

Congress of the United States
Washington, DC 20515

May 18, 2023

The Honorable Lloyd J. Austin III
Secretary
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

General Mark Milley
Chairman
Joint Chiefs of Staff
9999 Joint Staff Pentagon
Washington, D.C. 20318

Dear Secretary Austin and General Milley:

On March 8, 2023, the House Foreign Affairs Committee (HFAC) held a hearing¹ examining the catastrophic withdrawal from Afghanistan. During the hearing, HFAC heard testimony from witnesses on the scene of the August 26, 2021, terrorist attack at Abbey Gate, which killed 13 American servicemembers and wounded another 45, also killing approximately 170 Afghan civilians.² Testimony during the hearing raises serious questions regarding the events leading up to the attack, which must be answered.

Marine Sergeant Tyler Vargas-Andrews, a sniper badly wounded in the explosion, testified that his sniper team believed they identified the suicide bomber responsible for the attack earlier in the day. According to his testimony, Sergeant Vargas-Andrews and his team did not eliminate the threat due to their leadership's uncertainty as to who held the authority to approve or deny engagement.³

Battlefield decisions are often made in a cloud, but in honor of the lives lost and those still living following that terrible day, it is incumbent we learn whether events were avoidable

¹ House Foreign Affairs Committee, Hearing, *During and After the Fall of Kabul: Examining the Administration's Emergency Evacuation from Afghanistan*, Mar. 8, 2023, available at, <https://foreignaffairs.house.gov/hearing/during-and-after-the-fall-of-kabul-examining-the-administrations-emergency-evacuation-from-afghanistan/>.

² Jim Garamone, *U.S. Central Command Releases Report on August Abbey Gate Attack*, DOD NEWS, Feb. 4, 2022, available at, <https://www.defense.gov/News/News-Stories/Article/Article/2924398/us-central-command-releases-report-on-august-abbey-gate-attack/>

³ Note 1, *supra*.

and if uncertain procedures, broken lines of communication, or worse, contributed to the lack of engagement.

To provide Congress a better understanding of these events, we request the following no later than June 2, 2023:

1. A detailed description of the response to the request for engagement authority by Sergeant Vargas-Andrews' sniper team, including fully detailing each step in its consideration, the request's outcome, and the reason for any decisions;
2. All documents and communications referencing or relating to the events at Abbey Gate on August 26, 2021, including but not limited to:
 - a. All documents and communications referencing or relating to the request by Sergeant Vargas-Andrews' sniper team for engagement authority, or any other such request by other servicemembers;
 - b. All documents, communications, or intelligence products referencing or relating to the identity of the perpetrator(s) and planner(s) of the Abbey Gate attack;
 - c. All documents and communications referencing or relating to the Rules of Engagement in effect at the time of the Abbey Gate attack;
 - d. All video, audio, and/or photographs of the events at and around Abbey Gate on August 26, 2021, including, but not limited to, those from U.S. government equipment (raid cameras, drones, phones, etc.) as well as personal devices of servicemembers and eyewitnesses (phones, cameras, GoPros, etc); and,
 - e. All messaging and/or chat room logs in the possession of the Department of Defense (text messages, ChatSurfer logs, etc.) relating to engaging with threats in the vicinity of Hamid Karzai International Airport ("HKIA") between August 1st and September 31st, 2021; and,
3. Concerning the "Department of Defense Afghanistan After Action Review: January 2020–August 2021" (AAR) and the November 8, 2022, Memorandum for the Record from Secretary Austin (MFR):
 - a. Footnotes in the AAR, all of which were omitted from the copies of the AAR received by the Committee on Armed Services; and,
 - b. Transcripts of all interviews conducted during and in furtherance of production of the AAR.

Thank you for your prompt attention to this matter. The Committee on Armed Services, under Rule X, clause 1 of the Rules of the House of Representatives (House Rules), maintains oversight jurisdiction over the Department of Defense generally. Moreover, under the House Rules, the Committee on Armed Services derives its authority to conduct oversight from, among other things, clause 2(b)(1) of Rule X (relating to general oversight responsibilities), clause 3(b) of Rule X (relating to special oversight functions), and clause 1(b) of rule XI (relating to

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May 18, 2023
Page 3 of 3

investigations and studies). Under House Rule X, the Foreign Affairs Committee has legislative and oversight jurisdiction over “[r]elations of the United States with foreign nations generally,” “[d]iplomatic service,” and “[p]rotection of American citizens abroad and expatriation.”

To arrange delivery of documents (some of which may be transmitted in classified form) or ask any related follow-up questions, please contact Ryan Breitenbach of the Committee on Armed Services Majority Staff.

Sincerely,



Mike Rogers
Chairman
House Armed Services Committee



Michael T. McCaul
Chairman
House Foreign Affairs Committee

cc:

Rep. Adam Smith, Ranking Member
House Armed Services Committee

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