

**SECRETARY OF DEFENSE CHUCK HAGEL
HEARING ON THE TRANSFER OF DETAINEES
HOUSE ARMED SERVICES COMMITTEE
WASHINGTON, DC
WEDNESDAY, JUNE 11, 2014**

Chairman McKeon, Ranking Member Smith, members of the committee.

I appreciate the opportunity to discuss the recovery of Sergeant Bowe Bergdahl, and the transfer of five detainees from Guantanamo Bay to Qatar. And I appreciate having the Department of Defense General Counsel Stephen Preston, here with me. Mr. Preston was one of our negotiators in Qatar and signed on behalf of the U.S. the Memorandum of Understanding between the Governments of Qatar and the United States. Also here representing the Joint Chiefs of Staff is Brigadier General Pat White, who is the Director of the Joint Staff's Pakistan/Afghanistan Coordination Cell and who helped coordinate the Bergdahl recovery on behalf of the Chairman of the Joint Chiefs of Staff, General Dempsey. The Vice Chairman of the Joints Chiefs, Admiral Winnefeld, will join us for the closed portion of this hearing. As you know, General Dempsey and Admiral Winnefeld played a critical role in the meetings at the National Security Council leading up to Sergeant Bergdahl's release and supported the decision to move forward with this prisoner exchange.

In my statement today, I will address the issues Chairman McKeon raised when he asked me to testify, and explain why it was urgent to pursue Sergeant Bergdahl's release, why we decided to move forward with the detainee transfer, and why it was fully consistent with U.S. law, our nation's interests, and our military's core values.

Mr. Chairman, I want to be clear on one fundamental point – I would never sign off on any decision that I did not feel was in the best interests of this country. Nor would the President of the United States, who made the final decision with the full support of his national security team.

There are legitimate questions about this prisoner exchange, and Congress obviously has an important oversight role to play in all military and intelligence matters. As a former member of the Senate Select Committee on Intelligence and the Senate Foreign Relations Committee, I appreciate the vital role Congress plays in our national security. And I will present to this committee – within the limits of an open, unclassified, hearing, and in more detail in the closed, classified, hearing – everything I can to assure you that this prisoner exchange was done legally, with substantial mitigation of risk, and in the national interest of our country.

Let's start with Sergeant Bergdahl's status as a member of the U.S. Army. He was held captive by the Taliban and the Haqqani network for almost five years. He was officially listed as "missing-captured." No charges were ever brought against him and there are no charges pending now. Our entire national security apparatus – the military, the intelligence community, and the State Department – pursued every avenue to recover Sergeant Bergdahl, just as the American people and the Congress expected us to do. In fact, as this committee knows, there were a number of Congressional Resolutions introduced, and referred to this committee, directing the President to do everything he could to get Sergeant Bergdahl released from captivity. We never stopped trying to get him back, as the Congress knows, because he is a soldier in the United States Army.

Questions about Sergeant Bergdahl's capture are separate from our effort to recover him – because we do whatever it takes to recover *any* U.S. service member held in captivity. This

pledge is woven into the fabric of our nation and its military. As former Central Command Commander Marine General Jim Mattis recently put it, “bottom line, we don’t leave people behind, that is the beginning and that is the end of what we stand for ... we keep faith with the guys who sign on, and that is all there is to it.”

As for the circumstances surrounding his captivity, as Secretary of the Army McHugh and Army Chief of Staff General Odierno have said, the Army will review this in a comprehensive, coordinated effort that will include speaking with Sergeant Bergdahl. Like any American, Sergeant Bergdahl has rights, and his conduct will be judged on facts – not political hear-say, posturing, charges, or innuendo. We owe that to any American and especially those who are members of our military and their families. Like most Americans, I’ve been offended and disappointed in how the Bergdahl family has been treated by some people. No family deserves this. I hope there will be sober reflection on people’s conduct regarding this issue and how it relates to the Bergdahl family.

In 2011, the Obama administration conducted talks with the Taliban on a detainee exchange involving the five Taliban detainees that were ultimately transferred after the release of Sergeant Bergdahl. These talks – which Congress was briefed on in November of 2011 and January of 2012 – were broken off by the Taliban in March 2012. We have not had direct talks with the Taliban since this time. In September of 2013, the Government of Qatar offered to serve as an intermediary, and in November, we requested that the Taliban provide a new proof-of-life video of Sergeant Bergdahl.

In January of this year, we received that video, and it was disturbing. It showed a deterioration in his physical appearance and mental state compared to previous videos. The intelligence community carefully analyzed it and concluded that Sergeant Bergdahl’s health was poor and possibly declining.

This gave us growing urgency to act. In April, after briefly suspending engagement with us, the Taliban again signaled interest in indirect talks on an exchange. At that point, we intensified our discussions with Qatar about security assurances. On May 12th, we signed a Memorandum of Understanding with Qatar detailing the specific security measures that would be undertaken and enforced by them if any Taliban detainees were transferred to their custody.

Included in this MOU were specific risk mitigation measures and commitments from the Government of Qatar like travel restrictions, monitoring, information sharing, and limitations on activities, as well as other measures which we will detail in the closed portion of this hearing. They were described in the classified notification letter I sent to this committee last week.

Soon after the Memorandum of Understanding was finalized, senior U.S. officials received a warning from the Qatari intermediaries that time was not on our side. This indicated that the risks to Sergeant Bergdahl’s safety were growing. We moved forward with indirect negotiations on how to carry out the exchange of five detainees, and agreed to the mechanics of the exchange on the morning of May 27th, following three days of intensive talks. That same day, the President received a personal commitment from the Amir of Qatar to uphold and enforce the security arrangements and the final decision was made to move forward with the exchange.

As the opportunity to obtain Sergeant Bergdahl’s release became clearer, we grew increasingly concerned that any delay, or any leaks, could derail the deal and further endanger Sergeant Bergdahl. We were told by the Qataris that a leak would end the negotiations for Bergdahl’s release. We also knew that he would be extremely vulnerable during any movement, and our military personnel conducting the hand-off would be exposed to a possible ambush or

other deadly scenarios in very dangerous territory. And we had been given no information on where the hand-off would occur.

For all these reasons and more, the exchange needed to take place quickly, efficiently, and quietly. We believed this exchange was our last, best opportunity to free him.

After the exchange was set in motion, only 96 hours passed before Sergeant Bergdahl was in our hands. Throughout this period, there was great uncertainty about whether the deal would go forward. We did not know the general area of the hand-off until twenty-four hours before. We did not know the precise location until one hour before. And we did not know until the moment Sergeant Bergdahl was handed over safely to U.S. Special Operations Forces that the Taliban would hold up their end of the deal. So it wasn't until we recovered Bergdahl on May 31st that we moved ahead with the transfer of the five Guantanamo detainees.

The President's decision to move forward with the transfer of these detainees was a tough call, but I support it and stand by it. As Secretary of Defense, I have the authority and responsibility to determine whether detainees at Guantanamo Bay can be transferred to the custody of another country. I take that responsibility as seriously as any responsibility I have.

Neither I nor any member of the President's National Security Council was under any illusions about these five detainees. They were members of the Taliban, which controlled much of Afghanistan prior to America's invasion and overthrow of that regime. They were enemy belligerents, detained under the law of war and taken to Guantanamo in late 2001 and 2002. They have been in U.S. custody at Guantanamo since then. But they have not been implicated in any attacks against the United States, and we had no basis to prosecute them in a federal court or military commission. It was appropriate to consider them for an exchange. And if any of these detainees ever try to rejoin the fight, they would be doing so at their own peril.

There is always some risk associated with the transfer of detainees from Guantanamo. The U.S. government has transferred 620 detainees from Guantanamo since May 2002, with 532 transfers occurring during the Bush administration and 88 transfers occurring during the Obama administration.

In the case of these five detainees, the security measures Qatar put in place led me to determine – consistent with the National Defense Authorization Act – that the risks they posed to the United States, our citizens, and our interests were substantially mitigated. I consulted with the other members of the President's national security team and asked them to review the risks and either concur or object to the transfer. The Secretary of State, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Chairman of the Joint Chiefs of Staff all supported this transfer. There was complete unanimity on this decision.

The President and I would not have moved forward unless we had complete confidence that we were acting lawfully, in the national interest, and in the best traditions of our military. Our operation to save Sergeant Bergdahl's life was fully consistent with U.S. laws and our national security interests in at least five ways:

First, we complied with the National Defense Authorization Act of 2014 by determining that the risk the detainees posed to the United States, American citizens, and our interests was substantially mitigated and that the transfer was in the national security interests of the United States.

Second, we fulfilled our commitment to recover all military personnel held captive.

Third, we followed the precedent of past wartime prisoner exchanges, a practice in our country that dates back to the Revolutionary War and has occurred in most wars America has fought.

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Fourth, because Sergeant Bergdahl was a detained combatant being held by an enemy force, and not a hostage, it was fully consistent with our long-standing policy not to offer concessions to hostage takers. The Taliban is our enemy, and we are engaged in an armed conflict with them.

Fifth, what we did was consistent with previous congressional briefings this administration provided in late 2011 and early 2012, reflecting our intent to conduct a transfer of this nature with these particular five individuals.

I fully understand and appreciate concerns about our decision to transfer the five detainees to Qatar without providing 30 days advance notice to Congress. Under these exceptional circumstances – a fleeting opportunity to protect the life of an American service member held captive and in danger – the national security team and the President agreed that we needed to act swiftly.

We were mindful that this was not simply a detainee transfer, but a military operation with very high risk and a very short window of opportunity that we didn't want to jeopardize – both for the sake of Sergeant Bergdahl, and our operators in the field who put themselves at great risk to secure his return. In consultation with the Department of Justice, the administration concluded that the transfer of the five could lawfully proceed.

The options available to us to recover Sergeant Bergdahl were few, and far from perfect. But they often are in wartime, and especially in a complicated war like we have been fighting in Afghanistan for 13 years. Wars are messy and full of imperfect choices. I saw this firsthand during my service in Vietnam in 1968, when we sent home nearly 17,000 of our war dead in one year. And I see it today as Secretary of Defense. A few of you on this committee have experienced war and seen it up close. There is always suffering in war – not glory. War is always about human beings – not machines. War is a dirty business. And we don't like to deal with those realities ... but realities they are.

Those of us charged with protecting the national security interests of this country are called upon every day to make hard, imperfect, and sometimes unpleasant choices based on the best information we have and within the limits of our laws – and always based on America's interests. War, every part of war, like prisoner exchanges, is not some abstraction or theoretical exercise. The hard choices and options don't fit neatly into clearly defined instructions in "how-to" manuals. All of these decisions are part of the brutal, imperfect realities we deal with in war.

In the decision to rescue Sergeant Bergdahl, we complied with the law, and we did what we believed was in the best interests of our country, our military, and Sergeant Bergdahl. The President has constitutional responsibilities and authorities to protect American citizens and members of our armed forces. That's what he did. America does not leave its soldiers behind. We made the right decision, and we did it for the right reasons – to bring home one of our people.

As all of you know, I value the Defense Department's partnership with Congress and the trust we have developed over the years. I have always been completely transparent and straightforward in my dealings with Congress since I've been Secretary of Defense. That's what I always demanded of administration officials when I was in the U.S. Senate. And that's what I've done this morning with my statement on why I made the decision I did, the circumstances surrounding my decision, and the decisions of the President and his national security team.

The day after the Bergdahl operation, at Bagram Air Base in Afghanistan, I met with the team of special operators that recovered him. They are the best of the best ... people who didn't hesitate to put themselves at incredible personal risk to recover one of their own.

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I know we all thank them, and all our men and women in Afghanistan who make difficult sacrifices every day for this country. Earlier this week we were reminded of the heavy costs of war when we lost five American service members in Afghanistan. I know our thoughts and prayers are with their families. We are grateful for their service, and the service of all our men and women in uniform around the world. And I again thank this committee for what you do every day to support them.

Thank you.

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