

Additional Views

Submitted by Rep. Tom Davis
Ranking Republican Member

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

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

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

The Committee Report concludes the White House and DoD displayed “carelessness and incompetence” in handling information about the death and friendly-fire incident. We agree. Rules and procedures put in place precisely for the purpose of providing timely and accurate information about combat deaths were ignored. Those errors, omissions and delays understandably fueled suspicions senior government officials knew the actual circumstances of Corporal Tillman’s death, but manipulated the information to avoid bad news. After several investigations, it now seems clear those officials could have known friendly fire was suspected. It was a disservice to the memory of Corporal Tillman, to his family, his unit and this nation to let the happy myth outrun the unpleasant facts, even for a day.

But even serial incompetence at the highest levels does not constitute proof of a conspiracy – *intentional* distortion of public statements about both Patrick Tillman and Jessica

Lynch. So the Committee attempts to build a bridge of circumstance – faded memories and a lack of e-mail traffic – to link the hard facts of ineptitude to soft speculation that only conscious manipulation explains otherwise “incomprehensible” actions and a “stunning lack of curiosity” about conflicting battlefield reports.

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

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

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

That is our charge as well.

I. THE INVESTIGATION

The Committee's inquiry into the circumstances in which senior White House and Pentagon officials became aware that Army Corporal Pat Tillman was a victim of fratricide took more than fourteen months. In this period, the Committee held two hearings in which it heard from ten witnesses, including former Secretary of Defense Donald Rumsfeld, and retired Generals Richard Myers, John Abizaid, and Bryan Brown. Committee staff received 50,000 pages of documents from the Pentagon, the White House, and the Defense Department Inspector General and reviewed additional documents "in camera." In addition, staff interviewed 19 witnesses, totaling nearly 29 hours and producing more than 1,200 pages of transcription.¹ The Committee also received supplementary information from three individuals.²

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

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

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

II. SECRETARY RUMSFELD, SENIOR DEPARTMENT OF DEFENSE LEADERSHIP

A. Extent of Secretary Rumsfeld's interest in Pat Tillman's enlistment and military service.

Written material produced by Secretary Rumsfeld between the time of Corporal Tillman's enlistment and his death provides an understanding of Secretary Rumsfeld's interest in Corporal Tillman and his enlistment. Shortly after Corporal Tillman enlisted, Secretary Rumsfeld distributed a memorandum (known colloquially as a "snowflake") regarding Corporal Tillman to U.S. Army Secretary, Tom White.³ Secretary Rumsfeld also sent Corporal Tillman a personal note.⁴ After Corporal Tillman's death, Secretary Rumsfeld signed a condolence letter to Corporal Tillman's widow.⁵

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

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

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

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

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

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

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

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

⁶ *Rumsfeld / White Snowflake*.

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

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

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

Secretary Rumsfeld testified under oath that he did not intend the comment "[w]e might want to keep our eye on him" as a literal instruction.⁹ Rather, it appears that this was intended as a rhetorical statement. Testimony and other evidence support this interpretation. For example, the apparently standard clause "please respond by" at the bottom of Secretary Rumsfeld's memorandum was crossed out, as if to suggest no reply was expected.¹⁰ Also, the Committee received no documents or testimony that indicated that Corporal Tillman's activities were, in fact, monitored in any way by Secretary Rumsfeld or other Department of Defense or White House officials. In fact, the Committee received testimony that indicated the opposite: Secretary Rumsfeld was not keeping track of Corporal Tillman.¹¹ Finally, there is no indication that

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

⁸ *Rumsfeld / Tillman Letter*.

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

¹⁰ *Rumsfeld / White Snowflake*.

¹¹ See, e.g., *Craddock Transcript* at Tr. 47-48 (Q: "Do you have any knowledge of the fact that the Secretary -- either Secretary of the Army or Secretary of the Defense kept an eye on [Corporal Tillman] after his enlistment?" A: "Not that I'm aware of. Again, if that happened, it happened before I got there. Nothing was left to me by my predecessor, stay on top of this, watch this or be aware of this."); *Lovelace Transcript* at Tr. 49-50 (Q: "When you arrived in your position as Army Staff Director, did you get the impression at any time that, in fact, Army leadership was, quote, keeping an eye on Tillman?" A: "No." Q: "You didn't get correspondence about him, memos about him, phone calls about him?" A: "No."); *Di Rita Transcript* at Tr. 39 (Q: "Okay. Based on your close working relationship with Secretary Rumsfeld, what did he mean when he said, We might want to keep our eye on him?" A: "I think he was making a point that this is somebody who has done something of a very high-profile nature, and that is impressive, and we ought to recognize that somewhere along the way, we appreciate this kind of commitment to public service. I would imagine that is the extent of his intent there." Q: "Were there times later in Corporal Tillman's service where he turned to you and said, How is this Tillman guy doing?" A: "I don't remember him ever doing that." Q: "Check up on Tillman?" A: "Yeah, it would have been unlike him, but that is not to say it wouldn't have happened. I just don't remember that." Q: "How common was it for Secretary Rumsfeld to single out a soldier like this on a snowflake or in a communication with the Secretary?" A: "Let me just step back on that. It was very common of Secretary Rumsfeld to see something in the paper and comment on it by saying -- by shooting a note to somebody and saying, This is interesting. Could I get more information? Or did you see this? I find this something worth following up on. Or something like that. So that was not uncommon. So he was -- he didn't read the papers cover to cover every day, but he was generally aware of what was happening in areas involving the Department of Defense. So as much attention as this would almost

Secretary Rumsfeld ever noted or was concerned by the fact that no follow-up information was ever conveyed to him, lending strong credence to the suggestions that Secretary Rumsfeld did not expect any.

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

On April 29, 2004, one week after Corporal Tillman's death, an executive secretary in Secretary Rumsfeld's office drafted a condolence letter for Corporal Tillman's widow. The executive secretary apparently used a brief Pentagon statement issued on the day after Corporal Tillman was killed to prepare this condolence letter.¹⁴ Secretary Rumsfeld signed the condolence letter dated May 3, 2004. There seems to be nothing extraordinary about the way it was drafted and promulgated; the Committee received testimony that Secretary Rumsfeld signed similar communications to families of all those killed in action.¹⁵

B. Secretary Rumsfeld's knowledge of fratricide as a cause of Corporal Tillman's death.

Secretary Rumsfeld also testified under oath before the Committee that he never instructed anyone to withhold information about the finding that Corporal Tillman's death resulted from fratricide and that he was not aware of (nor was he a party to) any related "cover-up."¹⁶ He testified that he had neither foreknowledge of the Correspondents Dinner speech in

certainly have gotten when Pat Tillman joined, it is not surprising that he would have seen it and said, Wow, that's interesting."); *Di Rita Transcript* at Tr. 76-78 (A: "And in this case, this was primarily an outgoing -- it is a bit of the way Rumsfeld operated: "Hey, let's just keep an eye on that fellow; that's interesting." But it wasn't like he was asking for a report back or anticipating something." Q: "You don't think he was --" A: "I would tend to doubt it. I'm looking at that the way -- the person who transcribed the Dictaphone kind of drew the same conclusion. I mean, she just decided not to put a date [by which a response was required] on there, because it's not the kind of thing where a deadline really applies." Q: "Am I correct that you said in your testimony that you don't recall seeing a report come back?" A: "I don't recall anything coming back. From Secretary White?" Q: "Correct." A: "Yeah, no, I don't recall anything." Q: "How about from anyone else?" A: "I don't recall. I don't recall.").

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

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

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

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

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

which the President referenced Corporal Tillman nor any discussions with the White House about the circumstances of Corporal Tillman's death prior to such details becoming public.¹⁷

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

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

The Committee took sworn testimony from Colonel Bucci. Colonel Bucci testified that, in the course of his normal duties in Secretary Rumsfeld's office between May 24 and May 28, 2004, he received a phone call from one of the military assistants in the Army.²² From this call, Colonel Bucci learned that an investigation into Corporal Tillman's death had been undertaken and that this inquiry had determined that fratricide was the likely cause of death.²³ Colonel Bucci further testified the caller suggested that this information be conveyed to Secretary Rumsfeld, which Colonel Bucci did "about 15 minutes" later at a regularly-scheduled morning meeting.²⁴

Colonel Bucci testified he believed this was the first Secretary Rumsfeld learned that friendly fire was being considered as a cause of Corporal Tillman's death.²⁵ Colonel Bucci testified that Secretary Rumsfeld responded to the news by saying [something to the effect of] "Oh, gosh, that's a shame. Well, they need to settle it and get the word out as quickly as

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

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

¹⁹ *Id.* at Tr. 15-16.

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

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

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

²³ *Id.* at Tr. 31-32.

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

²⁵ *Id.* at Tr. 32.

possible.”²⁶ Colonel Bucci testified that he was able to determine the date range in which these events transpired because he returned from six months of duty in Iraq on May 20, 2004, but did not report to work in Secretary Rumsfeld’s office until May 24, 2004. Assuming this information is correct, Colonel Bucci received the call from the military assistant before a daily morning briefing sometime in that five-day period between May 24 and May 28, 2004.²⁷

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

Lt. Gen. Lovelace said that it was also on May 27, 2004, that he called Lawrence Di Rita, at that time the director of the Office of the Assistant Secretary of Defense for Public Affairs, with this news and took steps to have Gen. Bantz Craddock (Colonel Bucci’s supervisor), and assistants to the Army Secretary and to the Army Chief and Vice Chief of Staff receive this information by email.³⁰ Thus, it seems possible that it was Lt. Gen. Lovelace’s communications which resulted in the call Colonel Bucci remembers receiving.

Gen. Craddock, Secretary Rumsfeld’s senior military aide, testified he learned about the possibility of fratricide from Lt. Gen. Lovelace in person. Gen. Craddock recalls seeing Lt. Gen.

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

²⁷ *Id.* at Tr. 39, 33.

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

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

³⁰ *Lovelace Transcript* at Tr. 23-27, 55-56, 58. Lt. Gen. Lovelace was interviewed telephonically by Committee staff. During the call, Lt. Gen. Lovelace had in his possession an email showing when and how he notified the others. This email informed his recollection of the matter. See *Lovelace Transcript* at Tr. 22-23. Additionally, with one exception, Lt. Gen. Lovelace stated he believed the principals to each aide learned about the fratricide investigation as a result of his email. Lt. Gen. Lovelace appears to have agreed with the question posed by Committee staff that “[Y]ou have no knowledge of when the Secretary himself might have [learned].” *Id.* at Tr. 27. However, this is confused somewhat by a mischaracterization by Majority interviewers of “May 20 [2004]” as a date certain that “[Secretary Rumsfeld] learned that Corporal Tillman’s death was a suspected fratricide.” *Id.* Secretary Rumsfeld stipulated that he had been told he was informed “after May 20, [2004].” *Rumsfeld / Committee Letter* (emphasis added). See also *Di Rita Transcript* at Tr. 44 for his recollection that he recalled learning of the fratricide “shortly before it was publicly announced, I would imagine, because I remember being involved in some of the discussions about how it would be announced. But I don’t remember when that was.”

Lovelace in the yard separating their homes³¹ and remarking that “[Corporal] Tillman may have been killed by friendly fire.”³² Gen. Craddock said he was “surprised and taken aback” by this information.³³ Although Lt. Gen. Lovelace testified he did not recall this conversation, because he claims to have found out about the friendly fire “on or about May 27” and the backyard exchange had to have occurred before Lt. Gen. Lovelace had an email sent on this topic on May 27, the two generals probably encountered each other on or just before May 26.³⁴

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

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

CENTCOM commander, U.S. Army Gen. John P. Abizaid, testified before the Committee about his interaction with Secretary Rumsfeld in May 2004. Gen. Abizaid said, “I was in Washington from the 18th to the 20th [of May 2004] and I talked with [Secretary Rumsfeld] during that period, and I believe during that period I discussed with him the fratricide investigation.”³⁷ In a December 2006 colloquy with the DoD IG, however, about “what if any action you took after receiving the information that friendly fire was suspected,” Gen. Abizaid was asked, “[d]id you have any discussions with [] the Secretary of Defense,” to which Gen. Abizaid answered, “No. I didn’t talk to the Secretary of defense about it.”³⁸ The Committee is unable to reconcile these statements.

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

³² *Id.* at Tr. 19.

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

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

³⁵ *Craddock Transcript* at Tr. 32-33.

³⁶ *Id.* at Tr. 32-34.

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

³⁸ Interview by DOD IG staff of Gen. John P. Abizaid, then-U.S. CENTCOM Commander (Dec. 13, 2006) [hereinafter *Abizaid IG Transcript*], at Tr. 7, 9. There is further uncertainty about this matter. According to Gen. Abizaid, his only knowledge of the possibility of fratricide as the cause of Corporal Tillman’s death derived from an Army communication known as a P4 (discussed further in text below). *See Letter from Gen. (Ret.) John P. Abizaid, former U.S. CENTCOM Commander, to Henry A. Waxman, Chairman, House Oversight and Government Reform*

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

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

Based upon documentary evidence provided to the Committee, as well as interviews and testimony, the most senior officials at the Pentagon seem not to have been preoccupied by the news of Corporal Tillman's death, aware of the breadth of related media coverage, inquisitive about the ensuing investigation, or cognizant of the existence or application of Army next-of-kin regulations.⁴¹ In addition, to the extent senior officers at the Pentagon and others were aware of impressions held by the public relating to the circumstances of Corporal Tillman's death, it is not at all apparent they understood that such impressions were being derived from actions (or inaction) ascribed to the DoD, and hence ostensibly subject to corrective action by DoD. This situation is further complicated by DoD's persistent deference to the military's hierarchical environment and delineated lines of authority in which responsibility for handling Army battle deaths rested only with certain individuals and institutions.⁴²

In addition, as outlined above, it seems Pentagon officials initiated arrangements to announce the friendly fire findings as soon as they received word that the investigation was concluding. The DoD IG concluded that Kevin Tillman, Corporal Tillman's brother, was

Committee, and Tom Davis, Ranking Member, House Oversight and Government Reform Committee (Jan. 15, 2008) [hereinafter *Abizaid / Committee Letter*]. However, the IG determined Gen. Abizaid received this P4 sometime between May 6 and May 20, 2004 (*See DoD IG Report* (unnumbered appendix)). Assuming the accuracy of Gen. Abizaid's recollection that he received the P4 before meeting with Secretary Rumsfeld, it appears either Gen. Abizaid misremembers the date of his meeting (and it actually occurred later than he remembers), or the DoD IG erred in concluding Gen. Abizaid could have received the P4 as late as May 18, 2004 or thereafter. It is not possible to reconcile both possibilities.

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

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

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

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

informed of the fratricide finding on May 26, 2004.⁴³ The IG concluded that Corporal Tillman's wife, Marie Tillman, was notified the next day.⁴⁴ The Committee took testimony from several witnesses who suggested the timeline for Marie Tillman's notification was spurred by the fact that media inquires were being made about the friendly fire results even before Lt. Gen. Philip Kensing's public announcement.⁴⁵

III. THE WHITE HOUSE

A. Initial Announcement of Death

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

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

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

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

⁴⁴ *Id.* at 44.

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

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

⁴⁷ *DOD IG Report* at 42-43.

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

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

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

the Committee's subpoena required the entirety of such exchanges be produced, this had the affect of inflating the volume of material provided to the Committee and providing a distorted impression of official White House interest beyond that reported herein.

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

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

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

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

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

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

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

⁵¹ *Gross Transcript* at Tr. 8, 39-40.

⁵² *Id.* at Tr. 41.

⁵³ *Gross Transcript* at Tr. 49-50.

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

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

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

⁵⁷ *Id.*

McClellan responded to Gross' suggestion similarly:

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

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

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

Indeed, it was not possible to determine how and when the President learned that Corporal Tillman had been killed.⁶² However, the President was out of Washington on April 23, 2004; the deputy press secretary traveling with him forwarded inquiries about Corporal Tillman to colleagues in the White House.⁶³

In Washington, however, soon after Gross acted upon Bartlett's instructions, two problems became apparent. First, once Gross provided his remarks to the Arizona media, some

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

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

⁶⁰ *Gross Transcript* at Tr. 79.

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

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

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

outlets elsewhere repeated his comments, but inaccurately described them as a “statement” from the President.⁶⁴ Because officials had specifically sought to avoid this situation, this mischaracterization caused confusion and angst in the White House. “[Dan Bartlett] approved a comment **from Taylor Gross** for the Arizona papers,” one staffer explained with apparent exasperation, yet “our wires are asking what the white house statement was.”⁶⁵ “[W]e are not putting out a statement, we are responding if asked,” explained McClellan.⁶⁶

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

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

Unfortunately, because the media were running stories about Corporal Tillman’s death even in the absence of official confirmation, the law’s goals were stymied even before the White House elected to respond to inquiries on the matter. Significantly, however, White House

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

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

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

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

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

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

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

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

officials denied knowing of the legislation.⁷² This may be because in the seven months between its enactment and Corporal Tillman's death, the White House had not been queried about a specific wartime death, and thus, there had been little cause for White House employees to know of a prohibition on Pentagon actions. There is no evidence the White House intentionally acted in contravention of this provision.

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

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

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

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

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

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

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

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

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

⁷⁷ *Id.*

⁷⁸ *Id.* Buchan continued, "are you anticipating a bigger problem than just managing this?" *Id.*

⁷⁹ E-mail from Shari Lawrence, Deputy Public Affairs Officer, U.S. Army Human Resources Command, to various (Apr. 23, 2004; 15:59 EDT) (bates no. 200-205) (forwarding death notice data sheet of Corporal Tillman). For instructions on release date and time as well as death notice data sheet, see *id.* Note that the release indicates the statement "[t]he incident is under investigation." *Id.* This apparently was standard phraseology used on all announcements of theater deaths at the time. See, e.g., *Bush Transcript* at Tr. 23-24; *Henderson Transcript* at Tr. 24.

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

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

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

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

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

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

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

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

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

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

⁸⁴ *McClellan Interview.*

⁸⁵ *Gross Transcript at Tr. 75.*

⁸⁶ *Id.* at Tr. 98.

⁸⁷ *Id.*

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

B. Correspondents Dinner Speech

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

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

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

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

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

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

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

⁹¹ *Id.*

⁹² *Id.* (citing, Richard Lacayo, *One For The Team*, TIME MAG. (May 3, 2004) (quoting Corporal Pat Tillman)). See also, *Currin Transcript* at Tr. 9, 47-48.

⁹³ For description of fact checker responsibilities and process, see *Currin Transcript* at Tr. 6-7, 12.

⁹⁴ For Henderson’s role, see *Currin Transcript* at Tr. 15, 23; *Henderson Transcript* at Tr. 22-23, 31. For understanding of the routine nature of contact, see *Henderson Transcript* at Tr. 29, 46-49.

⁹⁵ E-mail from John Currin, White House speechwriting factchecker, to Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense (Apr. 29, 2004; 13:50 EDT) (bates no. 14005) (forwarding E-mail from John

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

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

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

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

Currin, White House speechwriting factchecker, to Hedy Henderson, Office of the Secretary of Defense, U.S. Department of Defense (Apr. 28, 2004; 11:45 EDT).

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

Henderson Transcript at Tr. 27-28, 34-40, 44-45. Currin had the same recollection. *Currin Transcript* at Tr. 75-76.

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

⁹⁸ *Currin Transcript* at Tr. 29-31.

⁹⁹ *Henderson Transcript* at Tr. 21.

¹⁰⁰ *Id.* at Tr. 21-22, 29.

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

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

¹⁰³ *Id.* at Tr. 72.

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

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

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

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

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

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

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

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

¹⁰⁴ *Darby Transcript* at Tr. 39.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House (Apr. 28, 2004; 14:09 EDT) (bates no. HOG004-01093). Throughout the time the Tillman brothers were stationed at Fort Lewis, Darby was responsible for conveying various media requests to them. She told the Committee she thought they declined interview requests because “they wanted to do what they had joined to do without the interruptions of media query and media involvement;” in describing to the Committee her encounter with Currin, Darby denied the suggestion that she knew Tillman *refused to reveal* the reason he joined the Army. Rather, she stated she *did not know* his motivation. *Darby Transcript* at Tr. 22, 41-42.

¹⁰⁸ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House (Apr. 28, 2004; 14:25 EDT) (bates no. HOG004-010904) (forwarding E-mail from Matthew Scully Deputy Speechwriter, White House, to John Currin, White House speechwriting fact checker (Apr. 28, 14:11 EDT).

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

¹¹⁰ E-mail from John Currin, White House speechwriting fact checker, to Matthew Scully, Deputy Speechwriter, White House (Apr. 28, 2004; 14:25 EDT) (bates no. HOG004-010904).

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 11.¹¹¹

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

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

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

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

In a subsequent exchange of emails, Gerson referred Currin to a “new draft” of the speech which the writer believed addressed the fact-checker’s concerns. Currin responded by saying, “I gather you have worked around the issue?”¹¹³ to which Gerson responded: “I think so.”¹¹⁴ Currin seemed to concur. When he reviewed the later version, he did not object to any discussion of Corporal Tillman’s enlistment, but rather to the fact that the soldier’s rank was incorrectly noted as “corporal.” In the next nine minutes, he sent or received five emails on the subject, to ensure that this detail was properly revised.¹¹⁵

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

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

The exchange between Currin and Darby on April 27 and April 28 likely spurred Army Maj. Gen. Stanley McChrystal to send his Personal For (or “P4”) message to Gen. Abizaid on April 29, although this connection cannot be precisely established. The DoD IG testified before the Committee that the P4 “stopped with the three generals that were on it.”¹²² The Committee’s

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

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

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

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

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

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

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

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

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

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

inquiry supports this conclusion. No other individual, including Secretary Rumsfeld, Gen. Myers, Lt. Gen. Lovelace and DiRita, testified to having had knowledge of the P4 or its contents.¹²³

C. Other activities

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

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

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

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

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

¹²⁶ *Id.* (Emphasis in original.)

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

¹²⁸ *Id.*

D. Knowledge of Fratricide

No White House staffer interviewed by the Committee said they knew that fratricide was suspected until the Army's announcement on the subject.¹²⁹ The Committee did not obtain any information to the contrary. It also found no evidence which suggested that other White House staffers or the President had foreknowledge of the friendly fire suspicions.

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

IV. OTHER CASES

A. Jessica Lynch

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

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

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

¹³⁰ *McClellan Interview*.

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

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

¹³³ *Thorp Transcript* at Tr. 79.

presumably been aided. A cursory examination of some of the articles subsequently written based upon the initial *Washington Post* article lends support to this suggestion.¹³⁴

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

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

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

On June 17, 2003, the *Washington Post* reported that Private Lynch did not engage the enemy, was not wounded by gunshots, and was rescued without significant resistance.¹⁴²

¹³⁴ In the week following the *Post* story, editorials and articles appeared, relating Lynch's heroics to the prospect of women being given combat roles. See Joan Lowy, *Heroics of female POW raise combat debate*, SCRIPPS HOWARD NEWS SERVICE, Apr. 3, 2003; *Pfc. Jessica Lynch shows again that women can handle combat; she kept firing at attackers until ammunition ran out, official says*, DETROIT NEWS, Apr. 4, 2003, p. 8A; *Women are proving they're just as tough as the men; The arguments for keeping women out of combat are quickly losing credibility*, PORTLAND (ME) PRESS HERALD, Apr. 5, 2003, 9A; *Lynch quells gender debate*, BOSTON HERALD, Apr. 6, 2003, 26; *Jessica's Lesson*, ROCHESTER DEMOCRAT AND CHRONICLE, Apr. 7, 2003, 8A; Frank Ritter, *Lynch settles the question of women in combat*, TENNESSEAN, Apr. 9, 2003, 13A; Martha Ackmann, *A woman's place is on the battlefield, too*, RECORD (Bergen County, NJ), Apr. 10, 2003, L11.

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

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

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

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

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

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

According to press reports, the 15-6 investigation results, officially released the following month, said much the same.¹⁴³

On April 5, 2003, three days after Private Lynch's rescue, Air Force Maj. Gen. Victor Renuart, in the course of a CENTCOM briefing, told assembled reporters he would "spend a minute or two talking about the rescue of Private Lynch," and declared "you'll forgive me for referring to notes a little bit more, but the facts of this are important . . ."¹⁴⁴ Significantly, when describing the operation, Gen. Renuart made no assertions about Private Lynch's response when her unit was attacked.

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

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

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

Lynch's rescue was, as later recounted by CENTCOM public affairs official, Lt. Colonel John Robinson, "an awesome story."¹⁵⁰ However, notwithstanding Robinson's declaration and Gen. Renuart's explanation, some questioned the conduct of the rescue operation. Six weeks after Private Lynch's rescue, the British Broadcasting Corporation (BBC) aired a documentary segment entitled "War Spin" on its Correspondent television program. About the rescue, the documentary concluded: "her story is one of the most stunning pieces of news management ever

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

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

¹⁴⁵ *Id.*

¹⁴⁶ *Id.*

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Jun. 17, 2003 Post Follow-up.*

conceived.”¹⁵¹ The program asserted “the US military knew there were no Iraqi forces guarding the hospital, and quoted a local doctor saying the troops used blank rounds to ‘make a show’ of the operation.”¹⁵² “War Spin” also questioned whether Private Lynch “had been slapped about on her hospital bed and interrogated” before troops came to her aid.¹⁵³

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

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

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

In sum, the IG reported:

USSOF conducted a personnel recovery mission, during wartime, in a nonpermissive environment, to rescue a U.S. POW from a hostile enemy location. During the mission USSOF received enemy fire from the hospital building, the surrounding complex, and nearby areas. They successfully engaged the enemy

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

¹⁵² *Id.*

¹⁵³ *Id.*

¹⁵⁴ *Id.*

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

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

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

forces they encountered, neutralizing them without sustaining any casualties of their own.¹⁶⁰

The IG also conveyed an assessment of the possibility mission participants were “acting for the camera;” there was no evidence of this, investigators reported.¹⁶¹ Indeed, “all USSOF members,” the IG stated, “were offended by such an accusation.”¹⁶² These results were conveyed to the Committee by the DoD IG at the Committee’s first hearing into this matter.¹⁶³

B. Scott Thomas Beauchamp

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

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

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.*

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

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

¹⁶⁵ *Id.*

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

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

¹⁶⁸ *Id.*

inconsistencies coming to light, *The New Republic*'s editor published an explanation of their position declaring, "[W]e cannot stand by these stories."¹⁶⁹

The next month, twenty-seven sworn statements from soldiers were provided to a New York media outlet as a result of a Freedom of Information Act request.¹⁷⁰ These sworn statements buttress the reported conclusions of the Army's investigation: no interviewee admitted to having any information which supported any of Beauchamp's alleged observations. In addition, in one sworn statement by Beauchamp's squad leader indicates that Beauchamp did not consult with him before making blog posts in violation of "operational security" regulations governing soldiers on the battlefield.¹⁷¹

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

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

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

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