

MISLEADING INFORMATION FROM THE BATTLEFIELD

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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MISLEADING INFORMATION FROM THE BATTLEFIELD

TUESDAY, APRIL 24, 2007

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The committee met, pursuant to notice, at 10:20 a.m., in room 2157, Rayburn House Office Building, Hon. Henry A. Waxman (chairman of the committee) presiding.

Present: Representatives Waxman, Maloney, Cummings, Kucinich, Davis of Illinois, Tierney, Clay, Watson, Lynch, Yarmuth, Braley, Norton, McCollum, Cooper, Hodes, Murphy, Sarbanes, Davis of Virginia, Burton, Shays, Mica, Platts, Duncan, Turner, Issa, Foxx, and Sali.

Also present: Representatives Honda, Mitchell, and Hayes.

Staff present: Phil Schiliro, chief of staff; Phil Barnett, staff director and chief counsel; Karen Lightfoot, communications director and senior policy advisor; David Rapallo, chief investigative counsel; John Williams, deputy chief investigative counsel; David Leviss, senior investigative counsel; Suzanne Renaud and Susanne Sachsman, counsels; Earley Green, chief clerk; Teresa Coufal, deputy clerk; Caren Auchman, press assistant; Zhongrui J.R. Deng, chief information officer; Leneal Scott, information systems manager; Bonney Kapp, fellow; Kerry Gutknecht, Will Ragland, and Bret Schothorst, staff assistants; David Marin, minority staff director; Larry Halloran, minority deputy staff director; Jennifer Safavian, minority chief counsel for oversight and investigations; Keith Ausbrook, minority general counsel; Ellen Brown, minority legislative director and senior policy counsel; A. Brooke Bennett, Charles Phillips, and John Callender, minority counsels; Christopher Bright, minority professional staff member; Nick Palarino, and John Cuaderes, minority senior investigators and policy advisors; Patrick Lyden, minority parliamentarian and member services coordinator; and Benjamin Chance, minority clerk.

Chairman WAXMAN. The committee will come to order.

I want to point out by a notice to all the Members that the opening statements will be provided by unanimous consent by the cChairman and the ranking member, and then we will go right to our witnesses.

I also want to start off this hearing by saying something that I think is very clear and already obvious. My colleagues, whether they are Democrats or Republicans, support our troops. We are deeply grateful for their sacrifices. We know that so many men and

women have voluntarily put their lives on the line to defend this country and our freedom.

It is probably just as obvious that the actions of our government are not meeting our aspirations. We saw that vividly and unforgettably when we had the hearing and we watched the disgraceful conditions at Walter Reed. We saw it again when our government officials made an intolerable breach by making public the secret and classified CIA identity of Valerie Plame Wilson, and we are going to see it again this morning.

The bare minimum we owe our soldiers and their families is the truth. That didn't happen for two of the most famous soldiers in the Iraq and Afghanistan wars. For Jessica Lynch and Pat Tillman, the government violated its basic responsibility.

Sensational details and stories were invented in both cases. Sometimes because of the fog of war, the first reports from the battlefield are inaccurate, but that doesn't seem to explain what happened here.

In Jessica Lynch's case, the first reports were right. It was the followup stories published 10 days after her capture that discarded the facts and misled the country.

The Washington Post published a front page story on April 2, 2003. It was written by Vernon Loeb and Dana Priest, and it got the story right. I want to read the lead paragraphs: "Jessica Lynch, a 19 year old private first class missing since the ambush of an Army maintenance company 10 days ago in southern Iraq, has been rescued by Special Operations forces, defense officials said yesterday. CIA operatives in Iraq located Lynch in a hospital near Nasiriyah where she was being held because of multiple wounds, officials said, and a helicopter-borne team of Navy SEALs and Army Rangers rescued her about midnight local time."

That was an accurate statement, but the next day, April 3rd, the Washington Post ran another front page story. This one was written by Susan Schmidt and Vernon Loeb, and the contrast with the April 2nd story is remarkable.

Here is what the Post reported: "Pfc. Jessica Lynch, rescued Tuesday from an Iraqi hospital, fought fiercely and shot several enemy soldiers after Iraqi forces ambushed the Army's 507th Ordnance Maintenance Company, firing her weapon until she ran out of ammunition, U.S. officials said yesterday. Lynch, a 19 year old supply clerk, continued firing at the Iraqis even after she sustained multiple gunshot wounds and watched several other soldiers in her unit die around her in fighting March 23, one official said."

Where did this false information come from?

Jessica Lynch was captured on March 23rd. The Washington Post published a completely factual article on her rescue on April 2nd, but then they went on, 10 days after her capture, U.S. officials had become the source of a report that riveted the Nation but twisted the truth beyond recognition.

It is 4 years later and we still don't know who is responsible or why they did it. All we really know is that they did a great disservice to Jessica Lynch.

And so, I want to say to Private Lynch and her family who are here today, this committee is going to do its best to find out the source of the fabrications that you had to endure. We want to know

whether they were the result of incompetence or a deliberate strategy to spin a compelling story at a critical time, and we will do our best to find out who should be held accountable.

Everyone on this committee is also familiar with Pat Tillman's case, and we all share our sympathies with his wife, Marie, his mother, Mary, his father, Patrick, his brother, Kevin and his entire family.

But his family wants more than our sympathies and apologies. They want answers, and they deserve them. Pat Tillman was killed by members of his own platoon on April 22, 2004, 3 years ago this past Sunday. But since then, the family has been unable to learn why the military told the world that Corporal Tillman had been killed by the enemy when, in fact, they knew he had died from friendly fire.

News of the fratricide flew up the chain of command within days, but the Tillman family was kept in the dark for more than a month. Many military officials sat in silence during a nationally televised memorial ceremony highlighting Pat Tillman's fight against the terrorists. Evidence was destroyed. Witness statements were doctored.

The Tillman family wants to know how all of this could have happened, and they want to know whether these actions were all just accidents or whether they were deliberate.

In working on this hearing, the committee has learned of many other cases in which the military failed to tell the families the truth.

Sergeant Eddie Ryan was a victim of friendly fire during his second tour in Iraq. He sustained two gunshot wounds to the head and, thankfully, is still alive, but he didn't find out the truth about his injuries until 5 months later even though his fellow Marines knew immediately that his injuries were due to friendly fire.

Other families, like those of First Lieutenant Sarah K. Small, Private First Class Levena Johnson and Lieutenant Ken Ballard, have been forced to file Freedom of Information Act requests in order to obtain information about the deaths of their loved ones. These families have asked the military repeatedly for basic information, but they have been ignored or dismissed with slow and incomplete answers. This is simply unacceptable.

One of the things that make the Afghanistan and Iraq wars so different from previous wars is the glaring disparity in sacrifice. For the overwhelming number of Americans, this war has brought no sacrifice and no inconvenience, but for a small number of Americans, the war has demanded incredible and constant sacrifice. Those soldiers and their families pay that price proudly and without complaint.

That is what Jessica Lynch and Pat Tillman did, and it is what their families have done, but our Government failed them. Our government hasn't done right by them.

I hope, in some small but important way, this hearing can begin to right those wrongs.

The least we owe to our courageous men and women who are fighting for our freedom is the truth, and that is what we are going to insist on in this hearing and in our subsequent examination and investigation.

[The prepared statement of Chairman Henry A. Waxman follows:]

**Statement of Rep. Henry A. Waxman
Chairman, Committee on Oversight and Government Reform
Hearing on Misleading Information from the Battlefield
April 24, 2007**

I'll start this morning by stating what I think is already obvious: every one of my colleagues — Democratic and Republican — genuinely supports our troops. We are all deeply grateful for the sacrifices so many men and women have made ... voluntarily ... to defend our country and our freedoms.

But it's probably just as obvious that the actions of our government are not meeting our aspirations. We saw that vividly and unforgettably in the disgraceful conditions at Walter Reed.

We saw it again when government officials made an intolerable breach by making public the secret and classified CIA identity of Valerie Plame Wilson.

And we are seeing it again this morning. The bare minimum we owe our soldiers and their families is the truth.

That didn't happen for the two most famous soldiers in the Iraq and Afghanistan Wars. For Jessica Lynch and Pat Tillman, the government violated its most basic responsibility.

Sensational details and stories were invented in both cases. Sometimes, because of the fog of war, the first reports from the battlefield are inaccurate. But that doesn't seem to explain what happened here.

In Jessica Lynch's case, the first reports were right. It was the follow-up stories, published ten-days after her capture, that discarded the facts and misled the country.

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Jessica Lynch, a 19-year-old private first class missing since the ambush of an Army maintenance company 10 days ago in southern Iraq, has been rescued by Special Operations forces, defense officials said yesterday.

CIA operatives in Iraq located Lynch in a hospital near Nasiriyah, where she was being held because of multiple wounds, officials said, and a helicopter-borne team of Navy SEALs and Army Rangers rescued her about midnight local time.

But the next day, April 3, the *Washington Post* ran another front-page story. This one was written by Susan Schmidt and Vernon Loeb. The contrast with the April 2 story is remarkable. Here's what the *Post* reported:

Pfc. Jessica Lynch, rescued Tuesday from an Iraqi hospital, fought fiercely and shot several enemy soldiers after Iraqi forces ambushed the Army's 507th Ordnance Maintenance Company, firing her weapon until she ran out of ammunition, U.S. officials said yesterday.

Lynch, a 19-year-old supply clerk, continued firing at the Iraqis even after she sustained multiple gunshot wounds and watched several other soldiers in her unit die around her in fighting March 23, one official said.

Where did this false information come from? Jessica Lynch was captured on March 23. The *Washington Post* published a completely factual article on her rescue on April 2. But by April 3, ten days after her capture, U.S. officials had become the source for a story that riveted the nation, but twisted the truth beyond recognition.

It's four years later and we still don't know who's responsible and why they did it. All we really know is that they did a great disservice to Jessica Lynch.

And so I want to say to Private Lynch and her family: this Committee is going to do its best to find out the source of the fabrications that you have had to endure. We want to know whether they were the result of incompetence or a deliberate strategy to spin a compelling story at a critical time. And we will do our best to find out who should be held accountable.

Everyone on the Committee is also familiar with Pat Tillman's case. And we all share our sympathies with his wife

Marie, his mother Mary, his father Patrick, his brother Kevin, and his entire family.

But his family wants more than our sympathies and apologies. They want answers. And they deserve them. Pat Tillman was killed by members of his own platoon on April 22, 2004 — three years ago this past Sunday. But since then, the family has been unable to learn why the military told the world that Corporal Tillman had been killed by the enemy when in fact they knew he had died from friendly fire.

News of the fratricide flew up the chain of command within days, but the Tillman family was kept in the dark for more than a month. Military officials sat in silence during a nationally televised memorial ceremony highlighting Pat Tillman's fight against the terrorists. Evidence was destroyed and witness statements were doctored. The Tillman family wants to know how all of this could have happened. And they want to know whether these actions were all just accidents ... or whether they were deliberate.

In working on this hearing, the Committee has learned of many other cases in which the military failed to tell families the truth. Sergeant Eddie Ryan was a victim of friendly fire during his second tour in Iraq. He sustained two gunshot wounds to the head and, thankfully, is still alive. But he didn't find out the truth about his injuries until five months later, even though his fellow Marines knew immediately that his injuries were due to friendly fire.

Other families, like those of First Lieutenant Sarah K. Small, Private First Class Levena Johnson, and Lieutenant Ken Ballard, have been forced to file Freedom of Information Act requests in order to obtain information about the deaths of their loved ones. These families have asked the military repeatedly for basic information, but they have been ignored or dismissed with slow and incomplete answers. This is simply unacceptable.

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But for a small number of Americans, the war has demanded incredible and constant sacrifice. Those soldiers and their families pay that price proudly and without complaint. That's what Jessica Lynch and Pat Tillman did, and it's what their families have done.

But our government failed them. Our government hasn't done right by them. I hope, in some small but important way, this hearing can begin to right those wrongs.

Chairman WAXMAN. I want to now recognize the ranking member of the committee, Tom Davis.

Mr. DAVIS OF VIRGINIA. Thank you, Mr. Chairman.

If the first casualty of war is the truth, what happens when the wound is self-inflicted?

That is the question the committee confronts today as we examine two very different cases in which accurate information from the battlefield was delayed, distorted or suppressed, not by any foe but by those on our side of the fight. Each case offers very different lessons on how or whether the truth survives in the wake of combat.

Chairman Waxman framed this hearing well by asking whether misstatements by military officials regarding the capture of Army Private Jessica Lynch and the death of Army Corporal Patrick Tillman were the result of innocent miscommunication, negligence or deliberate deception.

But it is not always easy to tell where inadvertencies end and lying begins. In the military, one innocent misstatement can quickly become the incontrovertible company line reflexively defended up and down the chain of command even after contradictory facts emerge.

One erroneous media report amplified by various audiences for their own reasons could overwhelm any effort to set the record straight. Especially in this modern war of ideas as well as arms, the insatiable appetite of the 24/7 global news cycle often outpaces official fact-finding, filling the vacuum with speculation, supposition and thinly sourced, premature conclusions.

That appears to be a large part of what happened in the case of Jessica Lynch. From the outset, Department of Defense officials took pains to provide accurate information about her wounds, but an anonymously sourced Washington Post story loudly heralded a description of her ordeal involving a solitary firefight with the enemy, bullet wounds and knife attacks. That tale, which proved inaccurate, seemed at odds with other emerging information about the circumstances of her capture and the nature of her injuries.

Still, without knowing the identity or motive of the Post's unnamed source, it is difficult to fault Pentagon officials who never fed or perpetuated the Hollywood version of events but stuck consistently with the facts at hand.

The fog of war can be dense, and Ms. Lynch's story offers only a cautionary tale about waiting for the smoke to clear before accepting early battle damage assessments as fact.

The case of Army Ranger Pat Tillman is far more troubling. Rules and procedures put in place precisely for the purpose of providing timely and accurate information about combat deaths were ignored. Physical evidence that could have yielded critical information was destroyed. Plausible information and the likelihood this was a friendly fire incident was discounted, perhaps even suppressed, while statements supporting award of the Silver Star went forward, suggesting he died from enemy fire.

Those errors, omissions and delays understandably fueled suspicion that senior military officials knew the actual circumstances of Corporal Tillman's death but manipulated the information to avoid bad news. After several investigations, it now seems clear

those officers could have and should have known friendly fire was suspected.

It was a disservice to the memory of Corporal Tillman, to his family, his unit and the Nation to let the happy myth outrun the unpleasant facts even for a day.

While we need to be sensitive to pending recommendations and ongoing investigations in this matter, we need to know why so many did not know the rules when friendly fire is a possibility, and we need to know what has been done to make sure those rules are being strengthened, conveyed and applied to prevent even an accidental recurrence of this type of tragedy.

War is about heroic efforts, and we all look for heroes. It is our great fortunate as a Nation to be blessed abundantly with genuine heroes who, in ways large and small, protect our liberties and serve the cause of human dignity every day.

The truth about Jessica Lynch and Patrick Tillman is heroic enough. There is no need to embellish or spin it.

I hope today's testimony will bring some closure to the Tillman family and bring some assurances to all service members and their families that truth will survive the battle and accompany them safely home.

Thank you, Mr. Chairman.

[The prepared statement of Hon. Tom Davis follows:]

HENRY A. WAXMAN CALIFORNIA
CHAIRMAN

TOM DAVIS VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

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Statement of Rep. Tom Davis
Ranking Republican Member
Committee on Oversight and Government Reform
Hearing: "Misleading Information from the Battlefield"
April 24, 2007

If the first casualty of war is the truth, what happens when the wound is self-inflicted? That's the question the Committee confronts today as we examine two very different cases in which accurate information from the battlefield was delayed, distorted or suppressed not by any foe, but by those on our side of the fight. Each case offers very different lessons on how, or whether, the truth survives in the wake of combat.

Chairman Waxman framed this hearing well by asking whether misstatements by military officials regarding the capture of Army Private Jessica Lynch and the death of Army Corporal Patrick Tillman were the result of innocent miscommunication, negligence or deliberate deception. But it's not always easy to tell where inadvertence ends and lying begins. In the military, one innocent misstatement can quickly become the incontrovertible company line reflexively defended up and down the chain of command, even after contradictory facts emerge. And one erroneous media report, amplified by various audiences for their own reasons, can overwhelm any effort to set the record straight. Especially in this modern war of ideas as well as arms, the insatiable appetite of the 24/7 global news cycle often outpaces official fact-finding, filling the vacuum with speculation, supposition and thinly sourced, premature conclusions.

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I hope today's testimony will bring some closure to the Tillman family and bring some assurance to all service members and their families that truth will survive the battle and accompany them safely home.

Chairman WAXMAN. Thank you, Mr. Davis.

I want to welcome our witnesses. The Tillman family, Ms. Lynch, those with her, please come forward.

While they are doing that, several Members who do not serve on our committee are joining us for the hearing today, and I would like to ask unanimous consent that Representatives Hayes, Honda and Mitchell be allowed to participate in the hearing.

Without objection, that will be the order. They will be permitted to ask questions after all members of the committee have completed their questioning.

I want to thank all of you for being here today, not just those who are going to present testimony to us but the other family members that are here as well. We know it is not easy to be here and to have to relive experiences that have been quite unpleasant, but I think it is important not just for you but for the American people and for all the other men and women that are fighting for freedom in Iraq and in Afghanistan.

It is the policy of this committee that all witnesses are sworn in to take an oath, and I would like to ask each of you if you would to please stand and raise your right hands.

[Witnesses sworn.]

Chairman WAXMAN. The record will indicate that each of the witnesses answered in the affirmative.

Mary Tillman is the mother of Corporal Pat Tillman. Mrs. Tillman has persistently pursued the many unanswered questions concerning the circumstances of her son's death and the shortcomings of the investigations that followed.

Kevin Tillman is the brother of Corporal Pat Tillman and former Army Ranger who served in the same platoon in Afghanistan as Corporal Tillman, and this is his first time testifying publicly about this matter.

Jessica Lynch is a former Private First Class, U.S. Army. Ms. Lynch was captured by Iraqi soldiers on March 23, 2003, when her convoy was ambushed, and she was rescued by American troops 9 days later.

Dr. Gene Bolles is the former Chief of Neurosurgery, Landstuhl Regional Medical Center, Germany. Dr. Bolles treated Private Lynch's injuries in Germany after she was rescued in Iraq.

We thank each of you for being here, and we are looking forward to hearing your testimony. I know there will be questions that Members will want to ask.

Mr. Tillman, there is a button on the base of the mic to turn it on, and I would like to ask you to be sure to pull it close to you. You can pull it close to you rather than having to lean over to it.

Thank you very much. You are recognized.

**STATEMENTS OF KEVIN TILLMAN; JESSICA LYNCH; AND DR.
GENE BOLLES, DENVER MEDICAL HEALTH CENTER**

STATEMENT OF KEVIN TILLMAN

Mr. KEVIN TILLMAN. I want to thank Chairman Waxman for holding this hearing and members of the committee for attending. My name is Kevin Tillman.

Two days ago marked the third anniversary of the death of my older brother, Pat Tillman, in Sperah, Afghanistan. To our family and friends, it was a devastating loss. To the Nation, it was a moment of disorientation. To the military, it was a nightmare. But to others within the government, it appears to have been an opportunity.

April 2004 was turning into the deadliest month to date in the war in Iraq. The dual rebellions in Najaf and Fallujah handed the U.S. forces their first tactical defeat as American commanders essentially surrendered Fallujah to members of Iraq resistance, and the administration was forced to accede to Ayatollah Sistani's demand for January elections in exchange for assistance in extricating U.S. forces from its battle with the Mahdi Militia.

A call-up of 20,000 additional troops was ordered, and another 20,000 troops had their tours of duty extended.

In the midst of this, the White House learned that Christian Parenti, Seymour Hersh and other journalists were about to reveal a shocking scandal involving mass and systemic detainee abuse at the facility known as Abu Ghraib.

Then on April 22, 2004, my brother, Pat, was killed in a fire-fight in eastern Afghanistan. Immediately after Pat's death, our family was told that he was shot in the head by the enemy in a fierce fire-fight outside a narrow canyon.

In the days leading up to Pat's memorial service, media accounts based on information provided by the Army and the White House were wreathed in a patriotic glow and became more dramatic in tone. A terrible tragedy that might have further undermined support for the war in Iraq was transformed into an inspirational message that served instead to support the Nation's foreign policy wars in Iraq and Afghanistan.

To further exploit Pat's death, he was awarded the Silver Star for Valor. The abridged version went like this:

Only after his team engaged this well armed enemy did it appear that the enemy's volume of fire into Corporal, into the kill zone diminished. Above the din of battle, Corporal Tillman was heard issuing fire commands to take the fight to an enemy on the dominating high ground.

Always leading from the front, Corporal Tillman aggressively maneuvered his team against the enemy position on the steep slope. As a result of Corporal Tillman's effort and heroic action, the trail element of the platoon was able to maneuver through the ambush position of relative safety without suffering a single casualty.

The fight that ensued at Corporal Tillman's position increased in intensity. Corporal Tillman focused all his efforts on keeping the men of his team safe while continuing to press the attack himself without regard for his own personal safety. In the face of mortal danger, Corporal Tillman illustrated that he would not fail his comrades. His actions are in keeping with the highest standards of the U.S. Army.

This was a narrative that inspired countless Americans as intended.

There was one small problem with the narrative, however. It was utter fiction. The content of the multiple investigations revealed a series of contradictions that strongly suggest deliberate and careful misrepresentations.

We appeal to this committee because we believe this narrative was intended to deceive the family but more importantly to deceive the American public.

Pat's death was clearly the result of fratricide. It was due to a series of careless actions by several individuals in our platoon after a small harassing ambush.

During this uncontrolled shooting, the driver of the vehicle himself recognized friendlies immediately but kept driving for approximately 400 meters while the soldiers in the back of his truck continued to shoot at the hillside where the U.S. soldiers were and civilians.

The vehicle saw arms and hands waving. Smoke was flying. Pin gun flares. An Afghan soldier was immediately recognized. They never felt threatened, and they still shot up the village unprovoked. The vehicle behind them clearly saw the U.S. soldiers on the hillside and were calling cease-fire.

The end result were the death of Pat and the Afghan soldier as well as two more soldiers wounded in the village.

The signs were available, but the decision to shoot was made. This was not some fog of war. They simply lost control.

According to the sworn statements, statement on April 26th by the fellow soldier who was right next to Pat, literally right next to Pat:

I remember watching the friendlies just shooting at us. A 50-cal rolled up into our sights and starting to unload on top of us. It would work in boosts. Fifty cal for 10 to 15 seconds, 240 Bravo, 10 to 15 seconds, back and forth. Specialist Tillman and I were yelling: Cease. Stop. Stop. Friendlies. Friendlies. Cease fire.

But they could not hear us.

Tillman came up with the idea to let a smoke grenade go. They stopped. This stopped the friendly contact for a few moments, and that is when I realized the AMF soldier was dead.

At this time, the GMV rolled into a better position to fire on us. We thought the battle was over, though, so we were relieved, getting up, stretching out and talking with one another when I heard some 5.56 rounds coming from the GMV.

They started firing again. That is when I hit the deck.

Specialist Tillman at this time was hit by small arms fire. I know this because I could hear the pain in his voice as he called out: Cease fire. Friendlies. I am Pat, F'ing, Tillman, damn it.

He said this over and over again until he stopped.

The facts of this case clearly show Pat and the Afghan soldier were killed by fellow members of his platoon as well as the wounded soldiers on the hillside, and they knew this immediately.

Revealing that Pat's death was a fratricide would have been yet another political disaster during a month already swollen with political disasters and a brutal truth that the American public would undoubtedly find unacceptable. So the facts needed to be suppressed.

An alternative narrative had to be constructed. Crucial evidence was destroyed including Pat's uniform, equipment and notebook. The autopsy was not done according to regulation, and a field hospital report was falsified.

An initial investigation completed in 8 to 10 days before testimony could be changed or manipulated and which hit disturbingly close to the mark disappeared into thin air and was conveniently replaced by another investigation with more palatable findings.

This freshly manufactured narrative was then distributed to the American public, and we believe the strategy had the intended effect. It shifted the focus from the grotesque torture at Abu Ghraib and a downward spiral of an illegal act of aggression to a great American who died a hero's death.

Over a month after Pat's death when it became clear that it would no longer be possible to pull off this deception, a few of the facts were parceled out to the public and to our family.

General Kensinger was ordered to tell the American public, May 29th, 5 weeks later, that Pat died of fratricide but with a calculated and nefarious twist. He stated: "There was no one specific finding of fault" and that he "probably died of fratricide."

But there was specific fault, and there was nothing probable about the facts that led to Pat's death. The most despicable part of what General Kensinger told the American public was when he said, "The results of this investigation in no way diminish the bravery and sacrifice displayed by Corporal Tillman."

This is an egregious attempt to manipulate the public into thinking anyone who would question this 180-degree flip in the narrative would be casting doubt on Pat's bravery and sacrifice. Such questioning says nothing about Pat's bravery and sacrifice anymore than the narrative for Jessica diminishes her bravery and sacrifice. It does, however, say a lot about the powers who perpetrated this.

After the truth of Pat's death was partially revealed, Pat was no longer of use as a sales asset and became strictly the Army's problem. They were now left with the task of briefing our family and answering our questions. With any luck, our family would sink quietly into our grief, and the whole unsavory episode would be swept under the rug. However, they miscalculated our family's reaction.

Through the amazing strength and perseverance of my mother, the most amazing woman on Earth, our family has managed to have multiple investigations conducted. However, while each investigation gathered more information, the mountain of evidence was never used to arrive at an honest or even sensible conclusion.

The most recent investigation by the Department of Defense Inspector General and the Criminal Investigative Division of the Army concluded that the killing of Pat was "an accident."

The handling of the situation after the firefight was described as a compilation of "missteps, inaccuracies and errors in judgment which created the perception of concealment."

The soldier that shot Pat admitted in his sworn statement that just before he delivered the fatal burst from about 35 meters away, that he saw his target waving hands, but he decided to pull the trigger anyway. Such an act is not an accident. It is a clear violation of the rules of engagement.

Writing up a field hospital report stating that Pat "transferred to intensive care unit for continued CPR" after most of his head had been taken off by multiple 5.56 rounds is not misleading.

Stating that a giant rectangle bruise covering his chest that sits exactly where the armor plate that protects you from bullets as being “consistent with paddle marks” is not misleading. These are deliberate and calculated lies.

Writing a Silver Star award before a single eye witness account is taken is not a misstep. Falsifying soldier witness statements for a Silver Star is not a misstep. These are intentional falsehoods that meet the legal definition for fraud.

Delivering false information at a nationally televised memorial service is not an error in judgment. Discarding an investigation that does not fit a preordained conclusion is not an error in judgment. These are deliberate acts of deceit.

This is not the perception of concealment. This is concealment.

Pat is, of course, not the only soldier where battlefield reality has reached the family and the public in the form of a false narrative.

First Lieutenant Ken Ballard died in Najaf, Iraq, just 1 day after Pat’s fratricide went public. His mom, Karen Meredith, was told that Ken was killed by a sniper on a rooftop. Fifteen months later, she found out that he was killed by an unmanned gun from his own vehicle.

Private Jesse Buryj was killed May 5, 2004, in Iraq. His family was told he was killed in a vehicle accident. A year later they received the autopsy report, and they found that he was shot in the back. The Army was forced to concede that he was accidentally shot by a Polish soldier. Just recently, out of nowhere, a lieutenant showed up at their family’s house and told them that an officer in his own unit had shot him. They are still looking for answers.

Sergeant Patrick McCaffrey was killed June 22, 2004, from what the family was told “an ambush by insurgents.” Two years later, they found out that those insurgents happen to be the same Iraqi troops that he was training. Before his death, he told his chain of command that these same troops that he was training were trying to kill him and his team. He was told to keep his mouth shut.

About a year ago, I received a phone call. I was at my mom’s house, and it was an emergency breakthrough from the operator. It happened to be a woman named Dawn Hellermann from North Carolina, so it was 2 a.m., her time.

Her husband, Staff Sergeant Brian Hellermann was killed in Iraq. She was tired of receiving new official reasons why her husband had died. She was desperate for help, so she called us. The system had failed her.

Those soldiers deserve better, and their families deserve better.

Our family has relentlessly pursued the truth on this matter for 3 years. We have now concluded that our efforts are being actively thwarted by powers that are more important, excuse me, that are more interested in protecting a narrative than getting at the truth or seeing that justice is served.

That is why we ask Congress, as a sovereign representative of the whole people, to exercise its power to investigate the inconsistencies in Pat’s death and the aftermath and all the other soldiers that were betrayed by this system.

The one bit of truth that did survive these manipulations is that Pat was and still is a great man. He is the most wonderful older brother to ever exist. Pat wanted to leave a positive legacy based

on his actions, and he did that. But Pat's death at the hands of his comrades is a terrible tragedy.

But the fact that the Army and what appears to be others attempted to hijack his virtue and his legacy is simply horrific. The least this country can do for him in return is to uncover who is responsible for his death, who lied and covered it up, and who instigated those lies and benefited from them. Then ensure that justice is meted out to the culpable.

Pat and these other soldiers volunteered to put their lives on the line for this country. Anything less than the truth is a betrayal of those values that all soldiers who have fought for this Nation have sought to uphold.

Thank you for your time.

Chairman WAXMAN. Thank you very much, Mr. Tillman. Thank you very much for your testimony.

Mrs. Tillman, I know he was speaking for both of you. Is there anything you want to add briefly?

Mrs. MARY TILLMAN. No.

Chairman WAXMAN. No, OK.

Ms. Lynch, we are pleased to have you here.

Make sure the button is pushed on the base of the mic. I am reluctant to tell you to pull it too close to you but see whatever is comfortable.

STATEMENT OF JESSICA LYNCH

Ms. LYNCH. Chairman Waxman and distinguished members of the committee, it is an honor to be with you here today, and I am grateful to have this opportunity.

I have been asked here today to address misinformation from the battlefield. Quite frankly, it is something that I have been doing since I returned home from Iraq. However, I want to note for the record that I am not politically motivated in my appearance here today.

I lived the war in Iraq, and today I still have family and friends fighting in Iraq. My support for our troops is unwaivering.

I believe this is not a time for fingerpointing. It is a time for truth, the whole truth, versus hype and misinformation. Because of the misinformation, people tried to discount the realities of my story, including me, as part of the hype. Nothing could be further from the truth.

My experiences have caused a personal struggle of all sorts for me. I was given opportunities not extended to my fellow soldiers, and I embraced those opportunities to set the record straight. It is something that I have been doing since 2003. It is something that I imagine I will have to do for the rest of my life.

I have answered criticisms for being told, being paid to tell my story. Quite frankly, the injuries I have will last a lifetime, and I have a story to tell, a story that needed to be told so people would know the truth.

I want to take a minute to remind the committee of my true story. I was a soldier.

In July 2001, I enlisted in the Army with my brother, Greg. We had different reasons of why to join, but we both knew that we wanted to serve our country. I loved my time in the Army, and I

am grateful for the opportunity to have served the country in a time of crisis.

In 2003, I received word that I would be deployed. I was part of a 100-mile long convoy going to Baghdad. I drove a 5-ton water buffalo truck. Our unit had some of the heaviest vehicles, and the sand was so thick that our vehicles would just sink. It would take us hours to just travel the shortest distance.

We decided to divide our convoy up so the lighter vehicles could reach our destination, but first came the city of An Nasiriyah and a day that I will never forget.

The truck I was driving broke down, and I was picked up by my roommate and best friend, Lori Piestewa, who was driving our First Sergeant Robert Dowdy. We also picked up two other soldiers from a different unit to get them out of harm's way.

As we drove through An Nasiriyah, trying to get turned around to leave the city, the signs of hostility were increasing with people with weapons on rooftops and the street watching our entire move.

The vehicle I was riding in was hit by a rocket propelled grenade and slammed into the back of another truck in our unit. Three people in the vehicle were killed upon impact.

Lori and I were taken to a hospital where she later died and I was held for 9 days. In all, 11 soldiers died that day, 6 from my unit and 2 others. Six others from my unit were taken prisoner plus two others.

Following the ambush, my injuries were extensive. When I awoke in the Iraqi hospital, I was not able to move or feel anything below my waist. I suffered a 6-inch gash in my head. My fourth and fifth lumbar were overlapping, causing pressure on my spine. My right humerus was broken. My right foot was crushed. My left femur was shattered.

The Iraqis in the hospital tried to help me by removing the bone and replacing it with a 1940's rod that was made for a man.

Following my rescue, the doctors at Landstuhl, Germany found in a physical exam that I had been sexually assaulted.

Today, I still continue to deal with bowel, bladder and kidney problems as a result from the injuries. My left leg still has no feeling from the knee down, and I am required to wear a brace just to stand and walk.

When I awoke, I did not know where I was. I could not move. I could not call for help. I could not fight. The nurses at the hospital tried to soothe me, and they even tried unsuccessfully at one point to return me to Americans.

On April 1st, while various units created diversions around Nasiriyah, a group came to the hospital to rescue me. I could hear them speaking in English, but I was still very afraid.

Then a soldier came into the room. He tore the American flag from his uniform, and he handed it to me in my hand, and he told me: We are American soldiers, and we are here to take you home.

I looked at him and I said, yes, I am an American soldier too.

When I remember those difficult days, I remember the fear. I remember the strength. I remember the hand of that fellow American soldier reassuring me that I was going to be OK.

At the same time, tales of great heroism were being told. At my parents' home in Wirt County, WV, it was under siege by media,

all repeating the story of the little girl Rambo from the hills of West Virginia who went down fighting. It was not true.

I have repeatedly said when asked that if the stories about me helped inspire our troops and rally our Nation, then perhaps there was some good.

However, I am still confused as to why they chose to lie and tried to make me a legend when the real heroics of my fellow soldiers that day were legendary. People like Lori Piestewa and First Sergeant Dowdy who picked up fellow soldiers in harm's way or people like Patrick Miller or Sergeant Donald Walters who actually did fight until the very end.

The bottom line is the American people are capable of determining their own ideals for heroes. They don't need to be told elaborate lies.

My hero is my brother, Greg, who continues to serve his country today. My hero is my friend, Lori Piestewa, who died in Iraq but set an example for a generation of Hopi and Native American women and little girls everywhere about the contributions just one soldier can make. My hero is every American who says my country needs me and answers that call to fight.

I had the good fortune and opportunity to come home and to tell the truth. Many soldiers, like Pat Tillman, did not have that opportunity.

The truth of war is not always easy. The truth is always more heroic than the hype.

Thank you.

[The prepared statement of Ms. Lynch follows:]

Chairman Waxman, and distinguished members of the committee, it is an honor to be with you today and I am grateful to have this opportunity.

I have been asked here today to address "misinformation from the battlefield." Quite frankly, it is something that I have been doing since I returned from Iraq. However, I want to note for the record, I am not politically motivated in my appearance here today. I lived the war in Iraq. Today I have family and friends still serving in Iraq. My support for our troops is unwavering.

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Because of the misinformation, people try to discount the realities of my story, including me as part of the hype. Nothing could be further from the truth. My experiences have caused a personal struggle of sorts for me. I was given opportunities not extended to my fellow soldiers – and embraced those opportunities set the record straight. It is something I have done since 2003 and something I imagine I will have to do for the rest of my life. I have answered criticisms for being paid to tell my story. Quite frankly, the injuries I have will last a lifetime and I had a story tell, a story that needed to be told so people would know the truth.

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and he told me, "We're American soldiers and we're here to take you home." As I held his hand, I told him, "yes, I am an American soldier too."

When I remember those difficult days, I remember the fear. I remember the strength. I remember the hand of a fellow American soldier reassuring me that I was ok now.

At the same time, tales of great heroism were being told. My parent's home in Wirt County was under siege of the media all repeating the story of the little girl Rambo from the hills who went down fighting.

It was not true.

I have repeatedly said, when asked, that if the stories about me helped inspire our troops and rally a nation, then perhaps there was some good. However, I am still confused as to why they chose to lie and tried to make me a legend when the real heroics of my fellow soldiers that day were, in fact, legendary. People like Lori Piestewa and First Sergeant Dowdy who picked up fellow soldiers in harms way. Or people like Patrick Miller and Sergeant Donald Walters who **actually** fought until the very end.

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I had the good fortune and opportunity to come home and I told the truth. Many other soldiers, like Pat Tillman, do not have the opportunity.

The truth of war is not always easy to hear but it always more heroic than the hype.

Chairman WAXMAN. Thank you very much, Ms. Lynch.
Dr. Bolles.

STATEMENT OF GENE BOLLES

Dr. BOLLES. Mr. Chairman and members of the committee, thank you for inviting me here today.

My name is Gene Bolles, and I am a neurosurgeon. Specifically, I specialize in neurotrauma, spine surgery and radial surgery.

I graduated from the University of Michigan's Medical School and did my subsequent training at the University of Colorado Health Sciences Center in Denver, CO. I have over 30 years of surgical experience.

I was drafted into the military out of my training in 1965 and served as a flight surgeon and subsequent division surgeon of the 8th Infantry Division in Germany.

For the next several decades, I worked as practitioner of neurosurgery in the Boulder, Denver area where I performed hundreds of surgeries on victims of trauma.

In 2001 before the attacks of September 11th, I was asked to apply for the position of Chief of Neurosurgery at Landstuhl Regional Medical Center in Germany. Through a competitive process, I was selected for the position and commenced my service in November 2001.

I served as Chief of Neurosurgery as a Department of Defense contractor for over 2 years, leaving in February 2004. For the first year and a half, I was the only neurosurgeon between Okinawa and the United States. After the Iraqi war, Iraqi part of the war began, OIF, more neurosurgeons were added to our staff to handle the increased number of expected patients.

During my time as the Chief of Neurosurgery there, patients from Afghanistan, Kosovo, Kuwait, Iraq, amongst elsewhere, were flown in to Landstuhl Regional Medical Center throughout the day. I operated on and oversaw the treatment of many wounded U.S. combat forces.

I am here today to discuss my treatment of Private Jessica Lynch and the misfortune that surrounded her condition.

Fewer than 2 weeks after she was captured in Iraq, she arrived in Germany for medical treatment. She had severe injuries that required a number of surgeries. It is these injuries where truth has been coupled perhaps with fiction that I am here to discuss today.

Private Lynch was captured by the Iraqis on March 23rd. U.S. forces rescued her from an Iraqi hospital on April 1st, and she was thereafter medically evacuated to Germany.

I examined Private Lynch and looked for evidence. I did a complete exam on her and, specifically though, I was looking for evidence of gunshot wounds in addition to her other injuries as we were told that she had been shot. I saw no evidence of gunshot wounds.

I looked for metallic fragments on x-rays. I saw none. I saw no injuries that looked like a gunshot wound to my eye. I saw no entrance and exit wounds that appeared to be corroborative of that.

She did have some puncture wounds of her extremities, but they were not the kind that I had ever seen made by a bullet wound.

They were consistent with the injuries that had been described, that she had undergone perhaps a motor vehicle type of accident.

At some point during our treatment of Private Lynch, one of the trauma surgeons that was involved in her care was evaluated, and there was perhaps a difference of opinion although I did not discuss that with him. He made the statement that he thought these puncture sites were gunshot wounds. I did not and do not agree with that assessment. I saw no clinical or physical evidence that was the case.

I proceeded to operate on Private Lynch where we performed an operation for her lumbar spine and her fractures. For the time Private Lynch was in intensive care, I saw her on a daily basis. As with other patients, I checked in with her to monitor her status. I asked how she was feeling, etc.

And I also asked permission to contact her parents, and I called her parents after the surgery before they came to Germany. I recall being asked by, I believe, her father if she had been shot, and I said, no.

I never leaked any other information about my patient's condition to the press. Although several reporters have asked me from time to time, I have declined to discuss any details of her care other than the fact that I was involved in it.

I am happy to answer any questions that the committee and subcommittee may have about my time at Landstuhl Regional Medical Center.

Thank you.

Chairman WAXMAN. Thank you very much, Dr. Bolles.

We will now proceed to questions from the members of the committee. Each side will initially control 10 minutes by the Chair and by the ranking member, and then we will proceed to 5 minute rounds in order prescribed under the rules.

For the 10 minutes that we have on our side, I want to yield to the gentleman from Connecticut, Mr. Waxman.

Mr. MURPHY. Thank you very much, Mr. Murphy.

I think I can take the liberty of speaking for all the members of the committee on both sides of the aisle to say to the Tillmans, to Ms. Lynch, we stand in awe of you this morning to present this testimony before this committee.

The only appropriate place to start is where Mr. Waxman began his opening remarks, to express our immeasurable gratitude to the courage of the young Americans who have put themselves in harm's way on behalf of our country in Iraq and Afghanistan.

Having just returned with four other members of this committee from the fronts in both Iraq and Afghanistan, I know personally how much our soldiers are sacrificing. Quite frankly, as one of the youngest Members of this Congress, I also know that my ability to serve here in an air-conditioned hearing room such as this is only made possible by the sacrifices and decisions to serve made by my contemporaries, two of which are sitting before us today.

Let me just say this before I ask a few questions to the Tillmans and Ms. Lynch.

You have had amazing courage to come here and speak today, and I think it is important to say this. Courage and bravery don't just come in one form. The very fact that you, Ms. Lynch, and you,

Mr. Tillman, and you brother volunteered to protect this country at such gave risk to yourself, was and is an act of great courage and selflessness.

But if this country continues to glorify the bravery of battlefield confrontations, it in some way diminishes the value of another increasingly lost American virtue, that is, telling the truth. It is too bad that this government has made a seemingly simple act of telling the truth an act of bravery, but it is, and there are no better examples than Jessica Lynch and the Tillman family.

You could have kept silent and accepted the stories that were handed to you by your government, but you displayed a courage not often seen in today's world. You chose truth over personal glorification. I think that speaks a lot.

I think I can speak for a lot of us up here when I say I wish there were more of you.

I especially want to express my condolences to the Tillman family. This being the third anniversary of Corporal Tillman's death, I know it must be very hard for you to come here today and especially for you, Mr. Tillman, to speak in public for the first time.

The purpose of today's hearing, as Mr. Waxman said, is to examine how these stories, these false stories were invented, how they were spread and how they developed into two defining moments of the war.

The question we will try to answer today is simple: Were these false stories the result of an unfortunate series of miscommunications and inaccurate battlefield reports or were they propaganda designed to influence public opinion by misleading the Nation about what really happened?

Mr. Tillman, if I can start with your story, there was a lot of publicity about your brother leaving his career in professional sports, about your decision to leave a pro baseball contract. There was obviously an increased amount of publicity when things went horribly wrong.

But I want to get back to the beginning of this story. I want to talk about why you and your brother decided to give up very lucrative careers back here in the United States and join the military. It had nothing to do with publicity, did it, Mr. Tillman?

Mr. KEVIN TILLMAN. No, Mr. Murphy, it didn't, but I am not at liberty and I am not comfortable with talking to you or anybody else why we decided to join. That is a personal thing, my apologies.

Mr. MURPHY. That is perfectly respectable. I think the very fact this was a family that made multiple decisions to enter the military, as Ms. Lynch's family did, I think shows that this often is a sacrifice made not just by individuals but made by entire families.

This is a question for either Mr. Tillman or Mrs. Tillman. You spoke about the consequences and the circumstances surrounding the incident you spoke about, the awarding of the Silver Star to your brother. After all this, you spoke that you learned that he was actually killed by his own platoon, and this was more than a month after his death.

I can certainly respect if this is not something you want to talk about, but I think it may be interesting for this committee to learn a little bit more about how you found out that his death was a result of friendly fire and how your family received this news when

you were finally told over a month after the initial incident, that what you believed was the case was not truly the case.

Mr. KEVIN TILLMAN. Yes, sir. When I went, when I came back from San Jose, CA, the memorial service, I went back to work at Fort Lewis, WA, and my platoon and company were still in Afghanistan, and I was there working for about 2 weeks.

When they got back, I helped pack up all their stuff, put it in the platoon AO, and everything was kind of no big deal. I did PT with everybody, the physical training. I actually did physical training with two of the guys that were on the vehicle.

I know everybody pretty well. But I did physical training with everybody.

And then, at around 10, I ended up speaking. I was pulled in by my chain of command, and they told me that Pat potentially died of fratricide, and it was very generic. They saw a .50 cal round in a rock, and they didn't explain it very well. So I didn't. I was upset, but it didn't make any sense based on what I knew of it, the story that I was told.

Eventually, the next day I spoke with Colonel Bailey. I think it was Lieutenant Colonel Bailey. At the time, he was our battalion commander, and he went over it in detail, and that is when—it was a Tuesday. It was a month and 3 days after the fact, I found out, and he went through the whole thing, and it was without a doubt. I mean they knew immediately that it was friendly fire.

So I told Marie, Pat's wife, that evening when she got back from work. She had heard a lot of bad news over the phone, so I decided to wait until she got back. I ended up holding off.

I wanted to go on Friday to tell my parents because they also got too much bad news, and I ended up telling my mom, my dad and younger brother that he, in fact, died of fratricide.

So it was about 5 weeks. That is kind of the gist of the narrative there.

Mr. MURPHY. Mr. Tillman, we know now that in the days and weeks before that, there were a lot of people in the military that knew that your brother was killed by his own platoon, and they knew this very soon after his death.

I know on our second panel, we will hear from Specialist Bryan O'Neal who was with Corporal Tillman when he was shot, and he will testify that he knew right away that it was friendly fire and that he promptly reported this up the chain of command.

If you could talk about the days and weeks following the initial disclosure that this was an incident of friendly fire and how you came to understand that this wasn't known by the military a month after the initial story came out, that this was in fact known fairly immediately by the military through the chain of command that those on the ground knew that this was friendly fire.

If you could talk a little bit about how then your family's reaction came to the fact that military officials knew but didn't tell you that your brother had been killed by friendly fire early after the incident.

Mr. KEVIN TILLMAN. They gave us the report, and it was that we kind of have to dig through it. They didn't tell us that they knew. They played it off like it was potential. It was possible, and you start reading the report.

And we got pretty good information from Lieutenant Colonel Bailey actually did do what seems like a pretty honorable job when he came to the house and he briefed us off of the first investigating officer's report.

He actually used the first investigating officer's report which happened to get lost in the process. They don't know where it is anymore apparently, but they used his report. So there was a lot of accuracies.

When we went back to get the full briefing for the family, it was really watered down. I mean it was, they started kind of pushing things around, and they made it really nebulous when people found out, and it was, they didn't want to give us a half-baked. I think General McCrystal didn't want to give us a half-baked answer.

So it looked like—I don't know how to answer that question accurately. It was just all over the charts. You get a little nugget here, and then you get a bunch of well, we didn't know. I didn't know. This person didn't know.

But when you go through the documents, the chain of command, General Kensinger, which is a three-star, knew in 2 days.

Mr. MURPHY. Family discovered fairly quickly that you were going to have to press this, that your family was going to have to push the investigation to get to it.

Mr. KEVIN TILLMAN. It was a slow process because you don't expect it. You know. It is like I work, I mean I work with these guys. It was understandable. OK, it was friendly fire. That stuff happens. We are very aware of friendly fires. We are not naive to the fact that stuff happens.

The problem was based on the facts, it wasn't just a friendly fire. It was an engagement with that entire hillside was scared for their life.

This squad leader actually got on grass and was going to shoot at the vehicle, and this is a squad leader that didn't shoot a round the entire time and was just coordinating everything.

It was very, it was a scary situation, and they kind of kept that from everybody.

Mr. MURPHY. What has been your experience with your ability to get information from the military, whether that be access to people that were on the ground, reports filed afterwards?

What has been your experience with the willingness of the military to share with you and other families that kind information?

Mr. KEVIN TILLMAN. It has been slow, kind of a slog, but I would defer that question. My mom has been kind of hot on the trail for a long time. She has really been pressing hard. I would defer a lot of the type of information and the powering through it. I didn't get very far with my, on my end, my chain of command. They just kind of pushed me around.

Chairman WAXMAN. Thank you, Mr. Murphy. Your time is expired.

Mr. MURPHY. Thank you.

Chairman WAXMAN. Did you want to comment on that, Mrs. Tillman?

Mrs. MARY TILLMAN. All right. I will start out, I suppose, and I want to make this very clear because I think it is very important.

When Colonel Bailey came to our home, he was received very well.

We learned about the friendly fire. I actually got a phone call from the Arizona Republic before Kevin had a chance to tell us that Pat was killed by fratricide. A reporter from the Arizona Republic called me on Friday, May 28th, and asked me what I thought of the news the military had just released, and I didn't know what he was talking about.

And he said, oh, well, you know. Excuse me, I am sorry.

And I wouldn't let him off. I said, look, you called me. What are you talking about?

And he said, well, the Army has just come to the conclusion that Pat was probably killed by friendly fire.

I know friendly fire is a part of war. The whole family does. I used to live near Gettysburg. I am a history major. It is like, of course, it is a reality. It was tragic, and we were devastated. It happens, and we could accept that. He was still gone.

Then Colonel Bailey comes to the house, and he is very well received. I mean he is a very, OK, he was very kind.

He was very kind. He was very warm. He seemed to care a lot about Pat and Kevin. He was very concerned. So we really believed everything he told us.

And there were some things that I got pretty upset about, about the humvee seeming to have more significance than the mission, the fact that they split troops because I thought, Military 101, you don't split your troops. I heard a lot about how Robert E. Lee got away with it, but you just shouldn't do it, and I remember that from being a child. So I pressed him on certain things, but I really took him at his word.

And then, as Kevin said, about 3 weeks later, the family went to Fort Lewis, WA to get an official briefing, and Colonel Bailey and Colonel Nixon briefed us with an entourage of various ranks of soldiers behind us.

And the story started changing because initially we were told that the Afghan was standing on a ridge, and he was shooting over their heads, in other words, to allow them to be escorted through the canyon. And that is how this particular sergeant in the vehicle mistook him for an enemy, and we were told he was 200 meters away at that time.

Well, then when we get up to Washington, all of a sudden this Afghan is no longer standing. We made a mistake. He was prone.

Now how do you know? How can you be on a ridgeline in a prone position, shooting up here? I mean you would have to be a contortionist. And this Afghan soldier was shot eight times in the chest. So that really didn't add up to us.

Colonel Bailey also told us that it really was kind of dark because when he came to our house, it wasn't that dark. All of a sudden, things started to change around.

He told us that the driver of the vehicle actually recognized the Afghan as AMF. He saw soldiers on the ridgeline and the vehicles down the road before the sergeant shot the Afghan. And our family was appalled. It was like, well, how does he allow the other soldiers in the vehicle to keep shooting on that ridgeline about 400 meters, and they couldn't answer that question.

Pat's father had asked ahead of time to get the official 15-6 report before we went to this meeting so we would be prepared for questions.

Chairman WAXMAN. The original which report?

Mrs. MARY TILLMAN. Well, the original, it is the report. They do an investigation, I guess, when there is a fratricide or anything suspicious, and they didn't have it ready for us. They basically handed it to us warm out the door.

Chairman WAXMAN. Mrs. Tillman.

Mrs. MARY TILLMAN. I am sorry.

Chairman WAXMAN. I want you to finish that sentence, but this is going to come out in the questions because a lot of Members want to ask you questions.

Mrs. MARY TILLMAN. Right, OK. All right.

Anyway, so we read this report on the airplane, and that is when we became absolutely appalled at what we were reading, and that is basically where the quest for the truth began.

Chairman WAXMAN. Thank you very much.

Mr. Davis.

Mr. DAVIS OF VIRGINIA. Thank you.

Let me just say to the Tillman family, my deepest condolences as well. Pat Tillman embodied what is best about America, giving up a career to go help his country. Then to be treated this way in terms of trying to get your answers out and not pulling them, I think is something this committee wants to get to the bottom. All of us do.

I would start by asking what questions are still unanswered for you that this committee could help you get?

Mrs. MARY TILLMAN. See this binder? That is about how many questions we have. I mean there are a lot of questions. I mean I gave questions to certain members of the panel. I just assumed maybe if you ask us questions—

Mr. DAVIS OF VIRGINIA. Our side didn't get any of those questions.

Mrs. MARY TILLMAN. OK, I apologize for that. Basically, if anyone asked us, we would give them questions.

Mr. DAVIS OF VIRGINIA. Well, let me ask you. I have a couple of minutes.

Mrs. MARY TILLMAN. Right.

Mr. DAVIS OF VIRGINIA. Go through a couple of the largest inconsistencies you see and where we could get to.

Mrs. MARY TILLMAN. Well, I think that the Silver Star has been focused on a great deal, and one reason that has been the case is because it leaves a paper trail. It is not the most outrageous lie or cover-up that is part of this story, but it does leave a paper trail. So we would like to know who actually decided to give Pat the Silver Star.

I mean it is not ordinary that you will give a Silver Star to a soldier that is killed by friendly fire, and yet they knew immediately he was killed by friendly fire, and this particular award was written up.

And, in fact, you already know from the memo that General McCrystal sent to General Abizaid, General Brown and Kensinger, General Kensinger, that they were aware. And he admits in there,

even though he was killed by friendly fire, we are going to write this award. Now I find that particularly peculiar.

Mr. DAVIS OF VIRGINIA. Do you have any questions about the incident itself that are still unanswered?

I know the story has changed several times. You indicated earlier as the story changed, it raised more questions. Are there still unanswered questions about that we can help with?

Mrs. MARY TILLMAN. Oh, yes, there is a lot of questions about the circumstances. Yes. We are very perplexed. First of all, why were the troops split in the first place when it was not necessary?

Why wasn't an option given to Lieutenant Uthlaut to destroy the vehicle rather than hold these soldiers up in the village and frustrate this platoon leader?

That also goes down to why is it that there is evidence of broken rules of engagement throughout all of the investigations and yet the CID, the criminal investigators, come to the conclusion that no ROE violations were broken?

I mean the evidence is there. Anyone who has looked at these documents, and members of this panel have seen these documents, and they have broken ROE violations all over the place. Yet, the criminal investigators said, well, no, there was no ROE broken. So we find that to be horrific.

Mr. DAVIS OF VIRGINIA. Well, we will continue to look at this and write a report to gather both sides on this. I appreciate that.

Dr. Bolles, in April 2003.

Chairman WAXMAN. Mr. Davis, will you yield to me for just a second? We will give you additional time.

Mr. DAVIS OF VIRGINIA. Sure.

Chairman WAXMAN. One of the things that we want to do is to leave the record open for you to give us additional questions that you want us to get the answers to. That is an important part of what our job must be.

Thank you, Mr. Davis.

Mr. DAVIS OF VIRGINIA. Thank you.

This is not a partisan exercise. Mr. Waxman and I have worked on a lot of these things together.

Mrs. MARY TILLMAN. Yes, I know.

Mr. DAVIS OF VIRGINIA. We want to get to the bottom of it and help you get through that.

Mrs. MARY TILLMAN. That is fine. I don't look at it as partisan.

Mr. DAVIS OF VIRGINIA. In fact, not just you want closure. I think the public wants closure too because of the contradictions that have come through during this time.

Dr. Bolles, in April 2003 when Pfc. Lynch was in your care, did you speak with any reporters about her case either on or off the record that you can remember?

Dr. BOLLES. The only reporter that I spoke to was answering the question of did I know or had I operated on or dealt with Private Lynch, and that was shortly thereafter from a reporter from Boulder, CO.

Mr. DAVIS OF VIRGINIA. Did any reporters ask you to confirm that Private Lynch might have been shot?

Dr. BOLLES. No. I received a number of requests, initially turned all of those over to the public information officer at Landstuhl at the time.

Mr. DAVIS OF VIRGINIA. Were you Private Lynch's primary physician?

Dr. BOLLES. Well, I would say there was a team of physicians. I was her neurosurgeon. There was a trauma surgeon. There were orthopedic surgeons, and we were all involved as a team.

Mr. DAVIS OF VIRGINIA. Was there any disagreement among the team about what could have caused her injuries?

Dr. BOLLES. Not at that time to my knowledge, no.

Mr. DAVIS OF VIRGINIA. Because press reports at that time quoted anonymous medical staff or officials saying that some of her wounds may have been caused by gunfire. Any idea where that might have come from?

Dr. BOLLES. Only on what I mentioned in my statement, that there was the trauma surgeon was questioning the puncture sites while we were in the operating room. I didn't debate it with him or even, I don't know what happened to that afterwards.

Mr. DAVIS OF VIRGINIA. Were you or are you aware of anyone who might have been directed by any officials to diagnose her wounds as having been caused by gunfire?

Dr. BOLLES. No, sir.

Mr. DAVIS OF VIRGINIA. Do you believe others on her treatment team were directed?

Dr. BOLLES. I am sorry, sir?

Mr. DAVIS OF VIRGINIA. Do you have any indication that anybody else on the team might have been directed to find that?

Dr. BOLLES. I do not.

Mr. DAVIS OF VIRGINIA. OK, thank you.

Mr. Burton.

Mr. BURTON. Thank you, Mr. Davis.

Let me just say, first of all, that everybody on this panel, I am confident, shares your grief. It must be a horrible thing to find out that you have lost a loved one and you haven't gotten the truth. So we are very sympathetic to what you have said today.

It is unfortunate, I think, in combat that sometimes military personnel, the higher-ups, want to create heroes and create stories that probably helps their cause, and that should not happen. It should not happen especially at the expense of people like Mr. Tillman and Ms. Lynch.

I think everybody in combat over there, those who have died and those who have been wounded and those who are still in combat, are heroes, and this Nation should revere every one of them and what they have done.

So if you have been misled and it has hurt your families, I personally want to apologize to you. I hope that you will give us all the questions that you have. I know on our side and I am sure the other side wants to get to the bottom of it as quickly as possible so that you can be assured that you have all of the facts.

Hopefully, your testimony today will lead to these things not happening again in the future and maybe some other brothers or parents or families won't have to suffer because they got misinformation.

I think your brother and you leaving very professional careers to go into the service of your country should be congratulated, and I think you are both heroes. I am very sorry that your brother was lost.

Ms. Lynch, I am sorry you had to go through all the things that you went through, and we appreciate your story here today.

With that, I yield back to Mr. Davis.

Chairman WAXMAN. Thank you very much. The gentleman yields back his time.

Let me just point out to you that this whole investigation was something that Tom Davis, when he as chairman of the committee, suggested we do and we are working together on this. This is not a partisan issue in any way, shape or form.

You want our sympathies, you want our apologies, but you also want the truth, and that is what we are going to try to get for you.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I, too, express my sympathy. I thank you, too, the Tillman family for your sacrifice and to Ms. Lynch, I thank you for your service and to you, Dr. Bolles, I thank you.

To the Tillman family, Mr. Tillman, you said that you believe that the military was hoping that your family would sink quietly in your grief. I want to thank you for not sinking quietly in your grief.

We have an e-mail that was written on April 28, 2004, 6 days after Pat Tillman's death. I don't know if you have seen this. It is up there on the screen. It describes how the White House was asking for information about Corporal Tillman for the President to use in a speech at the White House Correspondents Dinner.

I would like to make this e-mail a part of the record, Mr. Chairman.

Chairman WAXMAN. Without objection, that will be the order.

[The information referred to follows:]

Bush, Hans E. LTC

From: carol.darby.jones [REDACTED]
Sent: Wednesday, April 28, 2004 2:46 PM
To: bushh [REDACTED]
Cc: sokalskv [REDACTED]; inman [REDACTED]
Subject: Request from White House Speechwriter

Sir:

The first call was from Sec'y Rumsfeld's speechwriter, Heddie Henderson.

Just received a call from Mr. John Currin, WH speechwriter. He read a statement that pretty much said that CPL Tillman joined the Army in the aftermath of 9.11 and asked if I could confirm that was his reasons for signing up. I replied that I have never spoken directly to either Ranger and I could not confirm that statement. Kevin is faxing, to Mr. Currin, several news articles I have with me that indicate that CPL Tillman did not reveal his specific reasons for his decision to a close friend and coach. Even his father has not publicly said why Pat or Kevin made their decisions.

Mr. Currin said the information is for the President's speech at the Correspondent's dinner this coming Saturday. It will probably be televised by CSPAN.

Carol
Carol P. Darby
Media and Community Relations Division Chief
U.S. Army Special Operations Command
SCAMPI [REDACTED] / DSN [REDACTED] STE [REDACTED]

1531

Mr. CUMMINGS. Let me read you what the e-mail said in part: "Just received a call from Mr. Currin, White House speechwriter. Mr. Currin said that information is for the President's speech at the Correspondents Dinner this coming Saturday. It will probably be televised by C-SPAN."

The next day, April 29, 2004, an urgent communication was sent to the highest levels of the Army command structure alerting them that friendly fire was the suspected cause of death. This communication is called a Personal 4, that is, a P4 memo. As I understand it, P4 memos are military communications that require special handling.

Mr. Tillman, you probably know more about this than I do, but from what I have been told about P4 memos, they are for eyes only communications, meaning that the addressee must open it personally and read it immediately. Are you familiar with that?

Are you aware of that type of memo?

Mr. KEVIN TILLMAN. I am not, sir. I mean I understand it. I don't know any more than you do. I was an enlisted guy, E4.

Mr. CUMMINGS. I understand.

Mr. KEVIN TILLMAN. I didn't get up that high.

Mr. CUMMINGS. I understand.

This P4 memo was sent by General McCrystal who was your brother's regiment commander in Afghanistan to three high ranking generals including General Kensinger, the head of Special Operations and General Abizaid, the head of Central Command.

The P4 warns: "It is highly possible that Corporal Tillman was killed by friendly fire."

It seems to be responding to inquiries from the White House, and here is what it says: "POTUS"—meaning President of the United States—"and the Secretary of the Army might include comments about Corporal Tillman's heroism and his approved Silver Star medal in speeches currently being prepared, not knowing the specifics surrounding his death."

It goes on to express concern that the President or Defense Secretary might suffer "public embarrassment if the circumstances of Corporal Tillman's death become public."

I would also like to make this P4 memo, part of the hearing record.

Chairman WAXMAN. Without objection.

[The information referred to follows:]

O 292234Z APR 04
FM TASK FORCE
TO RUCAACC/USCENTCOM MACDILL AFB FL//CDR//
INFO RUCCSAS/USOCCOM FP MACDILL AFB FL//CDR//
RUERENB/CDRUSASOC FT BRAGG NC//CDR//
RUEPVBT/TASK FORCE

BT
[REDACTED] PERSONAL FOR CDR USCENTCOM CDR

USOCCOM CDR USASOC
DELIVER DURING NORMAL DUTY HOURS [REDACTED]
DO NOT TRANSMIT VIA OPINTEL BROADCAST
OPER/DEF//

MSGID/GERADMIN/TASK FORCE //
SUBJ/PA CONCERNING INFORMATION ON CORPORAL TILLMAN'S DEATH//
RMS/SIR, IN THE AFTERMATH OF CORPORAL PATRICK TILLMAN'S UNTIMELY
YET HEROIC DEATH IN AFGHANISTAN ON 22 APRIL 04, IT IS ANTICIPATED
THAT A 15-6 INVESTIGATION NEARING COMPLETION WILL FIND THAT IT IS
HIGHLY POSSIBLE THAT CORPORAL TILLMAN WAS KILLED BY FRIENDLY FIRE.
THIS POTENTIAL FINDING IS EXACERBATED BY THE UNCONFIRMED BUT
SUSPECTED REPORTS THAT POTUS AND THE SECRETARY OF THE ARMY MIGHT
INCLUDE COMMENTS ABOUT CORPORAL TILLMAN'S HEROISM AND HIS APPROVED
SILVER STAR MEDAL IN SPEECHES CURRENTLY BEING PREPARED, NOT KNOWING
THE SPECIFICS SURROUNDING HIS DEATH.
THE POTENTIAL THAT HE MIGHT HAVE BEEN KILLED BY FRIENDLY FIRE IN NO
WAY DEDUCTS FROM HIS WITNESSED HEROISM OR THE RECOMMENDED PERSONAL
DECORATION FOR VALOR IN THE FACE OF THE ENEMY. CORPORAL TILLMAN WAS
KILLED IN A COMPLICATED BATTLESPACE GEOMETRY INVOLVING TWO SEPARATE
RANGER VEHICLE SERIALS TRAVERSING THROUGH SEVERE TERRAIN ALONG A
WINDING 500-600 FOOT DEFILE IN WHICH FRIENDLY FORCES WERE FIRED UPON
BY MULTIPLE ENEMY POSITIONS. CORPORAL TILLMAN DISMOUNTED FROM HIS
VEHICLE, AND IN SUPPORT OF HIS FELLOW RANGERS AND DEMONSTRATING
GREAT CONCERN FOR THEIR WELFARE OVER CARE FOR HIS OWN SAFETY ENTERED
THE ENEMY KILL-ZONE INTO WHICH BOTH ENEMY AND FRIENDLY FIRE IMPACTED.
I FELT THAT IT WAS ESSENTIAL THAT YOU RECEIVED THIS INFORMATION AS
SOON AS WE DETECTED IT IN ORDER TO PRECLUDE ANY UNKNOWING STATEMENTS
BY OUR COUNTRY'S LEADERS WHICH MIGHT CAUSE PUBLIC EMBARRASSMENT IF
THE CIRCUMSTANCES OF CORPORAL TILLMAN'S DEATH BECOME PUBLIC.//

DECL/DERI:DEV FROM [REDACTED]
/INS [REDACTED] //
BT

CLASSIFIED BY: [REDACTED]
REASON: [REDACTED]
DECLASSIFY ON: [REDACTED]
CLASSIFICATION: [REDACTED]
CAUTIONS: [REDACTED]
TERMS: [REDACTED]

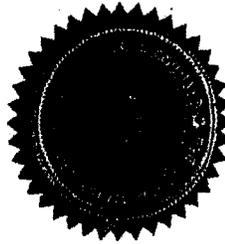
b(1)

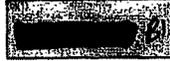


The President of the United States of America, authorized by Act of Congress, 9 July 1918 (amended by act of 25 July 1963), has awarded the SILVER STAR to

**CORPORAL PATRICK D. TILLMAN
UNITED STATES ARMY**

for gallantry in action on 22 April 2004 against an armed enemy while serving as a Rifle Team Leader in support of Operation Enduring Freedom. Corporal Tillman put himself in the line of devastating enemy fire as he maneuvered his Fire Team to a covered position from which they could effectively employ their weapons on known enemy positions. While mortally wounded, his audacious leadership and courageous example under fire inspired his men to fight with great risk to their own personal safety, resulting in the enemy's withdrawal and his ~~own~~ safe passage from the ambush kill zone. Corporal Tillman's personal courage, tactical expertise, and professional competence directly contributed to this ~~overall~~ overall success and survival. Through his distinctive accomplishments, Corporal Tillman reflected great credit upon himself, the 75th Ranger Regiment, and the United States Army.





Enclosure 1 Narrative

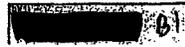
Corporal Patrick D. Tillman served as a Rifle Team Leader for [REDACTED] 2nd Battalion, 75th Ranger Regiment in support of OPERATION ENDURING FREEDOM from 7 April 2004 to 22 April 2004. During this period, CPL Tillman was responsible for leading his [REDACTED] during numerous combat operations including Air Assault Raids, Mounted and Dismounted patrols, and Ground Assault Convoys. Although a junior ranking Ranger, CPL Tillman displayed the maturity and "cool under fire" mentality normally seen in seasoned Ranger NCOs.

On 22 April, 2004, CPL Tillman's [REDACTED] was conducting a Ground Assault Convoy in vicinity of [REDACTED] near the town of [REDACTED], Afghanistan. The [REDACTED] was split into two sections, separated by several hundred meters. CPL Tillman's team was a part of the lead section moving to clear a village in their zone, while the trail section was escorting a disabled vehicle to a maintenance contact team north of their zone. As the [REDACTED] was moving through an area of highly restrictive terrain, the trail section came under attack, receiving suppressive mortar and small arms fire. The nature of the cavernous terrain made it extremely difficult to target the enemy positions, and there was no room for the Rangers of this trail element to maneuver out of the [REDACTED] zone.

CPL Tillman's element was already safely through the ambush [REDACTED] zone, and his selfless actions that followed embodied every aspect of the Ranger Creed. Without regard for his own personal safety and thinking only of his fellow Rangers trapped in the ambush, CPL Tillman dismounted and maneuvered his team up a hill towards the enemy's location. As CPL Tillman crested the hill, he maneuvered his team into positions to suppress the enemy in order to allow the rest of the convoy to escape the ambush. Only after his team engaged this well-armed enemy did it appear that the enemy's volume of fire into the [REDACTED] zone diminished. Above the din of battle, CPL Tillman was heard issuing fire commands to take the fight to an enemy on the dominating high ground. Always leading from the front, CPL Tillman aggressively maneuvered his team against the enemy positions up the steep slope and personally emplaced each member of his team under the best cover available in the area for their protection. CPL Tillman took up his own position behind the [REDACTED] automatic weapon that he was carrying to direct the fires of his team. As a result of CPL Tillman's efforts and heroic actions, the trail element of the [REDACTED] was able to maneuver through the ambush to positions of relative safety without suffering a single casualty.

As the trail element of the [REDACTED] attempted to push through the ambush, the fighting that ensued at CPL Tillman's position increased in intensity. CPL Tillman focused all of his efforts on keeping the men of his team safe while continuing to press the attack himself without regard for his personal safety. In the face of mortal danger, CPL Tillman illustrated that he would not fail his comrades. During the assault, CPL Tillman was shot and killed.

CPL Tillman gave his own life to protect his fellow Rangers, both within his fire team and the members of his [REDACTED] trapped in an ambush kill zone. The fact that no one in his team or in the trail element of the [REDACTED] was injured is a direct result of CPL Tillman's leadership and heroic actions. Through his selfless service and disregard for his own safety, he is personally responsible for saving numerous lives. His actions are in keeping with the highest standards of the United States Army and are fully deserving of the Silver Star Medal.





VALOROUS AWARD WITNESS STATEMENT

I, Private Seal # 203 number two Second Squad, Second Battalion, 100th Airborne Division witnessed the following acts performed by CPL Tillman during the evening of the 22nd of April 2004.

Second Platoon was assigned the task of moving to a village to look through and search out any links to terrorist activities. While in route to this objective we split into two serials and the second serial came under attack. CPL Tillman and I moved out to a ridge and engage the enemy so our comrades would be able to move safely from the kill zone. CPL Tillman moved us into a position where we would be safe from enemy rounds, he placed me in the safest possible position and took a less safe position for himself. We started to engage the enemy very successfully when the enemy moved most of their attention to our position, and we drew a lot of fire from them. CPL Tillman moved from his position to drop a smoke grenade to signal our troops of our position and to give me some extra cover when he was hit and killed. CPL Tillman saved my life by drawing most of the fire from my position to his and in return I survived and he was killed. I have no doubt in my mind that the only reason that I am alive to write this statement is because CPL Tillman saved my life.

//original signed//



Re: CPL Tillman Award

Page 1 of 2

Bush, Hans E. LTC

From: Gaylord, Robert E BG OCPA [REDACTED]
Sent: Saturday, May 29, 2004 1:41 PM
To: 'robinsjr'; Curtin, Joseph COL OCPA; 'bushh'; 'taylors1'
Subject: Re: CPL Tillman Award

You all did a great job in a short period. Thanks to all of you! HOOAH!!

Sent from my BlackBerry Wireless Handheld

-----Original Message-----

From: Robinson, LTC John R. [REDACTED]
To: Curtin, Joseph COL OCPA [REDACTED]; 'bushh'; 'taylors1'; Robinson, LTC John R. [REDACTED]

CC: Gaylord, Robert E BG OCPA [REDACTED]
Sent: Sat May 29 11:16:10 2004
Subject: RE: CPL Tillman Award

Thanks, Sir. We're responding to numerous queries - also responded to several other last night, and asked reporters to hold the story pending NOK notification -- release is posted at www.centcom.mil

Think the WWII Memorial and attack in Saudi Arabia have helped to dilute the story somewhat.

w/r

John

-----Original Message-----

From: Curtin, Joseph COL OCPA [REDACTED]
Sent: Saturday, May 29, 2004 10:50 AM
To: 'bushh'; 'taylors1'; 'robinsjr';
Cc: Gaylord, Robert E BG OCPA
Subject: CPL Tillman Award

Gentlemen: Again, thank you for the great team effort here. Believe we got out ahead on this the best we could. Story will run hot today and diminish over the weekend. Senior leaders want to make sure the public affairs community vigorously respond to any media query that potentially questions the Silver Star award. Emphasize the following:

Re: CPL Tillman Award

Page 2 of 2

Investigation served to verify and reinforce CPL Tillman's bravery and sacrifice.

- His heroic actions are no way diminished by his manner of death.
- He served our Nation with great honor and commitment. CPL Tillman fought with distinct valor, gallantry and leadership. He epitomized selfless service to the fullest.

The press statement is posted at www.soc.mil

vt, COL Curtin.

Mr. CUMMINGS. One question we have is whether this P4 memo made it to the White House, and here is what we do know. On April 28th, the White House asked for information about Pat Tillman for a speech the President was giving. The next day, the P4 memo was sent, stating that Pat Tillman was killed by friendly fire and warning the President against mentioning it.

When the President spoke at the Correspondents Dinner, he was careful in his wording. He praised Pat Tillman's courage but carefully avoided describing how he was killed.

It seems possible that the P4 memo was a direct response to the White House's inquiry. If that is true, it means that the White House knew the true facts about Corporal Tillman's death before the memorial service and weeks before the Tillman family was told.

Mr. Tillman, do you know whether the Army ever investigated how high up the chain of command this information went and, second, do you think this ought to be investigated now? You or Mrs. Tillman.

Mr. KEVIN TILLMAN. I don't know how far they went up. It looks like they stopped, the Department of Defense. Looks like they stopped at about General Kensinger. But it seems pretty disingenuous.

I don't have the answers because these things get piecemealed to us whether they are leaked to the press or whatever. That is kind of why we were hoping we could get to you guys because you have that access.

My mom specifically, among a lot of other people, have really worked hard to gather information and try and figure out through all these redactions, to figure out who is who, and we are just figuring out. It took us like 9 months to figure out who actually did the investigation, the second one, well, the first one, the first official one. So it is tough to get information, and that is why.

It is a bit disingenuous to think that the administration did not know about what was going on, something so politically sensitive. So that is kind of what we were hoping you guys could get involved with and take a look. I mean we only can go so far. We don't have access to these people. We don't have access to the unredacted information. We are kind of landlocked.

Mr. CUMMINGS. I see my time is up, but we will do the best we can.

Mr. KEVIN TILLMAN. Thank you, sir.

Chairman WAXMAN. Thank you, Mr. Cummings.

Mrs. MARY TILLMAN. Can I say something to that, please?

Chairman WAXMAN. Yes.

Mrs. MARY TILLMAN. Can I say something to that?

I will tell you what we do know. Is my mic on?

OK, I have been doing a lot of reading about Rumsfeld, former Secretary of Defense Rumsfeld, and I believe just from what I have learned about him as a person and his expectations for his staff, that he would have had this information. He wasn't an individual who appreciated other people contacting the White House without it going to him first.

I can't imagine that this memo could have been sent to General Abizaid and General Kensinger and General Brown with the expectation they would tell the President because Rumsfeld wouldn't

want there to be any direct line because he liked to be the guy to go to the White House. So I believe that he would have intercepted this memo, first of all.

The other thing is that he was, he had written Pat a letter, which I don't think he makes a practice of doing that, and it wasn't an extravagant letter by any stretch. It was about a two sentence letter, but the fact that he sent Pat the letter and Pat was a very high profile individual. He was probably the most high profile individual in the military at the time.

The fact that he would be killed by friendly fire and no one would tell Rumsfeld is ludicrous because he would have had a fit. I mean to have it come, be known to him after the fact would be extremely upsetting to him.

I have read a particular book on him, but there is a lot of research I have done on the internet. This is my conclusion. I have nothing to back it up. I admit that. I have no paper trail, no facts. But just knowing the type of individual and the way he operated, I believe these generals would be absolutely foolish to not tell him.

Chairman WAXMAN. Mrs. Tillman, you don't know whether it was investigated all the way up the chain of command.

Mrs. MARY TILLMAN. No, I don't know how far they pursued it.

Chairman WAXMAN. But you think that it should be.

Mrs. MARY TILLMAN. Yes, of course.

Chairman WAXMAN. Thank you very much.

The next in line is Mr. Duncan.

Mr. DUNCAN. Well, thank you very much, Mr. Chairman.

I don't have any questions, but I do want to say this. We all respect and admire and appreciate the military. I believe almost all of us do. Yet, we shouldn't worship the military.

We need to recognize that our armed forces have become the most gigantic bureaucracy in the history of the world. Like any giant bureaucracy, they do many good things. Of course, any bureaucracy does it at great expense, but also any huge bureaucracy is often times wasteful and inefficient and almost every huge bureaucracy usually tries to cover up or gloss over its mistakes.

I had a longtime friend of mine, another Republican Member of Congress from the West who told me a few weeks ago—and he has supported the war right from the beginning and still does—that on our side we make the mistake of never questioning anybody who wears a badge or a uniform. The other side does that often times with labor and environmental groups even when they go to extremes.

So both sides are guilty of this, but it is our duty when we see a major mistake.

We need to support the military when they deserve to be supported, and I think we do that. On the other hand, we shouldn't let a patriotic fervor aroused during a time of war to lead us never to question any request the military makes, any expense they wish to incur and never to say anything about any mistake because it is our duty. We don't support the troops if we let our armed forces cover up or gloss over major mistakes.

And so, I appreciate the fact, Mr. Chairman, that you are holding this hearing. I appreciate the fact that on our side former Chair-

man Davis has supported this. I think that simply holding this hearing will cause things like this not to happen in the future.

Like everyone else, I wish to express my condolences to the Tillman family and also my appreciation to Ms. Lynch and Dr. Bolles for their service.

Thank you very much.

Chairman WAXMAN. Thank you, Mr. Duncan.

Mr. Kucinich.

Mr. KUCINICH. Thank you, Mr. Waxman, for holding this hearing.

I want to thank both the Lynch family and the Tillman family for the service which you have given to this country and continue to give to this country by standing here for the truth. It is our obligation to facilitate the production of the information that helps to underscore the importance of the truth.

In connection with that, I would like to explore some questions relating to the destruction of physical evidence. If any of these questions become too sensitive, let me know.

We have been told and according to documents that orders were given to destroy Corporal Tillman's clothes after the incident and to burn what was in the bag for security purposes and that a soldier testified they burned Corporal Tillman's uniform, socks and gloves and one armor plate on which it appeared there was an indentation in the top right corner and also burned a small notebook of Corporal Tillman.

Now I know that, Mr. Tillman, your family has gathered a lot of evidence about the contradictions. When you looked at this matter relating to the destruction of evidence, do you have any comment as to why a medical doctor did not sign off on the destruction of the uniform?

Mr. KEVIN TILLMAN. No, sir. I don't know he would. I don't know why that would be. I don't know why any of his uniform would be cutoff because they refer to it as a biohazard. Well, Pat was a biohazard.

And they avoid mentioning who cut the uniform off him, who made that decision to cut the uniform off because a lot of this narrative talking about how they gave him paddle marks.

He had paddle marks on his chest. We had Dr. Buchs [phonetically], a respected guy, take a look at that stuff, and it was clearly bruises on his chest.

And you have these inconsistencies. Why would they want to cut his clothes off? What possible reason would you cut his clothes off when he simply, he did not have essentially from here back? He had a facial structure and that was it. He got there in 90 minutes after the firefight, and he was, Pat was gone.

And they tampered with his body. They cut his clothes off. They said that they tried to save him, transferred to ICU. I mean you can't. One, you can't leave paddle marks. It is a physical impossibility to leave paddle marks on somebody 90 minutes after that fact.

And that is excluding the other statement saying they came in there and Pat was on a table, and he was there with all his clothes on 30 minutes after the fact. So it is closer, looking like 120 minutes where his body really wasn't touched.

And you have all this stuff that it just doesn't make any sense. Why would they cut it off? Why would they burn it? How a medical doctor would allow a bunch of sergeants to roll into his domain and have people taking his stuff off and burning it.

And some of the e-mails are really strange, like quietly burning it. No one is watching. People looking behind their back. It is real weird.

You have the same stuff we have.

Mr. KUCINICH. You talked about the extent of your brother's injuries. When you were told that CPR was attempted, understanding the extent of your brother's injuries, what did you think about that?

Mr. KEVIN TILLMAN. We didn't get the—

Mr. KUCINICH. After the fact, we all received information.

Mr. KEVIN TILLMAN. We didn't know it was CPR. We didn't know they tried to perform CPR.

Mrs. MARY TILLMAN. Well, OK, let me explain. We got the autopsy. It is on.

Chairman WAXMAN. Mrs. Tillman, could you speak close to the mic, please?

Mrs. MARY TILLMAN. We received the autopsy about 5 months after Pat was killed, and on the autopsy it said that there were these three-and-a-half by three-fourths inch marks on his chest that were consistent with an attempt at defibrillation. And I thought that was bizarre because the autopsy also said that Pat had no brain due to trauma. So it perplexed us that they would try to resuscitate a man who had no brain.

And I was under the impression that he had died, and they deemed him dead immediately. So how could he even have paddle marks if he received so late?

So I had my daughter-in-law, Pat's wife, get the field hospital report or FOA, the field hospital report, and we finally got it almost 9 months later, I guess.

And I was absolutely shocked because the field hospital report doesn't say anything about difibrillation. It says CPR performed, transferred to ICU for continued CPR. And that was extremely strange because Pat was dead for 90 minutes before he got to the field hospital and he essentially had no head.

Mr. KUCINICH. Thank you, Mrs. Tillman.

Mr. Chairman, I know my time for questions has expired. I just want to say to the Chair that it appears that there was an elaborate effort here to conceal the circumstances of Corporal Tillman's death, and the evidence that is being presented here seems to confirm that.

Of course, the destruction of his notebook is something that I think this committee ought to be spending a little bit more time on as well.

I thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Kucinich.

Mr. Issa.

Mr. ISSA. Thank you, Mr. Chairman.

I want to thank all of you for being here, Mr. Tillman, Mrs. Tillman, Ms. Lynch, Doctor.

My questions are, by definition, probably the result of a whole series of questions you have already heard. I am going to try and summarize. I appreciate that it is never pleasant to go through one of these, particularly reliving traumatic experiences, one, on the battlefield and, two, because of the battlefield.

But I am trying to understand something related to our hearing, our deliberation, what we are doing, and let me characterize it very briefly.

My youth was spent during the Vietnam War. I was a soldier in 1970, but I was an ROTC cadet on the Kent State campus in the early seventies, and that was a time in which they were spitting on military uniforms. It didn't matter if you were a private, a corporal, a sergeant or an officer, you were somebody that people could treat badly simply because you served in uniform.

Apparently, they were mostly treating Members of Congress pretty well.

Now we are dealing in kind of a new era in which we seem to want to say the soldiers is good, but they are bad.

So I want to followup with just a couple of questions to try to make the record clear or have you make the record clear. It is two different situations, but if we can go back and forth, I think there is some similarity.

Mr. Tillman, who are "they" in this case? Are "they" the soldiers who were part of the fratricide?

Did they do something willfully wrong or did they do something that you want us to understand was just wrong today other than screw up and kill one of their colleagues?

Mr. KEVIN TILLMAN. Yes, sir. The firefight itself was due to, based on the evidence, it looks like it is gross negligence, but it looks like criminal intent too, criminal negligence which is what the first officer concluded, possibly criminal intent which he tried to push off to CID and somehow it never got to them.

Mr. ISSA. What you are saying is they fragged your brother deliberately?

Mr. KEVIN TILLMAN. No. There is a difference between homicide and criminal negligence. It is like if a kid is in the street and you are driving and you run into him. You just didn't see him, but yet you ran into him anyway. That is unfortunate, but you are going to be held accountable for driving into a kid standing in the street.

Mr. ISSA. Sure. My other committee I keep slipping to is Judiciary, so I have the good fortune of going back and forth between these two.

You are saying they were improperly trained leading to mistakes made on the battlefield.

Mr. KEVIN TILLMAN. I didn't say improperly trained, sir.

Mr. ISSA. OK, they were properly trained, but they made mistakes.

Mr. KEVIN TILLMAN. I said they were out of control, sir.

You are referring to the American soldiers that did this, sir. The "they" would be the American soldiers on that aspect. But if you are referring to the instance, yes, but outside of that, there are different layers.

Mr. ISSA. We have to establish the "theys" here. One "they" are E1s, 2s, 3s, 4s, 5s, up to a lieutenant. That is one "they."

In the aftermath, you are saying that “they” include a three-star general.

Mr. KEVIN TILLMAN. Yes, sir.

Mr. ISSA. And the entire chain of command.

Mr. KEVIN TILLMAN. Yes, sir.

Mr. ISSA. OK.

Ms. Lynch, in your case, who are the “theys” that you think made your story which was originally true and simple into something that was untrue but more glorious?

Ms. LYNCH. I don’t know exactly where it started out, but I know that “they” would be considered as part of the media for letting the story to keep going in such a way that they should have found out the facts before they spread the word like wildfire. I mean they should have taken accountability and made sure the stories were accurate before they ran with it.

Mr. ISSA. Do you think there was a conspiracy to create this for some reason at a level above the military and the media?

Ms. LYNCH. No.

Mr. ISSA. Do you have any evidence?

Ms. LYNCH. No, I don’t.

Mr. ISSA. OK.

Ms. LYNCH. I don’t.

Mr. ISSA. Mr. Tillman or Mrs. Tillman, do you think that there was a conspiracy?

I heard some of the e-mails that were sort of the opposite. For that reason, I am asking. Do you think that there was a conspiracy or involvement by people politically connected, in other words, elected or appointed in political roles, that fostered the untrue statements about your brother or your son?

Mr. KEVIN TILLMAN. Yes, sir.

Mr. ISSA. Who are they and what is your evidence?

Mr. KEVIN TILLMAN. I don’t know, sir, who they are. I just know the evidence is leading to a point which is why we came to your committee, sir.

Mr. ISSA. What evidence is leading to that point?

Mr. KEVIN TILLMAN. Part of the evidence is the P4 message sent by the head spoke of all the Special Forces. It is not a sit rep. It is a warning to these people. This information, this is something that is very critically sensitive, and it is, in my opinion, very disingenuous to think that they did not know especially based on what was going on at that time.

It is a bit speculative right now, and that is why we are here. But the whole thing, as a whole if you look at its parts and put it together, it is absolutely absurd. This whole thing is unbelievable from this manufactured story to what really happened. There is just a disconnect.

And to think that the generals would sua sponte this on their own, I don’t think that is a very reasonable answer.

And based off of the e-mail traffic, based on how these, a lot of these wars are perception-based. There is a lot of information. There is a lot of stuff that is controlled. I think it is imperative that the committee take a look and see if that is the case.

I, personally, am pretty confident that they did have something to do with this because they are the ones that ultimately benefited from that story.

Chairman WAXMAN. Thank you, Mr. Issa.

Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman. I want to thank Ranking Member Davis, both of you all, for calling this hearing.

I want to thank Private Lynch for being here today. Your courage and dedication to duty both while under enemy fire and then as a wounded POW are heroic, and your commitment to making certain that the truth about what happened to you and your unit finally emerged is equally heroic.

Mr. and Mrs. Tillman, first as a father, I want to express my sincere condolences to you on the loss of your brave son, Patrick. I want to commend you for having the courage to pursue the truth about your son's death while bearing the terrible burden of losing a child.

We know now that your painful loss was compounded by having had to confront a pattern of deception, misleading information and, in some instances, deliberate misinformation. Unfortunately, that pattern of misinformation and deception is not limited to just your son's case.

So, yes, Mr. Tillman, there is a pattern of deception and misinformation that emanates from the top, from the White House on down and through the departments responsible for this war. So you are not too far from the truth, sir.

Back in my district in St. Louis, I had a brave young constituent by the name of Private Levena Johnson and sadly in July 2005, at the age of 19, she became the first female soldier from Missouri to be killed in Iraq.

Just like Corporal Tillman, Private Johnson was an exceptional young American. She was an honors student, a gifted musician and very active in her church and community. Just like Corporal Tillman, after 9/11, she was inspired to join the Army to help protect her country.

Private Johnson came from a proud military tradition. Her father, Dr. Johnson, is an Army veteran and worked for the Department of Defense for 25 years. Her uncle served in Korea. Her grandfather served in World War II for almost 2 years.

Dr. and Mrs. Johnson have been trying to get to the truth about what happened to their daughter, and my office has tried to assist them in that effort. Unfortunately, they have been met by a wall of disrespect, evasion and failure and a failure to provide them with the answers that the parents of any fallen soldier deserve.

I am thankful that this committee is taking to get them the information they have questioned.

Private Levena Johnson gave her life for her country, and her country has a responsibility to tell her family the whole truth about how she died.

Now, Mrs. Tillman, I want to turn now to Pat's Silver Star award. The committee has a copy of the original citation that supported the Silver Star award. The certificate says that Pat Tillman put himself in the line of devastating enemy fire. It also says that

Corporal Tillman was mortally wounded while under fire that resulted in the platoon's safe passage.

Mrs. Tillman, there is nothing in here at all about friendly fire, is there?

Mrs. MARY TILLMAN. No. No, there is not, sir. They are very careful to stay away from that.

Mr. CLAY. So anyone who reads this, including you, would believe Pat was killed in a firefight with enemy forces, isn't that right?

Mrs. MARY TILLMAN. Yes, sir.

Mr. CLAY. Lieutenant Colonel Bailey has stated he was the one who recommended posthumously awarding a Silver Star to Pat Tillman, claiming that his actions prior to his death by friendly fire merited the award, but the final version of this award focused on the supposed battle with enemy firefighters at the time of death. Do you have any idea why Colonel Bailey or the other drafters of the award failed to correct this key fact?

Mrs. MARY TILLMAN. I can speculate, and I do. But I think because the situation out there was so horrific, and I want to say that, Kevin indicates that he believes that the Rangers are trained, for the most part, quite well. And so, we are not attacking the training, and these soldiers themselves, in a different situation, may have performed quite well.

But at this particular moment, they got excited, and they were not afraid. When they were asked about this particular engagement, not once did they say they were afraid. Not once did they say they were being fired upon. They said they were excited or one said I wanted to be in a firefight.

General Jones asked, did you PID your target?

No. I wanted to be in a firefight.

When they asked, did you see waving hands?

Yes, we saw waving hands.

What did it look like, General Jones asked.

It looked like they were trying to say, hey, it is us.

And yet, they fired at them.

Chairman WAXMAN. Thank you very much, Mr. Clay.

Mr. CLAY. Thank you.

Chairman WAXMAN. Mr. Mica.

Mr. MICA. Well, thank you.

Again, I want to join my colleagues in extending my deepest sympathy to the Tillman family on your loss.

I didn't get here for your opening comments, but I have read your testimony. It does sound like you present some facts that need further review relating to the questions about the mission that we should help resolve, and that is our responsibility. Then I think there are questions too that have been raised about how this story was handled.

But with your son and your brother, you have an American hero. He was a hero before he joined the military and always will be, whether he died by friendly fire or by hostile action.

I don't know if I could ever be satisfied if it was my son. I think we have a responsibility to pursue what you have been told.

I must tell you as a Member of Congress, sometimes this is part of the process we go through too. I learned. I have had about 19

that I have lost, since I have been in Congress, in Afghanistan, in Iraq, in Europe, in different things. It is the hardest thing I have to go through personally.

Sometimes I am very irritated. I read about it first in the press. The military doesn't have a good system of notifying us. They notify sometimes the next of kin first, and sometimes that doesn't work out well because of the circumstance. Unfortunately, we have gone through that over 2,700 times with death, combat casualties. What is it, 600 now, with accidents with the military. So you must know that about the process.

I have a kid that his name is Vacarro, and I was told he died trying to save—he was a medic, trying to save others. When I heard that, I said, oh, my God, he should be awarded a Silver Star. But the funeral has been a couple months ago, and it has taken until just recently to see that he would get that because of the investigation.

Of course, you have high profile, Ms. Lynch. You are very high profile, like it or not. You were unique among the captives and represent a very unique situation.

Maybe the military did try to make more out of the heroes that they believe were heroes.

Some of the information I have on Ms Lynch, the story that she was fighting to her death. This was April 3rd. I know you weren't interviewed for that, were you?

Ms. LYNCH. No.

Mr. MICA. One of the authors, Loeb, says the Post based on this story on battlefield intelligence reports that Loeb says are always wrong in some respect. Loeb dismissed accusations that the military used his paper as an organ for propaganda. "I don't think we were spun at all," he says. "I don't think the Pentagon ever set to make Jessica Lynch a poster child for battle heroism."

So it does happen. I just look at the things that have happened in the last week. Governor Corsine, I read in the media. I thought some kid cut him off on the turnpike, and he ended up in critical condition, almost dying. It turns out he was going 91 miles an hour on the turnpike, further revealed. Let alone explaining something that occurred halfway around the world is very difficult under war circumstances.

Last week, with the unfortunate Virginia Tech incident, again, the way the media handled it, I thought there were two shooters for a long time, and then we were led to believe that it was the mistakes of the administration and others. Then we saw the video tape of a mentally deranged individual and saw the motivation. So it is very difficult.

What I don't want you two to become the poster children for those who don't think our military does a good job. They make mistakes, and they have made mistakes probably in your instances, but there are hundreds of thousands of heroes. A lot of them aren't with us.

Thank you, Jessica Lynch, for recognizing the others and being honest. You were honest, and you represent the best of the best. We thank you.

I yield back.

Chairman WAXMAN. Thank you, Mr. Mica.

Ms. Watson.

Ms. WATSON. I want to thank the Chair for holding this hearing. I always see this committee as the seekers of truth, so thank you for giving us the opportunity to hear from those who are actually involved.

I want to thank the Tillman family for their tenacity and not stopping until you get the actual truth so the story will be complete and you will have some closure. We see your son and your brother and your husband and your loved one as a real hero because he went to fight for his country, and he died in that fight. The peace of mind comes when you know all the circumstances, not a story that has been put together for political purposes.

So thank you for your presence here. Thank you for your courage and your tenacity. We need more Americans like you.

And, Jessica Lynch, you indeed are our hero. The fantasy surrounding your injuries and your hospitalization was reported to the American people and the world, making you a Rambo-like hero. You know the truth regardless of the condition you were in.

I was told the truth by Shoshanna Johnson who was the first woman who happened to be an African American soldier who was imprisoned. We brought her to Los Angeles because she had relatives there, and she told her story. She told us how she was caring for you when you had trouble with the water and the food. She told us how your weight went down, and she told us about your energy level that would not allow you to go out and shoot until the last bullet.

We knew that story, but what I heard through the press was something completely different.

And so, we see you too as a fighter for right, a fighter for the country. It is the circumstances that we think were politicized, and this war being politicized is unacceptable to so many of us.

So I want to thank you for your courage to come, your honesty, your sincerity, and I want to thank you for what you did for your country.

Let me ask you this question. Did you come here for political reasons?

Ms. LYNCH. No, I did not.

Ms. WATSON. Did you join the service for political reasons?

Ms. LYNCH. No, I did not.

Ms. WATSON. All right, that is from you to the world.

Now did you get out of the vehicle during the time that it was the ambush and several of your colleagues were killed?

Ms. LYNCH. No. We were traveling at the time, and then we were hit by an RPG, and sometime between that point, I was unconscious and then taken to the hospital.

Ms. WATSON. But you were in the vehicle.

Ms. LYNCH. Yes, inside the vehicle.

Ms. WATSON. You never got a chance to fire off?

Ms. LYNCH. No, I did not.

Ms. WATSON. All right. Now that is the story that Shoshanna Johnson told us in front of the press.

Ms. LYNCH. Yes.

Ms. WATSON. That is not the story we heard through the press afterwards.

Dr. Bolles, you have said there were prick marks, but you diagnosed to say they were not bullet wounds, is that correct?

Dr. BOLLES. That is correct.

Ms. WATSON. All right. I just want to establish that because the story went out. Someone had to become the heroine or the hero of this war, and you happened, Jessica, to be that story.

I am so pleased and proud that all of you are here to tell the truth to the world.

What we want to say here is that we wish you no harm. We want to express our sincere gratitude to all of you and to your relatives that would go out in defense of this country. But when stories are fabricated, that does a disservice to you. It does a disservice to our fighting force.

I want to say to all of you, thank you for the courage because there is going to be counterattack—I am just as sure as I am sitting here—to disprove what you are saying, but we heard you. You are the ones that went through it, and we will document that.

So thank you so much for coming.

Thank you.

Chairman WAXMAN. Thank you, Ms. Watson.

Mr. Shays is next, but he wants to hold back on his comments, so I am going to recognize Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman, and thank you for letting me come.

The witnesses may or may not know, I am not a member of the committee, but I represent Fort Bragg in my district and for years have known and grown up with a number of the people that are involved.

First, again, let me, as others have, extend my most sincere condolences to the Tillman family. Words can't express our sympathy for you and what has happened.

I appreciate your service, Kevin, in the military, and Jessica, thank you very much for that.

I simply want to say, Mr. Chairman, that in all this, the men at Fort Bragg, some of whom are serving elsewhere right now, are not perfect. But, by the same token, I have known them for over 9 years now to be men of honesty, integrity, intelligence and commitment to the country.

As we move forward, anything that we can do to help you, the families, bring appropriate, proper closure which we all recognize is not possible, we certainly want to be a part of that. By the same token, we want to be completely open and above board, forthcoming and straightforward about other people are directly and indirectly involved and make sure that we do what is right for everyone concerned.

My neighbor down the hall, Ms. Watson, talked about this being political. Well, Washington is political. It doesn't matter what the year or whom the party in the majority is, there is a certain amount of politics, and it is up to us.

Mr. Chairman, what I think and hope you and Mr. Davis are doing—Mr. Tom Davis and Danny Davis as well—is to make sure that whatever political implications go with any incident, the outcome is such that in the future, mistakes are avoided, families are

protected and we come away doing the right thing regardless of what party that we are in.

Unfortunately, I have extensively read the many reports, not the least of which is the 84-page one. As you look at this, we don't have the luxury of a safe crime scene where we can go back and carefully evaluate, and that has to be a part of the overall picture that we are looking at here.

By the same token, I was at Beaufort Marine Corps Air Station on Saturday when the tragic, tragic loss of a Blue Angel occurred. Our hearts and prayers go out to that family as well. But it struck me as we were there on the air station, an eyewitness so to speak, listening to the news reports of the "eyewitnesses" in the excitement and the fear and also the confusion that resulted, there was some lacking of accuracy. I think, again, that needs to be a part of this.

Mike Honda, you and I have talked about this. Thank you for stepping up and representing this family so well, and it is very appropriate.

Mr. Chairman, again, thank you for letting me speak and again to the Tillmans and Ms. Lynch, thank you very much for your service. Anything we can do for you, I can assure across any political border, we are anxious to do that.

Chairman WAXMAN. Thank you very much, Mr. Hayes.

Mr. Yarmuth.

Mr. YARMUTH. Thank you, Mr. Chairman.

I want to thank the members of the panel for their testimony. To the Tillmans and Ms. Lynch, on behalf of the people of Louisville, KY, whom I represent, I want to thank you for your service and your courage and your sacrifice.

Dr. Bolles, I would like to turn to you for a minute. You were Jessica Lynch's surgeon in Germany as we heard earlier. You were a private contractor there, is that correct? You weren't a member of the military?

Dr. BOLLES. That is correct.

Mr. YARMUTH. After the stories came out Ms. Lynch that said that she had been shot, you remained silent. You played a critical role in this entire episode, and yet the American people never heard from you. Why did you not speak up at the time that this all occurred?

Dr. BOLLES. Well, I think every physician has an ethical responsibility not to talk about their patients publicly or even privately for the most part. That goes without saying.

Mr. YARMUTH. Were you under any constraints, legal or otherwise, by virtue of your position as a private contractor in discussing these incidents?

Dr. BOLLES. No.

Mr. YARMUTH. No, not at all.

Ms. Lynch, were you coached by anybody at any time as to what you might or should say concerning your situation, your story?

Ms. LYNCH. Well, when all the stories were being created, I was kind of kept away from watching the news and stuff and hearing all the reports. So I really didn't even know what was going on until a while later. But because I was still in the Army, I wasn't allowed to talk about what happened.

Mr. YARMUTH. That is a standard rule, that you aren't allowed to talk about it, but you did ultimately talk to network television. That was after.

Ms. LYNCH. Once I was out of the military, I was allowed to speak about what happened.

Mr. YARMUTH. When you entered the military, let me put it another way. Has this entire incident made you question the handling of public information by the military?

Do you think that the country was well served throughout this entire episode?

Ms. LYNCH. I do, but I think they could have handled situations a lot better and made sure that the truth was more accurate.

Mr. YARMUTH. Going back to you, Dr. Bolles. You said you were under no constraints. Did you have to sign any kind of non-disclosure agreement?

Dr. BOLLES. Yes, I did.

Mr. YARMUTH. Was that something you signed, a blanket non-disclosure agreement regarding all patients or were you asked to sign this specifically for the Lynch case?

Dr. BOLLES. When you asked me the question before, my mind was thinking about right afterwards when the press did contact me. Before she left, the day before or the day of, I was asked to sign something to say that this would not be discussed also.

Mr. YARMUTH. You had never been asked to sign anything like that involving any other patient of yours?

Dr. BOLLES. No, sir.

Mr. YARMUTH. You said that there was another doctor there who came to a different conclusion as to whether Ms. Lynch had been shot. Do you know if he was asked to sign a non-disclosure agreement?

Was he a member of the military?

Dr. BOLLES. He was a member of the military.

Mr. YARMUTH. So he was bound by the same constraints that Ms. Lynch was.

Dr. BOLLES. I would assume so.

Mr. YARMUTH. Did you think it was peculiar that you were asked to sign a non-disclosure agreement for one patient?

Dr. BOLLES. At the time, no. I am not sure I do now. I kind of assumed they were asking people other than myself and that it was a standard procedure.

Mr. YARMUTH. Looking back at it now, are you suspicious of the fact that they did that?

What do you think was behind their action there?

Dr. BOLLES. I really don't think I have an opinion on that, sir. It may have been standard procedure for a highly visible situation such as Private Lynch was. I don't know.

Mr. YARMUTH. OK.

Thank you very much, Mr. Chairman. I yield back.

Chairman WAXMAN. Thank you.

Mr. SHAYS.

Mr. SHAYS. Thank you. Thank you for having this hearing, Mr. Chairman. I thank our witnesses for being here.

In a hearing like this, you don't even know where to begin, particularly in 5 minutes.

Ms. Lynch, your statement says it all. You are on record. You have come before Congress. It was done in a very appropriate way, concise, to the point. Thank you for your service.

I wrestle with this issue. I wrestle with the fact that there were anonymous sources saying you did things you didn't do. There was huge attention on you.

I wonder what I would do if I was the Government, saying, you know what, she really didn't do this. She didn't really do that and not wanting to show any disrespect to you. So, in some ways, I feel like you are the one who needed to set it straight.

I think some people just wanted to show respect to you and didn't want to cause you any more agony than you went through, but obviously you have gone through so much. But, in the end, the record needs to be set straight, and no one should knowingly distort the record.

I believe the parents, the spouses, the next of kin, that a spouse has an absolute right to know the truth, absolute right. Children have an absolute right to know what happened to their dad. Anyone who gives out false information should lose their job at the least and something worse if they really were part of a huge conspiracy.

So thank you, Ms. Lynch, for being here and your testimony.

Mrs. Tillman, you and your husband are remarkable parents. You have three sons, two sons who have given up a lot materially to serve and risk their lives for their country. I mean they did this because of the way you raised them. You are, I think, being very consistent with the way you raised them. You want the truth.

I don't know. I am going to call you Kevin just because there are so many Tillmans here but, Kevin, to have served in the same unit with your brother and to have been made aware of what happened so quickly, this has to be devastating.

I have three older brothers, no sisters. I can't imagine losing a brother.

To have served with your brother and to know that he lost his life and then to know there was a real screw-up. What is hard for me to imagine is how anyone, knowing you were there, thought they could distort the truth. I mean for the life of me, I don't know that. I can't even begin to think how they thought they could get away with it.

I see your circumstance with Pat different than Ms. Lynch because here it does seem to be information directly given out, publicly given out, totally false.

Mr. Kucinich and others—I chaired the National Security Subcommittee and now I am its ranking member—we asked that this investigation happened, but you are not happy with the investigation done by the Inspector General.

I went out for a little bit. I would like one or the other or both of you to just tell me again why you are not happy or take issue with this investigation.

Mrs. MARY TILLMAN. The Inspector Generals' investigation indicates that.

Mr. SHAYS. If I could ask, I have trouble hearing you, if you can move the mic up. You are not as loud as you think you are up here.

Mrs. MARY TILLMAN. Yes, I am, but I am being very careful.

Mr. SHAYS. Yes, thank you.

Mrs. MARY TILLMAN. Well, first of all, I just want to clear something up. This family has great respect for the military. My dad served. My uncle served. I just want to make that clear.

The most comforting sight right after Pat died was the sight of General Kensinger which is very sad to me because I don't know what his role is in the cover-up. He was very kind. He was very impressive in his uniform, and I felt very proud that he was there.

In other words, we were made to feel rather foolish, I think. I mean there is an element of the betrayal. You feel rather foolish. Well, how did I not pick up on this?

And all of the officers we were in touch prior to uncovering, sort of this deceit, we had respect for. I mean, I thought General Jones was a very gracious man, and I even gave him a picture of Pat, because he knew Pat, and then I felt like he was betraying us in the end although he did do us a great service because he gave us a lot of information. But his conclusions were not valid. I mean based on the evidence, how could he say there was nothing wrong, that nothing nefarious had happened?

So I just want to make it very clear that this family does have respect for the military. We had great trust in the officers that came to us, and I know there are marvelous people in the military to this day.

But I work for an organization too. I know there are good and bad people, and it is the people that are doing the wrong that need to be uncovered.

Mr. SHAYS. I know my light went on, but I would just love to have you highlight maybe one or two biggest flaws with this report.

Mrs. MARY TILLMAN. OK, I understand.

Mr. KEVIN TILLMAN. I will highlight one for you, sir. If you could turn to page 53, it talks about, and this is redacted so you have to bear with me. It talks about the narrative, the witness statements for the Silver Star, and the two Silver Star witnesses.

One is here, which you guys had to fight to get. That is Bryan O'Neal, that the military fought tooth and nail, as you know, to keep him from testifying.

But the narrative on that top right-hand side, read it. They are flat out saying I didn't write this. I didn't write this. Who wrote this thing? It wasn't me. I didn't say this.

Is that addressed in the conclusion? No.

I mean that is fraud, correct? To falsify a witness statement in a Silver Star award, fabricating it with these kids' names on it, that is an example of something that it is sitting right here.

Why isn't it addressed in the conclusion? How come no one is held accountable for this?

The whole thing is riddled with nonsense, sir.

Mr. SHAYS. If I could summarize, there are indications here that the Inspector General was not as diligent, did not pursue obvious questions, and so you have a lot of unanswered issues here because of this report.

Mrs. MARY TILLMAN. Well, they accepted the CID investigation. I mean the IG, they came to conclusions about certain generals that did some things they shouldn't have done. I believe these generals were not—I think these generals were under orders, person-

ally, by someone higher. I don't think that these generals acted on their own.

But I mean, yes, the IG did say that there were four generals that are culpable and there are five other officers that are culpable. I understand that.

However, they also said that the CID investigation was valid. They gave it. They deemed it OK, and the CID investigation was a travesty in my eyes. I think it was ridiculous. There were absolute indications of ROE violations riddled throughout every single report that was done.

They didn't, they didn't try to find out really who the name of this Afghan militia soldier was. For 3 years, no one has known his name, and then we are told his name is Thani, which I think is kind of ridiculous being it is a tribal country. They usually have more than one name, and I don't think that is his real name.

I wanted to know who actually commanded the AMF soldiers. I asked the IG agent specifically to find that out. He was communicating with CID. He said he would make sure they were aware of that.

When I asked the investigator, who commanded the AMF soldiers. Oh, we didn't look into that.

When I asked them, what was the conclusion with the ballistics testing, with the bullets that were taken from Pat's head? Oh, I didn't look into that. We never got any report.

I mean, in every way, they dodged. They are dodging us, and the IG condoned that even though they make the public believe they did such a grand job because they pointed the finger at four generals and five other officers. That is a smokescreen. These officers are scapegoats.

Mr. SHAYS. Thank you.

Mrs. MARY TILLMAN. And McCrystal's memo coming out the way it did is a pure indication that they are feeling like scapegoats.

Mr. SHAYS. Thank you.

Chairman WAXMAN. Thank you, Mr. Shays.

Mr. Braley.

Mr. BRALEY. Thank you, Mr. Chairman.

Ms. Lynch, Mr. Tillman, I want to thank you for your eloquent and compelling testimony.

Mr. Tillman, I want to thank you for using the word, fratricide, because for any family that has gone through what your family has, there is nothing friendly about friendly fire. With your permission, I would like to address my initial remarks to your parents.

When I heard about your son's death, the real causes for his death, it took me back to when I was a 13-year-old growing up in Iowa. I had a cousin who was serving in a Marine artillery fire base in Vietnam, and a story hit the Des Moines Register that captured the attention of everyone in my State.

It was about a young man named Michael Mullen from La Porte City, IA, who had gone to high school at Don Bosco, gone off and gotten his college degree and was a graduate student when he was drafted into the Army and went and served his country honorably.

I want to ask you if this story sounds familiar. During the pre-dawn hours of February 18, 1970, on a jungle hilltop near the village of Chu Lai, South Vietnam, an outgoing shell from a U.S.

Army howitzer accidentally struck a treetop and exploded above the men of Charlie Company First Battalion, Americal Division. Six were injured, two were killed. One of them was Michael Mullen, 25, the fifth generation of his family to farm the same fertile Iowa acreage.

Michael was pierced by a small crescent of steel that tore a hole in his heart. He was sleeping and died instantly. The Army listed their son as a non-battle casualty, a category that they were to learn was used rather loosely to keep down the weekly figure of war dead.

An anguished war protest letter from Peg Mullen, Michael's mother, to President Nixon brought back a note from a White House clerk, assuring that the President was truly sorry that her son had died and attached to the note were copies of President Nixon's Vietnamization speeches. Another letter from the Adjutant General's Office informed the Mullens that the non-battle casualty had been posthumously awarded the Bronze Star and the Good Conduct Medal.

However, they also received a voucher they were asked to sign to receive the pay due their son, Michael, at the time of his death, and they refused to sign, demanding a full accounting from the government of the circumstances of how he died. When they finally got that full accounting, it came with a deduction for advanced leave time that their son no longer had a position to make up.

Peg Mullen turned this into a personal crusade, taking the money that they received from their son's death benefit to take out full page ads in the Des Moines Register, consisting of 714 crosses representing Iowa's Vietnam War dead. One of the results from that action was that they had their family phone tapped.

As I heard the story of what your family has gone through in order to get a full accounting from the government that your son served with honor, I was reminded of how we tell ourselves over and over again, and yet we seem to go through this every time we are faced with a crisis like we face right now.

Mrs. MARY TILLMAN. I would like to say I think it is really important because before someone says anything to us, I want to say it first because we have been asked over and over again, well, what can we do for your family? How can we appease you?

And it makes me sick. It is not about our family. Our family will never be satisfied. We will never have Pat back.

But what is so outrageous is this isn't about Pat. This is about what they did to Pat and what they did to the Nation. There is evidence, an accumulation of what is about 12 binders on Pat's death. I condensed it to one or two. This is evidence that something really awful happened. It is your job to find out what happened to him. We have an institution in place to find out what happened to him, and that is really important, and we are coming to you. Pat died for this country, and he believed it was a great country that had a system that worked. It is not perfect. No one has ever said that. But there is a system in place to allow for it to work, and your job is to find out what happened to Pat. It is to find out what happened to Patrick McCaffrey, to what happened to Kenneth Ballard, to all the other soldiers.

By making up these false stories is exactly what Jessica said. You are diminishing their true heroism. It may not be pretty. It may not be like out of a John Wayne movie, but that is not what war is all about. It is ugly. It is bloody. It is painful. And to write these glorious tales is really a disservice to the Nation, and the Nation needs to realize this is an ugly war. Everyone should be part of it. Everyone should understand what is going on. And we shouldn't be allowed to have smokescreens thrown in our face.

Mr. BRALEY. Thank you.

One of the articles that I have read after the Pentagon report was released noted that the report did not attempt to explain why the military command stuck to its feel good story of combat heroism at the time of the Abu Ghraib scandal, which you referenced in your testimony, Mr. Tillman.

Can you, either one of you, talk about why or what explanations you have received as to why that explanation has never been provided?

Mr. KEVIN TILLMAN. I haven't received an explanation. I don't know if they have a good explanation. I think they are just, whatever reason. I don't know. Hopefully, you guys can find that out. I don't know why they stick to the same story, but they are still sticking it.

Mrs. MARY TILLMAN. General Jones, when he interviewed General McCrystal for his investigation, he asked, and this is the document that General Jones provided us. He said, once you became aware that this was possible fratricide, was there a conscious decision made not to tell the family of the possibility? If so, why?

General McCrystal answers, there was a conscious decision on who we told about the potential because we did not know all the facts. I did tell the senior leadership—and there is a redaction, we all know now who he is talking about—about the possibility prior to the memorial ceremony because I felt they needed to know that before the ceremony. I believe that we did not tell the family of the possibility because we did not want to give them some half-baked finding.

But the irony is that is exactly what they did. They made up a story. They presented it to an honorable military individual who thought he was giving, that had given the true facts, and he was mortified that he wasn't. The Army didn't even present it themselves to be held accountable for the lie. They handed it over to someone else.

I mean there is no explanation.

And this notion that we wanted to investigate beforehand is absurd because General Jones also provided documentation that even before this incident happened, you are supposed to tell the family right away if you suspect fratricide, period.

It is not nebulous as Colonel Nixon said. It is not nebulous at all. You simply tell the family you suspect it. Then you can investigate. Then you can give the family your conclusions.

So the idea that they were trying to protect us by not telling us until the investigation took place is ridiculous.

Mr. BRALEY. Thank you.

Chairman WAXMAN. Thank you very much.

Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

As so many of us have stated, today's hearing is to honor the special men and women of our armed services by coming to the truth, and I thank the families for being here today. I thank you, Ms. Lynch, for being here today.

There are press reports galore, stacks of them. People were looking for a hero. When you are in boot camp and before you get to boot camp, you raise up your hand if you are going to be in the military and you take an oath, and you are a hero at that moment.

I remember well the situation in Iowa, being from the neighboring State of Minnesota, and the courage and the determination of that family. As Congressman Braley pointed out again, here we are doing it again today.

I am going to refer to the Inspector General's report, and I can see why you are less than satisfied with it.

Page two, the Inspector General says: We conclude that, despite shortcomings, the investigation is established on basic facts—despite shortcomings.

On page three: We determined both investigators were deficient, both investigations, the early investigations were deficient primarily because the investigating officer failed to visit the scene to gather the evidence, failed to review the witnesses.

But, yet, I don't see where there was any action taken. Maybe there is another report beyond this that can be supplied to me.

On page four, the Inspector General says: We determined that the third investigation was also deficient primarily because the investigating officers failed to interview all the relevant witnesses and did not access accountability for the chain of command's failure with requirements including failure to report and investigate friendly fire.

On page five, the Inspector General goes on to say: We found no reasonable explanation for this failure to comply with regulations.

It goes on and on and on, and yet I don't feel that I, as a Member of Congress, have enough information to find out how far up the chain of command this went and how people have been held accountable.

Someone said today, you are here to set the story straight. I don't believe you should be here to set the story straight.

Mrs. MARY TILLMAN. Thank you. I agree with you.

Ms. MCCOLLUM. I believe our military should have set the story straight for the Tillman family, for the Lynch family and for all the families I am currently working with on casework to make sure that everything is reported right.

This affects every single family that is serving in our country today, and it will affect families servicing tomorrow if we don't get to the truth.

In this country, our constitution is based on the fact that people should have an open government and that all people are entitled to the pursuit of happiness.

Now this outcome will not make your family happy and, Ms. Lynch, this outcome will not heal your body whole again to where it was prior to the injury. But can you tell me in your words how not being told the truth and having to be here again, asking for the

truth to be fully revealed and everyone to be held accountable, how that makes you feel betrayed?

You used the word, and I think it is very powerful, Mrs. Tillman. You had been betrayed.

Mrs. MARY TILLMAN. Well, yes. I mean we have all been betrayed. It isn't just our family. Every time they betray a soldier, they betray all of us.

Pat had high ideals for the country. He did, and he thought it was imperfect. He certainly didn't join for political reasons. He thought the country was in need. It didn't matter who was in office. It didn't matter which party he voted for. That is beside the point. The country was in need.

We had officers that we trusted. We had high regard for them. My ex-husband, Pat's dad and Kevin and Richard's dad, we both kind of turned them over although they were grown men and perfectly capable of that. But in your heart, they are your kids and you turn them over, and we trusted.

We knew they could die. Certainly, we knew they could die or they could come back wounded or they could be harmed to the extent that Jessica was harmed. But we never thought that they would use him the way they did.

And I say they. I don't know who "they" is. So please forgive me if I am trying to put everybody in the same category. But they definitely used him.

And what is so weird is I remember, we all remember Jessica's story, and when the truth came out, I am thinking in my head, well, they learned their lesson this time. This girl, she really showed courage, and she told the truth, and they will be smarter next time.

Well, a year later, they weren't smarter.

And so, it is a betrayal, but it is not just a betrayal to us, and that is why we are here. If it was only a betrayal to us, we would sue or something. This is a very big issue, and that is why we are in front of Congress because Congress is supposed to take care of their citizens.

Chairman WAXMAN. Thank you very much. That is why we are holding this hearing.

Mrs. MARY TILLMAN. Yes.

Chairman WAXMAN. Thank you.

Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman. I want to thank you for holding this hearing.

To the Tillmans, I want to add my thanks to you for your fortitude, courage and great personal sacrifices that you have made not only on behalf of your family but on behalf of all of us who believe in truth, all of us who seek justice and all of us who believe in valor. And so, we all appreciate you and what you have been doing.

Private Lynch, let me add thanks to you for your bravery in battle but just as much for your courage to come forth to share with the American people, something that perhaps you wouldn't have had to do unless there was something burning inside of you, saying that truth is so important that the people must know and that the people must understand. So thank you so very much.

Let me ask the Tillmans. On May 3, 2004, a large memorial service was held for Corporal Tillman in San Jose, CA, which was carried on national television. I would like to ask both of you about that memorial service.

I am sure that Corporal Tillman's death was a severe blow to your entire family. This memorial was an opportunity to honor his service, to honor the fact that he gave his life for his country. I imagine that you both were dealing with very difficult feelings and that you were trying to get some sense of closure.

At the time of the service, you still thought that Pat Tillman had been killed in a firefight with the enemy. Is that correct?

Mrs. MARY TILLMAN. Yes, sir.

Mr. DAVIS OF ILLINOIS. So you had begun to come to terms with that at the memorial.

There were various Defense Department officials present, and they spoke about Corporal Tillman's bravery and his actions in fighting the enemy. Is that also correct?

Mrs. MARY TILLMAN. Yes, sir.

Mr. DAVIS OF ILLINOIS. Now I understand that General Kensinger was the highest ranking military officer who attended the service. Did you see General Kensinger at the memorial service?

Mrs. MARY TILLMAN. Yes, I did.

Mr. DAVIS OF ILLINOIS. Did you speak with him and, if so, what did he say?

Mrs. MARY TILLMAN. I did speak with him. I don't remember what I said to him. I just remember feeling very comforted that he was there, and he was very kind and warm. I just felt a very close affiliation with the military somehow because I felt like, well, they understand what we are going through and they are here to, you know.

I was glad to see him, and I don't remember what he said. I don't remember what Colonel Chin said.

Mr. DAVIS OF ILLINOIS. But at this point, General Kensinger already knew that Pat's death was a friendly fire incident.

Mrs. MARY TILLMAN. Yes.

Mr. DAVIS OF ILLINOIS. The memorial service was on May 3rd, and General Kensinger had received the P4 memo on April 29th, 4 days earlier, warning that this was a friendly fire incident. But he didn't tell you anything about this. He didn't correct what was said at the ceremony.

We had wanted to ask the general about his actions at our hearing today, but he has refused to testify. Last week, his attorney sent a letter to the committee invoking his fifth amendment right against self-incrimination.

Mr. Chairman, I ask that this letter be made a part of the record.

Chairman WAXMAN. Without objection, that will be the order.

[The information referred to follows:]

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April 19, 2007

VIA TELEFAX & E-MAIL

Rep. Henry Waxman, Chairman
(Attn: [REDACTED])
Committee on Oversight and Government Reform
U.S. House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Waxman & Mr. [REDACTED]

This letter responds to Mr. [REDACTED] phone call to my office this morning inquiring about the availability of my client, LTG Kensinger (Ret.), to provide testimony to your committee concerning the matter of the disclosure of information regarding Corporal Tillman's death and the reporting of information concerning the circumstances of Corporal Tillman's death to the Tillman family. (My client has no information relevant to the other matter you Committee apparently intends to review, involving Specialist Jessica Lynch).

As you know, the matter of the information disclosed to the Tillman family, its accuracy, and timeliness of accurate disclosure, are matters currently under official review by the Department of the Army. As the matter is still under investigation by the Army, comment by my client would be premature and inappropriate. In any event, my client cannot speak for the Army before your committee; such official spokespersons must be arranged in accordance with Departmental regulations governing appearances of Army personnel before Committees of Congress.

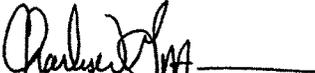
As the investigation is continuing by the Army and my client has not been provided copies of any witness statements and other source documents to review despite our previous official request to the Army, my client will be unable to properly and adequately prepare for an appearance before your committee and he would decline the offer to attend, if invited. You can certainly understand the need for a witness to properly prepare to provide testimony where such testimony is to be provided under oath. Inasmuch as no provision has been made by the Army or the committee to provide my client with an opportunity to review the voluminous documents and witness statements relevant to his testimony, it would be premature for my client to appear before the committee in accordance with an invitation to appear.

Next, in the event that a subpoena is contemplated, you should be aware that such compelled testimony would implicate my client's Fifth Amendment rights and he would refuse to answer questions under such circumstances, as is his right pursuant to Article 31, UCMJ and the Fifth Amendment to the U.S. Constitution. As the Committee lawyer members and its professional lawyer staff are surely aware, it is ethically improper to require a person to appear in an official proceeding solely to publicly invoke his Fifth Amendment right to remain silent, once you are placed on notice of that intent by a witness. If my client is subpoenaed, he will refuse to answer questions in reliance on his Constitutional rights, therefore, I assume that my client will not be issued a subpoena solely to publicly exercise his Constitutional rights for TV cameras and the media.

Finally, as you and the Committee should well know by now, there was never any effort at any level to cover-up the fact that Corporal Tillman was killed by friendly fire. The several investigations conducted to date found no evidence whatsoever of any effort to suppress the fact that friendly fire was suspect in the death of Corporal Tillman. And, it is important to recognize that while mistakes may have been made in the timeliness of the notifications of the Tillman family, the decisions to delay notification were a product of well-intentioned professional military personnel intent to assure that the family was provided complete and factually correct information based on the finally completed investigation, rather than on partial, unconfirmed information. Moreover, these decisions, at every level, were reviewed by professional Army Judge Advocates assigned to provide legal advice and interpretation of Army Regulations to their respective commanders. While these well-intentioned decisions may have run afoul of then-unknown provisions of regulations unfamiliar to most of the officers involved, there was no intent to mislead anyone; only to provide complete and accurate information based on *completed* investigatory work.

Should you have any questions, please do not hesitate to call.

Very truly yours,


Charles W. Gittins

cc:

LTG Kensinger
LTC Eric Krauss

Mr. DAVIS OF ILLINOIS. I will close by observing it appears that you were put through the wringer twice. First, you were hit with Pat's death which was devastating, and then as you were slowly coming to terms with that, you were hit again, this time with the revelation that military officials sitting next to you at Pat's memorial service knew that he was killed by his own platoon but kept you in the dark.

It is hard to imagine our military and our government doing that to its citizens especially when they are mourning the life of their loved ones who have given to this country the most that one can give.

Again, I thank you for your testimony, for your courage and for being here today.

Mr. Chairman, I yield back the balance of my time.

Chairman WAXMAN. Thank you very much, Mr. Davis.

I am going to recognize myself before we call on those who have joined us, Mr. Mitchell and Mr. Honda.

I can certainly see why you are outraged. You were told misinformation. The country was told misinformation.

There have been five investigations, and there are still unanswered questions. There were three internal investigations by the military, then the Office of Inspector General and the CID split it up and did two investigations themselves, and there are questions that we still haven't answered.

How high up did this go?

People knew early on that the story that was being sent around the world was just not true. They didn't let you know for 4 or 5 weeks, but other people knew.

Then the statements on the Silver Star award, the Inspector General said those statements were fabricated, and yet he didn't tell us who fabricated them.

Mrs. MARY TILLMAN. Right.

Chairman WAXMAN. We are going to ask him about that in a minute.

Then I have read, and no one has mentioned this, statements from people in the military who are so condescending to you to say: You are lost in your grief. You can't deal with this whole thing. You cannot accept what happened.

Mrs. MARY TILLMAN. Basically, I would like to address that because lieutenant, I believe he is a lieutenant general. I lose track. No, I am sorry. He is a colonel. He is still a colonel.

Colonel Kauzlarich said, and I am appalled that he would make these comments. He is entitled to his opinion, of course, but he said that we were, we would never be satisfied because we are not Christians. Spirituality doesn't enter into this, I guess, in his mind. We are not Christians. So we can't put him to rest, and that is why we will never be satisfied, and we are just a pain in the ass, basically.

Then he did an interview on ESPN where he basically reiterated this. I mean to a reporter who then put it on a Web site and in an actual. He also said that it must make us feel terrible that Pat is worm dirt.

Chairman WAXMAN. Well, that is really horrible.

I think nobody has studied this more than you. Nobody knows more about this than you. So we need to get the further questions that you feel have to be answered, and we have to insist that they be answered.

Five investigations evidently isn't enough. They haven't gotten the answers that you need.

Mrs. MARY TILLMAN. Well, I would like to address also General Abizaid because General Abizaid was sent the memo, the P4, that almost everyone says is a very crucial memo. That it is supposed to be read right away.

And he claims he didn't receive it. He said he was in Iraq. Well, on the Pentagon Web site, there is an interview. He did a press conference on April 30th, and he was in Qatar. And in that press conference, he makes reference to the fact that he was in Afghanistan the day before, talking to Pat's platoon leader who was wounded in the same exchange that Pat was wounded in.

Chairman WAXMAN. Let me interrupt you because I want to get to Ms. Lynch, and I only have a couple of minutes left.

Mrs. MARY TILLMAN. Right.

Chairman WAXMAN. But let me just say Shakespeare put it correctly when he said, oh, what a tangled web we weave when first we practice to deceive.

Evidently, people were out there trying to deceive not just you but the American people.

Ms. Lynch, your injuries, the result of your injuries, we were told in the Washington Post and other places were because you were a girl Rambo, and that just turned out to be not true. Yet, the statements were made by people in the military to the press. So they were trying to get a story out, and of course both stories are very self-serving when you think of those who are trying to support the wars in Afghanistan and Iraq.

Then the military had an opportunity to rescue you, and you were held captive for 10 days. But there was a whole day before they rescued you when they were preparing not just to rescue you but to videotape the rescue. Were you aware of that or aware of it now?

Ms. LYNCH. Yes, I was aware. Well, not at the time, I wasn't aware that they were videotaping me, no.

Chairman WAXMAN. No, certainly not then.

Ms. LYNCH. But after the fact, yes, I knew about it, and now, I kind of understand why they did it.

Chairman WAXMAN. Well, maybe you understand it, but it just seems to me—I come from Hollywood. I expect show business in Hollywood, not from the military and not to support a story that was a fabrication.

Our staff interviewed Jim Wilkinson, the Director of Strategic Communications at CENTCOM. He informed us of the plans of your rescue operation. He informed the press operation a full day before it happened.

Then there is a Lieutenant Colonel John Robinson. He is someone who worked for Mr. Wilkinson. He explained to the Washington Post why the press office was so interested in getting video of your rescue, that they postponed your rescue to do this. He said: "We knew it would be the hottest thing of the day. There was not

an intent to talk it down or embellish it because we didn't need to. It was an awesome story"—the awesome story of your rescue.

Well, this might have been an awesome story, but this was your life and you were the one feeling the pain. They were trying to stage a rescue to sustain their heroic story that they made up, and your story was heroic enough without that fabrication.

I want to recognize Mr. Waxman. He is a representative of the Tillman family, and he asked me to hold this hearing. I know he has talked to you, Mrs. Tillman and Mr. Tillman, but I recognize him to pursue any questions he wants to.

Mr. HONDA. Thank you, Mr. Honda. I want to thank you as the Chair and Ranking Member Davis and the members of this committee for holding this hearing. It is a hearing that has been long awaited, but it was a hearing that was set aside until such time that all administrative procedures could be exhausted.

I think the Tillmans have exercised a tremendous amount of restraint and patience. To the family, I want to thank you for that, and I also thank you for not giving up.

I guess there is a phrase that says you bring truth to power. I think now you will give power to truth, and this is the pursuit that we are going after.

To Ms. Lynch and to Dr. Bolles, thank you for being here also.

There was an initial comment about you, Kevin, about being there. The situation was, as I understand it, that the platoon was set up in two serials. Serial one where your brother was in, and Serial 2 was where you were assigned. The firing took place, of which you probably heard but did not take part in.

Could you share with us that which happened, step by step, through that day and then subsequent days until such time that you had become aware that your brother was killed by friendly fire?

Mr. KEVIN TILLMAN. Yes, sir. That is a long narrative, but I will speed it up.

Mr. HONDA. It may be long, but I think it will be helpful.

Mr. KEVIN TILLMAN. We had a broken down GMV, and we were stuck. We were stuck in Magara for about 6 hours, and I am not privy to any of the conversations with the PL or any of that stuff because I was on a turret gun. I was a Mark 19.

The long and short of it, they told the PL the decision was made to split the platoon up. One go to Manah and the other take the broken down GMV up to the hardball road. So they took off. The first serial that Pat was in left about 10 minutes before we did, and then we followed suit.

Well, someone made the decision not to go up that road because it was too difficult. Well, they traveled into—Serial 1 traveled into a canyon. Serial 2 decided to follow right behind Serial 1 into that canyon, and I actually was the last vehicle enter into the canyon. I mean I didn't know what the plan was specifically, but you get a general feel.

And the long and short of it, we ended up following I don't know how close, but I knew we were there. I was in the vehicle with the platoon sergeant in the rear of the element. So they went through. Pat's group went through and had no issues.

We went through, and we, at some point inside the canyon, got hit. Well, as the serial exited the canyon, the first vehicle ended up engaging Pat, the AMF soldier, O'Neal, that whole serial on the top right side which was an entire squad in a village.

By the time we pulled up, it was all said and done. So we pulled up, and I am just sitting down at the bottom. So after all that stuff happens, we ended up slowly working our way through.

And I found out about 45 minutes later that Pat had died, and they didn't tell me how. They just told me, you know. I asked them where is Pat because I just didn't know where he was, and I didn't think about it at all. And then I just didn't hear him, and Pat is a very, you know. You always know where Till is, you know.

And so, I asked one of my NCOs. I said, where is Pat, and he wouldn't answer. I asked him again, and he told me.

And about 5 minutes after that, they picked Pat up in a helicopter and took him away. Then they picked me up about an hour and a half later and took me away. And from that point, I was with, well, I wasn't with Pat's body, but I was in Salerno, then Bagram and eventually I went back with Pat's body—well, I assume it was Pat's body—to Germany, then to Dover and then back to San Jose, CA.

Then I found out about a month and 2 days later that it was, in fact, fratricide that got him and it wasn't the enemy.

Mr. HONDA. At the time of the shooting when you asked what had happened, do you recall what the exact wording was that they shared with you? Do you remember?

Mr. KEVIN TILLMAN. It was very nebulous. Pat was running. He was outside by a village. He was running up a hill, and he got, essentially got shot dead-on. And it made sense in my head because to the right, I mean we were surrounded by hills.

So it was real. There wasn't a lot of specifics to it, but I didn't—just when that stuff happens, it is tough to process a lot of that stuff anyway. So it was like OK, and your focus is the fact that they are gone, and that is your focus.

It was still very general. He was with O'Neal. O'Neal told me they were running up the hill, and they got shot. O'Neal was told not to tell me, and so I got a general.

Private O'Neal was the one with Pat. He was told not to say anything because I called him, like who was with Pat. I wanted to at least find out who was with him.

I spoke with O'Neal. He told me generally what happened, but he eliminated pretty much everything. He just gave me a brief little synopsis, and that was that. I didn't press him very hard for whatever reason, and then I found out about a month and 2 days later.

Chairman WAXMAN. Thank you, Mr. Honda.

Mr. Mitchell, we are pleased to have you with us, and I recognize you.

Mr. MITCHELL. Thank you very much.

I am not a member of this committee, and I want to thank the Chair for allowing me the opportunity to sit with this distinguished committee. I appreciate the committee taking up this important matter.

Ms. Lynch, thank you for being here.

Mrs. Tillman and Mr. Tillman, thank you for being here.

I wanted to be at this hearing because this is a case that is important to so many Americans and especially to my district which includes Tempe and Arizona State University. It is important to my district because everyone there felt like they knew Pat Tillman even though they had never met him.

He was one of the most popular Sun Devil football players. We appreciated his toughness on the field, and we were happy he stayed in Arizona to play in the NFL. We were especially proud when he and Kevin joined the Army. So it strikes a chord at home to think that the Army could have treated his memory and his family in the way that they did.

Most of the questions that I have had have been answered or asked during this hearing. I think what is really important is that as we read and listen to this, we understand that there are regulations that were not followed. There were mistakes that were made. But to have a complete investigation, I think what is really important and what we are all after is why did it happen. Why were the regulations not followed? Why were the mistakes made?

It seems as a result of that, that there happens to be a lot of questions that you have said that need to be answered.

I appreciate so much your being here and my condolences and my sympathy and my apologies.

Thank you.

Chairman WAXMAN. Thank you very much, Mr. Mitchell.

Let me thank you all very much for being here.

Mrs. MARY TILLMAN. Can I finish my Abizaid story, please? It is very important to me.

Chairman WAXMAN. Yes, please.

Mrs. MARY TILLMAN. General Abizaid said, if I may go back, that he was in Iraq at the time that the P4 message was sent.

And on the Pentagon Web site there is an article and there is a press release where, Abizaid was actually in Qatar on April 30th, and in that piece he makes mention of the fact that the day before, April 29th, that he was in Afghanistan, visiting Pat's platoon leader. Pat's platoon leader was shot in the face in the same exchange of fire.

And at that time, the platoon leader really didn't know that he was killed by or wounded by friendly fire or fratricide. And so, that is kind of the excuse, I guess, Abizaid has given or other people have given to indicate, oh, well, even though he was in Afghanistan. Lieutenant Uthlaut didn't know he was wounded by friendly fire. Therefore, he couldn't have told Abizaid.

Well, I contend that almost every soldier in Afghanistan at that point knew Pat had been killed by fratricide. So the idea that they wouldn't tell Abizaid what was going on if he didn't already know is ridiculous.

And Abizaid, at the time, was dealing with Iraq that was an absolute nightmare. The fact that he would go to Afghanistan to visit a lieutenant that is wounded is kind of suspicious. I mean why would he do that?

I am sure Abizaid was not that concerned about Pat. I mean he has other things to worry about. But he would be concerned about Pat, knowing he was killed by friendly fire or fratricide. I mean that

would make a huge difference and that could explain why he was there.

I don't know if he talked to Uthlaut on the phone or if he talked to him in person, but it doesn't really matter. The fact that Abizaid was in Afghanistan on that day indicates to me that he probably knew that Pat was killed by friendly fire. I just wanted to make that very clear.

Chairman WAXMAN. Well, what you are saying underscores the reason that you are all before us in this panel because your cases illustrate the fact that stories were put out that were not true, that they were put out deliberately, and that we still don't know how far up this went. We don't know what the Secretary of Defense knew. We don't know what the White House knew. These are questions the committee seeks answers to.

What we do know is that this was not a series of accidents, these stories. They were calculatingly put out for a public relations purpose, and they lingered out there for a very long time. Even now, there seems to be, as they say, a cover-up to try to prevent us from knowing what actually happened in all of the circumstances.

I think this testimony is not just important to you, but it is important to all of us. I thank you very much for being here. I appreciate it.

We have a second panel that we want to hear from, but I am going to call a recess for 10 minutes, and then we will reconvene the hearing.

[Recess.]

Chairman WAXMAN. I ask people to take their seats and ask the witnesses to come forward.

For our second panel today, we have Thomas F. Gimble, the Acting Inspector General, Department of Defense. Inspector General Gimble will discuss the IG's recent report on Corporal Tillman's death and address some of the continuing questions concerning the military's handling of Jessica Lynch's story.

Brigadier General Rodney Johnson is the Commanding General of the U.S. Army Criminal Investigations Command [CID]. He will discuss Army CID's report, addressing the circumstances surrounding Corporal Tillman's death.

Army Specialist Bryan O'Neal was an eyewitness to Corporal Tillman's death and has personal knowledge of many of the issues that the DOD IG investigated.

Senior Chief Petty Officer Stephen White is a Navy SEAL who became friends with Corporal Tillman when the two fought alongside each other in Iraq. Senior Chief White spoke at Corporal Tillman's memorial service on May 3, 2004.

Lieutenant Colonel John Robinson served as spokesperson for the U.S. Army Central Command [CENTCOM], when the stir of Ms. Lynch's kidnaping and rescue unfolded in March and April 2003.

I want to welcome all of you to our hearing today.

It is the practice of this committee that all witnesses are put under oath. So I would like to ask, if you would, to stand and raise your right hands.

[Witnesses sworn.]

Chairman WAXMAN. The record will reflect that each of the witnesses answered in the affirmative.

Let us start with Mr. Gimble.

STATEMENTS OF THOMAS F. GIMBLE, ACTING INSPECTOR GENERAL, DEPARTMENT OF DEFENSE; BRIGADIER GENERAL RODNEY JOHNSON, ARMY CRIMINAL INVESTIGATIVE COMMAND; SPECIALIST BRYAN O'NEAL, U.S. ARMY; SENIOR CHIEF STEPHEN WHITE, NAVY SEAL, U.S. NAVY; AND LIEUTENANT COLONEL JOHN ROBINSON, DIRECTOR OF MEDIA SERVICES DIVISION, SOLDIERS MEDIA CENTER

STATEMENT OF THOMAS F. GIMBLE

Mr. GIMBLE. Mr. Chairman and members of the committee, thank you for the opportunity to appear to discuss our review of the issues concerning the death of Corporal Patrick Tillman and the rescue of Private First Class Jessica Lynch.

The Army Inspector General as well as Members of Congress asked my office to review the circumstances of Corporal Tillman's death, and we separated that review into two parts. One was CID reviewed the facts up to and through the incident itself while we reviewed the events after the incident.

Our review focused on three areas: the adequacy of the investigations, notification of next of kin and the accuracy of the documentation to support the award of the Silver Star.

There were three sequential Army Regulation 15-6 investigations into the death of Corporal Tillman occurring at battalion, regimental and command levels. Each investigation established the basic facts of Corporal Tillman's death, that it was caused by friendly fire, that the occupants of one vehicle in Corporal Tillman's platoon was responsible and that those occupants misidentified friendly forces as hostile.

Each of the three investigations of Corporal Tillman's death, however, were deficient and thereby contributed to the inaccuracies, the misunderstandings and the perceptions of concealment. Those deficiencies are detailed in my written statement that include the failure to interview all relevant witnesses, failure to address factual inconsistencies in witness testimony and drawing conclusions not supported by evidence and failure to pursue inaccuracies related to the Silver Star.

The third investigating officer exacerbated the situation by sharing findings that were not supported by testimony with family members, senior Army officials and Members of Congress.

Additionally, we determined that the Commander of the Army Special Operations Command misled the third investigating officer in my office when he denied that he knew friendly fire was suspected before the memorial service for Corporal Tillman. The third investigating officer failed to pursue those misrepresentations.

With regard to our second area of focus, notification of next of kin, we concluded that responsible Army officials failed to notify the primary next of kin as soon as they originally suspected friendly fire.

We determined that the Regimental Commander was accountable for his decision to delay the notification of the primary next

of kin and that the Commander of the Army Special Operations Command was also accountable because he was in a position to ensure the primary next of kin was notified prior to or immediately after Corporal Tillman's memorial service but decided not to do so.

In our final area of focus, the Silver Star, we concluded that responsible officials failed to comply with the Army Military Award Regulation when they submitted a Silver Star recommendation that included inaccurate information and a misleading citation that implied Corporal Tillman died by enemy fire.

We determined that the Battalion, Regimental and Joint Task Force Commanders were accountable for the inaccurate recommendation and that the Commanders of the Joint Task Force and the Army Special Operations Command were accountable for the failure to inform the Army Silver Star Approval Authority that some of the circumstances in the recommendation package were under investigation.

My office also reviewed the allegations concerning the rescue of Private First Class Jessica Lynch. Representatives Rahm Emmanuel and Louise Slaughter requested an investigation following the allegations that were reported by the British Broadcasting Corporation that the rescue of Pfc. Lynch was a premeditated fabrication.

In coordination with the Inspector General of the Joint Staff, we tasked the Inspector General of Central Command to conduct an inquiry.

The Inspector General of the Central Command determined and we concur that the allegations were not substantiated. No evidence was found that the rescue was a staged media event.

The operation constituted a valid mission to recover a U.S. POW under combat conditions. The rescue as filmed by a combat cameraman and a member of U.S. Special Operations Forces in accordance with standard procedures. The U.S. Special Operations Forces routinely film high priority missions. There were no public affairs personnel involved in the planning or the filming of the operation.

The Central Command Inspector General also found no evidence of any U.S. military member exhibited inappropriate or dishonorable behavior in connection with the Pfc. Lynch rescue mission.

During the mission, U.S. Special Operations Forces received enemy fire from the hospital building, surrounding complex and nearby areas. They followed the tactics, technics and procedures and rules of engagement relevant into the mission. The Central Command IG further found no indication that any service member was acting for the camera during the rescue mission.

Thank you for the opportunity to appear before the committee today to address our investigations concerning the death of Corporal Tillman and the rescue of Private Lynch.

[The prepared statement of Mr. Gimble follows:]

April 24, 2007



Hold for Release
Expected 10:00

Statement
of

Mr. Thomas F. Gimble
Acting Inspector General
Department of Defense

before the
House Oversight and Government Reform Committee
on
Investigations by the Office of the Inspector General,
Department of Defense, concerning
the Death of Corporal Patrick Tillman and
the Rescue of Private First Class Jessica Lynch

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear before this committee to discuss the investigations conducted by the Office of the Inspector General, Department of Defense, concerning the death of Corporal Patrick Tillman and the rescue of Private First Class Jessica Lynch.

Investigation concerning the Death of Corporal Patrick Tillman

On behalf of the Office of the Inspector General, I want to again offer our sympathies to the Tillman family on the loss of a husband, son and brother. On March 26, 2007, my office and the Army Criminal Investigative Division briefed the Tillman family, interested Members of Congress and their staff, and the public on the results of two separate but coordinated reviews of the events before and after the death of Corporal Patrick Tillman.

The Army Inspector General, as well as members of Congress, asked my Office to review the circumstances of Corporal Tillman's death. We determined the most efficient way to accomplish the review was to separate it into two parts. We asked Army CID to determine the facts up to and through the incident itself, while we reviewed the events after the incident. We focused on three areas: adequacy of the investigations, notification of next of kin, and the accuracy of documentation to justify the award of the Silver Star. My office also reviewed the Army CID investigation and concurred with their finding.

The scope of our review included interviews of over 100 witnesses and encompassed over 20,000 staff hours.

There were three sequential Army Regulation 15-6 investigations into the death of CPL Tillman. The investigations occurred at the battalion, regimental, and later at command level. As a preliminary matter, we concluded that despite shortcomings, each investigation established the basic facts of CPL Tillman's death – that it was caused by friendly fire, that occupants of one vehicle in CPL Tillman's platoon were responsible, and that circumstances on the ground at the time caused those occupants to misidentify friendly forces as hostile. None of the investigations suggested CPL Tillman's death was other than accidental. Our review, as well as the investigation by Army CID, revealed no evidence contrary to those findings.

Adequacy of the Investigations

Overall, our review concluded CPL Tillman's chain of command made critical errors in reporting and assigning investigative jurisdiction in the days following his death, and bears ultimate responsibility for the inaccuracies, misunderstandings, and perceptions of concealment that led to our review.

After clear evidence of fratricide emerged the day following the incident, CPL Tillman's battalion commander, with the concurrence of his regimental commander,

improperly appointed a subordinate Army captain to investigate. This appointment was contrary to Department of Defense guidance which requires the Combatant Commander, in this case U.S. Central Command, to convene a legal investigation into a friendly fire death. Additionally, the regimental commander failed to notify the Army Safety Center of a suspected friendly fire death as required by Army regulation and a safety investigation was not initiated at that time.

The captain conducted his investigation in about 2 weeks, concluding CPL Tillman was killed by friendly fire. However, the regimental commander determined that the first investigation was not thorough, did not approve the draft report, and ordered his executive officer, a lieutenant colonel, to continue to investigate the death. That second investigation, building on the first, was completed in about 8 days, confirmed death by friendly fire, and provided expanded findings on the contributing tactical errors.

We determined both investigations were deficient, primarily because each investigating officer failed to visit the scene to gather evidence and failed to interview all relevant witnesses. As a result, the first two investigations lacked credibility and contributed to perceptions that Army officials purposefully withheld key information concerning the deaths and injuries.

In November 2004, because of lingering concerns regarding CPL Tillman's death, the Acting Secretary of the Army directed that the Commander, Army Special Operations

Command, conduct an investigation. In turn, the Commander, Army Special Operations Command, appointed a subordinate brigadier general to conduct the third investigation.

That investigation was more thorough than the first two and included an on-site visit. However, we determined the third investigation was also deficient, primarily because the investigating officer failed to interview all relevant witnesses, and did not assess accountability for the chain of command's failure to comply with requirements including failure to report and investigate friendly fire incidents; failure to provide timely information concerning suspected friendly fire to CPL Tillman's next of kin; and failure to ensure accuracy in documentation submitted in support of the Silver Star.

The third investigator also reached findings related to the Silver Star that were not supported by testimony, and further exacerbated the situation by briefing those unsupported findings to Army Leaders, Congress, and the family.

Next of Kin Notification

With regard to the notification of CPL Tillman's next of kin, DoD and Army regulations require that next of kin be advised of additional information concerning a Service member's death as the information becomes available. In this case, although friendly fire was suspected by the battalion and regimental leadership the day following CPL Tillman's death, CPL Tillman's wife and family members were not told of that

suspicion, the investigations, and the subsequent fratricide determination until 35 days after his death. This was a result of the decision of CPL Tillman's regimental commander to keep information about the friendly fire investigation "close hold." Additionally, the Commander, Army Special Operations Command, knew friendly fire was suspected and was under investigation before he represented the Army at CPL Tillman's memorial service. At that time, he was in a position to ensure the family was notified of the friendly fire inquiry; however, he decided not to tell the family until all facts concerning the incident could be verified.

We found no reasonable explanation for this failure to comply with regulations.

Accuracy of Documentation to Justify the Award of the Silver Star

The citation and narrative justification submitted to support the award of the Silver Star to CPL Tillman contained inaccurate information that implied CPL Tillman was killed by enemy fire. The two supporting valorous witness statements attributed to two of CPL Tillman's platoon members were drafted by others and also contained inaccurate information.

We determined that several officers in CPL Tillman's chain of command were accountable for the inaccuracies and the failure to correct the record once they became aware the information was inaccurate. Further, the commanders of the Joint Task Force

and Army Special Operations Command, failed to inform the Silver Star approval authority that some circumstances in the recommendation package were under investigation and that fratricide was highly possible.

Summary of Conclusions and Accountability

To summarize the conclusions of our review:

First, related to the three investigations of CPL Tillman's death, we determined that:

- The regimental commander failed to initiate, through the chain of command, timely notification to the Army Safety Center and U.S. Central Command of suspected friendly fire in CPL Tillman's death. As a result, neither organization could comply with its respective responsibility to assess the need for a safety investigation or to convene a legal investigation.
- The Commander, Army Special Operations Command, failed to timely appoint a safety board to investigate the fratricide incident as required by Army regulation.

Each of the three investigations of CPL Tillman's death was deficient, and thereby contributed to inaccuracies, misunderstandings, and perceptions of concealment. Those deficiencies included:

- The first two investigating officers were not appointed properly; failed to visit the scene to visually reenact the incident, secure physical evidence, take photographs, and obtain accurate measurements; and failed to interview relevant witnesses and address factual inconsistencies in witness testimony.
- The first investigating officer failed to preserve or document physical evidence and in consultation with his legal advisor, withheld from the Armed Forces Medical Examiner and Army CID information that friendly fire was suspected.
- The second investigating officer drew conclusions not supported by evidence included in his investigative files.
- The third investigating officer failed to interview all of the Rangers in Serials 1 and 2 to resolve the uncertainty in the sequence of events that occurred on April 22, 2004; failed to apply relevant standards and assign accountability for the mishandling of physical evidence in the days following CPL Tillman's death; failed to fully address the next of kin notification issue as a violation of regulations; failed to pursue inaccuracies related to the Silver Star, reached findings not supported by testimony, and, exacerbated the situation by sharing those findings with family members, senior Army officials, and Members of Congress during official briefings.

- The Commander, Army Special Operations Command, misled the third investigating officer and this office when he denied he knew friendly fire was suspected before the memorial service for CPL Tillman.
- Related to that issue, we also determined that the third investigating officer failed to pursue those misrepresentations by the Commander, Army Special Operations Command.

With regard to our second area of focus, notification of next of kin, we concluded that responsible Army officials failed to notify the primary next of kin as soon as they reasonably suspected friendly fire. We determined that the regimental commander was accountable for his decision to delay notification to the primary next of kin, and the Commander, Army Special Operations Command, was also accountable because he was in a position to ensure the primary next of kin was notified prior to, or immediately after, CPL Tillman's memorial service but decided not to do so.

On our final area of focus, the Silver Star, we concluded that responsible officials failed to comply with the Army military award regulation when they submitted a Silver Star recommendation that included inaccurate information and a misleading citation that implied CPL Tillman died by enemy fire. We determined that the battalion, regimental,

and Joint Task Force commanders are accountable for the inaccurate award recommendation, and the commanders of the Joint Task Force and Army Special Operations Command are accountable for the failure to inform the Army Silver Star approval authority that some circumstances in the recommendation package were under investigation.

Recommendations

I would like to note that while our review was underway the Department of the Army took a number of steps to remediate several issues identified during our review with regard to investigation of friendly fire deaths, notification of next of kin, and posthumous valor awards.

Based on our review, we made the following recommendations:

- The Acting Secretary of the Army take appropriate action with respect to officials whom we identified as accountable for the regulatory violations and errors in judgment described in our review; and initiate a review of the Silver Star award to ensure it meets regulatory requirements.
- The Commander, U.S. Central Command, issue implementing guidance on investigating friendly fire incidents.

I again offer our sympathy to the family for this tragic loss of life, and want to emphasize that while CPL Tillman's death was an accident, this in no way diminishes the fact that he was someone who displayed a high degree of patriotism and self sacrifice.

Investigation concerning the rescue of PFC Jessica Lynch

My office was also involved in reviewing allegations concerning the rescue of Private First Class (PFC) Jessica Lynch. We received a letter dated May 21, 2003, from Representatives Rahm Emanuel and Louise Slaughter, requesting an investigation following allegations reported by the British Broadcasting Corporation that the rescue of Private Lynch was a "premeditated fabrication." We also received a similar inquiry from Representative Pete Stark.

In coordination with the IG, Joint Staff, we tasked the IG, USCENTCOM, to conduct a preliminary inquiry. The USCENTCOM investigating officer interviewed over 30 witnesses, including those who conducted the rescue operation, and reviewed numerous classified operational documents. None of those sources were available to the media, which based the allegations largely on statements of physicians at the hospital where PFC Lynch was treated.

USCENTCOM determined, and we concurred, that the allegations were not substantiated. USCENTCOM found no evidence that the rescue mission of PFC Lynch

was a staged media event but determined that the rescue operation constituted a valid mission to recover a U.S. POW under combat conditions. Taking into account all of the planning factors used by U.S. Special Forces (USSOF) during the rescue mission, there did not appear to be any unnecessary delay in the execution of the mission nor did there appear to be any inappropriate influence on the planners or executors of the mission.

The rescue was filmed by a combat cameraman and a member of USSOF in accordance with standard procedures used by USSOF. USSOF routinely filmed high priority missions per verbal order of a USSOF leader; however, no public affairs personnel were involved in the planning or filming of the operation.

The forces selected to conduct the missions were based on the anticipated enemy threat and had to be able to counter all enemy capabilities within and near the hospital complex. The level of force used by USSOF to perform the mission was consistent with the anticipated resistance and established doctrine. USSOF received conflicting information regarding the number of enemy personnel in the hospital but fully expected to meet stiff resistance including guards on PFC Lynch's room.

THE USCENCOM IG also found no evidence that any U.S. military member exhibited inappropriate or dishonorable behavior in connection with the PFC Lynch rescue mission. USSOF conducted a personnel recovery mission, during wartime, in a non-permissive environment, to rescue a U.S. POW from a hostile enemy location. During the mission USSOF received enemy fire from the hospital building, the

surrounding complex, and nearby areas. They successfully engaged the enemy forces they encountered, and neutralized them without sustaining any casualties of their own.

During the conduct of the mission, members of USSOF followed the Tactics, Techniques and Procedures (TTP) and Rules of Engagement (ROE) relevant to the mission. None of the USSOF personnel saw or heard any mistreatment of Iraqis during the rescue. USCENTCOM further found no indication that any service member was “acting for the camera” during the rescue mission.

Thank you for the opportunity to appear before the committee today to address our investigations concerning the death of Corporal Patrick Tillman and the rescue of Private First Class Jessica Lynch.

Chairman WAXMAN. Thank you very much, Mr. Gimble.
Brigadier General Johnson.

STATEMENT OF RODNEY JOHNSON

Mr. JOHNSON. Good afternoon, Mr. Chairman and distinguished Members.

I am Brigadier General Rod Johnson, Provost Marshall General and Commanding General of Criminal Investigations Division.

Before I read my prepared statement, I would like to offer my sincere and deepest sympathies to the entire Tillman family. As a father with two kids currently in the military, a son that is currently deployed to Baghdad and a daughter who is getting ready to deploy for her second time to Baghdad, I cannot begin to imagine the pain and grief they have felt over the last 3 years. I simply offer my personal condolences for their loss.

To Ms. Lynch, I don't know if she is still in here or not, but I just want to thank her for her courage and her continued service.

The U.S. Army Criminal Investigations Command opened a criminal investigation on March 6, 2006, at the request of the Department of Defense Office of Inspector General, to determine if there was any criminality involved in the April 22, 2004 death of Corporal Patrick Tillman, A Company, 2nd Battalion, 75th Regiment and an Afghanistan Military Forces soldier and in the wounding of two other U.S. soldiers. On March 19, 2007, we completed our investigation and forward the results to the DOD IG.

During the course of our very extensive and detailed investigation, we found that deaths were caused by members of the Ranger unit. The investigation determined that members of the unit in question split into two sections referred to as Serial 1 and Serial 2. The killed and wounded soldiers belonged to Serial 1.

The investigation found that members of Serial 2 did not commit the offenses of negligent homicide or aggravated assault. It was determined that Corporal Tillman and the AMF soldier were killed when members of Serial 2, believing they were under enemy fire, returned fire at what they thought were enemy combatants.

Under extreme circumstances and in a very compressed timeframe, we believe that members of Serial 2 had a reasonable belief that death or harm was about to be inflicted on them and they believed it was necessary to defend themselves.

The investigation also found and documented additional contributors to the incident to include poor visibility, a lack of communications between the two serials, unexpected presence of the AMF soldier and the residual effects of the weapons fire from the start of the ambush. Prior to this incident, AMF soldiers were not integrated or trained as fire team members in this Ranger unit's operations.

The investigation provided substantial evidence to substantiate the incident surrounding Corporal Tillman's and the AMF soldier's deaths as well as injuries sustained by the other two U.S. soldiers and that they were caused by members of their own unit.

I can assure that my command investigated this incident with a tremendous degree of specificity and left no lead unturned. Seven CID special agents and two crime lab examiners from the U.S. Army Criminal Investigations Lab deployed to Afghanistan April

17th to 29th to conduct an extensive death scene examination. Accompanying the agents into Afghanistan were two of the soldiers who were eyewitnesses to the events on April 22, 2004, when Corporal Tillman was killed.

While in Afghanistan, more than 80 interviews were conducted to include identifying and interviewing an Afghan doctor who allegedly passed information to the Rangers prior to the incident, identifying and interviewing the local truck driver who accompanied the Rangers and determining the identity of the Afghan soldier who was also killed in the incident.

In addition to the interviews, forensic processing of the death scene included video reenactments, rock and soil samples from Corporal Tillman's position and trajectory analysis. In total, CID conducted more than 200 interviews worldwide and processed numerous pieces of evidence to the crime lab for analysis.

Our final report is thorough. It is detailed at over 1,100 pages in length.

That concludes my statement, and I will be prepared to take questions, Mr. Chairman.

Chairman WAXMAN. Thank you very much.

Before we hear from Specialist O'Neal, let me ask the audience to recognize that you are an audience, not a participant in this hearing. So we would like to ask you to refrain from any kind of demonstrations.

Mr. O'Neal.

STATEMENT OF BRYAN O'NEAL

Mr. O'NEAL. Thank you, Chairman and members of the committee. I would like to thank you for allowing me to come here today and speak on behalf of Corporal Pat Tillman.

I would like to say that I joined the Army in June 2003, and by December 2003, I was assigned to 2nd Battalion, 75th Ranger Regiment. I found myself under direction of Corporal Pat Tillman. He was my team leader up until the point when he was killed.

After that, I stayed with 2-75 until December of this past year, and now I am currently assigned to 4th Battalion Ranger Training Brigade.

I would thank you for allowing myself to be here.

Chairman WAXMAN. You are here to answer questions primarily, sir.

Mr. O'NEAL. Yes.

[The prepared statement of Mr. O'Neal follows:]

Valorous Award Witness Statement

I, PFC O'Neal, a 203 gunner for Second squad, Second platoon, Alpha Company, witnessed the following acts performed by CPL Tillman during the evening of the 22nd of April 2004.

Second platoon was assigned the task of moving to a village to look through and search out any links to terrorist activities. While in route to this objective we split into two serials and the second serial came under attack. CPL Tillman and I moved out to a ridge and engage the enemy so our comrades would be able to move safely from the kill zone. CPL Tillman moved us into a position and took a less safe position for himself. We started to engage the enemy very successfully when the enemy moved most of there attention to our position, and we drew a lot of fire from them. CPL Tillman moved from his position to drop a smoke grenade to signal our troops of our position and to give me some extra cover when he was hit and killed. CPL Tillman saved my life by drawing most of the fire from my position to his and in return I survived and he was killed. I have no doubt in my mind that the only reason that I am alive to write this statement is because CPL Tillman saved my life.

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//original signed//

Bryan S. O'Neal

PFC, US Army

M203 Gunner

Chairman WAXMAN. Thank you very much.
I would like to call on Senior Chief Petty Officer Stephen White.

STATEMENT OF STEPHEN WHITE

Mr. WHITE. Thank you, Mr. Chairman, members of the committee. I appreciate the opportunity to be here.

I will be hopefully clarifying, through questions, the information I was given the morning of the memorial for the original write-up of my friend Pat Tillman's Silver Star.

Chairman WAXMAN. Thank you very much.
Lieutenant Colonel Robinson.

STATEMENT OF JOHN ROBINSON

Mr. ROBINSON. Good afternoon, Mr. Chairman.

I am Lieutenant Colonel John Robinson, Chief of the Media Services Division in the Soldiers Media Center as part of Army Public Affairs here in Washington. I was assigned to Central Command Public Affairs from June 2002, until July 2005.

Thank you and I look forward to answering your questions.

Chairman WAXMAN. I want to start with you, Specialist O'Neal, and I want to thank you for being here to testify about these events. I know it must be difficult for you to revisit.

But we have asked you here for a number of reasons, one of which is to find out exactly what happened to Pat Tillman on April 22, 2004, 3 years ago this week. You were there. You were a first-hand witness. In fact, you were the last person to see Pat Tillman alive.

Let me begin by asking you about the events leading up to the shooting. When the platoon split up, you were part of the front group referred to as Serial 1 which is the same group Corporal Tillman was with, is that right?

Mr. O'NEAL. Yes, sir.

Chairman WAXMAN. You had a Afghan soldier with you as well, is that right?

Mr. O'NEAL. The Afghan soldier, after the ambush and Corporal Tillman and I dismounted our GMVs and started to assault the position, the enemy position, that is when I discovered the Afghan militiaman had dismounted with us, but he was not in our GMV that we were riding in, sir.

Chairman WAXMAN. You were positioned on a ridge overlooking the road on which the other half of the platoon, Serial 2, was traveling, is that correct?

Mr. O'NEAL. Yes, sir.

Chairman WAXMAN. Can you describe why your team was positioned on that particular ridge?

Mr. O'NEAL. Well, Pat and myself and the AMF soldier, when we dismounted and started moving toward a position where we finally ended up being in, had direction, I believe, from the squad leader that was from a different squad who was also in the GMV I was riding in. He had basically directed us to go along that side of the ridge, and they were covering the other side, and that is, to my knowledge, why we were in that position.

Myself, being a private at the time, I was just following my team leader and where he went, I went there and tried to go there faster, sir.

Chairman WAXMAN. I am sorry to have to ask you this, but I would like you to tell us in your own words what happened right before and after Corporal Tillman was killed. Walk us through in as much detail as you can recall. What was Corporal Tillman doing at the time?

Was he trying to signal that this might be friendly fire?

Was he signaling with his arms?

Was he yelling? What was he saying?

Could you just tell us about it?

Mr. O'NEAL. Yes, sir. When we moved into our final position, Pat and I and the Afghan militiaman had decided, or Pat decided, we were going to continue to assault, and he wanted further guidance from the squad leader that was controlling our element. So he left myself and the AMF soldier, and when he returned, he basically let me know that we were going to continue moving in the route that we were.

And before he was able to finish telling me what our plan was, we had started to receive fire from a GMV. At first, it was short, sporadic. We didn't really, I didn't really understand what was happening. I looked and saw that it was friendly fire coming toward us.

Pat asked me basically what was going on, and I let him know, and it didn't take long before those in the GMV who were stopped at the time to dismount and open up on us with the .50 caliber machine gun and the 240 Bravo machine gun and basically shot at us, at us, in waves or bursts of rounds.

At that time, I felt myself become limp and I got down. I had no cover, and there was nothing blocking my sight, watching the people at the humvee shooting at us. I know Pat basically was able to get himself behind some cover, but it was not much.

I basically was yelling, waving from on the ground as much as I could, and I believe Pat was too at the time because he was behind me and talking to him, yelling, screaming, trying to figure out what was going on when he told me he had a plan. And he, at the time, I thought popped a pin gun flare, to signal the troops down in the GMV that we were friendlies. But I later discovered he had popped a smoke grenade.

After he had done that, the firing ceased in the truck. So we had both believed at that time, that the shooting was over and that they had recognized us as friendlies. And we both stood up, faced each other, was kind of wondering, hey, what just happened there? Wow, it was an accident. Luckily, we are both still alive.

It didn't take long after that, sir, before they moved into a better position, as I said, in the GMV and started shooting at us again. And at that time, both of us had gotten down. I was watching them do that, and I can hear Pat calling: "Stop shooting. I am Pat F'ing Tillman. Stop shooting," you know, over and over and over again.

And I could hear the pain that he had in his voice. So I had know that he was hurt at that time. And it abruptly stopped with him calling for help, and it wasn't too long after that before the truck had moved out.

So I laid on my side for a while, wondering what had just happened because I was young and I didn't really understand when I discovered there was a large pool of blood forming up around me.

Chairman WAXMAN. Did you have any doubt at that time that it was friendly fire that killed Pat Tillman?

Mr. O'NEAL. No, sir. I am 100 percent positive that was friendly fire.

Chairman WAXMAN. Who was the first person you informed that the attack may have been a friendly fire shooting?

Mr. O'NEAL. The very first person I informed was right after I got up and checked on Pat and discovered he was dead. The guy, the squad leader I called for, came to my position, and I believe he knew. But when our medic came up to come assist us, he asked what happened, and I tried to let him know.

Chairman WAXMAN. Who is he? Can you identify the name?

Mr. O'NEAL. That would be Sergeant Anderson.

Chairman WAXMAN. Sergeant Anderson.

Mr. O'NEAL. And he basically asked me what happened. I tried to let him know, but our squad leader told me basically just don't say anything at that time.

And later on that night, the first person I definitely told would be Specialist Pedro Ariolla [phonetically]. We were inside the little village where we were being or where we had set up position in and pulling security on the personnel that lived in that village. And he asked me point blank, do you know what happened, and I informed him, yes, this was friendly fire, sir.

Chairman WAXMAN. Did you inform First Sergeant Thomas Fuller?

Mr. O'NEAL. Yes, I did, sir. I informed him later that night that it was friendly fire.

Chairman WAXMAN. How about Command Sergeant Alfred Birch?

Mr. O'NEAL. Yes, sir. He knew at that time, sir.

Chairman WAXMAN. You said Sergeant Ward, you did inform?

Mr. O'NEAL. I wasn't—I do not believe I told Sergeant Ward. I was pretty incoherent at that time. I was going into shock, I believe.

Chairman WAXMAN. How about Sergeant Jackson?

Mr. O'NEAL. Sergeant Jackson, I definitely told that it was friendly fire, sir.

Chairman WAXMAN. Now let me turn to the Inspector General. Mr. Gimble, according to your report, on April 23rd, Sergeant Fuller and Sergeant Birch told Captain William Saunders and Lieutenant Colonel Jeffrey Bailey that they suspected fratricide, is that correct?

Mr. GIMBLE. That is correct.

Chairman WAXMAN. You also found that Colonel Bailey then told Colonel James Nixon who in turn told Major General Stanley McCrystal, Commander of the Joint Task Force, is that right?

Mr. GIMBLE. Right.

Chairman WAXMAN. You found that General McCrystal informed Brigadier General Howard Yellen, the Deputy Commander of the Army Special Operations Command, and all of these communications happened no later than April 25th, is that right?

Mr. GIMBLE. I believe that is correct.

Chairman WAXMAN. Your report states that General Yellen then contacted Philip Kensinger, a Lieutenant General and the Commander of the Army Special Operations Command, and told him of the potential fratricide, is that correct?

Mr. GIMBLE. Yes, sir, right.

Chairman WAXMAN. Specialist O'Neal, let me return to you. As we indicated here, you reported this incident as you should have. Then it went up the chain of command, and within 72 hours, at least nine military officials knew or were informed that Pat Tillman's death was of fratricide including at least three generals.

Given that so many people in the military were informed so quickly that this was fratricide, does it trouble you that the Tillman family was kept in the dark about this for another month?

Mr. O'NEAL. Yes, sir, it does. I wanted right off the bat to let the family know what had happened, especially Kevin because I worked with him in the platoon, and I knew that him and the family, both needed or all needed to know what had happened. And I was quite appalled that when I was able, actually able to speak with Kevin, I was ordered not to tell him what happened, sir.

Chairman WAXMAN. You were ordered not to tell him?

Mr. O'NEAL. Roger that, sir.

Chairman WAXMAN. By whom?

Mr. O'NEAL. At that time, it was by our battalion commander, Lieutenant Colonel Bailey, sir.

Chairman WAXMAN. Did he give you a reason or just an order?

Mr. O'NEAL. He basically just said, sir, that do not let Kevin know. He is probably in a bad place knowing his brother is dead, and he made it known that I would get in trouble, sir, if I spoke with Kevin on it being fratricide, sir.

Chairman WAXMAN. Mr. O'Neal, you were not just an eyewitness, but you were also involved in writing the statement that was used to award Corporal Tillman the Silver Star, but serious questions have now been raised about whether someone tampered with your statement.

Let me start by asking you whether you remember the point in time when you were asked to write down your recollections of that day.

Mr. O'NEAL. I couldn't tell you an exact date, sir, of when I was actually told to sit down behind a computer and type up what I can remember, but I do remember actually doing it, sir.

Chairman WAXMAN. Thank you.

I am going to recognize my colleagues. I do want to pursue that. Perhaps they might in their questions as well.

Mr. Clay, I think you are next.

Mr. CLAY. Thank you, Mr. Chairman.

Let me go to Inspector General Gimble. Since March 2003, there have been 70 female soldiers killed in action in Iraq; 22 of them have been listed as non-combat related deaths; 4 of those casualties were from Missouri; 1 of them, Private Levena Johnson, was my constituent. Her parents have been requesting additional information regarding the circumstances of her death for almost 2 years.

This week at my request on behalf of the Johnson family, this committee has issued a letter to the Department of Defense, seek-

ing key information that is yet to be provided. That request includes a CD containing the original photos from the criminal investigation into Private Johnson's death and the original autopsy photos, missing medical records from Private Johnson's file, all psychological evaluations that may have been made of Private Johnson and the identity of the lead investigator into her death.

Inspector General, can you assure this committee that our request will be acted on with all deliberate speed and that the Army will make a maximum effort to provide us with full disclosure of this information?

Mr. GIMBLE. Mr. Congressman, I haven't seen the request. Typically, if it goes through Army channels, we don't. We are not involved in it. If it comes through the DOD IG channels, then we will do the things necessary to try to expedite that release of information as appropriate.

Mr. CLAY. This is to the Acting Secretary of the Army. Will you have any involvement with that request?

Mr. GIMBLE. Actually, then the Army will take care of that unless there is some other reason. It just goes through Army channels rather than DOD IG channels.

Mr. CLAY. Well, thank you for that response.

Let me go to Senior Chief White. Thank you for being here today.

You were the only active member of the armed forces who spoke at Corporal Pat Tillman's May 3rd memorial service. How did you know Pat Tillman?

Mr. WHITE. I had worked with him at the beginning of the Iraq War.

Mr. CLAY. How was it that you were asked to participate in the memorial service?

Mr. WHITE. When I heard about Pat's death, I called the family. Kevin had called me back, and I told him that I was going to try to make it out for the memorial. Two days later, I got a call from the organizers of the memorial, asking me if I would do a speech, if I would be a speaker, and that request came from Kevin and Marie.

Mr. CLAY. From the family?

Mr. WHITE. Yes, sir.

Mr. CLAY. Thank you.

I would like to play a video clip from the remarks you made at Corporal Tillman's memorial.

[Video shown.]

Mr. CLAY. Thank you so much.

You were not with Corporal Tillman in Afghanistan when he was killed, is that correct?

Mr. WHITE. That is correct, sir.

Mr. CLAY. How did you become aware of the details surrounding his death?

Mr. WHITE. The initial sporadic stuff that I got was from Kevin himself. The morning of the memorial, I don't recall exactly how I got word, but I knew that they wanted me to present or let the family know that he was going to be presented with the Silver Star.

In order to do that in the presentation, I wanted to basically summarize what had happened on the target site. I called an en-

listed person, whose name I cannot recall. I believe he was with the 75th Ranger Battalion. That morning, he read the citation to me over the phone. I summarized in my own words, asked him if that was an accurate summarization, and he said it was, and that is what I went with in my speech.

Mr. CLAY. Thank you very much for that.

For my last question, Mr. Chairman, Brigadier General Johnson, you heard the question that I asked the Inspector General. I believe that this issue comes before you about Private First Class Levena Johnson. Are you familiar with the Freedom of Information request that I have sent forward?

Mr. JOHNSON. No, I am not. I have not seen that request yet.

Mr. CLAY. Can we count on the Army to deal with this issue?

Mr. JOHNSON. As soon as we get that request, we will process it.

Mr. CLAY. You will process it. Thank you so much.

Mr. Chairman, I yield back.

Chairman WAXMAN. Thank you very much, Mr. Clay.

Mr. Braley.

Mr. BRALEY. Thank you.

Specialist O'Neal, thank you for appearing today.

In addition to being an eyewitness to Corporal Tillman's death and reporting this incident up the chain of command, you were also involved in writing a statement that was used to award Corporal Tillman the Silver Star. Do you remember that?

Mr. O'NEAL. Yes, sir.

Mr. BRALEY. Now we are aware of serious questions that have been raised as to whether someone tampered with your statement. Let me start by asking you whether you remember the point in time when you were asked to write down your recollections of that day.

Mr. O'NEAL. I can't say I remember the exact point in time where I was informed that I would be writing up a witness statement toward what happened. I just remember having my platoon sergeant at the time tell me that I was going to be writing up a statement on what happened for an award for Pat, sir.

Mr. BRALEY. But can you give us some general timeframe in the sequence of events that you have been discussing here today to give us some context into when that request was made by your platoon sergeant?

Mr. O'NEAL. I would say a general timeframe, probably April 26th or 27th. We didn't get back to Salerno for a few days after Pat was killed. So as soon as we got back to Salerno, that is when I was advised or asked to write the statement, sir.

Mr. BRALEY. I have been involved in 23 years of being an attorney and having witnesses prepare statements. Was this a situation where they gave you a sheet of paper and told you to write down in your own words your best recollection of the events that had happened or did someone prepare a statement for you to review and sign?

Mr. O'NEAL. What happened, sir, was I got sat behind a computer, and I was told to type up my recollection of what happened, and as soon as I was done typing, I was relieved to go back to my platoon, sir, and that was the last I heard of it.

Mr. BRALEY. So when you finished typing your statement, it was in a digital format that had not been printed out, is that correct?

Mr. O'NEAL. Roger that, sir.

Mr. BRALEY. No one printed it out and asked you to review it and verify it and sign it at the time it was originally drafted by you?

Mr. O'NEAL. No, sir.

Mr. BRALEY. At any time, did you ever sign in your handwriting a statement that you had reviewed and verified the authenticity of?

Mr. O'NEAL. Negative, sir.

Mr. BRALEY. Now I want to ask you about the statement that was ultimately used in the Silver Star commendation. This version of the statement says the following: "Corporal Tillman moved us into a position where we would be safe from enemy rounds."

To the best of your recollection, did you write this sentence?

Mr. O'NEAL. That sentence sounds like something I would have wrote, sir.

Mr. BRALEY. Where were the enemy rounds?

Mr. O'NEAL. We weren't taking direct enemy rounds, sir, at that time, but we moved into a position where if we would have been, we would have been safe, sir.

Mr. BRALEY. Did Corporal Tillman shield you from enemy rounds at any time?

Mr. O'NEAL. Negative, sir.

Mr. BRALEY. This version of the statement also says you "engaged the enemy very successfully," that the enemy moved most of their attention to your position which "drew a lot of fire from them."

Did you write these sentences, claiming that you were engaged with the enemy?

Mr. O'NEAL. No, sir.

Mr. BRALEY. Do you know who made the changes to your statement to make it appear as if you were receiving fire from the enemy rather than from your own platoon?

Mr. O'NEAL. No, sir.

Mr. BRALEY. Mr. Gimble, the Inspector General's Office investigated these alterations to the witnesses' statements and flagged these differences as well. But in the course of your investigation, did you ever discover who specifically changed this language and why that language was changed?

Mr. GIMBLE. Let me just say this. The citations that we got were part of the package that we got out of the General Jones investigation, and they were not signed. It just had stamped as original signed.

And our investigators went back to Specialist O'Neal and the Sergeant and said, did you write these, and they said, no, that they did not, OK, that there was parts of that was accurate, parts of it were inaccurate.

We were unable to determine who in the chain of command actually did the alterations of it. So we concluded that when people approved those statements or those citations based on those statements, being the Battalion, Regimental and Joint Task Force Commanders, that they were accountable for the misstatements and inaccuracies.

Mr. BRALEY. Well, I have been through my father's service records from when he served on Iwo Jima, and there are signatures on almost every documentation of anything he did during the entire time he was enlisted.

Is it your understanding that this practice of taking unsigned statements in support of a commendation recommendation is standard operating procedure within the Army?

Mr. GIMBLE. I would not believe it is, but I would only point out that on the Silver Star, there actually does not have to be a valorous witness statement at the time this occurred. It can just be a citation.

Mr. BRALEY. Did you ever determine in the course of your investigation who, out of all the possible people who had contact with that statement, would have been the most likely person to have made alterations to the statement originally prepared by Specialist O'Neal?

Mr. GIMBLE. Actually, no, we could not determine that. I could speculate, but I just prefer not to. It is somewhere in the approval chain that it got edited. So we really can't pin a face to the actual, who did the keyboard changes on it.

So that left us the only action we had after that is when you sign up on something. Like when I sign something in my office, I am assuming the responsibility for it and the accuracy, and I hold myself accountable.

So when you have the signatures on those citations and recommendations, they become accountable for it.

Mr. BRALEY. As part of your investigation, did you ever bring in an IT specialist to look at the hard drive on that computer or any other computer that document had been placed upon to determine who had access to the computer and was responsible for the alteration?

Mr. GIMBLE. We got this as a hard copy printout in the part of the investigative package from the General Jones investigation.

Mr. BRALEY. So did you ever determine the computers that it had been on and who had access?

Mr. GIMBLE. No, we did not.

Mr. BRALEY. Do you think that would be a sensible followup part of an investigation looking into who might have been responsible for altering a document of this magnitude?

Mr. GIMBLE. It would be a good thing, but the issue would be that it was 2 years before in theater and we were, I am not sure we could ever track the computer down.

Mr. BRALEY. Well, we wouldn't know that unless we actually tried to track it down, would we?

Mr. GIMBLE. Correct. We wouldn't.

Mr. BRALEY. Specialist O'Neal, I want to give you the opportunity to followup on a response you were making in response to Chairman Waxman, and he had to cut you off to keep the hearing moving.

You were talking about after the shooting, whether or not Corporal Tillman was dead immediately, and then you had to stop your narrative of that. Would you continue with your narrative of what you were saying at the time?

Mr. O'NEAL. Not a problem, sir.

I started off. At that time I was on the ground, and I noticed blood pooling up around me, and at that time I had thought that I was shot.

So I started communicating with Pat not realizing he had passed away, asking him if he had been OK, and I had no response. And the blood was, there was a lot of blood everywhere, and I was starting to get really worried.

So when I could finally get my body to move, I stood up and turned around and looked at Pat, and he was slumped back on the ground, covered in blood. And I went up to his position. I grabbed him and realized at that time that he had been shot in the head, and there wasn't much left of him.

After that, I kind of blanked out, I really—the next thing I remember was Sergeant Ward who was part of Third Squad, telling me to pick up my helmet, and I didn't even remember taking it off. Putting me on security. Getting me to move out of the ridgeline that we were in.

And I just have little chunks of my memory will come back and then will go away. Basically, that is the end of the night when I am standing on the side of the building, pulling security, and the Regimental Sergeant Major, Sergeant Major Birch, comes up to me and asks me if I am all right.

And after that, the next thing I remember, being inside a room, pulling security on the local personnel and telling Specialist Ariolla that Pat had been killed by friendly fire, sir.

Mr. BRALEY. Thank you.

Chairman WAXMAN. Thank you, Mr. Braley.

Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chair.

Thank you, Specialist O'Neal for being here today and for, I am sure, really very painful memories as well as painful testimony, the circumstances you find yourself here, as Mr. Braley pointed out, having your name attached to the document that you did not write.

I would like to ask this of Mr. Gimble and Lieutenant Colonel Robinson. Can either of you tell me how many videos have been taken of missions such as Jessica Lynch's? How many videos have been taken?

Mr. ROBINSON. I am sorry. I don't understand the question.

Ms. MCCOLLUM. How many video teams in either the Iraqi theater or the Afghani theater, how many videos have been taken of this type of mission?

The Inspector General says this is rather routine. So I am sure you can tell me how many videos have been taken.

Mr. ROBINSON. There was innumerable. During the briefing that was provided from Qatar in the initial days of Operation Iraqi Freedom, there were visuals of various different types coming in from many different directions and sources and platforms to include weapons video, public affairs people, combat journalists, etc.

Ms. MCCOLLUM. So this wasn't classified then if it was given to the news media?

Mr. ROBINSON. The video itself?

Ms. MCCOLLUM. Yes.

Mr. ROBINSON. The video for Jessica Lynch was provided to us from a Special Operations unit, and when we received it at the

Press Briefing Center, it had already been edited to a large degree. My belief was that they had already cleaned it of anything that was in the video that was classified.

Ms. MCCOLLUM. To the Inspector General, can you tell me if you know, for Special Forces, how routine this is and how often they are cleaned up and given to the media?

Mr. GIMBLE. I don't have a count on that because I am told that it is a routine procedure, but I don't really have a count and haven't looked at how many times it occurs.

Ms. MCCOLLUM. You are doing an investigation. If somebody tells you it is routine, you don't go any further.

Mr. GIMBLE. We didn't do the investigation. The Central Command IG did the investigation.

Ms. MCCOLLUM. OK, well, I have something that is on here, and I will check later on, but it says the statement of Mr. Thomas Gimble, Acting Inspector General. So I will figure out where page 10 came from later.

Can you tell me how high up this investigation?

I can't find in this report every single person that you spoke with. I mean anybody in the Pentagon. Mr. Rumsfeld obviously referred to the Tillman case. How high up the chain of command did you go or should I ask how high up the chain of command were you allowed to go?

Mr. GIMBLE. We actually had a letter. We didn't interview the Secretary, but we had a letter requesting information which he provided on about the day he left the Department, and it dealt specifically with the P4 issue.

We interviewed General Abizaid, General Brown and other generals that we identified in the report as being accountable, and we interviewed over 100 people.

So the P4 message, if that was the question as to how high that went, according to what we have is that it went to General Brown. He looked at it, and he is the Commander of Special Operations Command, but he was not in the chain of command. So he acknowledged that he received it but did nothing with it.

General Kensinger was the Commander of the U.S. Army Special Operations Command, and he received it and was the senior representative at the memorial service. And that is why we held him accountable in our report saying you should have informed the family because you reasonably suspected friendly fire.

We interviewed General Abizaid, and this is detailed in the report. But he had a P4 message, but he was in theater and it didn't catch up to him until after the memorial service.

Ms. MCCOLLUM. Is everybody you speak to under oath?

Mr. GIMBLE. All the ones that we speak to and interview are under oath, yes, ma'am.

Ms. MCCOLLUM. General Abizaid was under oath?

Mr. GIMBLE. He was under oath.

Ms. MCCOLLUM. Did you talk to anybody in communications in the Pentagon to find out how high up people knew about this and knew about when it went from friendly fire and when they found out?

I am assuming that there were an awful lot of people involved in putting together this memorial service because they knew of the

high attention it was going to get. So I am wondering if you talked to everybody involved in the memorial service and how high up it went as far as people knowing about the friendly fire and the Silver Star.

Mr. GIMBLE. Let me clarify one at a time. Let me clarify the notification. What happened is when the event occurred on April 22nd, the notification of next of kin went out as hostile fire, and I think that is on the record.

What occurred shortly thereafter within the next day or so when they determined that fratricide was suspected, the proper way to have handled that was to put a supplementary notification report in which would have changed the notification from hostile fire to unknown, pending outcome of the investigation. That simply was not done.

Now there was a very close hold group as best we can tell that really knew that friendly fire was suspected when I am talking in terms of the chain of command.

Ms. MCCOLLUM. At the memorial service, you stated that the senior officer that spoke had every indication that was not correct.

Mr. GIMBLE. Absolutely.

Ms. MCCOLLUM. There was no one, no senior DOD, Department of Defense person representing the Secretary's office. There was nobody higher up there that knew what was going on. Did you investigate to find out if they knew?

Mr. GIMBLE. We asked. We went to the Secretary of Defense in writing and asked what he knew and when he knew, and we got a letter back from him dated December 15, 2006. And he basically said that he was unaware until sometime in the May 20th timeframe, and that basically kind of ties in with when the 15-6.

Ms. MCCOLLUM. When I asked you if everybody was under oath, you didn't speak directly.

Mr. GIMBLE. We did that in a letter. He was not under oath. That part was in a letter.

Ms. MCCOLLUM. How long did it take him to respond back to your letter because it usually takes me 6 to 9 months to get an answer back?

Mr. GIMBLE. Well, he responded on about the day he left. So I think we had actually put it over there about 2 weeks. I need to get back to you on the specific time when we went over and asked, but it was not 6 months.

When we do the investigation, we come from the bottom on it. As we interviewed, we started with the more junior people and we interviewed up until we got to the senior levels, and he was kind of the last person that filled in that gap for us.

Ms. MCCOLLUM. Who has been held accountable for all these bad reports that you state here?

Mr. GIMBLE. We referred those back to the U.S. Army. We identified the nine people in the report. Provided those back. They have that down under, I guess the right term is inquiry.

The Commanding General of the Training Indoctrination Command, General Wallace, has been tasked by the Acting Secretary of the Army to assess all the facts based on the data that both we gathered and also what Johnson's review gathered, and they are

determining, we determined accountability. They are going to determine culpability if there is.

Ms. MCCOLLUM. You determined accountability.

Mr. GIMBLE. Right. On page 59 of the report in our conclusions, we lay those out.

Ms. MCCOLLUM. It sounds to me from just gleaning through this report and all, that it was pretty obvious that these reports weren't done right. Witnesses weren't spoken to, whatever.

I would like, in final, to ask you about a news article, CBS Washington News. It appeared on April 20, 2007. It talks about Specialist Jay Lane.

He laid in a hospital bed in Afghanistan, recovering from gunshot wounds inflicted by the same fellow Ranger who shot at Tillman. Amid his shock and grief, Lane said he noticed guards were posted on him. "I thought it was strange," Lane recalled.

Later he said he learned that the reasons for their persistence. The news media were sniffing around, and Lane's superiors, and these are Lane's own words, "did not anyone talking to us."

Did you talk to anybody about the security that was placed on people who were part of the unit that was fired on?

Mr. GIMBLE. Did not.

Ms. MCCOLLUM. You didn't?

Mr. GIMBLE. No.

Ms. MCCOLLUM. Well, sir, in my opinion, and I will take the time to read this from cover to cover, I have to say I wasn't impressed with the investigations that you reviewed. You weren't impressed with them, and I am not impressed with yours.

Thank you, Mr. Chair.

Chairman WAXMAN. Thank you, Ms. McCollum.

Just before I recognize Mr. Sarbanes, I want to ask you this question. We started off our hearing about an e-mail from the White House, asking for information for the President to use at the White House Correspondents Dinner, and there is a P4 memo that you are familiar with. Do you know whether that memo ever went to the White House?

Mr. GIMBLE. We think the P4 memo stopped with the three generals that were on it. It didn't go any further. We went and asked the Secretary of Defense through the letter if he was aware of that information, and we got a negative response back.

So it is my belief that, or based on what we determined through sworn testimony, is that General Brown saw it before the memorial service, was aware of it and did nothing with it. He wasn't in the chain of command.

Lieutenant General Kensinger was aware of it and he was represented as the senior DOD official at the memorial service and chose not to share that information with the family. We held him accountable for that, and that is part of the referral.

Chairman WAXMAN. Do you know if there was a response to the e-mail sent from the White House?

Mr. GIMBLE. I am not aware of any. That is kind of the Public Affairs chain of command, and this didn't. The message I see here was the question that do you have background on why Corporal Tillman joined the Army, and that wasn't really a part of what we were looking at.

Chairman WAXMAN. So you didn't review the Public Affairs documents?

Mr. GIMBLE. This one.

Chairman WAXMAN. Which would have shown if there was an answer to the White House e-mail.

Mr. GIMBLE. I don't know that there was an answer to this specific thing. We were asking if the P4 message, and we know that from what we can tell about it.

Chairman WAXMAN. Right. I understand what you said, but what I have asked you is the White House sent an e-mail asking for information for the President to use in his speech, and I asked whether you knew whether there was a response to that e-mail.

Mr. GIMBLE. We didn't look at that. It was in the Jones investigation, and we didn't see it as an open issue.

Chairman WAXMAN. It is still an open issue?

Mr. GIMBLE. No. We said we did not see it as an open issue.

Chairman WAXMAN. Well, the reason I ask, of course, is that 2 days later after the e-mail was sent, the President spoke of Pat Tillman at the Correspondents Dinner, and he was very careful not to mention how he was killed. Of course, the P4 memo said exactly that. Be careful to not talk about how Pat Tillman was killed.

Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

Mr. Gimble, I am trying, as Representative McCollum was a moment ago, to get my head around the investigations that occurred right after the incident and then from that point forward. Obviously, the death of this brave soldier was a tragedy, but the travesty is then what followed very quickly which can only be viewed as a kind of impulse to cover up basically what had happened.

I was looking through your prepared testimony again, and you say that the errors in reporting within the chain of command bear ultimate responsibility or that the chain of command bears ultimate responsibility for the inaccuracies, misunderstandings and perceptions of concealment that led to our review.

After your review, do you think is a situation where we are dealing with a perception of concealment or actual concealment?

Mr. GIMBLE. Of course, if you are asking my opinion, I think it was not a well handled after the fact. The Army did not handle this very well. I think they recognize that.

I don't see that it was a cover-up because the investigations, the failure was to share with the family. The investigations pretty much right off the start all concluded the same thing, that it was a friendly fire incident.

OK, there was some mistakes made on how they appointed the investigating officers. There was some less than a lot of the people that should have been interviewed were not interviewed. It just, you know. The rules and regulations for the protection of evidence were not followed.

We point out all of those issues, all those deficiencies in those investigations and we have referred that back to the Army to see if there are things that they think. We are saying they are accountable. There were mistakes made.

Now they will make the determination if there is any additional administration or criminal punishments necessary.

Mr. SARBANES. At the ground level, you talk about how the first investigation was deficient. The second investigation was deficient. Then there was a third investigation that was deficient. There was a failure to abide by the protocols that would normally be triggered right away in terms of having a legal investigation into friendly fire death be conducted by the Combatant Commander, that the Regimental Commander failed to notify the Army Safety Center of a suspected friendly fire death as required by Army regulation.

We take a lot of confidence or we want to take a lot of confidence that the Army will act in accordance with the procedures and protocols that govern whatever the circumstance is. It is just a kind of strains credulity here that there were two and three instances of not following the procedures which makes it hard believe that after a certain point in time, this was accidental, that there wasn't some kind of pressure, not maybe direct but atmosphere of indirect pressure being brought to bear.

The most interesting thing to me is we have already heard testimony that very quickly the word of this being a friendly fire incident started going up the chain. Is that correct?

Mr. GIMBLE. That is correct.

Mr. SARBANES. I mean within days.

Mr. GIMBLE. Within the next day.

Mr. SARBANES. So you have people at the highest levels who now knew that this was a highly likely friendly fire incident. Nevertheless, they did not intervene to fix the procedure that was totally out of whack.

You had this kind of informal sense of what happened. Then you have people going through the process but not going through the process correctly, and there is no attempt by the folks at the higher level to intervene or interrupt this faulty process over here and try to fix it. Is that correct, at least a description of what was going on?

Mr. GIMBLE. That is pretty correct. There was knowledge that there was suspected friendly fire. Now the question becomes it should have been designated as unknown until the investigation was completed and that, they failed to do. I mean there is no question. They failed.

Mr. SARBANES. I guess I want to point to three breakdowns: A breakdown in the procedure that should have been implemented right from the start.

Mr. GIMBLE. Right.

Mr. SARBANES. A breakdown in terms of conveying, which correct procedure would have done, conveying it to the family would have happened.

But third and as troubling, if not more troubling, a breakdown in the sense that people at the highest levels, or much higher levels in any event, knew that the story was different and didn't somehow intervene to try to get this thing back on track both for the benefit of the Army acting in accordance with its protocols and for the benefit of the family understanding what had really happened.

Mr. GIMBLE. I think you would find our summary in the report, that they have the statement that says we find no reasonable explanation for this failure to follow the regulations.

Mr. SARBANES. Thank you, Mr. Chairman.

Chairman WAXMAN. Would you yield to me, Mr. Sarbanes?

Mr. SARBANES. Yes, absolutely.

Chairman WAXMAN. I still want to pursue this question about this P4 memo. The P4 memo was sent to three generals, to Kensinger, Abizaid and Brown. Abizaid said he didn't get it until later. Kensinger got it before the memorial service.

The memo is advising these generals to let Secretary of Defense and others know that there may be a problem if they refer to how Pat Tillman was killed.

You asked the Secretary of Defense, Mr. Rumsfeld, whether he ever received that P4 memo. You never asked him personally, but you asked him in writing, and he came back and said, no. How is that believable that three generals wouldn't send up the chain of command a memo like this?

Mr. GIMBLE. The addresses on the P4 were the three generals. I can't explain why they chose not to move that up other than General Kensinger, as I understand it, wanted to not move forward with the notification until he had all the facts laid out as to whether it was friendly fire or not. There was still that investigation. Those investigations were going on.

Chairman WAXMAN. You didn't pursue this further?

Mr. GIMBLE. Well, what we did is we thought, he actually told us that he didn't know about it until after the ceremony himself, and that is one of the ones that we referred to the Army to look at.

Chairman WAXMAN. Did you request any documents from Secretary Rumsfeld to verify this?

Mr. GIMBLE. We have a letter back from him.

Chairman WAXMAN. Just a letter?

Mr. GIMBLE. A letter, correct.

Chairman WAXMAN. Mr. Honda?

Mr. HONDA. Thank you, Mr. Chairman.

Following up on that, Mr. Gimble, would you submit that letter as a matter of record, please?

Mr. GIMBLE. We sure will.

Mr. HONDA. The letter from Mr. Rumsfeld.

To Mr. Johnson, thank you for saying that you would help Mr. Clay with the FOI for one of his constituents.

We have a parent here from North Dakota that has the same request. Would you accommodate her also?

Mr. JOHNSON. Yes, sir.

Mr. HONDA. Thank you.

Mr. JOHNSON. I mean we process them as fast as we can.

Mr. HONDA. Thank you.

Mr. JOHNSON. I just haven't seen those.

Mr. HONDA. Mr. Gimble, as you know, the Tillman family was not informed of the actual cause of Corporal Tillman's death until 5 weeks after the incident. One critical question here is when Central Command, Commander General Abizaid learned that Corporal Tillman had died by friendly fire.

On page 24 of your March 26, 2007 review, reveal matters related to Corporal Tillman's death, you report that General Abizaid told us that there was a delay of 10 to 20 days in his receipt of the message from General McCrystal informing of Corporal Till-

man's fratricide because General Abizaid was in Iraq. Is that correct?

Mr. GIMBLE. That is correct.

Mr. HONDA. According to recent Associated Press news reports, however, General Abizaid visited Afghanistan within a week of the incident in question and may even have spoken to Corporal Tillman's platoon commander. If this is accurate, then I would find it highly unlikely that General Abizaid could have remained unaware of the cause of Corporal Tillman's death.

According to the same AP report, however, your spokesman said that investigators did not look into General Abizaid's visit to Afghanistan. Mr. Gimble, were you and/or your investigators aware of General Abizaid's Afghanistan trip?

If so, I am extremely perplexed why you not have looked into this.

Mr. GIMBLE. We were not aware of the Afghanistan trip on April 29th. I would only submit this, though, if he talked to the lieutenant, the lieutenant, according to what we have in sworn testimony, was unaware that he was a victim of friendly fire for about 10 days after the incident which would put it at the end of May.

So I will have to get back to you on the Abizaid trip.

Mr. HONDA. This is a platoon commander that was unaware.

Mr. GIMBLE. Well, he was injured. He was shot, shot up pretty badly.

Mr. HONDA. But the platoon commander was aware of it.

Mr. GIMBLE. According to the documentation we have, he was not aware for 10 days that he was a recipient of friendly fire.

Mr. HONDA. The platoon commander?

Mr. GIMBLE. The platoon commander.

Mr. HONDA. That means he is the commander of the platoon within which the event occurred.

Mr. GIMBLE. Right. He got shot, pretty seriously shot too.

Mr. HONDA. Every one of those soldiers who were involved knew.

Mr. GIMBLE. According to the sworn testimony we have, the lieutenant didn't know for 10 days. He was under the impression that it was a result of hostile fire.

Mr. HONDA. So there was active insulation of information from the platoon commander. Is that what you are telling me?

Mr. GIMBLE. I am telling you he was in the hospital is my understanding and was very seriously injured.

Mr. HONDA. The platoon commander?

Mr. GIMBLE. Right.

Mr. HONDA. Yet, by April 29th, he was able to be visited by the general?

Mr. GIMBLE. I am not aware of that visit, but I don't dispute it.

Mr. HONDA. The issue about Captain Richard Scott, the former Commander of Headquarters Company, 2nd Ranger Battalion, conducted an initial inquiry into the events in question, a report that you had discounted. Is that correct?

Mr. GIMBLE. What the initial investigation, the battalion commander or the regimental commander, I am sorry, determined that it was not sufficient, so they never issued a final report on it. They took the draft work in that.

Mr. HONDA. Did you know the contents and the conclusions of that draft report?

Mr. GIMBLE. They reconstructed it. They didn't get a copy of the report because I guess it was destroyed, but they reconstructed the findings.

Mr. HONDA. Did you know the conclusion of that draft report?

Mr. GIMBLE. Yes, it was friendly fire.

Mr. HONDA. Captain Scott's investigation included taking sworn statements from witnesses nearly immediately after Corporal Tillman's death, in other words, when eyewitnesses' memories were the freshest. Regardless of any potential lackings, clearly, Captain Scott's report was invaluable.

On page 17 of your March 26th review of matters related to Corporal Tillman's death, you note that Captain Scott said that his investigation concluded that there was gross negligence and that he recommended that headquarters further investigate to determine whether there was criminal intent.

However, on the same page of your report, you determine that Captain Scott's findings disclosed no mention of gross negligence and no recommendation for further investigation to determine criminal intent.

How, Mr. Inspector General, were you able to conclude this since according to page 14 of your March 26th review, you note that: "After a wide-ranging effort to include data calls, computer searches and witness interviews, we were unable to locate an intact copy of Cpt."—name redacted—"draft report."

How were you able to conclude that?

Mr. GIMBLE. I think if you go ahead and read on, it will conclude that we were able to gather the data and the conclusions pretty much. So we didn't have the exact report, but we had based on some documentation that we gathered, and we can obviously provide that.

Chairman WAXMAN. Thank you, Mr. Honda.

Mr. Shays.

Mr. HONDA. Just one more quick one?

Chairman WAXMAN. We are not going to be able to get everybody in before the votes.

Mr. HONDA. OK, I will get back.

Mr. SHAYS. I thank the chairman.

First, I want to thank all of you for being here. I was here for the testimony of the first panel, and I had two other places I had to be including the committee hearing.

I want to particularly apologize to you, Specialist O'Neal, for not hearing your story. Thank you for your service. Thank you for your bravery.

Senior Chief White, you loved this man, and this probably is very painful for you as well.

It is painful for all of you because you are proud of the service and you don't like to screw up.

But, having said that, what I need to know from a Congressional side is it strikes me there are two motivations here. One motivation is the worst thing you could probably do, I could imagine, is to kill one of your own and to be involved in a battle where you

are fighting your own side. That would be the hardest thing, I think, to deal with. Is that a fair statement?

Mr. O'NEAL. Yes, sir.

Mr. SHAYS. Thank you.

I would think then the second issue that arises is that Mr. Tillman was such a high profile individual. I mean to be so well known, to give up wealth and fame to serve your country and then to have this happen would be another factor. Would that be accurate?

Maybe, General, you could respond.

Mr. JOHNSON. I think that would be. That would cause some concern just because of the notoriety of the individual. But any friendly fire incident, we should treat the same.

Mr. SHAYS. I was a Peace Corps volunteer when my colleagues were in Vietnam, so I know nothing about war. But it strikes me that so-called friendly fire, which is killing your own or attacking your own, happens in any war. It has happened in the past. It will happen in the future.

General, is that a fair comment?

Mr. JOHNSON. Yes, sir, that is correct. It is documented in every war.

Mr. SHAYS. Now my question, what is the proper punishment for someone who knowingly tries to cover up the fact that a death occurred because of fratricide? What is it?

Is it that they should be fired? Is it they should be demoted and fired? What is the practice?

Who can answer that?

Mr. JOHNSON. Sir, I don't believe I can go there. I think that is out of my lane. I know the four star TRADOC CG is apparently doing that investigation to determine what should be done.

Mr. SHAYS. No. I am not asking who did what. I am just asking, in the end, what discourages individuals from covering up, distorting information?

What does it take?

Maybe, Mr. Gimble, you can tell me what you know to be the penalty.

Mr. GIMBLE. I am not sure there is a set penalty because you have to determine what the circumstances in a case by case situation are. That is exactly as General Johnson just said.

We referred it. We took all the data that we got and referred that down to the Commanding General of TRADOC who was appointed by the Acting Secretary of the Army to do this special inquiry.

Mr. SHAYS. My time is running out here.

Senior Chief White, do you have an opinion about what the penalty should be if someone knowingly in the military tries to hide the fact that there was a death that occurred or even if there wasn't a death?

I mean if a pilot goes down the wrong runway and nobody is killed by it, they are going to lose their job plus. If someone tries to cover up that a pilot did that, they are going to lose their job.

It is instructive to me that no one seems to know that. I would think there would be a standard penalty. Do you have an opinion?

Mr. WHITE. With my experience with that, sir, it is usually a case-by-case basis. There is no standard, across-the-board standard.

Mr. SHAYS. Let me ask your opinion. Do you think it is a serious offense to cover up or provide false information?

Mr. WHITE. Absolutely.

Chairman WAXMAN. Thank you, Mr. Shays.

Mr. Cummings.

Mr. CUMMINGS. Mr. Chairman, thank you very much. I will be very brief.

Brigadier General Johnson, is there an offense in the military equivalent to obstruction of justice? I am just following up on Mr. Shays.

Mr. JOHNSON. Yes, there is.

Mr. CUMMINGS. There is.

Are there facts here from what you have seen that would at least cause one in a position, the equivalent of a State's attorney or a U.S. attorney, to look at it to see if there was something equivalent?

Is it called obstruction of justice?

Mr. JOHNSON. Yes, sir, it is.

Mr. CUMMINGS. Do you think there are enough facts here to look into that?

Mr. JOHNSON. I think that is, no doubt, one of the aspects they are looking at, sir.

Mr. CUMMINGS. Very well.

I want to go to Senior Chief White. Senior Chief White, when did you learn of how Corporal Tillman was actually killed?

Mr. WHITE. The Friday night that Kevin Tillman found out. He called me that evening.

Mr. CUMMINGS. How did you feel when you heard that?

You had already spoken at the funeral, is that right?

Mr. WHITE. Yes, sir.

Mr. CUMMINGS. I am sorry.

Mr. WHITE. I was shocked, to say the least.

Mr. CUMMINGS. Were you let down? Did you feel let down?

Mr. WHITE. Yes, sir.

Mr. CUMMINGS. Who did you feel had let you down?

Mr. WHITE. My military.

Mr. CUMMINGS. So that was disappointing to you, is that right?

Mr. WHITE. Yes, sir.

Mr. CUMMINGS. Did it affect your trust in any way with regard to the military?

There are two parts of trust. There is the integrity, and there is competence. I am just wondering were you affected in any way with regard to your trust in the military?

Mr. WHITE. Prior to that, there was no way I would ever believe that would have happened.

Mr. CUMMINGS. No way?

Mr. WHITE. No, sir. That shook me up a little bit. I have two boys and a wife. If anything happens to me, I want to make sure they know exactly what happened.

Mr. CUMMINGS. I am sorry. Were you finished?

Mr. WHITE. Yes, sir.

Mr. CUMMINGS. Finally, how do you feel today about your role in all of this?

First of all, we want to thank you for your service and you too, all of you and Specialist O'Neal.

We want young people like you. I sit on the Board of the Naval Academy, and we have wonderful, wonderful young people you who want to be a part of the military. I am just wondering. One of the things we are trying to do and Chairman Waxman, I am sure is trying to figure out how do we figure out how that trust was lost so that we can restore it so that young people can feel that sense of its OKness.

I am just wondering. How do you feel about your role in all of this and how do you think we can help restore that trust?

Mr. WHITE. My role as far as at the memorial, that was a horrible thing that happened with Pat. I am the guy that told America how he died basically at that memorial, and it was incorrect. That does not sit well with me.

As far as future happenings, it is going to be leadership by example from here on out for, I am sure, everyone. That is the only way we can make this thing.

Mr. CUMMINGS. Well, let me say this to you, that being here today, you and Specialist O'Neal, you are a shining example of what leadership ought to be about, and I thank God for you, and I wish you Godspeed.

Chairman WAXMAN. Thank you.

Mr. Honda.

Mr. HONDA. Thank you, Mr. Chairman.

Mr. Gimble, we were talking about the missing documents from Captain Scott and your conclusions. Let me ask you. If you had not had access to Captain Scott's report in its entirety and even if you were able to piece together portions of it, how were you able to determine that he did not conclude that there was gross negligence and recommend that HQ further investigate potential criminal intent?

Mr. GIMBLE. In his findings and recommendations, we didn't see where he concluded. He didn't comment on that in those. And so, that was the point.

We have his findings and conclusions, and we didn't see where he used those words of gross negligence. That is how we concluded. That is how we concluded.

Mr. HONDA. To Mr. Johnson, General Johnson, at least seven times the Army Criminal Investigations Command report addresses the possibility of a Predator Unmanned Aerial Vehicle or UAV having overflowed the battlefield.

In one of these instances on page 571, your report notices that General Boykin made a formal request for any Predator footage and that he, General Boykin, would followup with CIA to ensure that a review for the requested imagery be conducted. There is no further mention made in the CID report as to whether there was, in fact, followup with the CIA.

General, did you look into whether this occurred? If so, what were the results of your inquiry and why were they not included in the CID report?

If you did not look into this, why not?

Mr. JOHNSON. Yes, sir, we did look into that. We had one soldier in the trail vehicle who was the Close Air Support Coordinator, and

he is the one who mentioned that he believed there was a Predator in the air during the incident because he recognized the sound of a Predator.

Based on that, we followed up on that. Tried to go through our local channels. Did not come up with any. Then submitted that actual request to the Deputy Undersecretary of Intel, General Boykin, in September. Got back from him that he had went through the Special Ops channels and had went through the CIA channels, and there was no Predator records of that particular point on the battlefield.

So at this place in time, we do not believe there are any.

Mr. HONDA. Would there be records that would validate that conclusion?

Mr. JOHNSON. We have our reply back from General Boykin, yes, sir.

Mr. HONDA. Can you submit that as a matter of record?

Mr. JOHNSON. Yes, sir, we can.

Mr. HONDA. In your opinion, would there be other ways of verifying that conclusion that there were not any Predators in that area?

Mr. JOHNSON. Sir, I don't know what other channels we would go through. He would have access, and he went to the CIA and the Special Ops who control the Predators.

Mr. HONDA. Would they not share their information? Would there be a reason why they would not share their information?

Mr. JOHNSON. Sir, the answer we got back was there was no Predator reports.

Mr. HONDA. OK. Thank you, Mr. Chairman.

Chairman WAXMAN. Thank you, Mr. Honda.

Chairman WAXMAN. I just want to ask a few wrap-up questions if I might.

Lieutenant Colonel Robinson, you were interviewed about this videotape by the Washington Post of Jessica Lynch, and your statement according to the Post was: "We let them know if possible we wanted to get it. We would like to have the video. We were hoping we would have good visuals. We knew it would be the hottest thing of the day. There was not an intent to talk it down or embellish it because we didn't need to. It was an awesome story."

You say you let them know that you wanted to tape the rescue. Who is the them you were referring to? The rescue team? The operations folks? Who was it?

Mr. ROBINSON. Mr. Chairman, first of all, I don't remember ever speaking to Dana Priest, although I don't necessarily disagree with the content of the article.

Chairman WAXMAN. It might have been Susan Schmidt. I am not sure which.

Mr. ROBINSON. I am sorry?

Chairman WAXMAN. It might have been Susan Schmidt from the Washington Post.

Mr. ROBINSON. I can remember talking to Bradley Graham from the Washington Post about a variety of issues, and Tom Ricks.

Chairman WAXMAN. But in this quote, they say that you said them. Do you recall the quote?

Mr. ROBINSON. No, sir. I don't remember speaking about Jessica Lynch, but I can tell you where the visuals would have come from.

Chairman WAXMAN. Yes.

Mr. ROBINSON. The visuals would have come from an officer who was assigned to the SOF unit who had an additional duty of providing visuals back to the press center. These were not the only visuals that we received from this unit, and we got visuals all day, every day throughout that particular operation. And so, these visuals that we received would have been visuals that we would have requested as soon as we found out that there was a potential rescue.

Chairman WAXMAN. OK.

Mr. Gimble, I was shocked to hear press reports that Lieutenant Colonel Kauzlarich made comments to the media, saying the Tillmans cannot come to terms with their loss because they are not Christians. Did you examine these comments as part of your investigation and are there any military rules or procedures that address Army officers who make denigrating comments about deceased servicemen and women and their families?

Mr. GIMBLE. We did not investigate those. I saw the comments in the paper, and frankly I was shocked by them too, but we didn't investigate. I would defer to my military brothers as to if there are procedures or things that you can and can't do in that regard.

Chairman WAXMAN. Does anybody here know whether there was a violation of any military regulation for a general to make these disparaging comments about service people, deceased service people or their family?

Mr. JOHNSON. Sir, I don't know of any regulation prohibiting that, but I find it totally unacceptable.

Chairman WAXMAN. Is there anything such as a conduct unbecoming a member of the U.S. Armed Services?

Mr. JOHNSON. There is such a charge as conduct unbecoming an officer, yes, sir.

Chairman WAXMAN. That sounds like it is a pretty unbecoming statement for an officer to have made.

Our hearing today has been about two cases, the Tillman case and the Lynch case, and in both cases it seems like we say deceptive, misleading information. It wasn't misleading information. We have false information that was put out to the American people, stories that were fabricated and made up.

In the case of Specialist O'Neal, his statement was doctored. It was actually rewritten by somebody. These aren't things that are done by mistake. There had to be a conscious intent to put a story out and keep with that story and eliminate evidence to the contrary and distort the record.

In the case of Jessica Lynch, we have the Washington Post story saying that they were told by government officials. So it was attributed in the Post to government officials.

What we have is a very clear, deliberate abuse intentionally done. Why is it so hard to find out who did it?

Why is it so hard to find out who is responsible and to hold them accountable?

Mr. Gimble.

Mr. GIMBLE. We believe that we did find out who is accountable. It is going to be up to the Army to determine what to do with it, and we have referred that, and I think General Wallace will be fin-

ishing his initiative here in the near term, and I think there will be a lot of final answers to some of these questions.

Chairman WAXMAN. Brigadier General Johnson, do you have any comment on that?

Mr. JOHNSON. Sir, I think it is essential that we do determine the truth and who is responsible. And, as Mr. Gimble said, that is exactly what General Wallace has been tasked to do and make recommendations to the Sec Army.

Chairman WAXMAN. Do you know whether he is going to go all the way up the chain of command and find out how far this goes?

Mr. JOHNSON. Sir, that is his investigation.

Chairman WAXMAN. Well, we will look forward to his report that he will be producing as a result of his investigation.

I thank all of you for your presence here today. It has been very helpful to us to understand the situation better.

Mr. JOHNSON. Thank you, sir.

Chairman WAXMAN. That concludes our business, and the committee hearing is adjourned.

[Whereupon, at 2:45 p.m., the committee was adjourned.]

