



United States Department of State

Washington, D.C. 20520

AUG 16 2013

Dear Mr. Chairman:

I am writing in response to your letter of August 8 to Ms. Victoria Nuland, in which you requested all of her e-mails related to official State Department business from September 11 to September 16, 2012.

As indicated in our letter of June 7, the Department responded to your May 25 subpoena, seeking all “documents and communications referring or relating to the Benghazi talking points” to and from Ms. Nuland and nine other State Department officials, by searching for and producing all responsive documents for the time period from September 11, 2012 (the Benghazi attacks), to September 16, 2012 (Ambassador Rice’s media appearances).

In your August 8 letter, you now indicate that “the questions at the core of the controversy surrounding the talking points are . . . [w]hat were State Department leadership’s concerns about the early drafts of the talking points; and . . . [w]ho shared those concerns?” As indicated in our June 7, 2013, letter, the Department has provided you with all documents responsive to the subpoena – including all of Ms. Nuland’s communications – related to the Benghazi talking points up to the time of Ambassador Rice’s television appearances on September 16, which would include any document related to these questions. Accordingly, the Department has already produced any communications sent from or received by Ms. Nuland that respond to oversight concerns stated in your August 8 letter. Your latest request therefore appears to reflect a belief that there are additional documents responsive to your subpoena that the Department failed to produce. This view is unfounded. Nevertheless, in response to your August 8 letter, the Department has undertaken a further review of all of Ms. Nuland’s records from

The Honorable

Darrell E. Issa, Chairman,

Committee on Oversight and Government Reform,

House of Representatives.

cc: The Honorable Elijah Cummings

September 11 through September 16 and has not identified any documents sent to or received by Ms. Nuland and responsive to your May 25 subpoena that were not previously provided to the Committee. As we indicated to you in our June 7 letter, we will promptly supplement our response if we identify additional documents responsive to the subpoena.

At the same time, this review identified an e-mail that, while not responsive on its face to the subpoena, relates to the scheduling of a September 15 meeting to address ongoing global protests that Ms. Nuland did not attend. As indicated in documents previously provided to the Committee, the issue of the talking points was addressed briefly at this meeting. Therefore, in effort to be complete we are providing the e-mail related to that meeting that has been identified.

As you may know, during her confirmation hearing before the Senate Foreign Relations Committee on July 11, a number of Senators specifically posed the same questions to her that you now raise; we have attached the relevant portions of the transcript from that hearing in order to allow you to review Ms. Nuland's detailed answers to those questions.

With Ms. Nuland's public statements and the e-mails previously produced, the Department has addressed the questions identified in your August 8 letter. Moreover, in response to your May 15 request to conduct transcribed interviews of 13 State Department officials, including Ms. Nuland, the Department responded on May 31 by offering to make Ms. Nuland available as one of the first witnesses to be interviewed by the Committee. The Committee chose instead to start with other witnesses. Ms. Nuland has been and remains ready to answer the Committee's questions should you wish to interview her.

Please do not hesitate to contact us if we can be of further assistance.

Sincerely,



Thomas B. Gibbons
Acting Assistant Secretary
Legislative Affairs

From: Nuland, Victoria J
Sent: Friday, September 14, 2012 8:22 PM
To: Sullivan, Jacob J
Subject: FW: Libya SVTC TOMORROW 8:00am

Since I'm not briefing, I'm going to pass but can we talk after about whether there is anything you want me to read out... ? we'll want to confirm Tunis fast team arrival, for example, right? tx

This email is UNCLASSIFIED.

From:
Sent: Friday, September 14, 2012 8:20 PM
To: Sherman, Wendy R; Roebuck, William V; Nuland, Victoria J; Nides, Thomas R; Mills, Cheryl D; Mull, Stephen D; Adams, David S; Jones, Beth E; Kennedy, Patrick F; Reines, Philippe I
Cc: Sullivan, Jacob J
Subject: Fw: Libya SVTC TOMORROW 8:00am

Passing along

From: @nss.eop.gov]
Sent: Friday, September 14, 2012 07:47 PM
To:

Sullivan, Jacob J;

Ryu, Rexon Y;

Subject: Libya SVTC TOMORROW 8:00am

All,

We will have another meeting TOMORROW SATURDAY SEPTEMBER 15 8:00am. The list of invited participants is below. Please confirm your attendance and let me know if you have any questions. Thanks very much.

Invited Participants

Sullivan + Team
Mills
Brennan
Miller
Monaco
Winnefeld
Ryu
Cardillo
NCTC
Joyce/ Giuliano
DeParle
Inglis
Morell
Haines
Blinken
Fishman
Zafar
Rhodes/ Vietor
Lundeberg
Simon
Blake
Intel

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Subject:

From: Sherman, Wendy R
Sent: Friday, September 14, 2012 10:34 PM
To: Roebuck, William V; Nuland, Victoria J; Nides, Thomas R; Mills, Cheryl D;
Mull, Stephen D; Adams, David S; Jones, Beth E; Kennedy, Patrick F; Reines, Philippe
Sullivan, Jacob J
Cc:
Subject: Re: Libya SVTC TOMORROW 8:00am

Thank you. Will be on SVTS.

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Cc:
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To:

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Senate Foreign Relations Committee Holds Confirmation Hearing on Pending Nominations

MURPHY:

I call this hearing to order today. The Senate Foreign Relations Committee will consider three nominations: Victoria Nuland to be the assistant secretary of state for European and Eurasian affairs, Douglas Lute to be the U.S. permanent representative to NATO, and Daniel Baer to be the U.S. ambassador to the Organization for Security and Cooperation in Europe.

Before we begin, let me remind members that the deadline for submission of questions for the record is the close of business this Monday.

First, let me welcome our nominees, as well as your families. Our first nominee, Victoria Nuland, is a 29-year veteran of the foreign service. She most recently served at the State Department as the spokesperson there. But Ambassador Nuland has worked at the highest levels of both Republican and Democratic administrations, earning the respect of her colleagues at every step along the way.

She served with integrity and dedication as a special envoy for conventional armed forces in Europe, the U.S. permanent representative to NATO, and the principal deputy national security adviser to Vice President Cheney.

As her colleagues note, her 20 years of work as an expert, specifically on Russia, as well as her talents as a diplomat, negotiator, and strong voice for democracy and human rights, makes her ideally suited for the position of assistant secretary for Europe and Eurasia.

Victoria is originally from my home state of Connecticut. So I'm especially pleased to preside over her confirmation hearing today. She is here with her family, her parents, as well as her husband Robert, and her son David. We welcome them as well.

Daniel Baer is the deputy assistant secretary in the Bureau of Democracy, Human Rights, and Labor, currently at the U.S. Department of State. Prior to joining the administration in 2009, he had teaching positions at both Georgetown and Harvard.

And during his time in academia, the private sector, and government, Dr. Baer has distinguished himself as a talented diplomat and compassionate defender of human rights. And I believe that he is an excellent choice for our ambassador to the OSCE. He is here today with his partner Brian Walsh (ph), and we welcome him.

Douglas Lute has long had a distinguished career in both military and civilian service. He is currently serving as the deputy assistant to the president and coordinator for South Asia and the White House national security staff.

He retired from active duty in the United States Army as a lieutenant general in 2010 after 35 years of service. General Lute's previous positions include time as the U.S. -- at the U.S. European Command in Germany, and as the commander of U.S. forces in Kosovo, where he first worked with NATO.

General Lute, we thank you for your service. We look forward to working with you in your new position. And we also welcome your wife, Jane (ph), who is here today.

I congratulate all of you on your nominations. Let me say that as we're going to be talking about Europe today, probably the most overused word in the foreign policy community today is "pivot."

There is no doubt that America has new and important diplomatic, economic, and security interests in Asia. And there's no doubt that the original reason for many of our values-based alliances with Europe, the Cold War is no longer present today.

But today no less than ever before, Europe as a unit and as European nations individually remain America's most trusted, most important allies to be found anywhere on the globe. Our most important security relationship is with Europe.

When confronting the global crisis, the first place we almost always turn is to our European allies. Our most economic relationship is with Europe. That's why we're reinvesting on this side of the relationship with a kickoff this week of negotiations on the Transatlantic Trade and Investment Partnership.

In a lot of ways, as the United States and Europe face the new economic growth in Asia, as we look at communal security challenges in places like Syria, Iran, and Afghanistan, our alliance is now more important than ever before.

MURPHY:

So if confirmed, Ambassador Nuland, you will be formulating U.S. policy towards Europe at a crucial moment in our alliance's history.

And I look forward today to hearing your thoughts, for instance, on how the State Department can assist the U.S. trade rep. in moving forward a potentially transformational economic deal with Europe.

We need to hear from you as how we continue to maneuver an increasingly complicated -- to frankly word -- use a generous term, relationship with Russia, how do we work together on common goals like arms control and Middle Eastern stability, while not letting them off the hook for a dangerous downward turn in the treatment of civil society.

And while we welcome the E.U.'s emergence as a leader in the Balkans, how do we continue to our partners in Europe to continue to integrate these fragile nations into the world community.

General, you're gonna be working with NATO partners to bring our troops home from Afghanistan, while at the same time formulating the future role of the alliance. NATO still remains the world's preeminent security alliance, but to remain strong, you are going to continue to -- the work of your predecessor in emphasizing the importance of smart defense, of inter-operability and coordinated strategic planning.

And, Dr. Baer, you're going to -- be going to an organization that more than any other represents our ideals, and yet you'll be faced with a challenge, maybe more of a challenge today than ever, of putting those ideals into action.

So I congratulate each of you on your nomination. My hope is that the full Senate will work quickly and positively on your confirmations.

At this point I turn it over to Senator Johnson for opening remarks.

JOHNSON:

Thank you, Mr. Chairman. Appreciate your opening remarks. And I certainly appreciate also the distinguished service that the nominees have already provided their nation. And truly appreciate the fact that you're willing to step up to the plate again and serve the nation in new capacities here. So we have some, I think, first-class nominees here and I'm looking forward to your testimony.

What is being contemplated, however, in the United States Senate, I think, requires some comment. And I'd like to utilize my opening remarks to talk about what we were talking about in both of our caucuses.

The majority is contemplating taking action, breaking precedent, basically breaking the rules to change the Senate rules in a way that I believe would be incredibly damaging, if not very destructive to the United States Senate, this institution that we totally revere.

And it is duly (ph) on the basis of what I think certainly the folks on our side of the aisle believe is a manufactured crisis that has to do with nominations. And supposedly Republican destruction and apparently our blocking of nominations, but here are the facts.

In the 111th Congress there were 920 of President Obama's nominations confirmed, only one rejected. In the 112th, 574 nominations were confirmed, only two rejected. During the 113th Congress, our current Congress, there have been 66 nominees confirmed with only one being rejected. Hardly a record of obstruction.

In terms of cabinet nominees, just in terms of the length of time it's taken to get confirmation, President Obama, his cabinet nominees have taken 51 days on average. During President Bush's administration, it was 52 days. During president Clinton's administration, it was 55 days. Again, President Obama's has been certainly given due consideration, his nominees have been really moved forward very rapidly.

In this term -- in the second term, President Obama has already confirmed 28 judges -- we -- the Senate has confirmed 28 judges, compared to 10 judges in President Bush's second term. This is a manufactured crisis. And I'm not the only one that believes the nuclear option would be incredibly damaging.

This is the words of majority leader Harry Reid. When he wrote a book in March of 2009, he said, "The nuclear option was the most issue I'd ever worked on in my entire career, because if that had gone forward, it would have destroyed the Senate as we know it."

It's not the only thing Senator Harry Reid has mentioned about the breaking the rules, to change the rules. He said, "In violating 217 years of standard procedure in the Senate, changing the rules by breaking the rules is about as far as you could get from a constitutional option."

He also said, "For people to suggest you can break the rules to change the rules is un-American." The only way you can change the rule in this body is through a rule that now says, to change the rule in the Senate rules, to break a filibuster, still requires 67 votes.' You can't do with 60 votes. You certainly cannot do it with 51.

But, now we are told the majority is going to do the so-called nuclear option. The parliamentarian would acknowledge it is illegal, it is wrong. You can't do it. And they would overrule it. It would simply be, we are going to do it because we have more votes than you. You'd be breaking the rules to change the rules, that is very un- American.

And finally he said, "The American people in effect reject the nuclear option, because they see it for what it is, an abuse of power, arrogance of power." Lord Acton (ph) said, "Power corrupts an absolute power absolutely." That's what's going on. The rules are being changed in the middle of the game. They're breaking the rules to change the rules, regardless of one's political affiliations, Americans understand this is a political power grab -- a partisan political grab.

Vice President Biden commented on this when he was a senator. He said, "The nuclear option is ultimately an example of arrogance of power. It is a fundamental power grab by the majority party. It is nothing more or nothing less."

Former Senator Christopher Dodd, in his farewell address, said, "But whether such a temptation is motivated by a noble desire to speed up the legislative process, or by pure political expedience, I believe such changes would be unwise." To my fellow senators, who have never served a day in the minority, I urge you to pause in your enthusiasm to change the Senate rules.

Now, Senator Murphy, neither one of us, unfortunately, had the pleasure of serving with Senator Robert C. Byrd from West Virginia. Somebody who certainly as I watched the senator from afar was acknowledged as somebody who revered the Senate, who fully understood the rules. We unfortunately did not have him speak to us during orientation. But he gave a very famous orientation speech on December 3rd, 1996 for that incoming Senate class.

And I would like to take some time, because I think his words bear repeating. He said, "Let us clearly understand one thing. The Constitution's framers never intended for the Senate to function like the House of representatives." In other words, be a majoritarian body. "I have said that, as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure. The Senate was intended to be a forum for open and free debate and for the protection of political majorities.

I have led the majority and I have led the minority, and I can tell you there is nothing that makes one fully appreciate the Senate's special role as the protector of the minority interests like being in the minority. Since the Republican party was created in 1854, the Senate has changed hands 14 times. So each party has had the opportunity to appreciate firsthand the Senate's role as guardian of minority rights. But almost from its earliest years, the Senate has insisted upon its members' rights to virtually unlimited debate.

When the Senate reluctantly adopted the cloture rule in 1917, it was made the closing of debate very difficult to achieve by requiring a super majority. And by permitting extended post-cloture debate."

By the way, back then, the super majority was two-thirds votes, now it's three-fifths.

"This deference to the minority view sharply distinguishes the Senate from the majoritarian House of Representatives. The framers recognized that a minority can be right and a majority can be wrong. They recognize that the Senate should be a true deliberative body, a forum in which to slow the passage of the House. Hold them up to the light, examine them. And through informed debate, educate the public. The Senate is the proverbial saucer intended to cool the cup of coffee from the House. It is the one place in the whole government where the minority is guaranteed a public airing of its views.

Woodrow Wilson observed that the Senate's informing function was as important as its legislating function. And now with televised Senate debate, it plays an even larger and more critical role in the life of our nation.

The Senate is often soundly castigated for its inefficiency, but in fact it was never intended to be efficient. Its purpose was, and is, to examine, consider, protect, and be totally independent -- a totally independent source of wisdom and judgment on the actions of the lower House and on the executive. As such, the Senate is the central pillar of our constitutional system.

The Senate is more important than any or all of us. More important than I am. More important than the majority and minority leaders. More important than all 100 of us. More important than all of the 1,843 men and women who have served in this body since 1789. Each of us has a solemn responsibility to remember that. And to remember it often.

And finally, in a speech he gave, on May 19th, 2010, Senator Byrd said, "The Senate has been the last fortress of minority rights, and freedom of speech in this republic for more than two centuries. I pray the senators will pause and reflect before ignoring that history, and tradition, in favor of the political priority of the moment."

JOHNSON:

I have that same prayer. I came to the Senate because this nation is facing enormous challenges. You, in serving this nation, will face enormous challenges. We simply cannot afford to damage this incredibly important institution, the United States Senate. And I -- I hope our colleagues on the majority side contemplate exactly what they're doing.

With that, Mr. Chairman, I'll turn it back over to you and look forward to the testimon.

MURPHY:

Thank you very much, Senator Johnson.

Let's go to our left -- right to left, and we'll start with Ambassador Nuland. Welcome.

NULAND:

Thank you very much, Mr. Chairman, Ranking Member Johnson, all the members of this committee. I'm honored to come before you to be considered for the position of assistant secretary of state for European and Eurasian affairs. And I'm grateful for the confidence that President Obama and Secretary Kerry have shown in me.

If confirmed, I pledge to work with all of you to protect and advance U.S. interests in promoting security, prosperity, democracy and human rights in Europe and Eurasia, and working with our allies and partners there to advance our shared global interests.

I'm also delighted to share this panel today with my colleagues and friends, Doug Lute and Dan Baer. I can think of no better partners to provide vital U.S. leadership at our two essential trans-Atlantic multilateral institutions.

As a lifetime Europeanist, I've witnessed first-hand some of the most profound moments of change in Europe and Eurasia -- from my days as a young political officer in Moscow when I stood on Red Square on New Years eve when in 1991 when the Soviet flag came down and the Russian flag went up, to the brutal wars in Bosnia and Kosovo, the enlargement of NATO and the E.U.; the creation of the euro.

I know that when Europeans and Americans join forces in defense of our common security and values, we're more effective than when we work alone, whether it's in Afghanistan, Iran, Mali, Burma, countering terrorism, promoting nonproliferation, good governance, human rights, development, health or a cleaner planet.

America needs a strong, confident Europe and our European allies depend on America's unwavering commitment to their security and our continued support for Europe's prosperity, its cohesion and its growth. As we look at the agenda ahead of us, our first task is to revitalize the foundations of our global leadership and our democratic free market way of life. We need growth. We need jobs on both sides of the Atlantic.

The Transatlantic Trade and Investment Partnership that Senator Murphy mentioned, that we began this year with the E.U., could support hundreds of thousands of additional jobs. But the TTIP is about more than our economic underpinnings. TTIP is also a political and strategic investment in our shared future and our effectiveness as global leaders in the 21st century.

We've also go to focus on the unfinished work within Europe. Today, we have a real chance to capitalize on changing attitudes and circumstances to address the 40-year-old division of Cyprus. Kosovo and Serbia have made important commitments towards long-term reconciliation, and those deserve our support. And we must not break faith with other members of our European and Eurasian family who have been trapped for too long in frozen conflicts and territorial disputes.

We must also do more to defend the universal values that bind us. The quality of democracy and rule of law in Europe and Eurasia is gravely uneven today, and in some key places the trends are moving in the wrong direction. If, as a trans-Atlantic community, we aspire to mentor other nations who want to live in justice, peace and freedom, we've got to be equally vigilant about completing that process in our own space.

And we must also continue to work together beyond our shores. As the president has said so many times, as you have said, Mr. Chairman, Europe is our global partners of first resort. Whether in Afghanistan, Libya, working on Iran, on Syria, the United States and Europe are strongest when we

share the risk and the responsibility, and in many cases, the financial burden of promoting positive change.

When we can, we also have to work effectively with Russia to solve global problems. With respect to Iran, DPRK policy, Afghanistan, counterterrorism and nuclear arms control, we have made progress in recent years, and the president is looking for opportunities to take our cooperation to the next level.

However, we must also be very frank when we disagree with Russian policy, whether it's with regard to weapons sales to the Assad regime or with regard to the treatment of civil society, political activists and journalists inside of Russia.

Finally, we've got to be attentive to the fast-changing energy landscape of Europe and Eurasia. We welcome the many steps that Europeans have taken to diversify their energy market. If confirmed, I'll work to ensure that U.S. companies continue to play a leading role in this dynamic market.

As the president said in Berlin last month, "Our relationship with Europe remains the cornerstone of our own freedom and security." If confirmed, I pledge to work with all of you to seize the opportunities before us, to revitalize and deepen our ties with Europe, and to ensure we continue together to have the will, the trust and the capability to advance our shared security and prosperity and to meet our many global challenges together.

Thank you.

MURPHY:
Thank you.

General Lute?

LUTE:
Thank you, Mr. Chairman, Ranking Member Johnson, and all the members of this committee.

I'm honored to be considered today for the position of permanent representative to the North Atlantic Treaty Organization. I'm grateful for the confidence that President Obama has shown in my nomination. And if confirmed, I pledge to work with all of you to represent faithfully America's interests in NATO, the alliance that since 1949 has served as the cornerstone of our security interests.

It's a privilege today to sit here and appear alongside Victoria Nuland and Daniel Baer, two distinguished colleagues. If we are confirmed, the three of us will join the corps of U.S. officials devoted full-time to securing our interests in Europe and beyond. I could have no better teammates.

At the outset, I want to recognize and thank my wife, Jane, who joins me here today, along with my sister Pat. Jane recently completed service as the deputy secretary of the Department of Homeland Security. Her public service also includes work in several foundations and over six years in the United Nations Department of Peacekeeping Operations.

Together, we have served the federal government for a combined total of nearly six decades, with both of us beginning as Army officers right out of college. We both took initial assignments in Germany at the height of the Cold War, Jane in Berlin and I along the east-west German border. I would not be here today without her support.

This opportunity for me to serve once again with NATO began with that first assignment in Germany and it continues to this day. I was in Germany when the wall fell in 1989. I remember well that on September 11th, 2001, NATO for the first time ever invoked article five of the Washington Treaty in response to the terrorist attacks here in America, demonstrating that an attack on one is an attack on all.

Later, I commanded U.S. forces in NATO's peace enforcement mission in Kosovo, an important crisis response on the periphery of NATO. Most recently, I've spent the last six years in the White House focused on the wars in Iraq and Afghanistan, where again NATO has played important roles.

If confirmed, I look forward to this opportunity to proudly serve my country again in NATO. Much has changed in Europe over the past several decades, but there's been one cornerstone for trans-Atlantic security, NATO. Large multilateral institutions like NATO do not adapt quickly or easily, yet in the 20 years we have seen -- in the last 20 years, we have seen NATO adjust to the end of the Cold War, expand its membership to former enemies, extend its reach to threats on its periphery, and adapt its defense structures to emerging threats. No one would have believe in 1989 when the wall fell that NATO would conduct operations in places like the Balkans, Afghanistan and Libya.

Serious challenges lie ahead for NATO. The key operational challenge is Afghanistan, where NATO leads today a coalition of 50 nations. We are on a path to pass full security responsibility to Afghan forces by the end of 2014, next year. This is a path set by NATO and the Afghans together at the Lisbon summit in late 2010 and it was refined last year in Chicago.

Several weeks ago, the Afghans reached a very important strategic milestone along that path as they assumed the lead for security across the entire country, with NATO passing into a support and advisory role. But the military campaign is only one part along this path, and it represents only one variable in a very complex equation that includes political transition that culminates next April in the presidential elections. It includes economic transition, which has Afghanistan adjusting to the reduced presence of western forces. It includes a political process that explores the potential of the Afghan government talking to the Taliban, with an effort to bring an Afghan solution to this conflict.

LUTE:

Finally, Afghanistan lives in a very tough neighborhood and regional dynamics will play a major role. None of this work will be completed in the next 18 months, by December 2014. So NATO and the United States are both planning for a military presence beyond 2014 with the mission to continue to train, advise and assist Afghan forces. Such a post-2014 mission requires a political agreement with the Afghan government, and our negotiators are making progress in advance of next year's Afghan election season.

Afghanistan has been NATO's largest operation. Drawing it to a responsible close will be a significant challenge in the next several year.

NATO also faces a fundamental policy challenge, and that's the growing gap between NATO's mission and the resources allies commit to fulfilling that mission. This ends-means gap is centered on the imbalance between America's defense resources committed to the alliance and those of the other allies.

All 28 members of the alliance benefit from that membership. All 28 have to contribute equitably. This is especially true as -- as NATO recovers from a decade of operations in Afghanistan and faces new challenges like missile defense and cyber security.

There are ways to approach this challenge, including smart defense, pooling and sharing high-end resources, and exploring specialization among allies, and, finally, nurturing partnerships that extend the reach of NATO beyond the core 28 members.

But this ends-means gap may be the most severe challenge the alliance has faced since the end of the Cold War. NATO operates on a firm foundation of shared democratic values that bind together the 28 member nations. Because of these shared values, I'm confident that NATO can today fulfill its three core tasks -- collective defense, crisis management and cooperative security -- while also addressing the challenges of the future.

If confirmed, I will do my best to represent American interests in the most successful, most durable alliance in history -- the North Atlantic Treaty Organization.

I ask for this committee's support.

MURPHY:
Thank you, General.

Dr. Baer?

BAER:
Thank you, Mr. Chairman, Mr. Ranking Member and members of this committee. It's an honor to come before you as the president's nominee to serve as the United States permanent representative to the Organization for Security and Cooperation in Europe.

And I'm grateful for the confidence that President Obama and Secretary Kerry have expressed through this nomination.

I'm humbled to be here in front of you and also humbled to be here with two great American public servants, Ambassador Nuland and Ambassador-Designate Lute.

If we are confirmed, I look forward to working with each of them and with all of you to advance U.S. interests.

I've worked closely with Tori over the last few years, and she's been not only a great friend but a great partner in fighting for human rights.

I'd also like to acknowledge my family -- my parents, thank them for the the investment of love and resources in my future; my wonderful siblings -- my sister, Mary (ph), who is here today; and my partner Brian (ph), seated three rows behind me -- as always standing beside me.

Mr. Chairman, for the past four years I've had the privilege of serving of deputy assistant secretary in the State Department's Bureau of Democracy, Human Rights and Labor.

In this capacity, I've welcome the opportunity to contribute to a long tradition sustained through both Republican and Democratic administrations of putting human rights at the center of U.S. foreign policy.

This experience has deepened my conviction that human rights must be at the core of any successful long-term strategy for peace and security, and that U.S. leadership is as crucial today as it was when Eleanor Roosevelt helped draft the Universal Declaration of Human Rights almost 70 years ago.

There is no genuine security or lasting peace in the absence of respect for human rights and adherence to the rule of law. Recent history has shown us that the apparent stability afforded by repressive regimes is illusory. And because of this, when states violate the rights of their citizens and fail to uphold international obligations, it is not merely internal affairs but the rightful concern of the entire international community.

The OSCE is unique in having embraced a comprehensive approach to security at its founding. And it's the only regional security organization that places the political military, economic and environmental and human dimensions of security on an equal footing. The 57 participating states have recognized that whether and how an OSCE state is implementing its commitment is a legitimate concern for all participating states.

This is principle is part of a broader framework of highly elaborated human rights, cooperative security and rule of law norms that are reflected in the mandates of OSCE institutions and field operations, enabling them to respond to a range of challenges, from attacks on media freedom to ethnic tensions across the OSCE, from Vancouver to Vladivostok.

From election observation to arms control, military transparency and confidence-building regimes, from the quiet diplomacy of the High Commissioner on National Minorities to the exchange of

technical expertise in combating trafficking, supporting women entrepreneurs or maintaining border security, the OSCE's resources encompass expertise and establish habits of cooperation that cannot be replaced, recreated or duplicated.

Challenges to security, human rights and rule of law are prevalent across the OSCE space, including intolerance and xenophobia, corruption, flawed elections, declining military transparency, and unresolved conflicts. Some participating states are failing to uphold and implement their commitments, including as they relate to fundamental issues such as media freedom and the role of civil society. This is troubling.

But it cannot and does not change the fundamental truth on which the OSCE is based: that the three dimensions of security are interconnected and must be advanced together. Shortcomings reinforce the fact that the work goes on and that we need the OSCE to continue to address challenges in a practical, principled manner in order to achieve true, comprehensive security for all citizens throughout the OSCE space.

If confirmed, in all my efforts, my priority will be to leverage and strengthen the OSCE as an institution that efficiently and effectively advances American and European interests. Ambassador Nuland and Ambassador-Designate Lute have laid out the enduring and unquestionable U.S. interests in a strong, democratic, prosperous and secure Europe as a central component of maintaining our own national security in the 21st century.

By supporting robust and deep trans-Atlantic ties through our bilateral diplomacy, maintaining the strength and agility of our NATO alliance and continuing to advance trans-Atlantic cooperation through a comprehensive approach to security issues, like those at the center of the OSCE's work, the U.S.-European relationship will remain a foundation for progress toward a more peaceful and democratic world.

Thank you again for having me. If confirmed, I will look forward to working with members of this committee and, of course, with the Helsinki Commission. And I welcome your questions.

MURPHY:

Thank you again to all of our nominees.

Let me start with questions to you, Ambassador Nuland. Let me draw on your years of expertise with respect to Russia. This is an immensely important relationship, and given all of the attention on the disputes we have, it sometimes belies the fact that we're actually at work with them on a variety of issues in which we have deep mutual interests, whether it be antiterrorism efforts, missile defense, or the work we've done together with respect to Afghanistan.

That being said, as I mentioned in my opening statement, we cannot let them off the hook with respect to the fairly severe downward turn that the Kremlin's take on civil society has undergone. As I've said before, if you are sitting in front of a court today accused of political crimes, you are less likely to be acquitted than you were during the great purge.

So we can attack the issue of U.S.-Russia relations from a number of perspectives, but let me ask you to -- to talk about this. What are the right pressure points upon Russia to try to turn around, I think, this very detrimental turn that has come in the way in which Putin and others are treating civil society and political dissidents?

NULAND:

Well, thank you, Senator. I certainly share your concern about the internal political environment in Russia. As I said at the outset, I agree with you as well that wherever we can, as we try to deal with the Soviet Union, we have to try to work with Russia in our common interests, and we have had some success in that regard, particularly on some of the foreign policy issues that we share.

With regard to our support for democratic change, for reform, for those speaking out for a pluralistic society with rule of law, we have to, despite the environment, continue to do what we can to continue to work with those Russians who are willing to work with us. If we are not able to support them as fully as we used to inside Russia, we still need to make support available in other ways. And I will, if confirmed, be eager to work with all of you on this committee to look for more ways to do that.

In addition, we have to speak out, as you said and as I said in my opening, when we disagree. And we have to work more intensively and more cohesively with our European allies and partners, because when we speak together about our concerns, our voice is even stronger. Thanks.

MURPHY:

Let me ask you one question about the trade agreement. How worried are you about the ability of Europe to be on the same page throughout these negotiations? We've seen just over the past week France seems to at every turn trying to -- to try to find an excuse to postpone or maneuver the beginning stages of these negotiations.

There're -- there're two sets of negotiations happening. One between European nations and one between the U.S. and Europe. What's your role in coordination with the trade rep in trying to make sure that Europe speaks with one voice throughout these negotiations, which is the only way that we're going to end up getting a product which is as big and bold as we all hope we can get?

NULAND:

Thank you, Senator. Well, you're right that on -- on the one hand it's a bilateral trade agreement between the U.S. and the E.U., but it's obviously a trade agreement between the United States and the 28 member states of the E.U. if we are able to be successful.

So we do have an interest in the European position remaining clear, remaining cohesive. I think we have a role to play at the State Department through our 28 embassies and continuing to help make the case, along with our colleagues in USTR, who lead these negotiations, for a trade agreement that will increase jobs on both sides of the Atlantic and will reduce barriers.

We need to be coordinated in the way we use our public diplomacy and the way we work with business groups on both sides of the pond.

And, as I've said in some of my calls to meet some of you in advance of this hearing, I also hope that we will have bipartisan support in the Senate and in the House for working closely with parliamentarians in Europe and particularly with members of the European Parliament who will have responsibilities for ratifying this agreement.

I know some were here to see some of you just in the last week, and we -- we thank you for taking the time to do that.

But we are going to have to provide a clear sense of the landscape in Europe and where we have points of agreement, where we have difficulties emerging in member states from our embassies, and we're gonna have to provide a strong American voice out in Europe through our embassies.

And I look forward to supporting USTR and -- and Mr. Froman in that regard from EUR (ph) also working with our undersecretary for economic affairs at the department.

MURPHY:

Well, Senator Johnson and I have already led several of those conversations with our parliamentary colleagues from Europe and hope we'll continue that.

General Lute, I think today there's only about three or four nations in NATO that are at the targeted percentage of GDP dedicated to defense. And clearly the way things are going with respect to the European economy, we probably can't bet on that number getting any better.

So we're having a conversation, one that occurred in Chicago at the last summit, about specialization. The Europeans, though, believe that that has to be a two-way street, that if they're gonna to be asked to specialize, so should we and that we might, as part of that negotiation, consider giving up some of our capabilities on maybe some non-integral defense platforms to our European allies.

Talk to me about both the European and the American will to get into a serious conversation about specialization which ultimately could solve the problem today of the United States picking up 75 percent of the tab for NATO.

LUTE:

Thank you, Senator. I think the specialization argument largely hinges on different views of a balance, different views among the 28, of a balance between full spectrum ability by each of the 28 to fulfill its -- their Article 5 commitments for mutual defense.

And on the one hand, those capabilities balanced against, as you're suggesting, increased efficiency across the 28 by way of specialization -- national specialization.

If you look at the 28 allies today, clearly the United States has full spectrum capacity in every defense realm. But there are only a couple other allies that even approach that. And even those who approach the full spectrum capability can do so for only limited durations before they again rely on us.

I think the secretary-general and NATO already have begun to move down the path of some specialization. You see this by way of the pooling of resources, especially high-end, high-tech, expensive niche capabilities like the airborne -- or air-ground surveillance system based on the pooling of resources to buy the Global Hawk surveillance aircraft. You see it with AWACS. You see it with the C-17 pool of lift resources.

I must tell that you in my view we should not relent on the 2 percent goal. We should let no one off the hook. That equal membership means equal contributions, and 2 percent is the standard.

But at the same time, we should pursue these kinds of efficiencies that it could include national specialization, because as the reality is that the economic pressures across the 28 members is not likely to relent in the next five-plus years.

MURPHY:

Including on this nation as well.

LUTE:

Exactly.

MURPHY:

I've run out of time, so I'll turn it over to Senator Johnson.

I will just mention that we may have votes at some point over the course of this hearing. We hope that not to be the case but if we do have time for a second round, we'll have to inquire.

Dr. Baer, I'll turn it over to Senator Johnson.

JOHNSON:

Thank you, Mr. Chairman.

And, again, I'd like to thank all the nominees for taking time to meet with me. I enjoyed the conversations.

And, again, I appreciate your service to the country.

Ambassador Nuland, I particularly want to say thank you for coming in, you know, during kind of the height of the -- the talking points controversies, sitting down with me in my office and explaining a few things.

Unfortunately, there are an awful lot of questions that still remain about what happened following Benghazi and, quite honestly, even before it.

For example, we haven't -- we still have not been given the names or access to the survivors. I asked General Dempsey in a Budget Committee hearing, you know, really what was the -- the status of the commander and extremist force that was on - on patrol in -- or actually on training in Croatia. Still haven't found out what the end-plus time was in terms of their -- their ready reaction.

So there are still an awful lot of questions.

And during the hearings of this full committee with Secretary Clinton, in response to my question when she uttered, you know, "at this point, what difference does it make," or I guess, "what difference at this point does it make," the question I have is, do you believe that in your role representing the United States government that the American people deserve the truth out of members of the administration?

NULAND:

Senator, the American people deserve the truth. This body deserves the truth. Those of us who were friends of the victims, as I was, deserve the truth, yes.

JOHNSON:

In reviewing the change from the talking points, original talking points and how they were sanitized, it is pretty remarkable how sanitized they really were. I know you had some participation in there.

In your September 14th e-mail, it states the changes made to the CIA talking points still, and I quote, "don't resolve all of my issues or those of my building leadership."

Can you just tell me who that building leadership was, who you're referring to there?

NULAND:

Senator, I very much appreciate the opportunity to talk about my role in the talking points issue. With your forbearance, I'd like to give a little bit of background before I answer your specific question.

First, I just want to make clear that when I was reviewing these talking points which was only on the Friday evening of September 14th, they were not for a member of the administration to use. They were talking points that the CIA was proposing to give to members of the House Intelligence Committee to use. Right?

JOHNSON:

Right.

NULAND:

So that was the first thing.

Second, I was not in a policy role in this job. I was in a communications role.

So my -- my responsibilities were to ensure consistency of our public messaging but not to make policy so I never edited these talking points. I never made changes. I simply said that I thought that policy people need to look at them.

Also by way of background, by the time Friday came around, as spokesperson for the department, I had already given three public briefings on Benghazi. The first was on Wednesday evening. I gave a background briefing in which I clearly said that this had had been a complex attack, it was an attack by extremists.

Then I gave two briefings at the podium, my regular midday briefing on Thursday and my midday briefing on Friday. In those briefings I was on agreed interagency talking points in which I noted again and again our firm commitment to investigate fully what had happened but I declined to give any more detail, citing the need to have a full investigation and particularly the integrity of the -- of the FBI's investigation.

So when I saw these talking points on Friday night just a few hours after that had been my guidance, they indicated a significant evolution beyond what we had been saying at noon.

And it was on that basis that I raised three questions in my communications role. The first was -- and again, these were for members of the House to use, not for an administration official to use. So my first question was with regard to consistency. It struck me as strange that we were giving talking points to members of the House that went considerably further than what we in the administration had been saying at that point, and I felt that if House members were gonna say this, we government communicators should be able to say it, too.

The second was that I had been under very tight guidance that we must do and say nothing that would prejudice the integrity of the FBI's investigation. So I wanted to make sure that the CIA had actually checked with the FBI and Justice and that they were comfortable with these talking points.

NULAND:

The third concern that I had was with regard to the second-to-last paragraph of the talking points, as I was looking at them, which made reference to past agency reporting about the situation in Benghazi. And frankly, Senator, I looked at them and they struck me as a partial rendering of some of the background information behind the situation, and I was concerned that giving them to the -- to the -- out this way would encourage members of Congress and members of the public to draw inaccurate conclusions about our respective agency' role in the entirety of the Benghazi issue.

So I didn't change them...

JOHNSON:

OK, I appreciate that, but I think your specific quote in your e-mail about that penultimate point was that you were concerned that members of Congress would beat the State Department. So you were a little more concerned about the State Department getting beat up by members of Congress than potentially getting the truth out to the American people. I mean, that would be my concern in terms of interpretation of that.

NULAND:

Sir, as I said, my concern that this was not an accurate representation of the full picture.

JOHNSON:

Again, just get back to some facts. Who would be the building leadership that weren't satisfied with the resolution of suggesting changes to the talking points? who would those people be?

NULAND:

So after my first e-mail with these concerns, the agency came back with another draft, but that draft continued to make reference to the past agency reporting that I thought was a prejudicial way characterizing it. So it was on that basis that I raised objections again and here this was...

JOHNSON:

Ambassador Nuland, I'm running out of time. I really just wanted some facts. I mean, who were the building leadership that you are referring to that wasn't satisfied with the suggested changes?

Who would those individuals be?

NULAND:

Again...

JOHNSON:

I mean, further -- because the next question will be, who was at the deputies meeting? Who were those people?

NULAND:

With regard to building leadership, I was concerned that all of my bosses at the policy level would -- needed to look at these to see if they agreed with me...

JOHNSON:

Who are those bosses? What about names? I mean, who are those individuals?

NULAND:

Obviously, as I reported to the full spectrum of undersecretaries, deputy secretaries...

JOHNSON:

Were there particular people that were concerned about the changes that weren't being made?

NULAND:

The only person that I consulted with that night was my regular reporting channel with regard to issues that I was not able to solve at my level.

So our regular procedure when I as spokesperson could not solve an issue at my level, was -- or when I thought that there needed to be more policy input versus communications input was to send my concerns up to the deputy chief staff for policy. That's what I did that night.

JOHNSON:

And that person is?

NULAND:

I did not consult with anybody else.

JOHNSON:

And that person is?

NULAND:

At the time that was Jake Sullivan.

JOHNSON:

Thank you.

NULAND:

And he's on the e-mails as you can see...

JOHNSON:

Thank you, Mr. Chairman.

MURPHY:

Thank you.

Senator Cardin.

CARDIN:

Let me thank all three of our nominees for their extraordinary service to our country over many years, and we thank you for your willingness to assume these new responsibilities and I particularly want to acknowledge your families, because this is a family sacrifice and we very much appreciate your willingness at this important juncture in American diplomacy, taking on these responsibilities.

I want to spend a moment since I have Mr. Baer and Ambassador Nuland here to go over the Helsinki Commission and the human rights thing. I particularly want to acknowledge Senator McCain on this day, where, as you might have seen, the Russian courts held Mr. Mcnitske (ph) guilty of

certain crimes whereas the international community knows full well that Mr. Mcnitske (ph) was the victim.

My question basically to Mr. Baer and Ambassador Nuland is that, we've worked very closely to, the administration and Congress, on human rights issues, good governance issues, on economic stability issues for countries in Europe, Central Asia and partner countries within the OSCE all coming under Ambassador Nuland, your portfolio and the you new position in which you've been nominated, and to Mr. Bear, your responsibility in Vienna.

I would like you to comment as to how important you see the relationship to the Helsinki Commission and to the Congress in the work that you do to advance the priorities of America in its participation in the OSCE?

BAER:

Thank you very much, Senator Cardin. And, thank you for your leadership on human rights across the world.

Last time I testified for you it was on Asia, and so it is a pleasure to have a conversation on a different part of the world this time. And thank you for your leadership on the Helsinki Commission as well.

I see the Helsinki Commission as one of the unique gifts that whoever is fortunate enough to be serving as U.S. ambassador to the OSCE has, because if confirmed, it would be a real boon to be able to have that institutional connection to Congress that is really unique in the world.

And as you know, there is somebody from the commission that serves on the staff of the mission in Vienna. There is also a detailee from the State Department who serves on the staff of the commission, and there is an opportunity for open communication and collaboration on the full range of OSCE issues, political-military, economic, environmental, human rights issues, on an ongoing basis and if confirmed, that is an asset that I would look forward to leveraging to the fullest extent.

CARDIN:

Thank you.

NULAND:

I fully agree with what Dr. Baer has said.

In my long experience working with the bureau and serving in Europe, Helsinki principles, the commission are the foundation of all we do together. They undergird our values and when we stray from those values all we need to do is look back at that document from 1975. So I look forward to working on these issues with Dan, if confirmed, and with you, Senator, and with this whole committee.

CARDIN:

Thank you. One of the most challenging countries will be Russia. We've already talked about Russia a couple times. Russia's participation within many international organizations has been challenging.

They have committed to the Helsinki principles, but opportunities that they can undermine, they've done that, whether it's election monitoring, whether it is the Mcnitske (ph) issues.

Can you tell me how you will -- whether you will assure this committee that in the relations -- that you, particularly, Ambassador Nuland, as you are responsible with the president and administration to develop agendas for bilaterals and the international organizations -- can we be assured that human rights with Russia will remain a high priority issue on those opportunities?

NULAND:

Absolutely, Senator. I've never in my career been shy about speaking out about human rights and certainly continue to do so if confirmed.

CARDIN:

Mr. Baer, you are going to be confronted with with some tough choices with Russia. They're going to say you need our consensus, so therefore back off on different issues. Will you commit to us that the United States will stand strong on the human rights basket within the OSCE as it relates to Russia?

BAER:

Senator, you have my full commitment to stand strong. It is part of the reason why I am interested in serving is to stand strong for human rights.

CARDIN:

Thank you. Mr. Chairman, I'll yield back the balance of my time.

MURPHY:

Senator Risch.

RISCH:

OK, Ms. Nuland, I don't want to dwell on the Benghazi question, but the Benghazi question is there and it hasn't been answered. And I've got some questions maybe you can help me with.

The administration is focused on this hiding behind the curtain of oh, well, we're doing an investigation, and they've done that since day one on this, and when we get briefed on stuff, this is the only situation in my experience here that they've done this.

Senator McCain and I sat in a briefing -- what was it? A week after? Ten days after? We had the secretary of state, head of the CIA, number two in the FBI, we asked them who did this. Because that was question, the American people wanted to know who did this? Was this a protest gone bad, or was this indeed a terrorist attack, which of course we all know it was.

These people told us they don't know. Now we're 10 days out and they're telling us that they don't know. Since then we have run into a number of people who have said that they advised both the State Department and virtually every agency of government that it was indeed a terrorist attack and they told them that in real time.

When was the first time that you were advised that this was a terrorist attack?

NULAND:

Senator, I don't recall the precise date that we moved to being confident that it was a terrorist attack, but I do recall that the president made reference in that first week to a terrorist attack, and I believe that Secretary Clinton did as well on the Friday. So my talking points would obviously have derived from what they were ready to say and what the intelligence indicated.

RISCH:

Well, of course, Susan Rice was on TV telling people that indeed they didn't know whether it was a terrorist attack. You're aware of that, are you not?

NULAND:

I'm aware of those programs, yes.

RISCH:

What other information did you have that this was a terrorist attack and when did you get it within the first 48 hours?

NULAND:

Senator, I just need to remind that I was not in a policy job, I was in a communications job at that time so I was, frankly, not reading intelligence reporting because it was difficult to keep one brain for the public and one brain privately.

So I was the conveyor of agreed policy and agreed decision-making about what we could say publicly. So I really -- you know, I think it was quite clear when the president made his first reference to terror that this is what we were dealing with, but I never took an intelligence briefing myself that week.

RISCH:

Since then, have you gone back and looked at that intelligence information you had that you had had access to?

NULAND:

Sir, it was not something that I was privy to because I didn't need it in the jobs I was in.

RISCH:

Did you help in choosing Susan Rice to speak on the Sunday talk shows?

NULAND:

No, sir.

RISCH:

Did you brief her at all?

NULAND:

No, sir.

RISCH:

She -- you had no conversations with her prior to -- from the time of the attack until she appeared on the Sunday talk shows?

NULAND:

I had no conversations with Susan Rice herself. I had -- we had interagency discussion which her staff participated in on the days that I briefed which was the Wednesday, the Thursday, the Friday. I never spoke to her.

I, frankly, never saw the talking points that were prepared for her in final form. As I said, when I saw the talking points they were for members of the House Intelligence Committee.

RISCH:

Mr. Baer, I had -- Senator Shaheen and I had the honor and privilege of representing the United States at the October 1st elections in Georgia as overseers. And we came back, gave our reports and what have you.

I was interested in the report from the OSCE on the subsequent elections that took place in April. And I realize this is dated just July 9th. It is dated Warsaw, July 9th. Have you had an opportunity to review their report on this?

BAER:

I have not yet, sir.

RISCH:

Thank you.

Ms. Nuland, the Georgians are concerned regarding getting back Abkhazia and South Ossetia. I met with our ambassador yesterday, and we had a robust discussion about this. What's your view of that situation and the likelihood that they're going to get back those two provinces in the near future?

NULAND:

Thank you, Senator. And thank you for taking time to see Ambassador Norland. I appreciate that very much. We as department appreciate that.

Senator, the sovereignty and territorial integrity of Georgia is absolutely vital and essential. The United States has supported that from the moment of Georgia's independence. It's personally important to me.

This was an issue that came up quite clearly when I was in the job as special envoy for conventional forces in Europe. And, as you may know, we were trying to look at how we might update that treaty. And we came to consensus within NATO about how that might be done.

We came to consensus among most of the 35 members who were party to the treaty -- 36. But we were unable to come to consensus with Russia because of the problems agreeing on territorial integrity issues, both with regard to Georgia and with regard to Moldova.

And it was my judgment and my recommendation to the secretary at that time that we call off the negotiations because it was not possible to settle the issue without impugning those basic principles of democracy in Europe.

RISCH:

Is there any plan at this point that you're putting forward to assist the Georgians in recovering these two provinces? The Russians refuse to leave. Obviously that's a huge issue. Do we have a plan in that regard?

NULAND:

Senator, we have been active in supporting efforts that we see that the Georgians themselves have initiated to try to reach out to the people of Abkhazia and the people of South Ossetia so that they can have a better understanding that their future would be bright in Georgia itself, and to impact and give them a better understanding of the conditions in that country because, as you may know, the media environment is controlled pretty heavily.

We will continue to do that and we will continue to be guided by Georgian efforts to work on these issues.

RISCH:

Thank you. My time is up. Thank all three of you for your service to the country.

Thank you, Mr. Chair.

MURPHY:

Thank you.

Senator Kaine.

KAINE:

Thank you, Mr. Chair.

And to the witnesses, my vast thank you for your service. Senators do a lot of things, but there are actually not that many things we do that are part of our written job description in the Constitution, Article II, Section 2, says that the president shall make appointments to executive positions and that that shall be done with the advise and consent of the Senate.

That same section stipulates that advise and consent is supermajority when it is about treaties, but not supermajority when it is about appointments. I wish you the best as we move forward and it is good to be about this work.

General Lute, my questions are really going to be for you about Afghanistan, because of the karma of a Foreign Relations Committee meeting I was in earlier today in the same room that was all about Afghanistan.

We heard a number of witnesses. Ambassador Dobbins, Dr. Peter Lavoy, Stephen Hadley, former national security adviser, Ahmad Nadery from Elections Foundation -- Free Elections Foundation in Afghanistan, and Sarah Chayes from the Carnegie Endowment for International Peace.

I asked the basic kind of threshold question of the witnesses to which they all agreed, and I wonder if you do. And that question was, was it their opinion that a strong majority of the Afghanistan population wanted there to be a residual United States and NATO force post-2014.

And they all said that they believed a strong majority of the Afghan population wanted that. Is that your sense at well?

LUTE:

It is, Senator. All our opinion polling and our work with -- across the political spectrum in Afghanistan supports that view.

KAINE:

And just -- I know from your background that you have been deeply involved in questions about Iraq as well. Was there similar polling done or similar effort to undertake what the Iraqi population sense was about that question?

LUTE:

I don't know -- I don't know that there is a close parallel with the Iraqi experience in this regard. There certainly was among the two political classes -- the two political elites, the two sets of political elites. I don't recall from my Iraq experience that kind of countrywide opinion poll -- popular opinion.

KAINE:

And just from your -- regardless of polling, just from your experience in the area, do you have a sense of your own about the Afghan population for a desire for a follow-on residual force versus that desire in the Iraqi population?

LUTE:

I think there are two things that clearly underline Afghan interest in a continuing Western presence of some sort beyond 2014. One is the question -- or just raw resources. The Iraqi people always knew that they didn't really require external resources to prosper as a nation. And clearly the Afghans know that they do require external resources.

The other thing is the neighborhood. Iraq lives in a difficult neighborhood. But I would argue Afghanistan lives in a worse neighborhood. And it is very clear from even the last 30 years of experience that all Afghans understand that very clearly.

KAINE:

General Lute, your opening testimony talked a little bit about the need for the residual force. And there is obviously all kinds of debates going on about potential size and I'm not going to get into that.

But Stephen Hadley testified, and I thought it was an interesting bit of testimony that was both written and then I followed up orally, that his recommendation was that the United States should announce relatively promptly with some clarity the size of a robust follow-on force.

And that if that happened, there would be the following consequences. It would create more confidence among the Afghan population in the run-up to the 2014 elections. It might encourage more candidates to consider standing for election, which would be a positive thing.

It would potentially deter or dissuade some who want to manipulate either the bilateral security agreement negotiation process or the elections themselves.

And he also indicated in oral not written testimony but that a relatively prompt and certain statement from the United States about the follow-on force might also promote prompt and certainty -- certain commitments to be made from the partners, the NATO partners that we have in Afghanistan.

That was the -- if you will just take it from me, I think I've done a pretty fair job of summarizing the written testimony. Do you -- what would your opinion be of that testimony?

LUTE:

So certainly those factors ring true to me. I would just argue -- and actually, I heard Steve's presentation.

KAINE:

Oh, OK.

LUTE:

I would argue that the size and scale, scope of U.S. military presence in Afghanistan beyond 2014 is one factor in Afghan confidence. But maybe it's not the dominant factor. I think equally dominant or equally important will be the smoothness, the efficiency of the political transition, which I know also the testimony covered in a lot of detail this morning.

I think Afghans need to see that under the constitution for the first time that they can efficiently and smoothly, peacefully transfer political power from the Karzai regime of the last 10 years to whoever succeeds President Karzai. I think frankly that that's the dominant factor in Afghan confidence.

There are others as well. They need to see that their security forces are going to be sustained. And of course, the international community alongside NATO has taken steps to secure that funding beyond 2014, so that they can feel confident in that way. They need to see that their economy's not going to crumble.

The international community last July in Tokyo marshaled the resources for four years, beginning in 2013 through the transition period, to fill the budget gap between what the Afghan budget can provide for itself and -- and the needs of the country itself.

So there are a number of confidence factors, one of which might be U.S. military presence, but I'm not even sure it's the dominant one.

KAINE:

Would you agree that the commitment of the U.S. and NATO allies to a presence might have an effect upon the smoothness of the transition, to the extent that it might encourage people to run for office, to the extent that it might give people some confidence going into the election season? Would you agree that U.S. and NATO commitments vis-a-vis the residual force might be a factor in the smoothness of the political transition, which I agree is ultimately the -- the most important element that we're looking at?

LUTE:

I think it's a factor, Senator. I think alongside that factor, though, is the political factor, the political commitment made by NATO in Lisbon in 2010 and by the U.S. by way of our strategic partnership agreement last spring, that politically we're committed to be there beyond 2014. And then also the counterpart economic commitment made both for security assistance, that is to sustain the Afghan forces, but beyond that for economic assistance.

And then finally, I think the presence of some residual force would be a factor.

KAINE:

Great.

Thank you, Mr. Chair.

Thank you to the witnesses.

JOHNSON:

Senator Rubio?

RUBIO:

Thank you to all the nominees for your service, and for being here today.

So, Ms. Nuland, I wanted to first say that I think there's very little debate on this committee about your qualifications to serve in this post. And as I mentioned to you yesterday, the only reason why you're getting questions, quite frankly, about the Benghazi issue is because you were in that policy role and because the committee is not holding any further hearings on it, you're quite frankly the only witness we have who -- on questions regards to these things that we want answers to.

So I wanted to briefly touch on it, and hopefully in an effort to expedite the hearing and maybe close the book on it.

I read your e-mail that's now available that is dated the 14th of September at 7:30 p.m. You raise two concerns, primarily. The first was that there were mentions of Ansar al-Sharia in the context of that you didn't want to prejudice the investigation.

The second concern talked about the agency having produced -- the agency being the CIA -- had produced numerous pieces of -- on the threat of extremists linked to Al Qaida and Benghazi in eastern Libya. Those were the two concerns that you raised in that e-mail.

So on point number one about the mention of Ansar al-Sharia and prejudicing the investigation, did the FBI share that concern?

NULAND:

Senator, thank you for that. I want to clarify here that with regard to the substance of mentioning Ansar al-Sharia, I did not have concerns about that. As I mentioned earlier, it was not for me to decide what we knew nor what we could declassify. I assumed that evening that if the agency was prepared to have members of Congress name Ansar al-Sharia, that their information was solid and it was releasable to the public.

My concerns were the two that I mentioned earlier, namely that I didn't understand why members of Congress could say more about it than we could in the administration. And secondly, that we had been under tight guidance not to prejudice the investigation, so I wanted to make sure my CIA colleagues had cleared these points with the FBI and Justice. I was later reassured that they had.

RUBIO:

OK. Good.

Then the second question I had is on point number two, and it's the one about the agency having produced numerous pieces on the threat of extremists linked to Al Qaida in Benghazi and eastern Libya. We now know that that's accurate, correct?

NULAND:

The agency had produced some pieces. My concern was not about the accuracy of what was on the paper, Senator. My concern was that it was an incomplete representation and frankly a prejudicial one, I felt, of the totality of the situation in Benghazi.

I had been under pretty tight instructions for the three days running up to that, along the following lines, that we were to stay as a State Department very tightly lashed up as an interagency community with regard to what we could say, and that the integrity of the investigation was paramount; that we had to get all of the facts so that we could learn the lessons from this tragedy.

And that I had to be extremely attentive to the equities of other government agencies. There were a number of other government agencies that had very sensitive equities in this. And that that was the environment that all of us should be operating in.

So my concern when I saw that particular paragraph, which was retained, was that it might not be in that spirit. And again, I didn't edit them. I simply asked that policy people above me check my instincts.

RUBIO:

Those instructions that you just highlighted from us, were they from Mr. Sherman?

NULAND:

They were from the entire leadership of the department that we needed to get the facts and we needed to learn the lessons of Benghazi, and that we needed to be good colleagues in the interagency, yes.

RUBIO:

Does that -- so does the entire leadership include Secretary Clinton?

NULAND:

Secretary Clinton was, as she testified herself, the leader in saying we had to get to the bottom of this; that we had to take responsibility for what had gone wrong; and we had to fix it, yes.

RUBIO:

Did you have any conversations with Secretary Clinton about the talking points, or the specific concerns that you raised?

NULAND:

At no point that evening or subsequently did I talk about the talking points with Secretary Clinton.

RUBIO:

You did talk to them -- with Mr. Sherman about these concerns, however?

NULAND:

I did not.

RUBIO:

So, the -- your concerns were unilateral? These were concerns based on the instructions you had received from your leadership, but not concerns that they specifically told you to have?

NULAND:

Correct. And as I said before and as the e-mails indicate, whenever I had a problem that I could not solve at my level, or a concern that what I was being asked to clear was not a communications question but a policy question, I referred it to the deputy chief of staff for policy, which is what I did that night.

RUBIO:

Just to close the loop on it, you had instructions on what the tone and tenor of talking points should be from the State Department's position. You reviewed and made decisions on the talking points based on those instructions, but they did not specifically tell you "object to this point" or "object to that point"?

NULAND:

At no point was I ever told to object to anything. I was acting on my instincts and asking for a higher-level review to check them. And I did not make any edits, as I said.

RUBIO:

Thank you for your answers.

In the minute-and-a-half that I have left, I want to ask about Russia. We re-set our relationship with Russia about -- I don't know -- three years ago, two-and-a-half years ago. What is your personal opinion of how that's worked out? And where are we today with Russia? Are we still in the re-set

mode or are we in a re-set of the re-set? Where are we with Russia? And what is, in your view, the status of that relationship, given the reelection, I guess we should call it, of Mr. Putin and the direction he's decided to take his country?

NULAND:

Senator, as I said at the outset, I do believe that we have made important progress with Russia in recent years; that the work we do together to contain and sanction Iran, the DPRK; our ability to ex-fill and move equipment from Afghanistan through Russia; our counterterrorism cooperation; and the New START treaty are valuable things that resulted from the re-set.

But I also believe that when we disagree with Russia, we've got to be absolutely clear. And you can see that that is clearly the case now with regard to Russian policy in Syria. We are, and you've seen Secretary Kerry's efforts to try to use the Geneva agreement that the Russians agreed to under Secretary Clinton to try to get to the negotiating table. But at the same time...

RUBIO:

Can I interject at that point? I'm sorry to interrupt you, but I'm going to run out of time.

I wanted to ask about that in specifics. What is your view, what are your hopes, what are the odds that Russia could be enticed or have any incentive to try to reach a negotiated settlement in the Syrian conflict that results in something that's in the national interests of the United States? Or are their interests vis-a-vis Syria so diametrically opposed to ours that any sort of arrangement there is almost impossible realistically?

NULAND:

Senator, without delving too deeply into it in this setting, I would simply say that I believe that Russian views of the situation will very much be guided by the ground situation in Syria.

MURPHY:

Senator McCain?

MCCAIN:

Thank you very much.

And thank the witnesses. And for the record, I've known and admired Ambassador Nuland for a long time.

General Lute, you and I have been friends for many years.

And Mr. Baer, I congratulate you on your assignment.

I must say, the -- the progress that you noted, Ambassador Nuland, is minuscule as compared to what the Russians are doing. I'm very disappointed in your answer.

Did you see -- did you see what the news report yesterday -- yesterday? "Dead Russian Lawyer Magnitsky Found Guilty." Did you (inaudible) did you see that Mr. Baer? Does that -- does that remind you of the good -- of the bad ole days of the Soviet Union when we convict dead people? Is - - doesn't that appall you?

I would ask Secretary Nuland and you (inaudible) supposed to be an advocate of human rights. Isn't that out -- outrageous that a man who we know was tortured to death by the Russian authorities, who was guilty of nothing, and -- and we're saying -- and it's valuable progress that the Russians are letting us tran-ship (ph) some equipment back? Somebody's got their priorities screwed up here.

I'm -- I'm proud to have worked with Senator Cardin on the Magnitsky Act. You both say, well, we get tougher on 'em. How about giving me some specifics? How could we get tougher?

You know one of the ways we could get tougher? Is expand the scope of that Magnitsky Act and make some more Russians feel some pain. Obviously, they didn't react well -- or they didn't like the fact that we passed the Magnitsky Act.

I'd like to hear either now verbally or for the record what specifically you want to do -- we've reset back to 1955. And when I -- when I meet Mr. Brwoder and I meet the family of Sergei Magnitsky -- and -- and we have now a situation where (inaudible) goes almost unremarked by our administration when they try and convict a dead man? I'd be glad to hear your responses. And I hope they're a little more vigorous than what you've been giving (ph) so far.

NULAND:

Thank you, Senator. And I appreciate...

MCCAIN:

By the way, I admire you very much, Ambassador. I don't admire your choice of spouses...

(LAUGHTER)

... but that is another...

NULAND:

You've -- you've given me an opening, Senator. I neglected to thank my fabulous family, my parents and my -- the two handsome gentlemen in the middle there, my husband and my son, David, for coming today.

And I thank you for all the years that we've worked together, including when I was out at NATO.

I cannot disagree with you that it's a travesty of justice when one is putting energy into convicting a dead man rather than finding out who is responsible for his murder. When I was spokesperson of the department I was very proud to speak out forcefully on this issue as well as on the Magnitsky legislation.

With regard to the legislation, our work on the list is ongoing and we will add names as we are able to.

MCCAIN:

You will?

NULAND:

We will.

MCCAIN:

You will?

NULAND:

(inaudible) I don't know if you want to add anything.

MCCAIN:

Mr. Baer?

BAER:

What Tori has said is absolutely right. My bureau has been involved in -- in producing the first list, and we do see it as an ongoing project, and we plan to add names to the list. And I certainly share your -- your feeling of being appalled at the conviction of Magnitsky. It's a -- it's a tragedy.

MCCAIN:

And, again, I don't want -- I'd rather ask a couple more questions, but I think it's important to point out that literally, on every major issue of significant consequence, the -- Mr. Putin has exhibited nothing but the most obdurate and many times aggressive behavior. We know that -- that the

support that they are providing to Bashar Assad. We know of many of the other transgressions, including internally -- and this is where your work comes in, Mr. Baer -- the repression of -- of the media, the bringing people to court who disagree.

The hold (ph) -- it all smacks of the old Soviet Union, and it's -- and we seem to want to think somehow that things will get better when everything that I can see that (inaudible) of real consequence has been retrograde.

But let -- let me ask General Lute real quick. General, I was a little surprised you didn't mention Syria in your comments. And I'd like to have your comments about that. But I would like for you to explain to the committee why the United States isn't negotiating or seeking to negotiate with a group, the Taliban, that refuses to renounce its relationship with Al Qaida and refuses to commit ahead of time to respect for women's rights? What -- tell me -- explain to me the logic there.

LUTE:

Well, as you know, Senator, right now we're not negotiating, and what we're trying to do...

MCCAIN:

Oh, but we intend to.

LUTE:

We would like to explore the possibility of getting...

(CROSSTALK)

MCCAIN:

I've been briefed several times, and you have too, General. Let's be clear that they were setting up the office in Qatar and they were doing everything possible to have negotiations. Why do we want to have negotiations with an organization that refuses to renounce its relationship with Al Qaida and refuses as a precondition to recognize women -- women's rights?

LUTE:

Those two things you mentioned, the support of Al Qaida and the support generally for the Afghan constitution, which includes the kind of women's rights provisions that you're suggesting, are both designed to be outcomes of a discussion with the Taliban. And so the...

MCCAIN:

In other words, it's on the table?

LUTE:

No, it's not on the table.

(CROSSTALK)

MCCAIN:

It's either on the table or it's a precondition, one of the two.

LUTE:

It is not a precondition to talks. It is a precondition to Taliban being considered reconciled and eligible to return to the political life under the constitution in Afghanistan. So it is very much the distinction between preconditions and end conditions.

And the idea that -- that's under exploration is to see if you can get into talks, and most important Afghan government to Taliban talks, that see if those end conditions can in fact be met. So there's no -- there's no supposing or imagining that reconciliation comes without achieving those three end conditions. Third one, by the way, is to end the violence.

MCCAIN:

Well, again, I think that if we're going to really be interested in the Afghan people and their rights, those are preconditions. There can be no agreement without them so they might as well be preconditions. And by not making them preconditions we have somehow conveyed the impression to them that they're on the table. And that's -- they're either on the table or they're preconditions. It's not (inaudible) the subject -- if they're the subject of negotiation, then they are the subject of negotiation.

And my time has nearly expired.

I want you to say a little bit what you think we ought to be doing in Iraq in light -- in Syria in light of the 100,000 people that have now been massacred. Do you believe that we should be moving forward with arms to the rebels and establishing a new -- no-fly zone?

LUTE:

Well, Senator, first, I'd have to just say, I don't follow Syria like you and I used to follow Iraq together. It's about 1,500 miles -- actually more than 1,500 miles away from where I focus on Afghanistan and Pakistan.

I think that, certainly, the situation in Syria is absolutely central to stability in a vital region, as much as Iraq was five or six years ago when we were there in the numbers we were in and as much as Iraq is today.

I support the administration's policy of the -- the blend of tools that are being applied. Principally, the diplomatic political approach to try to -- to find -- to try to find a resolution. But that approach, as supported by humanitarian support to the refugees to address the humanitarian crisis. And then finally, the -- the provision of means -- to include lethal means, to the -- to the insurgents.

MCCAIN:

I -- I thank the chair.

MURPHY:

Senator Shaheen?

SHAHEEN:

Thank you, Mr. Chairman.

Ambassador Nuland, General Lute., Mr. Baer, thank you all very much for being here and for your willingness to serve the country.

Ambassador Nuland, I'm gonna begin with you and ask about Georgia. Senator Risch, who was here earlier, and I had the opportunity to be election monitors during their recent elections last October. And I have watched with some concern to see that the government of Prime Minister Ivanishvili has arrested a number of the folks who were in opposition to them, and am concerned about the kind of signal that sends about what's happening to their move to democracy in Georgia.

And I wonder if you could assess for me how you think the progress is going under the new leadership and whether you -- what kind of action we're doing to try and continue to encourage Georgia to keep moving toward democracy.

NULAND:

Well, thank you, Senator.

And I thank you and Senator Risch for being willing to be election monitors and for your long-time commitment to Georgia.

I share your concern. Georgia has come so far in recent years, including the elections last year, then the peaceful transfer of power. The development of a vibrant multi-party parliament. Greater media freedom. The efforts to curb police and prison abuses. And the continuity in foreign policies.

But -- and nobody wants to see Georgia slide backwards. We completely understand that this government ran and won on a platform of redressing past abuses, but we believe strongly in the primacy of rule of law. And this cannot become cover for political retribution or even the perception of political retribution.

There's got to be full transparency. There's got to be due respect for rule of law. Because the world is watching. And this goes to the heart of Georgia's own aspirations, which we support, to join fully all the trans-Atlantic organizations. So Georgia's got to stay on a democratic path.

I'm also, frankly, concerned about the economy. So we want to see Georgians looking forward, not looking backward.

And if confirmed, I will be very vigorous on these issues. And I look forward to working with you and with other friends of Georgia here in the Senate.

SHAHEEN:
Thank you.

Let me -- just to stay on Georgia, General Lute, one of the things that I have been encouraged about was -- has been to hear Prime Minister Ivanishvili continuing the commitment to MAP for NATO and the continued commitment they've had to the conflict in Afghanistan. They have been a great partner in that effort.

So can you talk about how you see and what you see in terms of their efforts to get MAP through NATO?

LUTE:
(OFF-MIKE)

Sorry. One of the great incentives, I think, for Georgia to make the kind of reforms that -- that were just addressed is the potential to walk through the open door and gain membership in NATO.

So, in this way, the NATO open door policy really provides a very positive incentive for Georgians to look forward. Georgia is on its path to meet the standards required for NATO membership. It's got work to do. I know that, by way of the NATO-Georgia Commission, that work is underway. So we join that effort nationally. But we're joined by other members today of NATO to ensure that they understand what the path consists of and that they're making steady progress along that path.

SHAHEEN:
Thank you.

Let me ask another question about Afghanistan. One concern I've heard from some followers of the conflict there and what we're hearing from Afghans themselves is concern about the zero option -- should we withdraw all American troops.

Can you talk about what -- how that discussion is influencing what's happening on the ground in Afghanistan?

LUTE:
Thank you, Senator. So as we deal closely with our Afghan counterparts, we remind them that the U.S. commitment beyond 2014 is embodied in a binding international executive agreement signed by President Obama and President Karzai more than a year ago. So we already have a strategic partnership with Afghanistan that extends well beyond 2014. In fact, 10 years beyond 2014.

Likewise, NATO, in fact, beat us to the punch and established a strategic partnership of its own with Afghanistan in the Lisbon summit in November of 2010.

So -- so the framework already exists for a continuing contribution, a partnership beyond 2014.

Beyond that, we've solidified those commitments beyond 2014 with the funding commitments both to support the Afghan security forces, but also the Afghan economy beyond 2014.

So I think, as we discussed earlier with Senator Kaine, there's -- this is a multi-part package of political commitments, economic commitments and security commitments.

And the last piece that needs to fall into place is exactly what will be the size and shape of a U.S. military presence and then, beyond that, a NATO military presence. And that's still under negotiation.

But those negotiations are active, they're progressing, and we think we'll see them through to a successful conclusion.

SHAHEEN:

Great. Thank you.

Ambassador Nuland, on that same trip to Georgia last year, I had the opportunity to stop in Turkey and meet with the ecumenical patriarch of the Greek church who was very impressive.

And I wonder if you can -- one of the things that I talked with him about was what was happening in Cyprus. And I know that Secretary Kerry has indicated that this isn't -- we have an opportunity here with what he calls a frozen conflict perhaps to make some progress in addressing what has been a stalemate for a very long time on Cyprus between Greece and Turkey.

I wonder if you can talk about whether there is -- this is an opportunity and how additional diplomatic engagement might help to change what has been a status quo for too long there.

NULAND:

Senator, I do believe we have an opportunity now, I think circumstances are changing, attitudes are changing, not just within Cyprus but also in Greece and in Turkey, and we have to capitalize on that.

We also have natural gas off the coast of Turkey, which is off the coast of Cyprus, which is a powerful motivator for getting to the solution that we all want which is a bizonal bicommunal federation that can share the benefits..

And it's vital to Europe that Turkey -- or that Cyprus begin to prosper again. And I think that working on this could be a positive in that direction as well.

SHAHEEN:

Thank you. My time is up, but let me just say in closing, I hope that we will continue to support the very positive progress that's been made between Serbia and Kosovo on settling their disagreements there. And anything we can do to support that I think is very helpful. Thank you.

MURPHY:

Senator Barrasso?

BARRASSO:

Thank you, Mr. Chairman.

Mr. Chairman, on May 10th of this year, the Republican members of this committee sent a letter to Chairman Menendez, respectfully requesting additional committee hearings to review the open questions surrounding the September 11th, 2012, terrorist attack in Benghazi Libya.

It has now been two months, and we have not heard back from Chairman Menendez about our request. While the House of Representatives has been holding hearings and heard from numerous witnesses, including Mark Thompson, acting deputy assistant secretary of state for counterterrorism, Greg Hicks, former deputy chief of mission in Libya, and Eric Nordstrom, former regional security officer in Libya, those important witnesses have not had the opportunity to testify and provide answers in the Senate.

The American people have lingering questions about what happened on September 11th, 2012, and why the State Department failed to protect our brave Americans in Benghazi. Yet this committee has failed to schedule any additional hearings and has been attempting to avoid the issue altogether.

Ambassador Nuland, during an interagency e-mail exchange on September 14th of 2012, you expressed concerns that the information you were providing could be used by members of Congress to question the State Department for not paying attention to CIA warnings about the security situation in Benghazi.

In an e-mail you stated that you had, quote, "serious concerns," closed quote, about quote, "arming members of Congress," closed quote, with information from the CIA.

You went on to say that, quote, "points" should be abused by -- "could be abused by members to beat the State Department for not paying attention to agency warnings, so why do we want to feed that either?"

Well, now the president has nominated you as assistant secretary of state for European and Eurasian affairs. This handles a very critical region.

I'm concerned about your willingness to provide truthful and relevant information to the American people. And I say this because you have implied that it is dangerous to inform members of Congress who are the representatives of the American people.

So my question is why should we believe that you will be open and forthcoming on the disclosure of important information to Congress when you deliberately and intentionally withheld information about Benghazi from Congress and the American people while working at the U.S. Department of State as the spokesperson?

NULAND:

Senator, thank you for the opportunity to address this.

I am 400 percent committed to positive cooperation with the Congress, to sharing fully all information that we can.

As you recall in that first week after the attack, there were numerous briefings, classified and some unclassified, and briefings thereafter of members of the Senate, members of the House of Representatives that my bosses participated in.

My concern was not, Senator, that evening about sharing information with Congress. My concern was that these were talking points that the CIA was proposing that members of the House Intelligence Committee use with the media.

And I felt that if the -- if these were used with the media, they would give a mistaken and flawed perception of our respective agency's roles in Benghazi. It was a partial representation of some of the information that we had had, some of the activity that we had been involved in together.

So I thought that as media points, not as information to Congress == obviously I have always and will continue to if confirmed fully support transparency with the Congress and full cooperation with the Congress. My concern was that they were inappropriately crafted as points for the media, and they would be misleading.

BARRASSO:

So you -- you just used the phrase "partial representation." So were your concerns with Benghazi talking points that were they made to shelter the State Department from accountability of regarding the terrorist attacks in Benghazi?

NULAND:

Absolutely not, Senator. As I said earlier, we were under firm instructions, all of us, that what mattered most was a full and fair investigation of all of the facts so that we could learn the lessons and ensure that it never happened again. As I said earlier, I was personal friends with Ambassador Stevens who was somebody I was very close to. For me, it's personal to get to the bottom of this.

BARRASSO:

The president in his comments as he said as soon as he heard about the attack, he said "Number one, I want to make sure we're securing our personnel doing what we need too. Number two, we're going to investigate exactly what happened so it doesn't happen again. And number three," he said, "We want to find out who did this so we can bring them to justice."

In a letter dated December 18th, Secretary Clinton stated quote, "We continue to hunt the terrorists responsible for the attacks in Benghazi and are determined to bring them to justice." Today July 11th, it has now been exactly 10 months since the attacks. To your knowledge, are we any closer to identifying and bringing those terrorists to justice?

NULAND:

Senator, I share your frustration as I said. As a citizen I want to know what happened as well. I have to tell you that in my previous role as spokesperson of the State Department and in my current capacity, I am not privy to information about how the investigation is going.

BARRASSO:

In your written testimony you talked about things related to energy. You talked about -- that Europeans taking steps to diversify their energy market with new routes and new regulations. I've introduced legislation to enable the U.S. to use its newfound abundance of natural gas to help our NATO allies diversify their energy imports in order to break Russian dominance over them through control of their natural gas supply.

Many experts have argued that U.S. natural gas exports can diminish the cartel behavior of rival suppliers like Iran and Russia, help persuade allies to help isolate these rogue states, like Iran, and encourage the decoupling of international gas prices from oil prices which can reduce gas prices around the world.

Do you agree that natural gas exports including LNG can serve as an important diplomatic tool to help with our allies and restore our standing throughout the world?

NULAND:

Senator, certainly the fast pace of change with regard to the natural gas picture in Europe is making a very valuable contribution to Europe's energy security. And I think you know that the Department of Energy has improved some U.S. exports. It's obviously within the purview of the Department of Energy to decide if we can do more of that. But the degree to which Europe has more diverse sources of natural gas, it is a good thing for Europe and it is a good thing for the security of the Transatlantic Alliance.

BARRASSO:

It does seem that our energy resources can at this point increase our own economic competitiveness and enhance power around the world. Do you support expediting LNG licenses to our NATO allies?

NULAND:

Again, Senator, this decision set is not within the purview of the State Department. It's within the purview of the Department of Energy. So I wouldn't want to speak to decisions that they have to make, but it is certainly the case that the more sources of natural gas for Europe -- and they are really diversifying their LNG terminals now, they're also looking at shale gas and we are active in promoting that -- the better for their security and for our common security.

BARRASSO:

Thank you.

Mr. Chairman, my time is expired. At this time, I'd like to submit more questions for written record.

Thank you Mr. Chairman.

MURPHY:

Thank you, Senator Barrasso.

Senator Paul.

PAUL:

Congratulations to the panel for your nominations.

Ambassador Nuland, where were you the evening of Benghazi during the attacks and in the aftermath?

NULAND:

I was at the State Department on September 11th until about 1:00 a.m. in the morning, sir.

PAUL:

And was Secretary Clinton there also?

NULAND:

She was.

PAUL:

I didn't hear you.

NULAND:

She was.

PAUL:

Were you in the same room with Secretary Clinton during the period of the attacks?

NULAND:

For some of that period she did a written statement on the attacks that evening. I worked with her on the written statement, but I wasn't with her the whole time, no.

PAUL:

Did you have conversations with anybody in Libya during the attacks or during the immediate aftermath?

NULAND:

No, sir.

PAUL:

With anybody from Special Operations Command in Africa?

NULAND:

No, sir.

PAUL:

Were you present during any conversations with Secretary Clinton with anybody in Libya?

NULAND:

No, sir.

PAUL:

Were you present with any conversations with Secretary Clinton and anyone from Special Operations Command in Africa?

NULAND:

No, sir.

PAUL:

Did you have any conversations with Secretary Clinton concerning re-enforcements being sent from Tripoli?

NULAND:

No, sir. My role with her was purely with regard to communications.

PAUL:

You weren't present during any conversations that had anything to do with sending re-enforcements.

NULAND:

No, sir.

PAUL:

Were you present during any conversations with either -- with yourself or Secretary Clinton of General Ham, Admiral Losey, Lieutenant Colonel Gibson.

NULAND:

No, sir.

PAUL:

Have you ever had any conversations with Secretary Clinton concerning the purpose of the CIA annex?

NULAND:

I'm not quite sure what you're asking.

PAUL:

What was the purpose of the CIA annex in Benghazi?

NULAND:

Senator, I would be delighted to talk to you about the relationship between the State Department and the CIA in a separate setting, if that's helpful. I don't...

PAUL:

Have you had any conversations with secretary Clinton concerning the purpose of the CIA annex?

NULAND:

Not with regard to the purpose, no. But with regard to the responsibility of government communicators to protect the equities and requirements of all other agencies, yes.

PAUL:

Did you ever have a discussion with Secretary Clinton concerning the fact that the function and the activities of CIA annex may have had something to do with the attacks?

NULAND:

No, sir.

PAUL:

Are you personally aware of what the CIA annex function is? Or was?

NULAND:

Sir, I don't believe I've had a full briefing on what the activities were, no.

PAUL:

Have you read the New York Times article from two weeks ago that talks about the fact that the CIA has been involved with sending arms to Syria over the last year?

NULAND:

I did see that piece. I can't assess its accuracy.

PAUL:

Are you aware of the reports that a Turkish ship left Benghazi or Libya in the week proceeding the ambassador's killing, docked in Turkey, interviews have been conducted with the media with the captain, distribution of the arms to Syrian rebels have been recorded and discussed in the media. Are you aware of those reports?

NULAND:

I am not, Senator.

PAUL:

We've got a lot of questions. We've got a lot of very short answers. How often with your tenure with your typical routine as communications -- in charge of communications with the State Department, how often would you have personal contact with Secretary Clinton (inaudible) conversations?

NULAND:

When I was briefing which was most days when we were home, I would see her every morning at our senior staff meeting. I would also support her when she had bilateral meetings with foreign visitors particularly when there were press conferences. Then I traveled with her on her foreign travel.

PAUL:

Right. Part of the reason I bring up the CIA annex is that, you know, we're in the process of becoming involved in a new war in Syria and there are many within the administration which you'll be part of who argue for just doing this secretly, without votes, to basically have a covert war. And that's basically what we're having now according to articles in the -- concerning CIA activity in Syria is that we'll have a covert war not where Congress votes on declaring war or votes whether or not we should be involved.

The question really here is a big question. Of whether or not, you know, we obey the constitution which says, the Congress really declares war, the Congress makes these decisions. That unilaterally these decisions are not made without the approval of Congress or the people.

There's a question to the rule of law basically. We have it on the books that says if there's a military coup that foreign aid will end. Not only if there's a military coup, if the military's involved in any way, in any substantial way in removing a government from power.

So you can understand the displeasure of some of us who believe in the rule of law that basically this administration has said we're not going to obey base the law. We're above the law. We're just not going to say it's a coup.

The problem here is there's a certain lawlessness. There's been a big discussion on, you know, leaks from the NSA. People have said, my goodness these leaks are damaging national security. You know what's also damaging to national security is when people come and lie to Congress. Now, I'm not saying you did. You've said that it was classified, you can't talk about it. But if members of the administration are going to come to us and say, "Oh, I'm just going to lie because it's classified, and tell you the least untruthful thing," what it does is it really does damage the intelligence community. It damages the reputation of your administration or any administration you will choose. It just -- it damages the whole community in a way to say that it's OK to lie to Congress.

That's basically what the opinion is now and what is being told to the public, it is fine to lie to Congress. If that's true, it really damages the credibility of people who do things. So when I asked the question, which I understand your inability maybe to answer it because it may be classified, there are many of us who believe that it was -- it had to do with an arms (inaudible) going out of the CIA

annex and that perhaps people were unhappy about arms being taken from one group to another and sent to another, that may have incited the rioting and may have incited the terrorist attack.

But the problem is we can't ever get to the truth because people just say, "Oh, it's secret." That's the problem with running a secret government and running secret wars. We don't get any oversight. We can't have oversight because we don't have any information.

So all I would say is that we need to think these things through. If you look at what the public wants right now, the public's not interested in a new war.

Thank you very much for your testimony.

MURPHY:

Thank you, Senator Paul.

We'll do a second round maybe of five minutes each for members that are remaining.

Ambassador Nuland, I just wanted to expand upon the questions from Senator Shaheen on Turkey, to ask a broader question. What Erdogan is doing is certainly not to the extent of what we have seen in Russia with Mr. Putin, but troubling nonetheless -- the crackdown within Istanbul; his treatment of journalists; his disposition towards the military.

What are the tools at our disposal to continue to raise these questions of a free and open civil society in Turkey, given the same problem we have with Russia, in that we have so many irons in the fire with respect to our very complicated security relationship with Turkey that it often makes it difficult to put the issue of human rights and his treatment of political opponents front and center. What are the tools at our disposal to continue to press Erdogan with respect to some of the same issues, albeit to a lesser degree, that we are pressing Putin's government on as well?

NULAND:

Thank you, Senator.

Our alliance with Turkey, our relationship with Turkey is absolutely critical, as you know, not just in the Eurasian space, but also in all the work that we're doing now in the Middle East and North Africa, and particularly with regard to Syria.

I think it's because we have such an intense and tight relationship and because we have constant contact, I think Secretary Kerry has now made seven-plus trips to Turkey. The president talks regularly with President Erdogan -- that we can speak very clearly and frankly when we have concerns about Turkey's democratic path.

And we have done that at all levels because it is -- Turkey's democracy and the strength of it is important not only for the country itself, not only as a NATO ally, but also because as a majority-Islamic population, Turkey's democracy is looked at by other countries around the world and in the region who aspire to be able to be Islamic and democratic at the same time.

So these are the points that we will continue to make to the Turkish government, that freedom of assembly, freedom of expression, protection of journalists are fundamental democratic values that strengthen the country. And in the context of the review that the government of Turkey is doing now of the constitution, we are urging that these protections be strengthened, and not lightened.

MURPHY:

Well, I thank you for raising the issue of constitutional reform. I hope that that will be an issue that we will continue to raise with them. I think that we should be troubled by the prospect of Erdogan trying to rearrange the constitution as a means of continuing his reign there beyond what has been expected by the people of Turkey. I appreciate your raising that.

General Lute, very quickly, with regard to NATO enlargement, we've got a number of candidates, particularly in the Balkans. Can you just sort of speak very briefly about the commitment that you will have as our ambassador there to actively work with the Balkan nations who are in line for membership to go through the final stages of that process?

LUTE:

Yes, Senator. You have my personal commitment to do this. Of course, this is standing NATO policy under the open door provision and it's longstanding U.S. policy as well, that the door should be open not only to the Balkan states that you're mentioning, but as we mentioned earlier, Georgia as well.

MURPHY:

Let me just finally before I turn it over to Senator Johnson, I do want to associate myself with at least the final comment made by Senator Paul. I know this isn't particularly within your individual books of business, but it may be.

I do think he raises a very important point about the interplay between overt and covert activity. And we have seen that produce fairly troublesome results for this nation, but also for the State Department in places like Pakistan, as we move forward in Syria, which you may have some interactions with.

I hope we look to prior history and understand that -- that major military actions happening in a covert manner present problems certainly with regard to oversight by the United States Congress, but also present problems within the administration when there are entities negotiating with players across the globe who don't necessarily have control over all the tools that are subject to those negotiations.

Senator Johnson?

JOHNSON:

Thank you, Mr. Chairman.

General Lute, as long as you did listen to the Afghanistan hearing, I was able to be here for the first hour and couldn't ask questions, so let me ask you a couple of questions.

It was -- it was -- a comment was made that ISAF is providing critical support to the Afghan army and police force and that the elections were -- I can't remember the exact quote -- but absolutely essential in terms of progress being made in Afghanistan. But there have been some real problems. Critical appointments haven't been made.

The point I want to make is if we are going to stop all military operations by the end of 2014 and basically turn it over to the Afghan army and police force by 2015, what if they're not ready? What is going to happen?

LUTE:

Well, the December 2014 goal to arrive at a point where the Afghans are fully responsible, as we said in Lisbon in 2010, at the end of this four-year transition process, is just that, a goal. And the reports I think you heard this morning, but the reports we consistently get and have gotten for a number of years now, is that -- are that our military believes, and they have day-to-day, shoulder-to-shoulder contact with their Afghan counterparts -- that we're on track. And that the remaining 18 months will complete that job to arrive at the position where they're fully responsible.

Now, I think you also heard this morning, and we see in more routine reports, that there remain gaps today. Some of the ones most obvious are close air support, medical evacuation, logistics. And you see the newspaper reports on these...

(CROSSTALK)

JOHNSON:

One of the more critical gaps was managerial at the officer level, which is an incredibly difficult gap to fill, isn't it, in just 18 months?

LUTE:

Well, Senator, I think you're right. You don't build an army in four or five years. And we've really only been seriously at the building of the Afghan army over the last four or five years. And that's why beyond 2014, the work won't be done. And that's why we're committed to a training, advising, assisting mission even beyond 2014. As I mentioned earlier, that, of course, needs to be governed by a bilateral security agreement which is under negotiation.

JOHNSON:

So to what extent are militias being stood back up in Afghanistan?

LUTE:

I don't think this is a -- this is a major change or a major initiative in Afghanistan today. The ethnic groups, especially in the rural areas that are quite remote from the population centers, the metropolitan population centers, have always been somewhat secured by local power brokers who have armed contingents. And this is to some extent the natural state of affairs in Afghanistan.

But these are not dominant. And I can also tell you that in the last several years, we've not seen a dramatic rise in the presence of these sorts of forces.

JOHNSON:

Do you think those militias are a stabilizing force?

LUTE:

I think they're a natural part of the security landscape in Afghanistan. We don't see them as a destabilizing force. They tend to -- they tend to stick quite close to their home turf. They're ethnically and tribally organized. And they don't present a necessarily destabilizing force.

Now, what is new to the scene is 350,000 Afghan national security forces, both army and police. And the stand-up of that national force is designed to provide the glue that holds the very disparate regions of Afghanistan together.

JOHNSON:

OK. In my remaining time, I'd just like to ask unanimous consent to submit a letter to the record in support of Victoria Nuland's nomination from her colleagues -- a very nice letter.

MURPHY:

Including my predecessor, Senator Lieberman, I think is on that letter.

JOHNSON:

Thank you very much.

MURPHY:

Without objection.

Senator Rubio?

RUBIO:

Thank you.

And I -- I apologize for having to do this again, because it's not directly related to you, but I just want to clearly understand the timeline on the talking points issue once more.

So, I want to go back. On October 10th, Mr. Carney -- Jay Carney said that "again from the beginning, we provided information based on the fact as we knew they became available, based on assessments by the intelligence community, not opinions, assessments by the intelligence community -- not opinions -- assessments by the intelligence community. We have been clear all

along this is an ongoing investigation. As the more facts became available, we would make you aware of them as appropriate, and we've done that."

He went to say, later, back in May that, "What we said remains true to this day that the intelligence community drafted and redrafted these talking points." That was then -- in fact, the president on October 18th of last year said on Jon Stewart's show believe it or not, "But everything we get, every piece of information we get as we got it we laid it out to the American people."

That's the statement from the White House with regards to the talking points.

Now, the original CIA talking points were blunt. They talked about an assault on U.S. facilities in Benghazi as a terrorist attack conducted by a large group of Islamic extremists including some with ties to Al Qaida. That was the original talking points that the CIA circulated.

But then -- well the original talking points they prepared. They then circulated these talking points to the administration policy makers on the evening of Friday, September 14th. They had changed Islamic extremists with ties to Al Qaida, to simply Islamic extremists. But they also added new context in the references to the radical Islamist. They noted -- they pointed to Ansar Al Sharia's involvement, and they added a bullet point that highlighted the fact that the CIA had warned about another potential attack on U.S. diplomatic facilities in the region.

And that was the point where all the things we've talked about already began, right?

The e-mails circulating. You raised the concerns, et cetera. And overnight on the 14th. Then there was that meeting on the 15th of the -- I don't want to mischaracterize the name of the group. The deputies group, is that right?

You were not part of that meeting, but there was a meeting, correct?

NULAND:

Correct. My understanding is this issue was taken up there, yes. But I was not there.

RUBIO:

So you weren't in the meeting, but what we know from subsequent e-mails from someone -- don't know who it was -- but an e-mail to U.S. Ambassador Rice after the meeting, and basically said -- according to the e-mail there were several officials in the meeting that shared your concerns -- you were not part of the deliberations -- that the CIA talking points might lead to criticism that the State Department had ignored the CIA's warnings about an attack.

And the e-mail also reported this to Susan Rice that Mr. Sullivan would have worked with a small group of individuals from the intelligence community to finalize the talking points on Saturday before sending them onto the House.

So that was what happened from that meeting. And then these changes came about. And then we get these talks points. So I guess the point that I want to raise is that while, in fact, the intelligence community may have physically and technically written these talking points, the most substantive of changes to the talking points from the original version, even the amended versions that were first circulated, the substantive of changes came as a result of direct input from the State Department and from these -- this deputy's meeting.

That's correct, right?

NULAND:

Senator Rubio, as you pointed out I can't speak to the whole chain of events.

When I received the talking points on the evening of Friday the 14th, they said -- they did not make reference to Al Qaida. They made reference to Ansar Al Sharia. As I said I had no difficulties in substance with that.

When I as a citizen read the dozens and dozens of e-mails that we released to the Congress, to the public about this, it was clear to me in reading those as I'm sure it was clear to you that significant changes were made apparently inside the CIA before they...

RUBIO:

But they were -- Right. And I understand that the CIA typed the changes. But...

NULAND:

While they were in clearance within the CIA before they went in...

RUBIO:

The point is the major substantive changes came between Friday evening after you and other State Department officials expressed concerns about criticism from members of Congress, and the Saturday morning following the deputies meeting. That's when the big changes to it came.

And the reason why that raises alarm is another e-mail to Chip Walter, the head of the CIA Legislative Affairs Office from Secretary Petraeus where he expressed frustration at the new scrubbed talking points noting they had been stripped of much of the content his agency had provided.

So the point I'm driving, this is quite frankly nothing to do with you, but the point I wanted to raise here, is that in fact when Mr. Carney and when the president says these talking points were a product of the intelligence committee, that is not accurate. These talking points were - may have been typed by the intelligence community, but these talking points were dramatically changed directly at the input of non-intelligence community individuals. Primarily in the State Department and in this meeting of the deputies.

That's where the changes came. They did not come from the intelligence community. The intelligence community, in fact its leader at the CIA expressed frustration at the changes that had been made.

I know my time is up, but I have to get one quick question. and it has to do with the START Treaty.

Is Russia in compliance, in your opinion with the New START?

I know that's a big change of topic.

(LAUGHTER)

NULAND:

Senator, at this current state that I am in, I am not privy to all of the information with regard to compliance. If confirmed, obviously I would be fully transparent with you within my responsibilities.

RUBIO:

OK, then here's my last question, anyone who wants to answer it. Maybe general can help with this. Did the administration seek any input from our NATO allies ahead of the president's announcement two weeks ago about additional cuts to U.S. strategic nuclear arsenal beyond the limits imposed of New START? Did we talk to our NATO allies about it and if we did, what was their reaction?

LUTE:

Senator, I'm not aware of that. I'm obviously not following that issue at that time. But I can investigate this and come back to you.

MURPHY:

Thank you, Senator Rubio. Thank you for answering all of our questions. You all acquitted (ph) yourself very well. You all have had such impressive careers. And I'm just so appreciative of the fact that you're ready to stand up for this nation in a new capability.

Congratulations on your nomination and we look forward to your confirmation. This hearing stands adjourned.

CQ Transcriptions, July 11, 2013

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SEN. JOHN MCCAIN, R-ARIZ.

SEN. RAND PAUL, R-KY.

WITNESSES:

VICTORIA NULAND, NOMINATED TO BE ASSISTANT SECRETARY FOR EUROPEAN AND EURASIAN AFFAIRS, DEPARTMENT OF STATE

DOUGLAS E. LUTE, NOMINATED TO BE UNITED STATES PERMANENT REPRESENTATIVE ON THE COUNCIL OF THE NORTH ATLANTIC TREATY ORGANIZATION, DEPARTMENT OF STATE

DANIEL B. BAER, NOMINATED TO BE UNITED STATES REPRESENTATIVE TO THE ORGANIZATION FOR SECURITY AND COOPERATION IN EUROPE, WITH RANK OF AMBASSADOR, DEPARTMENT OF STATE

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