

MICHAEL T. MCCAUL, TEXAS
CHAIRMAN

BRENDAN P. SHIELDS
STAFF DIRECTOR



GREGORY W. MEEKS, NEW YORK
RANKING MEMBER

SOPHIA A. LAFARGUE
DEMOCRATIC STAFF DIRECTOR

One Hundred Eighteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

May 5, 2023

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

Dear Secretary Blinken:

The House Committee on Foreign Affairs (Committee) has thoroughly reviewed the summaries prepared by the Department of State (Department) of both the July 13, 2021 Dissent Channel cable regarding Afghanistan and the Department's official response. In addition, on April 27, the Committee received a briefing by Department personnel regarding the same material. Unfortunately, the information provided by the Department is insufficient to satisfy the Committee's March 28 subpoena. That subpoena, which compels 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," must be complied with immediately.¹ Should you fail to comply, the Committee is prepared to take the necessary steps to enforce its subpoena, including holding you in contempt of Congress and/or initiating a civil enforcement proceeding.

The Department's Summaries and Briefing are Insufficient to Satisfy the Committee's Need for the Dissent Cable and Response

For the reasons detailed below, the Department's summaries and briefing are insufficient to satisfy the Committee's need for the actual dissent cable and response. The Department provided the Committee a roughly one-page summary of the dissent cable as well as a summary of the Department's official response that was just under one page in length. The Department has

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).

confirmed that the original dissent cable totaled four pages in length, meaning that the summary represented a 75% reduction of the original cable.

The Department's principal briefer, Policy Planning Staff Deputy Director Holly Holzer, described the summary by acknowledging "this document is much more concise than the cable."² The Department was unable to justify the magnitude of this size reduction. For example, while the Department has stated that names and personally identifiable information were omitted from the summary, Ms. Holzer was unable to explain how such material could encompass close to three pages of missing content.³ Likewise, while the Department has admitted that the summaries "omitt[ed] certain details in the cable that are not germane to the Committee's articulated needs but that would, if disclosed, reveal information that risks disclosing the identity of the cable's signatories,"⁴ its briefers were unable to satisfactorily identify what content had been omitted, account for the significant reduction in length, or explain what content it considered "germane" or how it defined the Committee's "articulated needs."⁵

Even absent these concerns, it is inherently problematic for the Department, which is the subject of the Committee's investigation, to be permitted to withhold key material evidence and substitute its own abbreviated characterizations of that evidence for the original documents. The Committee is aware of no other type of investigation (whether law enforcement, Inspector General audit, or internal compliance) where this is standard operating procedure.

The Biden Administration Has a Record of Misleading the Public in Summarizing Documents Related to the Afghanistan Withdrawal

The Committee's concerns are heightened by the Biden Administration's recent record of misleading the public in summarizing documents related to the Afghanistan withdrawal, which is best evidenced by its April 2023 summary of after-action reviews on the Afghanistan withdrawal, including the Department's review.

On April 6, the Biden Administration released a 12-page document which it represented as an unclassified "summary" of the Administration's after-action reviews of the Afghanistan withdrawal and took questions on the subject from the media in a press briefing.⁶ This summary,

² U.S. Dep't of State Briefing to U.S. House of Rep. Comm. On Foreign Aff. Members on July 2021 Dissent Cable (Apr. 27, 2023).

³ *Id.*

⁴ Letter from Naz Durakoglu, Assistant Sect'y, U.S. Dep't of State, to Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff. (Apr. 25, 2023).

⁵ *Id.*; *Supra* note 2.

⁶ The U.S. Withdrawal from Afghanistan (Apr. 6, 2023), <https://www.whitehouse.gov/wp-content/uploads/2023/04/US-Withdrawal-from-Afghanistan.pdf>; White House Press Secretary, Press Briefing by Press Secretary Karine Jean-Pierre and National Security Council Coordinator for Strategic Communications John Kirby, (Apr. 6, 2023), <https://www.whitehouse.gov/briefing-room/press-briefings/2023/04/06/press-briefing-by-press-secretary-karine-jean-pierre-and-national-security-council-coordinator-for-strategic-communications-john-kirby-9/>. Admiral Kirby characterized the document as a "pretty fair summary of our perspectives of the work" of the Administration's after-action reviews. A Department of Defense review was also produced to Congress.

however, misrepresented the conclusions contained in the source material it purported to summarize. As the Committee detailed in an April 25 letter, the Department’s classified After-Action Review specifically contradicted inaccurate and misleading assertions in the White House summary and press briefing that there was not “chaos” during the emergency evacuation at Kabul’s Hamid Karzai International Airport and that the Administration did not bear significant responsibility for the failures of the withdrawal.⁷ Accordingly, the Committee has reason to be highly skeptical of summary documents prepared by the Administration, especially where it does not have access to the original source material to perform an independent verification.

The Department’s Briefers Were Unwilling or Unable to Answer Basic Questions

During the April 27 briefing, Ms. Holzer stated that she and two colleagues from the Policy Planning Staff were the principal drafters of the summaries. However, during questioning she and the Department’s other briefers were unable or unwilling to provide basic information about the dissent cable and official response, including inquiries as to the number of signatories—which had been widely reported—and whether the dissent cable had been shared with the White House. This contributed to the briefing’s insufficiency and calls into question the reliability of the summaries provided.

Ms. Holzer stated that she was unable to identify how many officials signed the dissent cable, although the *Wall Street Journal* had publicly reported it was signed by 23 officials. When then asked if she could provide an approximate range, she was similarly unable or unwilling to do so.⁸ It strains credulity to believe that the official responsible for preparing the cable summary and briefing Congress on it would be unable to provide this information. This is particularly the case given the briefers’ statement that most dissent cables have only one or two signatories and that a large number of signatories is unusual.⁹

Furthermore, the briefers first stated conclusively that the dissent cable had not been shared outside the Department. They specifically stated the dissent cable had not been shared with the White House and further asserted that it would have been inappropriate for the Department to have shared the cable with the White House. However, after acknowledging that the White House Counsel’s Office had reviewed the cable summary, the briefers were again asked if the White House received a copy of the cable itself, to which the briefers responded that it “[w]asn’t provided outside of legal channels,” suggesting the cable itself was provided to the White House Counsel’s office.¹⁰ When pressed on this point, the briefers were evasive and would not answer whether the cable had been provided to White House attorneys, stating they would have to “take the question back.”¹¹ The briefers’ inability to answer basic factual questions casts doubt on the

⁷ *Supra* note 6; Letter from Michael T. McCaul, Chairman, U.S. House of Rep. Comm. On Foreign Aff. to Antony J. Blinken, Sec’y of State, U.S. Dep’t of State, in Washington, D.C. (Apr. 25, 2023).

⁸ One of the State Department attorneys in attendance eventually assisted Ms. Holzer by confirming there had been 23 signatories after the Committee raised this specific number.

⁹ *Supra* note 2.

¹⁰ *Id.*

¹¹ *Id.*

summary's sufficiency and reliability and strengthens the needs for the Committee to continue to seek access to the original documents called for in the subpoena.

The Department's Briefers Made Multiple Inaccurate Statements

The Department's briefers made multiple inaccurate statements about the use of the Dissent Channel itself, including inaccuracies regarding the rules for sharing dissent cables as well as the ability of Offices of Inspector General to access dissent cables.

First, the briefers indicated that Department rules strictly prohibit sharing dissent cables outside of the Department. This directly contradicts the Department's Foreign Affairs Manual, which details the Department's policies and procedures on the subject, and states that in the event "the author of a dissent message is employed by an agency other than the Department of State (e.g., USAID)" that "S/P will also distribute a copy of the Dissent Channel message to the head of that agency."¹²

Second, the briefers inaccurately stated that dissent cables can only be shared with an Inspector General in response to an allegation of wrongdoing. This directly contradicts the Inspector General Act, which states that an Inspector General must "have timely access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available to the applicable establishment which relate to the programs and operations with respect to which that Inspector General has responsibilities under this chapter."¹³ These inaccurate statements add to the Committee's skepticism that it has been provided with accurate information and complete summaries of the documents in question.

Distinguished Former Ambassadors Have Refuted the Department's Grounds for Refusing to Provide Dissent Cables to Congress

The Department has asserted that "sharing cables outside of the Department would have a profound chilling effect upon those who would consider writing a cable in the future for fear that the confidentiality of their identities or their policy recommendations may be sacrificed" and that sharing the cable with Congress would harm the "integrity of the Dissent Channel."¹⁴

These assertions have been thoroughly discredited by some of the Department's most distinguished former ambassadors, including Ambassador Ryan Crocker, Ambassador James Jeffrey, and Ambassador Thomas Boyatt, all career diplomats who have served with distinction in both Democratic and Republican administrations. These ambassadors have affirmed that the

¹² *Foreign Affs. Manual: Dissent Channel*, Dep't of State (Sept. 11, 2018), <https://fam.state.gov/fam/02fam/02fam0070.html>. (Providing an example of an instance in which a Dissent Channel cable message may be shared outside of the Department.)

¹³ 5 U.S.C. § 406, Inspector General Act of 1978, as amended.

¹⁴ *Supra* note 4.

Department has an obligation to provide the dissent cable to Congress and that congressional oversight would enhance, not undermine, the integrity of the Dissent Channel.

Ambassador Ryan Crocker, who served as President Obama’s Ambassador to Afghanistan, has said that the Department should provide the cable to Congress with names redacted. Specifically, the Ambassador has been quoted as saying “I certainly believe that with an issue of this magnitude, Congress has an obligation to seek, and the executive has an obligation to provide, access to reports that have a direct bearing on a huge foreign-policy issue.”¹⁵ Notably, Ambassador Crocker has himself been recognized for engaging in meaningful dissent, having been awarded an American Foreign Service Association Constructive Dissent award, and is publicly cited by AFSA as one of the award’s most distinguished recipients.¹⁶

Similarly, Ambassador James Jeffrey, who served as Ambassador to Iraq in the Obama Administration, has written that, “the issues here are too important ... to inhibit a full airing of what went wrong, if only to preclude doing the same thing again.”¹⁷ Ambassador Jeffrey has further stated, “[i]t is very hard to understand why those drafting this cable would see this as inhibiting their and others’ willingness to dissent in future contingencies, but rather as assurance that the political process is functioning as it should and that administrations will truly consider dissenting views. Furthermore, the possibility that such views will eventually be reviewed by Congress and the public would likely encourage the department to take dissent seriously, which is the whole point of the Dissent Channel.”¹⁸

Finally, Ambassador Thomas Boyatt, who authored a notable dissent cable, served as U.S. Ambassador to Burkina Faso and Colombia, and is a past president of the American Foreign Service Association, has stated that “[c]ongressional oversight enhances executive responsibility and enables us to learn from the inevitable mistakes”¹⁹ and “[t]he reality is that if a dissent cable or dissent memorandum for one reason or another reaches public purview, it’s good for a variety of national security reasons because it forces the bureaucracy to confront its mistakes and to concentrate on not repeating them.”²⁰

The Dissent Channel Cable and Response are Critical and Material to the Committee’s Investigation, and the Department Has Refused the Committee’s Reasonable Proposed Accommodation

¹⁵ Susan Crabtree, *Blinken Draws Fire Over Afghanistan Blame Game, ‘Stonewalling’*, RealClearPolitics (Apr. 26, 2023), https://www.realclearpolitics.com/articles/2023/04/26/blinken_draws_fire_over_afghanistan_blame_game_stonewalling_149154.html.

¹⁶ *Constructive Dissent Awards*, American Foreign Service Ass’n, available at <https://afsa.org/constructive-dissent-awards>.

¹⁷ Amb. James F. Jeffrey, *The State Department Should Provide Congress the Dissent Channel Cable on the Afghanistan Withdrawal*, Just Security (Apr. 13, 2023), <https://www.justsecurity.org/85969/the-state-department-should-provide-congress-the-dissent-channel-cable-on-the-afghanistan-withdrawal/>.

¹⁸ *Id.*

¹⁹ 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>.

²⁰ *Supra* note 15.

As outlined in previous correspondence, the dissent cable and official response are critical and material to the Committee’s investigation into the catastrophic Afghanistan withdrawal, and the Department has refused a reasonable accommodation proposed by the Committee.

The dissent cable is key contemporaneous evidence, providing concerns from U.S. officials on the ground in Afghanistan. Based on public reporting, the July 2021 dissent cable “warned of rapid territorial gains by the Taliban and the subsequent collapse of Afghan security forces, and offered recommendations on ways to mitigate the crisis and speed up an evacuation.”²¹ The Dissent Cable has been described as “the clearest evidence yet that the administration had been warned by its own officials on the ground that the Taliban’s advance was imminent and Afghanistan’s military may be unable to stop it.”²² 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.

While the Department’s summary and briefing have failed to meet the Committee’s needs, the Committee believes that there is a path forward on an accommodation that addresses the Department’s concerns in a reasonable manner. The Committee offers the below options for a potential accommodation, without waiving its right to seek production of the unredacted documents in the future:

- 1) The Committee will accept production of the dissent cable and official response with all names and other identifying marks redacted.
- 2) In the alternative, the Committee is willing to review *in camera* an unredacted copy of the cable and official response, with an agreement that it will not publicly disclose the names of any signatories without that signatory’s permission, or
- 3) the Committee will accept an *in camera* review of the cable and response with only names redacted.

These options would address the Department’s previously 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.”²³

²¹ Vivian Salama, *Internal State Department Cable Warned of Kabul Collapse*, Wall St. J. (Aug. 19, 2021, 6:44 P.M.), <https://www.wsj.com/articles/confidential-state-department-cable-in-july-warned-of-afghanistans-collapse-11629406993>.

²² *Id.*

²³ Letter from Naz Durakoglu, Assistant Sect’y, U.S. Dep’t of State, to Michael T. McCaul, Chairman, U.S. House of Rep. Comm. on Foreign Aff. (Mar. 31, 2023).

The Department Must Comply with the Committee's Subpoena

The Department is now in violation of its legal obligation to produce these documents and must do so immediately. The Committee has offered in good faith numerous extensions of the original April 4 subpoena return date. As the Department is aware, on April 21, the Committee granted a second extension, with a new deadline of May 1, 2023 at 6:00 pm. The Department failed to comply by this deadline.

The Department has cited its 1975 refusal to provide Congress with a Dissent Channel cable on Cyprus to Congress written by the aforementioned Ambassador Boyatt as a precedent for not producing the July 2021 cable, but the facts of this example clearly demonstrate the insufficiency of relying on a summary. As an accommodation, the State Department provided Congress an "amalgamation" of interspersed excerpts of State Department documents, including Ambassador Boyatt's dissent cable.²⁴ Ambassador Boyatt confirmed this amalgamated document misrepresented the contents of his cable, stating "the Boyatt memorandum was cut into pieces, and those pieces were interspersed with other drivel made up by [the State Department's Office of Policy Planning] designed to disguise what was the Boyatt memorandum...."²⁵

As the Committee is unaware of any legal basis for the withholding of documents specified in the Committee's subpoena, the Department must comply no later than May 11, 2023 at 6:00pm. If the Department intends to assert a privilege or other legal basis to withhold the responsive documents, it must do so by that date. As noted above, should the Department fail to comply with its legal obligation, the Committee is prepared to take the necessary steps to enforce its subpoena, including holding you in contempt of Congress and/or initiating a civil enforcement proceeding.

We look forward to your prompt reply.

Sincerely,



Michael T. McCaul
Chairman
House Foreign Affairs Committee

CC:

²⁴ Letter from Henry Kissinger, Sect'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).

²⁵ Amb. Thomas D. Boyatt, Presentation at Foreign Serv. Inst. (Sept. 30, 1992).

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