: “Henry Kissinger had a good reason to fight tooth and nail to suppress my Dissent and testimony. I was right about Cyprus and he was wrong.”¹⁰

While a briefing will not meet the Committee’s needs, we would like to once again offer a path forward that we believe would accommodate the Department’s concerns in a reasonable manner. Specifically, the Committee would conduct an *in camera* review of the Dissent Channel cable and response with the names of signatories redacted, without waiving its right to seek production of the unredacted document in the future. This would address stated concerns about protecting the confidentiality of the signatories’ identities, such as the Department’s statement that the “promise of anonymity and confidentiality is not mere practice, but in fact mandated in Departmental rules,” and that “Dissent Channel messages, including the identity of the authors, are a most sensitive element” which must be “protected accordingly.”¹¹

The Committee strongly believes that the accommodation it has set forth above would be the best way forward at this point. Nevertheless, given the Committee’s commitment to engaging in the accommodations process, the Committee is willing to accept a briefing from the Department to further its understanding in advance of the Department’s compliance with the subpoena or agreement to the *in camera* review accommodation offered above. This must be an interactive briefing, which includes the opportunity for question and answers (“Q&A”) to allow for any inquiries and/or clarifications sought by the Committee.

The Committee expressly maintains that such a briefing does not constitute compliance with the subpoena or a suitable accommodation in response to it. In the spirit of good faith, the Committee is willing to extend the deadline for compliance with the subpoena to 6:00 p.m. on April 19, 2023, if the Department provides such a briefing no later than that date.

Please contact Committee staff to make arrangements for a briefing as outlined above.

⁹ Amb. Thomas D. Boyatt, Presentation at Foreign Serv. Inst. (Sept. 30, 1992).

¹⁰ Statement from Amb. Thomas D. Boyatt to the U.S. House Comm. on Foreign Aff. Staff (Mar. 2023) <https://foreignaffairs.house.gov/wp-content/uploads/2023/03/ON-DISSENT-IN-FOREIGN-POLICY51.pdf>.

¹¹ *Supra* note 7; *Supra* note 3; *Foreign Affs. Manual: Dissent Channel*, Dep’t of State (Sept. 11, 2018), <https://fam.state.gov/fam/02fam/02fam0070.html> We note, however, that the Department’s suggestion that the confidentiality of the Dissent Channel and the identities of its signatories is absolute is substantially undercut by the fact that the cable was discussed and two of its signatories were publicly identified by name in the American Foreign Service Association’s 2022 Constructive Dissent Awards. The Department cannot credibly claim that information is so sensitive it must be withheld from Congress if it is suitable to be published online.

We look forward to your prompt reply.

Sincerely,

A handwritten signature in blue ink that reads "Michael T. McCaul". The signature is written in a cursive, flowing style.

Michael T. McCaul
Chairman
House Foreign Affairs Committee

CC:

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