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Securing U.S. Diplomatic Facilities and Personnel Abroad: Background and Policy Issues

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Summary

The United States maintains about 285 diplomatic facilities worldwide. Attacks on such facilities, and on U.S. diplomatic personnel, are not infrequent. The deaths of Ambassador Christopher Stevens and three other U.S. personnel in Benghazi, Libya, on September 11, 2012, along with attacks that week on U.S. embassies in Egypt, Sudan, Tunisia, and Yemen, drew renewed attention to the challenges facing U.S. diplomats abroad, as well as to the difficulty in balancing concerns for their security against the outreach required of their mission. Congress plays a key role in shaping the response to these challenges, such as by providing resources for diplomatic security and examining security breaches overseas.

The inability to provide perfect security, especially against the evident threat of mob violence, has focused particular scrutiny on the deployment of diplomatic personnel in high-threat environments. The Department of State currently maintains a presence in locations faced with security conditions that previously would likely have led State to evacuate personnel and close the post.

Under reciprocal treaty obligations, host nations are obligated to provide security for the diplomatic facilities of sending states. However, instances in which host nations have been unable or not fully committed to fulfilling this responsibility have sometimes left U.S. facilities vulnerable, especially in extraordinary circumstances. U.S. facilities therefore employ a layered approach to security including not only the measures taken by a host country, but also additional, U.S.-coordinated measures, to include armed Diplomatic Security agents, hardened facilities, U.S.-trained and/or contracted local security guards, and sometimes U.S. Marine Security Guard detachments.

The rapid growth in the number of U.S. civilians deployed in the high-risk environments of Iraq, Afghanistan, and Pakistan spurred significant investment in recent years in the Department of State's capacity to provide security in dangerous areas through its Bureau of Diplomatic Security (DS). However, it simultaneously placed unprecedented burdens on DS's capability to carry out this mission successfully in these and other challenging locations.

Most of the funding for the protection of U.S. missions abroad is provided through the Worldwide Security Protection (WSP) component of the State Department's Diplomatic & Consular Programs (D&CP) account and through the Worldwide Security Upgrades (WSU) component of the Embassy Security, Construction and Maintenance (ESCM) account. The total security funding requested for FY2015 is about \$4.76 billion.

This report provides background information on the organization, practice, and funding of U.S. diplomatic security efforts. It also provides summary information on the September 11, 2012, attack on U.S. facilities in Benghazi, Libya, as well as on the subsequent Accountability Review Board. More information on congressional and State Department actions in response to the Benghazi attack is available in CRS Report R43195, *Securing U.S. Diplomatic Facilities and Personnel Abroad: Legislative and Executive Branch Initiatives*, by Alex Tiersky.

Contents

Introduction.....	1
Host Nation Responsibility Under the Vienna Conventions.....	2
U.S. Responsibilities and Posture.....	3
Assessing the Threat.....	6
Physical Security at U.S. Diplomatic Facilities.....	7
Embassy Security Construction.....	8
Incident Response.....	11
Temporary U.S. Personnel and/or Citizen Evacuation.....	12
Changing the Status of a Foreign Post.....	12
Accountability Review Boards.....	13
The Attack in Benghazi, Libya, on September 11, 2012.....	15
Embassy Security and the Benghazi Attack.....	15
Accountability Review Board in the Wake of the Benghazi Attack.....	17
Department of State Actions in Response to the Benghazi Attack.....	19
Embassy Security Funding.....	20
Funding Data and Recent-Year Funding Observations.....	21
Funding Issues for Congress.....	22

Figures

Figure 1. Bureau of Diplomatic Security Direct-Hire Staffing, 2000-2012.....	5
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Tables

Table 1. State Department Funds for Embassy and Diplomatic Security, FY2008-FY2015.....	24
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Contacts

Author Contact Information.....	26
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Introduction

The United States maintains approximately 285 diplomatic facilities worldwide.¹ Attacks on such facilities, and on U.S. diplomatic personnel, are not infrequent.² U.S. Ambassador Christopher Stevens and three other U.S. personnel were killed in Benghazi, Libya on September 11, 2012, after armed individuals attacked and burned buildings on the main mission compound and subsequently attacked a second annex site where U.S. personnel had been evacuated.

Five other U.S. Ambassadors have died by violent acts in the line of duty, although none since 1979.³ Since 1977, 66 American diplomatic personnel have been killed by terrorists.⁴

These events, along with recent attacks on U.S. embassies in Egypt, Sudan, Tunisia, Yemen, and Turkey, have drawn renewed attention to the challenges facing U.S. diplomats abroad, as well as to the difficulty in balancing concerns for their security against the outreach required of their mission.

Under reciprocal treaty obligations, host nations are obligated to provide security for the diplomatic facilities of sending states. However, instances in which host nations have been unable or not fully committed to fulfilling this responsibility have sometimes left U.S. facilities vulnerable, especially in extraordinary circumstances. U.S. facilities therefore employ a layered approach to security including not only the measures taken by a host country, but also additional, U.S.-coordinated measures, to include armed Diplomatic Security agents, hardened facilities, U.S.-trained and/or contracted local security guards, and sometimes U.S. Marine Security Guard detachments.

¹ See “Frequently Asked Questions: Diplomatic Security,” at the Department of State’s website: <http://www.state.gov/m/ds/about/faq/index.htm>. While the number of 285 overseas posts appears in various State Department communications, and will therefore be used in this report, other numbers have been cited by official sources, such as in the Benghazi Accountability Review Board report, which states that “DS overall has done a fine job protecting thousands of employees in some 273 U.S. diplomatic missions around the world.” Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, p. 2, <http://www.state.gov/documents/organization/202446.pdf>. On July 16, 2013, Acting Assistant Secretary for Diplomatic Security Gregory Starr testified before the Senate Foreign Relations Committee that “the State Department carries on the business of the American government and its people in 284 locations ...”

² See, for example, the 2014 edition of Department of State Diplomatic Security Bureau’s *Significant Attacks Against U.S. Diplomatic Facilities and Personnel*, for a list and description of “significant” attacks from 1998 to 2013; available at <http://www.state.gov/documents/organization/225846.pdf>. There were 521 attacks on U.S. diplomatic embassies, consulates, or personnel in 92 countries between 1970 and 2012, according to the National Consortium for the Study of Terrorism and Responses to Terrorism (START). The incidents led to nearly 500 deaths. See Erin Miller, *August 2013 Security Threat to Americans Abroad*, The National Consortium for the Study of Terrorism and Responses to Terrorism (START), Background Report, August 2013, p. 3, http://www.start.umd.edu/start/publications/br/STARTBackgroundReport_Aug2013SecurityThreats.pdf.

³ Two additional U.S. Ambassadors died in plane crashes, in Pakistan in 1988 and in Canada in 1950. See U.S. Department of State Office of the Historian, Frequently Asked Questions, <http://www.history.state.gov/about/faq/ambassadors-and-chiefs-of-mission>.

⁴ This total represents the 65 American diplomatic personnel cited by then-Secretary of State Hillary Clinton in testimony before the Senate Foreign Relations Committee on January 23, 2012, as well as Anne Smedinghoff, a Foreign Service Officer killed in Afghanistan on April 6, 2013. The number does not include Locally Employed Staff (non-US nationals) killed while working at U.S. facilities.

The inability to provide perfect security, especially against the evident threat of mob violence, has led some observers to question the deployment of personnel in high-threat environments. The Department of State's Assistant Secretary for Diplomatic Security, testifying in November 2009, underlined that "the Department currently operates diplomatic missions in locations where, in the past, we might have closed the post and evacuated all personnel when faced with similar threats."⁵

The rapid growth in the number of U.S. civilians deployed in the high-risk environments of Iraq, Afghanistan, and Pakistan spurred significant investment in recent years in the Department of State's capacity to provide security in dangerous areas through its Bureau of Diplomatic Security (DS). The challenges of providing security in these war-related areas may have also strained DS's capability to provide security for deployed diplomats in other hardship posts around the world.

Observers have suggested that funding for embassy security follows a "boom and bust" cycle, in which major attacks are followed by a sudden influx of resources that may be difficult to expend in a well-planned manner. An influx of security-related resources in the 1980s, in response to the 1983/1984 bombings in Beirut, Lebanon, was followed by a lull in the 1990s when diplomatic security funding was greatly reduced prior to the 1998 attacks in Kenya and Tanzania. The subsequent State Department Accountability Review Board suggested that the preceding years of reduced spending for embassy security was a contributing factor to the vulnerability of the targeted embassies.⁶

This report provides background information on the authorities, regulations, and procedures in place at the Department of State regarding diplomatic security. It also describes several areas of potential congressional interest, including the Accountability Review Board process, whose conclusions the Secretary of State is required to report to Congress, and discussion of embassy security funding trends. It also examines the September 11, 2012, attack in Benghazi, Libya. The report may be updated to reflect ongoing developments.

Host Nation Responsibility Under the Vienna Conventions

Under the 1963 Vienna Convention on Consular Relations⁷ and the 1961 Vienna Convention on Diplomatic Relations,⁸ nearly all countries around the world participate in reciprocal obligations

⁵ Statement by Ambassador Eric J. Boswell, Assistant Secretary of State for Diplomatic Security, U.S. Department of State, before the U.S. Congress, Senate Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, *The Diplomat's Shield: Diplomatic Security in Today's World*, 111th Cong., 2nd sess., December 9, 2009.

⁶ See Scott Stewart, *Diplomatic Security in Light of Benghazi*, Stratfor, September 27, 2012, <http://www.stratfor.com/weekly/diplomatic-security-light-benghazi>, and Fred Burton and Scott Stewart, *Counterterrorism Funding: Old Fears and Cyclical Lulls*, Stratfor, March 18, http://www.stratfor.com/weekly/20090318_counterterrorism_funding_old_fears_and_cyclical_lulls.

⁷ The 1963 Vienna Convention on Consular Relations can be accessed at http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf.

⁸ The 1961 Vienna Convention on Diplomatic Relations can be accessed at http://untreaty.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf.

regarding the diplomatic facilities of other countries in their territory. The United States is a state party to these conventions.⁹

Section 3 of Article 31 of the 1963 Vienna Convention on Consular Relations, “Inviolability of the consular premises,” states that, other than in the case of fire or other disaster requiring prompt protective action, “the receiving State is under a special duty to take all appropriate steps to protect the consular premises against any intrusion or damage and to prevent any disturbance of the peace of the consular post or impairment of its dignity.” Article 40 of the same Convention further states that “the receiving State shall treat consular officers with due respect and shall take all appropriate steps to prevent any attack on their person, freedom or dignity.”

An attack on an Ambassador is also covered under Article 29 of the 1961 Convention on Diplomatic Relations, which states “The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.”

The grounds of diplomatic missions are protected under the 1961 Vienna Convention on Diplomatic Relations. Article 22 (Section 1-3) of the Convention states:

1. The premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission.
2. The receiving State is under a special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity.
3. The premises of the mission, their furnishings and other property thereon and the means of transport of the mission shall be immune from search, requisition, attachment or execution.

U.S. Responsibilities and Posture

The protection of U.S. government employees and facilities under Chief of Mission (COM) authority overseas from terrorist, criminal, or technical attack is the responsibility of the Secretary of State, as designated under the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.¹⁰

The act specifies that the Secretary of State must develop and implement (in consultation with the heads of other federal agencies having personnel or missions abroad where appropriate and within the scope of the resources made available) policies and programs, including funding levels and standards, to provide for the security of U.S. government operations of a diplomatic nature and foreign government operations of a diplomatic nature in the United States.

⁹ The conventions are nearly universally adopted; for example, Egypt, Libya, and Tunisia are also states party.

¹⁰ 22 U.S.C. §4801 et seq., P.L. 99-399.

Within the department, the Secretary has delegated these responsibilities to the Assistant Secretary for Diplomatic Security.¹¹ The Assistant Secretary, who heads the Bureau for Diplomatic Security (DS), is responsible for, among other tasks:

1. Establishing and operating post security and protective functions abroad;
2. Emergency planning abroad;
3. Establishing and operating local guard services abroad;
4. Supervising the U.S. Marine Corps security guard program;
5. Liaising with U.S. private-sector security interests abroad;
6. Developing and coordinating counterterrorism planning, emergency action planning abroad, threat analysis programs, and liaison with other federal agencies to carry out these functions;
7. Developing and implementing technical and physical security programs, including security-related construction, radio, and personnel security communications, armored vehicles, computer and communications security, and research programs necessary to develop such measures.¹²

The mission of developing and implementing security policies and programs that provide for the protection of all U.S. government personnel (including accompanying dependents) on official duty abroad is executed through the DS, also established by the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.¹³

The DS provides protection to personnel, information, and facilities at over 273 embassies and consulates,¹⁴ and over 100 domestic Department of State locations.¹⁵ According to its website, “every diplomatic mission in the world operates under a security program designed and maintained by Diplomatic Security.”¹⁶

The bureau is staffed by more than 34,000 employees worldwide—with roughly 90% of them contractors.¹⁷ Out of a total force of special agents of approximately 2,000, DS has nearly 800 special agents posted in regional security offices at over 250 posts worldwide. Its reach to diplomatic missions in 157 countries makes it the most widely represented American security and law enforcement organization around the world, according to its website.

¹¹ See “Diplomatic Security Senior Leadership” at <http://www.state.gov/m/ds/rls/bio/index.htm>.

¹² See 1 FAM 260 Bureau of Diplomatic Security (DS), <http://www.state.gov/documents/organization/84179.pdf>.

¹³ 22 U.S.C. §4801 et seq., P.L. 99-399.

¹⁴ Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, <http://www.state.gov/documents/organization/202446.pdf>, p. 2.

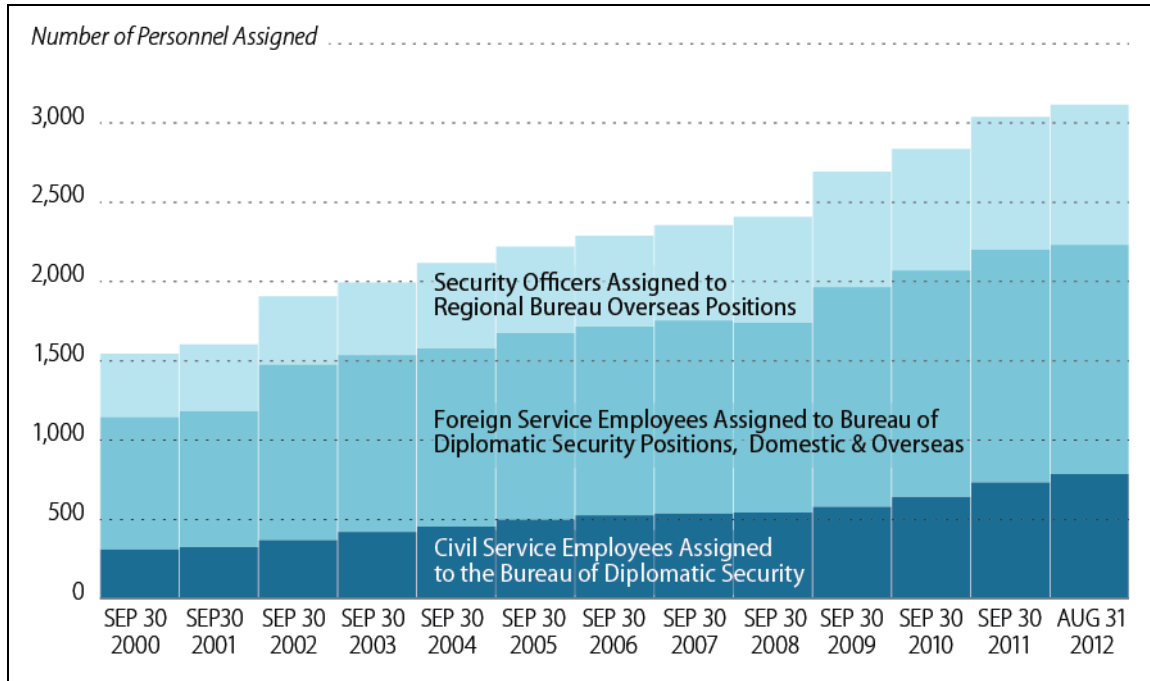
¹⁵ U.S. Government Accountability Office, *Diplomatic Security: Expanded Missions and Inadequate Facilities Pose Critical Challenges to Training Efforts*, GAO-11-780T, June 29, 2011, p. 1, <http://www.gao.gov/products/GAO-11-780T>.

¹⁶ See “Bureau of Diplomatic Security,” <http://www.state.gov/m/ds/index.htm>.

¹⁷ U.S. Government Accountability Office, *State Department: Diplomatic Security’s Recent Growth Warrants Strategic Review*, GAO-10-156, December 7, 2009, p. 21, <http://www.gao.gov/new.items/d10156.pdf>.

The Bureau of Diplomatic Security’s workforce, excluding contractors, more than doubled between September 2000 and August 2012, as shown in **Figure 1**.¹⁸

Figure 1. Bureau of Diplomatic Security Direct-Hire Staffing, 2000-2012
(Does not include contractors)



Source: Department of State information provided to CRS, November 26, 2012.

Notes: Roughly 90% of the Bureau of Diplomatic Security (DS) workforce is composed of contractors, not displayed here. Direct hire employees within the workforce of the DS Bureau include Civil Service employees under the DS Bureau; Foreign Service personnel under the DS Bureau (assigned to domestic DS positions as well as DS positions overseas, including Security Officers assigned domestically, Security Engineers worldwide, Security Technical Specialists worldwide, and Diplomatic Couriers worldwide); and Security Officers serving overseas in positions belonging to the department’s regional bureaus, including Special Agents that serve overseas as Regional or Assistant Regional Security Officers or Assistant Regional Security Officer-Investigators.

When serving abroad, DS special agents are referred to as regional security officers (RSOs). RSOs’ responsibilities include not only managing security programs and formulating emergency contingency plans, but also providing the first line of defense for U.S. personnel and dependents, as well as facilities and sensitive information. RSOs are the primary advisor to the Chief of Mission (usually the Ambassador) on all security matters.

In performing their functions, RSOs work closely with other groups including Marine Security Guards, surveillance detection teams, local guards, cleared American guards, local investigators, and host government officials. DS also provides Mobile Security Teams, dispatched from Washington, DC, to high-threat posts to conduct training for embassy personnel, their dependents, and local guards in protective tactics, as well as providing emergency security support, including protective security for COMs, surveillance detection operations, and assistance with post evacuations. DS also provides specially trained agents to lead contractor-provided personal

¹⁸ Department of State information provided to CRS, November 26, 2012.

protection teams and guard services in areas of ongoing conflict, where the host nation is unable or unwilling to provide the required level of security. In extreme situations, U.S. military assistance can be provided to the RSOs in the form of combat-equipped Fleet Anti-Terrorism Security Teams (FAST) provided by regional commanders.

Assessing the Threat

In an average year, DS receives over 1,000 threats and incidents against U.S. interests overseas.¹⁹ The security posture of each U.S. diplomatic facility varies based on the Department of State's assessment of local conditions.²⁰ Regular reviews of threats to posts are conducted by the State Department. As part of this security review process, RSOs are required to inspect the physical security at each work facility every three years and to inspect potential properties before State Department acquisition.²¹ Senior officials stated that all posts were required to review their security posture in advance of the 9/11/12 anniversary, and in the wake of the attack on the U.S. interim facilities in Benghazi, Libya, all diplomatic posts were reportedly again ordered to review their security posture and to take all necessary steps to enhance it if necessary.²²

The process of resource allocation to specific posts is based on a set of security indicators called the Security Environment Threat List (SETL). 22 U.S.C. §4865, "Security requirements for United States diplomatic facilities," requires that the list

shall contain a section that addresses potential acts of international terrorism against United States diplomatic facilities based on threat identification criteria that emphasize the threat of transnational terrorism and include the local security environment, host government support, and other relevant factors such as cultural realities. Such plan shall be reviewed and updated every six months.

Based on the SETL, DS, in consultation with other agencies, assigns threat levels to each post. According to the Government Accountability Office (GAO), six threat categories inform the SETL, including terrorism, political violence, and residential and non-residential crime. A rating is then assigned for each category, on a four-level scale.

- Critical: grave impact on American diplomats
- High: serious impact on American diplomats
- Medium: moderate impact on American diplomats
- Low: minor impact on American diplomats

¹⁹ See "Analyzing the Threat," Department of State Bureau of Diplomatic Security website, <http://www.state.gov/m/ds/about/overview/c9006.htm>.

²⁰ Transcript, Department of State Press Briefing, September 13, 2012, <http://www.state.gov/r/pa/prs/dpb/2012/09/197729.htm>.

²¹ U.S. Government Accountability Office, *Diplomatic Security: Overseas Facilities May Face Greater Risks Due to Gaps in Security-Related Activities, Standards, and Policies*, GAO-14-655, June 25, 2014, p. 16, <http://www.gao.gov/products/GAO-14-655>.

²² Transcript, State Department Briefing to Update on Recent Events in Libya, September 12, 2012, <http://iipdigital.usembassy.gov/st/english/texttrans/2012/09/20120912135895.html>.

The protective measures for each post are dictated by the post's overall threat level.²³ As of February 2012, over 50% of all posts were considered "critical" or "high" under the terrorism category of threat assessment.²⁴

Prior to the Benghazi attack, the Department of State had been reviewing the SETL threat ratings with an eye toward better determining "the ratio between threat and vulnerability at diplomatic facilities overseas."²⁵ DS increasingly provides security support at greater distances from capital cities and traditional embassy platforms, according to Department of State documents, "often in places and situations where the Security Environment Threat List and the security standards did not foresee today's realities." DS is therefore "developing guidelines whereby diplomatic facilities in contingency zones and other non-traditional platforms can be recognized as 'critical plus,'" which would require innovative security solutions or waivers of existing standards.²⁶

Physical Security at U.S. Diplomatic Facilities

While security arrangements for specific locations or individuals are not made public by the Department of State, diplomatic facilities typically rely on a combination of an outer layer of host nation-provided and/or contract guard forces,²⁷ physical perimeter security, and State Department agents or contractors. These arrangements are overseen by the department's Bureau of Diplomatic Security (DS) and the deployed Regional Security Officer (RSO).

Reporting to the Director of Diplomatic Security, the U.S. Marine Security Guard posted detachments to 152 U.S. diplomatic facilities around the world as of September 2012; 35 new Marine Guard detachments were requested by the department after the Benghazi attacks. Still, Marine Corps guards are thus present at many, but not all U.S. diplomatic facilities.²⁸ Until recently, the primary mission of these specially trained Marines was primarily to prevent the compromise of classified U.S. government information and equipment. A secondary role was the protection of U.S. citizens at those facilities during crises. However, after the Benghazi attack, the memorandum of agreement between the Department of State and the Marine Corps was renegotiated, and the new mandate emphasizes protection of personnel as a primary mission of the Marine Corps Security Guards.²⁹ The detachments, when deployed, are under civilian

²³ U.S. Government Accountability Office, *State Department: Diplomatic Security's Recent Growth Warrants Strategic Review*, GAO-10-156, December 7, 2009, pp. 7-8, <http://www.gao.gov/new.items/d10156.pdf>.

²⁴ United States Department of State and the Broadcasting Board of Governors Office of Inspector General, "Review of Best-Value Contracting for the Department of State Local Guard Program and the Utility of Expanding the Policy Beyond High-Threat Posts in Iraq, Afghanistan, and Pakistan." Report Number AUD/CG-12-27, February 2012, <http://oig.state.gov/documents/organization/185288.pdf>, p. 6 (footnote 7).

²⁵ State Department FY2013 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 417.

²⁶ State Department FY2013 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 66.

²⁷ As of August 1, 2011, 104 posts had active local guard contracts. United States Department of State and the Broadcasting Board of Governors Office of Inspector General, "Review of Best-Value Contracting for the Department of State Local Guard Program and the Utility of Expanding the Policy Beyond High-Threat Posts in Iraq, Afghanistan, and Pakistan." Report Number AUD/CG-12-27, February 2012, <http://oig.state.gov/documents/organization/185288.pdf>, Appendix A, p. 15.

²⁸ U.S. Marine Corps information provided to CRS, September 14, 2012. As of March 2010, there were over 1,300 Marine Corps guards deployed worldwide. See "United States Marine Security Guards: Safeguarding Missions Around the World," U.S. Department of State Bureau of Diplomatic Security Public Affairs, March 2010, <http://www.state.gov/documents/organization/138440.pdf>.

²⁹ U.S. Congress, Senate Foreign Relations Committee, *Hearing on S. 980, "Chris Stevens, Sean Smith, Tyrone Woods* (continued...)

authority at all times, under a chain of command which includes the RSO and ultimately the Chief of Mission.³⁰

Some observers have suggested that while any number of physical threats are taken into consideration by State Department planners, the threat of mob violence over a sustained time period is one that no facility, no matter how well fortified, can defeat in the absence of protection from the host nation's security forces.³¹

Embassy Security Construction

The coordinated bombings of the U.S. embassies in Kenya and Tanzania in 1998 spurred a period of intense congressional scrutiny of embassy construction. At that time, the Department of State determined that 195 (80%) of its overseas facilities did not meet security standards and should be replaced.³² In response, a funding program codified in the Secure Embassy Construction and Counterterrorism Act of 1999 (SECCA)³³ provided for the following:

- the authorization of five years of funding at \$900 million each year for Worldwide Security in the State Department's Embassy Security Construction and Maintenance Account (ESCM), as well as additional funds for Worldwide Security in the Diplomatic and Consular Programs account covering security upgrades at posts such as improved doors and windows, computer and software security improvements, purchase of secure vehicles, and other items.
- an accompanying five-year requirement that the Secretary of State submit to Congress each year a prioritized list identifying each diplomatic facility or diplomatic or consular post and compound in need of replacement or for any major security enhancements.
- a requirement that embassy emergency action plans address the threat of large explosive attacks from vehicles.
- new facilities (constructed after November 1999) would be required to:

(...continued)

and Glen Doherty *Embassy Security and Personnel Protection Act of 2013*" (*Hearing and markup*), 113th Cong., July 16, 2013.

³⁰ 10 U.S.C. 5983 authorizes the assignment of Navy personnel to Foreign Service posts under the direct operational control of the chiefs of diplomatic missions or principal officers, or their designees, and provides the basic authority for the Memorandum of Agreement (MOA) dated August 1, 1967, between the Department of State and Department of Defense, which authorizes the Department of State and the U.S. Marine Corps to develop, execute, and issue such policy instructions as may be required from time to time to implement their joint responsibilities in support of the Marine Security Guard (MSG) Program. The MOA dated January 9, 2001, between the Department of State and the U.S. Marine Corps delineates authorities, responsibilities, and other terms between the Marine Corps and the Department in support of the MSG Program. As noted in the text, the memorandum has apparently been renegotiated since the Benghazi attack.

³¹ Scott Stewart, *U.S. Diplomatic Security in Iraq After the Withdrawal*, Stratfor, December 22, 2011, <http://www.stratfor.com/weekly/us-diplomatic-security-iraq-after-withdrawal>.

³² State Department FY2014 Congressional Budget Justification, Vol. 1, Department of State Operations, p. 393. Gregory Starr, Acting Assistant Secretary for Diplomatic Security, testified before the Senate Foreign Relations Committee on July 16, 2013, that the number of facilities found at the time of the Africa bombings to require more secure replacements was 175.

³³ H.R. 3427, which was enacted as Title VI of Appendix G of P.L. 106-113.

- be on large enough sites to accommodate all non-military U.S. government personnel in one place (the “co-location” requirement), and
- ensure that any new facility would be no less than 100 feet from the embassy or consulate compound’s perimeter (the “set back” requirement).

Given this additional funding stream and heightened priority, the State Department in May 2001 elevated what had been the Office of Foreign Buildings Operations to a Bureau of Overseas Buildings Operations (OBO), led by an Assistant Secretary-equivalent Director/Chief Operating Officer, reporting directly to the Under Secretary of State for Management. OBO’s responsibility is to direct the worldwide overseas building programs for all federal employees serving under the authority of the Chief of Mission in a country. With the Bureau of Diplomatic Security, OBO determines the security priority status of U.S. diplomatic facilities around the world and the steps needed to bring the facilities into compliance with State Department security standards.

In 2001, under pressure to expedite the unprecedented, \$21 billion construction program it began after the 1998 embassy bombings, the Department of State sought to use standardization to accelerate the delivery of new diplomatic facilities. OBO embraced a new Standard Embassy Design (SED) for new chanceries and consulates, in which new diplomatic compounds would be built based on one of three categories: small, medium, and large facilities, each with a pre-engineered design featuring high fences and 100-foot setbacks, as required by SECCA.³⁴ The SED provided plans for the site, the main office building, annex buildings, perimeter protection, warehouse, shops, utility buildings, recreation centers, and Marine Security Guard quarters. The OBO contended that the pre-engineered plans reduced costs, expedited construction, and enhanced quality.

Over 100 embassies were reportedly designed and built using the SED strategy.³⁵ However, some critics of the SED designs suggested that the highly secure facilities present an unappealing, closed, unwelcoming, fortress image of the United States. Critics also argued that designs tended to push U.S. facilities away from urban centers (largely because SEDs, in implementing SECCA-mandated setback and co-location requirements, required large footprints, often available only in remote locations), making it more difficult for diplomats to do their work and for local officials and publics to engage with U.S. officials and programs. In short, the SED facilities were not only constraining U.S. diplomatic activity, critics argued; they were unable to uphold their representational role as demonstrations of the best the United States had to offer.³⁶

Starting in 2010, OBO moved away from the Standard Embassy Design concept and introduced a new building initiative called Design Excellence (also referred to as the Excellence Initiative), inspired by a similar initiative launched by the General Services Administration in 1994 to improve the quality and civic value of domestic federal buildings. According to budget documents, the initiative was introduced “to ensure that every project serves the interests of U.S. diplomacy, meets or exceeds the highest quality industry building standards as well as mandated security standards, and provides the best value to the U.S. taxpayer.”³⁷

³⁴ U.S. General Accounting Office, *Embassy Construction: State Department Has Implemented Management Reforms, but Challenges Remain*, GAO-04-100, November 2003, pp. 12-14, <http://www.gao.gov/new.items/d04100.pdf>.

³⁵ William Miner, former director of the OBO design and engineering office, as quoted in Edward T. Pound, “Report details enduring flaws in State Dept. diplomatic security,” *Al Jazeera America*, May 5, 2014.

³⁶ Jane C. Loeffler, “Beyond the Fortress Embassy,” *Foreign Service Journal*, December 2012, p. 21.

³⁷ State Department FY2015 Congressional Budget Justification, Appendix 1: Department of State Operations, p. 354.

While continuing to prioritize security, the Excellence program moves away from uniformity and emphasizes site-specific architectural features and environmental considerations. Rather than placing U.S. facilities on large real estate plots outside of cities, embassies and consulates would, by their location in urban areas, “contribute to the civic and urban fabric of host cities.” Designs would be “welcoming”; responsive to local culture; and would use “contextually appropriate and durable materials.”³⁸ The first project slated to be fully completed under this new approach is the new embassy compound in Mexico City, due for completion in 2019.³⁹

The impact of the Benghazi attacks on the Department of State’s Design Excellence concept has been debated, including in a July 10, 2014, hearing of the House Committee on Oversight and Government Reform.⁴⁰ While State Department officials insist that Design Excellence places “paramount” importance on security considerations,⁴¹ a panel recommended by the post-Benghazi Accountability Review Board has criticized the initiative.⁴² The panel, led by former Under Secretary of State for Management Grant Green (himself an advocate and implementer of the SED), provided its report to the Department of State in May 2013. The report suggests that the entire design excellence approach be the subject of a detailed review focusing on its security implications.⁴³ The panel reportedly found that DS officials had a number of reservations about the Design Excellence approach, in particular in comparison to SED, including

- the absence of a business case or cost-benefit analysis supporting Design Excellence;
- Design Excellence facilities would take longer to be built than SED facilities, and therefore leave more personnel vulnerable for longer;
- Design Excellence facilities would require greater scrutiny by overstretched diplomatic security officials to determine and deploy appropriate security measures; and could cause steeper learning curves for transferring officials; and
- smaller sites in urban locations prized by Design Excellence could pose greater security risks.

Concern about the new approach is reportedly not limited to DS. William Miner, the retired former director of the OBO’s design and engineering office, publicly confirmed DS’s concern and registered his own opposition to the design excellence initiative, suggesting that while the SED initiative had been too focused on security and safety, the new approach risked going too far towards aesthetics. Miner expressed concern regarding the non-standard glass curtain wall facade

³⁸ See “Design Excellence: Overview,” Department of State Bureau of Overseas Building Operations, May 2011, http://overseasbuildings.state.gov/files/pdfs/design_excellence.pdf.

³⁹ Loeffler, op.cit., p. 26.

⁴⁰ U.S. Congress, House Committee on Oversight and Government Reform, *Examining New Embassy Construction: Are New Administration Policies Putting Americans Overseas in Danger?*, 113th Cong., July 10, 2014.

⁴¹ “Design Excellence: Overview,” Department of State, May 2011 op. cit..

⁴² For more information on the post-Benghazi Accountability Review Board, see CRS Report R43195, *Securing U.S. Diplomatic Facilities and Personnel Abroad: Legislative and Executive Branch Initiatives*, by Alex Tiersky.

⁴³ The Green report was not released publicly by the Department of State. *Al Jazeera America* posted to its website what it described as a copy of the report, *Report on Diplomatic Security Organization and Management*, here: <http://s3.documentcloud.org/documents/1153797/report-diplomatic-security.pdf>.

planned for the new U.S. embassy in London—a feature most would agree is in line with the Design Excellence approach, even if it technically pre-dates it—calling it “fragile.”⁴⁴

According to the State Department, OBO’s efforts have, since 2000, “delivered 111 new diplomatic facilities, enabling over 30,300 U.S. government employees to move into more safe, secure and functional facilities.”⁴⁵ However, in July 2013, the then-acting Assistant Secretary for Diplomatic Security testified that sub-standard facilities at roughly 110 posts need to be replaced with more secure buildings and 15 of the so-called high-threat posts lack facilities meeting security standards first set out after the 1983/1984 Beirut bombings.⁴⁶

Incident Response

When faced with a deteriorating security environment or in the aftermath of a major security incident, a number of measures are at the disposal of Department of State officials to protect U.S. personnel and U.S. citizens more broadly. These range from travel warnings, to the temporary evacuation of Americans (diplomatic personnel, their dependents, and U.S. citizens as a whole), to closure of a post.

August 2013 U.S. Embassy Closures

In response to specific intelligence warning of possible terrorist activity, the Department of State closed 19 U.S. embassies and consulates August 5-10, 2013.⁴⁷ The department also issued a Worldwide Travel Alert to U.S. citizens alerting them to the potential for terrorist attacks.⁴⁸ Official statements suggested that the measure was taken precautionary closures were ordered “out of an abundance of caution and care for our employees and others who may be visiting our installations.”⁴⁹

Such a step was not unprecedented, according to the department’s spokesperson, who cited several previous multiple-embassy closings: September 11, 2002, when four embassies were closed after the department received “specific and credible threats;” September 12, 2001, when an unspecified number of embassies overseas were closed after the 9/11/01 attacks; June 1999, when six embassies in African countries were closed for three days “because of security concerns;” and December 1998, when 38 embassies in Africa were closed for two days “to protect employees against possible terrorist attacks.”⁵⁰

Out of the 19 posts that were closed by the department in August 2013, only 4 were reportedly designated as high threat.⁵¹

⁴⁴ The new U.S. Embassy is anticipated to be completed in 2017. Edward T. Pound, “Report details enduring flaws in State Dept. diplomatic security,” *Al Jazeera America*, May 5, 2014.

⁴⁵ *Ibid.*

⁴⁶ Testimony of Gregory Starr, Acting Assistant Secretary for Diplomatic Security, before the Senate Foreign Relations Committee, July 16, 2013.

⁴⁷ The August 4, 2013, announcement by the Department of State of the embassy and consulate closures, and list of posts affected, is available at <http://www.state.gov/r/pa/prs/ps/2013/08/212660.htm>.

⁴⁸ The August 2, 2013, Worldwide Travel Warning is available at http://travel.state.gov/travel/cis_pa_tw/pa/pa_6042.html.

⁴⁹ See, for example, the statement posted on the website of the U.S. Embassy in Dhaka, Bangladesh, available at <https://www.osac.gov/Pages/ContentReportDetails.aspx?cid=14309>.

⁵⁰ Marie Harf, Deputy Spokesperson, Department of State, Daily Press Briefing, August 5, 2013.

⁵¹ Department of State, *Report of the Independent Panel on Best Practices*, as released by Al Jazeera America, September 4, 2013, p. 13, <http://america.aljazeera.com/articles/2013/9/3/exclusive-benghazireportdetailssecurityflawsatusdiplomaticposts.html>.

Temporary U.S. Personnel and/or Citizen Evacuation

The State Department, depending on local conditions, may recommend that diplomatic staff or dependents, or all U.S. citizens, leave the foreign country.

Should local situations become unpredictable or unmanageable, a Chief of Mission may, upon the approval of the Under Secretary of State for Management, order an “Authorized Departure” for a given post. Such a step allows families of post employees and/or non-essential staff to depart on a voluntary basis and provides some flexibility in determining which employees or groups of employees may depart.

Authorized Departure is an intermediate step in the events leading up to an Ordered Departure, or drawdown, of diplomatic mission personnel and their dependents. Ordered Departure is initiated in extraordinary circumstances when the embassy or consulate is no longer confident of the security of its personnel and families. Implementation of this status mandates the departure of all non-emergency mission staff and employees. Ordered Departure may be initiated by the Chief of Mission or the Secretary of State.⁵²

For evacuation of U.S. citizens who are not post/mission employees or their dependents, the department may, in certain exceptional cases, provide departure assistance.⁵³ The department encourages the use of existing commercial transportation options whenever possible and provides U.S. citizens with information on these options. Where the local transportation infrastructure is compromised, the department tries to arrange chartered or non-commercial transportation for U.S. citizens to evacuate. Involvement of the U.S. military in any evacuation is, the department emphasizes, a last resort; most evacuations employ commercial means and local infrastructure.⁵⁴ The cost of any assistance is, by law, required to be provided “on a reimbursable basis to the maximum extent practicable.”⁵⁵ This means that evacuation costs are generally the responsibility of the U.S. citizen evacuated, who is asked to commit in writing to repayment of the U.S. government. Emergency financial assistance may be available for destitute evacuees.

Changing the Status of a Foreign Post

The Benghazi attack highlighted the dangerous environment in which some diplomatic posts operate, and raised questions about the decision-making processes behind situating diplomatic representations in high-threat locations and exposing U.S. personnel to heightened risks. According to Department of State regulations, a decision to open, close, or change the status of an embassy is made by the President; for lower-level representations such as consulates, the State

⁵² See <https://www.osac.gov/pages/ResourceLibraryDetails.aspx?cid=3262> and 3 FAM 3770 at <http://www.state.gov/documents/organization/85108.pdf>.

⁵³ See “Emergencies and Crises” at http://travel.state.gov/travel/tips/emergencies/emergencies_1212.html.

⁵⁴ Instances in which the U.S. military contributes to an evacuation of U.S. citizens are termed noncombatant evacuation operations (NEO) by the Department of Defense (DOD). In an NEO, DOD personnel assist the Department of State in evacuating US citizens, DOD civilian personnel, and designated host nation and third country nationals whose lives are in danger from locations in a foreign nation to an appropriate safe haven. During NEOs, the US ambassador, not the geographic combatant commander or subordinate joint force commander, is the senior USG authority for the evacuation. See United States Joint Chiefs of Staff, *Noncombatant Evacuation Operations*, Joint Publication 3-68, December 23, 2010, http://www.dtic.mil/doctrine/new_pubs/jp3_68.pdf.

⁵⁵ 22 U.S.C. §2671(b) (2) (A).

Department's Under Secretary for Management may determine its status. Proposals to modify the status of a post are usually made by the Assistant Secretary of the regional bureau concerned.⁵⁶ After the Benghazi attack, the department revised its procedures regarding the opening or reopening of a Critical Threat or High Risk High Threat Post. Under the new regulations, such an action would require the establishment of multi-bureau planning, implementation and support cells. These cells are designed to ensure proper thought has been given to key questions (including security concerns) prior to the post's opening, and that once open, the posts are properly resourced.⁵⁷

Accountability Review Boards

The Accountability Review Board (ARB) process was first recommended by the 1985 Advisory Panel of Overseas Security led by Admiral Inman, which recommended that "Foreign Service Regulations be promulgated to require the Secretary of State to convene a Board of Inquiry with powers of establishing accountability in all cases involving terrorism or security related attacks that result in significant damage and/or casualties to United States personnel or property."⁵⁸ This recommendation was codified by the Omnibus Diplomatic Security and Antiterrorism Act of 1986, as amended.⁵⁹

The act requires the Secretary of State to convene an Accountability Review Board after a security-related incident, defined by the act as "any case of serious injury, loss of life, or significant destruction of property at or related to a U.S. Government mission abroad, or a case of a serious breach of security involving intelligence activities or a foreign government directed at a U.S. mission abroad (other than a facility or installation subject to the control of a U.S. area military commander)."⁶⁰ Exceptions are made for incidents determined by the Secretary of State as not relating to security, and for facilities in Afghanistan and Iraq.

The objective of such Boards, according to State's regulations, is "to foster more effective security of U.S. missions and personnel abroad by ensuring a thorough and independent review of security-related incidents.... the Board seeks to determine accountability and promote and encourage improved security programs and practices."⁶¹

Nineteen Accountability Review Boards have reportedly been empanelled since 1986.⁶² These have included ARBs on, for example, the August 1998 embassy bombings in Kenya and

⁵⁶ 2 FAM 400, "Opening, Closing or Changing the Status of a Foreign Post," <http://www.state.gov/m/a/dir/regs/fam/02fam/0400/index.htm>.

⁵⁷ See 2 FAM 423, "Opening Or Reopening A Critical Threat Or High Risk, High Threat Post," <http://www.state.gov/documents/organization/210051.pdf>.

⁵⁸ Report of the Secretary of State's Advisory Panel on Overseas Security (the Inman Report), http://www.state.gov/www/publications/1985inman_report/inman2.html#accountability.

⁵⁹ 22 U.S.C. §4831.

⁶⁰ 22 U.S.C. §4831(a)(1).

⁶¹ See U.S. Department of State Foreign Affairs Manual Volume 12 - Diplomatic Security, 12 FAM 030, Accountability Review Board (ARB), <http://www.state.gov/documents/organization/88323.pdf>.

⁶² *Reuters* reported that the Benghazi ARB is the 19th accountability review board convened by the State Department since 1988 to investigate attacks on U.S. diplomatic facilities. See "Panel seeks accountability after Benghazi attacks," Tabassum Zakaria and Susan Cornwell, *Reuters*, December 05, 2012, http://articles.chicagotribune.com/2012-12-05/news/sns-rt-us-libya-usa-reviewbre8b4075-20121204_1_accountability-review-board-security-requests-embassy-security.

Tanzania, and the deaths of three Defense Department personnel serving in the U.S. Embassy in Pakistan in February 2010. However, most attacks are not the subject of an ARB; for instance, while by one accounting 273 “significant” attacks against U.S. diplomatic facilities and personnel took place between 1998 and 2012, only 12 ARBs were conducted during that time.⁶³

Past Reviews of Diplomatic Security: The 1985 Inman Report and 1998 ARB

In the wake of the 1983-1984 bombings of U.S. facilities in Beirut, Lebanon, the Department of State formed an Advisory Panel on Overseas Security. The panel, chaired by retired Admiral Bobby Inman, is often referred to as the Inman Commission.⁶⁴ Its June 1985 security recommendations included the creation of the Bureau for Diplomatic Security; improvements in State’s protective intelligence, threat analysis, and alerting procedures; improvements in training for Foreign Service personnel and dependents; improvements in contingency planning at posts; assigning Marine Security Guard detachments to all highly sensitive posts; revising the Diplomatic Security Service physical security standards; pursuing a substantial building program to correct security deficiencies, in particular regarding perimeter security; and initiating a capital budgeting procedure to avoid security improvement delays due to budgetary reasons. The panel also offered a number of classified recommendations. The Advisory panel identified 126 facilities with inadequate security. The Inman standards added a “security premium” to the cost of embassy construction and refurbishment in the range of 10%-15%, according to a State Department official.⁶⁵

The Accountability Review Board established in October 1998 to investigate the coordinated bombings of the U.S. embassies in Kenya and Tanzania was chaired by Admiral William Crowe, who had served as Chairman of the Joint Chiefs of Staff and Ambassador to the United Kingdom. The ARB affirmed that security provisions at the attacked posts had been appropriate for the level of the assessed threat; the embassy in Nairobi was considered a moderate risk post, while the embassy in Dar es Salaam was considered a low risk post. The ARB concluded that the bombings had been successful in part because insufficient appropriations had been made to implement the earlier Inman Commission recommendations; Admiral Crowe estimated that 80% of U.S. diplomatic facilities around the world still did not meet the Inman Commission standards.⁶⁶ Among the board’s recommendations were bringing U.S. overseas facilities up to the Inman standards and boosting funding for security at U.S. overseas facilities to approximately \$1.4 billion per year over an approximate 10-year period.

The act specifies that a Board is to be convened not later than 60 days after the occurrence of an incident, although the Secretary can extend this for an additional 60 days if she determines that the additional period is necessary for the convening of the Board. A written decision by the Secretary of State to convene the Board, specifying its membership and duration, as well as its purposes and jurisdiction, is published in the *Federal Register*, or other similar document, if deemed appropriate by the Secretary.

On forming a Board, the Secretary is also required to promptly inform the chairman of the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives that the Board has been convened, the membership of the Board, and other appropriate information about the Board.

The written findings of an ARB are to include

⁶³ Department of State, *Report of the Independent Panel on Best Practices*, as released by Al Jazeera America, September 4, 2013, p. 13, <http://america.aljazeera.com/articles/2013/9/3/exclusive-benghazi-report-details-security-flaws-at-diplomatic-posts.html>. See also Eric Schmitt, “Diplomatic Security Must Be Priority at State Dept., Panel Says,” *The New York Times*, September 4, 2013.

⁶⁴ The unclassified elements of the report of the Advisory Panel on Overseas Security (the ‘Inman panel’) are available here: http://www.state.gov/www/publications/1985inman_report/inman1.html.

⁶⁵ As quoted in Shaun Waterman, “Benghazi attack followed deep cuts in State Department security budget,” *The Washington Times*, September 27, 2012, <http://www.washingtontimes.com/news/2012/sep/27/benghazi-attack-followed-deep-cuts-in-state-depart/?page=all>.

⁶⁶ Admiral William Crowe, as quoted in transcript, PBS NewsHour, January 8, 1999, http://www.pbs.org/newshour/bb/africa/jan-june99/bombings_1-8.html.

1. the extent to which the incident or incidents with respect to which the Board was convened was security related;
2. whether the security systems and security procedures at that mission were adequate;
3. whether the security systems and security procedures were properly implemented;
4. the impact of intelligence and information availability; and
5. such other facts and circumstances which may be relevant to the appropriate security management of United States missions abroad.⁶⁷

The recommendations of previous Boards have not been made public, other than the unclassified version of the Crowe ARB empanelled to study the 1998 Embassy attacks.⁶⁸ The ARBs do not report directly to Congress. However, executive branch officials are required to report to Congress the recommendations of the ARB as follows:

- any recommendations made by the Board to the Secretary of State to improve the security and efficiency of any program or operation which the Board has reviewed, must be reported by the Secretary to Congress no later than 90 days after the receipt of such recommendations, including any action taken with respect to that recommendation.
- should the Board find any breach of duty by U.S. personnel, the Board notifies the head of the appropriate federal agency or instrumentality, who shall, not later than 30 days after the receipt of that finding, transmit to Congress a report specifying the nature of the case and a summary of the evidence transmitted by the Board; and the decision by the federal agency or instrumentality to take disciplinary or other appropriate action against that individual or the reasons for deciding not to take disciplinary or other action with respect to that individual.⁶⁹

The Attack in Benghazi, Libya, on September 11, 2012

Embassy Security and the Benghazi Attack⁷⁰

Ambassador Christopher Stevens and three other U.S. personnel (Sean Smith, Tyrone Woods, and Glen Doherty) were killed in an attack on the U.S. Special Mission Compound (SMC) and Annex in Benghazi, Libya on September 11, 2012. The attack resulted in the destruction and

⁶⁷ 22 U.S.C. §4834.

⁶⁸ The Crowe Accountability Review Board Report is available here: http://1997-2001.state.gov/www/regions/africa/accountability_report.html.

⁶⁹ 22 U.S.C. §4834.

⁷⁰ For additional information on Libya and analysis of the September 11, 2012, attack, see CRS Report RL33142, *Libya: Transition and U.S. Policy*, by Christopher M. Blanchard. For more information on other attacks on U.S. facilities and interests in Muslim countries, see CRS Report R42743, *Recent Protests in Muslim Countries: Background and Issues for Congress*, coordinated by Christopher M. Blanchard.

abandonment of the U.S. facilities. The State Department initially stated that U.S.-provided security was robust, consistent with other small missions in similar environments, and that Libyan guards fought the attackers alongside U.S. personnel.⁷¹ Ongoing congressional inquiries have focused on a number of questions, including whether sufficient resources were provided to protect the facilities and personnel in the context of an increasingly threatening security situation which led to the closure of the British consulate in Benghazi, among other international facilities.

According to DS Bureau documents, a DS team was deployed to Benghazi in 2011 to establish a diplomatic presence there after the Embassy in Tripoli had closed due to deteriorating security. The team first established a temporary location; after subsequently identifying a more secure location, DS moved department personnel to a large villa compound which, according to DS, “significantly enhanced the security of all U.S. personnel in Benghazi.”⁷²

The Accountability Review Board report (see below), congressional testimony and investigations, and media reporting have described the critical threat environment in Libya and suggested that the temporary U.S. facilities in Benghazi had been reinforced in the months preceding the attack. According to the ARB report, “DS funded and installed in 2012 a number of physical security upgrades. These included heightening the outer perimeter wall, safety grills on safe area egress windows, concrete jersey barriers, manual drop-arm vehicle barriers, a steel gate for the Villa C safe area, some locally manufactured steel doors, sandbag fortifications, security cameras, some additional security lighting, guard booths, and an Internal Defense Notification System.” Still, the ARB concluded that “Benghazi was also severely under-resourced with regard to certain needed security equipment.”

On the night of the attack, the Benghazi facilities were reportedly protected by an unarmed, contracted local guard force; a local militia; and armed DS agents. A U.S. Marine detachment had not been posted there, a situation that is not unusual for smaller posts at which classified information is not produced.

The compound’s security posture on the night of the attack included

- four locally hired unarmed guards, provided under contract with a British private security firm named Blue Mountain. The contract, which took effect in March, reportedly was worth \$387,413 over one year. Among the tasks of the guards were the operation of a metal detector and inspection of visitors’ bags. While armed security contractors protect many State Department facilities in high-threat locations, Libyan political sensitivities ruled out the use of armed private security guard forces.
- three armed members of the February 17 Martyrs Brigade, a local militia that participated in the anti-Qaddafi uprising. Given the lack of centralized Libyan governmental capacity to discharge its responsibilities as host nation to protect the U.S. facilities under the Vienna Convention (as described below), this function was provided by the Brigade, which trained with U.S. officials for this role. Its members, who were reportedly expected to provide their own weapons

⁷¹ The State Department provided an account of the attack and its aftermath in a background briefing on October 9, 2012, available at <http://www.state.gov/r/pa/prs/ps/2012/10/198791.htm>.

⁷² U.S. Department of State Bureau of Diplomatic Security, *Tested in Times of Transition: 2011 Year in Review*, Annual Report, May 2012, p. 9, <http://www.state.gov/documents/organization/189611.pdf>.

and ammunition, were paid \$28 per day, what one press account describes as a “relatively standard wage.”⁷³ DS officials have testified that on the night of the attack, three February 17 Brigade personnel were present at the U.S. facilities.

- U.S. security personnel at the facilities on the night of the attack included five armed Diplomatic Security agents (three who were assigned to Benghazi, and two travelling with the Ambassador), according to testimony by a senior Diplomatic Security official. The compound could also call on a “well-trained U.S. quick reaction security team” stationed at an annex two kilometers away.⁷⁴
- Further complicating the U.S. security picture in Benghazi, numerous news reports have suggested that the annex was a classified CIA installation and that the quick reaction team mentioned above was part of a CIA presence. Personnel at the annex in Benghazi reportedly included a security force of approximately 10 individuals, who had on previous occasions shielded Ambassador Stevens when he left the U.S. facility. Members of this force were reportedly among those responding directly to the September 11 attack.⁷⁵ The reaction team’s responsibility, if any, for security at the main mission compound has not been publicly established.

Accountability Review Board in the Wake of the Benghazi Attack

In the first week of October 2012, then-Secretary of State Clinton convened an accountability review board (ARB) to investigate the Benghazi attack, as required by Title III of the Omnibus Diplomatic and Antiterrorism Act of 1986.⁷⁶ The Board was chaired by former Under Secretary of State Thomas Pickering and included five members, four of whom were designated by the Secretary of State and one by the intelligence community.⁷⁷ The Secretary of State charged the Board “with determining whether our security systems and procedures in Benghazi were adequate, whether those systems and procedures were properly implemented, and any lessons that may be relevant to our work around the world.”⁷⁸

On December 18, the Accountability Review Board published its findings in an unclassified version of its report.⁷⁹ The Board concluded that while responsibility for the September 11, 2012,

⁷³ Michael Birnbaum, “Sensitive documents left behind at U.S. diplomatic post in Libya,” *The Washington Post*, October 3, 2012.

⁷⁴ Testimony provided by Deputy Assistant Secretary of State Charlene Lamb, U.S. Congress, House Committee on Oversight and Government Reform, *The Security Failures of Benghazi*, 112th Cong., 2nd sess., October 10, 2012.

⁷⁵ Adam Entous, Siobhan Gorman, and Margaret Coker, “CIA Takes Heat for Role in Libya,” *The Wall Street Journal*, November 2, 2012.

⁷⁶ 22 U.S.C. §4831 et seq.

⁷⁷ The other members of the board were: Admiral Michael Mullen (Ret), a former Chairman of the Joint Chiefs of Staff; Richard Shinnick, a retired Senior Foreign Service Officer who served as interim Director for the Department of State’s Bureau of Overseas Buildings Operations in 2008; Catherine Bertini, a Professor of Public Administration and International Affairs at the Maxwell School of Citizenship and Public Affairs and former Executive Director of the United Nations World Food Program; and Hugh Turner, a former deputy director of the CIA’s Directorate of Operations.

⁷⁸ Josh Rogin, “Clinton promises answers on Benghazi attack,” *Foreignpolicy.com*, October 2, 2012, http://thecable.foreignpolicy.com/posts/2012/10/02/clinton_promises_answers_on_benghazi_attack.

⁷⁹ Department of State, *Accountability Review Board for Benghazi Attack of September 2012*, December 19, 2012, <http://www.state.gov/documents/organization/202446.pdf>.

attack rests solely and completely with the terrorists who perpetrated it, systemic failures in Washington, DC, led to key decisions that left the Special Mission in Benghazi with significant security shortfalls. Key leadership failures in the Bureau of Diplomatic Security (DS) as well as in the Bureau of Near Eastern Affairs (NEA) led to confusion over decision-making in relation to security and policy in Benghazi; these were likely factors in the insufficient priority given to the Benghazi mission's security-related requests, according to the Board.

Decisions by the department's senior leadership regarding the nature and extension of Special Mission Benghazi's unclear status also left it outside normal procedures for funding and executing security measures, including office facility standards and accountability measures under the Secure Embassy Construction and Counterterrorism Act of 1999 and the Overseas Security Policy Board (OSPB). As the Board's report states, the Special Mission compound and Annex "was never a consulate and never formally notified to the Libyan government." This fact is referred to as a "key driver behind the weak security platform in Benghazi."

The Board did not find breach of duty by any single U.S. government employee; it also found that security systems and procedures in place were implemented properly. U.S. intelligence provided no immediate specific warning of the attack, according to the ARB. The Board concluded there was no protest prior to the attack, which it refers to as "unanticipated" in "scale and intensity."

Regarding the Special Mission's security posture, it found an inadequate number of Bureau of Diplomatic Security staff in Benghazi on the day of the attack. The Board characterized the Libyan government response as "profoundly lacking on the night of the attacks, reflecting both weak capacity and near absence of central government influence and control in Benghazi." The report also raises concern regarding the "loyalties" of the February 17th Martyrs Brigade militia that provided security at the Special Mission compound under an agreement with the State Department.

The Board also concludes that Congress "must do its part ... and provide necessary resources to the State Department to address security risks and meet mission imperatives."⁸⁰

The ARB report lists a number of recommendations within six categories: Overarching Security Considerations; Staffing High Risk, High Threat Posts; Training and Awareness; Security and Fire Safety Equipment; Intelligence and Threat Analysis; and Personnel Accountability. Many of the recommendations will require additional resources for added personnel, training, and equipment.

Among the Accountability Review Board's key recommendations are the following:

- review of the proper balance between acceptable risk and strengthened security for personnel in "high risk, high threat" posts, beyond reliance on host government support;
- re-examination of the organization/management of the DS Bureau to emphasize control for security policy for all U.S. overseas facilities; the new Diplomatic Security Deputy Assistant Secretary for High Threat Posts may be useful in this regard, as would having the Office of Intelligence and Threat Analysis report directly to the DS Assistant Secretary and provide threat analysis to all DS components, regional assistant secretaries, and Chiefs of Mission;

⁸⁰ Ibid, p. 3.

- establishment of minimum security standards for temporary facilities in high-risk environments, and collocation of U.S. government agencies when in the same metropolitan area, unless a waiver has been approved;
- restoring the Capital Security Cost Sharing Program to its full capacity of \$2.2 billion, adjusted for inflation in FY2015; this program combines funds from all agencies represented overseas. Overseas Contingency Operation (OCO) funds also could be used to respond to security threats and vulnerabilities overseas;
- expansion of the Marine Security Guard (MSG) Program and coordination between DOD and DOS to identify additional resources for stronger capabilities at high risk posts;
- endorsement of DOS's request for increased DS personnel for high-risk posts, Mobile Security Deployment teams, and increased DS staffing in Washington for support;
- enhanced tour longevity, efforts to address language capacity, and better training on crisis response;
- provision of equipment such as fire safety and surveillance cameras, and exploration of options for non-lethal deterrents;
- better identification and action on indications of deteriorating threat situations; and
- revision of DOS regulations or amending relevant statutes to include disciplinary action when poor performance or unsatisfactory leadership by senior officials is related to a security incident.

On September 25, 2013, the State Department's Office of the Inspector General (OIG) issued a "special review of the Accountability Review Board process."⁸¹ The review, initiated internally by the Inspector General's office, concluded that the Accountability Review Board process "operates as intended—independently and without bias—to identify vulnerabilities in the Department of State's security programs." However, it faulted the department for not having a single institutional nexus for weighing the risks to high-threat posts against the interests of maintaining presence there. The report calls for sustained high-level attention from State Department leaders to ensure ARB recommendation implementation. On the recommendations of the Benghazi ARB, the OIG report suggests that the department has taken implementation seriously and is making progress, but may not be meeting the ARB's intent on issues ranging from the security role of regional assistant secretaries, to the development of minimum security standards for occupancy of temporary facilities, to tripwire guidance.

Department of State Actions in Response to the Benghazi Attack

The protection of U.S. government employees and facilities under chief of mission authority overseas from terrorist, criminal, or technical attack is the responsibility of the Secretary of

⁸¹ United States Department of State and the Broadcasting Board of Governors Office of Inspector General, *Special Review of the Accountability Review Board Process*, ISP-I-13-44A, September 25, 2013, <http://oig.state.gov/documents/organization/214907.pdf>.

State.⁸² The Benghazi attack prompted the department to take several actions. In the immediate aftermath, the department ordered all posts to review their security posture and to take all necessary steps to enhance it if necessary.⁸³ Shortly thereafter, five Interagency Security Assessment Teams (ISATs) were deployed to 19 posts in 13 countries to undertake urgent reviews of high-threat posts.⁸⁴

In order to ensure consistent focus on the most endangered locations, State also reorganized its Diplomatic Security Bureau by establishing a new Deputy Assistant Secretary for High Threat Posts to oversee security arrangements for a number of so-designated countries. In addition to the above steps, then-Secretary of State Clinton convened an accountability review board (ARB) to investigate the Benghazi attack.⁸⁵ More information on the State Department's actions in response to the Benghazi attack is available in CRS Report R43195, *Securing U.S. Diplomatic Facilities and Personnel Abroad: Legislative and Executive Branch Initiatives*, by Alex Tiersky.

Embassy Security Funding

The appropriation of funds for embassy security is one area in which Congress is particularly active. Title I, Section 2 (k) of the State Department Basic Authorities Act of 1956 states that the Secretary of State “may use funds appropriated or otherwise made available to the Secretary to provide maximum physical security in Government-owned and leased properties and vehicles abroad.”

The original authorization to use appropriated funds designated for embassy security in the Department of State's Embassy Security Construction and Maintenance (ESCM) account is derived from the Secure Embassy Construction and Counterterrorism Act of 1999.⁸⁶ The Foreign Relations Authorization Act of 2003 increased the authorization levels of the original legislation.⁸⁷ Because Congress has not passed subsequent foreign relations authorization legislation, the authorization of appropriations for embassy security purposes is derived from appropriating funds for “Worldwide Security Upgrades” in the Department of State, Foreign Operations appropriations legislation and in provisions in the same annual appropriation stating that “Funds appropriated by this Act ... may be obligated and expended notwithstanding” provisions in the Department of State Basic Authorities Act of 1956 requiring an authorization of funding before appropriations can be obligated or expended.⁸⁸

⁸² 22 U.S.C. §4802, P.L. 99-399.

⁸³ Transcript, State Department Briefing to Update on Recent Events in Libya, September 12, 2012.

⁸⁴ See U.S. Congress, House Committee on Foreign Affairs, *Benghazi Attack, Part II: The Report of the Accountability Review Board*, 112th Cong., 2nd sess., December 20, 2012; and U.S. Congress, Senate Committee on Foreign Relations, *Benghazi: The Attack and the Lessons Learned*, 112th Cong., December 20, 2012.

⁸⁵ As required by Title III of the Omnibus Diplomatic and Antiterrorism Act of 1986, 22 U.S.C. §4831 et seq.

⁸⁶ Section 604 of the Secure Embassy Construction and Counterterrorism Act of 1999 (Title VI of Appendix G of P.L. 106-113; 22 U.S.C. 4865 note).

⁸⁷ Section 111(3)(B) of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228).

⁸⁸ Section 15 of the State Department Basic Authorities Act prohibits appropriated funds from being obligated or expended unless the appropriation has been authorized by law (P.L. 84-885; 22 U.S.C. 2680). In the case of the FY2014 appropriations, the requirement is waived by Sec. 7022 in the Consolidated Appropriations Act, 2014 (P.L. 113-76).

Funding Data and Recent-Year Funding Observations

Within the Department of State budget, virtually all of the embassy and diplomatic security funding is within five subaccounts: Worldwide Security Protection (WSP), within the Diplomatic and Consular Programs (D&CP) account; Worldwide Security Upgrades within the Embassy Security, Construction, and Maintenance (ESCM) account; Diplomatic Security (DS); Counterterrorism within the Diplomatic and Consular Programs account (D&CP); and Diplomatic Security within the Border Security Program (BSP).

- WSP, the largest component of security-related funding within the Department of State, provides for a safe and secure environment overseas for personnel promoting the interests of the United States. It provides for the security of life, property, and information. WSP supports numerous security programs including a worldwide guard force protecting overseas diplomatic missions and residences, as well as domestic facilities. As part of what the department calls a Security Realignment Initiative, many DS-related salaries and related costs from DS and other bureaus have been requested under WSP (rather than D&CP) for the first time in FY2015.
- The Worldwide Security Upgrades (WSU) subaccount within ESCM provides funding for bricks and mortar-type of security needs. It funds the Department of State's portion of the Capital Security Cost Sharing that combines with funds from other agencies represented overseas for planning, design, and construction of secure new embassy compounds. It also funds ongoing security activities and security-related maintenance.
- The Bureau of Diplomatic Security, funded under D&CP, is the law enforcement and security arm of the Department of State. DS protects people, property, and information. It conducts international investigations, provides threat analysis, and focuses on cybersecurity, counterterrorism, personnel security, and security technology.
- The Bureau of Counterterrorism (CT), funded within D&CP, leads the U.S. government in counterterrorism diplomacy and provides an on-call capability to respond to terrorist incidents worldwide.
- The Diplomatic Security subaccount within the Border Security Program (BSP) guards domestic consular affairs facilities. It also coordinates and investigates security issues related to U.S. visas and passports.

Table 1 below provides base funding (also referred to as regular or enduring appropriations) that is available to all overseas facilities, and total security funding requested and enacted for the five security-related accounts from FY2008 to the FY2015 funding request. Total security includes the base funding plus supplemental and/or Overseas Contingency Operations (OCO) funding for embassy security that is available primarily for Iraq and other frontline states. Supplemental funds were requested and enacted for FY2008, FY2009, and FY2010. OCO funds were requested and enacted for FY2012, FY2013, FY2014, and requested for FY2015. Supplemental and OCO security money has been temporary funding largely for war-related security measures in Iraq. The base total is for diplomatic security activities in the rest of the U.S. facilities around the world, but may also include some ongoing security funding for Iraq, Afghanistan, and Pakistan.

Following are some observations derived from the data shown in that table:

- The FY2013 request represents the largest request for total security funding at \$4.96 billion. More than half was designated as OCO funding. That year, Congress appropriated \$4.76 billion for total embassy security, more than half as OCO funds.
- At \$3.71 billion, FY2014 was the peak year for State Department base security requests. The highest level of base embassy security funding *passed* by Congress (\$3.78 billion) also was in FY2014.
- For total security funding, Congress provided less than was requested every year except FY2009. For base funding, Congress only provided more in FY2014.
- Total security funding as a percentage of Administration of Foreign Affairs expenditures was highest (40%) in FY2014 and also was the highest (32%) as a percentage of total State Department funding that same year.

Funding Issues for Congress

The Benghazi Accountability Review Board report, released on December 19, 2012, said, “The solution requires a more serious and sustained commitment from Congress to support State Department needs, which, in total, constitute a small percentage both of the full national budget and that spent for national security. One overall conclusion in this report is that Congress must do its part to meet this challenge and provide necessary resources to the State Department to address security risks and meet mission imperatives.” The ARB also recommended that the Department of State work with Congress to restore the Capital Security Cost Sharing Program to its full capacity, adjusted for inflation, of \$2.2 billion in 2015, for up to a 10-year period. Additionally, the ARB recommended that State work with Congress to make OCO funds available for security at high risk/high threat posts, and seek greater flexibility for OBO to use its funds for security threats at temporary facilities in high threat environments.

As Congress examines funding levels for the purpose of properly securing American personnel, embassies, and information around the world, it continues to do so in a climate of shrinking budgets; proposed funding increases might be met with calls for offsetting cuts elsewhere or co-locating overseas facilities.

A recent example of cost-saving considerations was the Department of State’s plans to co-locate the U.S. Embassy to the Holy See within the U.S. Embassy to Italy compound in Rome. This plan was decided in keeping with the general ARB recommendations about co-locating multiple U.S. missions in the same city, as well as a specific 2008 Inspector General report that cited security concerns and leasing costs.⁸⁹ On its completion in 2015, the move is expected to improve security and save an estimated \$1.4 million a year, according to the Department of State. The Consolidated Appropriations Act, 2014, allowed funds to be used for this purpose, under the condition that the Secretary of State reports to Congress in writing that it will remain independent

⁸⁹ United States Department of State and the Broadcasting Board of Governors Office of Inspector General, Report of Inspection, *Limited-Scope Inspection of Embassy Vatican City, The Holy See, Report Number ISP-I-08-41*, June 2008, p. 18. “Embassy Vatican, in coordination with Embassy Rome and the Bureaus of Overseas Buildings Operations and Diplomatic Security, should develop and implement a plan to relocate to the Embassy Rome compound, as soon as possible, with an eye towards cost savings, improved security, and maintaining as much as possible its separate identity to include a separate street address.”

from other U.S. missions in Rome and that the relocation will not increase annual operating costs, will not reduce staff, and will enhance overall security of the U.S. Embassy to the Holy See.

Of continuing concern is the possible effect, barring the enactment of a new budget deal, that the Budget Control Act of 2011 (BCA, P.L. 112-25) could have on diplomatic security funding in FY2014 and beyond. FY2013 across-the-board spending reductions were implemented at an estimated 5% reduction with an additional 0.032% rescission, according to Section 3004, Division G, P.L. 113-6. Meeting BCA spending caps set through FY2021 by reducing embassy security funds could undermine future security funding needs.

Adding to the difficulty of meeting future security needs around the world is the unpredictability in the timing of funding bills being passed by Congress. Fiscal years may not be in sync with new increasing needs or with contracts. When Congress passes funding bills well into the new fiscal year, or passes continuing resolutions in place of spending bills for the remainder of the fiscal year, the agency is left to guess what annual funding it can expect and has fewer months to spend the funds once received.

A broader aspect of the funding debate is whether the United States can afford to maintain facilities and adequate security everywhere, especially in nascent democracies that are often unstable and unpredictable. If embassy security is the responsibility of the local government, but that government does not have the capability required to keep American personnel safe, the U.S. government must weigh the security risks and costs of keeping a U.S. presence in such environments.

Table I. State Department Funds for Embassy and Diplomatic Security, FY2008-FY2015

(Revised May 2014; In millions of current U.S. \$)

	FY2008		FY2009		FY2010		FY2011	
	Req.	Actual	Req.	Actual	Req.	Actual	Req.	Actual
WSP base	\$964.8	\$968.5	\$1,162.8	\$1,117.0	\$1,648.0	\$1,586.2	\$1,560.7	\$1,497.0
- supplemental/OCO	\$162.4	\$210.4	\$163.8	\$224.8	—	—	—	—
supp/OCO Iraq Security	—	—	—	—	\$735.3	\$725.0	—	—
ESCM WSU base	\$806.9	\$670.5	\$948.4	\$905.2	\$938.2	\$847.3	\$824.2	\$793.4
- supplemental/OCO	—	\$76.7	\$893.3	\$962.8	—	—	—	—
Diplomatic Security (DS) ^a	\$188.5	\$169.6	\$187.1	\$255.9	\$190.6	\$214.9	\$193.0	\$224.9
D&CP Counterterrorism	—	—	—	—	—	—	—	\$3.2
Border Security DS ^b	\$16.1	\$32.0	\$48.7	\$53.8	\$50.5	\$47.4	\$184.1	\$58.1
Total base	\$1,976.3	\$1,840.6	\$2,347.0	\$2,331.9	\$2,827.3	\$2,695.8	\$2,761.3	\$2,576.6
Total Supp/OCO	\$162.4	\$287.1	\$1,057.1	\$1,187.6	\$735.3	\$725.0	—	—
Total Security^c	\$2,138.7	\$2,127.7	\$3,404.1	\$3,519.5	\$3,562.6	\$3,420.8	\$2,761.3	\$2,576.6
Admin of Foreign Affairs ^c	\$9,637.6	\$8,991.2	\$10,676.4	\$10,932.8	\$13,893.5	\$12,357.2	\$12,374.4	\$11,225.9
Total Security as % of Admin of Foreign Affairs	22%	24%	32%	33%	26%	28%	22%	23%
State Dept 150 function ^c	\$10,708.8	\$12,501.3	\$11,345.6	\$15,079.2	\$16,256.3	\$16,423.0	\$17,104.3	\$14,847.1
Total Security as % of State Dept 150	20%	17%	30%	22%	22%	20%	16%	16%
	FY2012		FY2013		FY2014		FY2015	
	Req.	Actual	Req.	Actual	Req.	Estimate	Req.	Enacted
WSP base	\$1,453.7	\$1,355.0	\$1,428.5	\$1,341.2	\$1,791.2	\$1,867.3	\$2,128.1	n.a.
- supplemental/OCO	\$246.9	\$236.2	\$721.5	\$ 909.4	\$391.0	\$900.3	\$989.7	n.a.

supp/OCO Iraq Security	\$1,482.1	\$1,413.8	\$1,775.1	\$270.9	\$567.7	\$270.9	-	n.a.
	FY2012		FY2013		FY2014		FY2015	
	Req.	Actual	Req.	Actual	Req.	Estimate	Req.	Enacted
ESCM WSU base	\$938.2	\$775.0	\$688.8	\$669.5	\$1,614.0	\$1,614.0	\$1,217.5	n.a.
- supplemental/OCO	—	—	—	\$1,227.0	\$250	—	\$250.0	n.a.
Diplomatic Security (DS) ^a	\$215.6	\$229.2	\$226.3	\$220.0	\$179.5	\$175.1	\$92.0	n.a.
D&CP Counterterrorism	—	18.1	\$19.0	\$22.7	\$21.5	\$18.9	\$18.4	n.a.
Border Security DS ^b	\$99.7	\$103.7	\$96.0	\$101.5	\$103.2	\$101.5	—	n.a.
Total base	\$2,707.2	\$2,481.0	\$2,458.6	\$2,354.9	\$3,709.4	\$3,776.8	\$3,515.4	n.a.
Total Supp/OCO	\$1,729.0	\$1,650.0	\$2,496.6	\$2,407.3	\$1,208.7	\$900.3	\$1,239.7	n.a.
Total Security ^c	\$4,436.2	\$4,131.0	\$4,955.2	\$4,762.2	\$4,918.1	\$4,677.1	\$4,755.1	n.a.
Admin of Foreign Affairs ^c	\$14,748.4	\$13,371.9	\$13,950.5	\$13,467.3	\$12,024.4	\$11,680.7	\$11,614.1	n.a.
Total Security as % of Admin of Foreign Affairs	30%	31%	36%	35%	41%	40%	41%	n.a.
State Dept. 150 function ^c	\$19,349.8	\$17,695.3	\$18,508.3	\$16,853.6	\$15,824.3	\$14,786.4	\$15,767.8	n.a.
Total Security as % of State Dept. 150	23%	23%	27%	28%	31%	32%	30%	n.a.

Source: Congressional Budget Justification, Volume I, Department of State, fiscal years FY2008-FY2015; communication with Department of State on November 8, 2012, March 13, 2013, and December 6, 2013; legislation; and CRS calculations.

Notes: WSP=Worldwide Security Protection; ESCM=Embassy Security, Construction, and Maintenance; WSU=Worldwide Security Upgrades; OCO=Overseas Contingency Operations; DS=Diplomatic Security; D&CP=Diplomatic and Consular Programs; n.a.=not available.

The data in this table are estimates as of May 13, 2014. Estimates of funding levels may differ depending on, for example, definitions used, whether to include fees, and whether to include security costs in Iraq that come under Iraq Operations.

- a. Does not include OCO funding within D&CP for DS listed under Iraq Operations in FY2008-FY2014.
- b. These numbers do not include domestic border security funds. Much of the funds for Border Security come from fee collections; as of FY2012, all Border Security funds are from fee collections.
- c. Includes supplemental and OCO funds.

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