November 15, 2013

Secretary Chuck Hagel
Department of Defense
1000 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Hagel:

We are aware of your concern about the dramatically increasing number of reports of sexual assault in the military, and your intention to take corrective action. According to The Washington Post, the Defense Department received 3,553 sexual assault complaints in the first three quarters of this fiscal year, a nearly 50 percent increase over the same period in 2012. It is unclear whether this jump is an increase in sexual assaults, reporting, or both. Though uniformed leaders have pledged to stem the tide of this crisis, we at the Project On Government Oversight fear that not enough is being done.

As the Pentagon seeks to demonstrate that this problem is being taken as seriously as possible, the appointment of Major General Gary S. Patton as Director of the Sexual Assault Prevention and Response Office (SAPRO) at the Department of Defense (DoD) is especially troubling. As you know, SAPRO is responsible for oversight of the DoD’s sexual assault policy, a mission that could be compromised given recent findings by the Department of Defense Inspector General (DoDIG) concerning Patton’s conduct in his previous assignment as Deputy Commander of the NATO Training Mission-Afghanistan (NTM-A).

The DoD Inspector General recently concluded a whistleblower reprisal investigation and determined that Patton, along with former Commander of the NTM-A Lieutenant General William B. Caldwell, violated the law by restricting subordinates from communicating with a DoDIG investigation team. According to the official finding, a copy of which was obtained and made public by POGO, Patton not only forwarded an email from Caldwell issuing the restriction order, but “ensured that Complainant and one other officer were aware of the restriction. By so doing, he restricted Complainant’s communication with DoDIG.”

Testimony before the House Committee on Oversight and Government Reform in July and September 2012 highlighted the charges that the DoDIG was looking into: fraud and horrific patient abuse at the Dawood National Military Hospital in Afghanistan. According to the House Oversight and Government Reform Subcommittee on National Security Chairman Jason Chaffetz in his opening remarks as he presided over the September hearing, “Evidence indicates that wounded

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2 10 U.S.C. 1034

3 Inspector General Whistleblower Reprisal Investigation, p. 1.
Afghan soldiers endured starvation, bed sores, and gangrene. Some patients were extorted for medical care, while others were abused, neglected, and made to suffer. Afghan doctors operated in smoke-filled rooms without anesthesia or painkillers. Maggots crawled from festering wounds. Some patients died from lack of care. Blocking such an investigation is not just unconscionable; in this case, it’s also illegal. Restricting communications with an IG is a violation of the Military Whistleblower Protection Act.

Last year in congressional testimony Patton denied a variety of accusations against him, saying, “I never directed subordinates, nor received orders from superiors, that a request for DOD IG visit be either delayed, impeded, or avoided for any reasons....”

But POGO recently conducted an interview with Navy Lieutenant Commander Jeremy Young, 35, who was then serving as a nurse at the Dawood Hospital, which received millions of U.S. taxpayer dollars. Young says that in February 2011 he had been ordered to give a tour to four DoDIG inspectors who were examining problems at Dawood. He told POGO that Patton cut him off, poking a finger repeatedly into his chest after he attempted to show DoDIG investigators an Afghan patient whose leg bones were improperly aligned following a faulty surgery at the hospital. According to Young, Patton barked, “Lieutenant, you need to stay in your [expletive] lane.” The General continued, “If you don’t know about bones, you don’t talk about bones.”

Young said he responded, “But sir, I’m the only one who knows about bones.” Patton repeated, “You are to stay in your [expletive] lane.”

Young says that he understood Patton’s remarks as “intimidation” and as an order to stop giving information to the DoDIG inspectors that could reflect negatively on the command. Following Patton’s alleged outburst, Young says he immediately withdrew from contact with DoDIG inspectors.

In support of this account, an Army officer says he was listening outside the hospital room while Young gave his presentation about the Afghan patient’s misaligned bones. The officer—Colonel Mark Fassl, Command Inspector General for NTM-A and current director of the Army Joint Support Team at Ft. Leavenworth, Kansas—told POGO that Patton suddenly stepped into the hall and said to him, “Do you hear what he [Young] is saying? We need to stop him [Young] talking to the inspector general.” Fassl describes the General as “very upset” at the time.

Pentagon Spokesperson Lieutenant Colonel Catherine Wilkinson told POGO that it would not be appropriate for Patton to comment on the accusations. She added that, “These allegations were

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2 Subcommittee on National Security Hearing, September 12, 2012


4 Colonel Mark Fassl, telephone interview with Adam Zagorin, Project On Government Oversight, November 14, 2013.

reviewed as part of the DoDIG investigation. The results of the DoDIG investigation have not been made public. Maj. Gen. Patton’s case is with the Secretary of the Army for final disposition.”

Given the DoDIG’s finding, how can we now trust some of our most sensitive whistleblower cases, especially those involving reports of sexual assault and rape, to a leader demonstrably willing and able to silence lawful whistleblower activity?

Caldwell retired on November 1, 2013, and was allowed to retain his rank. In a letter to Senator Chuck Grassley (R-IA) dated November 8, 2013, Army Secretary John McHugh tied Caldwell’s retirement to the findings against him, writing that Caldwell chose to retire, “knowing these substantiated allegations would prevent any future promotion or assignment to a position of importance or responsibility.” Secretary McHugh wrote that the findings “directly resulted in the termination of his career.”

If Caldwell retired for that reason, why is Patton being permitted to retain a highly sensitive position of leadership, a position that requires confidence in his ability to protect whistleblowers?

According to the DoDIG, Maj. Gen. Patton illegally restricted whistleblowers. He is, therefore, not fit to oversee the Army’s sexual assault policy, which only has meaning if whistleblowers feel able to come forward. We urge you to remove him from the position of Director of the Sexual Assault Prevention and Response Office.

By allowing Patton to retain this position of trust, DoD is at once jeopardizing the efficacy of the sexual assault program, failing to safeguard the rights of military whistleblowers, and failing to hold accountable a general officer who has committed a serious violation.

As you and Members of Congress struggle to end the sexual assault epidemic in the military, to leave Patton in place would send the wrong signal at this critical time.

We appreciate your attention to this issue, and we would welcome the opportunity to discuss this in more detail with you or your staff.

Sincerely,

Danielle Brian
Executive Director

cc: House Armed Services Committee
    Senate Armed Services Committee
    House Oversight and Government Reform Committee
    Senator Chuck Grassley
    Secretary of the Army John McHugh

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