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U.S. House of Representatives

Washington, DC 20515-6035

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BRIAN GARRETT, MINORITY STAFF DIRECTOR

January 18, 2024

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

Dear Secretary Austin:

When you and I last spoke, you promised full transparency into questions regarding the secrecy of your recent hospitalization. While you did respond to some of my questions I had for you, a concerning number of questions were not addressed. Specifically, I am alarmed you refused to answer whether you instructed your staff to not inform the President of the United States or anyone else of your hospitalization. Unfortunately, this leads me to believe that information is being withheld from Congress. Congress must understand what happened and who made decisions to prevent the disclosure of the whereabouts of a cabinet secretary.

Your unwillingness to provide candid and complete answers necessitates calling a Full Committee hearing on February 14, 2024, where the Committee expects to hear your direct testimony regarding decisions made to withhold information from the President, Congress, and the American people. In the meantime, it is my expectation that you promptly answer all outstanding questions so the Committee can review the necessary information in preparation for the upcoming hearing. **I expect your full honesty and cooperation in this matter. Anything short of that is completely unacceptable.**

The following questions from my letter to you remain unanswered (answers concerning Department specific combat or other operations which may have transpired during your hospitalization may be provided to the Committee in classified form):

- 1) All orders or instructions issued by you or a member of your staff to inform or not inform any other person of your hospitalization or medical condition;
- 2) A detailed account of your actions and intent in transferring your duties to Deputy Secretary Hicks and the context conveyed to her about the reason for the transfer of duties;

- 3) An accounting of all official actions taken or approved by you during your hospitalization;
- 4) A list of all military operations carried out in the United States Central Command area of responsibility during any period from December 22, 2023 to January 5, 2024, while you were not acting in the role of Secretary of Defense;
- 5) A record of all other periods where any other person assumed the duties of Secretary of Defense that coincided with medical procedures or other medical activities rendering you unable to perform such duties;
- 6) All written communications concerning your health, medical procedures, whereabouts, operational capability to lead the Department between you, your staff, or other Department of Defense staff from the time of your hospitalization on January 1, 2024 to today, January 18, 2024; and,
- 7) All Department communications from January 1, through January 18, 2024, with the White House or Biden Administration officials regarding your health or operational control of the Department of Defense.

The following questions from my letter to Deputy Secretary Hicks remain unanswered:

- 8) Was Deputy Secretary Hicks given a timeline or indication of how long the transfer of authority to her as acting Secretary of Defense would last?
- 9) When was Deputy Secretary Hicks first aware that the President did not know that you were in the hospital?
- 10) Did Deputy Secretary Hicks advise anyone in the White House about your condition upon learning the President did not know your whereabouts?
- 11) What was the nature of any operational decisions Deputy Secretary Hicks made during the time she was Acting Secretary of Defense?

The following questions from my letter to your Chief of Staff, Kelly Magsamen, also remain unanswered:

- 12) Did Ms. Magsamen have backup officials in place who were authorized to make necessary disclosures to relevant officials of your incapacitation, or had she delegated such authority?
- 13) What were the dates Ms. Magsamen was “out with the flu”?
- 14) While Ms. Magsamen was “out with the flu,” did she send any official correspondence? Please provide the Committee with any and all communications during Ms. Magsamen’s time “out with the flu.”
- 15) As reported, is it accurate that Ms. Magsamen, Pentagon spokesman Maj. Gen. Patrick S. Ryder, Lt. Gen. Ronald Clark, the secretary’s senior military aide, and a fourth aide, Chris Meagher, the assistant to the secretary for public affairs, were all aware of your hospitalization? Were there any other Department officials made aware of your hospitalization?
- 16) Did Ms. Magsamen or any other Department official notify anyone outside the Department prior to the purported disclosure to the White House?
- 17) When Ms. Magsamen informed Deputy Secretary Hicks’ staff and National Security

Advisor Sullivan of your condition and health, what did that disclosure or information include? and,

- 18) Will personnel from the Department's Inspector General, and the Department's Performance Improvement Officer/Director of Administration and Management, have access to all documents and communications produced during this period of your hospitalization, and ability to conduct interviews of anyone associated with the failure to provide disclosures to relevant officials?

Additionally, new questions have arisen based on further delayed disclosures:

- 19) Released pursuant to a Freedom of Information Act ("FOIA") request, a 911 emergency call resulting in an ambulance sent to your personal residence to take you to Walter Reed National Military Medical Center reportedly included a request for the ambulance's arrival to be "subtle."<sup>1</sup> Who specifically made this request, and for what reason? Did you personally direct that this request be made, and if so, for what reason?
- 20) 10 U.S.C. § 132 states, in part, "The Deputy Secretary shall act for, and exercise the powers of, the Secretary when the Secretary dies, resigns, or is otherwise unable to perform the functions and duties of the office." What is the Department's interpretation of this law, is there policy implementing this law, and what are the exact triggers prescribing the Deputy Secretary to assume and perform the duties of the Secretary?

In addition to answers to the questions above, please produce the following information to the Committee:

- 21) A record of all periods when Deputy Secretary Hicks assumed the duties of Secretary of Defense, the duration of such periods, and specifically any times which coincided with medical procedures or other medical activities rendering you unable to perform such duties;
- 22) All written communications concerning your whereabouts, operational capability to lead the Department, and any other matter associated with Deputy Secretary Hicks assuming Acting Secretary of Defense duties, between you, Deputy Secretary Hicks, the Deputy's or your staff, or other Department of Defense staff from the time of your hospitalization on January 1, 2024 to today, January 18, 2024;
- 23) All Department policies and interpretations concerning when the transfer of authority provisions of 10 U.S.C. § 132 are triggered and subsequent actions authorized; and,
- 24) All Department communications from January 1 through January 18, 2024, with the White House or Biden Administration officials regarding your health or operational control of the Department of Defense.

Please provide answers to these questions and requested materials no later than 5:00 p.m. on February 7, 2024.

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<sup>1</sup> *US Defense Secretary Austin's 911 call sought 'subtle' ambulance approach*, REUTERS, Jan. 17, 2024.

This is a time of immense global instability. Our country deserves reliable leadership at the Department. Maintaining the most ready and lethal force possible requires that everyone in the national security community be able to rely upon the Secretary of Defense's availability and transparency. Regrettably, you have not exhibited these attributes throughout this most recent string of events.

Therefore, you are invited to testify before the House Committee on Armed Services at a hearing on February 14, 2024, at 10:00 a.m., in room 2118 of Rayburn House Office Building.

Committee Rule 13 provides that witness statements shall be delivered to the committee at least 48 hours in advance of presentation and also requires that witness statements be provided to the committee in electronic form. These requirements may be satisfied by transmittal of the prepared witness statement via e-mail to Owen McGeary at [owen.mcgeary@mail.house.gov](mailto:owen.mcgeary@mail.house.gov) by 10:00 a.m. on February 12, 2024. Should the prepared statement be transmitted to the committee less than 48 hours in advance of the hearing, please deliver 70 copies of your prepared statement to room 2216 Rayburn House Office Building, in addition to transmittal via e-mail.

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

To arrange delivery of documents or ask any related follow-up questions, please contact Ryan Breitenbach of the Committee on Armed Services Majority Staff.

I appreciate your willingness to appear before the committee and look forward to your testimony.

Sincerely,



Mike Rogers  
Chairman  
Committee on Armed Services

cc: The Honorable Adam Smith  
Ranking Member  
Committee on Armed Services