



SECRETARY OF THE ARMY
WASHINGTON

FEB 18 2015

The Honorable Jason Chaffetz
Chairman, Committee on Oversight
and Government Reform
United States House of Representatives
Washington, DC 20515

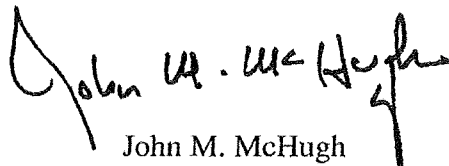
Dear Mr. Chairman:

Secretary of Defense Chuck Hagel asked me to respond on his behalf to your January 29, 2015 letter concerning your request for documents, and a briefing regarding the final disposition of the Army Regulation 15-6 investigation into the 2009 disappearance and subsequent capture of Sergeant Bowe Bergdahl in Afghanistan. I have directed my Legislative Liaison staff to work closely with yours to appropriately address your requests, including helping the Committee understand the investigative and disposition process.

I greatly appreciate the willingness of the Committee to respect the integrity of the military justice process, and refrain from any action that might infringe on the statutory requirement that any commander making a disciplinary decision be free from any outside interference or pressure that would potentially interfere with the exercise of that discretionary authority. By avoiding unlawful command influence, we protect the integrity of the process for the Army, the commander, and most importantly, the Soldier concerned.

Thank you for all that you and the members of the Committee do for our Soldiers, their Families and our Army Civilians.

Sincerely,


John M. McHugh

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D APPELLATE EXHIBIT

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Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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January 29, 2015

The Honorable Chuck Hagel
Secretary
U.S. Department of Defense
Washington, DC 20301

Dear Mr. Secretary:

The Committee on Oversight and Government Reform is conducting oversight of the U.S. Army's investigation of, and disposition of charges against, Sergeant Bowe Bergdahl. It is our understanding that the matter has been referred to the General Courts Martial Convening Authority and that General Mark Milley will announce his decision with respect to whether to charge Sgt. Bergdahl soon.¹ So that the Committee can better understand the investigative process and the final disposition of the Bergdahl case, we are writing to request documents and information related to the Article 32 investigation and Gen. Milley's final determination.

On June 18, 2014, the House Committee on Foreign Affairs conducted a joint subcommittee hearing on the prisoner exchange involving Sgt. Bergdahl and five Taliban members previously detained at the Guantanamo Bay detention facility.² During the hearing, witnesses testified that Sgt. Bergdahl's departure from his post in Afghanistan may have been premeditated.³ Several of Sgt. Bergdahl's former platoon members have publicly expressed the belief that Sgt. Bergdahl's departure from his post constituted desertion, and that Sgt. Bergdahl's fellow soldiers risked their lives to find him.⁴ In December 2014, the Pentagon issued a statement that said Gen. Milley will "determine appropriate action—which ranges from no further action to convening a court-martial."⁵ In light of the nature of the allegations against Sgt. Bergdahl, and the extraordinary measures to secure his return, we believe the Committee has a right to know what information Gen. Milley relied on when making the final determination with respect to Sgt. Bergdahl, and the process by which he made the decision.

¹ Richard Sisk, *Dempsey Expects Bergdahl Court-Martial Decision 'Fairly Soon,'* MILITARY.COM NEWS, Jan. 12, 2015, available at <http://www.military.com/daily-news/2015/01/12/dempsey-expects-bergdahl-court-martial-decision-fairly-soon.html> (last accessed Jan. 20, 2015).

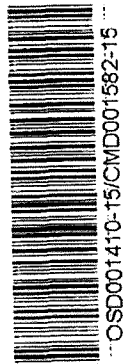
² *The Bergdahl Exchange: Implications for U.S. National Security Strategy and the Fight Against Terrorism: Joint Hearing Before the Subcomm. on Terrorism, Nonproliferation, and Trade, and the Subcomm. on the Middle East and North Africa, H. Comm. on Foreign Affairs*, 113th Cong. (2014).

³ *Id.*

⁴ See, e.g., Jake Tapper, *Fellow Soldiers Call Bowe Bergdahl a Deserter, Not a Hero*, CNN, June 4, 2014, available at <http://www.cnn.com/2014/06/01/us/bergdahl-deserter-or-hero>.

⁵ News Release, Dep't of Def., Statement by U.S. Army on Sgt. Bowe Bergdahl Investigation, Release No: NR-628-14 (Dec. 22, 2014), available at <http://www.defense.gov/Releases/Release.aspx?ReleaseID=17087> (last accessed Jan. 20, 2015).

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The Honorable Chuck Hagel
January 29, 2015
Page 3

If you have any questions about this request, please contact Art Arthur of Chairman Chaffetz' staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Ron DeSantis
Chairman
Subcommittee on National Security

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform

The Honorable Stephen F. Lynch, Ranking Minority Member
Subcommittee on National Security

The Honorable Bob Goodlatte, Chairman
House Committee on the Judiciary

The Honorable John Conyers, Jr., Ranking Minority Member
House Committee on the Judiciary

The Honorable Mac Thornberry, Chairman
House Committee on Armed Services

The Honorable Adam Smith, Ranking Minority Member
House Committee on Armed Services

The Honorable Edward R. Royce, Chairman
House Committee on Foreign Affairs Committee

The Honorable Eliot L. Engel, Ranking Minority Member
House Committee on Foreign Affairs

Enclosure

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