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HOUSE OF REPRESENTATIVES

{ REPORT
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MISLEADING INFORMATION FROM THE BATTLEFIELD: THE TILLMAN AND LYNCH EPISODES

FIRST REPORT

BY THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

TOGETHER WITH

ADDITIONAL VIEWS



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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
Washington, DC, September 16, 2008.

Hon. NANCY PELOSI,
Speaker of the House of Representatives,
Washington, DC.

DEAR MS. SPEAKER: By direction of the Committee on Oversight and Government Reform, I submit herewith the committee's first report to the 110th Congress.

HENRY A. WAXMAN,
Chairman.

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SEPTEMBER 16, 2008.—Committed to the Committee of the Whole House on the
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Mr. HENRY A. WAXMAN, from the Committee on Oversight and
Government Reform, submitted the following

FIRST REPORT

together with

ADDITIONAL VIEWS

On July 17, 2008, the Committee on Oversight and Government Reform approved and adopted a report entitled “Misleading Information from the Battlefield: The Tillman and Lynch Episodes.” The chairman was directed to transmit a copy to the Speaker of the House.

EXECUTIVE SUMMARY

This report summarizes what the Oversight Committee has learned about (1) the misleading information given to the Tillman family and the public following the death of Corporal Patrick Tillman on April 22, 2004, and (2) the misleading information released about the capture and rescue of Private Jessica Lynch in Iraq in March and April, 2003.

Corporal Tillman and Private Lynch are the two most famous soldiers in the Iraq and Afghanistan wars. The misinformation in both their cases is an unconscionable distraction from their actual service and heroism. Their dedication to country and willingness to voluntarily put themselves at great risk are extraordinary examples of patriotism and bravery.

The military has conducted seven separate investigations into Corporal Tillman’s death by friendly fire in the mountains of Afghanistan. Two early Army investigations focused on reconstruct-

ing the events that resulted in the shooting. The scope of later investigations was broadened to include evaluations of whether military officials complied with the Army's casualty notification regulations, whether military personnel involved in Corporal Tillman's death committed criminal acts, and whether the previous investigations had been properly conducted.

These investigations have looked down the chain of command, resulting in punishment or reprimands for enlisted personnel and officers who acted improperly before and after Corporal Tillman's death. To date, the highest ranking officer to receive a punishment related to Corporal Tillman's death is a three-star general.

In contrast, the Committee's investigation into Corporal Tillman's fratricide has looked up the chain of command. The purpose of the investigation has been to determine what the top officials at the White House and the Defense Department knew about Corporal Tillman's fratricide, when they knew this, and what they did with their knowledge.

The Committee's investigation adds many new details to the Tillman story. But on the key issue of what senior officials knew, the investigation was frustrated by a near universal lack of recall. The Committee interviewed several senior officials at the White House, including Communications Director Dan Bartlett, Press Secretary Scott McClellan, and chief speechwriter Michael Gerson. Not a single one could recall when he learned about the fratricide or what he did in response.

Similarly, Secretary of Defense Donald Rumsfeld told the Committee: "I don't recall when I was told and I don't recall who told me."

The highest-ranking official who could recall being informed about Corporal Tillman's fratricide was former Chairman of the Joint Chiefs of Staff General Richard Myers, who said, "I knew right at the end of April, that there was a possibility of fratricide in the Corporal Tillman death." General Myers testified that it would have been "logical" for him to pass this information to Secretary Rumsfeld, but said "I just don't recall whether I did it or not." He also said he could not recall "ever having a discussion with anybody in the White House about the Tillman case, one way or another."

The Committee's investigation into the inaccurate accounts of Private Lynch's capture and rescue also encountered a consistent lack of recollection. Witnesses who should have possessed relevant information were interviewed by the Committee. They said they had no knowledge of how the report that Private Lynch fired her weapon and was wounded during her capture was spread to the media and the public. Nor could they explain why it took so long for the military to correct the inaccurate story of the "little girl Rambo from the hills of West Virginia" that was widely reported during the opening days of the Iraq war.

THE WHITE HOUSE RESPONSE TO CORPORAL TILLMAN'S DEATH

The death of Corporal Tillman on April 22, 2004, generated a flurry of attention and action inside the White House. On the day following his death, April 23, White House officials sent or received nearly 200 e-mails concerning Corporal Tillman. Several e-mails

came from staff members on President Bush's reelection campaign, who urged the President to respond publicly to Corporal Tillman's death. The White House did respond, rushing out a statement notwithstanding a Department of Defense policy intended to provide a 24-hour period for private grieving before officials publicly discuss a casualty.

In comparison to the extensive White House activity that followed Corporal Tillman's death, the complete absence of any communications about his fratricide is hard to understand. The Committee requested all White House documents related to Corporal Tillman. The White House provided what it described as a complete response, giving the Committee access to approximately 1,500 pages of e-mails and other documents and withholding only drafts of a speech in which the President discussed Corporal Tillman. Yet there is not a single discussion of the fratricide in any of these communications.

On April 29, 2004, Major General Stanley McChrystal sent a "personal for" or "P4" memorandum up his chain of command. This memo warned that the President might be preparing a speech about Corporal Tillman without knowing that he was killed by friendly fire, and it urged the generals receiving the memo to prevent any "unknowing statements by our country's leaders which might cause public embarrassment if the circumstances of Corporal Tillman's death become public." When the President spoke about Corporal Tillman's death in a speech at the White House Correspondents' Dinner two days later, the President commented on Corporal Tillman's character and his sacrifice in enlisting, but did not address the circumstances of Corporal Tillman's death.

The Committee interviewed seven officials in the White House about the response to Corporal Tillman's death. Universally, these officials said they could not recall when they learned about the fratricide or when the President learned. Former presidential speechwriter Michael Gerson, who worked on the President's May 1 speech at the Correspondents' Dinner, said that he could not remember when he learned about the friendly fire, whether he knew about it while preparing the Correspondents' Dinner speech, or whether he ever discussed the fratricide with the President.

Former Communications Director Dan Bartlett said he did not have a "specific recollection" of when he learned of the friendly fire. Asked whether he informed the President of the fratricide, he stated, "I don't remember a particular conversation, but I can't rule out that I talked to him about it." Former Press Secretary Scott McClellan said he also could not remember when he or the President learned about the fratricide.

SECRETARY RUMSFELD'S RESPONSE TO CORPORAL TILLMAN'S DEATH

Secretary Rumsfeld took a personal interest in Pat Tillman's enlistment in the U.S. Army Rangers in 2002. Just after Corporal Tillman enlisted, Secretary Rumsfeld sent him a personal note commending him for his "proud and patriotic" decision. Around the same time, Secretary Rumsfeld wrote a "snowflake" memorandum to the Secretary of the Army, noting that Corporal Tillman "sound[s] like he is world-class" and saying, "We might want to keep our eye on him."

Testifying before the Committee, Secretary Rumsfeld said he had no recollection of when he learned about the fratricide or what he did in response. He testified, "I don't recall when I was told and I don't recall who told me. But my recollection is that it was at a stage when there were investigations under way."

GENERAL MYERS'S RESPONSE TO CORPORAL TILLMAN'S DEATH

The Chairman of the Joint Chiefs of Staff, General Richard Myers, learned of Corporal Tillman's death soon after it occurred. One day after Corporal Tillman's death, General Myers called the commissioner of the National Football League to inform him of the incident.

General Myers also learned quickly about the possible fratricide. He told the Committee that he knew by the end of April, but could not recall whether he informed Secretary Rumsfeld or President Bush. General Myers did recall discussing the fratricide with his public affairs advisor, telling him, "We need to keep this in mind in case we go before the press. We've just got to calibrate ourselves. With this investigation ongoing, we want to be careful how we portray the situation." General Myers told the Committee that he had no responsibility to share the information about the possible fratricide with the Tillman family or the public.

GENERAL ABIZAIID'S RESPONSE TO CORPORAL TILLMAN'S DEATH

General John Abizaid, commanding general at CENTCOM and the main addressee on General McChrystal's P4 message, testified that due to a delay at his headquarters, he did not receive the P4 message until approximately May 6, 2004, a week after it was sent. When he finally received the message, he immediately called the Joint Chiefs chairman, General Myers, and discovered that General Myers was already aware of the potential fratricide.

General Abizaid also testified that after returning from theater to Washington, DC, he informed Secretary Rumsfeld sometime between May 18 and May 20, 2004, that "there was an investigation that was ongoing, and it looked like it was friendly fire."

THE RESPONSE OF OTHER SENIOR MILITARY LEADERS TO CORPORAL TILLMAN'S DEATH

The Committee investigated the response of other top military leaders in Corporal Tillman's chain of command, including General Bryan Brown of U.S. Special Operations Command (SOCOM) and Lieutenant General Philip Kensinger of U.S. Army Special Operations Command (USASOC). General Brown testified to the Committee that he received General McChrystal's P4 message in late April, but made no effort to notify his superiors or the Tillman family about the potential fratricide. He said he made the "bad assumption" that these tasks would be handled by the "normal chain of command."

General Kensinger declined to testify before the Committee in August 2007, but later agreed to be interviewed by Committee staff. He acknowledged that he did not inform the Tillman family as soon as he found out about the potential fratricide, but claimed that he only learned about the fratricide after attending the May

3, 2004, memorial for Corporal Tillman. This version of events was contradicted by General Kensinger's deputy, Brigadier General Howard Yellen, who told Committee staff that he spoke with General Kensinger about the fratricide within two or three days after it occurred. It was also contradicted by Lieutenant Colonel David Duffy, who testified that he personally delivered the P4 message to General Kensinger three days before the memorial service, and by Colonel Clarence Chinn, deputy commander of the 75th Ranger Regiment, who testified that General Kensinger informed him that Corporal Tillman's death was a possible fratricide.

THE RESPONSE TO THE CAPTURE AND RESCUE OF PRIVATE JESSICA LYNCH

In the opening days of the Iraq war, a false account of the capture and rescue of Private Jessica Lynch became a front-page story across the country. Defense Department officials have openly acknowledged that the account of Private Jessica Lynch's capture and rescue in the opening days of the Iraq war was an "awesome story," but they could not explain to the Committee how and why the embellished account became so widely disseminated. Key public affairs officials told the Committee they could not recall any details of the Jessica Lynch incident.

I. INVESTIGATIONS INTO CORPORAL TILLMAN'S DEATH

A. INVESTIGATIONS BY THE DEPARTMENT OF DEFENSE

There have been seven investigations conducted by the Department of Defense into the death of Corporal Tillman in Afghanistan on April 22, 2004, and the Department's response. Each investigation has had serious flaws or limitations on its scope.

In the days following Corporal Tillman's death, the 2nd Battalion of the 75th Ranger Regiment conducted an Army Regulation 15-6 investigation (commonly referred to as a "15-6" investigation) into the circumstances surrounding the casualty.¹ This investigation reportedly concluded that Corporal Tillman's death was a likely fratricide.² In a subsequent review of this investigation, the Defense Department Inspector General concluded that it was "tainted by the failure to preserve evidence, a lack of thoroughness, and the failure to pursue investigative leads."³

In early May, the commander of the 75th Regiment decided not to approve the battalion-level investigation because "he did not find the work thorough or complete and concluded further investigation by someone more senior from the regimental level was required."⁴ He instead authorized a new regimental-level 15-6 investigation, which was approved by U.S. Central Command (CENTCOM) on May 28, 2004.⁵ This investigation concluded that "CPL Tillman's death was the result of fratricide during an extremely chaotic enemy ambush."⁶ The Inspector General found this second 15-6 investigation also "lacked credibility," in part because the investigator "failed to visit the scene," "failed to identify and interview relevant witnesses," and drew conclusions that "were not based on evidence included in the report."⁷

In August 2004, after an inquiry from the Tillman family, Army officials discovered that another investigation required by Army regulations, a "safety investigation," had not been initiated.⁸ Three months later, in October 2004, the friendly fire incident was belatedly reported to the Army's Safety Center, which produced a report

¹ Captain Richard M. Scott, Commander, Headquarters & Headquarter Company, 2nd Battalion, 75th Ranger Regiment, AR 15-6 Final Report [Incomplete Draft] (Apr. 29, 2004).

²*Id.* Although a complete draft of Captain Scott's report has not been located, the Department of Defense Inspector General collected available drafts and exhibits and identified Captain Scott's major findings. Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 7 (Mar. 26, 2007) (IPO2007E001).

³ Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 2 (Mar. 26, 2007) (IPO2007E001).

⁴*Id.* at 20.

⁵ U.S. Central Command, *Report of Fratricide Investigation* (May 28, 2004) (containing May 8, 2004, AR 15-6 report by Lieutenant Colonel Ralph L. Kauzlarich, Executive Officer, 75th Ranger Regiment).

⁶*Id.* at 1.

⁷ Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 2, 31-32 (Mar. 26, 2007) (IPO2007E001).

⁸*Id.* Army rules require both a 15-6 "legal" investigation and a prompt safety investigation in cases of fratricide. Army Regulation 385-40 (1994); DOD Instruction 6055.7 (2000).

in December of that year.⁹ The safety report concluded that a “high volume of fire” from several Rangers “struck one of the Rangers in the fighting position, fatally wounding him.”¹⁰

In response to further inquiries from the Tillman family, the Army’s Special Operations Command (USASOC) authorized in November 2004 another 15–6 investigation into the events surrounding Corporal Tillman’s death. This investigation was completed in January 2005.¹¹ The scope of this investigation included not only the circumstances of Corporal Tillman’s death, but also subsequent communications within Corporal Tillman’s chain of command.¹² One of this investigation’s conclusions was that the Army’s failure to immediately tell the Tillman family about the fratricide suspicions was “due to a desire to complete the investigation and gather all available facts, so as not to give the family an inaccurate or incomplete picture of what happened.”¹³

Reviewing this third 15–6 investigation, the Defense Department Inspector General concluded that the report “did not address accountability for failures by the chain of command—to comply with Army policy for reporting and investigating friendly fire incidents, to coordinate with other investigative authorities, to provide timely information concerning suspected friendly fire to CPL Tillman’s next of kin, and to ensure accuracy in documentation submitted in support of the Silver Star” posthumously awarded to Corporal Tillman.¹⁴

After Corporal Tillman’s family and others questioned the thoroughness and objectivity of this fourth Army investigation, the Department of Defense Inspector General and the Army Criminal Investigation Command (CID) undertook concurrent investigations into Corporal Tillman’s death. The results of these two investigations were provided to the Acting Secretary of the Army, Pete Geren, on March 26, 2007.¹⁵

The IG investigation found that “Corporal Tillman’s chain of command made critical errors in reporting Corporal Tillman’s death and in assigning investigative jurisdiction in the days following his death.”¹⁶ The IG also determined that a Silver Star posthumously awarded to Corporal Tillman was based on documents with “materially inaccurate statements” that “erroneously implied that CPL Tillman died by enemy fire.”¹⁷ An official from the Inspector General’s office testified before the Committee that the IG concluded that two statements written in support of the Silver Star award had been altered “somewhere in the approval chain.”¹⁸ But he stated that his office did not attempt to determine which com-

⁹Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army* (Mar. 26, 2007) (IPO2007E001).

¹⁰U.S. Army Safety Center, U.S. Army Accident Report, Date of Accident 040422 (undated).

¹¹Brigadier General Gary M. Jones, U.S. Army Special Operations Command, *Army Regulation (AR) 15–6 Investigation—CPL Patrick Tillman* (Jan. 7, 2005).

¹²*Id.*

¹³*Id.* at 10.

¹⁴Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 3 (Mar. 26, 2007) (IPO2007E001).

¹⁵*Id.*

¹⁶*Id.* at 2.

¹⁷*Id.* at 54.

¹⁸House Committee on Oversight and Government Reform, Testimony of Thomas Gimble, Acting Defense Department Inspector General, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 99 (Apr. 24, 2007) (Serial No. 110–54).

puters were used to alter the statements or who had access to the statements when they were altered.¹⁹ Nevertheless, the IG concluded that Corporal Tillman’s “immediate superiors believed his actions merited the award” notwithstanding the friendly fire.²⁰

The CID investigation concluded that the soldiers who fired at Corporal Tillman “believed they were under enemy fire and were returning fire at enemy combatants.”²¹

Neither the IG nor the CID investigation examined the actions of top military leaders including the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. For example, neither report determined whether these leaders were forwarded General McChrystal’s P4 message.

On the same day the IG and CID reports were completed, March 26, 2007, Acting Secretary Geren directed the commander of the Army Training and Doctrine Command, General William Wallace, to independently review the findings of the earlier investigations into Corporal Tillman’s death.²² As a four-star general and one of the highest-ranking officers in the Army, General Wallace had the authority to independently investigate the matter and discipline officers below his rank.

On July 31, 2007, the Army wrote Chairman Waxman and Ranking Member Tom Davis that General Wallace had completed his review and generally supported the findings of the IG and CID investigations.²³ This letter also informed the Committee that General Wallace had sanctioned seven officers for their actions in the aftermath of Corporal Tillman’s death.²⁴ The officers sanctioned included four general officers and three field-grade officers. The highest-ranking officer to be sanctioned was now-retired Lieutenant General Philip Kensinger, the former commander of the Army’s Special Operations Command (USASOC).²⁵

Also on July 31, 2007, Army Secretary Pete Geren publicly announced General Wallace’s findings. Although he denied that there was a “conspiracy . . . to deceive the public,” he stated:

[T]here was a perfect storm of mistakes, misjudgments, and a failure of leadership that brought us where we are today, with the Army’s credibility in question about a matter that strikes at the very heart of Army core values—our commitment to our fallen soldiers and their grieving families; soldiers’ loyalty to fallen soldiers.²⁶

¹⁹*Id.*

²⁰ Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 54 (Mar. 26, 2007) (IPO2007E001).

²¹ U.S. Army Criminal Investigation Command, Report of Investigation into Death of Corporal Tillman and AMF Soldier Thani, at 2 (Mar. 19, 2007).

²² *Executive Summary, Army Action—Department of Defense Inspector General (DoDIG) Report Related to the Death of Corporal (CPL) Patrick D. Tillman* (undated).

²³ Letter from Major General Galen B. Jackman, Chief of Legislative Liaison, U.S. Army, to Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform (July 31, 2007); Letter from Major General Galen B. Jackman, Chief of Legislative Liaison, U.S. Army, to Tom Davis, Ranking Member, House Committee on Oversight and Government Reform (July 31, 2007).

²⁴ *Id.*; see also *Executive Summary, Army Action—Department of Defense Inspector General (DoDIG) Report Related to the Death of Corporal (CPL) Patrick D. Tillman* (undated).

²⁵*Id.*

²⁶ Defense Department Briefing with Secretary of the Army Pete Geren and Vice Chief of Staff of the Army General Richard Cody (July 31, 2007).

CENTCOM Commander General John Abizaid, in testimony before this Committee, assessed the military's response to Corporal Tillman's death more bluntly, saying, "It's very difficult to come to grips with how we screwed this thing up. But we screwed this thing up."²⁷

B. THE COMMITTEE'S INVESTIGATION

The Committee began its investigation into Corporal Tillman's death in April 2007. On April 24, 2007, the Committee held a hearing during which it received testimony from two members of Corporal Tillman's family, an Army Ranger who was an eyewitness to Corporal Tillman's death, the acting Department of Defense Inspector General, and the commander of the Army Criminal Investigation Command.²⁸ The Committee also took testimony from former Private First Class Jessica Lynch, who described the misinformation surrounding her capture and rescue in Iraq in 2003.

Members of Corporal Tillman's family and Private Lynch testified that government officials spread inaccurate accounts of what happened to Corporal Tillman and Private Lynch on the battlefield. They stated that these misleading narratives provided inspiring stories of heroism for the American public, but they fundamentally mischaracterized the two soldiers' actual conduct and sacrifice.

Corporal Tillman's brother Kevin Tillman, a former Army Ranger who served together with his brother in Afghanistan, testified that the story of Corporal Tillman's death by enemy fire that spread in the weeks after his death was "utter fiction," and said he believed it was intended to distract the public from the unsuccessful siege of Fallujah, the emerging story of detainee abuse at Abu Ghraib, and other bad news about the war.²⁹ He stated:

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.³⁰

Following the April 24, 2007, hearing, Chairman Waxman and Ranking Member Davis decided that the Committee's investigation into Corporal Tillman's fratricide would focus on the actions of officials at the top of the chain of command. Specifically, the Committee sought to determine when the President, senior White House officials, the Secretary of Defense, and other top military leaders learned that Corporal Tillman had been killed as a result of friendly fire and what they did upon learning this information. The Committee also posed questions regarding the dissemination of mislead-

²⁷House Committee on Oversight and Government Reform, Testimony of General John Abizaid, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 217 (Aug. 1, 2007) (Serial No. 110-49).

²⁸House Committee on Oversight and Government Reform, *Hearing on Misleading Information from the Battlefield*, 110th Cong. (Apr. 24, 2007) (Serial No. 110-54).

²⁹House Committee on Oversight and Government Reform, Testimony of Kevin Tillman, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 17 (Apr. 24, 2007) (Serial No. 110-54).

³⁰*Id.*

ing information pertaining to the capture and rescue of Private Lynch.

The Committee held a second hearing on August 1, 2007, during which it received testimony from former Secretary of Defense Donald Rumsfeld; former Chairman of the Joint Chiefs of Staff, General Richard Myers; former commander of U.S. Central Command, General John Abizaid; and former commander of U.S. Special Operations Command (SOCOM), General Bryan Brown, about their knowledge of the circumstances of Corporal Tillman's death.³¹

In the course of the Committee's investigation, the Committee requested that the White House produce all documents received or generated by any official in the Executive Office of the President from April 22 until July 1, 2004, that related to Corporal Tillman.³² The Committee reviewed approximately 1,500 pages produced in response to this request. The documents produced to the Committee included e-mail communications between senior White House officials holding the title of "Assistant to the President." According to the White House, the White House withheld from the Committee only preliminary drafts of the speech President Bush delivered at the White House Correspondents' Dinner on May 1, 2004.³³

The Committee also conducted nontranscribed interviews of three former assistants to the President: former Director of Communications Dan Bartlett, former Press Secretary Scott McClellan, and former Chief Speechwriter Michael Gerson. Because these officials indicated they had only a limited recall of the events in question, they were not called back for a transcribed interview or deposition. Transcribed interviews were conducted with four other former White House officials: former Spokesman Taylor Gross, former Director of Fact-checking John Currin, former National Security Council (NSC) Director of Communications Jim Wilkinson, and former NSC Press Secretary Sean McCormack.³⁴

The Committee reviewed over 31,000 documents produced by the Department of Defense. The Committee conducted transcribed interviews of six current or former general officers: General Bantz Craddock, former senior military assistant to Secretary Rumsfeld; Admiral Eric Olson, former deputy commander of U.S. Special Operations Command; Lieutenant General John Sattler, former director of operations at U.S. Central Command; Lieutenant General James Lovelace, former Director of the Army Staff; Lieutenant General (Retired) Philip Kensinger, former commander of U.S. Army Special Operations Command (USASOC); and Brigadier General (Retired) Howard Yellen, former deputy commander at USASOC. In addition, the Committee interviewed seven other officers and civilian officials from Secretary Rumsfeld's office, the office of Chairman of the Joint Chiefs of Staff, and USASOC.

³¹House Committee on Oversight and Government Reform, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong. (Aug. 1, 2007) (Serial No. 110-49).

³²Letter from Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform, to Fred F. Fielding, Counsel to the President (April 27, 2007).

³³Letter from Fred F. Fielding, Counsel to the President, to Henry A. Waxman, Chairman, and Tom Davis, Ranking Minority Member, House Committee on Oversight and Government Reform (Aug. 10, 2007).

³⁴No contemporaneous transcript was produced from the interview with Mr. McCormack, but an unofficial transcript was created from an audio recording of the interview.

II. CHRONOLOGY OF EVENTS RELATED TO CORPORAL TILLMAN

A. THE MILITARY SERVICE OF CORPORAL PATRICK TILLMAN

Patrick Tillman, a defensive back for the Arizona Cardinals, and his brother Kevin Tillman, a former professional baseball player, enlisted in the United States Army in May 2002. Although the Tillman brothers refused to talk publicly about why they were joining the Army, their enlistment was widely reported in the media. Their father, Patrick Tillman, Sr., explained to one newspaper that his sons did not want recognition “separate from their peers” because they felt all the soldiers with whom they served deserved equal recognition.³⁵

Both Pat and Kevin Tillman trained as elite Army Rangers and were assigned to the A Company, 2nd Battalion, 75th Ranger Regiment, based in Fort Lewis, Washington. Their battalion did a tour of duty in Iraq in 2003 and began a tour in Afghanistan in 2004. At the beginning of this tour, both Pat and Kevin Tillman held the rank of Specialist (E4).

On April 22, 2004, during operations in a rugged region of eastern Afghanistan, the Tillmans’ platoon was divided into two parts (“serials”). Specialist Pat Tillman was a part of Serial 1, which proceeded towards the village of Manah, Afghanistan, through a narrow canyon. Specialist Kevin Tillman was a part of Serial 2, which was supposed to take a different route, but ultimately changed plans and followed Serial 1 along the same canyon road.³⁶

During its passage through the canyon, Serial 2 came under attack. When the Rangers in Serial 1 heard the sounds of the ambush, they dismounted from their vehicles and took positions to assist Serial 2. As Serial 2 emerged from the canyon, several Rangers riding in the lead vehicle opened fire on a nearby ridge, killing Specialist Pat Tillman and an Afghan soldier who had been conducting operations with the platoon, and injuring two other Rangers, including the platoon leader. The Army posthumously awarded Tillman the Silver Star and promoted him to the rank of Corporal.³⁷

As he testified at the Committee’s hearing on April 24, 2007, Specialist Kevin Tillman did not witness the firefight that took his brother’s life. He also testified that he was quickly flown back to Bagram Air Base and later accompanied his brother’s remains back to the United States.³⁸ He told the Committee that during these events, he was under the impression that his brother had been killed by the enemy.³⁹

B. INITIAL PENTAGON REACTIONS

On the morning of April 23, 2004, news of Corporal Tillman’s death broke in the United States. Initial reports from a Defense

³⁵*Ex-Player Tillman Likely in Danger Zone as an Army Ranger*, Washington Times (Mar. 21, 2003).

³⁶Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army* (Mar. 26, 2007) (IPO2007E001).

³⁷*Id.*

³⁸House Committee on Oversight and Government Reform, Testimony of Kevin Tillman, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 18 (Apr. 24, 2007) (Serial No. 110–54).

³⁹*Id.* at 30.

Department spokesman in Afghanistan indicated that a U.S. soldier, identified later that day as Corporal Tillman, had “died after a firefight with anti-coalition militia forces about 25 miles southwest of a U.S. base at Khost, which has been the scene of frequent attacks.”⁴⁰

On April 23, 2004, and in the following days, thousands of stories, commentaries, and tributes to Corporal Tillman appeared in newspapers, television, and the Internet. An internal “Weekend Media Assessment” produced by the Army Chief of Staff’s Office of Public Affairs on Monday April 25, 2004, reported that the story of Corporal Tillman’s death had helped generate the most media interest in the U.S. Army “since the end of active combat last year.”⁴¹ The report also noted that “The Ranger Tillman story had been extremely positive in all media.”⁴²

E-mails reviewed by the Committee also show that the news of Corporal Tillman’s death was discussed by public affairs officials in the Office of the Secretary of Defense, the Joint Chiefs of Staff, and the Army on April 23, 2004, potentially including a “front office” morning meeting led by Secretary Rumsfeld’s public affairs chief, Mr. Larry Di Rita.⁴³

Although Mr. Di Rita told Committee staff he could not recall any particular discussions he had about Corporal Tillman’s death on April 23, 2004, documents produced by the Department of Defense show that Mr. Di Rita sent two e-mails that day related to Corporal Tillman. In the first of these e-mails, Mr. Di Rita responded to a request from the White House Media Affairs Director, who was seeking information about Corporal Tillman for a *Sports Illustrated* reporter.⁴⁴ Mr. Di Rita responded that he would “see what we can do. details are sketchy just now.”⁴⁵

In the second e-mail, Mr. Di Rita responded to a Department of Defense aide who had drafted a statement for the Department of Defense to use to respond to press inquiries.⁴⁶ Mr. Di Rita edited the proposed statement and sent it back to the aide. His revised version stated, “[o]ur thoughts and prayers go out to the family of Army Sgt Pat Tillman,” and noted, “[w]e mourn the death of every servicemember who makes the ultimate sacrifice in the Global War on Terror.”⁴⁷

The same day, April 23, a memo was prepared by the Army Human Resources Command for the Army Deputy Chief of Staff G-1, Lieutenant General Franklin Hagenbeck. This executive summary (“EXSUM”) document explained that Corporal Tillman’s cas-

⁴⁰ *Former NFL Player Killed in Afghanistan*, Associated Press (Apr. 23, 2004); *U.S. Military Says NFL Player Killed in Afghanistan Exemplified All Soldiers’ Patriotism*, Associated Press (Apr. 24, 2004).

⁴¹ E-mail from David Compton, Office of the Army Chief Public Affairs, to numerous addressees (Apr. 25, 2004).

⁴² *Id.*

⁴³ E-mail from Lieutenant Commander Jane Campbell, Office of the Assistant Secretary of Defense for Public Affairs, to Major Kristen Carle, Office of the Army Chief for Public Affairs (Apr. 23, 2004). (Reporting that Corporal Tillman’s death “was a topic of the discussion at the front office this morning and CJCS PA [Chairman of the Joint Chiefs of Staff Public Affairs] is also involved.”)

⁴⁴ E-mail from Lawrence Di Rita, Office of the Secretary of Defense, to Jeanie Mamo, Director of White House Media Affairs (Apr. 23, 2004).

⁴⁵ *Id.*

⁴⁶ E-mail from Lawrence Di Rita, Office of the Secretary of Defense, to Bryan Whitman, Office of the Secretary of Defense (Apr. 23, 2004).

⁴⁷ *Id.*

ualty “was a high-profile death because SPC Tillman was a member of the Arizona Cardinals and SPC Kevin Tillman was a former minor league baseball prospect in the Cleveland Indians organization when they enlisted together for three years.”⁴⁸ The summary said that in accordance with the Army’s policy of holding casualty information for 24 hours after the soldier’s family has been notified, the Army would not officially announce Corporal Tillman’s death until 11 p.m. that night.

C. EARLY REPORTS OF FRIENDLY FIRE

As the Tillman family and the American public absorbed the news that Corporal Tillman had been killed in Afghanistan, apparently by enemy forces, suspicions that he had actually been killed by friendly fire quickly traveled through the Department of Defense. But while military officials at the highest levels knew within a matter of days that Corporal Tillman’s death was a likely fratricide, they did not share this information with the Tillman family or the public for another month.

Members of Corporal Tillman’s platoon knew almost immediately he had been killed by his fellow Rangers.⁴⁹ Moreover, within 24 hours, the top officers in Corporal Tillman’s battalion and regiment, Lieutenant Colonel Jeffrey Bailey and Colonel Craig Nixon, also knew about the suspicions of friendly fire and had authorized the first Army Regulation 15–6 investigation into the circumstances of his death.⁵⁰

Within several days, Colonel Nixon, the commander of the 75th Ranger Regiment, transmitted the information that Corporal Tillman may have been killed as a result of fratricide to Major General Stanley McChrystal, the commander of the joint task force in Afghanistan under which Corporal Tillman’s battalion was operating.⁵¹ General McChrystal subsequently called General Bryan Brown, the top officer at the U.S. Special Operations Command, the combatant command under which Corporal Tillman’s battalion operated in Afghanistan.⁵²

Colonel Nixon also informed Brigadier General Howard Yellen, the deputy commander of the Army Special Operations Command, the Army administrative command responsible for the 75th Ranger Regiment. According to General Yellen, on April 24 or April 25, 2004, he informed his commander, Lieutenant General Philip Kensinger, of the potential fratricide.⁵³

A few days later, on April 29, 2004, General McChrystal sent a message to the top generals in Corporal Tillman’s chain of com-

⁴⁸ Shari Lawrence, Army Human Resources Command, “EXSUM” Document (Apr. 23, 2004).

⁴⁹ House Committee on Oversight and Government Reform, Testimony of U.S. Army Specialist Bryan O’Neal, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 94 (Apr. 24, 2007) (Serial No. 110–54); Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 13 (Mar. 26, 2007) (IPO2007E001).

⁵⁰ House Committee on Oversight and Government Reform, Testimony of Thomas Gimble, Acting Defense Department Inspector General, *Hearing on Misleading Information from the Battlefield*, 110th Cong. (Apr. 24, 2007) (Serial No. 110–54).

⁵¹ Department of Defense Office of Inspector General, Interview of Lieutenant General Stanley McChrystal, at 3 (Nov. 26, 2006).

⁵² Department of Defense Office of Inspector General, Interview of General Bryan Brown, at 5 (Nov. 17, 2006).

⁵³ House Committee on Oversight and Government Reform, Interview of Brigadier General Howard Yellen (Retired), at 39 (July 25, 2007).

mand alerting them that the first 15–6 investigation was nearing completion and would find that “it is highly possible that Corporal Tillman was killed by friendly fire.”⁵⁴ According to General McChrystal, Colonel Nixon assisted him in preparing the message.⁵⁵

The principal addressee of this communication was General John Abizaid, commander of CENTCOM, the geographic combatant command that includes Iraq and Afghanistan. The message was also sent to two recipients for “information” purposes. These recipients were General Brown, the SOCOM commander, and General Kensinger, the commander of USASOC.⁵⁶

General McChrystal sent this communication as a “personal for” or P4 message, a format flag rank officers reserve for sensitive, “for-your-eyes-only” information. Such a communication, according to General Abizaid, is “designed to pass information that’s considered very, very important.”⁵⁷ According to General Myers, information in a P4 is “supposed to be pretty close hold.”⁵⁸

General McChrystal’s P4 message stated:

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 is exacerbated by the unconfirmed but suspected reports that POTUS [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 [sic] currently being prepared, not knowing the specifics surrounding his death. . . .

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.⁵⁹

The day before General McChrystal sent this P4 message, speechwriting staff from both the Department of Defense and the White House had contacted a public affairs official at USASOC, Carol Darby, seeking information about Corporal Tillman’s enlistment, rank, previous duty assignments, and reason for enlisting.⁶⁰ White House staffer John Currin informed the USASOC official he

⁵⁴ “Personal For” message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, Lieutenant General Philip Kensinger (Apr. 29, 2004).

⁵⁵ Department of Defense Office of Inspector General, Interview of Lieutenant General Stanley McChrystal (Nov. 26, 2006).

⁵⁶ “Personal For” message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, Lieutenant General Philip Kensinger (Apr. 29, 2004).

⁵⁷ House Committee on Oversight and Government Reform, Testimony of General John Abizaid, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 190 (Aug. 1, 2007) (Serial No. 110–49).

⁵⁸ House Committee on Oversight and Government Reform, Testimony of General Richard Myers, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 190 (Aug. 1, 2007) (Serial No. 110–49).

⁵⁹ “Personal For” message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, Lieutenant General Philip Kensinger (Apr. 29, 2004).

⁶⁰ E-mail from Carol Darby, Media and Community Relations Division Chief, U.S. Army Special Operations Command, to Lieutenant Colonel Hans Bush, Chief of Public Affairs, U.S. Army Special Operations Command (Apr. 28, 2004).

was seeking this information for a speech President Bush would deliver at the May 1, 2004, White House Correspondents' Dinner.⁶¹

Admiral Eric T. Olson, the deputy commander of SOCOM in April 2004, told the Committee that the point at which General McChrystal sent the P4 would have been the appropriate time to tell the Tillman family about the possibility of fratricide. According to Admiral Olson, "as soon as there is solid indication of the cause of death, that should be communicated to the family."⁶² Admiral Olson said he did not see the P4 when it was sent in April 2004, but he told the Committee that the information in the P4 was sufficiently certain to share with the family before the memorial service. His "after-the-fact" reflection was:

But now having seen the contents of that P4, during which General McChrystal said it's highly probably there was fratricide, and that P4 was released before the memorial service, it would have been reasonable to expect that the family was informed of the possibility of fratricide.⁶³

D. THE SILVER STAR AWARD AND CORPORAL TILLMAN'S MEMORIAL SERVICE

On April 29, 2004, the same day General McChrystal sent his P4 message, the Army posthumously awarded Corporal Tillman the Silver Star, an honor reserved for Army soldiers who have demonstrated "gallantry in action against an enemy of the United States."⁶⁴ Prior to the award's approval by the acting Army Secretary on April 29, 2004, several officers in Corporal Tillman's regiment who were aware of the possibility of friendly fire, including the regimental commander, Colonel Nixon, reviewed and edited the Silver Star award.⁶⁵ Yet the final Silver Star citation asserted that Corporal Tillman "put himself in the line of devastating enemy fire."⁶⁶ Both of the eyewitness statements submitted with the Silver Star paperwork were altered by somebody within the 75th Regiment's chain of command.⁶⁷

On April 30, 2004, the same day General McChrystal's P4 message reached USASOC headquarters, USASOC issued a press release announcing the Silver Star award. The release stated that Corporal Tillman was being awarded the Silver Star "for his selfless actions after his Ranger element was ambushed by anti-coalition insurgents during a ground assault convoy through southeastern Afghanistan."⁶⁸ The release also referred to "hostile fires directed at the Rangers" and stated that Corporal Tillman "was shot and killed while focusing his efforts on the elimination of the enemy forces and the protection of his team members."⁶⁹

⁶¹*Id.*

⁶²House Committee on Oversight and Government Reform, Interview of Admiral Eric T. Olson, at 60 (July 27, 2007).

⁶³*Id.* at 61.

⁶⁴Army Regulation 600-8-22 §3-10(b) (2006).

⁶⁵Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 53 (Mar. 2007) (IPO2007E001).

⁶⁶Silver Star Award Citation for Corporal Patrick D. Tillman, United States Army (undated).

⁶⁷Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 55 (Mar. 2007) (IPO2007E001).

⁶⁸U.S. Army Special Operations Command, *Army Awards Silver Star to Fallen Ranger* (Apr. 30, 2004).

⁶⁹*Id.*

According to Brigadier General Howard Yellen, USASOC's deputy commander in April 2004, the release did not explicitly say how Corporal Tillman was killed, but "for the civilian on the street, the interpretation would be that he was killed by enemy fire."⁷⁰ When interviewed by the Committee, General Kensinger said he did not recall reviewing the release, but "possibly could have."⁷¹ He agreed that "a member of the public reading this probably would have concluded or assumed that Corporal Tillman had been killed by the enemy."⁷²

Three days after this Army press release, on May 3, 2004, a memorial service was held for Corporal Tillman in San Jose, California. During the ceremony, Senior Chief Petty Officer Steven White, a personal friend of Corporal Tillman and a Navy SEAL, gave a eulogy in which he described the circumstances of Corporal Tillman's death using language that suggested he was killed by enemy forces.⁷³ According to Senior Chief White, a member of the 75th Regiment had read him portions of the Silver Star citation that morning, and he based his speech on this information. Testifying before the Committee in April 2007, Senior Chief White said he felt "let down" by the military because he was given inaccurate information to present publicly. He told the Committee: "I'm the guy that told America how he died, basically, at that memorial, and it was incorrect. That does not sit well with me."⁷⁴

E. THE ANNOUNCEMENT OF THE FRATRICIDE

The information that Corporal Tillman had likely been killed by friendly fire was not shared with the American public until the morning of May 29, 2004. On that day, the Saturday of the Memorial Day weekend, Lieutenant General Philip Kensinger appeared at a press availability at Fort Bragg, North Carolina, the headquarters of the Army's Special Operations Command, and announced that an Army investigation had concluded that "Corporal Tillman probably died as a result of friendly fire while his unit was engaged in combat with enemy forces."⁷⁵

General Kensinger's statement was the only public statement issued by any Department of Defense or White House official acknowledging that Corporal Tillman had not been killed by the enemy, as the American public had believed for more than a month. When he was asked why the White House played no role in the public fratricide announcement, former White House Press Secretary Scott McClellan told Committee staff, "We would leave that to the proper department, and that would be DOD."⁷⁶ White

⁷⁰ House Committee on Oversight and Government Reform, Interview of Brigadier General Howard Yellen, at 69 (July 25, 2007).

⁷¹ House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger, Jr. (Retired), at 54 (Feb. 29, 2008).

⁷² *Id.*
⁷³ House Committee on Oversight and Government Reform, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 110 (Apr. 24, 2007) (Serial No. 110-54).

⁷⁴ House Committee on Oversight and Government Reform, Testimony of Senior Chief Petty Officer Stephen White, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 111 (Apr. 24, 2007) (Serial No. 110-54).

⁷⁵ U.S. Army Special Operations Command, *Press Statement: USASOC Announces Tillman Investigation Results* (May 29, 2004) (online at news.soc.mil/advisories/Press-Media%20Releases/2004/040529-01.htm).

⁷⁶ House Committee on Oversight and Government Reform, Interview of Scott McClellan (Sept. 10, 2007).

House Communications Director Dan Bartlett, asked why the White House issued a statement after Corporal Tillman died but not after the fratricide was announced, explained these events “were fundamentally different things.”⁷⁷ According to Mr. Bartlett, media interest in a presidential statement about the fratricide “was not there.”⁷⁸

Evidence reviewed by the Committee suggests that one reason the Department of Defense publicly released this information on May 29, 2004, was because the Tillman family had already begun learning about the friendly fire and because the media was about to report it.⁷⁹ In the days before this announcement, the Department of Defense scrambled to release the information in a way that would cause the least amount of public relations damage to the Department.

The second Army 15–6 investigation into Corporal Tillman’s death was substantially completed by May 16, 2004.⁸⁰ The conclusion of this investigation, authored by Lieutenant Colonel Ralph Kauzlarich, was that “Corporal Tillman’s death was the result of fratricide during an extremely chaotic enemy ambush.”⁸¹ Over the next two weeks, the report moved upward through the regiment’s chain of command. On Friday, May 28, 2004, CENTCOM’s director of operations, Lieutenant General John F. Sattler, signed off on the report on behalf of General Abizaid, the CENTCOM commander.⁸²

General Sattler told the Committee that during this period, General Abizaid called him at CENTCOM headquarters in Qatar and asked him to review Colonel Kauzlarich’s investigation. General Sattler recalled that General Abizaid told him reviewing the report was a top priority, “so whatever I thought was my number one priority no longer was.”⁸³ General Sattler concurred with its findings.⁸⁴

Although officials told the Committee that the military was waiting for the investigation to be signed before notifying the family, the record shows that two Tillman family members were actually informed of the friendly fire before May 28, 2004. Earlier in the week, the 2nd Battalion of the 75th Ranger Regiment had returned to its headquarters in Fort Lewis, Washington, where Specialist Kevin Tillman encountered the members of his platoon for the first time since his brother’s death. Fearing that Kevin Tillman would hear about the friendly fire from his fellow soldiers, the 2nd Battalion’s commander, Lieutenant Colonel Jeffrey Bailey, was authorized to disclose the information to Kevin Tillman and Corporal Till-

⁷⁷ House Committee on Oversight and Government Reform, Interview of Daniel Bartlett (Sept. 12, 2007).

⁷⁸ *Id.*

⁷⁹ *See, e.g.*, E-mail from Colonel George Rhyndance, Office of the Assistant Secretary of Defense for Public Affairs, to Bryan Whitman, Office of the Assistant Secretary of Defense for Public Affairs (May 29, 2004) (“No one will ever tell you, but nice job on this one. May have minimized . . . damage by pushing the panic button early.”).

⁸⁰ Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 29 (Mar. 2007) (IPO2007E001).

⁸¹ U.S. Central Command, Report of Fratricide Investigation, at 11 (May 28, 2004).

⁸² *Id.*; House Committee on Oversight and Government Reform, Interview of General John F. Sattler, at 50 (July 24, 2007).

⁸³ House Committee on Oversight and Government Reform, Interview of General John F. Sattler, at 46 (July 24, 2007).

⁸⁴ *Id.*

man's wife, Marie Tillman.⁸⁵ According to Colonel Nixon, the commander of the 75th Ranger regiment, Colonel Bailey asked for this authorization after he determined that "Kevin was getting some sense of what was going on."⁸⁶ The Department of Defense Inspector General concluded that Kevin and Marie Tillman were informed of the friendly fire on May 26 and May 27, 2004, respectively.⁸⁷

At the same time General Sattler was reviewing the report, other high-level Pentagon officials began preparing for public release of the finding of fratricide. On May 28, Larry Di Rita, the Assistant Secretary of Defense for Public Affairs, and General Brown, the SOCOM commander, coordinated a video teleconference to plan the public announcement of the fratricide.⁸⁸ According to various interviews conducted by the Committee, the video teleconference included Mr. Di Rita, General Brown, Admiral Olson, General Kensinger, CENTCOM chief of staff Major General Steve Whitcomb, various public affairs officials, and at least one lawyer.⁸⁹

Mr. Di Rita told Committee staff that he recognized at the time that this was a "very important public event"⁹⁰ He recalled that that he was "brought in to it, on the basis of my professional responsibilities, which was to help with the public affairs posture on this incident."⁹¹ While military public affairs officers were planning to release the fratricide information in a "passive" posture, in which the Department would only respond to press queries, Mr. Di Rita decided to adopt an "active approach" and hold a press conference to release the information. Describing the teleconference, Mr. Di Rita explained:

I spent time working with the responsible offices . . . deciding that it was something that probably required some public interaction, as distinct from an announcement. I seem to recall that we discussed the importance of this, the fact that it was fairly large news, that what everybody believed to be true was no longer the case, no longer true, and that it required more of a public presentation than a simple announcement, particularly inasmuch as this thing had been concluded late in the week, or at least they were prepared to announce it late in a week, and I thought it was important.⁹²

According to Admiral Olson and General Brown, during the teleconference, General Brown suggested that Mr. Di Rita make the announcement since it was such a high-profile matter.⁹³ Mr. Di

⁸⁵ Department of Defense Office of Inspector General, Interview of Colonel James Craig Nixon, at 121 (Oct. 28, 2006).

⁸⁶ *Id.*

⁸⁷ Department of Defense Office of Inspector General, *Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army*, at 44 (Mar. 2007) (IPO2007E001).

⁸⁸ House Committee on Oversight and Government Reform, Interview of Colonel Hans Bush (Sept. 19, 2007).

⁸⁹ *Id.*; House Committee on Oversight and Government Reform, Interview of Admiral Eric T. Olson (July 27, 2007).

⁹⁰ House Committee on Oversight and Government Reform, Interview of Lawrence Di Rita, at 69 (Sept. 24, 2007).

⁹¹ *Id.* at 63.

⁹² *Id.*

⁹³ General Bryan Brown, Response to Questions from BG Jones (Dec. 9, 2004) ("[W]e initially told Mr. DiRita that OSD PA should make the announcement. They determined it should be

Rita apparently decided that his “responsibilities” for managing the announcement did not extend to actually making the announcement. He told the Committee, “a public affairs officer, to me, was not the answer.”⁹⁴

Admiral Olson described the following discussion:

As I recall, General Brown suggested that the Public Affairs Office for the Secretary of Defense be the one to make the announcement as a defense matter. Larry Di Rita thought it was more appropriate for a uniformed officer to make the announcement. Then the question was who is the appropriate uniformed officer. It is not a SOCOM responsibility, it was an Army responsibility. Because General Kensinger had an Army chain of command outside of SOCOM, the discussion just sort of circled in on General Kensinger as the appropriate officer.⁹⁵

Another teleconference participant also recalled that Mr. Di Rita recommended that General Kensinger make the public announcement. Colonel Hans Bush, who was the head of USASOC’s public affairs office at the time, recalled, “General Brown acknowledged the recommendation and then said, General Kensinger, you meet the criteria. Congratulations, you’re the guy.”⁹⁶ When Committee staff asked General Kensinger if he considered this a direct order by General Brown to make the announcement, he responded, “Not in so many words. . . . You can be directed to do it, or you can be highly encouraged to think that is the right decision.”⁹⁷

General Kensinger explained that because he was unfamiliar with the details of the investigation, he did not believe he was the appropriate person to deliver the news. Colonel Bush, the USASOC public affairs chief, described General Kensinger’s reaction: “It was a little odd to be presenting someone else’s findings, and I think he felt that way.”⁹⁸ Because the friendly fire investigation had been conducted and approved by CENTCOM, General Kensinger told the Committee he thought “it would have been CENTCOM or somebody else would have made it, above CENTCOM.”⁹⁹ He stated that he acquiesced to the assignment only after he was told he would not have to answer any questions from the media.

At the press conference at Fort Bragg on May 29, 2004, General Kensinger read a prepared statement approved by CENTCOM and the Secretary of Defense’s public affairs office.¹⁰⁰ The statement asserted that “investigation results indicate that Corporal Tillman

a uniformed member of the chain of command. The logical choice was LTG Kensinger. I agreed.”)

⁹⁴House Committee on Oversight and Government Reform, Interview of Lawrence Di Rita, at 67 (Sept. 24, 2007).

⁹⁵House Committee on Oversight and Government Reform, Interview of Admiral Eric T. Olson, at 40 (July 27, 2007).

⁹⁶House Committee on Oversight and Government Reform, Interview of Colonel Hans Bush, at 57 (Sept. 19, 2007).

⁹⁷House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger, Jr. (Retired), at 63 (Feb. 29, 2008).

⁹⁸House Committee on Oversight and Government Reform, Interview of Colonel Hans Bush, at 57 (Sept. 19, 2007).

⁹⁹House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger, Jr. (Retired), at 64 (Feb. 29, 2008).

¹⁰⁰E-mail from Bryan Whitman, Office of the Assistant Secretary of Defense for Public Affairs, to Colonel Joseph Curtin, Office of the Chief Public Affairs (May 28, 2004).

probably died as the result of friendly fire.”¹⁰¹ According to Colonel Bush, “It was specifically requested by CENTCOM that we include ‘probably’ in that sentence.”¹⁰² However, this language differed from the investigative report itself, which stated, “My findings lead me to believe that CPL Tillman’s death was the result of fratricide.”¹⁰³ The report was not made public at that time.

After the press conference, Pentagon public affairs officials congratulated each other for limiting the impact of the disclosure. Colonel George Rhyndance, an assistant to Mr. Di Rita in the Secretary of Defense’s public affairs office, wrote to Bryan Whitman, another employee in the same office: “No one will ever tell you, but nice job on this one. May have minimized . . . damage by pushing the panic button early.”¹⁰⁴

In another e-mail on the day of the announcement, Colonel Joseph Curtin, an Army public affairs official, wrote, “Story will run hot today and diminish over the weekend.” He also noted, “Senior leaders want to make sure the public affairs community vigorously respond to any media query that potentially questions the Silver Star award.”¹⁰⁵ In response, Lieutenant Colonel John Robinson, a CENTCOM public affairs official, wrote “the WWII Memorial and attack in Saudi Arabia have helped dilute the story somewhat.”¹⁰⁶

III. THE WHITE HOUSE RESPONSE

Testimony and e-mails obtained by the Committee show that White House officials were intensely interested in the news of Pat Tillman’s death. On April 23, the White House rushed out a press statement acknowledging Corporal Tillman’s death twelve hours before the Department of Defense publicly confirmed the casualty. This early statement was issued notwithstanding a military rule intended to protect military families from media attention during the first 24 hours after learning about a casualty. A week later, on May 1, 2004, President Bush gave a speech discussing Corporal Tillman’s military service. Yet when the Committee inquired into how and when White House officials learned Corporal’s death was a fratricide, the White House provided no responsive e-mails, and each of the former officials interviewed by Committee staff professed to have no recollection.

A. NEWS BREAKS AT WHITE HOUSE

There was intense interest in the news of Corporal Tillman’s death at the White House as the story broke in the press on the morning of April 23, 2004. Documents and interviews with White House officials show that as White House staff members learned the news from cable television and other media sources, they quick-

¹⁰¹ U.S. Army Special Operations Command, *Press Statement: USASOC Announces Tillman Investigation Results* (May 29, 2004) (online at news.soc.mil/advisories/Press-Media%20Releases/2004/040529-01.htm).

¹⁰² House Committee on Oversight and Government Reform, Interview of Colonel Hans Bush, at 57 (Sept. 19, 2007).

¹⁰³ U.S. Central Command, Report of Fratricide Investigation (May 28, 2004).

¹⁰⁴ E-mail from Colonel George Rhyndance, Office of the Assistant Secretary of Defense for Public Affairs, to Bryan Whitman, Office of the Assistant Secretary of Defense for Public Affairs (May 29, 2004).

¹⁰⁵ E-mail from Colonel Joseph Curtin, Office of the Chief Public Affairs to multiple recipients (May 29, 2004).

¹⁰⁶ E-mail from Lieutenant Colonel John Robinson to multiple recipients (May 29, 2004).

ly shared and discussed it with their colleagues and friends. According to former White House Communications Director Dan Bartlett, he discussed Corporal Tillman's death directly with President Bush. Mr. Bartlett told Committee staff that he "had conversations with the President about this news event."¹⁰⁷ Although Mr. Bartlett claimed he could not recall what was said, he told Committee staff that he "likely" discussed with the President the "appropriate response" for the White House to take.¹⁰⁸

Barry Jackson, a deputy to President Bush's political adviser Karl Rove, sent Mr. Rove language for a potential presidential tribute to Pat Tillman.¹⁰⁹ Speechwriter Matthew Scully wrote an e-mail to fellow speechwriter Michael Gerson highlighting Corporal Tillman's death as a "big story."¹¹⁰ Condoleezza Rice, then National Security Advisor, was informed of Corporal Tillman's death by her executive assistant, Army Major Jennie Koch Easterly.¹¹¹

Several high-level staff members of President Bush's reelection campaign contacted White House officials to suggest public responses to Corporal Tillman's death. Matthew Dowd, the campaign's chief strategist, sent an e-mail to Mr. Bartlett, writing, "You hear about pat tilman? Potus should call his family or go to Arizona or his hometown."¹¹²

Mark McKinnon, the campaign's media advisor, also e-mailed Mr. Bartlett, saying: "Realize President really shouldn't do anything that he hasn't done for any other soldier killed in the military, but certainly think he could say something about he exemplifies the ultimate in humility, heroism and sacrifice."¹¹³

Commentators and reporters contacted the White House to offer advice. For example, *Wall Street Journal* columnist Peggy Noonan e-mailed the White House's Director of Strategic Initiatives, Peter Wehner, recommending that he "find out what faith Tillman practiced and have the president go by that church and light a candle or say a prayer."¹¹⁴ Karl Rove exchanged e-mails about Pat Tillman with *Associated Press* reporter Ron Fournier, under the subject line "H-E-R-O." In response to Mr. Fournier's e-mail, Mr. Rove asked, "How does our country continue to produce men and women like this," to which Mr. Fournier replied, "The Lord creates men and women like this all over the world. But only the great and free countries allow them to flourish. Keep up the fight."¹¹⁵

In total, the White House staff sent or received nearly 200 e-mails relating to Corporal Tillman's death on April 23, 2004.

¹⁰⁷ House Committee on Oversight and Government Reform, Interview of Daniel Bartlett (Sept. 12, 2007).

¹⁰⁸ *Id.*

¹⁰⁹ E-mail from Barry Jackson, Deputy to the President's Senior Advisor, to Karl Rove, Senior Advisor to the President (Apr. 23, 2004).

¹¹⁰ E-mail from Matthew Scully, Deputy Director of Presidential Speechwriting, to Michael Gerson, Assistant to the President for Speechwriting (Apr. 23, 2004).

¹¹¹ E-mail from Jennie M. Koch, Executive Assistant to the National Security Advisor, to Gregory Schulte, Executive Secretary, National Security Council (Apr. 23, 2004).

¹¹² E-mail from Matthew Dowd, Chief Strategist, 2004 George W. Bush presidential campaign, to Daniel Bartlett, Assistant to the President for Communications (Apr. 23, 2004).

¹¹³ E-mail from Mark McKinnon, Chief Media Advisor, 2004 George W. Bush presidential campaign to Daniel Bartlett, Assistant to the President for Communications (Apr. 23, 2004).

¹¹⁴ E-mail from Peggy Noonan to Peter Wehner, White House Director of Strategic Initiatives (Apr. 23, 2004).

¹¹⁵ E-mail from Ron Fournier to Karl Rove, Senior Advisor to the President (Apr. 23, 2004).

B. STATEMENT ISSUED PREMATURELY

At approximately noon on April 23, 2004, the White House issued a statement of condolence from the President. Before releasing this statement, White House officials failed to confirm with the Defense Department that Corporal Tillman had actually died. They also failed to determine whether information about the casualty, which occurred during a special operations mission, was classified. Moreover, the White House rushed to release its statement notwithstanding a military requirement intended to protect military families from media attention during the first 24 hours after a casualty.

Taylor Gross, the White House spokesman responsible for media outlets in the South and Southwestern United States, told Committee staff that he drafted a White House statement on the morning of April 23 after receiving several calls from Arizona media outlets.¹¹⁶ He sent the draft to Communications Director Dan Bartlett and Press Secretary Scott McClellan for approval at 11:40 a.m. The statement read:

Pat Tillman was an inspiration on the football field and in his private life. As with all who made the ultimate sacrifice in the war on terror, his family are in the thoughts and prayers of President and Mrs. Bush.¹¹⁷

Minutes later, both Mr. Bartlett and Mr. McClellan approved the message on behalf of the President. Mr. Bartlett noted that the statement might “set a precedent,” but wrote “I’m fine with it.”¹¹⁸ He later clarified: “good to go.”¹¹⁹ Speaking to Committee staff, Mr. Bartlett explained that he made this decision due to the high level of media interest in the story. According to Mr. Bartlett, the story of Pat Tillman “made the American people feel good about our country . . . and our military.”¹²⁰

Mr. Bartlett’s response to Matthew Dowd’s April 23, 2004, e-mail, which suggested that the President visit Corporal Tillman’s family, offers additional insight into the White House’s approach to the reports. He wrote:

I agree he is a hero. But there will be a lot of pressure not to single out one guy just because he was a football player. We are providing a statement to AZ press, but we will need to discuss anything further.¹²¹

¹¹⁶ Although various e-mails reviewed by the Committee referred to this as a “statement” or a “comment,” Mr. Gross explained that he had technically written a “response to an inquiry,” rather than a “presidential statement” because it was released only in reply to particular queries. House Committee on Oversight and Government Reform, Interview of Taylor Gross, at 61 (Sept. 5, 2007). Other White House officials also told the Committee that they saw a distinction between Mr. Gross’s “response to questions” and a more formal, proactive “presidential statement.” White House officials were unhappy with news coverage of Mr. Gross’s April 23 comment, possibly because the press referred to it as a “statement” from the White House. See E-mail from Scott McClellan, White House Press Secretary, to Suzy DeFrancis, Deputy Assistant to the President for Communications (Apr. 23, 2004).

¹¹⁷ E-mail from Taylor Gross, White House spokesman, to Daniel Bartlett, Assistant to the President for Communications (Apr. 23, 2004).

¹¹⁸ E-mail from Daniel Bartlett, Assistant to the President for Communications, to Scott McClellan, White House Press Secretary (Apr. 23, 2004).

¹¹⁹ E-mail from Daniel Bartlett, Assistant to the President for Communications, to Taylor Gross, White House spokesman (Apr. 23, 2004).

¹²⁰ *Id.*

¹²¹ E-mail from Daniel Bartlett, Assistant to the President for Communications, to Matthew Dowd, Chief Strategist, 2004 George W. Bush presidential campaign (Apr. 23, 2004).

When Committee staff asked Mr. Bartlett whether there were further discussions within the White House about responding to Corporal Tillman's death, Mr. Bartlett said he thought it was likely there were discussions, but he did not have any specific recollection of them.¹²²

Although Mr. Gross's statement was approved by President Bush's top communications advisors, it appears that no one in the White House confirmed with the military whether Corporal Tillman had actually died. The White House also did not confirm with the military that it could talk publicly about Corporal Tillman, whose regiment regularly participated in sensitive missions. According to Mr. Gross, "by and large things are confirmed by the White House before they're stated," whether in "a reactive statement or a proactive statement."¹²³ But Mr. Gross told Committee staff that he drafted this statement quickly ("about a two-hour turnaround time"), without consulting the Defense Department.¹²⁴ Mr. Gross stated:

I personally did not verify with DOD, but I got my statement approved via my normal chain of command. . . . You know, again, frankly, confirming—confirming that was—you know, that's above my pay grade. That was for a superior.¹²⁵

Mr. Gross's superiors did not verify the statement either. Mr. McClellan told Committee staff that "the way it usually was done was, you know, you confirm he was killed."¹²⁶ But Mr. McClellan asserted that confirmation of these facts was not his job, and that he did not attempt to verify the statement before approving it for release. He also did not check whether information relating to Corporal Tillman's death was classified, explaining, "It was obvious. It was in the news."¹²⁷

Likewise, Mr. Bartlett said, "I did not take any formal steps" to confirm the information.¹²⁸ Nevertheless, he "personally was under the impression that this was true" based on the "totality of information coming from the media."¹²⁹ Mr. Bartlett also denied that confirming the accuracy of a presidential statement was his job. He explained: "Generally my conversations with DOD were at a much higher level."¹³⁰

If White House officials had checked with the Department of Defense, they would have learned that the Department had not yet publicly announced Corporal Tillman's death. In accordance with a policy intended to give the families of war casualties a 24-hour private grieving period, the Defense Department did not announce the

¹²² House Committee on Oversight and Government Reform, Interview of Daniel Bartlett (Sept. 12, 2007).

¹²³ House Committee on Oversight and Government Reform, Interview of Taylor Gross, at 67 (Sept. 5, 2007).

¹²⁴ *Id.* at 42.

¹²⁵ *Id.* at 52.

¹²⁶ House Committee on Oversight and Government Reform, Interview of Scott McClellan (Sept. 10, 2007).

¹²⁷ *Id.*

¹²⁸ House Committee on Oversight and Government Reform, Interview of Daniel Bartlett (Sept. 12, 2007).

¹²⁹ *Id.*

¹³⁰ *Id.*

casualty until late that evening.¹³¹ This 24-hour policy was mandated by an act of Congress, the Military Family Peace of Mind Act, which President Bush signed into law in November 2003 as part of the Fiscal Year 2004 National Defense Authorization Act.¹³² The act sought to “provide service members’ next-of-kin with a period of privacy before the public is made aware of service members’ death.”¹³³ In the case of Corporal Tillman, the family was not notified until approximately 10:00 p.m. on April 22.

An hour after the White House released its statement, deputy press secretary Claire Buchan learned that DOD was not yet confirming Corporal Tillman’s death. She sent an e-mail to Scott McClellan and Trent Duffy, another deputy press secretary, with the subject line “alert—do not use tillman statement.”¹³⁴ The e-mail stated, “dod is not confirming that he is dead—next of kin still being notified. unfortunately taylor’s statement is on the wire.”¹³⁵ Later in the afternoon, Ms. Buchan e-mailed National Security Council spokesman Sean McCormack and asked him to “bug your friend at DOD” about the Tillman casualty announcement. Mr. McCormack quickly wrote back that DOD was “not confirming yet. this will soon become a problem.”¹³⁶ Later that night, Scott McClellan concurred, writing, “Media affairs commented when asked for reaction from arizona press. They did not check to verify if it had been confirmed.”¹³⁷

Noam Neusner, a speechwriter for President Bush, criticized the hastily issued comment as it was reported in the press, noting that it inappropriately equated Corporal Tillman’s football career with his military service. In an e-mail obtained by the Committee, he wrote:

That statement, as quoted, was ridiculous. Pat Tillman wasn’t a hero on the football field. He played football. But he died for his country. We shouldn’t try to tie the two things together—he didn’t.¹³⁸

C. DISCUSSION OF CORPORAL TILLMAN IN PRESIDENTIAL SPEECH

On May 1, 2004, President Bush delivered a speech during the annual White House Correspondents’ Dinner. The President devoted a significant portion of the speech to a discussion of Corporal Tillman. According to Dan Bartlett, “We made a strategic decision

¹³¹ Department of Defense, Instruction Number 1300.18 (2008).

¹³² Pub. L. 108–136.

¹³³ U.S. House of Representatives, Conference Report to Accompany H.R. 1588 (Report 108–354), at 695 (Nov. 7, 2003). Representative Walter B. Jones, the original sponsor of the act, explained that some military families “had little time to grieve” because they were forced to “fend off aggressive press inquiries” in the hours after a loved one’s death. A 24-hour delay on publicity, he said, “would not unreasonably impair the public’s access to information about military activities, but could provide an immeasurable amount of relief to those who have endured the loss.” *Statement of Representative Walter B. Jones*, Congressional Record, E889 (May 7, 2003).

¹³⁴ E-mail from Claire Buchan, Deputy White House Press Secretary, to Trent Duffy, Deputy White House Press Secretary, and Scott McClellan, White House Press Secretary (Apr. 23, 2004).

¹³⁵ *Id.*

¹³⁶ E-mail from Claire Buchan, Deputy White House Press Secretary, to Sean McCormack, NSC Press Secretary (Apr. 23, 2004). Mr. McCormack told the Committee he had no recollection of the events described in this e-mail.

¹³⁷ E-mail from Scott McClellan, White House Press Secretary, to Suzy DeFrancis, Deputy Assistant to the President for Communications (Apr. 23, 2004).

¹³⁸ E-mail from Noam Neusner, Special Assistant to the President for Economic Speech Writing, to Erin Healy, Assistant White House Press Secretary (Apr. 23, 2004).

to pay tribute to the troops” during the 2004 speech because the White House “got singed pretty bad” for a previous speech in which the President’s jokes were considered inappropriate during wartime.¹³⁹

Documents reviewed by the Committee show that White House officials had decided to include Corporal Tillman in the Correspondents’ Dinner speech by April 27, 2004. On that day, White House Research Assistant Lee Bockhorn e-mailed White House speechwriter, Michael Gerson, a number of press clippings in response to Mr. Gerson’s request for the “most moving” stuff on Tillman, particularly anything he said.”¹⁴⁰

In his speech, the President spoke about the sacrifices of military personnel, singling out Corporal Tillman’s service. He said:

The loss of Army Corporal Pat Tillman last week in Afghanistan brought home the sorrow that comes with every loss and reminds us of the character of the men and women who serve on our behalf. Friends say that this young man saw the images of September the 11th, and seeing that evil, he felt called to defend America. He set aside a career in athletics and many things the world counts important, wealth and security and the acclaim of the crowds. He chose, instead, the rigors of Ranger training and the fellowship of soldiers and the hard duty in Afghanistan and Iraq.

Corporal Tillman asked for no special attention. He was modest because he knew there were many like him, making their own sacrifices. They fill the ranks of the Armed Forces. Every day, somewhere, they do brave and good things without notice. Their courage is usually seen only by their comrades, by those who long to be free, and by the enemy. They’re willing to give up their lives, and when one is lost, a whole world of hopes and possibilities is lost with them.¹⁴¹

One sentence in this passage—“Friends say that this young man saw the images of September the 11th, and seeing that evil, he felt called to defend America”—was the subject of extensive discussions during the speechwriting process. Although the White House did not give Committee staff access to the earlier drafts of the President’s speech, it appears from e-mails that in at least one of the earlier drafts, this sentence read, “Pat Tillman saw the burning towers on television and felt called to fight the evil behind it.”¹⁴²

White House e-mails reviewed by the Committee show that John Currin, the White House Director of Fact-Checking, quickly discovered that he could not find any substantiation for the statement that Corporal Tillman had enlisted after he “saw the burning towers on television.” When Mr. Currin asked White House speech-

¹³⁹ House Committee on Oversight and Government Reform, Interview of Daniel Bartlett (Sept. 12, 2007).

¹⁴⁰ E-mail from Lee Bockhorn, White House Research Assistant, to Michael Gerson, Assistant to the President for Speechwriting (Apr. 27, 2004).

¹⁴¹ President George W. Bush, *Remarks at White House Correspondents’ Dinner* (May 1, 2004).

¹⁴² E-mail from John Currin, White House Director of Fact-Checking, to Michael Gerson, Matthew Scully, and John McConnell, White House Speechwriters (Apr. 28, 2004).

writer Matthew Scully about the source of this statement, Mr. Scully responded: “Should be in news accounts.”¹⁴³

In an effort to confirm this statement, Mr. Currin contacted Carol Darby, a public affairs officer at U.S. Army Special Operations Command, to ask whether she could confirm why Pat and Kevin Tillman had joined the Army. According to Ms. Darby, she told him:

No, that I could not, that I had never talked to either of the brothers and I had never seen anything in print of any sort that stated why they joined the Army. But I had seen press reports where Pat’s coach had spoke of something along those lines, but it really didn’t give exactly why Pat joined the Army. And he asked if I could send him some of those press reports and I did have those.¹⁴⁴

After speaking with Ms. Darby and receiving her faxed articles discussing Corporal Tillman’s enlistment, Mr. Currin urged the speechwriting team to change or remove text claiming that Corporal Tillman joined the Army as a result of the attacks of September 11. On April 28, 2004, he wrote to speechwriter Matthew Scully:

My DoD contact, who checked with the Rangers, confirm that he never gave any media interview or discussed the reason why he left the NFL to join the Rangers. . . . [G]iven that he never spoke to the press about his reasons for joining the Rangers, we simply do not have support for the statement that he decided to join the Rangers after seeing the burning towers on television.¹⁴⁵

Two hours later, Mr. Currin e-mailed Michael Gerson, the chief White House speechwriter:

There is no direct support for the statement that Pat Tillman saw the burning towers on television and felt called to fight the evil behind it. Tillman and his brother never discussed their reasons with the press, nor have their parents. Tillman kept his reasons to himself. The people at Fort Lewis, the base for Tillman’s unit, could not confirm that September 11 was the reason why Tillman joined the Army. All that I and Carol Darby at USASOC (Ft. Lewis) could find is mention in a news article from March 2003 that says that “friends say the brothers were deeply affected by the September 11 terrorist attacks and felt compelled to enlist.” We do not know if these friends were speculating about Tillman’s reasons or if they had direct knowledge of Tillman’s reasons. The bottom line is that Tillman never stated publicly his reasons for joining the

¹⁴³ E-mail from Matthew Scully, deputy director of Presidential Speechwriting, to John Currin, White House Director of Fact-Checking (Apr. 28, 2004).

¹⁴⁴ House Committee on Oversight and Government Reform, Interview of Carol Darby, at 39 (Sept. 18, 2007).

¹⁴⁵ E-mail from John Currin, White House Director of Fact-Checking, to Matthew Scully, deputy director of Presidential Speechwriting (Apr. 28, 2004).

Rangers, and it is speculation that he did so because of September 11.¹⁴⁶

Mr. Currin thought the issue was important enough that he sent a third message to the speechwriters on the following day, April 29. In this e-mail, he wrote that Ms. Darby of USASOC had offered to call the Tillman family on his behalf, but Mr. Currin advised against it. He wrote:

As I mentioned yesterday, Pat Tillman and his family never spoke about the reasons why he chose to leave the NFL and join the Army, and the statement in the remarks for the correspondence dinner attributing his motivation to seeing the burning towers on 9/11 is speculation. I spoke yesterday with Carol Darby at Ft. Lewis (the base for the Rangers) to check on Tillman's correct rank and see if she could verify Tillman's reasons for joining the Rangers. Carol phoned me just now to ask if we wanted to go through the CACO [casualty assistance officer] assigned to the Tillman family and see if they would want to talk to us about Corporal Tillman's reasons for joining the Army. I am not certain if we would want to approach the family in their time of grief (they will receive Corporal Tillman's remains today), or if you can work around the problem of not knowing as fact the reasons that motivated Tillman to join the Army. Let me know if you want me to go through the Tillman family CACO to see if the family will let us know his reasons. My sense, however, is that because Tillman wanted to keep his reasons private, and because his family continues to respect his wish to this day, we should as well, and work as best we can around the speculation.¹⁴⁷

Yet the final draft, approved and read by the President, retained the admittedly "speculative" statement about Corporal Tillman's motivation for enlisting. Rather than remove the passage, the speechwriters attributed it to unknown "friends."

D. KNOWLEDGE OF FRATRICIDE

The record before the Committee does not explain when and how White House officials learned that Corporal Tillman's death was due to fratricide. Although the Committee requested from the White House all documents related to Corporal Tillman, none of the documents produced discussed the fratricide. Moreover, none of the White House officials interviewed by Committee staff had any recollection of how they learned of the fratricide or what they did in response.

As discussed in part II, on April 29, 2004, General McChrystal sent a P4 message to the commanding general at CENTCOM, and sent information copies to the commanders of SOCOM and USASOC, urging that they inform the President of the likely fratricide. The P4 cited "unconfirmed but suspected reports that

¹⁴⁶ E-mail from John Currin, White House Director of Fact-Checking, to Michael Gerson, Matthew Scully, and John McConnell, White House Speechwriters (Apr. 28, 2004).

¹⁴⁷ E-mail from John Currin, White House Director of Fact-Checking, to Michael Gerson, Matthew Scully, and John McConnell, White House Speechwriters (Apr. 29, 2004).

POTUS [the 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 [sic] currently being prepared" and stressed that it was "essential" that the P4 recipients were immediately informed about the fratricide "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."¹⁴⁸

Two days after the P4 memo was sent, President Bush gave his speech at the White House Correspondents' Dinner. As the P4 advised, the President did not discuss how Corporal Tillman died. None of the documents provided to the Committee indicate whether the P4 or the information in the P4 reached the White House.¹⁴⁹

General Richard Myers, the Chairman of the Joint Chiefs of Staff, was by statute the "principal military advisor to the President."¹⁵⁰ Although he knew at the end of April that Corporal Tillman was likely killed by friendly fire, he told the Committee that he could not remember "ever having a discussion with anybody in the White House about the Tillman case, one way or another."¹⁵¹

The former White House officials interviewed by the Committee also provided no details about how they, or the President, learned of the fratricide. Committee staff interviewed seven White House employees, including the President's communications director, press secretary, chief speechwriter, and top NSC communications officials. None could recall when they learned the death of Corporal Tillman was under investigation as a possible fratricide, or what they did in response.

Dan Bartlett, White House communications director in 2004, told the Committee he did not have a "specific recollection" as to when he learned of the friendly fire. Asked whether he informed the President of the fratricide, he stated, "I don't remember a particular conversation, but I can't rule out that I talked to him about it."¹⁵²

Scott McClellan, the White House Press Secretary in 2004, said he did not remember when he or the President learned about the fratricide, but stated that he "maybe" could have heard about the fratricide just before the public release on May 29, 2004.¹⁵³

Michael Gerson, former chief White House speechwriter, did not recall when he learned about the friendly fire, whether he knew about the fratricide while preparing the President's Correspond-

¹⁴⁸ "Personal For" message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, and Lieutenant General Philip Kensinger (Apr. 29, 2004).

¹⁴⁹ Although the acting Defense Department Inspector General, Thomas Gimble, testified that his office "think[s] the P4 memo stopped with the three generals that were on it," the IG did not interview Secretary Rumsfeld, General Myers, or any White House officials during its investigation. House Committee on Oversight and Government Reform, Testimony of Thomas Gimble, Acting Defense Department Inspector General, *Hearing on Misleading Information from the Battlefield*, 110th Cong. (Apr. 24, 2007) (Serial No. 110-54).

¹⁵⁰ 10 U.S.C. 151(b).

¹⁵¹ House Committee on Oversight and Government Reform, Testimony of General Richard Myers, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 34 (Aug. 1, 2007) (Serial No. 110-49).

¹⁵² House Committee on Oversight and Government Reform, Interview of Daniel Bartlett (Sept. 12, 2007).

¹⁵³ House Committee on Oversight and Government Reform, Interview of Scott McClellan (Sept. 10, 2007).

ents' Dinner speech, or whether he ever discussed the fratricide with the President.¹⁵⁴

Taylor Gross, former White House spokesman, told Committee staff, "after the 23rd of April, I did not have any official conversation with anyone that I can recall regarding this matter on an official or informal basis." He said, "after that date, my only information that I recall having about Pat Tillman's death or anything to do with Pat Tillman's death, friendly fire or otherwise, was reading in the news reports."¹⁵⁵

President Bush was asked directly by a reporter in August 2007 when he learned that Corporal Tillman was killed by friendly fire. He said he did not remember. He explained: "I can't give you the precise moment. But obviously the minute I heard that the facts that people believed were true were not true, that I expect there to be a full investigation and get to the bottom of it."¹⁵⁶

IV. SECRETARY RUMSFELD'S RESPONSE

Evidence obtained by the Committee shows that Secretary of Defense Donald Rumsfeld took a personal interest in Pat Tillman's enlistment in the Army Rangers. Evidence also establishes that after Corporal Tillman was killed, senior military officials who reported directly to Secretary Rumsfeld, including the Chairman of the Joint Chiefs and several combatant commanders, became aware of the fratricide. Yet when Secretary Rumsfeld testified before the Committee in August 2007, he stated he had no recollection of how or when he learned of the fratricide and no recollection of what he did in response.

On June 25, 2002, about a month after Pat Tillman enlisted in the Army, Secretary Rumsfeld wrote a so-called "snowflake memo" to the Secretary of the Army with the subject line, "Pat Tillman." The memo attached a *Chicago Tribune* newspaper account about Mr. Tillman's enlistment and read, "Here is an article on a fellow who is apparently joining the Rangers. He sound[s] like he is world-class. We might want to keep our eye on him."¹⁵⁷ Documents produced to the Committee show that a friend living in the Chicago area had initially brought the *Tribune* article to Secretary Rumsfeld's attention.¹⁵⁸ Three days later, on June 28, 2002, Secretary Rumsfeld sent Mr. Tillman a personal letter applauding him for his decision to enlist. He wrote, "I heard that you were leaving the National Football League to become an Army Ranger. It is a proud and patriotic thing you are doing."¹⁵⁹

When he was asked about the June 25 snowflake memo to Secretary White, Secretary Rumsfeld told the Committee he did not intend to "single out" Corporal Tillman for progress reports or other special treatment. He said the purpose of his memo was to commu-

¹⁵⁴House Committee on Oversight and Government Reform, Interview of Michael Gerson (Sept. 11, 2007).

¹⁵⁵House Committee on Oversight and Government Reform, Interview of Taylor Gross, at 102 (Sept. 5, 2007).

¹⁵⁶White House, *President Bush Discusses American Competitiveness Initiative During Press Conference* (Aug. 9, 2007).

¹⁵⁷Memorandum from Donald Rumsfeld, Secretary of Defense, to Tom White, Secretary of the Army (June 25, 2002).

¹⁵⁸Letter from Donald Rumsfeld, Secretary of Defense, to William H. Laver (June 26, 2002).

¹⁵⁹Letter from Donald Rumsfeld, Secretary of Defense, to Mr. Pat Tillman (June 28, 2002).

nicate that, “here is an individual who is serving his country and is prominent and gave up a good deal to do that; and that we, as people in the Department, ought to acknowledge that and be grateful for his service, as I was.”¹⁶⁰

Colonel Steven Bucci, Secretary Rumsfeld’s military assistant at the time, recalled that Mr. Tillman’s enlistment was a major event that caught the attention of Secretary Rumsfeld. He told the Committee, “it was all over the newspapers. It was sort of a big event for everybody.”¹⁶¹ Both Colonel Bucci and Lieutenant General Bantz J. Craddock, former senior military assistant to Secretary Rumsfeld, told the Committee this was the only time they could recall Secretary Rumsfeld writing personal notes praising the enlistment of an individual soldier.¹⁶²

Larry Di Rita, who was serving as Special Assistant to the Secretary in June 2002, had a similar recollection of why Secretary Rumsfeld took a personal interest in Pat Tillman’s enlistment. Mr. Di Rita told Committee staff that he did not remember being involved in the drafting of Secretary Rumsfeld’s June 25 snowflake memo or June 28 letter, but he generally remembered the attention Corporal Tillman’s enlistment received within the Secretary’s office. He told the Committee:

This was a noteworthy event in the country. It had to do with the Department for which he [Secretary Rumsfeld] had oversight responsibility and control. . . . [T]his was less than a year after 9/11. So there was still a great deal of interest in what was happening with respect to the Armed Forces. . . . [I]t was a very unusual circumstance, a football player leaving the NFL to join the Army. I don’t recall that it had happened to anybody else while we were serving. So the nature of that kind of event is not surprising to me that the Secretary would have chosen to single it out.¹⁶³

In his testimony before the Committee, Secretary Rumsfeld said he could not recall when he learned about the fratricide or who told him. He told the Committee:

I don’t recall when I was told and I don’t recall who told me. But my recollection is that it was at a stage when there were investigations under way, in which case I would not have told anybody to go do something with respect to it. . . . And it was not something that I would inject myself into the normal course of my role as secretary of defense.¹⁶⁴

¹⁶⁰House Committee on Oversight and Government Reform, Testimony of Donald Rumsfeld, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 203 (Aug. 1, 2007) (Serial No. 110–49).

¹⁶¹House Committee on Oversight and Government Reform, Interview of Dr. Steven Bucci, at 26 (Sept. 20, 2007).

¹⁶²*Id.*; House Committee on Oversight and Government Reform, Interview of General Bantz J. Craddock, at 18 (July 27, 2007).

¹⁶³House Committee on Oversight and Government Reform, Interview of Lawrence Di Rita, at 41 (Sept. 24, 2007).

¹⁶⁴House Committee on Oversight and Government Reform, Testimony of Donald Rumsfeld, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 35 (Aug. 1, 2007) (Serial No. 110–49).

When he was asked how he could not have known that Corporal Tillman's death was being investigated as a fratricide, Secretary Rumsfeld responded: "You're talking about an institution of something like 3 million people: active duty, Reserve, Guard, civilians, contractors. . . . It's not possible for someone to know all the things that are going on."¹⁶⁵ Furthermore, Secretary Rumsfeld told the Committee, "I know that I would not engage in a cover-up. I know that no one in the White House suggested such a thing to me."¹⁶⁶

The Committee received conflicting evidence about when Secretary Rumsfeld learned about the fratricide. General Abizaid, the CENTCOM commander, recalled informing Secretary Rumsfeld "that there was an investigation that was ongoing and it looked like it was friendly fire" between May 18 and May 20, 2004, more than a week prior to the public announcement.¹⁶⁷

But Secretary Rumsfeld informed the Committee that his military assistant, Colonel Steven Bucci, recalled that Secretary Rumsfeld did not learn about the fratricide until after May 20. In a letter to the Committee, Secretary Rumsfeld wrote:

I am told that I received word of this development sometime after May 20, 2004, but my recollection reflects the fact that it occurred well over two years ago. As a result, I do not recall when I first learned about the possibility that Corporal Tillman's death might have resulted from fratricide. I am confident that I did not discuss this matter with anyone outside the Department of Defense.¹⁶⁸

The Committee interviewed Colonel Bucci, who returned to the Secretary's personal office on Monday, May 24, 2004, after a six-month temporary assignment to the Coalition Provisional Authority in Iraq. Sometime during that week, he said he received a call from the Army Chief of Staff's executive assistant or the Secretary of the Army's military assistant. His colleague told him, "We're pretty sure that this may have actually been a fratricide event, and you need to let the Secretary know."¹⁶⁹ Colonel Bucci's colleague also told him officials were "trying to ascertain exactly which caliber weapon had killed him [Corporal Tillman] and trying to check that against the weapon that his brother was carrying," in order to eliminate any possibility that Corporal Tillman had been killed by his brother, Specialist Kevin Tillman.¹⁷⁰

Colonel Bucci stated that he shared this information with Secretary Rumsfeld within fifteen minutes, at one of the Secretary's daily "stand up" staff meetings. He told the Committee:

I said, "Sir, you know, I have bad news. The Army thinks and they are pretty sure that this was actually a fratricide." And he said, "Oh, gosh, that's a shame. Well, they

¹⁶⁵ *Id.* at 177.

¹⁶⁶ *Id.* at 178.

¹⁶⁷ House Committee on Oversight and Government Reform, Testimony of General John Abizaid, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 32 (Aug. 1, 2007) (Serial No. 110-49).

¹⁶⁸ Letter from Donald Rumsfeld to Henry A. Waxman, Chairman, and Tom Davis, Ranking Member, House Committee on Oversight and Government Reform (July 26, 2007).

¹⁶⁹ House Committee on Oversight and Government Reform, Interview of Dr. Steven Bucci, at 26 (Sept. 20, 2007).

¹⁷⁰ *Id.* at 32.

need to settle it and get the word out as quickly as possible.” And it was clear to me from his reaction and the reaction of General Craddock and the others that that was the first time anyone had heard anything about it being a fratricide.¹⁷¹

When asked to further explain his observation that the people in the meeting appeared to be hearing the fratricide news for the first time, Colonel Bucci explained:

We tend in the military to not be particularly happy when there’s fratricide of any sort. You know, it’s enough of a tragedy when you lose soldiers to the enemy. When you lose them because your own guys did something, you know, made a mistake, it’s particularly tragic. So, yeah, everybody’s response to me said this was the first time they were hearing about that aspect of it.¹⁷²

When the Committee interviewed Secretary Rumsfeld’s senior military assistant, General Bantz J. Craddock, he did not recall this conversation. Instead, he recalled that he first heard about the suspected fratricide “over the fence at my quarters one weekend” from his colleague and neighbor at Fort Myer, Lieutenant General James Lovelace, who at that time was Director of the Army Staff.¹⁷³ General Craddock told the Committee:

As I said, I recall at sometime—and it would have been on a weekend. I don’t recall when. My neighbor, Jim Lovelace, indicated it was a possibility, that it was a concern that it might have been a fratricide and it was, like I was, “you’re kidding.”¹⁷⁴

General Craddock told the Committee that he could not recall ever talking to Secretary Rumsfeld about Corporal Tillman.¹⁷⁵ He stated that he was “surprised and taken aback” to hear the news of the fratricide, but he never raised the issue with Secretary Rumsfeld, General Myers, or the Vice Chairman of the Joint Chiefs of Staff.¹⁷⁶ General Lovelace told the Committee that he did not recall the “over the fence” conversation with General Craddock. He also told the Committee that, based on a review of his e-mails, he believed he learned about Corporal Tillman’s fratricide on May 27, 2007, two days before the public announcement.¹⁷⁷

V. GENERAL MYERS’S RESPONSE

General Richard Myers, Chairman of the Joint Chiefs of Staff in 2004, testified before the Committee on August 1, 2007. As Chairman of the Joint Chiefs, General Myers was the highest-ranking officer in the military and the “principal military adviser to the

¹⁷¹ *Id.*

¹⁷² *Id.* at 34.

¹⁷³ House Committee on Oversight and Government Reform, Interview of General Bantz J. Craddock, at 19 (July 27, 2007).

¹⁷⁴ *Id.* at 27.

¹⁷⁵ *Id.* at 17.

¹⁷⁶ House Committee on Oversight and Government Reform, Interview of General Bantz J. Craddock, at 28 (July 27, 2007).

¹⁷⁷ House Committee on Oversight and Government Reform, Interview of Lieutenant General James Lovelace, at 20 (July 31, 2007).

President, the National Security Council, and the Secretary of Defense.”¹⁷⁸ In that role, he communicated many times a day with Secretary Rumsfeld, including attending a daily “roundtable” meeting in Secretary Rumsfeld’s office.¹⁷⁹ Moreover, according to Secretary Rumsfeld, he and General Myers also “met with the White House frequently.”¹⁸⁰

When General Myers testified before the Committee on August 1, 2007, he confirmed that he learned about the friendly fire suspicions only days after Corporal Tillman died. He testified: “I knew right at the end of April, that there was a possibility of fratricide in the Corporal Tillman death, and that General McChrystal had started an investigation.”¹⁸¹ General Myers did not recall how he learned of the investigation, but thought he might have heard it from the operations office within the Joint Chiefs of Staff.¹⁸²

General Myers’s early knowledge of the fratricide was confirmed by General Abizaid, commander of CENTCOM. General Abizaid testified that he called General Myers after receiving the P4 message on or after May 6, 2004, but found that General Myers was already aware of the situation:

I called the chairman, I told the chairman about having received General McChrystal’s message that friendly fire was involved. . . . And it was my impression from having talked to the chairman at the time that he knew about it.¹⁸³

According to Lieutenant General Sattler, General Abizaid’s top operations officer at CENTCOM, General Abizaid likely called General Myers with the understanding that the Chairman would pass the information in the P4 message on to Secretary Rumsfeld. General Sattler stated:

I’m sure that General Abizaid’s goal would have been to let the Secretary know immediately as in his chain of command. And there’s obviously two different ways. One is point to point; the other one is through his confidant and advisor, the Chairman. So, yes, I would be very surprised if General Abizaid did not know, one way or the other, the Secretary was going to be informed immediately.¹⁸⁴

General Myers could not recall whether he informed the Secretary of Defense or the President about the fratricide. General Myers acknowledged in his testimony that it would have been “log-

¹⁷⁸ 10 U.S.C. 151(b); although the Chairman of the Joint Chiefs of Staff is not in the chain of command between combatant commanders and the Secretary of Defense, the Goldwater-Nickles Act allows the Chairman to act as a conduit for communications between the combatant commanders and the Secretary, 10 U.S.C. 163(a).

¹⁷⁹ House Committee on Oversight and Government Reform, Interview of General Bantz J. Craddock, at 34 (July 27, 2007).

¹⁸⁰ House Committee on Oversight and Government Reform, Testimony of Donald Rumsfeld, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 34 (Aug. 1, 2007) (Serial No. 110–49).

¹⁸¹ House Committee on Oversight and Government Reform, Testimony of General Richard Myers, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 32 (Aug. 1, 2007) (Serial No. 110–49).

¹⁸² *Id.*

¹⁸³ House Committee on Oversight and Government Reform, Testimony of General John Abizaid, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 31 (Aug. 1, 2007) (Serial No. 110–49).

¹⁸⁴ House Committee on Oversight and Government Reform, Interview of General John F. Sattler, at 41 (July 24, 2007).

ical” for him to share the news with the Secretary of Defense, but said “I just don’t recall whether I did it or not” and “I don’t have any documentation that says I did.”¹⁸⁵ General Myers also testified that he could not recall “ever having a discussion with anybody in the White House about the Tillman case, one way or another.”¹⁸⁶

Shortly after learning of the possibility of a fratricide, General Myers had a conversation with his top public affairs official, then-Captain Frank Thorp, about how to discuss the circumstances of Corporal Tillman’s death. He told the Committee:

[I]n working with my former public affairs adviser, I said, you know, “We need to keep this in mind in case we go before the press. We’ve just got to calibrate ourselves. With this investigation ongoing, we want to be careful how we portray the situation.” . . . I do remember talking to him about the potential of fratricide and just say we’ve got to be cautious here, . . . if we make any comments.¹⁸⁷

When the Committee interviewed now-Admiral Thorp, he had a similar recollection of the encounter:

He pulled me aside, as I recall, pulled me in his office and gave me a heads—I don’t remember his exact words, but I do remember him saying, giving me a heads up that he has heard it is possible fratricide and advising me to make sure that I kept him honest and correct in his public remarks.¹⁸⁸

General Myers told the Committee he was “cautious” when discussing Corporal Tillman’s death to avoid exerting “command influence” over those investigating the fratricide, even though General Myers, as Joint Chiefs Chairman, was not technically in the chain of command. He denied engaging in a cover-up of the friendly fire.¹⁸⁹

General Myers told the Committee that he took no steps to notify the Tillman family or speak in public about the possibility of friendly fire. He told the Committee that notifying the family “wouldn’t be our responsibility” at the Joint Chiefs because it is done in “Army channels.” He said it would have been “absolutely irresponsible of me to interfere with Army procedures, frankly.”¹⁹⁰ He further explained:

I mean, it sounds harsh, and it is harsh, but the reality is there is a lot of things going on, and this—Corporal Tillman’s death was significant, but it wasn’t the kind of issue that occupied a whole lot of time. . . . We were working on the battle of Fallujah. We had a myriad of issues. Abu

¹⁸⁵ House Committee on Oversight and Government Reform, Testimony of General Richard Myers, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 223 (Aug. 1, 2007) (Serial No. 110–49).

¹⁸⁶ *Id.*

¹⁸⁷ House Committee on Oversight and Government Reform, Testimony of General Richard Myers, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 33 (Aug. 1, 2007) (Serial No. 110–49).

¹⁸⁸ House Committee on Oversight and Government Reform, Interview of Rear Admiral Frank Thorp, IV, at 26 (Sept. 19, 2007).

¹⁸⁹ House Committee on Oversight and Government Reform, Testimony of General Richard Myers, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 197 (Aug. 1, 2007) (Serial No. 110–49).

¹⁹⁰ *Id.* at 219.

Ghraib had just broke; we spent a lot of time in the media with Abu Ghraib. There were a lot of issues taking our attention. I think it would have been irresponsible for the chairman to get involved in what are Army matters.¹⁹¹

Although General Myers did not notify the Tillman family of the possible friendly fire, he did notify the National Football League on April 23 that Corporal Tillman had been killed.¹⁹² Greg Aiello, Vice President for Public Relations for the NFL, told Army representatives that General Myers called NFL Commissioner Paul Tagliabue on April 23, 2004, to notify him of the casualty.¹⁹³ Mr. Tagliabue confirmed to Committee staff that he received this call.¹⁹⁴ At the time General Myers made this call, Defense Department policy required that the Department refrain from public comment on the death of a soldier until 24 hours after family notification.

VI. GENERAL ABIZAID'S RESPONSE

General John Abizaid, commanding general of CENTCOM, was the military officer at the top of Corporal Tillman's operational chain of command and the main addressee on General McChrystal's P4 memo. General Abizaid testified before the Committee that he was traveling in Iraq and Afghanistan when the P4 memo was sent and that CENTCOM headquarters in Tampa, Florida failed to forward him the message in a timely way. As a result, General Abizaid testified, he received the P4 message a week or more after it was sent, probably around May 6, 2004.¹⁹⁵

General Abizaid told the Committee that immediately after receiving the P4, he contacted General Myers, the Joint Chiefs Chairman, to notify him that Corporal Tillman's death was a suspected friendly fire. He stated, "[a]s soon as I saw the message . . . I called the chairman; I told the chairman about it."¹⁹⁶ General Abizaid testified that when he called General Myers, "it was my impression from having talked to the chairman at the time he knew about it."¹⁹⁷ General Abizaid also testified that in their conversation, he told General Myers he thought the "leadership" should know about the suspected fratricide, by which he meant "the secretary and the president."¹⁹⁸

During his visit to Afghanistan in late April, General Abizaid spoke with Corporal Tillman's platoon leader, 1st Lieutenant David Uthlaut, who had been injured in the same firefight in which Corporal Tillman was killed. In his April 30, 2004, press availability in Qatar, General Abizaid made the following comment:

¹⁹¹ *Id.*

¹⁹² Shari Lawrence, Army Human Resources Command, "EXSUM" Document (Apr. 23, 2004).

¹⁹³ *Id.*

¹⁹⁴ House Committee on Oversight and Government Reform, Interview of Paul Tagliabue (May 27, 2008).

¹⁹⁵ General Abizaid blamed the delay in his receipt of the P4 on "a problem within my own headquarters." According to CENTCOM's Director of Operations at the time, Lieutenant General John Sattler, "we had problems with our P4 system" while deployed outside of the continental United States that might have caused such a delay. House Committee on Oversight and Government Reform, Interview of General John F. Sattler, at 33 (July 24, 2007).

¹⁹⁶ House Committee on Oversight and Government Reform, Testimony of General John Abizaid, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 31 (Aug. 1, 2007) (Serial No. 110-49).

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* at 233.

I'd also like to say that while I was in Afghanistan yesterday I had the opportunity to talk to 1st Lieutenant Dave Hutman [sic] of the 1st Ranger Battalion, of the Ranger battalion—maybe I've got the wrong Ranger battalion that he was with. He was the platoon leader of Pat Tillman. I asked him yesterday how operations were going. I asked him about Pat Tillman. He said, "Pat Tillman was a great Ranger and a great soldier, and what more can I say about him?" And I'd say that about every one of those young men and women that are fighting, not only in Afghanistan but in Iraq. I also probably bear some understanding that—that lieutenant I was talking to happened to be a former first captain of corps of cadets at West Point, and when he was talking to me, he was still nursing a large number of wounds that he sustained in that firefight where Pat Tillman lost his life.¹⁹⁹

General Abizaid testified that Lieutenant Uthlaut "gave no indication that there was a friendly fire issue" during their conversation.²⁰⁰

In a written response to the Committee, General Abizaid said he was not informed about the friendly fire suspicions before or during this trip to Afghanistan. He also reiterated his testimony that he did not know about the friendly fire before he reviewed General McChrystal's P4 message on about May 6, 2004.²⁰¹

General Abizaid told the Committee that when he traveled to Washington, DC, between May 18 and May 20, 2004, he informed Secretary Rumsfeld "that there was an investigation that was ongoing and it looked like it was friendly fire."²⁰² Yet when asked by the Defense Department Inspector General whether he spoke with the Secretary upon learning of the fratricide, General Abizaid stated, "No. I didn't talk to the Secretary of Defense about it."²⁰³

VII. THE RESPONSE OF OTHER SENIOR MILITARY LEADERS

A. GENERAL BRYAN BROWN

General Bryan Brown, the SOCOM commander, told the Committee he received General McChrystal's April 29, 2004, P4 memo, but failed to inform his superiors or the Tillman family of the fratricide. According to General Brown:

When I got the P4, I made the assumption and probably the bad assumption since I was an info addressee and not the "to" that that information would flow through the nor-

¹⁹⁹ Department of Defense, Gen. Abizaid Central Command Operations Update Briefing (Apr. 30, 2004) (online at www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2557).

²⁰⁰ House Committee on Oversight and Government Reform, Testimony of General John Abizaid, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 31 (Aug. 1, 2007) (Serial No. 110-49). Then-Captain Uthlaut told the DOD IG that he was unaware of the friendly fire for approximately 10 days while recuperating after the firefight. Department of Defense Office of Inspector General, Interview of Captain David Uthlaut, at 5 (July 29, 2006).

²⁰¹ Letter from General John Abizaid (Retired) to Chairman Henry Waxman and Ranking Member Tom Davis, House Committee on Oversight and Government Reform (Jan. 15, 2008).

²⁰² House Committee on Oversight and Government Reform, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 32 (Aug. 1, 2007) (Serial No. 110-49).

²⁰³ Department of Defense Office of Inspector General, Interview of General John Abizaid, at 9 (Dec. 13, 2006).

mal chain of command. It would have been very simple for me to pick up the phone and call the chairman, I didn't. I did respond to the P4 back to General McChrystal but quite frankly, I just made the assumption, a bad assumption now—I know that normal P4 traffic moves pretty fast—that that would go to the chairman immediately. So it's unfortunate it was poorly handled and unfortunately it's the Tillman family that had to pay the price for it.²⁰⁴

General Brown told the Defense Department Inspector General that he knew about the friendly fire suspicions even before receiving the memo because he received a phone call from General McChrystal a few days earlier notifying him that the shooting was a possible friendly fire and that an Army 15–6 investigation was under way. He also said that he believed the Department of Defense should have notified the Tillman family of the investigation as soon as it became aware of the information.²⁰⁵

According to General Brown, notifying the family was not his responsibility because he was a combatant commander.²⁰⁶ Nevertheless, General Brown told the Committee that when he learned the notification had not taken place, more than a month after the shooting, he initiated an effort to notify the Tillman family before the public announcement on May 29, 2004.²⁰⁷

B. LIEUTENANT GENERAL PHILIP KENSINGER

Precisely how and when General Kensinger, the commanding general of the U.S. Army Special Operations Command (USASOC), learned of the fratricide remains a subject of dispute. When the Committee interviewed General Kensinger, he stated that he was unaware of any suspicions of friendly fire when he attended Corporal Tillman's memorial service in San Jose, California, on May 3, 2004. But his account is contradicted by the testimony of several other officers, as well as by General Kensinger's own prior statements, all of which suggest he learned about the possibility of friendly fire prior to the May 3 memorial service. All the witnesses agree, however, that General Kensinger made no effort to inform the Tillman family of the fratricide until the end of May 2004.

When the Committee interviewed General Kensinger on February 29, 2008, he was asked when he first learned that Corporal Tillman's death may have been caused by friendly fire.²⁰⁸ General Kensinger responded, "to the best that I remember, it was after the memorial service when I got the P4."²⁰⁹ General Kensinger said he

²⁰⁴House Committee on Oversight and Government Reform, Testimony of General Bryan Brown, *Hearing on the Tillman Fratricide: What the Leadership of the Defense Department Knew*, 110th Cong., at 218 (Aug. 1, 2007) (Serial No. 110–49).

²⁰⁵Department of Defense Office of Inspector General, Interview of General Bryan Brown, at 16 (Nov. 17, 2006).

²⁰⁶*Id.*

²⁰⁷*Id.* at 39.

²⁰⁸General Kensinger had been invited to attend the August 1, 2007, Committee hearing, but refused, citing a "previously scheduled business matter." E-mail from Charles Gittins, Attorney for General Kensinger, to Majority Staff, House Oversight and Government Reform Committee (July 22, 2007). A subpoena was issued to compel his appearance, but U.S. Marshals could not locate General Kensinger prior to the hearing. Subpoena from Henry A. Waxman, Chairman, House Oversight and Government Reform Committee, to Lieutenant General Philip Kensinger (July 31, 2007).

²⁰⁹House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger, Jr. (Retired), at 24 (Feb. 29, 2008).

did not learn about suspicions of friendly fire until Colonel Clarence K.K. Chinn, the deputy commander of the 75th Ranger Regiment, told him about them after the memorial service. He also stated that he did not see General McChrystal's P4 memo until after he returned to Fort Bragg, North Carolina, after the service. He told the Committee this recollection was based in part on his feeling that he would have been uncomfortable attending the memorial service knowing about the friendly fire suspicions. He stated:

I mean I just have a hard time going back and trying to rectify the dates. And that is why I said that it was after the memorial service. Because I would have had a different feel—I just know myself. I would have had a different feeling at the memorial service if I had known about this before going to the memorial service.²¹⁰

General Kensinger's statements are contradicted by the testimony of Brigadier General Howard Yellen, the deputy commander of USASOC in April 2004. He told the Defense Department Inspector General that on April 24, the commander of the 75th Ranger Regiment, Colonel Nixon, called and told him "I think we have a possible fratricide."²¹¹ General Yellen told Committee staff he shared this information with General Kensinger on the same day. He stated: "I either went by and went into his office and told him, or brought it up at a daily update."²¹² When asked about this conversation, General Kensinger told the Committee, "I don't remember that."²¹³

General Yellen also told the Committee that General Kensinger "[a]bsolutely" knew about the suspected fratricide prior to the memorial service on May 3.²¹⁴ According to General Yellen, he had a discussion with General Kensinger prior to the memorial about the need to disclose to the Tillman family the possibility of fratricide. General Yellen told the Committee:

I remember indicating that not saying anything might not be to our best—bad news doesn't get better with time. And I remember General Kensinger saying the investigation is not yet complete. . . . My recommendation was just to explain to the family that we have a suspicion that this may have been friendly fire. We have a thorough investigation currently ongoing and we are going to brief you just as soon as that investigation is complete. We are going to come out there and we're going to lay all the facts on the table for you and explain this, as we do for all of our 15–6 collateral investigations. . . . I mean, this was not unusual in going out and briefing a family. In fact, General Shinseki, when he was Chief of Staff, instituted that policy.²¹⁵

²¹⁰ *Id.* at 30.

²¹¹ Department of Defense Office of Inspector General, Interview of Brigadier General Howard Yellen, at 8 (Dec. 1, 2006).

²¹² House Committee on Oversight and Government Reform, Interview of Brigadier General Howard Yellen (Retired), at 40 (July 25, 2007).

²¹³ House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger, Jr. (Retired), at 25 (Feb. 29, 2008).

²¹⁴ House Committee on Oversight and Government Reform, Interview of Brigadier General Howard Yellen (Retired), at 39 (July 25, 2007).

²¹⁵ *Id.* at 62.

According to General Yellen, General Kensinger did not support sharing the information with the Tillman family before the investigation was complete. General Yellen summed up their disagreement in the following way: “He wanted to have a complete report. And I, my approach is you don’t need the completed report.”²¹⁶ Although he did not recall specific conversations with General Yellen about notifying the family of the fratricide investigation, General Kensinger told the Committee he recalled believing “that until the investigation was completed you didn’t notify the family.”²¹⁷

General Kensinger’s assertion to the Committee that he learned about friendly fire suspicions after the May 3 memorial is also contradicted by another former member of General Kensinger’s staff, Lieutenant Colonel David Duffy. Colonel Duffy told the Department of Defense Inspector General that he personally delivered General McChrystal’s P4 message to General Kensinger on the morning of April 30, 2004, three days before the memorial service. Colonel Duffy stated:

Once I got it I hand carried it immediately up to GEN Kensinger, the commander at the time. . . . I mean, I sat down. He sat in on chair, I sat in the other and I handed it to him.²¹⁸

Colonel Duffy recalled that General Kensinger was concerned about the P4 message, and warned him to avoid discussing it:

[H]e read it and, you know, was dismayed by the contents obviously. And then basically looked me in the eye and said if it leaked anywhere that, you know, it was on me. . . . I do know that he said words to the effect of “Damn, I wish they hadn’t have told me.”²¹⁹

Colonel Duffy noted that General Kensinger’s warning not to disclose the information in the P4 was not a routine occurrence:

That’s unusual. That the only time it ever happened. The only time. . . . And I had a good relationship with GEN Kensinger. But it was like, you know, “Hey if leaks out, Duffy, you know, you’re dead,” or something.²²⁰

Although General Kensinger told Committee staff that he only received P4s “very infrequently” and agreed that they tended to be urgent messages, he said that he had no recollection that Colonel Duffy, or anyone else, delivered the message from General McChrystal.²²¹ He had no explanation for the delay he says he experienced in receiving the P4, stating: “I can’t tell you why I didn’t get it in a timely manner. I don’t know.”²²² According to his deputy, General Yellen, P4s were generally delivered promptly at

²¹⁶ Department of Defense Office of Inspector General, Interview of Brigadier General Howard Yellen, at 74 (Dec. 1, 2006).

²¹⁷ House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger (Retired), at 59 (Feb. 29, 2008).

²¹⁸ Department of Defense Office of Inspector General, Interview of Lieutenant Colonel David Duffy, at 7 (Nov. 30, 2006).

²¹⁹ *Id.* at 8.

²²⁰ *Id.* at 16.

²²¹ House Committee on Oversight and Government Reform, Interview of Lieutenant General Philip Kensinger (Retired), at 28 (Feb. 29, 2008).

²²² *Id.*

USASOC because “personnel understood the sensitivity and the expediency of those messages.”²²³

General Kensinger’s account was also contradicted by a third officer, Colonel Clarence Chinn, the deputy commander of the 75th Ranger Regiment in 2004. In an interview with the Defense Department Inspector General, Colonel Chinn disputed the idea that he had informed General Kensinger of the ongoing fratricide investigation. He told investigators that sometime after the memorial service, General Kensinger informed him that Corporal Tillman’s death was a possible fratricide. Colonel Chinn stated that he was certain of his recollection:

Oh, I am very clear. I, I am absolutely, one hundred percent positive he told me. . . . And the reason I am very aware of that because I was not very happy about not knowing and going to a memorial service for a soldier unaware that that is what happened.²²⁴

Finally, General Kensinger’s statements to the Committee are contradicted by his own previous testimony to Army investigators that he learned the information shortly before the May 3 memorial service. On two separate occasions, he testified that he was told about the friendly fire investigation by Lt. Colonel Chinn, who picked him up at the airport before the memorial.²²⁵ When Army investigators then asked him if there was “a conscious decision made not to tell the family of that possibility,” General Kensinger responded:

On that particular day, considering what I was told, the answer is: Yes. You know, the decision was made not to—first of all, we didn’t have enough information to say that it was. And I think what we wanted to do is make sure that we told them the right information. Again, that was a memorial service. I didn’t think it was my responsibility to go up to them and say, “Hey, you know, this is a possible friendly fire.” Again, I think that would just not be the right thing to do personally. Again, I didn’t have any information. Mine was all hearsay.²²⁶

Despite the conflicts in testimony relating to when General Kensinger found out about the ongoing fratricide investigation, all the witnesses agree that when he did find out, General Kensinger chose not to tell the Tillman family. Instead, he waited until the investigation had been completed at the end of May 2004. This delay was not consistent with Army regulations, which required the Army to notify the Tillman family that it was investigating Corporal Tillman’s death as a possible fratricide.²²⁷

²²³ House Committee on Oversight and Government Reform, Interview of Brigadier General Howard Yellen, at 47 (July 25, 2007).

²²⁴ Department of Defense Office of Inspector General, Interview of Colonel Clarence Chinn, at 26 (Nov. 7, 2006).

²²⁵ Brigadier General Mike Jones, Interview of Lieutenant General Philip Kensinger, Jr. (Nov. 29, 2004); Department of Defense Office of Inspector General, Interview of Lieutenant General Philip Kensinger, Jr., at 6 (Dec. 8, 2006).

²²⁶ Brigadier General Mike Jones, Interview of Lieutenant General Philip Kensinger, Jr., at 3 (Nov. 29, 2004).

²²⁷ Army Regulation 600–34 § 3–7 (2003) (“[W]ithin a reasonable period of time after family members are notified of the death of a soldier, but not more than 30 days after the date of notification, the CAO [casualty assistance officer] . . . will ensure that the PNOK [primary next of

VIII. THE RESPONSE TO THE CAPTURE AND RESCUE OF PRIVATE JESSICA LYNCH

A. PRIVATE LYNCH'S CAPTURE AND RESCUE

Private First Class Jessica Lynch was a member of the Army's 507th Maintenance Company, a logistics team assigned to support a Patriot missile battery during the initial invasion of Iraq. While the company was heading towards Baghdad as part of a convoy on March 23, 2003, several vehicles experienced mechanical problems, and the company fell hours behind. As a result, the company missed a turn and headed into territory controlled by Iraqi forces.²²⁸

Iraqi forces attacked the company as it traveled through the city of An Nasiriyah. Private Lynch was severely injured when the Humvee she was riding in crashed into another convoy vehicle. Iraqi forces captured Private Lynch and transported her to a military hospital and later to the Saddam Hussein General Hospital in An Nasiriyah.²²⁹

For the next seven days, Iraqi hospital staff treated Private Lynch's life-threatening wounds, which included numerous shattered bones. During that time, Marines conducting operations in the area learned that Private Lynch was being held at the hospital and that Iraqi forces were using the hospital as an operations center.²³⁰

Late on the night of April 1, 2003, a U.S. special forces unit rescued Private Lynch and recovered the remains of nine U.S. soldiers who had been killed during the earlier battle. Private Lynch was transported to the Landstuhl Regional Medical Center in Germany for further treatment.²³¹

B. THE DISSEMINATION OF INACCURATE INFORMATION

On April 1, 2003, immediately after the rescue of Private Lynch, military officials at U.S. Central Command (CENTCOM) headquarters in Doha, Qatar, called in members of the media to announce the success of the mission. CENTCOM's chief spokesman Jim Wilkinson stated: "America doesn't leave its heroes behind. . . . Never has. Never will."²³² He also stated, "We also have other POWs we are just as worried about. This is good news today but we need a lot more good news."²³³

The next morning, Brigadier General Vincent Brooks, another CENTCOM spokesman, gave his daily press briefing. During this

kin] and other family members . . . [a]re informed of the investigations, the names of the agencies conducting the investigations, and the existence of any reports by such agencies that have or will be issued as a result of the investigations"); Army Regulation 600-8-1 § 4-13(b) (1994) (providing a script for notifying family members in cases of friendly fire, including, "His/her death is the result of suspected friendly fire. An investigation is being conducted.")

²²⁸ U.S. Army, *Attack on the 507th Maintenance Company, 23 March 2003, An Nasiriyah, Iraq* (undated) (online at www.army.mil/features/507thMaintCmpy/AttackOnThe507thMaintCmpy.pdf).

²²⁹ House Committee on Oversight and Government Reform, Testimony of Jessica Lynch, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 22 (Apr. 24, 2007) (Serial No. 110-54).

²³⁰ U.S. Central Command Operational Update Briefing with Major General Victor Renuart, CENTCOM Director of Operations (Apr. 5, 2003).

²³¹ *Id.*

²³² *American Troops Rescue Iraq POW Lynch*, Associated Press (Apr. 1, 2003).

²³³ *Id.*

briefing, he showed a four-minute video of the rescue operation and gave the following narration:

[C]oalition Special Operations forces did stage an operation last night into the town of An Nasiriya. It was in the Saddam Hospital in An Nasiriya, a facility that had been used by the regime as a military post.

We were successful in that operation last night and did retrieve Pfc. Jessica Lynch, bringing her away from that location of danger, clearing the building of some of the military activity that was in there. There was not a fire-fight inside the building I will tell you, but there were fire-fights outside of the building getting in and getting out.

There were no coalition casualties as a result of this and in the destruction that occurred inside of the building, particularly in the basement area where the operations centers had been, we found ammunition, mortars, maps, a terrain model, and other things that make it very clear that it was being used as a military command post.

The nature of the operation was a coalition special operation that involved Army Rangers, Air Force pilots and combat controllers, U.S. Marines and Navy Seals. It was a classical joint operation done by some of our nation's finest warriors, who are dedicated to never leaving a comrade behind.²³⁴

On the same day, April 2, 2003, the *Washington Post* printed its first report ("Missing Soldier Rescued; U.S. Forces Remove POW From Hospital") on the Lynch rescue. The front page story was written by Vernon Loeb and Dana Priest, and it provided a factually accurate account of the rescue. The story's opening paragraph began:

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.²³⁵

The story quoted Mr. Wilkinson, who said of Private Lynch, "[s]he's safe in coalition hands and happier than where she was."²³⁶

The April 2 story did not include any details about heroic actions by Private Lynch. But just one day later the *Washington Post* reported sensational new details. The April 3 front page story ("She Was Fighting to the Death"), written by Susan Schmidt and Vernon Loeb, began with a vivid battlefield account:

²³⁴ U.S. Central Command Operational Update Briefing with Brigadier General Vincent Brooks, CENTCOM Deputy Director of Operations (Apr. 2, 2003).

²³⁵ *Missing Soldier Rescued; U.S. Forces Remove POW From Hospital*, *Washington Post* (Apr. 2, 2003).

²³⁶ *Id.*

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 the fighting March 23, one official said.²³⁷

The article quoted "one official" as saying that at the time of her capture, Private Lynch "was fighting to the death. She did not want to be taken alive."²³⁸ The authors stated that according to this anonymous official, Private Lynch "was also stabbed when Iraqi forces closed in on her position," though there was no "indication" that Lynch's wounds were "life-threatening."²³⁹ The article also stated:

Several officials cautioned that the precise sequence of events is still being determined, and that further information will emerge as Lynch is debriefed. Reports are thus far based on battlefield intelligence, they said, which comes from monitored communications from Iraqi sources in Nasiriyah whose reliability has yet to be assessed. Pentagon officials said they heard "rumors" of Lynch's heroics but had no confirmation.²⁴⁰

On the same day, April 3, 2003, the *Military Times* ran a similar account with confirmation from Navy Captain Frank Thorp.²⁴¹ At the time, Captain Thorp was a CENTCOM public affairs officer stationed at the command's Qatar headquarters. He subsequently became the top public affairs official for General Myers and was promoted to Rear Admiral. According to this report:

Thorp said Lynch "waged quite a battle prior to her capture. We do have very strong indications that Jessica Lynch was not captured very easily," he said. "Reports are that she fired her (M-16 rifle) until she had no more ammunition."²⁴²

The dramatic story and video of Private Lynch's rescue dominated the media for the next few days. In the words of one CENTCOM public affairs official, Lieutenant Colonel John Robinson, "It was an awesome story."²⁴³

The story of Private Lynch's rescue unfolded during a difficult time for the White House. An April 3, 2003, *Washington Post* story detailed the difficulties the Bush Administration was having at the time with communications about the war. The Post reported that the Administration's plan "did not allow for strong Iraqi resistance

²³⁷ 'She Was Fighting to the Death'; Details Emerging of W. Va. Soldier's Capture and Rescue, *Washington Post* (Apr. 3, 2003).

²³⁸ *Id.*

²³⁹ *Id.*

²⁴⁰ *Id.*

²⁴¹ Remains Found at Iraqi Hospital to be Flown to U.S., *Military Times* (Apr. 3, 2003).

²⁴² *Id.*

²⁴³ A Broken Body, a Broken Story, Pieced Together; Investigation Reveals Lynch—Still in Hospital After 67 Days—Suffered Bone-crushing Injuries in Crash During Ambush, *Washington Post* (June 17, 2003).

and overestimated the welcome allied troops would receive.”²⁴⁴ The story also noted:

After nearly two weeks of discouraging news from Iraq, the White House viewed yesterday as an excellent message day. There were new details on the rescue of prisoner of war Jessica Lynch by U.S. Special Operations forces.²⁴⁵

Those new details, however, included an entirely fictional account of her capture. It is not uncommon for initial battlefield reports to have factual inaccuracies, since they are often written in difficult circumstances and under intense time pressures. Subsequent reports then correct the record. The opposite was true, though, in Private Lynch’s case. The initial reporting was accurate. It was the subsequent stories that invented new facts. This unusual situation raised concerns that the misinformation might be part of a deliberate propaganda strategy. As *New York Times* columnist Frank Rich wrote, “[w]hen American forces were bogged down in the war’s early days, she was the happy harbinger of an imminent military turnaround: a 19-year-old female Rambo who tried to blast her way out of the enemy’s clutches, taking out any man who got in her way.”²⁴⁶

In a June 17, 2003, story, the *Washington Post* disclosed that Private Lynch did not engage the enemy, was not wounded by gunshots, and was rescued without significant resistance. According to the *Post*, the source of the inaccurate account was a top-secret battlefield intelligence report that military officials had quickly leaked to the press without verifying.²⁴⁷

In late 2003, Vernon Loeb, one of the authors of the erroneous April 3 *Post* story, stated: “I don’t think we were spun at all. . . . I don’t think the Pentagon ever set out to make Jessica Lynch a poster child for battlefield heroism.”²⁴⁸ According to an article in the *American Journalism Review*, Mr. Loeb and one of his editors at the *Post* “say they have no reason to doubt that their April 3 story accurately reflected the information contained in those [intelligence] reports—even if the reports had inaccuracies. ‘We had multiple sources because multiple people were reading the same intelligence reports.’”²⁴⁹

In May 2004, the *Washington Post* reported that another U.S. soldier had been captured and then executed in the same ambush during which Private Lynch was taken captive. The article noted that this soldier’s mother “believed the Army had not given her son

²⁴⁴ *White House is Revising its War Message; Setbacks Providing Lessons*, *Washington Post* (Apr. 3, 2003).

²⁴⁵ *Id.*

²⁴⁶ Pfc. *Jessica Lynch Isn’t Rambo Anymore*, *New York Times* (Nov. 9, 2003).

²⁴⁷ *A Broken Body, a Broken Story, Pieced Together; Investigation Reveals Lynch—Still in Hospital After 67 Days—Suffered Bone-crushing Injuries in Crash During Ambush*, *Washington Post* (June 17, 2003). The military conducted at least two investigations into Private Lynch’s capture and rescue, one by the Army and one by the Defense Department Inspector General, but neither specifically addressed the dissemination of false information. Defense Department Office of Inspector General, *Executive Summary: Alleged Premeditated Fabrication and Inappropriate Conduct of U.S. Military Personnel Involved in the Rescue of Private First Class Jessica Lynch, U.S. Army* (undated); U.S. Army, *Attack on the 507th Maintenance Company, 23 March 2003, An Nasiriyah, Iraq* (undated) (online at www.army.mil/features/507thMaintCmpy/AttackOnThe507MaintCmpy.pdf).

²⁴⁸ Steve Ritea, *Jessica Lynch’s Story: A Little Too Perfect?* *American Journalism Review* (Aug./Sept. 2003).

²⁴⁹ *Id.*

credit for actions first attributed to Lynch.” The article further explained that the soldier’s “family and others have said that early reports depicting a blond soldier bravely fighting off Iraqis may have been mistakenly attributed to Lynch, possibly because of an erroneous translation of Iraqi radio transmissions.”²⁵⁰

C. THE RESPONSE OF PUBLIC AFFAIRS OFFICIALS

The Committee exchanged e-mails and interviewed now-Admiral Thorp about his knowledge of the capture and rescue of Private Lynch. In an April 2007 e-mail to Committee majority staff, Admiral Thorp described his statements to the *Military Times* reporter about Private Lynch. He wrote:

As I recall, this was a short interview and media desperately wanted me to confirm the story that was running in the States. . . . I never said that I had seen any intel or even intimated the same. . . . I may have said I am familiar with “the reports” meaning the press reports, but as you can see I did not confirm them. . . . We did have reports of a battle and that a firefight had occurred. . . . That is what I stated . . .²⁵¹

Five months later, during a transcribed Committee interview, Admiral Thorp was asked about the same conversation with the *Military Times* reporter. At this time, he denied having any memory of the interaction, stating, “I do not recall specifically talking to this reporter about this.”²⁵²

During the interview, Admiral Thorp was asked what his source was for his statements that Private Lynch “waged quite a battle” and that he had “strong indications” that she “was not captured very easily” and fired her rifle “until she had no more ammunition.” Admiral Thorp responded that he could not recall making these statements, but stated that if he had, he would have gathered the information from “various sources.”²⁵³ He also said that his statements could have been “based on things that I had heard,” including other press reports.²⁵⁴

Admiral Thorp explained that in the opening days of Operation Iraqi Freedom, he regularly confirmed press reports by citing other press reports. He explained how this process worked at CENTCOM headquarters in Qatar:

I could give you one anecdote to tell you, to give a perspective as to what was going on, which was on numerous occasions I would be standing there watching a television monitor on CNN reporting from a unit in Iraq in which a journalist next to me would ask me to confirm that what we were watching together on TV was happening, which obviously he had the same knowledge I did of that live sit-

²⁵⁰ *Family Learns Iraqis Executed Soldier Captured at Same Time as Lynch*, Washington Post (May 29, 2004).

²⁵¹ E-mail from Rear Admiral Frank Thorp, Deputy Assistant Secretary of Defense for Joint Communication, to Majority Staff, House Oversight and Government Reform Committee (Apr. 19, 2007) (ellipses in original).

²⁵² House Committee on Oversight and Government Reform, Interview of Rear Admiral Frank Thorp, IV, at 69 (Sept. 19, 2007).

²⁵³ *Id.* at 73.

²⁵⁴ *Id.*

uation on the ground. It would not be odd for me to then tell another journalist later that I saw something on CNN. . . . So there were times where I would say I just saw on CNN a report that boom, boom, boom. Whether somebody attributed that to me, that a Navy spokesman said there are reports, that I have no way of knowing because it was happening so fast and so furious. But I absolutely felt that in my realm of responsibility, to share other reports that were already out, that reporters had made to make sure that everyone knew.²⁵⁵

Admiral Thorp told the Committee that he did not recall seeing classified battlefield intelligence reports about Private Lynch, and he said he did not remember if his remarks were based on such reports.²⁵⁶ When asked whether he knew at the time he spoke to reporters that Private Lynch had not actually fired any shots, Admiral Thorp replied: “I would absolutely never, ever, ever, ever say anything that I knew to not be true.”²⁵⁷

According to Admiral Thorp, the public affairs official who attended CENTCOM operational briefings was Jim Wilkinson, the Director of Strategic Communications for CENTCOM commander, General Tommy Franks.²⁵⁸ When the Committee interviewed Mr. Wilkinson, he said he was not a source for the story and that he was never familiar with the operational details of Private Lynch’s capture and rescue. He told the Committee: “I still, to this day, don’t know if those details are right or wrong. I just don’t know. I don’t remember seeing any operational report.”²⁵⁹

Neither Mr. Wilkinson nor Admiral Thorp said they knew the identity of the “U.S. officials” cited in the April 3, 2003, *Washington Post* story. Neither could explain why initial news reports about Private Lynch’s capture and rescue were accurate, and subsequent stories contained significant errors.

IX. OTHER CASES BROUGHT TO THE COMMITTEE’S ATTENTION

The Committee’s investigation has focused on the information the Defense Department provided about the two most famous U.S. soldiers in the Iraq and Afghanistan wars: Corporal Tillman and Private Lynch. During the course of the investigation, however, families and friends of soldiers killed or injured in the wars contacted the Committee’s majority staff to recount similar experiences in which the Pentagon provided misleading information about a battlefield casualty.

For example, the family of Specialist Jesse Buryj of Canton, Ohio, who died in Iraq on May 5, 2004, experienced many of the same frustrations as the Tillman family. The Army initially claimed that Specialist Buryj had been killed by the enemy and posthumously awarded him a Bronze Star for his valor while

²⁵⁵ *Id.* at 71.

²⁵⁶ *Id.* at 75.

²⁵⁷ *Id.* at 76.

²⁵⁸ *Id.* at 73.

²⁵⁹ House Committee on Oversight and Government Reform, Interview of James R. Wilkinson, at 58 (Mar. 14, 2008).

guarding a highway checkpoint.²⁶⁰ Nine months later, after several investigations, the family learned his death was actually a fratricide.²⁶¹ In July 2004, Specialist Buryj's parents accepted an invitation to meet President Bush at a campaign rally. They asked him to help them learn the truth about how their son died. According to the family, the President agreed to assist.²⁶² Specialist Buryj's mother recalled that after the meeting, her case received more attention, but the military still did not provide a satisfactory account of what happened to her son.²⁶³ A few months later, a Bush-Cheney campaign official contacted the family. Rather than offer assistance, the official asked Specialist Buryj's mother to appear in a campaign commercial for the President. Mrs. Buryj refused.²⁶⁴

The Committee's majority staff was also contacted by the family and friends of Private First Class LaVena Johnson, a weapons supply manager from Florissant, Missouri, who died, family members say, in a suspicious non-combat incident near Balad, Iraq, on July 19, 2005. According to news reports, the Army ruled the death a suicide, and a medical examiner concurred with this finding.²⁶⁵ But Private Johnson's family believes Army investigators ignored physical evidence inconsistent with a finding of suicide. They also believe that the Army has additional information about the circumstances of Private Johnson's death that it has not shared with the family.

While the names of these soldiers are not as well-known as Pat Tillman and Jessica Lynch, their sacrifices were just as great and their families are just as deserving of the truth.

X. CONCLUSION

The men and women who serve in the military act selflessly and courageously in defending our country and fighting for freedom. They are willing to risk serious injury and even death in fulfilling their responsibilities. And too often their willingness to sacrifice becomes an actual and irreplaceable loss for their families and for our country.

Our nation cannot adequately recognize that service, but we can honor their sacrifice by keeping faith with their trust and dedication.

That starts by making sure our troops never go to battle unless it is absolutely necessary. It also means making sure they have the benefit of the best equipment and intelligence and the best medical care if they are injured.

Our nation also has an inviolate obligation to share truthful information with a soldier's family and the American people should injury or death occur. As Corporal Tillman's brother, Kevin, told the Committee:

Pat and these other soldiers volunteered to put their lives on the line for this country. Anything less than the truth

²⁶⁰ *An Army Death, and a Family Left in the Dark*, Washington Post (Jan. 17, 2006).

²⁶¹ *Id.*

²⁶² *Id.*; House Committee on Oversight and Government Reform, Majority Staff, Telephone Interview of Peggy Buryj (June 2, 2008).

²⁶³ *NOW*, PBS (Nov. 17, 2006) (online at www.pbs.org/now/transcript/246.html).

²⁶⁴ *An Army Death, and a Family Left in the Dark*, Washington Post (Jan. 17, 2006).

²⁶⁵ *Father Wants Soldier's Death Reinvestigated*, Associated Press (June 4, 2008).

is a betrayal of those values that all soldiers who have fought for this nation have sought to uphold.²⁶⁶

That standard was not met in either Corporal Tillman's or Private Lynch's cases.

Neither case involved an act of omission. The misinformation was not caused by overlooking or misunderstanding relevant facts. Instead, in both cases affirmative acts created new facts that were significantly different than what the soldiers in the field knew to be true. And in both cases the fictional accounts proved to be compelling public narratives at difficult times in the war.

The fictional version of Private Lynch's circumstances came when many Americans were first beginning to worry about the direction of the Iraq war. The heroic efforts of Private Lynch became, in the words of one CENTCOM officer, "an awesome story."

Specialist Kevin Tillman told the Committee that he believed the combination of a difficult battle in Fallujah, bad news about the state of the war, and emerging reports about Abu Ghraib prison created a motive to fictionalize the details about his brother's death. Whether he is correct or not, the public affairs staff of the Army recounted that the death of Corporal Tillman generated the most media coverage of the Army "since the end of active combat" and was "extremely positive in all media."

As the Committee investigated the Tillman and Lynch cases, it encountered a striking lack of recollection. In Private Lynch's case, Jim Wilkinson, who was the Director for Strategic Communications for the CENTCOM Commander and attended CENTCOM operational briefings, told the Committee he did not know where the false information originated or who disseminated it.

In Corporal Tillman's case, even after seven Defense Department investigations, no one has been able to identify the person who created the false information about enemy fire. At the top of the chain of command, where the Committee focused its attention, pertinent questions also remain unanswered. The White House was intensely interested in the first reports of Corporal Tillman's death. On April 23, White House officials sent or received nearly 200 e-mails concerning Corporal Tillman. In contrast, the White House could not produce a single e-mail or document relating to any discussion about Corporal Tillman's death by friendly fire. Not a single written communication about the personal reactions or the substantive, political, and public relations implications of the new information was provided to the Committee.

Despite receiving information from all the top military leaders in Corporal Tillman chain of command—including Secretary Rumsfeld, General Myers, and General Abizaid—the Committee could not determine if any of the officials had communicated with President Bush or White House officials about fratricide in Corporal Tillman's case. The lack of recollection also prevented the Committee from understanding how information about Corporal Tillman was handled within the Defense Department and how the Defense

²⁶⁶House Committee on Oversight and Government Reform, Testimony of Kevin Tillman, *Hearing on Misleading Information from the Battlefield*, 110th Cong., at 21 (Apr. 24, 2007) (Serial No. 110-54).

Department and the White House shared information on this matter.

If the testimony the Committee received is accurate and if the documents submitted are complete, then the intense interest that initially characterized the White House's and Defense Department's reaction to Corporal Tillman's death was followed by a stunning lack of curiosity about emerging reports of fratricide and an incomprehensible carelessness and incompetence in handling this sensitive information.

The pervasive lack of recollection and absence of specific information makes it impossible for the Committee to assign responsibility for the misinformation in Corporal Tillman's and Private Lynch's cases. It is clear, however, that the Defense Department did not meet its most basic obligations in sharing accurate information with the families and with the American public.

ADDITIONAL VIEWS OF HON. TOM DAVIS

The tragic loss of Army Corporal Pat Tillman in Afghanistan in April 2004 painfully reminds all Americans of the costs of war. He was a true hero, a role model whose personal sense of duty drew him from the ranks of elite professional sports to perilous military service in the barren hills of Afghanistan. Nothing we say can improve or diminish his shining legacy of patriotism and self-sacrifice.

What *is* said about the death of a hero should be said thoughtfully, carefully, and reverently. Events surrounding the timeless end of a heroic life should never be shaped or shaded by either side to fuel the political disputes of the day. This bipartisan investigation asked whether Pentagon or White House officials broke that rule by manipulating information to build public support for an unpopular war. The record before us contains substantial evidence of inadvertence, misjudgment, ineptitude, error—and even negligence. But, as the Committee’s report acknowledges, the investigative record is incomplete, and therefore inconclusive, on the question whether government officials purposefully delayed or distorted information about battlefield events. The same rule against political misinformation argues strongly against the Committee filling those evidentiary gaps with unsupported inferences and negative characterizations. However inconvenient or frustrating, the absence of evidence cannot be used to prove a conclusion the actual evidence does not sustain.

As much out of disappointment as disagreement, we submit these Additional Views to supplement and clarify the factual findings of the Committee Report. This has been a bipartisan investigation from the outset, and we appreciate the majority sharing early drafts with us and incorporating our suggestions into the final report. Nevertheless, we believe it necessary to state certain matters for the public record separately because we find the report not always complete and balanced in its discussion of key questions. What should be a factual summary gets weighed down by conclusions, inferences and characterizations not reasonably supported by the investigative record. The facts deserve an unfettered opportunity to speak for themselves.

The Committee Report concludes the White House and DoD displayed “carelessness and incompetence” in handling information about the death and friendly-fire incident. We agree. Rules and procedures put in place precisely for the purpose of providing timely and accurate information about combat deaths were ignored. Those errors, omissions and delays understandably fueled suspicions senior government 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 officials could have known friendly fire was suspected. It was a disservice to the memory of Corporal Tillman, to his family, his

unit and this nation to let the happy myth outrun the unpleasant facts, even for a day.

But even serial incompetence at the highest levels does not constitute proof of a conspiracy—*intentional* distortion of public statements about both Patrick Tillman and Jessica Lynch. So the Committee attempts to build a bridge of circumstance—faded memories and a lack of e-mail traffic—to link the hard facts of ineptitude to soft speculation that only conscious manipulation explains otherwise “incomprehensible” actions and a “stunning lack of curiosity” about conflicting battlefield reports.

An objective presentation of the facts makes such speculation and characterizations unnecessary, even counterproductive to an accurate historical record. It seems perfectly comprehensible, even inevitable, that years later people might not recall the exact moment they obtained specific information about these events. The Committee concludes witnesses *should* have detailed recollection about fleeting conversations and transactions that stand out from the torrent of daily activities only in magnified hindsight. We need not reach conclusions about what government officials should have known to summarize the factual findings of an extensive investigation.

It’s said the first casualty of war is the truth. We now know in the fog of war the truth comes under friendly fire as well. Whether exaggerated accounts of heroism, delayed acknowledgement of fratricide, or widely published—but utterly fictional—blogs describing alleged cruelty by U.S. troops, misinformation from the battlefield corrodes the bond of trust that defines us as a nation of free men and women.

Corporal Patrick Tillman, like thousands of other brave Americans, gave his life in service to this nation. His death was made even more heartbreaking by the fact it was found to have been caused by fratricide. The U.S. Army’s egregious mishandling of the process meant to ensure complete and timely notification to families turned this “friendly fire” incident into a prolonged, decidedly unfriendly spectacle of official malfeasance and miscommunication. As then-Acting Secretary of the Army Pete Geren conceded, “We as an Army failed in our duty to the Tillman family, the duty we owe to all the families of our fallen soldiers: Give them the truth, the best we know it, as fast as we can.”

That is our charge as well.

I. THE INVESTIGATION

The Committee’s inquiry into the circumstances in which senior White House and Pentagon officials became aware that Army Corporal Pat Tillman was a victim of fratricide took more than fourteen months. In this period, the Committee held two hearings in which it heard from ten witnesses, including former Secretary of Defense Donald Rumsfeld, and retired Generals Richard Myers, John Abizaid, and Bryan Brown. Committee staff received 50,000 pages of documents from the Pentagon, the White House, and the Defense Department Inspector General and reviewed additional documents “in camera.” In addition, staff interviewed 19 witnesses, totaling nearly 29 hours and producing more than 1,200 pages of

transcription.¹ The Committee also received supplementary information from three individuals.²

In an effort to determine the origins of the *Washington Post* story about Jessica Lynch's purported behavior at the time of her capture, the Committee took testimony from Ms. Lynch and one of her physicians at a hearing which also examined the Tillman situation. Staff posed questions to two other persons in three interviews. In addition, staff evaluated twenty-nine U.S. Army documents made available to a media outlet pursuant to a Freedom of Information Act request in an effort to learn more about the procedural problems which apparently allowed an Army soldier to report inaccurate details from the battlefield for *The New Republic*.

II. SECRETARY RUMSFELD, SENIOR DEPARTMENT OF DEFENSE LEADERSHIP

A. EXTENT OF SECRETARY RUMSFELD'S INTEREST IN PAT TILLMAN'S ENLISTMENT AND MILITARY SERVICE

Written material produced by Secretary Rumsfeld between the time of Corporal Tillman's enlistment and his death provides an understanding of Secretary Rumsfeld's interest in Corporal Tillman and his enlistment. Shortly after Corporal Tillman enlisted, Sec-

¹See Interview by House Committee on Oversight and Government Reform [hereinafter *House Oversight Committee* or the *Committee*] staff of General John F. Sattler, U.S. Marines, in Washington, D.C. (Jul. 24, 2007) [hereinafter *Sattler Transcript*]; Interview by House Oversight Committee staff of Brigadier General Howard W. Yellen, U.S. Army (Retired), in Washington, D.C. (Jul. 25, 2007) [hereinafter *Yellen Transcript*]; Interview by House Oversight Committee staff of General Bantz Johnson Craddock, U.S. Army, in Washington, D.C. (Jul. 27, 2007) [hereinafter *Craddock Transcript*]; Interview by House Oversight Committee staff of Admiral Eric T. Olson, U.S. Navy, in Washington, D.C. (Jul. 24, 2007) [hereinafter *Olson Transcript*]; Interview by House Oversight Committee staff of Lieutenant General James Lovelace, U.S. Army, by telephone (Jul. 31, 2007) [hereinafter *Lovelace Transcript*]; Interview by House Oversight Committee staff of Taylor Gross, former White House Communications official, in Washington, D.C. (Sep. 5, 2007) [hereinafter *Gross Transcript*]; Interview by House Oversight Committee staff of Carol Darby, Public Affairs Officer, U.S. Army, in Washington, D.C. (Sep. 19, 2007) [hereinafter *Darby Transcript*]; Interview by House Oversight Committee staff of Colonel Hans Bush, U.S. Army, in Washington, D.C. (Sep. 19, 2007) [hereinafter *Bush Transcript*]; Interview by House Oversight Committee staff of Rear Admiral Frank Thorp IV, U.S. Navy, in Washington, D.C. (Sep. 19, 2007) [hereinafter *Thorp Transcript*]; Interview by House Oversight Committee staff of Colonel Steven P. Bucci, Deputy Assistant Secretary of Defense for Homeland Defense, U.S. Department of Defense, in Washington, D.C. (Sep. 20, 2007) [hereinafter *Bucci Transcript*]; Interview by House Oversight Committee staff of John Currin, former Director of Fact-Checking, Office of Presidential Speechwriting, White House, in Washington, D.C. (Sep. 21, 2007) [hereinafter *Currin Transcript*]; Interview by House Oversight Committee staff of Lawrence Di Rita, former director, Office of the Assistant Secretary of Defense for Public Affairs, U.S. Department of Defense, in Washington, D.C. (Sep. 24, 2007) [hereinafter *Di Rita Transcript*]; Interview by House Oversight Committee staff of George Rhynedane, IV, former Senior Military Assistant to the Assistant Secretary for Public Affairs, U.S. Department of Defense, in Washington, D.C. (Sep. 27, 2007) [hereinafter *Rhynedane Transcript*]; Interview by House Oversight Committee staff of Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense, in Washington, D.C. (Sep. 28, 2007) [hereinafter *Henderson Transcript*]; Interview of Sean McCormack, Spokesman, National Security Council, by House Oversight Committee Staff, in Washington, D.C. (Feb. 20, 2008) [hereinafter *McCormack Transcript*] [Note, no contemporaneous transcript was produced for this interview, however, an unofficial transcript was created from an audio recording of the interview]; Interview by House Oversight Committee staff of Lieutenant General Philip Kensinger, Jr., U.S. Army, in Washington, D.C. (Feb. 29, 2008) [hereinafter *Kensinger Transcript*]; Interview of James Wilkinson, Strategic Communications, U.S. Central Command, by House Oversight Committee Staff, in Washington, D.C. (Mar. 14, 2008) [hereinafter *Wilkinson Transcript*].

²Untranscribed interview of Scott McClellan, White House Press Secretary, by House Oversight Committee Staff, in Washington, D.C. (Sep. 9, 2007) (Committee staff notes on file) [hereinafter *McClellan Interview*]; Untranscribed interview of Michael Gerson, Chief Speechwriter, White House, by House Oversight Committee Staff, in Washington, D.C. (Sep. 11, 2007) (Committee staff notes on file) [hereinafter *Gerson Interview*]; Untranscribed interview of Dan Bartlett, Director, White House Communications, by House Oversight Committee Staff, in Washington, D.C. (Sep. 12, 2007) (Committee staff notes on file) [hereinafter *Bartlett Interview*].

retary Rumsfeld distributed a memorandum (known colloquially as a “snowflake”) regarding Corporal Tillman to U.S. Army Secretary, Tom White.³ Secretary Rumsfeld also sent Corporal Tillman a personal note.⁴ After Corporal Tillman’s death, Secretary Rumsfeld signed a condolence letter to Corporal Tillman’s widow.⁵

The enlistment of Corporal Tillman and his brother, Kevin Tillman, in May 2002 was the subject of numerous news reports. Thereafter, an individual who appears to be a personal acquaintance of Secretary Rumsfeld sent Secretary Rumsfeld a note about Corporal Tillman’s enlistment, enclosing a related June 2, 2002 newspaper column.

On June 25, 2002, Secretary Rumsfeld forwarded the June 2, 2002 article to Secretary White with a note that stated (in full):

Here is an article on a fellow who is apparently joining the Rangers. He sound [sic] like he is world-class. We might want to keep our eye on him.⁶

The following day, Secretary Rumsfeld responded to his acquaintance (addressing him by nickname) writing (in full):

Thanks so much for sending along the article from the *Tribune*. I had not seen it. You are quite right—this fellow, Pat Tillman, sounds like a world-class American.⁷

On June 28, 2002, Secretary Rumsfeld wrote to Corporal Tillman, saying:

I heard you were leaving the National Football League to become an Army Ranger. It is a proud and patriotic thing you are doing.⁸

The phraseology and timing of this exchange strongly implies that Secretary Rumsfeld learned from his acquaintance and not the Army or Defense Department bureaucracy that a professional football player, of whom he appears not to have been previously aware, had enlisted. It also suggests that Secretary Rumsfeld believed his memorandum to Secretary White would be the first time the Army’s top civilian leader learned about Corporal Tillman and his service commitment.

Secretary Rumsfeld testified under oath that he did not intend the comment “[w]e might want to keep our eye on him” as a literal instruction.⁹ Rather, it appears that this was intended as a rhetorical statement. Testimony and other evidence support this interpretation. For example, the apparently standard clause “please re-

³Memorandum from Donald Rumsfeld, Secretary, U.S. Department of Defense, to Thomas White, Secretary, U.S. Army (Jun. 25, 2002; 14:39 EDT) [hereinafter *Rumsfeld/White Snowflake*] (Committee staff notes on file).

⁴Memorandum from Donald Rumsfeld, Secretary, U.S. Department of Defense, to Corporal Patrick Tillman (Jun. 28, 2002) [hereinafter *Rumsfeld/Tillman Letter*] (Committee staff notes on file).

⁵Letter from Donald Rumsfeld, Secretary, U.S. Department of Defense, to Mrs. Patrick Tillman (May 3, 2004) [hereinafter *Rumsfeld/Condolence Letter*] (Committee staff notes on file).

⁶*Rumsfeld/White Snowflake*.

⁷Letter from Donald Rumsfeld, Secretary, U.S. Department of Defense, to [Acquaintance] [name withheld by Committee staff] (Jan. 26, 2002) (*emphasis* in the original). Note Secretary Rumsfeld’s statement that “[he] had not seen [the article regarding Tillman].” *Id.*

⁸*Rumsfeld/Tillman Letter*.

⁹The Tillman Fratricide: What the Leadership of the Defense Department Knew before the House Oversight Committee, 110th Cong. (Aug. 2, 2007) [hereinafter *Tillman Hearing II*], at Tr. 107–08 (referring to *Rumsfeld/White Snowflake*).

spond by” at the bottom of Secretary Rumsfeld’s memorandum was crossed out, as if to suggest no reply was expected.¹⁰ Also, the Committee received no documents or testimony that indicated that Corporal Tillman’s activities were, in fact, monitored in any way by Secretary Rumsfeld or other Department of Defense or White House officials. In fact, the Committee received testimony that indicated the opposite: Secretary Rumsfeld was not keeping track of Corporal Tillman.¹¹ Finally, there is no indication that Secretary Rumsfeld ever noted or was concerned by the fact that no follow-up information was ever conveyed to him, lending strong credence to the suggestions that Secretary Rumsfeld did not expect any.

Indeed, in testimony received by the Committee, no one (including his closest assistants) recalled Secretary Rumsfeld referring to Corporal Tillman between his June 28, 2002 letter to Corporal Tillman and the time of Corporal Tillman’s death in 2004.¹² Secretary Rumsfeld’s senior military assistant told the Committee that, in light of the press of business in Secretary Rumsfeld’s office, he did not ever discuss Corporal Tillman with Secretary Rumsfeld even upon Corporal Tillman’s death.¹³

On April 29, 2004, one week after Corporal Tillman’s death, an executive secretary in Secretary Rumsfeld’s office drafted a condolence letter for Corporal Tillman’s widow. The executive secretary

¹⁰*Rumsfeld/White Snowflake*.

¹¹See, e.g., *Craddock Transcript* at Tr. 47–48 (Q: “Do you have any knowledge of the fact that the Secretary—either Secretary of the Army or Secretary of the Defense kept an eye on [Corporal Tillman] after his enlistment?” A: “Not that I’m aware of. Again, if that happened, it happened before I got there. Nothing was left to me by my predecessor, stay on top of this, watch this or be aware of this.”); *Lovelace Transcript* at Tr. 49–50 (Q: “When you arrived in your position as Army Staff Director, did you get the impression at any time that, in fact, Army leadership was, quote, keeping an eye on Tillman?” A: “No.” Q: “You didn’t get correspondence about him, memos about him, phone calls about him?” A: “No.”); *Di Rita Transcript* at Tr. 39 (Q: “Okay. Based on your close working relationship with Secretary Rumsfeld, what did he mean when he said, We might want to keep our eye on him?” A: “I think he was making a point that this is somebody who has done something of a very high-profile nature, and that is impressive, and we ought to recognize that somewhere along the way, we appreciate this kind of commitment to public service. I would imagine that is the extent of his intent there.” Q: “Were there times later in Corporal Tillman’s service where he turned to you and said, How is this Tillman guy doing?” A: “I don’t remember him ever doing that.” Q: “Check up on Tillman?” A: “Yeah, it would have been unlike him, but that is not to say it wouldn’t have happened. I just don’t remember that.” Q: “How common was it for Secretary Rumsfeld to single out a soldier like this on a snowflake or in a communication with the Secretary?” A: “Let me just step back on that. It was very common of Secretary Rumsfeld to see something in the paper and comment on it by saying --by shooting a note to somebody and saying, This is interesting. Could I get more information? Or did you see this? I find this something worth following up on. Or something like that. So that was not uncommon. So he was -- he didn’t read the papers cover to cover every day, but he was generally aware of what was happening in areas involving the Department of Defense. So as much attention as this would almost certainly have gotten when Pat Tillman joined, it is not surprising that he would have seen it and said, Wow, that’s interesting.”); *Di Rita Transcript* at Tr. 76–78 (A: “And in this case, this was primarily an outgoing -- it is a bit of the way Rumsfeld operated: “Hey, let’s just keep an eye on that fellow; that’s interesting.” But it wasn’t like he was asking for a report back or anticipating something.” Q: “You don’t think he was --” A: “I would tend to doubt it. I’m looking at that the way -- the person who transcribed the Dictaphone kind of drew the same conclusion. I mean, she just decided not to put a date [by which a response was required] on there, because it’s not the kind of thing where a deadline really applies.” Q: “Am I correct that you said in your testimony that you don’t recall seeing a report come back?” A: “I don’t recall anything coming back. From Secretary White?” Q: “Correct.” A: “Yeah, no, I don’t recall anything.” Q: “How about from anyone else?” A: “I don’t recall. I don’t recall.”).

¹²See, e.g., *Bucci Transcript* at Tr. 29; *Craddock Transcript* at Tr. 17.

¹³*Craddock Transcript* at Tr. 24, 28–29 (Q: “Wasn’t [the news of Corporal Tillman’s death] a hot one on April 23rd, you know, when every newspaper and television station in America was, you know, talking about it?” A: “[] I can’t tell you that it was a hot one and everything came to a stop and we focused on Pat Tillman. I apologize for that. It is bad, but that’s not the way I recall it. [] But, I’ve got to tell you, I don’t recall that everything came to a screeching halt to deal with this.”). *Craddock* believed he learned of Corporal Tillman’s death “on the news.” *Craddock Transcript* at Tr. 19–21.

apparently used a brief Pentagon statement issued on the day after Corporal Tillman was killed to prepare this condolence letter.¹⁴ Secretary Rumsfeld signed the condolence letter dated May 3, 2004. There seems to be nothing extraordinary about the way it was drafted and promulgated; the Committee received testimony that Secretary Rumsfeld signed similar communications to families of all those killed in action.¹⁵

B. SECRETARY RUMSFELD'S KNOWLEDGE OF FRATRICIDE AS A CAUSE OF CORPORAL TILLMAN'S DEATH

Secretary Rumsfeld also testified under oath before the Committee that he never instructed anyone to withhold information about the finding that Corporal Tillman's death resulted from fratricide and that he was not aware of (nor was he a party to) any related "cover-up."¹⁶ He testified that he had neither foreknowledge of the Correspondents Dinner speech in which the President referenced Corporal Tillman nor any discussions with the White House about the circumstances of Corporal Tillman's death prior to such details becoming public.¹⁷

Secretary Rumsfeld testified before the Committee that he did not remember when or how he learned that fratricide was the suspected cause of Corporal Tillman's death.¹⁸ From the testimony and evidence provided to the Committee, it is possible to identify a period in which these details were probably conveyed to him.

In testimony before this Committee, Secretary Rumsfeld repeated the statement he had made previously in letters to Chairman Waxman, Ranking Member Davis, and to the DoD Inspector General (DoD IG), namely: "I am told I received word of this development [i.e., the suspicion of fratricide] after May 20, 2004."¹⁹ According to Secretary Rumsfeld, he was able to proffer a date because, in responding to questions from the DoD IG on this matter on December 15, 2006,²⁰ an aide consulted others to determine if they remembered circumstances Secretary Rumsfeld did not.²¹ One aide, Colonel Steven Bucci, apparently recalled details of Secretary Rumsfeld's notification and was able to determine the period in which this occurred.

The Committee took sworn testimony from Colonel Bucci. Colonel Bucci testified that, in the course of his normal duties in Secretary Rumsfeld's office between May 24 and May 28, 2004, he received a phone call from one of the military assistants in the Army.²²

¹⁴ E-mail from Monica Generous, Office of the Secretary of Defense, Executive Services, U.S. Department of Defense, to various (Apr. 29, 2004; 15:34 EDT) (bates no. 1871).

¹⁵ See *Craddock Transcript* at Tr. 48–49; *Di Rita Transcript* at Tr. 58–59, 85, 89–90.

¹⁶ *Tillman Hearing II* at Tr. 55, 72, 152, 100.

¹⁷ *Id.* at Tr. 30–31, 64, 98. See also Letter from Donald Rumsfeld, Secretary, U.S. Department of Defense, to Henry A. Waxman, Chairman, House Oversight and Government Reform Committee, and Tom Davis, Ranking Member, House Oversight and Government Reform Committee, (Jul. 26, 2007) [hereinafter *Rumsfeld/Committee Letter*].

¹⁸ *Tillman Hearing II* at Tr. 30, 157. Secretary Rumsfeld also told the Committee that he was not disturbed by the timing or method of his notification. *Id.* at Tr. 104.

¹⁹ *Id.* at Tr. 15–16.

²⁰ Letter from Donald Rumsfeld, Secretary, U.S. Department of Defense, to Thomas Gimble, Acting Inspector General, U.S. Department of Defense (Dec. 15, 2006).

²¹ *Tillman Hearing II* at Tr. 32–34, 125–7. See also *Bucci Transcript* at Tr. 40–41; *Craddock Transcript* at Tr. 38–39.

²² *Bucci Transcript* at Tr. 31 ("[] I got a phone call in the morning there at the office from one of the military assistants in the Army. And I can't remember whether it was the Chief of Staff's executive assistant or Secretary of Army's military assistant who called me.").

From this call, Colonel Bucci learned that an investigation into Corporal Tillman's death had been undertaken and that this inquiry had determined that fratricide was the likely cause of death.²³ Colonel Bucci further testified the caller suggested that this information be conveyed to Secretary Rumsfeld, which Colonel Bucci did "about 15 minutes" later at a regularly-scheduled morning meeting.²⁴

Colonel Bucci testified he believed this was the first Secretary Rumsfeld learned that friendly fire was being considered as a cause of Corporal Tillman's death.²⁵ Colonel Bucci testified that Secretary Rumsfeld responded to the news by saying [something to the effect of] "Oh, gosh, that's a shame. Well, they need to settle it and get the word out as quickly as possible."²⁶ Colonel Bucci testified that he was able to determine the date range in which these events transpired because he returned from six months of duty in Iraq on May 20, 2004, but did not report to work in Secretary Rumsfeld's office until May 24, 2004. Assuming this information is correct, Colonel Bucci received the call from the military assistant before a daily morning briefing sometime in that five-day period between May 24 and May 28, 2004.²⁷

Additional details add further credence to the timing and substance of Colonel Bucci's account. According to the DoD IG, on May 25, 2004, Army Maj. Gen. Stanley McChrystal, the commander of the Joint Task Force to which Corporal Tillman was assigned, approved the investigative report of Corporal Tillman's death and conveyed it to U.S. Central Command (CENTCOM).²⁸ The director of the Army staff, Lt. Gen. James J. Lovelace, testified before the Committee that he was informed of the investigation and its findings (namely, that "[Corporal] Tillman's death was the result of fratricide") by both Lt. Gen. Philip Kensinger and the Army Operations Center "on or about" May 27, 2004.²⁹ Inasmuch as this is two days after Gen. McChrystal's approval and in the period CENTCOM was considering the report, it is logical for Lt. Gen. Lovelace to have been notified at this time.

Lt. Gen. Lovelace said that it was also on May 27, 2004, that he called Lawrence Di Rita, at that time the director of the Office of the Assistant Secretary of Defense for Public Affairs, with this news and took steps to have Gen. Bantz Craddock (Colonel Bucci's supervisor), and assistants to the Army Secretary and to the Army Chief and Vice Chief of Staff receive this information by e-mail.³⁰

²³ *Id.* at Tr. 31–32.

²⁴ *Id.* ("[I] got a phone call in the morning there at the office from one of the military assistants in the Army. And I can't remember whether it was the Chief of Staff's executive assistant or Secretary of Army's military assistant who called me. And they said, hey, you need to let the Secretary know. We're pretty sure that this may have actually been a fratricide event, and you need to let the Secretary know.")

²⁵ *Id.* at Tr. 32.

²⁶ *Id.* at Tr. 31–32. For a description of the timing and attendance at morning "stand up[]" meetings, see *Bucci Transcript* at Tr. 11.

²⁷ *Id.* at Tr. 39, 33.

²⁸ Review of Matters Related to the Death of Corporal Patrick Tillman, U.S. Army, Thomas F. Gimble, Acting Inspector General, U.S. Department of Defense (Mar. 26, 2007) [hereinafter *DoD IG Report*] (unnumbered appendix). On May 28, 2004, Marine Maj. Gen. John Sattler, the CENTCOM director of operations, approved the AR 15–6 report, in the absence of Gen. John Abizaid, the CENTCOM Commander. See *DoD IG Report* (unnumbered appendix). See also *Sattler Transcript* at Tr. 42–43, 46–51, 54–56.

²⁹ *Lovelace Transcript* at Tr. 20, 21, 35–36, 57. For findings, see *DoD IG Report* at 29.

³⁰ *Lovelace Transcript* at Tr. 23–27, 55–56, 58. Lt. Gen. Lovelace was interviewed telephonically by Committee staff. During the call, Lt. Gen. Lovelace had in his possession an e-

Thus, it seems possible that it was Lt. Gen. Lovelace's communications which resulted in the call Colonel Bucci remembers receiving.

Gen. Craddock, Secretary Rumsfeld's senior military aide, testified he learned about the possibility of fratricide from Lt. Gen. Lovelace in person. Gen. Craddock recalls seeing Lt. Gen. Lovelace in the yard separating their homes³¹ and remarking that "[Corporal] Tillman may have been killed by friendly fire."³² Gen. Craddock said he was "surprised and taken aback" by this information.³³ Although Lt. Gen. Lovelace testified he did not recall this conversation, because he claims to have found out about the friendly fire "on or about May 27" and the backyard exchange had to have occurred before Lt. Gen. Lovelace had an e-mail sent on this topic on May 27, the two generals probably encountered each other on or just before May 26.³⁴

Furthermore, when Gen. Craddock was asked by Committee staff: "[D]id you ever get a report or ever hear that an investigation was going on into [Corporal Tillman's death]," Gen. Craddock replied, "I do recall [that it was] being investigated"³⁵ and said he "probably" learned of this from the Chairman or Vice Chairman of the Joint Chiefs of Staff or the Department's General Counsel in the course of the notification being provided to Secretary Rumsfeld.³⁶ Gen. Craddock's encounter with Lt. Gen. Lovelace likely preceded Gen. Craddock's learning about the investigation, otherwise Gen. Craddock would not have been "surprised" upon hearing of the possibility of fratricide in the death of Corporal Tillman. Assuming the recollections of Gen. Craddock and Lt. Gen. Lovelace are correct, Gen. Craddock likely learned of the investigation May 27 or May 28.

The recollections of Gen. Craddock and others are consistent with Colonel Bucci's description and add further credence to the timing and substance of Colonel Bucci's account. However, these specifics do not prove whether Colonel Bucci's report to Secretary Rumsfeld was, in fact, the first Secretary Rumsfeld learned of the possibility of fratricide as the cause of Corporal Tillman's death.

CENTCOM commander, U.S. Army Gen. John P. Abizaid, testified before the Committee about his interaction with Secretary Rumsfeld in May 2004. Gen. Abizaid said, "I was in Washington from the 18th to the 20th [of May 2004] and I talked with [Sec-

mail showing when and how he notified the others. This e-mail informed his recollection of the matter. See *Lovelace Transcript* at Tr. 22–23. Additionally, with one exception, Lt. Gen. Lovelace stated he believed the principals to each aide learned about the fratricide investigation as a result of his e-mail. Lt. Gen. Lovelace appears to have agreed with the question posed by Committee staff that "[Y]ou have no knowledge of when the Secretary himself might have [learned]." *Id.* at Tr. 27. However, this is confused somewhat by a mischaracterization by Majority interviewers of "May 20 [2004]" as a date certain that "[Secretary Rumsfeld] learned that Corporal Tillman's death was a suspected fratricide." *Id.* Secretary Rumsfeld stipulated that he had been told he was informed "after May 20, [2004]." *Rumsfeld/Committee Letter* (*emphasis added*). See also *Di Rita Transcript* at Tr. 44 for his recollection that he recalled learning of the fratricide "shortly before it was publicly announced, I would imagine, because I remember being involved in some of the discussions about how it would be announced. But I don't remember when that was."

³¹Both generals at the time lived in military housing, and their yards shared a fence. See *Craddock Transcript* at Tr. 19.

³²*Id.* at Tr. 19.

³³*Id.* at Tr. 27, 29. Gen. Craddock also testified that, after learning of the fratricide from Lt. Gen. Lovelace, he never raised the issue with Secretary Rumsfeld, Gen. Myers, or Gen. Peter Pace, the Vice Chairman of the Joint Chiefs of Staff.

³⁴*Lovelace Transcript* at Tr. 20–21, 23–25, 55–56.

³⁵*Craddock Transcript* at Tr. 32–33.

³⁶*Id.* at Tr. 32–34.

retary Rumsfeld] during that period, and I believe during that period I discussed with him the fratricide investigation.”³⁷ In a December 2006 colloquy with the DoD IG, however, about “what if any action you took after receiving the information that friendly fire was suspected,” Gen. Abizaid was asked, “[d]id you have any discussions with [] the Secretary of Defense,” to which Gen. Abizaid answered, “No. I didn’t talk to the Secretary of defense about it.”³⁸ The Committee is unable to reconcile these statements.

No individual who gave testimony to the Committee provided support to Gen. Abizaid’s recollection of talking with Secretary Rumsfeld between May 18 and May 20, 2004, about the possibility of Corporal Tillman’s death being a fratricide. No one recalled this exchange nor said that Secretary Rumsfeld commented upon it. In addition, if Secretary Rumsfeld had been informed during this period, there is no evidence that he ordered any action to be taken as a result.

The Committee received testimony and documents that public affairs officials at the U.S. Army Special Operations Command (USASOC) were among those individuals informed on May 27, 2004, that an investigation into Corporal Tillman’s death was about to be approved by CENTCOM. Consequently, these officials, working with Di Rita, began preparations for notifying Congress and the media.³⁹ Gen. Abizaid’s possible notification of Secretary Rumsfeld would have come just as the friendly fire investigation was about to formally conclude and preparations for announcing the findings were about to begin. It is not clear what instructions Secretary Rumsfeld could have issued at that time even if he had wanted to do so.⁴⁰

Based upon documentary evidence provided to the Committee, as well as interviews and testimony, the most senior officials at the Pentagon seem not to have been preoccupied by the news of Corporal Tillman’s death, aware of the breadth of related media coverage, inquisitive about the ensuing investigation, or cognizant of the existence or application of Army next-of-kin regulations.⁴¹ In addition, to the extent senior officers at the Pentagon and others were aware of impressions held by the public relating to the circumstances of Corporal Tillman’s death, it is not at all apparent they understood that such impressions were being derived from ac-

³⁷ *Tillman Hearing II* at Tr. 76. See also *id.* at Tr. 26.

³⁸ Interview by DOD IG staff of Gen. John P. Abizaid, then-U.S. CENTCOM Commander (Dec. 13, 2006) [hereinafter *Abizaid IG Transcript*], at Tr. 7, 9. There is further uncertainty about this matter. According to Gen. Abizaid, his only knowledge of the possibility of fratricide as the cause of Corporal Tillman’s death derived from an Army communication known as a P4 (discussed further in text below). See Letter from Gen. (Ret.) John P. Abizaid, former U.S. CENTCOM Commander, to Henry A. Waxman, Chairman, House Oversight and Government Reform Committee, and Tom Davis, Ranking Member, House Oversight and Government Reform Committee (Jan. 15, 2008) [hereinafter *Abizaid/Committee Letter*]. However, the IG determined Gen. Abizaid received this P4 sometime between May 6 and May 20, 2004 (See *DoD IG Report* (unnumbered appendix)). Assuming the accuracy of Gen. Abizaid’s recollection that he received the P4 before meeting with Secretary Rumsfeld, it appears either Gen. Abizaid misremembers the date of his meeting (and it actually occurred later than he remembers), or the DoD IG erred in concluding Gen. Abizaid could have received the P4 as late as May 18, 2004 or thereafter. It is not possible to reconcile both possibilities.

³⁹ *Bush Transcript* at Tr. 53–54, 81–84. See also E-mail from Lt. Col. Hans Bush, U.S. Army, to various (Jun. 2, 2004; 10:17 EDT) (bates nos. 2250–2905 to 2250–2906). For description of the routine circumstances of this e-mail, see, e.g., *Bush Transcript* at Tr. 66–67, 79–81, 90. For Di Rita’s description of his involvement, see *Di Rita Transcript* at Tr. 63–76.

⁴⁰ See, e.g., *Tillman Hearing II* at Tr. 33.

⁴¹ *Id.* at Tr. 47–48 (statement by Donald Rumsfeld, Secretary, U.S. Department of Defense). See also *Craddock Transcript* at Tr. 37–38.

tions (or inaction) ascribed to the DoD, and hence ostensibly subject to corrective action by DoD. This situation is further complicated by DoD's persistent deference to the military's hierarchical environment and delineated lines of authority in which responsibility for handling Army battle deaths rested only with certain individuals and institutions.⁴²

In addition, as outlined above, it seems Pentagon officials initiated arrangements to announce the friendly fire findings as soon as they received word that the investigation was concluding. The DoD IG concluded that Kevin Tillman, Corporal Tillman's brother, was informed of the fratricide finding on May 26, 2004.⁴³ The IG concluded that Corporal Tillman's wife, Marie Tillman, was notified the next day.⁴⁴ The Committee took testimony from several witnesses who suggested the timeline for Marie Tillman's notification was spurred by the fact that media inquires were being made about the friendly fire results even before Lt. Gen. Philip Kensinger's public announcement.⁴⁵

III. THE WHITE HOUSE

A. INITIAL ANNOUNCEMENT OF DEATH

The Army Special Operations Command communicated word of Corporal Tillman's death to the Army Human Resources Command in Alexandria, Virginia at 4:28 p.m. on April 22, 2004.⁴⁶ As outlined in the DoD IG's report, because of erroneous details provided by the Army medical facility which received Corporal Tillman's body, the form which transmitted the details of death indicated "hostile" fire from "enemy forces" as the cause of death.⁴⁷ There is no evidence that senior Defense or White House officials were aware of this report.

Evidence gathered by the Committee, including e-mails and interviews conducted by Committee staff demonstrate that White House staffers learned about Corporal Tillman's death from television news reports or from individuals who had received information from these sources.⁴⁸ As a result of news coverage, a number of White House employees, friends, family members, and colleagues sent e-mail to advise of the tragedy and to express their own personal shock and remorse.⁴⁹ That day and later, some individuals provided unsolicited suggestions for White House action or sought more information from their contacts there.⁵⁰

⁴² See, e.g., *Tillman Hearing II* at Tr. 70–72, 113–114, 147–149.

⁴³ See *DoD IG Report* (unnumbered appendix).

⁴⁴ *Id.* at 44.

⁴⁵ See, e.g., *Bush Transcript* at Tr. 58.

⁴⁶ E-mail from SFC Darien Swilley, USA SOC, to various (Apr. 22, 2004; 16:28 EDT).

⁴⁷ *DOD IG Report* at 42–43.

⁴⁸ See, e.g., *Currin Transcript* at Tr. 17; *Gross Transcript* at Tr. 8, 39–40. Further, McClellan stated that he learned from Gross. McClellan Interview.

⁴⁹ See, e.g., E-mail from Ron Fournier, Reporter, Associated Press, to Karl Rove, Political Advisor, White House (Apr. 23, 2004; 11:45 EDT) (bates no. HOG004–00684); E-mail from Peter H. Wehner, Director, Strategic Initiatives, White House, to various (White House official appears to have been blind carbon copied) (Apr. 23, 2004; 11:44 EDT) (bates no. HOG004–01040).

⁵⁰ See, e.g., E-mail from Steve Cardona to Michael Gerson, Chief Speechwriter, White House (Apr. 25, 2004; 16:35 EDT) (bates HOG004–00976 to -0977); E-mail from Barry S. Jackson, Deputy Political Advisor, White House, to Karl Rove, Political Advisor, White House (Apr. 23, 2004; 17:05 EDT) (bates HOG004–01120); E-mail from Peggy Noonan to Peter H. Wehner (Apr. 23, 2004; 12:47 EDT) (bates no. HOG004–00560).

The White House produced nearly 200 pages of e-mails referencing Corporal Tillman in response to the Committee's subpoena. It is difficult to argue, however, that the large number of e-mails somehow reflects a particular interest on the part of White House staffers in the matter of Corporal Tillman's death. In fact, a large percentage of this computer traffic consists of messages to and from White House employees (many very junior) and friends or family in which the parties mention Corporal Tillman's death and express sympathy. In some instances, the chains continue at great length and diverge into a myriad of unrelated private topics. Because the Committee's subpoena required the entirety of such exchanges be produced, this had the affect of inflating the volume of material provided to the Committee and providing a distorted impression of official White House interest beyond that reported herein.

Taylor Gross, a spokesman in the White House Media Affairs office, who was responsible for media outlets and issues in the South and Southwestern U.S., told the Committee that he learned from a cable television news broadcast at approximately 10:00 am on April 23, 2004 that Corporal Tillman had been killed.⁵¹ Shortly thereafter, Gross had started to receive a number of inquiries from Arizona journalists about "what the President thinks about Pat Tillman's death."⁵² The interest of Arizona media stemmed from the fact that Corporal Tillman had played college and professional football in Arizona. At 11:40 am, Gross, on his own initiative, drafted remarks which he proposed to distribute to reporters in response to such queries, and then sought approval from his supervisors, including White House Communications Director Dan Bartlett and White House Press Secretary Scott McClellan, for the comments he had prepared.⁵³ Specifically, Gross proposed replying to these media inquiries by saying:

Pat Tillman was an inspiration on the football field and in his private life. As with all who made the ultimate sacrifice in the war on terror, his family are in the thoughts and prayers of President and Mrs. Bush.⁵⁴

Five minutes later, Bartlett wrote McClellan, "does this set a precedent? i'm fine with it."⁵⁵

In this period, Bartlett also received an e-mail from Matthew Dowd, a Bush campaign official who suggested (using an abbreviation for the President of the United States,) that

Potus should call his family or go to Arizona [. . .] True hero.⁵⁶

⁵¹*Gross Transcript* at Tr. 8, 39–40.

⁵²*Id.* at Tr. 41.

⁵³*Gross Transcript* at Tr. 49–50.

⁵⁴E-mail from Daniel J. Bartlett, White House Communications Director, to Taylor Gross, Spokesman, White House Media Affairs, and Scott McClellan, White House Press Secretary (among others) (Apr. 23, 2004; 11:55 EDT) (bates HOG004–01083) (responding to E-mail from Taylor Gross, Spokesman, White House Media Affairs, to Daniel Bartlett, White House Communications Director, and Scott McClellan, White House Press Secretary, (among others) (Apr. 23, 2004; 11:55 EDT)).

⁵⁵E-mail from Daniel J. Bartlett, White House Communications Director, to Scott McClellan, White House Press Secretary (Apr. 23, 2004; 11:45 EDT) (bates no. HOG004–01084).

⁵⁶E-mail from Daniel J. Bartlett, White House Communications Director, to Matthew Dowd, Bush Campaign Official (Apr. 23, 2004; 11:53 EDT) (bates no. HOG004–01704) (responding to E-mail from Matthew Dowd, Bush Campaign Official, to Daniel J. Bartlett, White House Communications Director (Apr. 23, 2004; 11:50 EDT)).

Bartlett responded at 11:53 am and, in doing so, conveyed the concerns he was apparently contemplating in considering Gross' proposal. ". . . I agree he is a hero," Bartlett wrote,

But there will be a lot of pressure not to single out one guy just because he was a football player. We are providing a statement to the AZ press, but we will have to discuss anything broader.⁵⁷

McClellan responded to Gross' suggestion similarly:

[I t]hink it is fine to respond if asked, as long as we always keep in context of president mourns loss of all those who have sacrificed to make America safer.⁵⁸

With agreement apparently at hand, Bartlett e-mailed Gross: "good to go."⁵⁹ With this approval, Gross replied to press queries from his region with the two-sentence script.⁶⁰

Based on staff interviews and e-mails, it seems White House officials specifically rejected other options when deciding to proceed in this manner. One alternative was to offer comments on the matter without waiting to receive press inquiries. Another possibility was to issue a Presidential "statement" remarks intended to be directly attributed to the chief executive. While these alternatives may seem to differ little from the chosen course of action, the distinctions were significant to the White House press office as it wrestled with the issue. The press officials sought to acknowledge the tragedy of Corporal Tillman's death, but in a manner which did not slight others. White House staffers believed their approach (a relatively junior employee responding only when asked) properly balanced these competing demands.⁶¹

Indeed, it was not possible to determine how and when the President learned that Corporal Tillman had been killed.⁶² However, the President was out of Washington on April 23, 2004; the deputy

⁵⁷ *Id.*

⁵⁸ E-mail from Scott McClellan, White House Press Secretary, to Daniel J. Bartlett, White House Communications Director (Apr. 23, 2004; 11:54 EDT) (bates no. HOG004-01091); see also *McClellan Interview*. Senior advisors on the Presidential campaign agreed. Mark McKinnon, Media Advisor, Bush Campaign, wrote to Bartlett: "[I] realize President really shouldn't do anything that he hasn't done for any other soldier killed in the military, but certainly think he could say something about he exemplified the ultimate in humility, heroism, and sacrifice." E-mail from Mark McKinnon, Media Advisor, Bush Campaign, to Daniel J. Bartlett, White House Communications Director (Apr. 23, 2004; 13:01 EDT) (bates no. HOG004-01099).

⁵⁹ E-mail from Daniel J. Bartlett, White House Communications Director, to Taylor Gross, Spokesman, White House Media Affairs, and Scott McClellan, White House Press Secretary (among others) (Apr. 23, 2004; 11:55 EDT) (bates no. HOG004-01083) (responding to E-mail from Taylor Gross, Spokesman, White House Media Affairs, to Daniel Bartlett, White House Communications Director, and Scott McClellan, White House Press Secretary (among others) (Apr. 23, 2004; 11:55 EDT)).

⁶⁰ *Gross Transcript* at Tr. 79.

⁶¹ *Id.* at Tr. 60-62, 86-87. See also *Bartlett Interview*; *McClellan Interview*.

⁶² Gross told the Committee he never talked to the President about Corporal Tillman on the day the soldier was killed or otherwise. *Gross Transcript* at Tr. 113. In responding to an e-mail about Corporal Tillman's death from a friend, Gross wrote "[d]on't know if you saw my quote about this in the AZ Republic web site, but obviously the President was notified and the White House mourns his loss." E-mail from Taylor Gross, Spokesman, White House Media Affairs, to [name withheld by Committee staff] (Apr. 23, 2004; 19:07 EDT) (bates no. HOG004-00234 to 00236). Gross also told Committee staff that he actually had no knowledge of the President's notification. *Gross Transcript* at Tr. 111-113. It is possible Gross meant to imply otherwise in order to impress a friend.

press secretary traveling with him forwarded inquiries about Corporal Tillman to colleagues in the White House.⁶³

In Washington, however, soon after Gross acted upon Bartlett's instructions, two problems became apparent. First, once Gross provided his remarks to the Arizona media, some outlets elsewhere repeated his comments, but inaccurately described them as a "statement" from the President.⁶⁴ Because officials had specifically sought to avoid this situation, this mischaracterization caused confusion and angst in the White House. "[Dan Bartlett] approved a comment **from Taylor Gross** for the Arizona papers," one staffer explained with apparent exasperation, yet "our wires are asking what the white house statement was."⁶⁵ "[W]e are not putting out a statement, we are responding if asked," explained McClellan.⁶⁶

Media reports of the White House reaction confused even those who worked there. A White House speechwriter, employed in the office charged with authoring Presidential statements, was perplexed by the coverage.⁶⁷ "Did we issue a 'statement of sympathy' on Tillman's death?" he asked a colleague, "So says MSNBC."⁶⁸ Another befuddled staffer queried McClellan that afternoon, "Did we put out a statement as MSNBC said[?]"⁶⁹ "No-ap reported it that way," McClellan responded. He added, "[w]e should correct msnbc too."⁷⁰ Later that evening, McClellan instructed Gross and the individual in charge of Media Affairs, "let's make sure we correct if people r [sic] saying we put out a statement."⁷¹

The second problem became apparent when the White House press office learned that the Defense Department had not yet officially confirmed the fact that Corporal Tillman had been killed. This meant that the White House was in the awkward position of commenting upon a wartime death before the Pentagon had announced it. The 2004 National Defense Authorization Act, which became law in November 2003, contained a provision prohibiting DoD from releasing the names of casualties until twenty-four hours after next-of-kin had been notified. The legislation was meant to prevent the possibility of family members learning of a death from news accounts. By ensuring that relatives will not be contacted by

⁶³ E-mail from Trent Duffy, Deputy White House Press Secretary, to Claire Buchan, Deputy White House Press Secretary (Apr. 23, 2004; 15:15 EDT) (bates no. HOG004-01080). See also *McClellan Interview*.

⁶⁴ See, e.g., E-mail from Trent Duffy, Deputy White House Press Secretary, to Claire Buchan, Deputy White House Press Secretary (Apr. 23, 2004; 15:15 EDT) (bates no. HOG004-01080); E-mail from Claire Buchan, Deputy White House Press Secretary, to Sean McCormack, Spokesman, National Security Council (Apr. 23, 2004; 16:07 EDT) (bates no. HOG004-01107); E-mail from Suzy DeFrancis, Deputy Assistant, White House Communications, to Scott McClellan, White House Press Secretary (Apr. 23, 2004 16:31) (bates no. HOG004-01110).

⁶⁵ E-mail from Claire Buchan, Deputy White House Press Secretary, to Scott McClellan, White House Press Secretary (among others) (Apr. 23, 2004; 12:40 EDT) (bates no. HOG004-01109) (*emphasis* in original).

⁶⁶ E-mail from Scott McClellan, White House Press Secretary, to Claire Buchan, Deputy White House Press Secretary, Trent Duffy, Deputy White House Press Secretary, and Sean McCormack, Spokesman, National Security Council (Apr. 23, 2004; 13:37 EDT) (Committee staff notes from *in camera* review).

⁶⁷ *Gross Transcript* at Tr. 84-86; *Currin Transcript* at Tr. 8, 14-15.

⁶⁸ E-mail from Noam Neusner, White House, Speechwriter, to Erin Healy, White House staff (Apr. 23, 2004; 16:50) (Committee staff notes from *in camera* review).

⁶⁹ E-mail from Suzy DeFrancis, Deputy Assistant, White House Communications, to Scott McClellan, White House Press Secretary (Apr. 23, 2004 16:31) (bates no. HOG004-01110).

⁷⁰ E-mail from Scott McClellan, White House Press Secretary, to Suzy DeFrancis, Deputy Assistant, White House Communications (Apr. 23, 2004; 19:10 EDT) (bates no. HOG004-01122).

⁷¹ E-mail from Scott McClellan, White House Press Secretary, to Jeanie Mamo, Director, Media Affairs, White House, and Taylor Gross, Spokesman, White House Media Affairs (Apr. 23, 2004; 19:21 EDT) (bates no. HOG004-01124).

the media immediately upon notification, the provision also ensures that survivors have time to consider how to respond.

Unfortunately, because the media were running stories about Corporal Tillman's death even in the absence of official confirmation, the law's goals were stymied even before the White House elected to respond to inquiries on the matter. Significantly, however, White House officials denied knowing of the legislation.⁷² This may be because in the seven months between its enactment and Corporal Tillman's death, the White House had not been queried about a specific wartime death, and thus, there had been little cause for White House employees to know of a prohibition on Pentagon actions. There is no evidence the White House intentionally acted in contravention of this provision.

It seems that White House and DoD officials did not communicate about the Corporal Tillman case until after Gross began to reply to inquires.⁷³ As a result, Claire Buchan, one of two White House deputy press secretaries, somehow learned that the Pentagon had not yet announced Corporal Tillman's death. At 12:54 pm (fifty-nine minutes after approval had been given to Gross), Buchan sent an e-mail to McClellan. The e-mail was captioned "alert—do not use tillman statement," the text said, in part, "dod is not confirming that he is dead," but conceded, "unfortunately, taylor's statement is on the wire."⁷⁴

Apparently seeking details of what she thought was an imminently forthcoming Defense Department release, Buchan then inquired of Sean McCormack, the National Security Council's spokesman, "can you bug your friend at dod[?]"⁷⁵ Presumably speaking of Pentagon officials, McCormack replied, "not confirming yet;"⁷⁶ and he added, "this will soon become a problem."⁷⁷ Buchan responded

trust me. it is already. i have everyone and their brother bugging me for 'the statement.' can they give you any sense of timing?⁷⁸

In fact, the Pentagon release was not issued until 11:15 pm; about ten hours later. As required, this was twenty-four hours after Corporal Tillman's family was informed of his death.⁷⁹

⁷² See, e.g., *Gross Transcript* at Tr. 68–70; *McClellan Interview*; *Bartlett Interview*.

⁷³ Gross had no knowledge whatsoever of any communications between DoD and the White House. *Gross Transcript* at Tr. 45.

⁷⁴ E-mail from Claire Buchan, Deputy White House Press Secretary, to Trent Duffy, Deputy White House Press Secretary, and Scott McClellan, White House Press Secretary (Apr. 23, 2004; 12:54 EDT) (bates no. HOG004–01108). This e-mail also reports "next of kin still being notified." *Id.* (NB: This was erroneous; by this time Corporal Tillman's parents and widow had been informed.)

⁷⁵ E-mail from Claire Buchan, Deputy White House Press Secretary, to Sean McCormack, Spokesman, National Security Council (Apr. 23, 2004; 16:07 EDT) (bates no. HOG004–01107) (including E-mail from Claire Buchan, Deputy White House Press Secretary, to Sean McCormack, Spokesman, National Security Council (Apr. 23, 2004; 16:00 EDT)).

⁷⁶ *Id.* (including E-mail from Sean McCormack, Spokesman, National Security Council, to Claire Buchan, Deputy White House Press Secretary (Apr. 23, 2004; 16:06 EDT)).

⁷⁷ *Id.*

⁷⁸ *Id.* Buchan continued, "are you anticipating a bigger problem than just managing this?" *Id.*
⁷⁹ E-mail from Shari Lawrence, Deputy Public Affairs Officer, U.S. Army Human Resources Command, to various (Apr. 23, 2004; 15:59 EDT) (bates no. 200–205) (forwarding death notice data sheet of Corporal Tillman). For instructions on release date and time as well as death notice data sheet, see *id.* Note that the release indicates the statement "[t]he incident is under investigation." *Id.* This apparently was standard phraseology used on all announcements of the-

Four hours before the DoD release, in the course of instructing subordinates to ensure media outlets corrected any mischaracterization of Gross' remarks, McClellan outlined his understanding of what had transpired that day:

Media affairs commented when asked for reaction from Arizona press. They did not check to verify if it had been confirmed.⁸⁰

In an interview with the Committee, Gross acknowledged that he did not confirm news accounts of Corporal Tillman's death before drafting the proposed response. He explained that he assumed, if confirmation was to be secured, it was the responsibility of others.⁸¹ Bartlett, in his interview with the Committee, said he assumed someone had done so.⁸² Although the Committee did not receive any White House documents which reflect this, Gross also recalled "verbal conversations" with staffers (although he could not remember which) about the veracity of the broadcast reports, whether or not Corporal Tillman's family had been informed, and the desirability of a response from the Pentagon or White House.⁸³

McClellan told the Committee that although Corporal Tillman's death was certainly newsworthy, it did not "dominate" press office duties that day.⁸⁴ Gross recalls no after-action follow-up on the matter.⁸⁵ Indeed, Gross told the Committee that "my knowledge of Pat Tillman's death, and any information about Pat Tillman's death stopped" on April 23.⁸⁶ He declared "I never once, to my recollection, again took up the subject" aside from "maybe a friend or two e-mailing me or contacting me over the phone. . . ."⁸⁷

Staffers also apparently did not attempt to discern the basis of the mix-up surrounding Gross' remarks. This may be because it was a Friday when the White House reacted to news of Corporal Tillman's death. By the next business day (Monday, April 26), concern about White House actions appear to have dissipated and other events had come to preoccupy staffers.

It seems Buchan did not take note of the official Pentagon release until returning to work after being off for the weekend. On April 26 at 11:36 am she e-mailed McCormack, "i see the army is finally confirming it."⁸⁸ Although she had known since the afternoon of April 23 that the White House response had preceded the Defense Department's announcement, she seems not to have monitored the situation later that day in order to determine how long in advance Gross' remarks had circulated.

ater deaths at the time. See, e.g., *Bush Transcript* at Tr. 23–24; *Henderson Transcript* at Tr. 24.

⁸⁰ E-mail from Scott McClellan, White House Press Secretary, to Suzy DeFrancis, Deputy Assistant, White House Communications (Apr. 23, 2004; 19:10 EDT) (bates no. HOG004–01122).

⁸¹ *Gross Transcript* at Tr. 52–3, 64–67, 70, 93–96.

⁸² *Bartlett Interview*. In addition, McClellan said this was something Gross' office "could have done." *McClellan Interview* (Committee staff notes).

⁸³ *Gross Transcript* at Tr. 41–42, 44, 46–47.

⁸⁴ *McClellan Interview*.

⁸⁵ *Gross Transcript* at Tr. 75.

⁸⁶ *Id.* at Tr. 98.

⁸⁷ *Id.*

⁸⁸ E-mail from Claire Buchan, Deputy White House Press Secretary, to Sean I. McCormack, Spokesman, National Security Council (Apr 26, 2004; 11:36 EDT) (bates no. HOG004–01105).

B. CORRESPONDENTS DINNER SPEECH

On May 1, eight days after the announcement that Corporal Tillman had been killed, the President gave remarks at the annual White House Correspondents Dinner. In this short speech, the President spoke of wartime journalists (including those killed in action) and World War II veterans. He also said:

The loss of Army Corporal Pat Tillman last week in Afghanistan brought home the sorrow that comes with every loss, and reminds us of the character of the men and women who serve on our behalf. Friends say that this young man saw the images of September the 11th, and seeing that evil, he felt called to defend America. He set aside a career in athletics and many things the world counts important: wealth and security and the acclaim of the crowds. He chose, instead, the rigors of Ranger training and the fellowship of soldiers and the hard duty in Afghanistan and Iraq. Corporal Tillman asked for no special attention. He was modest because he knew there were many like him, making their own sacrifices.⁸⁹

In an April 27, 2004 e-mail to Gerson from research assistant, Lee Bockhorn, Bockhorn conveyed three news clippings about Corporal Tillman to the speechwriter, with the note, “[y]ou asked for the ‘most moving’ stuff on Corporal Tillman, particularly anything he said. . . .”⁹⁰ Bockhorn noted “pretty remarkable” comments by Corporal Tillman on September 12, 2001, about the affect of the previous day’s terrorist attacks on his professional aspirations.⁹¹ “At times like this,” one clip quoted Corporal Tillman as saying, compared to other relatives who had served in the military, he believed he hadn’t “done a damn thing as far as laying myself on the line like that.”⁹²

As the speech was being finalized, a draft was provided to John Currin, the White House speechwriting “fact-checker” for review.⁹³ On the morning of April 28, Currin e-mailed Hedy Henderson, a counterpart at the Defense Department.⁹⁴ He wrote

I hope you can help us confirm some information. We are putting in the President’s remarks at the correspondent’s [sic] dinner a few lines about Pat Tillman. We need to get confirmed his rank and that he did tours of duty in both Afghanistan and Iraq.⁹⁵

⁸⁹ E-mail from Robert Pratt, White House staff, to various (May 3, 2004; 13:01 EDT) (bates no. HOG004-00613) (forwarding E-mail from Margaret Suntum, White House staff, to various (May 3, 2004; 12:54 EDT), including Official Remarks by the President at the White House Correspondents Dinner, May 1, 2004).

⁹⁰ E-mail from Lee Bockhorn, Research Assistant, White House, to Michael J. Gerson, Chief Speechwriter, White House (Apr. 27, 2004; 13:49 EDT (bates no. HOG004-01137)).

⁹¹ *Id.* (citing, Richard Lacayo, *One For The Team*, TIME MAG. (May 3, 2004) (quoting Corporal Pat Tillman)). See also, *Currin Transcript* at Tr. 9, 47–48.

⁹² For description of fact checker responsibilities and process, see *Currin Transcript* at Tr. 6–7, 12.

⁹³ For Henderson’s role, see *Currin Transcript* at Tr. 15, 23; *Henderson Transcript* at Tr. 22–23, 31. For understanding of the routine nature of contact, see *Henderson Transcript* at Tr. 29, 46–49.

⁹⁴ E-mail from John Currin, White House speechwriting factchecker, to Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense (Apr. 29, 2004; 13:50 EDT) (bates

Henderson responded by forwarding the April 23, 2004 Defense Department press release announcing the death and commented “I’m still checking the Afghanistan/Iraq part.”⁹⁶

Between 12:40 pm and 2:03 pm on April 27, 2004, Currin and Henderson then exchanged five e-mails about the nations in which Corporal Tillman served and the proper way to refer to his rank. When Currin was told that Corporal Tillman was a Specialist, he replied (referencing those who crafted the speech), “The writers pulled from a news article that put his rank as sergeant;” as if by explanation, Henderson responded only with the Internet link to an Army Special Operations Command statement about Corporal Tillman’s death (which noted he “received a posthumous lateral appointment April 26 from the rank of specialist to corporal”) and the name and telephone number of Carol Darby, the Special Operations Command’s civilian public affairs officer at Fort Lewis, Washington.⁹⁷ Currin apparently then called Darby to discuss these matters further.⁹⁸

Henderson told the Committee “probably sometime in late May” 2004 she learned “[f]rom the news” that Corporal Tillman was possibly a victim of fratricide.⁹⁹ Before then she did not know an investigation was underway nor had she heard any suggestion that speeches with which she was involved “should avoid going into detail about how Corporal Tillman died.”¹⁰⁰

Darby similarly testified that she had no knowledge of fratricide or an investigation until weeks after her communication with Currin; this was consistent with an affidavit she had executed in February 2005.¹⁰¹ Lastly, Currin told the committee that neither Henderson nor Darby apprised him that friendly fire was suspected in Corporal Tillman’s death or an inquiry was ongoing, and no speech draft he saw referenced in any way the circumstances in which the soldier died.¹⁰² Indeed, he did not learn of the fratricide finding until after the Army released the information publicly on May 29.¹⁰³

no. 14005) (forwarding E-mail from John Currin, White House speechwriting factchecker, to Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense (Apr. 28, 2004; 11:45 EDT).

⁹⁶ *Id.* (forwarding E-mail from Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense, to John Currin, White House speechwriting factchecker (Apr. 28, 2004; 11:59 EDT). Henderson told Committee staff that she recalled these were the only points Currin raised with her during this call, not Corporal Tillman’s enlistment motivations. Henderson said she had “vague” recollections that it was “very possible” this topic came up. *Henderson Transcript* at Tr. 27–28, 34–40, 44–45. Currin had the same recollection. *Currin Transcript* at Tr. 75–76.

⁹⁷ E-mail from Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense, to John Currin, White House speechwriting factchecker (Apr. 28, 2004; 14:03 EDT) (*citing* U.S. Army Special Operations Command News Service, Press Release 040423–01: Army Ranger killed in Afghanistan, Apr. 23, 2004) (forwarding E-mail from John Currin, White House speechwriting factchecker to Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense (Apr. 28, 2004; 13:46 EDT). *See also Henderson Transcript* at Tr. 28, 38, 42–43. For the routine origins of the release, *see Darby Transcript* at Tr. 28–31. Henderson also apparently talked with Darby before referring Currin to her. *Id.*

⁹⁸ *Currin Transcript* at Tr. 29–31.

⁹⁹ *Henderson Transcript* at Tr. 21.

¹⁰⁰ *Id.* at Tr. 21–22, 29.

¹⁰¹ Sworn Statement by Carol Darby, Public Affairs Officer, U.S. Army (Feb. 22, 2005) (available in *DoD IG Report* (unnumbered appendix)).

¹⁰² *Currin Transcript* at Tr. 35, 71.

¹⁰³ *Id.* at Tr. 72.

In describing her contact with the fact-checker, Darby told the Committee Currin also asked “if I could tell him why Pat Tillman joined the Army. . . .”¹⁰⁴ She recounted her response:

I told him no, that I could not, that I had never talked to either of the [Tillman] brothers and I had never seen anything in print of any sort that stated why they joined the Army. But I had seen press reports where Pat’s coach had spoke [sic] of something along those lines, but [the reports] didn’t really give exactly why Pat joined the Army.¹⁰⁵

In response to a request from Currin, Darby faxed him copies of the articles she had at hand.¹⁰⁶

Currin apparently reviewed this material, and then queried Matthew Scully, one of Gerson’s deputies:

What is your source for the statement that Corporal Tillman seeing on September 11 the burning towers on television, felt called to fight that evil. Going back to press accounts at the time, Corporal Tillman refused to give his reasons, and kept it to himself.¹⁰⁷

Scully replied (possibly referencing the packet of news clips that had been provided by Bockhorn) “[s]hould be in news accounts.”¹⁰⁸ Currin told the Committee he never saw the e-mail from Bockhorn or its attachments.¹⁰⁹ This may be why, in reply to Gerson, Currin (while also noting Corporal Tillman “ha[d] been posthumously promoted to Corporal”) responded:

My DoD contact, who checked with the Rangers, confirm [sic] that he never gave any media interview [sic] or discussed the reasons why he left the NFL to join the Rangers. [. . .] But given that he never spoke to the press about his reasons for joining the Rangers, we simply do not have support for the statement that he decided to join the Rangers after seeing the burning towers on television.¹¹⁰

About one and a half hours later, Currin wrote again:

There is no direct support for the statement that Pat Tillman saw the burning towers on television and felt called to fight the evil behind it. Tillman and his brother never discussed their reasons with the press, nor have their par-

¹⁰⁴ *Darby Transcript* at Tr. 39.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House (Apr. 28, 2004; 14:09 EDT) (bates no. HOGRO04–01093). Throughout the time the Tillman brothers were stationed at Fort Lewis, Darby was responsible for conveying various media requests to them. She told the Committee she thought they declined interview requests because “they wanted to do what they had joined to do without the interruptions of media query and media involvement;” in describing to the Committee her encounter with Currin, Darby denied the suggestion that she knew Tillman *refused to reveal* the reason he joined the Army. Rather, she stated she did not know his motivation. *Darby Transcript* at Tr. 22, 41–42.

¹⁰⁸ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House (Apr. 28, 2004; 14:25 EDT) (bates no. HOGRO04–010904) (forwarding E-mail from Matthew Scully Deputy Speechwriter, White House, to John Currin, White House speechwriting fact checker (Apr. 28, 14:11 EDT).

¹⁰⁹ *Currin Transcript* at Tr. 51, 53.

¹¹⁰ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House (Apr. 28, 2004; 14:25 EDT) (bates no. HOGRO04–010904).

ents. Tillman kept his reasons to himself. The people at Fort Lewis, the base for Tillman's unit, could not confirm that September 11 was the reason why Tillman joined the Army. All that I and Carol Darby at USASOC (Ft. Lewis) could find is mention in a news article from March 2003 that says that "friends say the brothers were deeply affected by the September 11 terrorist attacks and felt compelled to enlist." We do not know if these friends were speculating about Tillman's reasons or if they had direct knowledge of Tillman's reasons. The bottom line is that Tillman never stated publicly his reasons for joining the Rangers, and it is speculation that he did so because of September 11.¹¹¹

The next afternoon, it seems that Darby called Currin to discuss the matter further. The fact-checker summarized this conversation in an e-mail to Gerson, Scully, and a third speechwriter:

As I mentioned yesterday, Pat Tillman and his family never spoke about the reasons why he chose to leave the NFL and join the Army, and the statement in the remarks for the correspondence dinner attributing his motivation to seeing the burning towers on 9/11 is speculation. I spoke yesterday with Carol Darby at Ft. Lewis (the base for the Rangers) to check on Tillman's correct rank and see if she could verify Tillman's reasons for joining the Rangers. Carol phoned me just now to ask if we wanted to go through the CACO assigned to the Tillman family and see if they would want to talk to us about Corporal Tillman's reasons for joining the Army. I am not certain if we would want to approach the family in their time of grief (they will receive Corporal Tillman's remains today), or if you can work around the problem of not knowing as fact the reasons that motivated Tillman to join the Army. Let me know if you want me to go through the Tillman family CACO to see if the family will let us know his reasons. My sense, however, is that because Tillman wanted to keep his reasons private, and because his family continues to respect his wish to this day, we should as well, and work as best we can around the speculation.¹¹²

In a subsequent exchange of e-mails, Gerson referred Currin to a "new draft" of the speech which the writer believed addressed the fact-checker's concerns. Currin responded by saying, "I gather you

¹¹¹ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House, Michael Gerson, Chief Speechwriter, White House, and others (Apr. 28, 2004, 15:53 EDT) (bates no. HOG004-01095).

¹¹² E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House, Michael Gerson, Chief Speechwriter, White House, and others (Apr. 29, 2004, 13:47 EDT) (bates no. HOG004-01096) ("CACO" which is mentioned in this e-mail is an abbreviation for Casualty Assistant Calls Officer, an individual assigned by the Army to provide advice and counseling to next of kin on the military's procedures and protocols in the case of active duty deaths.). Currin told Committee staff that he routinely submitted written remarks and sometimes other back-up material to the White House staff secretary about the items he fact-checked. Thus, it is possible that at least one other White House official (other than those known to be the e-mail recipients) were apprised of the substance of Currin's conversations with Darby. Currin Transcript at Tr. 12-14, 42-44, 64-65, 74-75.

have worked around the issue?”¹¹³ to which Gerson responded: “I think so.”¹¹⁴ Currin seemed to concur. When he reviewed the later version, he did not object to any discussion of Corporal Tillman’s enlistment, but rather to the fact that the soldier’s rank was incorrectly noted as “corporal.” In the next nine minutes, he sent or received five e-mails on the subject, to ensure that this detail was properly revised.¹¹⁵

Currin agreed when the Committee asked him if his preoccupation with Corporal Tillman’s rank indicated “satisfaction” with the way the speech draft addressed enlistment motivations. However, he also said it was “perhaps not 100 percent” in compliance with his suggestions.¹¹⁶ In addition, when asked if it was accurate to say that in his “research and fact-checking” he learned that the Tillman brothers considered their “reasons for joining the military as something they didn’t want to talk about in public,” he replied “that is probably fair.”¹¹⁷

Contemporary media accounts of Corporal Tillman’s time in the Army are replete with reports of acquaintances commenting upon the circumstances of the Ranger’s enlistment. In addition to the two cited by Bockhorn, one 2002 article said, “[s]ome close to him suspect that the Sept. 11 attacks had an influence on his decision.”¹¹⁸ A month earlier, a Kansas newspaper reported, “[a]lthough Tillman had been considering joining the military before Sept. 11, friends say the terrorist attacks stoked his patriotic embers.”¹¹⁹ Another story explained, “Several of Tillman’s confidants say the Sept 11 terrorist attacks influenced” him.¹²⁰ In July 2002, the Des Moines Register described Corporal Tillman’s reason for joining the military: “It’s a personal decision, he told friends, who think it has something to do with what happened to this country last Sept. 11.”¹²¹

The exchange between Currin and Darby on April 27 and April 28 likely spurred Army Maj. Gen. Stanley McChrystal to send his Personal For (or “P4”) message to Gen. Abizaid on April 29, although this connection cannot be precisely established. The DoD IG testified before the Committee that the P4 “stopped with the three generals that were on it.”¹²² The Committee’s inquiry supports this conclusion. No other individual, including Secretary Rumsfeld, Gen.

¹¹³ E-mail from John Currin, White House speechwriting fact checker, to Michael J. Gerson, Chief Speechwriter, White House (Apr. 29, 2004; 14:01 EDT) (bates HOG004-01086).

¹¹⁴ E-mail from Michael J. Gerson, Chief Speechwriter, White House, to John Currin, White House speechwriting fact checker (Apr. 29, 2004; 14:02 EDT) (Committee staff notes from in camera review).

¹¹⁵ See E-mails to/from John Currin, White House speechwriting fact checker (Committee staff notes from in camera review). See also *Currin Transcript* at Tr. 55–56.

¹¹⁶ *Id.* at Tr. 35–37, 55, 63, 67–68.

¹¹⁷ *Currin Transcript* at Tr. 57, 70.

¹¹⁸ Nick Wishart, *Tillman Declines to Discuss his Enlistment in Army*, ST. LOUIS POST-DISPATCH, Jul. 14, 2002, D5 (noting “[Tillman] is not talking to the media . . . He wants to be left alone to pursue his most recent goal, leaving the rest of us to speculate on his motivations.”)

¹¹⁹ Mark Emmons, *Tillman Takes His Won Path from NFL to Army; Friends and Family of Arizona’s Pat Tillman Aren’t Surprised He’s Giving Up NFL Lifestyle to Become an Army Ranger*, WICHITA EAGLE, Jun. 4, 2002, 1D.

¹²⁰ Troy Johnson, *NFL No Match for Tillman’s New Challenge; Former Cardinal Defensive Back to Begin Army’s Ranger Training*, CHARLESTON GAZETTE, Jul. 12, 2002, 5B.

¹²¹ Carlson John, *Decision to Serve, Rather than Be Served, Admirable*, DES MOINES REGISTER, Jul. 10, 2002, 1B.

¹²² *Hearing on Misleading Information from the Battlefield before the House Oversight and Government Reform Committee*, 110th Cong. (Apr. 24, 2007) [hereinafter *Tillman Hearing I*] (prepared statement by Thomas Gimble, Acting Inspector General, U.S. Department of Defense).

Myers, Lt. Gen. Lovelace and DiRita, testified to having had knowledge of the P4 or its contents.¹²³

C. OTHER ACTIVITIES

The White House intergovernmental affairs office apparently responded to a request from the San Jose Mayor to assist in arranging for Corporal Tillman's widow to fly to California with her late husband's remains.¹²⁴ On the other hand, it is difficult to determine if the White House contemplated involvement in Corporal Tillman's memorial service. On May 6, Brook Holladay, an apparently junior-level employee reported to another staffer about receiving a telephone call from "Stu Hadley" who was involved with planning a memorial service for Corporal Tillman at the University of Arizona. Holladay said Hadley reported "someone from the White House called and offered a message for the event to be read;" Holladay lamented that Hanley did not "have the name of the person who called."¹²⁵ After an exchange of e-mails, Holladay reported on what appears to be a second call with Hadley, stating he "COULD NOT HAVE BEEN MORE UNDERSTANDING OR NICER about this whole situation! All's good."¹²⁶

Although the situation appeared to be satisfactorily resolved, the e-mail exchange continued between eleven more staffers. One volunteered "this issue probably rises to a Karl-level," presumably a reference to Presidential aide Karl Rove.¹²⁷ This brought the reply, "[t]hey are checking with them."¹²⁸ This suggests that either a White House staffer or the Arizona contact was getting in touch with "Karl." The Committee found no further evidence that the White House contemplated or actually sent a message about Corporal Tillman to the University of Arizona or that Rove was involved. Of course, even if it was determined that Rove contemplated proffering some sort of official statement to be read at a University of Arizona event, this does not indicate that he was aware of the likelihood that Corporal Tillman had been killed by friendly fire.

D. KNOWLEDGE OF FRATRICIDE

No White House staffer interviewed by the Committee said they knew that fratricide was suspected until the Army's announcement

¹²³ See *Tillman Hearing II* at Tr. 28, 63, 93 (statements by Gen. Richard Myers); *Id.* at Tr. 16 (statements by Donald Rumsfeld); *Id.* at Tr. 75 (statement by Donald Rumsfeld, regarding having never received any P4 message); *Lovelace Transcript* at Tr. 28–29; *Di Rita Transcript* at Tr. 55.

¹²⁴ E-mail from Jim Cunneen, President and CEO, San Jose Silicon Valley Chamber of Commerce, to Ruben Barrales, Intergovernment Affairs Office, White House (Apr. 30, 2004; 11:37 EDT) (bates nos. HOGRO04–00379–00381) (forwarding E-mail from Jim Cunneen, President and CEO, San Jose Silicon Valley Chamber of Commerce, to Ruben Barrales, Intergovernment Affairs Office, White House (Apr. 29, 2004; 02:00 EDT); E-mail from Jeananne Fair, White House staff, to Ruben Barrales, Intergovernment Affairs Office, White House (Apr. 27, 2004; 17:34 EDT) (bates no., HOGRO04–01111); E-mail from Pat Dando, Mayor, City of San Jose, to Ruben Barrales, Intergovernment Affairs Office, White House (Apr. 28, 2004; 17:26 EDT) (bates no. HOGRO04–00135).

¹²⁵ E-mail from Brook Holladay, White House staff, to Brooke Chambers, White House staff (May 7, 2004; 14:15 EDT) (bates no. HOGRO04–01113–01114) (forwarding E-mail from Brook Holladay, White House staff, to Brooke Chambers, White House staff (May 6, 2004; 15:08 EDT)).

¹²⁶ *Id.* (Emphasis in original.)

¹²⁷ E-mail from Brooke Manning, White House staff, to David Holt, White House staff (May 6, 2004; 15:51 EDT) (bates no. HOGRO04–01117–01119) (forwarding E-mail from Brooke Holt, White House staff, to David Holt, White House staff (May 6, 2004; 15:39 EDT)).

¹²⁸ *Id.*

on the subject.¹²⁹ The Committee did not obtain any information to the contrary. It also found no evidence which suggested that other White House staffers or the President had foreknowledge of the friendly fire suspicions.

When the Pentagon released the fratricide findings, White House press and speechwriting officials considered it a Defense Department matter about which a comment or explanation from the Presidential staff was unnecessary.¹³⁰ The media apparently shared this view. There is no record of any question about Corporal Tillman being posed in a White House press conference immediately after the release by the Army of the findings of the friendly fire investigation; this was confirmed by White House officials.¹³¹

IV. OTHER CASES

A. JESSICA LYNCH

The April 3, 2003, front page *Washington Post* article which attributed special heroism to Private Jessica Lynch was based on information provided by unnamed "U.S. officials."¹³² The *Washington Post* article was widely circulated and formed the basis of additional stories in other publications in the following days. Many other media outlets apparently sought to substantiate claims about Private Lynch's actions at the time she was captured. As then-U.S. Navy Captain Frank Thorp, a CENTCOM public affairs official, recounted to Committee staff, "I remember specifically everyone and their brother and sister trying to chase that story and being unable to."¹³³

Some charge that now-Rear Admiral Thorp or other administration or Pentagon officials intentionally misinformed the *Washington Post* as part of an effort to make Private Lynch appear to be particularly heroic and thus buttress support for the Iraq War. It is also possible the flawed *Washington Post* article resulted from prosaic circumstances. The story may have been based upon innocent confusion about details conveyed amidst the war. Alternatively, some have argued that the problematic *Washington Post* article may have been advanced by proponents of an expanded role for women in the military namely, by demonstrating that Private Lynch had behaved valiantly in combat, efforts to allow other females into front-line units would have presumably been aided. A cursory examination of some of the articles subsequently written based upon the initial *Washington Post* article lends support to this suggestion.¹³⁴

¹²⁹ See *Gross Transcript* at Tr. 101–2; *Currin Transcript* at Tr. 72; *Bartlett Interview*; *McClellan Interview*; *Gerson Interview*.

¹³⁰ *McClellan Interview*.

¹³¹ See *Gross Transcript* at Tr. 107–108, 117–118; *Bartlett Interview*; *McClellan Interview*. In addition, Committee staff performed an article search and a search of White House press gaggles and did not find any instance of White House officials being quoted or asked, respectively, about Corporal Tillman immediately after to the announcement of the finding of friendly fire.

¹³² Susan Schmidt and Vernon Loeb, 'She Was Fighting to the Death,' *Details Emerging of W.Va. Soldier's Capture and Rescue*, WASH. POST, Apr. 3, 2003, p. A1.

¹³³ *Thorp Transcript* at Tr. 79.

¹³⁴ In the week following the *Post* story, editorials and articles appeared, relating Lynch's heroics to the prospect of women being given combat roles. See Joan Lowy, *Heroics of female POW raise combat debate*, SCRIPPS HOWARD NEWS SERVICE, Apr. 3, 2003; *Pfc. Jessica Lynch shows again that women can handle combat; she kept firing at attackers until ammunition ran*

The Committee's investigation of the identity and motivation of the *Washington Post's* source for the article was limited to posing a handful of questions to two witnesses: Rear Admiral Thorp and Jim Wilkinson, a CENTCOM official charged with strategic communications during the April 2003 time period. Neither stated any knowledge of the background of the leak.¹³⁵ The Committee obtained no further information on this topic.

Significantly, the *Post* journalists and their editors, according to a 2003 account in the *American Journalism Review*, reject the suggestion they were intentionally misled by Pentagon officials;¹³⁶ they instead trace the difficulties to flawed data from the battlefield. This possibility seemed buttressed in 2004 when it was suggested that erroneous translations of Iraqi radio transmissions about the convoy ambush may have led some to believe Private Lynch undertook actions actually performed by another soldier.¹³⁷

After Private Lynch's rescue, an Army 15-6 investigation was conducted to learn more about the actions of her unit on the day it was attacked.¹³⁸ In the month after the *Washington Post* article, another news account reported that "two Pentagon officials in interviews cast doubt on the *Washington Post's* report. The officials said all evidence suggests that [Private] Lynch's truck crashed in the chaos of the ambush . . ." ¹³⁹ The article attributed to these same "officials" the view that Private Lynch "suffered several bone fractures and was in no position to put up a fight."¹⁴⁰ Indeed, an Army spokesman, who described the inquiry as "extremely complex," stipulated it would answer the query "[w]hen the ambush hit, did the vehicle wreck or did she fight?"¹⁴¹

On June 17, 2003, the *Washington Post* reported that Private Lynch did not engage the enemy, was not wounded by gunshots, and was rescued without significant resistance.¹⁴² According to press reports, the 15-6 investigation results, officially released the following month, said much the same.¹⁴³

On April 5, 2003, three days after Private Lynch's rescue, Air Force Maj. Gen. Victor Renuart, in the course of a CENTCOM briefing, told assembled reporters he would "spend a minute or two talking about the rescue of Private Lynch," and declared "you'll forgive me for referring to notes a little bit more, but the facts of this

out, official says, DETROIT NEWS, Apr. 4, 2003, p. 8A; *Women are proving they're just as tough as the men; The arguments for keeping women out of combat are quickly losing credibility*, PORTLAND (ME) PRESS HERALD, Apr. 5, 2003, 9A; *Lynch quells gender debate*, BOSTON HERALD, Apr. 6, 2003, 26; *Jessica's Lesson*, ROCHESTER DEMOCRAT AND CHRONICLE, Apr. 7, 2003, 8A; Frank Ritter, *Lynch settles the question of women in combat*, TENNESSEAN, Apr. 9, 2003, 13A; Martha Ackmann, *A woman's place is on the battlefield, too*, RECORD (Bergen County, NJ), Apr. 10, 2003, L11.

¹³⁵ Thorp Transcript at Tr. 68-79; Wilkinson Transcript at Tr. 43-76.

¹³⁶ Steve Ritea, *Jessica Lynch's Story: A Little Too Perfect?*, AMERICAN JOURNALISM REVIEW (Aug./Sep. 2003).

¹³⁷ Andrew Kramer, *Family Learns Iraqis Executed Soldier Captured at Same Time as Lynch*, WASH. POST, May 29, 2004, A15.

¹³⁸ Rowan Scarborough, *Army to probe Lynch Capture*, WASH. TIMES, May 23, 2003, A01.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² Dana Priest, William Booth and Susan Schmidt, *A Broken Body, a Broken Story, Pieced Together; Investigation Reveals Lynch—Still in Hospital After 67 Days—Suffered Bone-crushing Injuries in Crash During Ambush*, WASH. POST, June 17, 2003, A01 [hereinafter *Jun. 17, 2003 Post Follow-up*].

¹⁴³ Dana Priest, *M-16s Jammed During Ambush in Iraq*, WASH. POST, Jul. 10, 2003, A14.

are important . . .”¹⁴⁴ Significantly, when describing the operation, Gen. Renuart made no assertions about Private Lynch’s response when her unit was attacked.

[A]s you know, on or about 23rd of March [Private Lynch’s] 507th maintenance company was ambushed in the vicinity of An Nasiriyah. A number of members of that maintenance company were killed, a number captured and a number were unaccounted for, [Private Lynch] being one of them.¹⁴⁵

Gen. Renuart explained further that the military’s special forces subsequently “got an indication” that an injured American POW was being “held in . . . the Saddam Hospital, in An Nasiriyah.”¹⁴⁶ As a result, he said, highly trained elite Army, Air Force, Navy, and Marine units were ordered to “very rapidly get into the area of the hospital to determine the location of Private Lynch and then to bring her out, and at the same time, exploit some areas of the hospital where we had reports of enemy headquarters, command and control facilities and the like.”¹⁴⁷

In the assault, one group of Marines was charged with creating a diversionary attack to allow a main rescue group to approach the hospital unimpeded. Gen. Renuart explained that this second element “persuaded a local physician to lead them to Private Lynch’s location.”¹⁴⁸ The General also said some military personnel on the rescue team discovered a “weapons cache” in the hospital and a three-dimensional map of the town. Gen. Renuart said this “terrain model” included red and blue markers which “depicted with relative accuracy the general position of U.S. forces and also enemy forces in the town.”¹⁴⁹

Lynch’s rescue was, as later recounted by CENTCOM public affairs official, Lt. Colonel John Robinson, “an awesome story.”¹⁵⁰ However, notwithstanding Robinson’s declaration and Gen. Renuart’s explanation, some questioned the conduct of the rescue operation. Six weeks after Private Lynch’s rescue, the British Broadcasting Corporation (BBC) aired a documentary segment entitled “War Spin” on its Correspondent television program. About the rescue, the documentary concluded: “her story is one of the most stunning pieces of news management ever conceived.”¹⁵¹ The program asserted “the US military knew there were no Iraqi forces guarding the hospital, and quoted a local doctor saying the troops used blank rounds to ‘make a show’ of the operation.”¹⁵² “War Spin” also questioned whether Private Lynch “had been slapped

¹⁴⁴ Transcript of CENTCOM Operational Update Briefing by Maj. Gen. Victor Renuart, FEDERAL NEWS SERVICE, Apr. 5, 2003.

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Jun. 17, 2003 Post Follow-up.*

¹⁵¹ John Kampfner, *Saving Private Lynch Story ‘Flawed’*, BBC NEWS (ONLINE), May 15, 2003, available at <http://news.bbc.co.uk/2/hi/programmes/correspondent/3028585.stm> [last visited Jul. 14, 2008].

¹⁵² *Id.*

about on her hospital bed and interrogated” before troops came to her aid.¹⁵³

A Pentagon spokesman termed these assessments “void of all facts and absolutely ridiculous.”¹⁵⁴ However, three Members of Congress asked the Defense Department Inspector General to undertake an inquiry to determine the veracity of the BBC’s assertions. Writing about the charges in “War Spin,” one wrote, “[I]f these allegations prove true the US military put Private Lynch’s life in greater risk in order to produce a made-for-TV event to boost public support for this war,” and noted, “if true, this is hardly a fitting way to treat Private Lynch in light of her bravery and courage.”¹⁵⁵

None of the accusations made by the BBC, however, appears to be accurate. A DoD IG inquiry was undertaken in response to the request from the Members. In September 2003, the DoD IG reported that, under its oversight, the CENTCOM Inspector General had completed an investigation which included “extensive evidence not available to the media.”¹⁵⁶ Investigators “concluded that the allegations were not substantiated” and “no further investigation was warranted.”¹⁵⁷ The operation to locate and repatriate Private Lynch “constituted a valid mission to recover a U.S. POW under combat conditions,” the IG found.¹⁵⁸

In addition, the inquiry found “[t]he level of force used by [the U.S. Special Operations Forces (USSOF)] to perform the mission was consistent with the anticipated resistance and established doctrine.”¹⁵⁹ The video tape collected during the mission (and shown later to reporters) “was filmed by a combat cameraman and a member of USSOF in accordance with standard procedures” and the IG determined “no public affairs personnel were involved in the planning or filming of the operation.”

In sum, the IG reported:

USSOF conducted a personnel recovery mission, during wartime, in a nonpermissive 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, neutralizing them without sustaining any casualties of their own.¹⁶⁰

The IG also conveyed an assessment of the possibility mission participants were “acting for the camera;” there was no evidence of this, investigators reported.¹⁶¹ Indeed, “all USSOF members,” the IG stated, “were offended by such an accusation.”¹⁶² These results

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ Letter from Pete Stark, Member of Congress, to Joseph E. Schmitz, Inspector General, U.S. Department of Defense (Jun. 2, 2003) (on file with Committee staff).

¹⁵⁶ Letter from Joseph E. Schmitz, Inspector General, U.S. Department of Defense, to Rahm Emmanuel, Member of Congress (Sep. 2, 2003) (see Attachment: Executive Summary) (on file with Committee Staff).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

were conveyed to the Committee by the DoD IG at the Committee's first hearing into this matter.¹⁶³

B. SCOTT THOMAS BEAUCHAMP

While an Army private stationed in Iraq in 2007, Scott Thomas Beauchamp “blogged” for *The New Republic* under a pseudonym. His postings recounted acts he had allegedly witnessed or participated in during his time in theater. These included U.S. soldiers mocking a disfigured woman, making playthings of the bones of dead children, and intentionally running over stray dogs. To some, these episodes illustrated the morally debasing effects of the Iraqi conflict on U.S. service personnel. When others disagreed and expressed doubt about the events reported, Beauchamp responded “[m]y pieces were always intended to provide my discrete view of the war; they were never intended as a reflection of the entire U.S. Military.”¹⁶⁴ He also revealed his actual identity. “I was initially reluctant to take the time out of my already insane schedule fighting an actual war in order to play some role in an ideological battle that I never wanted to join,” and “That being said, my character, my experiences, and those of my comrades in arms have been called into question, and I believe it is important to stand by my writing under my real name.”¹⁶⁵

On August 2, 2007, however, *The New Republic* editors disclosed that their initial inquiry into Beauchamp's veracity had found a “significant” discrepancy in one story: some witnesses recalled seeing a mutilated woman fitting the description provided by Beauchamp in Kuwait, not Iraq.¹⁶⁶ This is important because if Beauchamp and others had encountered her and behaved inappropriately towards her there, it could not be because of the rigors of combat. This is because Beauchamp's unit was in Kuwait *before* it entered the fight. But, only five days later, the Army announced the results of an inquiry into the claims in Beauchamp's blog: not only was the boorish behavior towards the injured disproved, but *all* “the allegations made by PVT Beauchamp were found to be false,” according to Multilateral Division-Baghdad spokesman Major Steven F. Lamb.¹⁶⁷ Major Lamb explained that Beauchamp's “platoon and company were interviewed and no one could substantiate his claims.”¹⁶⁸ In December 2007, in light of inconsistencies coming to light, *The New Republic's* editor published an explanation of their position declaring, “[W]e cannot stand by these stories.”¹⁶⁹

The next month, twenty-seven sworn statements from soldiers were provided to a New York media outlet as a result of a Freedom

¹⁶³ *Tillman Hearing I* (prepared statement by Thomas Gimble, Acting Inspector General, U.S. Department of Defense).

¹⁶⁴ Scott Thomas Beauchamp, *Blog: The Plank*, NEW REPUBLIC (ONLINE), Jul. 26, 2007.

¹⁶⁵ *Id.*

¹⁶⁶ Editors, *A statement on Scott Thomas Beauchamp*, NEW REPUBLIC (ONLINE), Aug. 2, 2007.

¹⁶⁷ Marcus Baram, *Pentagon: Baghdad Diarist Writes Fiction*, ABC NEWS, Aug. 7, 2007. See also Howard Kurt, *Army Concludes Baghdad Diarist Accounts Untrue*, WASH. POST, Aug. 8, 2007.

¹⁶⁸ *Id.*

¹⁶⁹ Franklin Foer, *Fog of War: The story of our Baghdad Diarist*, NEW REPUBLIC (ONLINE), DEC. 10, 2007.

of Information Act request.¹⁷⁰ These sworn statements buttress the reported conclusions of the Army's investigation: no interviewee admitted to having any information which supported any of Beauchamp's alleged observations. In addition, in one sworn statement by Beauchamp's squad leader indicates that Beauchamp did not consult with him before making blog posts in violation of "operational security" regulations governing soldiers on the battlefield.¹⁷¹

It is not clear how an Army private was able to repeatedly and intentionally disseminate misinformation from the battlefield to a major publication, especially when doing so violated security provisions and slandered his fellow troops.



¹⁷⁰*The New Republic's Soldier's Tale*, RADAR [MAGAZINE] (ONLINE), available at <http://www.radaronline.com/exclusives/2008/01/scott-beauchamp-new-republic-documents-foia.php> [last visited Jul 14, 2008] [hereinafter *RADAR article*].

¹⁷¹Sworn affidavit by E-6/Squad Leader [name withheld by Committee staff] (Jul. 28, 2007; 18:21) (reported in *RADAR article*).