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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
COMMITTEE REPORT  
JULY 17, 2008

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**MISLEADING INFORMATION FROM THE BATTLEFIELD:  
THE TILLMAN AND LYNCH EPISODES**

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## 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 reconstructing 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 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 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 Abizaid’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 2<sup>nd</sup> Battalion of the 75<sup>th</sup> Ranger Regiment conducted an Army Regulation 15-6 investigation (commonly referred to as a "15-6" investigation) into the circumstances surrounding the casualty.<sup>1</sup> This investigation reportedly concluded that Corporal Tillman's death was a likely fratricide.<sup>2</sup> 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."<sup>3</sup>

In early May, the commander of the 75<sup>th</sup> 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."<sup>4</sup> He instead authorized a new regimental-level 15-6 investigation, which was approved by U.S. Central Command (CENTCOM) on May 28, 2004.<sup>5</sup> This investigation concluded that "CPL Tillman's death was the result of fratricide during an extremely chaotic enemy ambush."<sup>6</sup> 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."<sup>7</sup>

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.<sup>8</sup>

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

<sup>2</sup> *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).

<sup>3</sup> 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).

<sup>4</sup> *Id.* at 20.

<sup>5</sup> 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, 75<sup>th</sup> Ranger Regiment).

<sup>6</sup> *Id.* at 1.

<sup>7</sup> 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).

<sup>8</sup> *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).

Three months later, in October 2004, the friendly fire incident was belatedly reported to the Army's Safety Center, which produced a report in December of that year.<sup>9</sup> 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."<sup>10</sup>

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.<sup>11</sup> 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.<sup>12</sup> 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."<sup>13</sup>

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.<sup>14</sup>

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.<sup>15</sup>

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."<sup>16</sup> 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."<sup>17</sup> An official from the Inspector General's office testified before the Committee that the IG concluded that two statements written

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

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

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

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 10.

<sup>14</sup> Department 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).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.* at 54.



in support of the Silver Star award had been altered “somewhere in the approval chain.”<sup>18</sup> But he stated that his office did not attempt to determine which computers were used to alter the statements or who had access to the statements when they were altered.<sup>19</sup> Nevertheless, the IG concluded that Corporal Tillman’s “immediate superiors believed his actions merited the award” notwithstanding the friendly fire.<sup>20</sup>

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.”<sup>21</sup>

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.<sup>22</sup> 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.<sup>23</sup> This letter also informed the Committee that General Wallace had sanctioned seven officers for their actions in the aftermath of Corporal Tillman’s death.<sup>24</sup> 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).<sup>25</sup>

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:

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<sup>18</sup> 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., at 99 (Apr. 24, 2007) (Serial No. 110-54).

<sup>19</sup> *Id.*

<sup>20</sup> 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).

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

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

<sup>23</sup> 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).

<sup>24</sup> *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).

<sup>25</sup> *Id.*

[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.<sup>26</sup>

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.”<sup>27</sup>

## 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.<sup>28</sup> 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.<sup>29</sup> 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.<sup>30</sup>

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

<sup>27</sup> 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 217 (Aug. 1, 2007) (Serial No. 110-49).

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

<sup>29</sup> House 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).

<sup>30</sup> *Id.*

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 misleading 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.<sup>31</sup>

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.<sup>32</sup> 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.<sup>33</sup>

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.<sup>34</sup>

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,

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<sup>31</sup> House 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) (Serial No. 110-49).

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

<sup>33</sup> Letter 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).

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

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.

## 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.<sup>35</sup>

Both Pat and Kevin Tillman trained as elite Army Rangers and were assigned to the A Company, 2<sup>nd</sup> Battalion, 75<sup>th</sup> 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.<sup>36</sup>

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.<sup>37</sup>

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

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

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

<sup>37</sup> *Id.*

to Bagram Air Base and later accompanied his brother's remains back to the United States.<sup>38</sup> He told the Committee that during these events, he was under the impression that his brother had been killed by the enemy.<sup>39</sup>

## 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 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."<sup>40</sup>

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."<sup>41</sup> The report also noted that "The Ranger Tillman story had been extremely positive in all media."<sup>42</sup>

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.<sup>43</sup>

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.<sup>44</sup> Mr. Di Rita responded that he would "see what we can do. details are sketchy just now."<sup>45</sup>

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<sup>38</sup> House 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).

<sup>39</sup> *Id.* at 30.

<sup>40</sup> *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).

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

<sup>42</sup> *Id.*

<sup>43</sup> 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.").

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

<sup>45</sup> *Id.*

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.<sup>46</sup> 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.”<sup>47</sup>

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 casualty “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.”<sup>48</sup> 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.<sup>49</sup> 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.<sup>50</sup>

Within several days, Colonel Nixon, the commander of the 75<sup>th</sup> 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

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

<sup>47</sup> *Id.*

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

<sup>49</sup> 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).

<sup>50</sup> 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).

Corporal Tillman's battalion was operating.<sup>51</sup> 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.<sup>52</sup>

Colonel Nixon also informed Brigadier General Howard Yellen, the deputy commander of the Army Special Operations Command, the Army administrative command responsible for the 75<sup>th</sup> 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.<sup>53</sup>

A few days later, on April 29, 2004, General McChrystal sent a message to the top generals in Corporal Tillman's chain of command 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."<sup>54</sup> According to General McChrystal, Colonel Nixon assisted him in preparing the message.<sup>55</sup>

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.<sup>56</sup>

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."<sup>57</sup> According to General Myers, information in a P4 is "supposed to be pretty close hold."<sup>58</sup>

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

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

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

<sup>54</sup> "Personal For" message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, Lieutenant General Philip Kensinger (Apr. 29, 2004).

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

<sup>56</sup> "Personal For" message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, Lieutenant General Philip Kensinger (Apr. 29, 2004).

<sup>57</sup> 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).

<sup>58</sup> 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*, 110<sup>th</sup> Cong., at 190 (Aug. 1, 2007) (Serial No. 110-49).

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.<sup>59</sup>

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.<sup>60</sup> White House staffer John Currin informed the USASOC official he was seeking this information for a speech President Bush would deliver at the May 1, 2004, White House Correspondents' Dinner.<sup>61</sup>

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."<sup>62</sup> 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.<sup>63</sup>

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<sup>59</sup> "Personal For" message from Major General Stanley McChrystal to General John Abizaid, General Bryan Brown, Lieutenant General Philip Kensinger (Apr. 29, 2004).

<sup>60</sup> 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).

<sup>61</sup> *Id.*

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

<sup>63</sup> *Id.* at 61.



## 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.”<sup>64</sup> 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.<sup>65</sup> Yet the final Silver Star citation asserted that Corporal Tillman “put himself in the line of devastating enemy fire.”<sup>66</sup> Both of the eyewitness statements submitted with the Silver Star paperwork were altered by somebody within the 75<sup>th</sup> Regiment's chain of command.<sup>67</sup>

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.”<sup>68</sup> 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.”<sup>69</sup>

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.”<sup>70</sup> When interviewed by the Committee, General Kensinger said he did not recall reviewing the release, but “possibly could have.”<sup>71</sup> 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.”<sup>72</sup>

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.<sup>73</sup> According to Senior Chief White, a member of the 75th Regiment

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<sup>64</sup> Army Regulation 600-8-22 § 3-10(b) (2006).

<sup>65</sup> Department 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).

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

<sup>67</sup> Department 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).

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

<sup>69</sup> *Id.*

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

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

<sup>72</sup> *Id.*

<sup>73</sup> 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).

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.”<sup>74</sup>

## 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.”<sup>75</sup>

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.”<sup>76</sup> White 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.”<sup>77</sup> According to Mr. Bartlett, media interest in a presidential statement about the fratricide “was not there.”<sup>78</sup>

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.<sup>79</sup> 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.

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<sup>74</sup> 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).

<sup>75</sup> 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](http://news.soc.mil/advisories/Press-Media%20Releases/2004/040529-01.htm)).

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

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

<sup>78</sup> *Id.*

<sup>79</sup> See, e.g., E-mail from Colonel George Rhynedance, 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.”).

The second Army 15-6 investigation into Corporal Tillman's death was substantially completed by May 16, 2004.<sup>80</sup> 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."<sup>81</sup> 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.<sup>82</sup>

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."<sup>83</sup> General Sattler concurred with its findings.<sup>84</sup>

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 2<sup>nd</sup> Battalion of the 75<sup>th</sup> 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 2<sup>nd</sup> Battalion's commander, Lieutenant Colonel Jeffrey Bailey, was authorized to disclose the information to Kevin Tillman and Corporal Tillman's wife, Marie Tillman.<sup>85</sup> According to Colonel Nixon, the commander of the 75<sup>th</sup> Ranger regiment, Colonel Bailey asked for this authorization after he determined that "Kevin was getting some sense of what was going on."<sup>86</sup> 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.<sup>87</sup>

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.<sup>88</sup> According to various interviews conducted by the Committee, the video teleconference included

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<sup>80</sup> 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).

<sup>81</sup> U.S. Central Command, *Report of Fratricide Investigation*, at 11 (May 28, 2004).

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

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

<sup>84</sup> *Id.*

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

<sup>86</sup> *Id.*

<sup>87</sup> 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).

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

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.<sup>89</sup>

Mr. Di Rita told Committee staff that he recognized at the time that this was a “very important public event”<sup>90</sup> 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.”<sup>91</sup> 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.<sup>92</sup>

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.<sup>93</sup> Mr. Di 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.”<sup>94</sup>

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.<sup>95</sup>

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

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

<sup>91</sup> *Id.* at 63.

<sup>92</sup> *Id.*

<sup>93</sup> 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 a uniformed member of the chain of command. The logical choice was LTG Kensinger. I agreed.”).

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

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

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."<sup>96</sup> 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."<sup>97</sup>

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."<sup>98</sup> 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."<sup>99</sup> 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.<sup>100</sup> The statement asserted that "investigation results indicate that Corporal Tillman probably died as the result of friendly fire."<sup>101</sup> According to Colonel Bush, "It was specifically requested by CENTCOM that we include 'probably' in that sentence."<sup>102</sup> 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."<sup>103</sup> 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."<sup>104</sup>

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

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

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

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

<sup>100</sup> E-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).

<sup>101</sup> 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](http://news.soc.mil/advisories/Press-Media%20Releases/2004/040529-01.htm)).

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

<sup>103</sup> U.S. Central Command, *Report of Fratricide Investigation* (May 28, 2004).

<sup>104</sup> 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).

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.”<sup>105</sup> 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.”<sup>106</sup>

### 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 quickly 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.”<sup>107</sup> 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.<sup>108</sup>

Barry Jackson, a deputy to President Bush’s political adviser Karl Rove, sent Mr. Rove language for a potential presidential tribute to Pat Tillman.<sup>109</sup> Speechwriter Matthew Scully wrote an e-mail to fellow speechwriter Michael Gerson highlighting Corporal Tillman’s death as a “big

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

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

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

<sup>108</sup> *Id.*

<sup>109</sup> E-mail from Barry Jackson, Deputy to the President’s Senior Advisor, to Karl Rove, Senior Advisor to the President (Apr. 23, 2004).

story.”<sup>110</sup> Condoleezza Rice, then National Security Advisor, was informed of Corporal Tillman’s death by her executive assistant, Army Major Jennie Koch Easterly.<sup>111</sup>

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.”<sup>112</sup>

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.”<sup>113</sup>

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.”<sup>114</sup> 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.”<sup>115</sup>

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

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

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

<sup>112</sup> 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).

<sup>113</sup> 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).

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

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

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.<sup>116</sup> 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.<sup>117</sup>

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.”<sup>118</sup> He later clarified: “good to go.”<sup>119</sup> 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.”<sup>120</sup>

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.<sup>121</sup>

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.<sup>122</sup>

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<sup>116</sup> 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).

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

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

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

<sup>120</sup> *Id.*

<sup>121</sup> 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).

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



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.”<sup>123</sup> But Mr. Gross told Committee staff that he drafted this statement quickly (“about a two-hour turnaround time”), without consulting the Defense Department.<sup>124</sup> 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.<sup>125</sup>

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.”<sup>126</sup> 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.”<sup>127</sup>

Likewise, Mr. Bartlett said, “I did not take any formal steps” to confirm the information.<sup>128</sup> Nevertheless, he “personally was under the impression that this was true” based on the “totality of information coming from the media.”<sup>129</sup> 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.”<sup>130</sup>

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 casualty until late that evening.<sup>131</sup> 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.<sup>132</sup> The act sought to “provide service members’ next-of-kin with a

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

<sup>124</sup> *Id.* at 42.

<sup>125</sup> *Id.* at 52.

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

<sup>127</sup> *Id.*

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

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*

<sup>131</sup> Department of Defense, Instruction Number 1300.18 (2008).

<sup>132</sup> Pub. L. 108-136.

period of privacy before the public is made aware of service members' death."<sup>133</sup> 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."<sup>134</sup> 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."<sup>135</sup> 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."<sup>136</sup> 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."<sup>137</sup>

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.<sup>138</sup>

### 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 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

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<sup>133</sup> 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 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).

<sup>134</sup> 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).

<sup>135</sup> *Id.*

<sup>136</sup> 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.

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

<sup>138</sup> 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).

wartime.<sup>139</sup>

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."<sup>140</sup>

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.<sup>141</sup>

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."<sup>142</sup>

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 speechwriter Matthew Scully about the source of this statement, Mr. Scully responded: "Should be in news accounts."<sup>143</sup>

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<sup>139</sup> House Committee on Oversight and Government Reform, Interview of Daniel Bartlett by Staff (Sept. 12, 2007).

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

<sup>141</sup> President George W. Bush, *Remarks at White House Correspondents' Dinner* (May 1, 2004).

<sup>142</sup> 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).

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

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.<sup>144</sup>

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.<sup>145</sup>

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 Rangers, and it is speculation that he did so because of September 11.<sup>146</sup>

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:

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

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

<sup>146</sup> 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).

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.<sup>147</sup>

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 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."<sup>148</sup>

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

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<sup>147</sup> 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).

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

died. None of the documents provided to the Committee indicate whether the P4 or the information in the P4 reached the White House.<sup>149</sup>

General Richard Myers, the Chairman of the Joint Chiefs of Staff, was by statute the “principal military advisor to the President.”<sup>150</sup> 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.”<sup>151</sup>

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.”<sup>152</sup>

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.<sup>153</sup>

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 Correspondents’ Dinner speech, or whether he ever discussed the fratricide with the President.<sup>154</sup>

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,

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<sup>149</sup> 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).

<sup>150</sup> 10 U.S.C. 151(b).

<sup>151</sup> 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*, 110<sup>th</sup> Cong., at 34 (Aug. 1, 2007) (Serial No. 110-49).

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

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

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

was reading in the news reports.”<sup>155</sup>

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.”<sup>156</sup>

## 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.”<sup>157</sup> 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.<sup>158</sup> 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.”<sup>159</sup>

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 communicate 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.”<sup>160</sup>

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

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

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

<sup>158</sup> Letter from Donald Rumsfeld, Secretary of Defense, to William H. Layer (June 26, 2002).

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

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

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."<sup>161</sup> 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.<sup>162</sup>

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.<sup>163</sup>

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.<sup>164</sup>

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."<sup>165</sup> Furthermore, Secretary

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

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

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

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

<sup>165</sup> *Id.* at 177.



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.”<sup>166</sup>

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.<sup>167</sup>

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.<sup>168</sup>

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.”<sup>169</sup> 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.<sup>170</sup>

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 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.<sup>171</sup>

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<sup>166</sup> *Id.* at 178.

<sup>167</sup> 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*, 110<sup>th</sup> Cong., at 32 (Aug. 1, 2007) (Serial No. 110-49).

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

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

<sup>170</sup> *Id.* at 32.

<sup>171</sup> *Id.*

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.<sup>172</sup>

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.<sup>173</sup> 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."<sup>174</sup>

General Craddock told the Committee that he could not recall ever talking to Secretary Rumsfeld about Corporal Tillman.<sup>175</sup> 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.<sup>176</sup> 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.<sup>177</sup>

## 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 President, the National Security Council, and the Secretary of Defense."<sup>178</sup> In that role, he communicated many times a

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<sup>172</sup> *Id.* at 34.

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

<sup>174</sup> *Id.* at 27.

<sup>175</sup> *Id.* at 17.

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

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

<sup>178</sup> 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).

day with Secretary Rumsfeld, including attending a daily “roundtable” meeting in Secretary Rumsfeld’s office.<sup>179</sup> Moreover, according to Secretary Rumsfeld, he and General Myers also “met with the White House frequently.”<sup>180</sup>

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.”<sup>181</sup> 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.<sup>182</sup>

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.<sup>183</sup>

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.<sup>184</sup>

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

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

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

<sup>181</sup> 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*, 110<sup>th</sup> Cong., at 32 (Aug. 1, 2007) (Serial No. 110-49).

<sup>182</sup> *Id.*

<sup>183</sup> 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*, 110<sup>th</sup> Cong., at 31 (Aug. 1, 2007) (Serial No. 110-49).

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

“logical” 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.”<sup>185</sup> 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.”<sup>186</sup>

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.<sup>187</sup>

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.<sup>188</sup>

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.<sup>189</sup>

General Myers told the Committee that 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.”<sup>190</sup> He further explained:

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<sup>185</sup> 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*, 110<sup>th</sup> Cong., at 223 (Aug. 1, 2007) (Serial No. 110-49).

<sup>186</sup> *Id.*

<sup>187</sup> 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*, 110<sup>th</sup> Cong., at 33 (Aug. 1, 2007) (Serial No. 110-49).

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

<sup>189</sup> 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*, 110<sup>th</sup> Cong., at 197 (Aug. 1, 2007) (Serial No. 110-49).

<sup>190</sup> *Id.* at 219.

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 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.<sup>191</sup>

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.<sup>192</sup> 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.<sup>193</sup> Mr. Tagliabue confirmed to Committee staff that he received this call.<sup>194</sup> 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.<sup>195</sup>

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.”<sup>196</sup> 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.”<sup>197</sup> General Abizaid also testified that in their conversation, he told General Myers he thought the

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<sup>191</sup> *Id.*

<sup>192</sup> Shari Lawrence, Army Human Resources Command, “EXSUM” Document (Apr. 23, 2004).

<sup>193</sup> *Id.*

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

<sup>195</sup> 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).

<sup>196</sup> 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*, 110<sup>th</sup> Cong., at 31 (Aug. 1, 2007) (Serial No. 110-49).

<sup>197</sup> *Id.*

“leadership” should know about the suspected fratricide, by which he meant “the secretary and the president.”<sup>198</sup>

During his visit to Afghanistan in late April, General Abizaid spoke with Corporal Tillman’s platoon leader, 1<sup>st</sup> 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:

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.<sup>199</sup>

General Abizaid testified that Lieutenant Uthlaut “gave no indication that there was a friendly fire issue” during their conversation.<sup>200</sup>

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.<sup>201</sup>

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.”<sup>202</sup> 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.”<sup>203</sup>

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<sup>198</sup> *Id.* at 233.

<sup>199</sup> Department of Defense, *Gen. Abizaid Central Command Operations Update Briefing* (Apr. 30, 2004) (online at [www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2557](http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=2557)).

<sup>200</sup> 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*, 110<sup>th</sup> 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).

<sup>201</sup> 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).

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

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

## 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 normal 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.<sup>204</sup>

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.<sup>205</sup>

According to General Brown, notifying the family was not his responsibility because he was a combatant commander.<sup>206</sup> Nevertheless, General Brown told the Committee that when he learned the notification had not taken place, for more than a month after the shooting, he initiated an effort to notify the Tillman family before the public announcement on May 29, 2004.<sup>207</sup>

### 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

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

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

<sup>206</sup> *Id.*

<sup>207</sup> *Id.* at 39.

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.<sup>208</sup> General Kensinger responded, "to the best that I remember, it was after the memorial service when I got the P4."<sup>209</sup> General Kensinger said he 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.<sup>210</sup>

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 75<sup>th</sup> Ranger Regiment, Colonel Nixon, called and told him "I think we have a possible fratricide."<sup>211</sup> 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."<sup>212</sup> When asked about this conversation, General Kensinger told the Committee, "I don't remember that."<sup>213</sup>

General Yellen also told the Committee that General Kensinger "[a]bsolutely" knew about the suspected fratricide prior to the memorial service on May 3.<sup>214</sup> According to General Yellen, he

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<sup>208</sup> General 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).

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

<sup>210</sup> *Id.* at 30.

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

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

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

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



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.<sup>215</sup>

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."<sup>216</sup> 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."<sup>217</sup>

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.<sup>218</sup>

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."<sup>219</sup>

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<sup>215</sup> *Id.* at 62.

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

<sup>217</sup> House Committee on Oversight and Government Reform, Interview of Lieutenant General Phillip Kensinger (Retired), at 59 (Feb. 29, 2008).

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

<sup>219</sup> *Id.* at 8.

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, 'Hey if leaks out, Duffy, you know, you're dead,' or something.<sup>220</sup>

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.<sup>221</sup> 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."<sup>222</sup> According to his deputy, General Yellen, P4s were generally delivered promptly at USASOC because "personnel understood the sensitivity and the expediency of those messages."<sup>223</sup>

General Kensinger's account was also contradicted by a third officer, Colonel Clarence Chinn, the deputy commander of the 75<sup>th</sup> 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.<sup>224</sup>

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.<sup>225</sup> 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

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<sup>220</sup> *Id.* at 16.

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

<sup>222</sup> *Id.*

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

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

<sup>225</sup> 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).

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.<sup>226</sup>

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 it was investigating Corporal Tillman's death as a possible fratricide.<sup>227</sup>

## 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 507<sup>th</sup> 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.<sup>228</sup>

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.<sup>229</sup>

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.<sup>230</sup>

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

<sup>227</sup> 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 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.").

<sup>228</sup> 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](http://www.army.mil/features/507thMaintCmpy/AttackOnThe507MaintCmpy.pdf)).

<sup>229</sup> 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).

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

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.<sup>231</sup>

## 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."<sup>232</sup> 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."<sup>233</sup>

The next morning, Brigadier General Vincent Brooks, another CENTCOM spokesman, gave his daily press briefing. During this 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.<sup>234</sup>

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

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<sup>231</sup> *Id.*

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

<sup>233</sup> *Id.*

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

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.<sup>235</sup>

The story quoted Mr. Wilkinson, who said of Private Lynch, “[s]he’s safe in coalition hands and happier than where she was.”<sup>236</sup>

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:

Pfc. Jessica Lynch, rescued Tuesday from an Iraqi hospital, fought fiercely and shot several enemy soldiers after Iraqi forces ambushed the Army’s 507<sup>th</sup> 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.<sup>237</sup>

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.”<sup>238</sup> 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.”<sup>239</sup> 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.<sup>240</sup>

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

<sup>236</sup> *Id.*

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

<sup>238</sup> *Id.*

<sup>239</sup> *Id.*

<sup>240</sup> *Id.*

On the same day, April 3, 2003, the *Military Times* ran a similar account with confirmation from Navy Captain Frank Thorp.<sup>241</sup> 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."<sup>242</sup>

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."<sup>243</sup>

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 and overestimated the welcome allied troops would receive."<sup>244</sup> 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.<sup>245</sup>

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."<sup>246</sup>

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.

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

<sup>242</sup> *Id.*

<sup>243</sup> *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).

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

<sup>245</sup> *Id.*

<sup>246</sup> *Pfc. Jessica Lynch Isn't Rambo Anymore*, *New York Times* (Nov. 9, 2003).

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.<sup>247</sup>

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.”<sup>248</sup> 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.’”<sup>249</sup>

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 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.”<sup>250</sup>

### 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...<sup>251</sup>

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<sup>247</sup> *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](http://www.army.mil/features/507thMaintCmpy/AttackOnThe507MaintCmpy.pdf)).

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

<sup>249</sup> *Id.*

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

<sup>251</sup> 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).

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.”<sup>252</sup>

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.”<sup>253</sup> He also said that his statements could have been “based on things that I had heard,” including other press reports.<sup>254</sup>

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 situation 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.<sup>255</sup>

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.<sup>256</sup> 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.”<sup>257</sup>

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.<sup>258</sup> 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

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

<sup>253</sup> *Id.* at 73.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.* at 71.

<sup>256</sup> *Id.* at 75.

<sup>257</sup> *Id.* at 76.

<sup>258</sup> *Id.* at 73.



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.”<sup>259</sup>

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 guarding a highway checkpoint.<sup>260</sup> Nine months later, after several investigations, the family learned his death was actually a fratricide.<sup>261</sup> 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.<sup>262</sup> 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.<sup>263</sup> 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.<sup>264</sup>

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

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

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

<sup>261</sup> *Id.*

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

<sup>263</sup> *NOW*, PBS (Nov. 17, 2006) (online at [www.pbs.org/now/transcript/246.html](http://www.pbs.org/now/transcript/246.html)).

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

finding.<sup>265</sup> 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 is a betrayal of those values that all soldiers who have fought for this nation have sought to uphold.<sup>266</sup>

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.”

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<sup>265</sup> *Father Wants Soldier’s Death Reinvestigated*, Associated Press (June 4, 2008).

<sup>266</sup> House 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).

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 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.