



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

August 9, 2023

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

Dear Secretary Blinken:

On July 18, 2023, the Committee served you with a subpoena to produce the Afghanistan After-Action Review (AAR) files by July 25, 2023. This followed repeated requests for voluntary productions dating back to January 2023, and multiple warnings of compulsory process. To date, the Department of State (Department) has failed to comply with the Committee's subpoena, producing only a meager 73 pages of significantly duplicative materials. You have a legal obligation to produce the subpoenaed documents in a timely manner without further delay, and I intend to hold the Department accountable. To explore the Department's lack of compliance, including the underlying causes, I request that Department officials responsible for producing these documents appear for transcribed interviews no later than August 21, 2023.

The AAR files are critical to the Committee's oversight of the Afghanistan withdrawal. The AAR files are identified in the After-Action Review itself as "an electronic and paper collection of all the materials the review team consulted and cited to prepare its report."¹ As the collection of documents which the Department considered most relevant to its examination of the withdrawal, it is essential that Congress be able to review these files. Given that the AAR was conducted as a 90-day review,² the Department has now gone longer without producing the completed collection than it took to identify, collect, and review these documents in the first place.

The AAR files are necessary to inform the Committee's consideration of potential legislation aimed at helping prevent the catastrophic mistakes of the withdrawal from happening again, including potential provisions of authorizing legislation for the Department. The recent

¹ U.S. DEP'T OF STATE, AFTER-ACTION REVIEW ON AFGHANISTAN, JANUARY 2020 — AUGUST 2021, at 21 n.1 (Mar. 2022) (on file with author) [hereinafter AAR].

² *See id.*

evacuation of the U.S. Embassy and American citizens in Sudan shows the grave urgency of such legislative reforms.

The Department Has Failed to Produce the AAR Files in a Timely Manner as Obligated

As detailed in previous correspondence, the Department has consistently failed to produce the AAR files despite repeated Committee requests, culminating in the issuance of a subpoena. The Committee first requested documents related to the AAR and identified them as a priority in January 2023.³ On March 3, I requested immediate production of “a current draft of Ambassador Smith’s After-Action Report (including any associated documents such as exhibits or appendices),”⁴ and warned in a March 20 follow-up letter that I would proceed with a subpoena if the Department did not comply.⁵ To avoid a subpoena, the Department provided the AAR on April 6, but it failed to produce any associated documents, despite the AAR clearly identifying the AAR files as such.

On April 25, I requested the AAR files by May 5, but this deadline passed with no response from the Department.⁶ In subsequent letters on June 8 and June 20, I warned that I was prepared to move forward with compulsory process if the AAR files were not produced.⁷ Ahead of a June 26 deadline, Department officials assured Committee staff they were working in good faith to produce the AAR files but needed additional time to do so, estimating that the collection could be produced within several weeks.⁸ Given these assurances, I extended the deadline for production to July 14 as an accommodation.

However, the Department abruptly reversed its position in a July 7 call, stating that the timeline for production had changed and could no longer be estimated, citing vague purported “executive branch interests” and the “sensitive” nature of the documents.⁹ Committee staff informed the Department that they expected a substantial production by the July 14 deadline. Instead, at the deadline the Department only produced sixteen pages of the AAR files, consisting of four identical copies of a memorandum, and two copies of a public order by President Biden.¹⁰

Following the Department’s repeated failure to comply with the Committee’s requests, I issued a subpoena to you on July 18, compelling production of the AAR files by July 25, 2023. The

³ Letter from Michael T. McCaul, Chairman, H. Comm. on Foreign Affs. (HFAC), to the Hon. Antony Blinken, Sec’y of State, U.S. Dep’t of State (Jan. 12, 2023).

⁴ Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony Blinken, Sec’y of State, U.S. Dep’t of State (Mar. 3, 2023).

⁵ Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony Blinken, Sec’y of State, U.S. Dep’t of State (Mar. 20, 2023).

⁶ Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony J. Blinken, Sec’y of State, U.S. Dep’t of State (Apr. 25, 2023).

⁷ See Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony J. Blinken, Sec’y of State, U.S. Dep’t of State (June 8, 2023); Letter from Michael T. McCaul, Chairman, HFAC, to the Hon. Antony J. Blinken, Sec’y of State, U.S. Dep’t of State (June 20, 2023).

⁸ Call between HFAC staff and U.S. Dep’t of State staff (June 22, 2023).

⁹ Call between HFAC staff and U.S. Dep’t of State staff (July 7, 2023).

¹⁰ Email from Dep’t of State staff to HFAC staff (July 14, 2023, 13:33 EDT) (file link: State-2023-00001-0003858 - State-2023-00001-0003873) (on file with author).

Department responded to the subpoena with a mere 57-page production, over a third of which consisted of duplicates.¹¹

The Department's Noncompliance is Unacceptable

The paucity of documents produced to date by the Department is unreasonable and unacceptable. Further, the Department refuses to identify the total volume and scope of the AAR files, the number of responsive documents identified to date, or provide a timeline for production. In refusing to answer these questions, Department officials have asserted that they are themselves unclear on the volume and scope of the AAR files.

The Department's claims of unspecified interagency equities and an undefined universe of documents appear to be contradicted by the AAR itself, which states that the "Department of State has preserved the material in this collection as permanent records that will be managed according to Records Disposition Schedules approved by the U.S. National Archives and Records Administration," and that the "[c]itations within this report all direct to records retained within the Afghanistan AAR files, with the exception of certain published material."¹² Of the 328 footnotes in the AAR, many cite Department records, including memoranda, e-mails, cables, and other materials. The Committee is thus unaware of any legal basis for the Department's ongoing failure to comply with the July 18 subpoena in a timely manner.

The Department's anemic subpoena response suggests that it is either deliberately obstructing the Committee's oversight, or that its document retention, location, and production procedures are astoundingly deficient. Neither is acceptable. To better understand the reasons for the Department's continued failure, the Committee requests transcribed interviews of the following officials:

1. Naz Durakoglu, Assistant Secretary, Bureau of Legislative Affairs; and
2. Richard C. Visek, Acting Legal Adviser, Office of the Legal Adviser.

Please arrange by no later than 5:00 pm EDT on August 15, 2023, for these transcribed interviews to be conducted on or before August 21, 2023.

Additionally, the Committee requests that the Department produce a substantial production that includes the following documents cited within the AAR in complete and unredacted form, no later than 5:00 pm EDT on August 16, 2023:

1. Information Memorandum from Acting Assistant Secretary for South and Central Asian Affairs Dean Thompson to Counselor Derek Chollet, February 16, 2021, S/ES 202100541, and all attachments, including but not limited to the evolved versions of the Alpha, Beta, Gamma, and Omega options (*see* AAR, footnotes 41 and 42);
2. Memo from Assistant Secretary for Diplomatic Security Todd Brown, December 4, 2020 (*see* AAR, footnote 62);

¹¹ Email from Dep't of State staff to HFAC staff (July 25, 2023, 15:51 EDT) (file link: State-2023-00001-0003874 - State-2023-00001-0003930) (on file with author).

¹² AAR, *supra* note 1, at 21 n.1.


3. Memo from Assistant Secretary for Diplomatic Security Todd Brown to the Transition Team, December 23, 2021 (*sic*) (*see* AAR, footnote 63);
4. SCA Options for Assisting Afghans in a Crisis, undated, attached to IMA for April 5, DSG, S/ES 202101168 (*see* AAR, footnote 85);
5. Security Issues Paper for Acting Undersecretary for Management Carol Perez's visit to Kabul, Afghanistan, April 23-26 2021, undated, S/ES 2021005567 (*see* AAR, footnote 106);
6. Briefing Check List for Acting Undersecretary for Management Carol Perez Meeting with Senior RSO Fernando Matus and RSO Leadership, Day 2, April 24, 2021, undated, SES no number (*see* AAR footnote 107);
7. 21 KABUL 685, July 23 2021 (*see* AAR, footnote 143); and
8. DS Timeline (*see* AAR, footnote 164).

The Department is in violation of its legal obligation to produce the subpoenaed documents in their entirety and must remedy this delinquency without further delay.

If you have any questions about this request, your staff may contact Committee staff at (202) 226-8467. Thank you for your attention to this matter.

I look forward to your prompt reply.

Sincerely,



Michael T. McCaul
Chairman
House Foreign Affairs Committee

CC:

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