

**THE TILLMAN FRATRICIDE: WHAT THE
LEADERSHIP OF THE DEFENSE DEPARTMENT KNEW**

Wednesday, August 1, 2007

House of Representatives,

Committee on Oversight and

Government Reform,

Washington, D.C.

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Committee Hearings

of the

U.S. HOUSE OF REPRESENTATIVES



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4 LEADERSHIP OF THE DEFENSE DEPARTMENT KNEW
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7 Committee on Oversight and
8 Government Reform,
9 Washington, D.C.

10 The committee met, pursuant to call, at 10:06 a.m., in
11 Room 2154, Rayburn House Office Building, Hon. Henry A.
12 Waxman [chairman of the committee] presiding.

13 Present: Representatives Waxman, Maloney, Cummings,
14 Kucinich, Davis of Illinois, Tierney, Clay, Watson, Lynch,
15 Yarmuth, Braley, Norton, Cooper, Van Hollen, Hodes, Sarbanes,
16 Welch, Davis of Virginia, Burton, Shays, McHugh, Mica,
17 Platts, Duncan, Turner, Issa, McHenry, Bilbray and Sali.

18 Staff Present: Phil Schiliro, Chief of Staff; Phil
19 Barnett, Staff Director and Chief Counsel; Kristin Amerling,
20 General Counsel; Karen Lightfoot, Communications Director and

21 | Senior Policy Advisor; David Rapallo, Chief Investigative
22 | Counsel; John Williams, Deputy Chief Investigative Counsel;
23 | David Leviss, Senior Investigative Counsel; Suzanne Renaud,
24 | Counsel; Steve Glickman, Counsel; Earley Green, Chief Clerk;
25 | Teresa Coufal, Deputy Clerk; Matt Siegler, Special Assistant;
26 | Caren Auchman, Press Assistant; Zhongrui "JR" Deng, Chief
27 | Information Officer; Leneal Scott, Information Systems
28 | Manager; Will Ragland, Staff Assistant; Bonney Kapp, Fellow;
29 | David Marin, Minority Staff Director; Larry Halloran,
30 | Minority Deputy Staff Director; Jennifer Safavian, Minority
31 | Chief Counsel for Oversight and Investigations; Keith
32 | Ausbrook, Minority General Counsel; Steve Castor, Minority
33 | Counsel; A. Brooke Bennett, Minority Counsel; Susie Schulte,
34 | Minority Senior Professional Staff Member; Christopher
35 | Bright, Minority Professional Staff Member; Allyson
36 | Glandford, Minority Professional Staff Member; Nick Palarino,
37 | Minority Senior Investigator and Policy Advisor; Patrick
38 | Lyden, Minority Parliamentarian and Member Services
39 | Coordinator; Brian McNicoll, Minority Communications
40 | Director; Benjamin Chance, Minority Clerk; and Ali Ahmad,
41 | Minority Deputy Press Secretary.

42 Chairman WAXMAN. I want to welcome everyone to our
43 hearing today. I do want to announce this is a hearing of
44 Congress, and not a rally or a demonstration. Please keep
45 that in mind.

46 As of last night, 4,063 of our bravest soldiers have
47 died in the Afghan and Iraq wars. Each death has its own
48 compelling story. Each brought incalculable grief for the
49 soldier's family and friends, and each is a tragic and
50 irreplaceable loss for our country.

51 In today's hearing we will continue our investigation of
52 the misinformation surrounding the death of one of those
53 soldiers, Corporal Pat Tillman. We are focused on Corporal
54 Tillman's case because the misinformation was so profound and
55 because it persisted so long. And if that can happen to the
56 most famous soldier serving in Iraq and Afghanistan, it
57 leaves many families and many of us questioning the accuracy
58 of the information from many other casualties.

59 To date there have been seven investigations into
60 Corporal Tillman's case, yet the Army announced sanctions
61 against--yesterday the Army announced sanctions against six
62 officers, while important questions still remain unanswered.
63 Normally in investigations we learn more, and the more we
64 learn, the easier it is to understand what actually happened.
65 The opposite is true in the Tillman case. As we learn more,
66 everything that happened in 2004, from April 22, the day Pat

67 | Tillman died, to May 29, the day the Defense Department
68 | finally announced this was a friendly fire incident, makes
69 | less sense.

70 | One possible explanation is that a series of
71 | counterintuitive, illogical blunders unfolded, accidentally
72 | and haphazardly. As the Army noted yesterday, in seven
73 | investigations into this tragedy, not one has found evidence
74 | of a conspiracy by the Army to fabricate a hero, to deceive
75 | the public or mislead the Tillman family about the
76 | circumstances of Corporal Tillman's death.

77 | The other possible explanation is that someone or some
78 | group of officials acted deliberately and repeatedly to
79 | conceal the truth. Kevin Tillman, who served with his
80 | brother in Afghanistan, expressed that view in our last
81 | hearing. He said April 2004 was turning into the deadliest
82 | month to date in the war in Iraq. American commanders
83 | essentially surrendered Fallujah to members of the Iraq
84 | resistance. In the midst of this, the White House learned
85 | that Christian Parenti, Seymour Hersh, and other journalists
86 | were about to reveal a shocking scandal involving massive and
87 | systemic detainee abuse in a facility known as Abu Ghraib.
88 | Revealing that Pat's death was fratricide would have been yet
89 | another political disaster during a month already swollen
90 | with political disasters, and a brutal truth that the
91 | American public would undoubtedly find unacceptable. So the

92 facts needed to be suppressed, and an alternate narrative had
93 to be constructed. This freshly manufactured narrative was
94 then distributed to the American public, and we believe the
95 strategy had the intended effect. It shifted the focus from
96 the grotesque torture at Abu Ghraib to a great American who
97 died a hero's death.

98 Well, that was the view of Kevin Tillman. Our
99 committee's challenge is to determine which explanation is
100 true. At our last hearing, Specialist Bryan O'Neal
101 testified. Specialist O'Neal was standing next to Corporal
102 Tillman during the firefight. He knew immediately that this
103 was a case of friendly fire, and described what happened in
104 an eyewitness statement he submitted up his chain of command
105 immediately after Corporal Tillman's death.

106 But Specialist O'Neal told us something else. After he
107 submitted his statement, someone else rewrote it. This
108 unnamed person made significant changes that transformed
109 O'Neal's account into an enemy attack. We still don't know
110 who did that and why he did it. We just know that although
111 everyone on the ground knew this was a case of friendly fire,
112 the American people and Tillman family were told that
113 Corporal Tillman was killed by the enemy, and that doesn't
114 make any sense.

115 Our focus has been to look up the chain of command, but
116 that has proved to be as confounding as figuring out what

117 | happened to Specialist O'Neal's witness statement. We have
118 | tried to find out what the White House knew about Corporal
119 | Tillman's death. We know that in the days following the
120 | initial report, at least 97 White House officials sent and
121 | received hundreds of e-mails about Corporal Tillman's death
122 | and how the White House and the President should respond.
123 | Now, there is nothing sinister about this.

124 | I want that sign down.

125 | There is nothing sinister about this, and there is
126 | nothing sinister in the e-mails we have received. Corporal
127 | Tillman is a national hero. It makes sense that White House
128 | officials would be paying attention. But what doesn't make
129 | sense is that weeks later, in the days before and after the
130 | Defense Department announced that Corporal Tillman was
131 | actually killed by our own forces, there are no e-mails from
132 | any of the 97 White House officials about how Corporal
133 | Tillman really died.

134 | The concealment of Corporal Tillman's fratricide caused
135 | millions of Americans to question the integrity of our
136 | government, yet no one will tell us when and how the White
137 | House learned the truth.

138 | Today we will be examining the actions of the senior
139 | leadership at the Department of Defense. Much of our focus
140 | will be on a "Personal For" message, also known as a P4, that
141 | Major General Stanley McChrystal sent on April 29th, 2004.

142 | This P4 alerted his superiors that despite press reports that
143 | Corporal Tillman died fighting the enemy, it was highly
144 | possible that Corporal Tillman was killed by friendly fire.

145 | Well, three officers received this P4 report, Lieutenant
146 | General Kensinger, General Abizaid and General Brown.
147 | General Kensinger refused to appear today. His attorney
148 | informed the committee that General Kensinger would not
149 | testify voluntarily, and, if issued a subpoena, would seek to
150 | evade service.

151 | The committee did issue a subpoena to General Kensinger
152 | earlier this week, but U.S. Marshals have been unable to
153 | locate or serve him. So we will not be able to ask General
154 | Kensinger what he did with the P4. We won't be able to ask
155 | him why he didn't notify the Tillman family about the
156 | friendly fire investigation, and we won't be able to ask him
157 | why he did nothing to correct the record after he attended
158 | Corporal Tillman's memorial service in early May and he heard
159 | statements he knew were false.

160 | Fortunately, we do have the other two recipients of the
161 | P4, General Abizaid and General Brown, here this morning, and
162 | we will ask them what they did after they received General
163 | McChrystal's message.

164 | We are also grateful that General Myers and Secretary
165 | Rumsfeld, who rearranged his schedule so that he could be
166 | here today, are here to testify. And we are pleased that you

167 | have taken this opportunity to be with us.

168 | Members of the committee, like Americans across the
169 | Nation, are looking for answers to simple questions. Who
170 | knew about the friendly fire attack? Why wasn't the family
171 | told? Why did it take over a month for the leadership of the
172 | Defense Department to tell the public the truth? Today I
173 | hope we will at least get answers to these questions and
174 | bring clarity to this investigation.

175 | I commend the Army for its continued investigation into
176 | the Tillman case, and Army Secretary Geren for the forthright
177 | approach he is taking. Progress has been made, but we still
178 | don't know who was responsible for the false information and
179 | what roles, if any, the Defense Department and the White
180 | House had in the deceptions. We owe it to the Tillman family
181 | and to the American people to get the answers to these
182 | fundamental questions.

183 | [Prepared statement of Mr. Waxman follows:]

184 | ***** INSERT 1-1 *****

185 Chairman WAXMAN. I want to now recognize Mr. Davis
186 before we call on our witnesses.

187 Mr. DAVIS OF VIRGINIA. Thank you, Mr. Chairman. We
188 continue to join you today in pursuing key aspects of this
189 investigation, because our duty to the Nation's honored dead
190 and to their families is solemn and absolute. As a Nation
191 and as a Congress, we owe them our unity, our honesty and our
192 industry, untarnished by self-interest or partisanship. As
193 long as the committee is seeking authoritative answers to
194 necessary questions about the death of Corporal Pat Tillman,
195 we will be constructive partners in that effort.

196 This much we know. There are no good answers to the
197 necessarily tough questions raised about how the facts of
198 this friendly fire incident were handled, by whom and when.
199 Testimony from our previous hearing and the results of six
200 separate Army investigations all showed the tragic truth can
201 only fall somewhere between screw-up and cover-up, between
202 rampant incompetence and elaborate conspiracy. And once you
203 are descending that continuum, it almost doesn't matter
204 whether the failure to follow Army regulations about updated
205 casualty reports and prompt family notifications was
206 inadvertent, negligent or intentional.

207 As it has been observed, sufficiently advanced
208 incompetence is indistinguishable from malice, and the facts
209 uncovered so far clearly prove this was advanced

210 | incompetence, serial ineptitude up and down the Army and
211 | civilian chains of command.

212 | Still, confounding questions persist about how and why
213 | the specifics of so high profile a death were so slowly and
214 | badly conveyed, even after top Pentagon leaders and the White
215 | House were known to be interested.

216 | Since this committee's first hearing on these issues 4
217 | months ago, the committee has received over 13,000 pages of
218 | documents from the White House, the Department of Defense,
219 | the inspector general, and the Department of Defense, and the
220 | Department of the Army. Committee staff has conducted over a
221 | half dozen interviews with those involved. Nothing in that
222 | material suggests the Defense Secretary or the White House
223 | were aware Tillman's death was a friendly fire incident
224 | before late May, when his grieving family and the rest of the
225 | Nation were finally told. But it is still not clear how or
226 | why the Secretary, other defense leaders, and the White House
227 | speechwriters remained impervious to the emerging truth while
228 | so many others knew Corporal Tillman's death was a
229 | fratricide.

230 | Yesterday another Army review by General William S.
231 | Wallace was conducted, and the secretary of the Army imposed
232 | disciplinary action against senior officers involved in this
233 | sad cascade of mistakes, misjudgments, and misleading
234 | statements. Consistent with the Pentagon Inspector General's

235 | report, General Wallace found no evidence anyone in the chain
236 | of command acted intentionally to cover up the fact Corporal
237 | Tillman had died by friendly fire. Rather, the report
238 | determined, as had others before, the delay in notifying the
239 | Tillman family of the friendly fire investigation resulted
240 | from well-intentioned but clearly wrong decisions to wait
241 | until all investigations were complete. That, to me, is one
242 | of the more troubling aspects in this case, that the default
243 | setting for Army officers, lawyers, and others was secrecy.

244 | This was their first friendly fire incident. No one
245 | apparently bothered to read the regulations requiring
246 | immediate changes to the casualty report, which in turn would
247 | have triggered additional information going to the family,
248 | and presumably others. Yesterday the Army Secretary said
249 | timely and accurate family notification is a duty based on
250 | core Army values. But in this instance, undeniably
251 | pernicious institutional forces devalued that ideal. Why?
252 | What has been done to cure that organizational bias against
253 | the diligence and candor owed the Tillman family and every
254 | American?

255 | I believe the job of this committee is to ask the tough
256 | questions and let the chips fall where they may. It is our
257 | not always envious job to root out the facts and hold people
258 | accountable. That is what we are doing today. As I noted
259 | earlier, nothing in our inquiry thus far demonstrates the

260 Defense Secretary or the White House were aware this a was a
261 friendly fire incident before late May. That we have not
262 learned otherwise may perplex those who are assuming the
263 worst, given the gross mishandling of this tragedy. But
264 while we continue to gather information and we together will
265 leave no stone unturned, let's not let these assumptions
266 color or cloud what our investigation is actually finding.

267 All our witnesses have served our Nation with
268 distinction, and we are grateful for their continued service
269 and support of this committee's oversight. I am particularly
270 glad former Defense Secretary Rumsfeld decided to appear
271 today. His perspective is an indispensable element of our
272 efforts to complete this inquiry. We look forward to his
273 testimony and that of all today's witnesses as we seek
274 answers to these painful, but essential questions.

275 Thank you, Mr. Chairman.

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

277 [The information follows:]

278 ***** COMMITTEE INSERT *****

279 Chairman WAXMAN. Let me, before I recognize our
280 witnesses, remind everyone in the audience that this is a
281 serious congressional investigation. If anyone holds up
282 signs, we want to tell them not do it. And if they do, we
283 will ask them to excuse themselves from the hearing room. We
284 will insist on proper decorum.

285 I join with Mr. Davis in thanking each of our witnesses
286 for being here today, and certainly in the case of Secretary
287 Rumsfeld, who went to great pains to be here. And I
288 appreciate the fact that he did come. And also to all three
289 of the generals that are with us today, we want to hear from
290 you.

291 It is the practice of this committee for all witnesses
292 that we administer the oath, and I would like to ask all of
293 you to please stand at this time to take the oath.

294 [Witnesses sworn.]

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

297 Mr. Rumsfeld, Mr. Secretary Rumsfeld, why don't we start
298 with you. There is a button on the base of the mike. We
299 would like if you would make your presentation. If any of
300 you have submitted written testimony, the written testimony
301 will be in the record in full. And we want to hear what you
302 have to say.

303 STATEMENT OF DONALD RUMSFELD, FORMER SECRETARY OF DEFENSE

304 Mr. RUMSFELD. Thank you, Mr. Chairman, members of the
305 committee. You have requested that we appear today to
306 discuss our knowledge of the circumstances surrounding the
307 death of U.S. Army Corporal Patrick Tillman.

308 First, I want to again extend my deepest sympathies to
309 the Tillman family. Corporal Tillman's death, and the deaths
310 of thousands of men and women who have given their lives in
311 our Nation's service, have brought great sorrow to the lives
312 of their families and their loved ones. Theirs is a grief
313 felt by all who have had the privilege of serving alongside
314 those in uniform. The handling of the circumstances
315 surrounding Corporal Tillman's death could only have added to
316 the pain of losing a loved one. I personally, and I am sure
317 all connected with the Department, extend our deep regrets.

318 One of the Department of Defense's foremost
319 responsibilities is to tell the truth to some of the 3
320 million military, civilian and contract employees who
321 dedicate their careers to defending our Nation; to the
322 military families who endure the extended absence of their
323 fathers, mothers, husbands, wives, sons and daughters; and to
324 the American people, for whom all of those connected to the
325 Department of Defense strive each day to protect.

326 In March 2002, early in my tenure as Secretary of
327 Defense, I wrote a memo for the men and women of the
328 Department of Defense titled Principles for the Department of
329 Defense. I have attached a copy of that memo to my
330 testimony. You will note that principle number one, the very
331 first, addresses the points that both you and Mr. Davis have
332 made. It says, "Do nothing that could raise questions about
333 the credibility of DOD. Department officials must tell the
334 truth and must be believed to be telling the truth or our
335 important work is undermined."

336 Mr. Chairman, in your invitation to today's hearing, you
337 asked that we be prepared to discuss how we learned of the
338 circumstances surrounding Corporal Tillman's death, when we
339 learned of it, and with whom we discussed it. I am prepared
340 to respond to the questions which pertain to these matters to
341 the best of my ability.

342 In December 2006, I sent a letter to the Acting
343 Inspector General of the Department of Defense, Mr. Thomas
344 Gimble, describing my best recollection of those events,
345 which by that point had occurred some 2-1/2 years previously.

346 The committee has been given a copy of that letter, and I
347 would like to quote a portion of it.

348 Quote, "I am told that I received word of this
349 development sometime after May 20, 2004, but my recollection
350 reflects the fact that it occurred well over 2 years ago. As

351 a result, I do not recall when I first learned about the
352 possibility that Corporal Tillman's death might have resulted
353 from fratricide." I went on to say, "I am confident that I
354 did not discuss this matter with anyone outside of the
355 Department of Defense." Obviously, during that early period;
356 I have subsequently to that period.

357 What I wrote in December 2006 remains my best
358 recollection today of when I was informed and with whom I
359 talked before May 20. I understand that the May 20, 2004,
360 date was shortly before the Tillman family was informed of
361 the circumstances on May 26th, 2004.

362 Your invitation to appear before the committee also
363 asked about my knowledge of a "Personal For" or P4 message
364 dated April 29th, 2004. That message was not addressed to
365 me. I don't recall seeing it until recent days, when copies
366 have been made available. There are a great many, indeed
367 many thousands, of communications throughout the Department
368 of Defense that a Secretary of Defense does not see.

369 I understand that the acting inspector general's report
370 concluded that there were errors among some of those
371 responsible for the initial reports. Any errors in such a
372 situation are most unfortunate. The Tillmans were owed the
373 truth, delivered in a forthright and timely manner. And
374 certainly the truth was owed to the memory of a man whose
375 valor, dedication, and sacrifice to his country remains an

376 | example for all.

377 | Thank you, Mr. Chairman.

378 | Chairman WAXMAN. Thank you very much, Mr. Rumsfeld.

379 | [Prepared statement of Mr. Rumsfeld follows:]

380 | ***** INSERT 1-2 *****

381 Chairman WAXMAN. General Myers?

382 STATEMENT OF GENERAL RICHARD MYERS, FORMER CHAIR, JOINT
383 CHIEFS OF STAFF

384 General MYERS. Thank you, Mr. Chairman. The only thing
385 I would like to say is just offer my condolences as well to
386 the Tillman family not only for the loss, but for the issues
387 that they have been struggling with since then, and the whole
388 notification issue that is being looked at by this committee.
389 They clearly don't deserve that for Pat Tillman's memory and
390 for what he meant to this country and to our Armed Forces.

391 And I would like--as the Secretary said, I would like to
392 also add my condolences, of course, to all those who have
393 sacrificed to keep us free, the men and women in uniform.

394 Thank you, Mr. Chairman.

395 [The information follows:]

396 ***** COMMITTEE INSERT *****

397 Chairman WAXMAN. General Abizaid?

398 STATEMENT OF GENERAL JOHN P. ABIZAID, FORMER COMMANDER, U.S.
399 CENTRAL COMMAND

400 General ABIZAID. Thank you, Mr. Chairman.

401 Certainly we have lost a lot of good young men and women
402 in the past several years of combat. We have a tough fight
403 ahead of us, and we will lose more. I understand that one of
404 the most important things we can do is help our families
405 through the grieving process. That requires accurate and
406 timely information that goes to them, and it certainly didn't
407 happen in the case of Corporal Tillman.

408 It is unfortunate that we did not handle it properly.
409 Having had a son-in-law who was wounded in combat, and having
410 gone through the notification process myself, I can only tell
411 you it is a difficult process in the best of times.

412 We will answer your questions to the best of our
413 ability. Thanks.

414 Chairman WAXMAN. Thank you.

415 [The information follows:]

416 ***** COMMITTEE INSERT *****

417 Chairman WAXMAN. General Brown?

418 STATEMENT OF GENERAL BRYAN DOUGLAS BROWN, FORMER COMMANDER,
419 U.S. SPECIAL OPERATIONS COMMAND

420 General BROWN. Mr. Chairman, I would also like to add
421 my condolences to the Tillman family and to how poorly the
422 notification was done. I would also say that, like General
423 Abizaid to my right, I also had a son-in-law wounded, so I
424 know what that call sounds like. And my son-in-law, in fact,
425 was wounded by fratricide in the opening days of Afghanistan,
426 so I know how important it is and how the impact is on the
427 family, although I didn't lose my son-in-law.

428 So I am ready for your questions, Mr. Chairman.

429 Chairman WAXMAN. Okay. Thank you.

430 [The information follows:]

431 ***** COMMITTEE INSERT *****

432 Chairman WAXMAN. Well, I want to begin the questioning
433 by framing the issue for us. The basic point that we want to
434 learn is what did the senior military leadership know about
435 Corporal Tillman's death, when did they know it, and what did
436 they do after they learned it?

437 At our last hearing we reviewed a document known as
438 Personal For, or a P4 memo. This memo was sent on April 28,
439 2004, by Major General Stanley McChrystal, the Commander of
440 the Joint Task Force in Afghanistan, where Corporal Tillman
441 was killed in 2004. General McChrystal sent this P4 memo to
442 three people: General Abizaid, from Central Command; General
443 Brown, from U.S. Special Operations Command; and General
444 Kensinger, from the Army Special Operations Command. The
445 purpose of this P4 was to have one or more of these generals
446 warn President Bush, the Secretary of the Army, and other
447 national leaders that it was, quote, highly probable or
448 highly possible that an ongoing investigation was about to
449 conclude that Corporal Tillman was killed by his own unit.

450 General McChrystal explained why this P4 message was so
451 important. He stated, I quote, I felt it was essential that
452 you received this information as soon as we detected it in
453 order to preclude any unknowing statements by our country's
454 leaders which might cause embarrassment if the circumstances
455 of Corporal Tillman's death became public.

456 Well, this P4 memo was sent on April 29th, 1 week after

457 Corporal Tillman's death. This was 4 days before the
458 memorial service, at which the Tillmans and the Nation were
459 told Pat Tillman was killed by hostile fire. And this was an
460 entire month before the Pentagon told the Tillman family and
461 the public that Corporal Tillman was killed by U.S. forces.

462 For today's hearing, we invited all of the recipients of
463 the P4 to determine how they responded. Did they, in fact,
464 alert the White House? Did they alert the Army Secretary,
465 the Secretary of Defense? Did they pass it up the chain of
466 command? One of the addressees is General Kensinger. He
467 refused to appear voluntarily, and apparently evaded service
468 of the committee's subpoena, so he is not here today, but we
469 do have two of the other addressees of the P4 memo, General
470 Brown and General Abizaid, as well as General Myers, the
471 former Chairman of the Joint Chiefs of Staff, and Secretary
472 Rumsfeld. They are appearing here today voluntarily, and I
473 thank you all for being here. They have had distinguished
474 careers and have served our Nation with honor. They are
475 continuing to serve their country by cooperating with this
476 congressional investigation.

477 General Abizaid, let me start with you. If you look
478 closely at the P4, the third and fourth lines actually have
479 different levels of addressees. General Brown and General
480 Kensinger were listed as info, which I understand is the
481 equivalent of a CC, a carbon copy. But you were listed as a

482 "to." So General McChrystal really wanted this to go to you.

483 When did you receive this memo?

484 General ABIZOID. I believe that the earliest I received
485 it was on the 6th of May.

486 Chairman WAXMAN. 6th of May. And why did it take so
487 long?

488 General ABIZOID. Well, let me explain the timing
489 sequence, if I may, Congressman, starting from the 22nd, as I
490 saw it. Would that be helpful?

491 Chairman WAXMAN. Sure.

492 General ABIZOID. On the 22nd, the incident occurred. I
493 believe about the 23rd, General McChrystal called me and told
494 me that Corporal Tillman had been killed in combat, and that
495 the circumstances surrounding his death were heroic. I
496 called the Chairman and discussed that with the Chairman.

497 Throughout that period I was in Iraq, Qatar, et cetera.
498 On the 28th, I went to Afghanistan. In Afghanistan, I met
499 with General Olson and General Barnow, our commanders there,
500 and I also had the chance to talk to the platoon leader, who
501 was Corporal Tillman's platoon leader, and I asked him about
502 the action, and he gave no indication that there was a
503 friendly fire issue.

504 On the 29th, General McChrystal sent his message, and it
505 went to my headquarters in Tampa, and it was not
506 retransmitted for reasons of difficulties with our systems

507 | within the headquarters until the 6th at the earliest, and it
508 | could have been later that I received it. But it is my
509 | recollection then on the 6th, probably the 6th, it is a
510 | guess, I can't be sure exactly the date, I called the
511 | Chairman. I told the Chairman about having received General
512 | McChrystal's message that friendly fire was involved.

513 | Chairman WAXMAN. You immediately told the Chairman?

514 | General ABIZOID. As soon as I saw the message. I can't
515 | remember how the existence of the message came to my
516 | attention, but it was known within my staff that something
517 | was out there, and we found it. I called the Chairman. I
518 | told the Chairman about it, and it was my impression from
519 | having talked to the Chairman at the time that he knew about
520 | it.

521 | Chairman WAXMAN. Okay. Your staff seemed to know about
522 | it. Was that that they knew there was a memo, or they heard
523 | it might have been friendly fire that killed him?

524 | General ABIZOID. I think they had heard there was an
525 | investigation ongoing within the Joint Special Operations
526 | Command.

527 | Chairman WAXMAN. Um-hmm. So you actually received the
528 | P4 memo a week after it was written, but it was also 3 weeks
529 | before the memorial service where the family still didn't
530 | know. Your chain of command, you were the Commander of
531 | CENTCOM; you had a direct reporting requirement to the

532 Defense Secretary. After you read the P4, who did you
533 contact? Just General Myers?

534 General ABIZOID. I contacted General Myers. And my
535 responsibility is to report to the Secretary through the
536 Chairman. I generally do that. I talked to the Secretary a
537 lot, I talked to the Chairman a lot during this period. But
538 90 percent of what I talked to him about was what was going
539 on in Fallujah, what was going on combat operationally
540 throughout the theater. And as a matter of fact, when I
541 called the Chairman, there was a whole list of other things
542 that I believe I talked to him about concerning the
543 circumstances in Fallujah in particular.

544 Chairman WAXMAN. What did you say to him about this P4
545 memo?

546 General ABIZOID. I can't remember exactly what I said
547 to him. I said it is clear that there is a possibility of
548 fratricide involving the Tillman case; that General
549 McChrystal has appointed the necessary people to investigate
550 to determine precisely what happened; and that while it is
551 likely that there is fratricide, we will know for sure after
552 the report is finalized, which will reach me when it gets
553 done.

554 Chairman WAXMAN. What did he say to you in response?

555 General ABIZOID. Like I say, he gave me the
556 impression--I can't remember his exact words--that he

557 understood that there was an investigation ongoing.

558 Chairman WAXMAN. So he seemed to already know about the
559 fact there was an investigation?

560 General ABIZOID. He seemed to, yes.

561 Chairman WAXMAN. And what about your own reporting
562 requirement to the Secretary? Did you ever discuss the
563 fratricide investigation with Secretary Rumsfeld or his
564 office?

565 General ABIZOID. No, I did not talk to the Secretary
566 that I can recall directly about it until I was back in D.C.
567 Around the time period of the 18th through the 20th. And at
568 the time I informed him that there was an investigation that
569 was ongoing, and it looked like it was friendly fire.

570 Chairman WAXMAN. The P4 memo said the President should
571 be notified that Corporal Tillman was highly possibly killed
572 by friendly fire. What steps did you take to make sure the
573 President received this information?

574 General ABIZOID. I notified the Chairman. I never
575 called the President direct on any operational matter
576 throughout the 4-1/2 years of being in the theater.

577 Chairman WAXMAN. Okay. Well, General Myers, let's turn
578 to you. You were the Chairman of the Joint Chiefs of Staff.
579 Under the Goldwater-Nichols Act of 1986, you were the senior
580 Ranking Member of the Armed Forces and the principal military
581 adviser to the President and the Secretary of Defense. The

582 P4 was not addressed to you, but General Abizaid just said
583 that he called you and told you about the suspected
584 fratricide. First of all, is that correct? Did he call you?

585 General MYERS. I can't recall specifically, but it is
586 entirely likely that it is exactly as he recalls it. I would
587 trust his judgment in this matter.

588 Chairman WAXMAN. You don't remember what he said or
589 what you said back in that conversation?

590 General MYERS. No. No recall of that.

591 General ABIZAID. Okay. General Abizaid testified, as
592 you heard, when he called you, you already knew about it. Is
593 that accurate?

594 General MYERS. Yes. The best I can determine, once I
595 got the letter from the committee and talked to some of the
596 folks on my staff, is that I knew right at the end of April
597 that there was a possibility of fratricide in the Corporal
598 Tillman death, and that General McChrystal had started an
599 investigation. So when he called, if he called later than
600 that, then I would already have known that.

601 Chairman WAXMAN. How would you have known that? Who
602 told you?

603 General MYERS. I can't tell you. I don't know how I
604 knew. To the best of my knowledge, I have never seen this
605 P4. It could have come several ways. The most likely is in
606 our operations shop, we have folks from Special Forces

607 | that--from Special Forces that might have known this and
608 | passed it to me at a staff meeting. I can't tell you who
609 | passed it to me. I just don't know. Or it could have been I
610 | have read General Schoomaker's testimony in front of the DOD
611 | IG, and he said he might have called me. That is another way
612 | it could have happened. I just can't recall.

613 | Chairman WAXMAN. General Myers, you told our staff last
614 | night that at the time you received the call from General
615 | Abizaid, it was common knowledge that Corporal Tillman had
616 | been killed by friendly fire. Is that accurate? Was it
617 | common knowledge that the fratricide was--

618 | General MYERS. No. If I said that, it was a mistake.
619 | I don't know that it was common knowledge at that point.

620 | Chairman WAXMAN. But you knew about it, and others
621 | around you knew about it.

622 | General MYERS. Yes, and I told--in working with my
623 | former public affairs adviser, I said, you know, we need to
624 | keep this in mind in case we go before the press. We have
625 | just got to calibrate ourselves. With this investigation
626 | ongoing, we want to be careful how we portray the situation.

627 | Chairman WAXMAN. Yeah. Well, was it fair to say it was
628 | widely known by people in the DOD?

629 | General MYERS. You know, I can't recall. As General
630 | Abizaid said when he mentioned this to me, we probably talked
631 | about a lot of other things, to include the situation in

632 Fallujah, which was getting a lot of attention at the moment.

633 But I just can't recall.

634 Chairman WAXMAN. Okay. Thank you.

635 Mr. Davis?

636 Mr. DAVIS OF VIRGINIA. General Myers, when you learned
637 that this was a possible fratricide, what would Army
638 regulations require you to do or the chain of command to do
639 at that point?

640 General MYERS. I don't come under Army regulations,
641 but--I don't think there is any regulation that would require
642 me to do anything actually. What I would normally do--it was
643 in Army channels. What I would normally do, if I thought the
644 Secretary did not know that, I would so inform the Secretary.

645 I cannot recall whether or not I did that.

646 Mr. DAVIS OF VIRGINIA. We are going to find out in a
647 second.

648 General MYERS. Yeah, well, I think--you can ask the
649 Secretary. But I don't recall if I did that.

650 Mr. DAVIS OF VIRGINIA. What would Army regulations have
651 required at that point?

652 General MYERS. My understanding is the way the Army
653 regulations were written, and this is from research here
654 getting ready for the committee, is that they should have
655 notified the family at the time that there was a possibility
656 of fratricide as soon as they knew it.

657 Mr. DAVIS OF VIRGINIA. Nobody at the top was ensuring
658 that--really looked at the regulations at that point?

659 General MYERS. That wouldn't be our responsibility.
660 When I learned that General McChrystal had initiated an
661 investigation, that was--that was good for me. I know he had
662 worked for me before. I knew his integrity. I said, this is
663 good, and they are going to do an investigation. We will
664 learn the truth.

665 Mr. DAVIS OF VIRGINIA. Mr. Secretary, thank you for
666 being with us today. How and when did you learn that
667 Corporal Tillman had been killed? There is a button on the
668 base.

669 Mr. RUMSFELD. I don't recall precisely how I learned
670 that he was killed. It could have been internally, or it
671 could have been through the press. It was something that
672 obviously received a great deal of attention.

673 Mr. DAVIS OF VIRGINIA. Do you remember did you take any
674 action at the time that you learned that he was killed?
675 Obviously, this was an American hero. This could be highly
676 publicized and of great concern to a lot of people.

677 Mr. RUMSFELD. The only action I can recall taking was
678 to draft a letter to the family.

679 Mr. DAVIS OF VIRGINIA. Okay. Before he did so, were
680 you aware that President Bush was going to reference Corporal
681 Tillman in a correspondents' dinner speech on May 1st?

682 Mr. RUMSFELD. No.

683 Mr. DAVIS OF VIRGINIA. So to your knowledge or
684 recollection, you never had any conversations with the
685 President or anybody at the White House about that
686 possibility?

687 Mr. RUMSFELD. I have no recollection of discussing it
688 with the White House until towards the--when it became a
689 matter of public record about the fratricide. At that point,
690 and when the family was notified, I am sure there were
691 discussions with the White House, but prior to that, I don't
692 have a recollection of it. Possibly Dick does. Dick Myers
693 and I met with the White House frequently, but I don't recall
694 bringing this up.

695 Mr. DAVIS OF VIRGINIA. General Myers?

696 General MYERS. And I don't recall ever having a
697 discussion with anybody at the White House about the Tillman
698 case one way or another.

699 Mr. DAVIS OF VIRGINIA. Mr. Secretary, were you aware in
700 the period after Corporal Tillman's death of the extensive
701 media coverage being given to this tragic event and Corporal
702 Tillman's service as a Ranger?

703 Mr. RUMSFELD. I don't understand the question.

704 Mr. DAVIS OF VIRGINIA. You were aware of the extensive
705 media coverage being given to this event?

706 Mr. RUMSFELD. When he was killed, absolutely.

707 Mr. DAVIS OF VIRGINIA. Did you instruct your staff at
708 any point to try to influence in any way the coverage?

709 Mr. RUMSFELD. Absolutely not. Indeed, quite the
710 contrary. The Uniform Code of Military Justice and the
711 investigation process is such that anyone in the command,
712 chain of command, is cautioned to not ask questions, to not
713 inject themselves into it, to not do anything privately or
714 publicly that could be characterized as command influence
715 which could alter the outcome of an investigation. And as a
716 result, the practice of most Secretaries of Defense and
717 people in the chain of command is to be very cautious and
718 careful about inquiring or seeming to have an opinion or
719 putting pressure on anyone who is involved in any portion of
720 the military court-martial process or the investigation
721 process. And as a result, I have generally stayed out over
722 my tenure as Secretary of Defense.

723 Mr. DAVIS OF VIRGINIA. Do you remember when you learned
724 that this was a possible fratricide?

725 Mr. RUMSFELD. Well, I don't remember. And what I have
726 been told subsequently is that there was a person in the room
727 when I was--who says I was told when he was in the room.

728 And--

729 Mr. DAVIS OF VIRGINIA. Do you remember when that was?

730 Mr. RUMSFELD. He said that he came back from Iraq on
731 May 20th, and that, therefore, he assumes I was told on or

732 after May 20th. Whether I was told before that, I just don't
733 have any recollection. And the best I can do is what I put
734 in my letter to the acting inspector general, which
735 referenced that instance.

736 Mr. DAVIS OF VIRGINIA. When you learned about this,
737 then, for the first time, do you remember did you decide you
738 needed to tell somebody else about this to convey this, make
739 sure the family was known, the White House or media people?
740 Do you remember?

741 Mr. RUMSFELD. I don't recall when I was told, and I
742 don't recall who told me, but my recollection is that it was
743 at a stage when there were investigations underway, in which
744 case I would not have told anybody to go do something with
745 respect to it. And as Chairman Myers says, this was a matter
746 basically that the Army was handling, and it was not
747 something that I would inject myself into in the normal
748 course of my role as Secretary of Defense.

749 Mr. DAVIS OF VIRGINIA. Let me just try to get to that.
750 Your letter says that I am told I received word of this
751 development, i.e., the possibility of fratricide, after May
752 20th, 2004, because that is when this person had returned--

753 Mr. RUMSFELD. Right.

754 Mr. DAVIS OF VIRGINIA. --from Iraq.

755 Mr. RUMSFELD. That is where that came from.

756 Mr. DAVIS OF VIRGINIA. Who was the person? Do you

757 remember?

758 Mr. RUMSFELD. I do. His name is Colonel Steve Boochey,
759 and he told that to my civilian assistant.

760 Mr. DAVIS OF VIRGINIA. And the May 20th date, the
761 significance of that is the date he returned from Iraq?

762 Mr. RUMSFELD. That is my understanding.

763 Mr. DAVIS OF VIRGINIA. So it would have been at that
764 time or a subsequent date in all likelihood.

765 Mr. RUMSFELD. That is my understanding. That is not to
766 say that was the time, because I just simply don't recollect,
767 but that is my best information.

768 Mr. DAVIS OF VIRGINIA. As it gets refreshed. I
769 understand.

770 When did you learn of the P4 message? This message
771 suggested that senior leaders be warned about the friendly
772 fire possibility. And when you learned that these
773 instructions had been heeded, what was your reaction that
774 there was a P4 underway? Do you remember that?

775 Mr. RUMSFELD. I don't remember when or from whom I
776 learned about the P4, if at all. I don't recall even seeing
777 it until recent weeks in the aftermath of your previous
778 hearings. But so I just don't have any recollection of
779 having seen it until more recently.

780 Mr. DAVIS OF VIRGINIA. On March 6th, 2006, you sent a
781 snowflake to your deputy, the Secretary of the Army, the Army

782 Chief of Staff and others, and in this memorandum you wrote,
783 I am not convinced the Army is the right organization to
784 undertake the fifth investigation of Pat Tillman's death.
785 Please consult with the right folks and come back to me with
786 options and a recommendation fast with the right way to
787 proceed.

788 Why did you believe the Army was not the right
789 organization to undertake the investigation which followed
790 General Jones' inquiry?

791 Mr. RUMSFELD. Well, I don't remember the phraseology of
792 that, but my recollection is that I asked the question of the
793 deputy, who kind of is very deeply involved in the business
794 of the Department, that if there have been several
795 investigations by the Army, mightn't it be logical, and if
796 still an additional one was necessary, that one ought to
797 consider where is the best place to have that investigation
798 conducted? I didn't know the answer to the question, but I
799 raised it with the deputy, thinking that it is something that
800 ought to be addressed.

801 Mr. DAVIS OF VIRGINIA. Did you believe the Jones
802 investigation was deficient in some way?

803 Mr. RUMSFELD. I had no reason to believe that, except
804 that, as I recall, we were moving into--the Army was moving
805 into--the command, whoever was doing the investigations, were
806 moving into the fifth one.

807 Mr. DAVIS OF VIRGINIA. So you were looking at fresh
808 eyes, basically.

809 On March 10th, 2006, the DOD Early Bird publication
810 included a column from the Arizona Republic which discussed
811 the Tillman family's dissatisfaction with the notification
812 process and the subsequent investigations. On March 13th,
813 you sent a copy of this article, along with a memo, to the
814 Secretary of the Army and to Pete Schoomaker, the Army Chief
815 of Staff. In this memo you said, I would think you, Pete,
816 would want to call and/or write a letter of apology to the
817 family and have it published. This situation has been
818 handled very poorly. It is not acceptable, and you may want
819 to say that. If you agree, you will need to set about fixing
820 the system or process that produced this most unfortunate
821 situation.

822 Do you remember that?

823 Mr. RUMSFELD. I do. I don't have it in front of me,
824 but that sounds about right.

825 Mr. DAVIS OF VIRGINIA. Do you know if they did as you
826 asked?

827 Mr. RUMSFELD. I don't. I know that--I have a vague
828 recollection that in one instance the Secretary of the Army
829 came back to me and indicated something to the effect that he
830 agreed generally with my note, but felt that he--they were
831 taking the appropriate steps or something. And I just don't

832 recall it.

833 Mr. DAVIS OF VIRGINIA. On March 13th, 2006, 3 days
834 later, the DOD Early Bird publication included a column from
835 the Atlanta Constitution, which further discussed various
836 complaints about the notification process and the subsequent
837 investigation of Corporal Tillman's death. Two days later,
838 March 15th, you sent a copy of this article, along with
839 another memo, to the Secretary of the Army. In this memo you
840 said, here is an article on the death of Corporal Tillman.
841 How in the world can that be explained? I guess did the
842 Secretary offer any explanation on the various foul-ups in
843 this matter to you? And what was your reaction at this point
844 to any explanation he might have given?

845 Mr. RUMSFELD. Well, I can't remember specifically, but
846 as you read those things, obviously, I, as Secretary of
847 Defense--one feels terrible that a situation like that is
848 being handled in a way that is unsatisfactory and that
849 additional investigations were required. On the other hand,
850 a Secretary of Defense has to try to pose it as questions
851 rather than assertions, because I didn't--I was not
852 intimately knowledgeable of the nature of those
853 investigations. I wasn't in a position to give direction
854 without risking command influence, in my view. And as a
855 result, I posed these memos to these people responsible with
856 questions rather than assertions.

857 Mr. DAVIS OF VIRGINIA. Thank you, Mr. Secretary.

858 I would just lastly, seeing where we are today and how
859 this was handled, you are Secretary of Defense, how do you
860 feel about it?

861 Mr. RUMSFELD. Well, I feel, as I indicated in my
862 opening remarks, a great deal of heartbreak for the Tillman
863 family, and deep concern, and a recognition that the way the
864 matter was handled added to their grief. And it is a most
865 unfortunate situation that anyone has to agree is something
866 that the Department has to find ways to avoid in the future.
867 We owe the young men and women who serve our country better
868 than that.

869 Mr. DAVIS OF VIRGINIA. You think we certainly owe the
870 Tillman family an apology the way this was handled?

871 Mr. RUMSFELD. Indeed, as I said in my memo sometime
872 back.

873 Mr. DAVIS OF VIRGINIA. Thank you.

874 Mr. RUMSFELD. And as I have said publicly here today.

875 Mr. DAVIS OF VIRGINIA. Thank you.

876 Chairman WAXMAN. Let me announce to the Members there
877 are votes going on, but we are going to continue the hearing.
878 So if you wish to respond to the vote and come back, we are
879 going to proceed on the line of questioning.

880 Mrs. Maloney?

881 Mrs. MALONEY. Thank you, Mr. Chairman, and I thank all

882 | the panelists for your service and for cooperating with the
883 | committee today.

884 | I would like to follow up on General Myers' testimony,
885 | where you testified that you learned that Corporal Tillman
886 | had been killed by friendly fire at the end of April, and
887 | that you reached out to your public affairs officer to
888 | calibrate your response in order to be absolutely accurate
889 | and precise in your response. Yet May 3rd, there was a
890 | memorial service held for Corporal Tillman, which got a
891 | great--he was on the cover of Sports Illustrated. It was
892 | national news that he had been killed in hostile fire. And
893 | at this memorial service he received the Silver Star, if I
894 | recall. And yet the family and the world at this point on
895 | May 3rd were told that he died with hostile fire, when you
896 | knew, as head of the Joint Chiefs of Staff, that he died with
897 | friendly fire, and you knew this for a month before, and in
898 | your own words you wanted to be precise about this
899 | information.

900 | Why did you not come forward and tell the family and
901 | tell the public the truth? The family was not told the truth
902 | until the end of May.

903 | General MYERS. Well, first of all, I did not know that
904 | Corporal Tillman had been killed by friendly fire. I didn't
905 | say that. What I said was that I was informed that it is
906 | possibly friendly fire, and that there is an investigation

907 | ongoing.

908 | In terms of notifying the family, that is in Army
909 | channels, and we have just talked about the regret there is
910 | for the fact that that was not done properly. If it had been
911 | done properly, my assumption would be they would have known
912 | before the memorial service. So I did not know it was
913 | friendly fire until the investigation.

914 | Like Secretary Rumsfeld, when you are in a senior
915 | position, you have got to be very careful what you say about
916 | it. And that is why I talked to the public affairs officer.
917 | By the way, I talked to my former public affairs officer--

918 | Mrs. MALONEY. Yet, General Myers, you knew that he
919 | died, that there was a possibility that he died by friendly
920 | fire. We are told all the time in the press possibilities.
921 | We are told, hopefully, the truth. So at that point you knew
922 | then, I assume many people knew, that there was a possibility
923 | that he died by friendly fire, and yet that was not disclosed
924 | until a full month afterwards.

925 | The family would have wanted to hear the truth. They
926 | testified they would have wanted to hear the truth. And if
927 | there was a possibility, they would have wanted to hear the
928 | possibilities. And usually in this country what we hear is
929 | the possibilities, and hopefully the truth coming forward.
930 | And yet in this, this was not--you sat on your hands and you
931 | didn't say anything about it. And I find that hard to

932 understand.

933 General MYERS. Well, as you understand, I think, from
934 the materials that have been presented to the committee so
935 far and all the testimony, this is the responsibility of the
936 United States Army, not of the Office of the Chairman. And
937 so I regret that the Army did not do their duty here and
938 follow their own policy, which we have talked about. But
939 they did not. My assumption would have to be--my
940 assumption--

941 Mrs. MALONEY. General Myers, do you regret your actions
942 that you did not reach out--you were the head of the Joint
943 Chiefs of Staff. The Army is under you. And--

944 General MYERS. That is not entirely correct.

945 Mrs. MALONEY. Let's get into what is right and fair and
946 not the--

947 General MYERS. What is right and fair is exactly what
948 Secretary Rumsfeld talked about. What was right and fair is
949 to follow Army policy and notify the family when they think
950 there is a possibility.

951 Mrs. MALONEY. So the family should have been notified
952 that there was a possibility.

953 General MYERS. According to the Army regulations, as I
954 understand them, that is correct. By the way, the Marine
955 regulations don't. They don't notify until they are for sure
956 is my understanding.

957 Mrs. MALONEY. So the Army did not follow their
958 guidelines that they should have told the family and the
959 public that there was a possibility that our hero, our
960 football hero and war hero, died by friendly fire.

961 General MYERS. They should have talked about the
962 possibility of that as soon as they knew it, according to the
963 regulations, absolutely.

964 Mrs. MALONEY. I would like to ask Secretary Rumsfeld,
965 Corporal Tillman was a very, very famous soldier when he
966 enlisted. It was very acknowledged by many people. He was a
967 professional football player; he was offered millions of
968 dollars in a contract that he turned down to serve our
969 country. He captured your attention when he enlisted in May
970 2002, and you sent a letter on June 28th, 2002, which I would
971 like to make part of the record. And in it you write him and
972 you say, I heard that you are leaving the National Football
973 League to become an Army Ranger. It is a proud and patriotic
974 thing that you are doing.

975 We also received yesterday--

976 Chairman WAXMAN. Without objection that will be made
977 part of the record.

978 Mrs. MALONEY. Thank you.

979 [The information follows:]

980 ***** INSERT 1-3 *****

981 Mrs. MALONEY. We also received yesterday a snowflake
982 that you sent about Corporal Tillman that is dated June 25th,
983 2002. And a snowflake is a name that you give to memos that
984 are sent to senior defense officials. And you sent this
985 snowflake to Thomas White, then-Secretary of the Army. And
986 the subject line is Pat Tillman. And let me read what you
987 said here.

988 Here is an article on a fellow who is apparently joining
989 the Rangers. He sounds like he is world-class. We might
990 want to keep an eye on him.

991 May I put this in the record, sir?

992 Chairman WAXMAN. Without objection, that will be
993 ordered.

994 [The information follows:]

995 ***** INSERT 1-4 *****

996 Chairman WAXMAN. The gentlelady's time has expired.

997 Did you want to--

998 Mrs. MALONEY. May I ask for an additional--

999 Chairman WAXMAN. Were you leading to a question?

1000 Mrs. MALONEY. Yes, I was.

1001 Chairman WAXMAN. Okay. Would you ask it quickly?

1002 Mrs. MALONEY. When Corporal Tillman was killed in 2004,
1003 was this a blow to you when you heard this news?

1004 Mr. RUMSFELD. It is. Clearly it is a blow when you
1005 read of a death of a young man or a young woman who is
1006 serving our country in uniform and gives their lives. It is
1007 always a heartbreaking thing for anyone in a position of
1008 responsibility to read about.

1009 Mrs. MALONEY. That's--

1010 Chairman WAXMAN. Thank you, Mr. Maloney.

1011 Mr. Issa?

1012 Mr. ISSA. Thank you, Mr. Chairman.

1013 General Myers, just for the record, you are not in the
1014 chain--you were not in the chain of command as the Chairman
1015 of the Joint Chiefs; is that correct?

1016 General MYERS. No. The Chairman is the principal
1017 military adviser to the President and the National Security
1018 Council, and I am not in the operational chain of command,
1019 no.

1020 Mr. ISSA. So your influence during your tenure there is

1021 | designed to be to make policy recommendations to the
1022 | President, to the Secretary, that then at their discretion
1023 | are implemented. And as a result, even though you are
1024 | informed, and obviously you have the respect of the men that
1025 | you have served with for so many years, in fact, when we want
1026 | to look at the chain of command, we should not be looking at
1027 | you as part of that except to the extent that you knew about
1028 | something; is that correct?

1029 | General MYERS. I think that is substantially correct.

1030 | Mr. ISSA. Okay. And I am going to--first of all, I am
1031 | going to join with all of you in saying that we regret from
1032 | the dais the heartburn, the heartache and the suffering that
1033 | the Tillman family went through, and that is one of the
1034 | reasons that Government Oversight and Reform has to take a
1035 | role in seeing that this doesn't happen again, if at all
1036 | possible.

1037 | I also want to make available for the record our
1038 | assessment, which is out of 41 Members on the dais here
1039 | today, there are only 8 who ever served in the military. And
1040 | all of us who served in the military served, as far as I
1041 | know, at the rank of captain or less. So I am not going to
1042 | claim, as one of those, that we are especially knowledgeable
1043 | of everything that could go wrong in every situation. But
1044 | let's go through a couple of things that seem to be left
1045 | unchanged.

1046 We understand that a three-star general has lost a star
1047 as a result not just of ineptness during the process, but of
1048 false statements. Is that your understanding also?

1049 Mr. RUMSFELD. No.

1050 Mr. ISSA. That has not happened yet?

1051 Mr. RUMSFELD. Not to my knowledge. I read the paper
1052 this morning, and it said the issue as to whether or not he
1053 ought to keep his third star is something that should be
1054 given to a review panel, if I am not mistaken.

1055 Mr. ISSA. Okay. I think I will join with the
1056 recommendation that the general's lies--we are not a body in
1057 the military who accept false statements. Mistakes, yes;
1058 false statements, no. So I would hope that appropriate
1059 action is taken. But as far as I can tell, that is the only
1060 lie.

1061 But there is an unresolved issue, and I hope that is the
1062 focus here today. As I understand it, the Army has a policy
1063 that during an investigation of a possible fratricide, you do
1064 inform the family that that is a possibility. Is that all of
1065 your understanding here today for the Army?

1066 RPTS STRICKLAND

1067 DCMN BURRELL

1068 [11:00 a.m.]

1069 Mr. RUMSFELD. I have no knowledge of what that Army reg
1070 says.

1071 General BROWN. It is my understanding and I think the
1072 policy is no later than 30 days from the time that the
1073 investigation--that there is an investigation, you must
1074 immediately notify the family, but in no cases later than 30
1075 days. I think that is a regulation that came into effect
1076 about 2003. And I don't know what the regulation was before
1077 2003.

1078 Mr. ISSA. Army regulation 600-8-1 will be placed in the
1079 record without objection.

1080 Chairman WAXMAN. Without objection, that will be the
1081 order.

1082 [The information follows:]

1083 ***** COMMITTEE INSERT *****

1084 Mr. ISSA. It is also my understanding as someone who
1085 has 44,000 Marines, some of them on their fourth deployment
1086 in Afghanistan and Iraq at Camp Pendleton, that the Marines
1087 have the opposite policy, that in fact if Corporal Tillman
1088 had been a Marine the policy is not to inform until the
1089 completion of the investigation period. Is that also on your
1090 understanding to the extent that you know?

1091 General ABIZAID. Yes, that is the Marine policy as I
1092 understand it.

1093 Mr. ISSA. Then I certainly think from the dais here
1094 today we would hope, General Brown, to the extent that you
1095 convey it and for those behind you taking notes that we can't
1096 have two policies. There has to be one policy because it is
1097 the only way that in a joint world that we're going to have
1098 the kind of joint understanding of what to do. And Secretary
1099 Rumsfeld, you are one of the big cheerleaders and author of
1100 jointness. Wouldn't you agree that we have to, much as
1101 possible, not have two standards when people are fighting
1102 side by side?

1103 Mr. RUMSFELD. Congressman, we have different policies
1104 in the respective services on literally dozens and dozens of
1105 things.

1106 Mr. ISSA. I know, Secretary Rumsfeld.

1107 Mr. RUMSFELD. You know that.

1108 Mr. ISSA. I know, but the question here because we have

1109 | this O&R oversight we want to know why a legitimate hero who
1110 | died a hero, whose Silver Star should say he stood up to
1111 | protect his men while they were under friendly fire because
1112 | he tried to stop that firing from killing the rest of his
1113 | unit, every bit as deserving of that or even greater award,
1114 | why that wasn't correct. That is the oversight. We can't
1115 | change that. Others will have to.

1116 | But on the reform side--and I will ask indulgences for a
1117 | moment since we are a little short anyway--isn't it
1118 | appropriate that today we consider or ask the DOD to consider
1119 | as much as possible unifying those things? And General
1120 | Brown, I will ask it to you because you are the only one
1121 | still on active duty. As a supreme commander, as a
1122 | combatant, as whatever role you are in the future when you
1123 | have multiple different forces, wouldn't it be extremely
1124 | desirable for the Department of Defense to undertake unifying
1125 | these standards to prevent the kind of misunderstanding that
1126 | clearly Colonel Nixon and others had in this process.

1127 | General BROWN. Absolutely, and I will be glad to take
1128 | that back to the Department of Defense and ask them to take a
1129 | look at that.

1130 | Mr. ISSA. Thank you.

1131 | Chairman WAXMAN. Thank you, Mr. Issa.

1132 | Mr. Cummings.

1133 | Mr. CUMMINGS. Thank you very much. Secretary Rumsfeld,

1134 I want to ask how is it possible that you didn't know before
1135 May 20th that Corporal Tillman died by friendly fire? And I
1136 will ask you--we developed a chart which I will put up now on
1137 the wall. In this chart, we show what the committee had
1138 learned up to that point, which was that at least nine
1139 Pentagon officials, including three generals, either knew or
1140 were informed of the suspected fratricide in the first 72
1141 hours after it occurred. We have continued to investigate.

1142 And now I would like to put up another chart. Here we
1143 identify Pentagon officials who knew of the fratricide before
1144 the American public and the Tillman family at the end of May
1145 2004.

1146 This chart shows that at least 30 people knew, including
1147 some of the highest ranking military officials in our
1148 government. Even this is not comprehensive. The committee
1149 interviewed Lieutenant General John Craddock on July 27th.
1150 In 2004 he was your Senior Military Assistant. He is now the
1151 head of NATO. He told us that he didn't learn of the
1152 fratricide in any official capacity but rather from his
1153 neighbor, General Jim Lovelace, who was the Director of the
1154 Army Staff. This is how General Craddock described it and we
1155 will put that on the board. He said, Jim Lovelace is my
1156 neighbor at Fort Myer. Because he was my neighbor, in a
1157 social setting we had, I would say frequent, when a couple of
1158 times a month we talked to each other outside or something on

1159 | the weekend. The best that I can recollect was over the
1160 | fence at my quarters one weekend Jim Lovelace said something
1161 | to me that Tillman may have been killed by friendly fire. I
1162 | recall being surprised and taken aback quite frankly.

1163 | If this was common knowledge among the top military
1164 | ranks, Secretary Rumsfeld, something that was talked about
1165 | across the backyard fences, how is it possible that you did
1166 | not know?

1167 | Mr. RUMSFELD. You have a date, Congressman, on when
1168 | this backyard fence discussion took place?

1169 | Mr. CUMMINGS. No, he didn't give us a specific date,
1170 | Mr. Secretary.

1171 | Mr. RUMSFELD. You're talking about an institution of
1172 | something like 3 million people. Active duty, reserve,
1173 | guard, civilians, contractors. There are so many things
1174 | going on in that Department in any given year, there is
1175 | something like 7,000 courts martial with probably that many
1176 | investigations going on at any year.

1177 | It isn't possible--it is like a city of 3 million
1178 | people, it is not possible for someone to know all the things
1179 | that are going on.

1180 | Mr. CUMMINGS. I understand, Mr. Secretary. Believe me,
1181 | I would not be asking you these questions if it were not for
1182 | the fact that we had a hero here, one that you were well
1183 | aware of, and so I thought maybe you might have knowledge of

1184 | it.

1185 | I don't want my time to run out because I have a rather
1186 | more pointed question that I want to get to. In our hearing
1187 | in April, Pat Tillman's mother, Mary Tillman, and this is one
1188 | of the most wrenching hearings I have attended in 11 years,
1189 | was asked about the possibility that you didn't know and this
1190 | was her response. And I want you to listen to it. This is
1191 | from a mother whose son had been killed in war. She said
1192 | I've been doing a lot of reading about former Secretary of
1193 | Defense Rumsfeld. And I believe just from what I learned
1194 | about him as a person, and his expectations for his staff,
1195 | that he would have had this information.

1196 | I think what Mary Tillman said capsulates what many
1197 | Americans feel. It does not seem credible that you didn't
1198 | know this information. But let me go back to what you said
1199 | in your opening statement. And I was so impressed with the
1200 | statement that you said--that you put out. You said this and
1201 | you wrote it. It says, when you talk about what you expected
1202 | of the military, you said: DOD officials must tell the truth
1203 | and must be believed to be telling the truth or our important
1204 | work is undermined. And then you said something that was
1205 | very interesting. You went on to say in the closing remarks:
1206 | Any errors in such a situation are most unfortunate. The
1207 | Tillmans were owed the truth, delivered in a forthright and a
1208 | timely manner.

1209 And then General Geren yesterday said that he didn't
1210 believe that there was a cover-up. I ask you, sir, most
1211 respectfully, do you think that the Tillmans received the
1212 truth? And I ask all of you, do you think there was a
1213 cover-up by DOD?

1214 Mr. RUMSFELD. Let me respond this way. First, the
1215 words--I read the testimony of your previous hearing. I
1216 agree with you that they are--it was a heartwrenching
1217 hearing. And the words that you cited from his mother
1218 obviously were the words of a grieving mother. And as I
1219 recall the testimony, she did go on to say that she has no
1220 facts nor paper, no information to confirm her belief, which
1221 I thought was gracious of her, because I know of no facts to
1222 confirm her belief. And I know of no one else who has any
1223 facts or paper to confirm her belief.

1224 Mr. CUMMINGS. Sir, are you claiming there was an error?
1225 You mentioned error, error. Is there a difference between a
1226 lie and an error, Mr. Secretary?

1227 Mr. RUMSFELD. Well, certainly there is a difference
1228 between the two. And I don't know how many
1229 investigations--some people have said five, some six, some
1230 seven--but every single one of them has suggested that that
1231 was badly handled and errors were made. But in no instance
1232 has any evidence of a cover-up, to use the phrase you use,
1233 been presented or put forward. I know of nothing that

1234 suggests that.

1235 I know that I would not engage in a cover-up. I know
1236 that no one in the White House suggested such a thing to me.
1237 I know that the gentlemen sitting next to me are men of
1238 enormous integrity and would not participate in something
1239 like that. So of course there is a difference between error
1240 and cover-up.

1241 Chairman WAXMAN. Mr. Cummings, your time is up but you
1242 did ask a question that you wanted all of the witnesses to
1243 answer. And I guess the question would be since the
1244 information was distorted and O'Neal's--Staff Sergeant
1245 O'Neal's statement was rewritten to give a different
1246 statement than what he put forward, and the family wasn't
1247 informed for the longest time, and all these other problems,
1248 do any of you think there was a cover-up of the errors or
1249 actions below?

1250 General MYERS. Mr. Chairman, I can only say that in the
1251 places that I worked, I would agree totally with Secretary
1252 Rumsfeld that whether it was the White House or in the
1253 Secretary's office or when the Joint Chiefs of Staff met or
1254 when I talked to General Abizaid, there was no--never any
1255 attempt to cover up anything. In fact this was not an issue
1256 that we discussed. I just didn't discuss this issue. We had
1257 a lot of issues. We mourn every death. We really do. We
1258 cry with the parents and the friends and family.

1259 Chairman WAXMAN. I guess the question is different. I
1260 am not asking you whether you were a part of a cover-up. Do
1261 you think there was a cover-up?

1262 General MYERS. I have no way of knowing. I don't have
1263 all the information.

1264 Chairman WAXMAN. General Abizaid, do you have any
1265 comments?

1266 General ABIZAID. No, sir, I don't think there was a
1267 cover-up. I think people tried to do the right thing and the
1268 right thing didn't happen.

1269 General BROWN. I agree with General Abizaid, I don't
1270 think there was a cover-up.

1271 Chairman WAXMAN. Okay. Thank you. Mr. Mica has
1272 arrived. So we will recognize you now.

1273 Mr. MICA. Thank you. Is that another vote? In any
1274 event, thank you for yielding to me. Welcome, Mr. Secretary,
1275 and the generals.

1276 I didn't get a chance to make an opening statement but
1277 just a couple of comments and a quick question or two.

1278 First, welcome back, Secretary Rumsfeld. I have been around
1279 this place since 1970. My first boss was Congressman Cramer
1280 from Florida who passed away some time ago. But I've never
1281 seen more dedicated public servants--dedicated servant or
1282 service to this country than Donald Rumsfeld has provided.

1283 I think on my dying day I will remember September 11th

1284 | when I was with Donald Rumsfeld in the Pentagon for breakfast
1285 | that morning. He invited me and half a dozen Members, I
1286 | think, over to the Pentagon. And the subject of the
1287 | conversation Donald Rumsfeld was interested in was the
1288 | military had been downsized during the nineties since the
1289 | fall of the Berlin Wall, and what we were going to do about a
1290 | situation if we had another--the word used was "incident." I
1291 | remember in the conversation sitting in the room right off of
1292 | his office for coffee that morning, and he was trying to make
1293 | certain that we were prepared for something that we might not
1294 | expect.

1295 | I was with Pete Geren, too, who is now the Secretary of
1296 | the Army and Pete has done an excellent job. He did an
1297 | excellent job for you then and he has done an excellent job
1298 | for you too. I can't remember if he was a Democrat or a
1299 | Republican. I think he was a Democrat that you enlisted as
1300 | an aide, well respected by everyone on both sides of the
1301 | aisle.

1302 | There is a hero sitting right there, because that
1303 | morning I left just a few minutes--we learned together of the
1304 | attack on the World Trade Center. And this Secretary rolled
1305 | up his sleeves and went down to save people who had been
1306 | victimized by the terrorist attack on the Pentagon. I just
1307 | made it back here as the plane hit. I will never forget that
1308 | morning or your service to our Nation.

1309 The purpose of this is, you know we do have a
1310 responsibility to look into this, just as you do. But from
1311 the information you provided, I don't see a cover-up. I
1312 see--and they are looking for the higher level, I mean they
1313 are trying to get the trail to the generals and to the
1314 Secretary and the White House if they can.

1315 Let me read from this comment Pete Geren said: We have
1316 made a number of mistakes. In fact, I cannot imagine the
1317 situation could have been more poorly handled. And he does
1318 go on and tell how I believe this is appropriately handled
1319 and those who made errors were held accountable. 99.9
1320 percent of the military do an outstanding job. And I thank
1321 you for setting an example. These folks were held
1322 accountable; is that correct, General Myers, all generals?

1323 General MYERS. From what I understand, that's correct.

1324 Mr. MICA. Pete Geren said here: But at no time did the
1325 Army try to cover up the truth or deceive the American public
1326 about how Colonel Tillman died. Would you say that is
1327 correct Secretary--Mr. Secretary?

1328 Mr. RUMSFELD. Congressman, thank you very much for your
1329 comments. As you, I have a lot of respect for Pete Geren.
1330 And I have every reason to believe that his investigation was
1331 thorough and proper and that his remarks are correct. I was
1332 not involved. I'm out of the Department now for many, many
1333 months, and I have not reviewed the investigation by General

1334 Wallace and therefore I can't comment.

1335 Mr. MICA. Okay. Also in this memo from Pete Geren it
1336 says, it's important to note that consistent with the DOD's
1337 Inspector General's report, General Wallace found no evidence
1338 that anyone in the chain of command sought to cover up the
1339 fact that Corporal Tillman died by friendly fire. General
1340 Myers, any of the generals know anything other than this?

1341 General MYERS. I know nothing other than that. I have
1342 not seen the Secretary's statement, but it is consistent with
1343 other things I have seen.

1344 Mr. MICA. Okay. And when we held the last hearing on
1345 this, of course our hearts go out to the Tillman family. The
1346 loss of anyone--any life is a tragedy. But I remembered at
1347 the hearing when we first held this it was at the time of the
1348 Corzine accident in New Jersey and the first media accounts
1349 came out that somebody had cut off the driver and some bad
1350 driver had caused the accident. And then we found out
1351 through some investigation that they were actually going 90
1352 miles an hour and the Governor didn't have a seat belt on.

1353 Here is an incident that happened halfway around the
1354 world, and in a combat situation and sometimes it is
1355 difficult to get those reports and the information back. Is
1356 that not correct, General? General Myers?

1357 General MYERS. I think that's absolutely correct. And
1358 you know, around the Department of Defense we usually say the

1359 first reports, just like aircraft accidents, other mishaps,
1360 are probably wrong and we generally don't react to first
1361 reports. We wait for other data.

1362 Chairman WAXMAN. Thank you, Mr. Mica.

1363 Mr. MICA. May the other gentlemen respond.

1364 General ABIZAID. I would just say that reports
1365 initially of a combat action always have some inaccuracies of
1366 some sort and we always say the first report is always wrong.
1367 But I think again we tried to clarify this as quickly as we
1368 could, and that's where the difficulties took place.

1369 Mr. MICA. Thank you.

1370 Chairman WAXMAN. Anybody else want to respond? If not,
1371 Mr. Tierney is recognized.

1372 Mr. TIERNEY. Thank you very much. If we direct our
1373 attention back to the P-4, the P-4 memo that General
1374 McChrystal sent out, you said he had become aware, quote, of
1375 suspected reports that POTUS, the President of the United
1376 States, and the Secretary of the Army might include comments
1377 about Corporal Tillman's heroism and his approved Silver Star
1378 medal in speeches currently being prepared, not knowing the
1379 specifics surrounding his death. So obviously the objective
1380 of that P-4 was to get those specifics, the fact that there
1381 was a fratricidal investigation going on, to the appropriate
1382 people to the White House.

1383 General Abizaid, you were the primary addressee on the

1384 memo, and I think it was not uncommon for the President to
1385 direct conversations with the combatant commander such as
1386 yourself. Did you take any steps to alert the White House
1387 that Corporal Tillman's death was suspected as friendly fire?

1388 General ABIZOID. No, sir. I talked directly to the
1389 Chairman.

1390 Mr. TIERNEY. Having that direct relationship with the
1391 President and knowing that it was specifically put in the
1392 P-4, that in fact there was a concern that the President
1393 might make a statement about the conditions surrounding that
1394 event, why didn't you take it up yourself to make sure that
1395 the White House was informed?

1396 General ABIZOID. I did not take it upon myself to
1397 inform the White House directly nor did I ever when I was in
1398 command. When something would come up in our normal meetings
1399 with the President, I would have a free flowing conversation,
1400 but I usually commented through the Chairman or directly with
1401 the Secretary.

1402 Mr. TIERNEY. And that's the case even when there is
1403 some immediacy in the memo indicating that the President
1404 might be in the position to make an embarrassing statement
1405 unless he was warned otherwise?

1406 General ABIZOID. First of all, I received the message
1407 late, which is clearly a problem within my own headquarters.
1408 When I received the message late, I talked to the Chairman.

1409 I also saw the two other addressees, General Brown and the
1410 Army, and after having talked to the Chairman, it became
1411 clear to me that the Chairman knew about it and I presumed
1412 that the information flowed in Washington through Army
1413 channels as I might have expected. Those assumptions were
1414 obviously incorrect.

1415 Mr. TIERNEY. General Brown, what about you? Did you
1416 notify the White House about the possibility that Corporal
1417 Tillman was killed by his own unit after you saw that memo?

1418 General BROWN. No, sir. I didn't.

1419 Mr. TIERNEY. And why didn't you do that knowing that
1420 there was some immediacy to the memo?

1421 General BROWN. Well, sir, first of all on the P-4, I
1422 was an info addressee, which is not the primary addressee.

1423 Mr. TIERNEY. If I could interrupt, I understand. But
1424 General Abizaid said the reason that he didn't do it was
1425 because you were on the memo. So he must have expected that
1426 you would do something. That was ill placed?

1427 General BROWN. No, I don't think anybody would expect
1428 me to call the President of the United States based on the
1429 comment made on an info message where I was an info
1430 addressee.

1431 Mr. TIERNEY. General Myers, at that time you were the
1432 Chairman of the Joint Chiefs of Staff. You were the
1433 principal military adviser to the President and the National

1434 Security Council, the Secretary of Defense. Did you advise
1435 the President or anyone at the White House that there was a
1436 fratricide investigation?

1437 General MYERS. Bear in mind again I had not seen the
1438 P-4. All I knew was that there was potential for fratricide,
1439 there was an investigation ongoing. I do not recall and am
1440 fully certain I didn't talk to anyone at the White House
1441 about that.

1442 Mr. TIERNEY. Did anybody at your staff talk to anybody
1443 at the White House?

1444 General MYERS. I can't tell you that. There are some
1445 things, by the way, that circulate in public affairs channels
1446 that could be like that. But I wasn't aware of that.

1447 Mr. TIERNEY. Who on your staff would have been in that
1448 loop, the public affairs loop?

1449 General MYERS. My public affairs officer was then
1450 Captain Frank Thorpe, and I do remember talking to him about
1451 the potential of fratricide and saying we have to be cautious
1452 here; if we make any comments, we have to bear that in mind.

1453 Mr. TIERNEY. And who would that person's contact at the
1454 White House be?

1455 General MYERS. I don't know. Routinely he would never
1456 talk to the White House. They would talk to the services'
1457 public affairs officers. He would also talk to the Office of
1458 Secretary of Defense's public affairs folks. But I can't

1459 | imagine him ever talking to the White House, unless it was on
1460 | a conference call where he was included.

1461 | Mr. TIERNEY. Secretary Rumsfeld, let me ask you the
1462 | same question to close things out. Did you advise the
1463 | President or anyone at the White House that there was
1464 | evidence that Corporal Tillman was killed by friendly fire at
1465 | any time?

1466 | Mr. RUMSFELD. I don't recall. Clearly it would be
1467 | logical that I would have or someone in my office would have
1468 | after the information became readily available and the family
1469 | was notified and it became a subject of interest. Then one
1470 | would want to know--make sure that the White House was aware
1471 | of it and there were daily calls back and forth between the
1472 | National Security Council and the office.

1473 | Mr. TIERNEY. General Myers indicated at one point there
1474 | was fairly common knowledge around this. Who in your office
1475 | or the Secretary's office would have had the kind of contact
1476 | with the National Security Council staff or the White House
1477 | on a subject like that?

1478 | Mr. RUMSFELD. There are multiple contacts each day and
1479 | they would happen throughout military assistance, they would
1480 | happen through the civilian assistance, they would happen
1481 | through the public affairs. General Myers and I would meet
1482 | with the President at least once a week.

1483 | Mr. TIERNEY. Setting aside--

1484 Mr. RUMSFELD. Just a second, please, and let me just
1485 complete the thought. And in addition, we were in National
1486 Security Council meetings and principal committees meetings
1487 on a regular basis during the week. Probably five times a
1488 week.

1489 Mr. TIERNEY. You are telling me that neither you or
1490 General Myers have any recollection of either of you
1491 gentlemen telling anybody, so who on your staff--who would
1492 you suggest on your staff that we could talk to that might
1493 have had conversations with the White House on that?

1494 Mr. RUMSFELD. I just don't know other than my response
1495 to you as to the kind of contacts that took place on a
1496 regular basis.

1497 General MYERS. I would agree. I wouldn't know who to
1498 say.

1499 Mr. TIERNEY. You don't know who made those contacts on
1500 a regular basis?

1501 General MYERS. There were multiple people depending on
1502 the subject. But on this subject, I wouldn't know of
1503 anybody.

1504 Chairman WAXMAN. Mr. Tierney, your time has expired.
1505 Mr. Platts.

1506 Mr. PLATTS. Thank you, Mr. Chairman. I appreciate you
1507 holding this hearing as we continue to address this very
1508 important matter. And I know that all of us here, both our

1509 witnesses, those in the audience and committee and staff,
1510 continue to have the Tillman family and all the families of
1511 our courageous men and women who have given their lives in
1512 defense of our country in our prayers. And I know certainly
1513 with the four of our witnesses, given your distinguished
1514 careers and patriotic service to our Nation, that you all
1515 share in the regret that we all feel in how the Tillman
1516 family learned of the true manner in which their loved one
1517 gave his life. And I certainly appreciate your volunteering
1518 to be here today so that we can get to the bottom of this.

1519 I want to follow up, I know my colleague Mr. Issa of
1520 California asked the question about uniformity and, General
1521 Brown, you stated that you would take that recommendation
1522 back. I want to add my support for the services coming
1523 together as one who has followed up with 17 families in my
1524 district, either whose loved ones gave their lives in Iraq,
1525 Afghanistan, off the coast of Djibouti, and knowing how those
1526 families want as much information as possible and have
1527 followed up with me, and we worked with the various military
1528 branches.

1529 Sometimes it is difficult as a Member in working with
1530 families because of the variances in the branches, in how we
1531 get noticed and when we get noticed and how we can then help
1532 the families. I want to echo Mr. Issa's suggestion that this
1533 be pursued. And in addition, General Brown, you doing it

1534 | within the ranks of Secretary Rumsfeld and General Myers and
1535 | General Abizaid, given your historic and great service and
1536 | your knowledge of the importance of these issues, would
1537 | encourage you to even on the civilian side to join in in
1538 | helping to push that issue forward for uniformity within the
1539 | branches.

1540 | Secretary Rumsfeld, I want to follow up a question that
1541 | Ranking Member Davis asked. A memo of March of '06 where
1542 | you, in communicating to the Secretary of the Army and the
1543 | Chief of Staff of the Army, of the unacceptable nature of how
1544 | things played out and that they need to address it. As we
1545 | are here today--because I think the reminder that we're
1546 | Oversight and Government Reform and to me what I hope we get
1547 | out of today is how to make sure this never happens again--is
1548 | with, Secretary Rumsfeld, you or other witnesses, your
1549 | knowledge of what changes have been made to ensure this does
1550 | not repeat itself.

1551 | Mr. RUMSFELD. Well, I very briefly, I am sure there
1552 | have been a great many changes made that I am not aware of.
1553 | But in the aftermath of the early investigations, I am told
1554 | that the Army instituted a number of changes and adjustments
1555 | in how they handled things and that those have been reported
1556 | to the committee and the Congress.

1557 | Mr. PLATTS. General Brown, could you comment on that?

1558 | General BROWN. Well, I think the big--I think Secretary

1559 of the Army Geren said yesterday the changes are important,
1560 but you have got to execute the changes and execute the
1561 process the way it is designed if you are going to change the
1562 process.

1563 And the fact that the Army regulation we talked about
1564 earlier, 600-8 I think it is, that requires the family to be
1565 notified and I think in that regulation it also says to keep
1566 them constantly updated and no later than 30 days, I think
1567 that regulation is the answer to a lot of these problems,
1568 having been through fratricide problems before in my career;
1569 that proper execution of that process will help us not to
1570 have these kind of problems in the future.

1571 While I'm on it, I would also totally agree with you. I
1572 think the way that is written today sounds to me, and I am
1573 not familiar at all with the Marines' policy or Air Force
1574 policy or any of those, but it sounds to me like the right
1575 policy or the right regulation for all the services.

1576 So I think you can--they have made changes, I think, but
1577 you have got to execute the changes the way they are designed
1578 if you want to solve, fix this very difficult process.

1579 Mr. PLATTS. General Abizaid?

1580 General ABIZAID. Congressman, if I may, we found out a
1581 lot of things in the course of this conflict about systems
1582 that we have in place that really don't make sense for the
1583 modern world. In the world of e-mail and in the world of

1584 telecommunication, phones with the soldiers in the field,
1585 cameras, et cetera, that it is almost impossible to stop the
1586 flow of information from the field.

1587 I can remember when my daughter was informed about her
1588 husband's being wounded it came not from the Department of
1589 the Army initially, but from an e-mail that came from
1590 somebody in the field. Not only was it incorrect in the way
1591 that was initially conveyed to her but it had some other bad
1592 information in there.

1593 Nevertheless, what we have to do is figure out how to
1594 deal with these communications means that are ubiquitous in
1595 the field and figure out how we are going to deal with them
1596 when these bad things happen which will continue to happen.

1597 Mr. PLATTS. Thank you, General Abizaid. My time has
1598 expired. My sincere thanks for each of you being here and my
1599 thanks for your service to the Nation.

1600 Chairman WAXMAN. Thank you very much, Mr. Platts. Ms.
1601 Watson.

1602 Ms. WATSON. I want to address my questions to Secretary
1603 Rumsfeld. On July 26, 2007, you wrote a letter to the
1604 committee which I'd like to make part of the record. And in
1605 that letter you made the following statement: The Tillmans
1606 were owed the truth, unvarnished and delivered in a
1607 forthright manner, and the Department owed it to the memory
1608 of a man who sacrificed his life, gave up a very lucrative

1609 career, to serve his country.

1610 And I certainly could not agree more. And in fact I
1611 believe it is the standard that everyone in the Department
1612 should be held to--everyone, including yourself. But my
1613 question is whether or not you met this standard. We sent
1614 you a list of six questions and you did not address those
1615 questions. And within your letter you said I don't recall
1616 and I've not been here the full time, but quite frequently
1617 you have said "I don't recall."

1618 Now I have a document here that the IG sent, and there
1619 is a copy of it probably up on the marquees for all of you to
1620 see. And it is a memo, six pages, with over two dozen
1621 specific investigative questions, many with subparts, about
1622 your involvement in handling the case. Do you remember the
1623 Inspector General's questions? Do you remember this document
1624 that was sent to you?

1625 Mr. RUMSFELD. I do.

1626 Ms. WATSON. Okay. And I won't read all of them. But
1627 here is one particular one. When you were told friendly
1628 fire--

1629 Mr. RUMSFELD. What number is that?

1630 Ms. WATSON. Let's see, I am just going to read it to
1631 you. They are listed here, and there is a number. Let's see
1632 if I can find the one I am reading. Let me read it to you.

1633 When you were told friendly fire was suspected, did you

1634 know the family was told that enemy fire caused Corporal
1635 Tillman's death?

1636 Mr. RUMSFELD. I'm sorry, could you repeat that? Your
1637 voice dropped and I missed a word or two.

1638 Ms. WATSON. Sorry, I'm a little ways from the mic.
1639 When you were told friendly fire was suspected, did you know
1640 the family was told that enemy fire caused Corporal Tillman's
1641 death and the family was not to be informed the death was
1642 under investigation? Do you recall that?

1643 Mr. RUMSFELD. No, I did not know that the family--I did
1644 not know what you just said.

1645 Ms. WATSON. Okay. You did not know that the family--I
1646 just want to get it for the record. You did not know that
1647 the family was told that enemy fire caused Corporal Tillman's
1648 death and the family was not to be informed that that death
1649 was under investigation? You did not know that?

1650 Mr. RUMSFELD. I have no recollection that anyone ever
1651 said to me that the family should not be told the truth or
1652 that it was possibly friendly fire or friendly fire. I have
1653 no recollection of anyone suggesting that.

1654 Ms. WATSON. You were unaware the family was told that
1655 it was enemy fire that caused Corporal Tillman's death?

1656 Mr. RUMSFELD. I think everyone was told that.

1657 Ms. WATSON. No, did you?

1658 Mr. RUMSFELD. I was aware from the press and I knew

1659 | nothing other than in those early days, April 22nd, when he
1660 | was killed. I did not have knowledge other than what was in
1661 | the press that he was killed by enemy fire.

1662 | The information that it first was a possibility of
1663 | fratricide came later and in no instance was I told that
1664 | people had the belief that it might have been fratricide and
1665 | that no one should tell the family that. I had no knowledge
1666 | of that, which I believe was your question.

1667 | Ms. WATSON. Okay. I'm just giving you an example of
1668 | what was asked of you and my question is whether you remember
1669 | these questions.

1670 | Mr. RUMSFELD. I've got them in front of me.

1671 | Ms. WATSON. Do you remember them?

1672 | Mr. RUMSFELD. I remember--I do not remember them from
1673 | the time they apparently were originally provided. But I
1674 | do--have seen them, I've read them and I believe I have
1675 | answered all of those that I am able to answer.

1676 | Chairman WAXMAN. Thank you, Mrs. Watson, your time is
1677 | up.

1678 | Ms. WATSON. Maybe he can answer--I just wanted to
1679 | mention this so maybe he can respond while he is answering
1680 | some other questions.

1681 | Mr. RUMSFELD. Mr. Chairman, could I make a comment on a
1682 | couple of things that have gone prior to this? One is there
1683 | were a couple of charts shown up there. I couldn't read any

1684 | of it and I don't want to have anyone to believe that I could
1685 | read those two charts that were put up.

1686 | Second, the Congressman asked the Chairman if he was in
1687 | the chain of command and of course he answered he was not. I
1688 | would not want that to leave anyone with the question that he
1689 | did not have the same standard of care with respect to his
1690 | public or private utterances with respect to the risk of
1691 | command influence. Because in his position as Chairman,
1692 | clearly he had to exercise the same degree of care that I did
1693 | with respect to that issue.

1694 | [The information follows:]

1695 | ***** INSERT 2-1 *****

1696 Chairman WAXMAN. Thank you very much.

1697 Mr. McHugh.

1698 Mr. MCHUGH. Thank you, Mr. Chairman. Thank you,
1699 gentlemen, for being here. I appreciate deeply your service.

1700 Just to kind of fill in the blank a little bit for some who
1701 may not be aware of the military parlance. Let me start with
1702 General Abizaid. General Abizaid, what is a P-4? What
1703 exactly does that designate?

1704 General ABIZAID. A "personal for" communication is
1705 usually a direct command communication from one commander to
1706 another or to a series of commanders designed to pass
1707 information that is considered very, very important.

1708 Mr. MCHUGH. And this P-4--

1709 General MYERS. If I can, Mr. McHugh, it is also my
1710 understanding of the P-4 as well is that it is supposed to be
1711 pretty closely held. It is personal for the addressees to
1712 and the info columns.

1713 Mr. MCHUGH. An e-mail for eyes only?

1714 General MYERS. Pretty much. It's not supposed to get
1715 wide distribution.

1716 Mr. MCHUGH. This particular e-mail, this particular P-4
1717 was addressed to whom now? General Abizaid, General Brown?

1718 General ABIZAID. It was addressed to me and it was
1719 addressed personal for U.S. Commander CENTCOM, commander U.S.
1720 SOCOM, commander USASOC.

1721 Mr. MCHUGH. Secretary Rumsfeld, would it be the normal
1722 course of business in the Pentagon for the Secretary of
1723 Defense to review or have synopses of or be informed of on a
1724 routine basis P-4s at combatant command level?

1725 Mr. RUMSFELD. I don't recall in 6 years every seeing
1726 one until this hearing--prior to this hearing. It may be
1727 that I have, but I just don't recall them. And there is
1728 certainly no one who reaches in and grabs communications that
1729 are addressed to other people and then gives me a synopsis of
1730 them. It just doesn't happen that way.

1731 Mr. MCHUGH. So it would not? I heard Secretary
1732 Rumsfeld--and if others have responded, I apologize, this
1733 vote schedule has been an inconvenience to our guests,
1734 certainly, but to members as well. I heard Secretary
1735 Rumsfeld say that at no time does he recall having a
1736 conversation early in the process about the fratricide
1737 involved with--in the Tillman case, but I didn't hear the
1738 same question directed to General Myers.

1739 General, did you ever have a discussion with the White
1740 House, with the President prior to the final determination as
1741 to this case?

1742 General MYERS. I cannot recall any time that I had a
1743 conversation with the White House with anybody.

1744 Mr. MCHUGH. Speechwriters included?

1745 General MYERS. Speechwriters included, about this case

1746 one way or the other.

1747 Mr. MCHUGH. General Abizaid, you were a frequent
1748 visitor to the Hill, we were always bringing you back here
1749 time and time again. I suspect while you were under command
1750 performance at Capitol Hill you perhaps stopped by and had a
1751 chat at the White House. Do you recall addressing this case
1752 with the President or any of his key operatives?

1753 General ABIZAID. I didn't expect once I retired I would
1754 continue this, but so it is. I was in Washington from the
1755 18th to the 20th and I talked with the Secretary during that
1756 period, and I believe during that period I discussed with him
1757 the fratricide investigation.

1758 Mr. MCHUGH. The Secretary of Defense?

1759 General ABIZAID. Right. I don't recall mentioning it
1760 to the President except perhaps after the period where I
1761 signed off on the report that said it was absolutely friendly
1762 fire. Once we confirmed the friendly fire, which was on the
1763 28th.

1764 Mr. MCHUGH. Have you had a chance to review General
1765 Wallace's report?

1766 General ABIZAID. I have not seen General Wallace's
1767 report.

1768 Mr. MCHUGH. General Brown, I see you shaking your head.

1769 General BROWN. No, sir.

1770 Mr. MCHUGH. General Myers, have you?

1771 General MYERS. No, sir, I haven't.

1772 Mr. MCHUGH. This is perhaps in that context not the
1773 fairest question I might ask, but I'm going to ask it anyway.

1774 Welcome to Congress. Based on what you heard about it, do
1775 you have any exceptions, objections, comments, anything that
1776 you find remarkable about it or just merit having it entered
1777 upon this record? Let's go from the right to the left, no
1778 political indication intended.

1779 General BROWN. Is the question--I'm not sure I
1780 understand the question. I haven't seen--

1781 Mr. MCHUGH. You haven't seen it, but you have heard
1782 about it. Based on what you have heard would you like to
1783 make any comments?

1784 General BROWN. No, I don't think I would like to make
1785 any comments.

1786 Mr. MCHUGH. It is not the fairest question without
1787 having had it before you. General Abizaid?

1788 General ABIZAID. No, sir, I don't have any comments on
1789 it.

1790 Mr. MCHUGH. General Myers?

1791 General MYERS. No, sir, I don't have any comments on
1792 it. Back to my previous statement on the White House. It
1793 would have been logical in our many meetings with the White
1794 House for the President or the Secretary or I to regret the
1795 Tillman death, because it was widely known. But it would

1796 | have been a 5 or 10-second affair. And I don't recall that,
1797 | but it would have been logical that we would have done
1798 | something like that.

1799 | Mr. MCHUGH. But not about the questions was this a
1800 | friendly fire or other kind of death?

1801 | General MYERS. I don't recall that we ever talked about
1802 | that.

1803 | Mr. MCHUGH. I see my time is up. Thank you, Mr.
1804 | Chairman.

1805 | Chairman WAXMAN. Thank you, Mr. McHugh.

1806 | Mr. Clay.

1807 | Mr. CLAY. Thank you, Mr. Chairman. Corporal Pat
1808 | Tillman committed to serve his country, not to serving as a
1809 | symbol for promoting President Bush's war. Corporal
1810 | Tillman's mother, Mary, believes that this has been a
1811 | complete donkey show and I certainly agree with her
1812 | assessment.

1813 | The Tillman family gave the ultimate sacrifice for their
1814 | country and they deserve to know the full truth behind
1815 | Corporal Tillman's death.

1816 | Let me ask the entire panel, on April 30th, 2004, the
1817 | Army Special Operations Command announced that Corporal
1818 | Tillman has been posthumously awarded the Silver Star. The
1819 | award of a Silver Star was a major development. It was
1820 | rushed through so it would be ready in time for the memorial

1821 service for Corporal Tillman on May the 3rd, 2004, which was
1822 widely covered by the press.

1823 According to Pentagon regulations, the Silver Star is to
1824 be awarded for gallantry in action against an enemy of the
1825 United States. And before I turn to the specifics of the
1826 award, can anyone on the panel tell me who officially awarded
1827 the Silver Star to Corporal Tillman? Can anyone answer that?

1828 Mr. Secretary?

1829 Mr. RUMSFELD. I have no idea who the individual was who
1830 actually awarded the Silver Star. I do know that the process
1831 does not include the Secretary of Defense at all. It is
1832 signed off on only by the Secretary of the Army and the
1833 recommendation comes up from the command to the Secretary of
1834 the Army and the Secretary of the Army signs the certificate.

1835 Who was physically present to present that to the extent it
1836 was presented posthumously, I don't know. But I wasn't
1837 involved in the Silver Star at all.

1838 Mr. CLAY. General Myers, would you know?

1839 General MYERS. My understanding was it came up from the
1840 Department of the Army channels and was approved by the
1841 Secretary or the Acting Secretary at the time. In my prep
1842 for this I was told that there was a board that usually meets
1843 on those high level awards to approve the award. The
1844 chairman's office was not involved in this award in any way.
1845 It was an Army matter.

1846 Mr. CLAY. General?

1847 General ABIZAID. Sir, the awards go through service
1848 channels, not through joint channels.

1849 General BROWN. Sir, I agree with everything they said,
1850 but I do not know who awarded the Silver Star at the memorial
1851 service.

1852 Mr. CLAY. The answer is President Bush. And let me put
1853 up a copy of the Silver Star citation. As you can see, it
1854 says the President of the United States of America has
1855 awarded the Silver Star to Corporal Patrick Tillman. So this
1856 is important. I know the President didn't actually review
1857 the supporting documentation for this award, but this award
1858 was given in the President's name. And that authority should
1859 be exercised only with the utmost care. But that didn't
1860 happen. Instead the Silver Star citation was false.

1861 And here is what it says: Corporal Tillman put himself
1862 in the line of devastating enemy fire as he maneuvered his
1863 fire team to a covered position from which they could
1864 effectively employ their weapons at known enemy positions.

1865 In his March 26, 2007, the Defense Department Inspector
1866 General concluded that the Silver Star citation and
1867 supporting documents had materially inaccurate statements and
1868 erroneously implied that Corporal Tillman died by enemy fire.

1869 Everyone on this panel learned before the Tillman family and
1870 the American public that Corporal Tillman was likely killed

1871 by his own unit.

1872 Can each of you please explain why you did not intervene
1873 to correct the record? I guess we will start with you, Mr.
1874 Secretary.

1875 Mr. RUMSFELD. As I said, the Office of the Secretary of
1876 Defense is not involved in the Silver Star award at all. I
1877 was not knowledgeable about it, did not sign off on it, did
1878 not know of the language at all.

1879 Mr. CLAY. Do you think he should have been awarded it?

1880 Mr. RUMSFELD. I think from what I understand, the
1881 language of the award is to be reviewed or has been reviewed
1882 in view of the facts that are subsequently available.

1883 Mr. CLAY. Thank you. General Myers?

1884 General MYERS. My response is essentially like
1885 Secretary Rumsfeld's. The Chairman's office, the Joint Staff
1886 is not involved in these awards. This is an Army
1887 responsibility. And like the Secretary, I understand that
1888 the wording is being looked at and I also understand--and I
1889 can't tell you where I heard this--it may have been in the
1890 prep--that General McChrystal thought the actions were heroic
1891 whether or not they came from enemy fire or friendly fire.
1892 That was his determination.

1893 Mr. CLAY. Thank you. General?

1894 General ABIZAID. Sir, in General McChrystal's personal
1895 forward he said the potential that he might have been killed

1896 | by friendly fire in no way detracts from his witnessed
1897 | heroism or the recommended personal decoration for valor in
1898 | the face of the enemy. I believe that the Army has looked at
1899 | the award on several different occasions. They have upheld
1900 | it on every occasion. Whether or not the wording was correct
1901 | or not in the initial stage, I do believe that the Corporal
1902 | Tillman deserved the award that he received.

1903 | Mr. CLAY. Thank you for your response. General,
1904 | please?

1905 | General BROWN. Sir, I believe that I agree with General
1906 | Abizaid. I have talked to General McChrystal several times
1907 | and the actions of Corporal Tillman, based on the discussion
1908 | I had with General McChrystal, certainly would warrant a
1909 | Silver Star. Awards goes through service channels, as
1910 | everyone else here has mentioned here, and do not go through
1911 | Special Operations Command, Tampa, Florida. It is an
1912 | administrative command, goes through the administrative
1913 | chain, which is U.S. Army, not Special Operations Command.

1914 | Mr. CLAY. Thank you for your response, and over and
1915 | over and again what we have heard--Mr. Chairman, may I
1916 | conclude?

1917 | Chairman WAXMAN. If you will conclude.

1918 | Mr. CLAY. We have heard the excuse that the military
1919 | did not want to tell the Tillman family and the American
1920 | public about the fratricide until the investigation was

1921 complete. As General McChrystal put it, they didn't want to
1922 put out a half baked story. But they did put out a half
1923 baked story. It was the Silver Star. They didn't wait for
1924 the results of the investigation. They rushed forward with
1925 false statements, and that is why the military now faces such
1926 skepticism about its motives.

1927 Thank you, Mr. Chairman.

1928 Chairman WAXMAN. Thank you, Mr. Clay.

1929 Mr. Bilbray.

1930 Mr. BILBRAY. Thank you, Mr. Chairman. You know, Mr.
1931 Chairman, it is sad that the incidence of what historically
1932 has been called blue-on-blue is as old as warfare itself.
1933 And it doesn't make it any easier to address this issue.

1934 You know, Mr. Chairman, this hearing really strikes home
1935 in a lot of ways. I was just sitting here thinking about the
1936 Tillman family and, let's face it, when you lose a child, you
1937 lose a son or a daughter, in the best of situations it is a
1938 tragedy and a family crisis. Add blue-on-blue and it just
1939 adds that much weight on your back.

1940 And I must apologize, Mr. Chairman, I don't know how
1941 much of this hearing I'm going to sit through. I just
1942 realized that today is the 23rd anniversary of my first son
1943 dying and I just kind of relate to what would happen if
1944 Philip had been the young man who died in a blue-on-blue
1945 incident.

1946 But let me just sort of back up and say, Mr. Secretary,
1947 we've always give the different branches of the armed
1948 services flexibility to create a lot of their own internal
1949 policies, but on this one and the notification and the
1950 procedures on not just blue-on-blue but also any armed
1951 service death, do you think we should be developing a uniform
1952 strategy that will be required to be carried out by the
1953 Marines the same as the Army or any other armed services or
1954 do you believe that we should still maintain the flexibility
1955 allowing the individual services to handle the situation in
1956 their manner?

1957 Mr. RUMSFELD. I think the views of the general officers
1958 here and their indication that they think this is something
1959 that might best be handled in a uniform manner are persuasive
1960 to me. I do think that I am not in a position to say that
1961 all of the differing positions and policies that the services
1962 have necessarily ought to be exactly the same. I am a great
1963 believer in jointness and we have given enormous effort to
1964 that over the past 6 years.

1965 But as one example, the tours of Army people tend to be
1966 a year and the tours of Marines tend to be 7 months, and that
1967 creates a perceived inequity on the part of some families and
1968 other people. And I have had meeting after meeting on it
1969 suggesting that they find a common length of time for a tour,
1970 and they believe very deeply that the differences fit the

1971 | respective services properly. So I think one size doesn't
1972 | fit all, necessarily.

1973 | Mr. BILBRAY. Let me say as somebody who was raised in a
1974 | military family, I support that concept that the services are
1975 | different and they are designed to be different. The big
1976 | decision we made after World War II was not to make them a
1977 | uniform service, specifically to give that kind of diversity
1978 | of service.

1979 | Mr. Chairman, I would just like to closed by saying that
1980 | I think the frustration of any family that loses a child is
1981 | that you always look around and say what went wrong? Who is
1982 | lying to me? What information doesn't happen? And with a
1983 | blue-on-blue situation it is just really aggravated and I
1984 | hope that we have learned from this.

1985 | But as somebody who has now reflected after 23 years of
1986 | loss of a child that if there is anything that we ought to
1987 | understand is that it is not only a responsibility of us to
1988 | inform properly, but it is the right of the family. Nothing
1989 | else, no matter how much you may think you are trying to
1990 | protect them, the worst thing you can do is not give the
1991 | family the truth up front as soon as possible. And I think
1992 | that is a right that every family has and that every armed
1993 | service member has earned for their family, that the truth is
1994 | something that is the minimum that the families are deserving
1995 | of.

1996 | And I yield back to the gentleman from California, Mr.
1997 | Issa.

1998 RPTS JOHNSON

1999 DCMN NORMAN

2000 [11:55 a.m.]

2001 Mr. ISSA. I thank the gentleman. And because in
2002 recognition of the Tillman family being here today, we have
2003 talked about them a lot without fully trying to do what we
2004 can to correct what is left of the situation. I would like
2005 to go back to the Silver Star. My understanding, correct me
2006 if I am wrong, Corporal Tillman stood up to identify his
2007 unit, left a position where he could have survived, in order
2008 to stop the friendly fire. Is that correct? Anyone dispute
2009 that? Okay.

2010 So the bottom line is one of the most heroic acts
2011 anybody could do is what Corporal Tillman did that day. Is
2012 there anything in our regulations that would prevent him from
2013 receiving a Silver Star simply because he stood up to protect
2014 his people from friendly fire?

2015 General MYERS. No.

2016 General ABIZAID. No.

2017 Mr. ISSA. So as we sit here today, Corporal Tillman is
2018 every bit entitled to and will continue to be a person who
2019 earned a Silver Star, and maybe more. And the point of how
2020 he died is that, and not who fired the shots. Is that
2021 correct for the record?

2022 General MYERS. I believe that is correct. Absolutely

2023 correct.

2024 General ABIZAID. I agree.

2025 Mr. ISSA. Mr. Secretary?

2026 Mr. RUMSFELD. Yes.

2027 Mr. ISSA. Thank you, Mr. Chairman.

2028 Chairman WAXMAN. The gentleman's time has expired. Mr.

2029 Braley?

2030 Mr. BRALEY. Secretary Rumsfeld, does the name Michael

2031 Mullen mean anything to you?

2032 Mr. RUMSFELD. Of course.

2033 Mr. BRALEY. And can you tell us how you became aware of

2034 the name of Michael Mullen?

2035 Mr. RUMSFELD. Oh, I can't. He was the, as I recall,
2036 the deputy to Admiral Vern Clark, if you are talking about
2037 the father. There is also a son named Mike Mullen who is, I
2038 believe, a lieutenant junior grade.

2039 Mr. BRALEY. The Michael Mullen I am referring to was a
2040 young man who was killed in 1970 while serving with the 198th
2041 Light Armored Americal Division near Chu Lai. His mother,
2042 Peg Mullen, is a constituent of mine, who lives in Waterloo,
2043 Iowa, and was the subject of a book called Friendly Fire,
2044 that traced the history of fratricide, and specifically the
2045 problem of fratricide in Vietnam.

2046 And as part of a congressional delegation who went to
2047 Vietnam early in the 1960s during the Americanization effort

2048 | there and was part of a comprehensive investigation of some
2049 | of the U.S. economic, military, and assistance programs, and
2050 | came back to Congress as a young Member of Congress very
2051 | critical of the way some of those programs were being
2052 | operated, I just was wondering whether during this period of
2053 | time you were aware of the problem of fratricide,
2054 | specifically because of the visibility that this one
2055 | particular incident presented?

2056 | Mr. RUMSFELD. Obviously, I was responding to the name
2057 | Mike Mullen referring to the current Chief of Naval
2058 | Operations and his son, as opposed to the individual you are
2059 | referring to. Needless to say, I have been aware of
2060 | fratricide as a problem for many, many decades.

2061 | Mr. BRALEY. In fact, General Stonewall Jackson was an
2062 | early example of fratricide that a lot of people in the
2063 | military are taught during military history courses. So this
2064 | concept of fratricide and the impact it has on unit morale is
2065 | something that has been known a long time. Would you agree
2066 | with that?

2067 | Mr. RUMSFELD. Yes.

2068 | Mr. BRALEY. One of the concerns that Peg Mullen raised
2069 | when she embarked on this crusade to educate the American
2070 | public about the problem of fratricide in Vietnam, was a
2071 | concern that the American people, and specifically American
2072 | families, were not being given the whole truth about the

2073 | circumstances of their loved one's death. And yet the
2074 | example that we have been covering during these two hearings
2075 | seems to suggest that very little has been learned in terms
2076 | of how the military chain of command is dealing with
2077 | fratricide.

2078 | What lessons would you like us to take away, as the body
2079 | responsible for oversight, on what we can do better to make
2080 | sure that future families, like the Tillman family, don't
2081 | have to go through this?

2082 | Mr. RUMSFELD. You are addressing that to me?

2083 | Mr. BRALEY. Yes, sir.

2084 | Mr. RUMSFELD. I think the comments that have been made,
2085 | and some of the corrections that have been taken by the Army,
2086 | and the indication that General Brown has discussed with
2087 | respect to greater degree of uniformity in reporting
2088 | requirements are probably all steps in the right direction.
2089 | I think what you are dealing with here is you are always
2090 | dealing with human beings, and human beings make mistakes,
2091 | and human beings do things they shouldn't do. And it is
2092 | tragic and it is unfortunate, but it is reality.

2093 | Mr. BRALEY. And isn't it one of the most important
2094 | lessons we teach our children that when you make a mistake,
2095 | you become accountable for that mistake and you vow not to
2096 | repeat the mistake?

2097 | Mr. RUMSFELD. Absolutely.

2098 Mr. BRALEY. And do you feel that the Army's response to
2099 this tragedy has been a good example to the children of this
2100 country of accepting responsibility and accountability for
2101 how this evolved?

2102 Mr. RUMSFELD. I expressed myself on a number of
2103 occasions in memorandums that were read earlier in the
2104 hearing that indicated my concern about the way the Army was
2105 handling the matter. I am not in a position to comment on
2106 the most recent effort that Secretary Geren and General
2107 Wallace have undertaken, because I just simply have not read
2108 what they have decided to do. But there is no question but
2109 that there were--that this has been a terribly unfortunate
2110 matter, and the handling of it has contributed to the grief
2111 that that fine family has experienced.

2112 Mr. BRALEY. General Myers, my next question is for you.
2113 You made the comment during your testimony, we need to keep
2114 this in mind--this reference to fratricide that we have been
2115 discussing and the P4 memo. In case we go before the press,
2116 we need to calibrate this thing with that in mind. Do you
2117 recall that testimony?

2118 General MYERS. Absolutely.

2119 Mr. BRALEY. What steps did you take, as the Chairman of
2120 the Joint Chiefs, once you became aware that the
2121 dissemination of information about this event was inaccurate
2122 and potentially misleading?

2123 General MYERS. Well, I didn't become aware of that
2124 until much, much later. All I was referring to at that point
2125 was, as the Secretary discussed, and I think I discussed as
2126 well, is that we knew two things. We knew that Corporal
2127 Tillman had been killed, and then a few days later we knew
2128 that there was a possibility of fratricide.

2129 So my comment was on, given that there is an
2130 investigation ongoing, we have just got to be careful how we
2131 speak about this because of the command influence. And that
2132 is what defense lawyers use to get people off, when there is
2133 undue command influence. You have got to be very careful
2134 what you say.

2135 Mr. BRALEY. In fact--

2136 General MYERS. That was the context of what--

2137 Mr. BRALEY. --those are similar to the precise concerns
2138 raised in this P4, where the author said suspected reports
2139 that POTUS, the President of the United States, and the
2140 Secretary of the Army might include comments about Corporal
2141 Tillman's heroism in speeches currently being prepared. And
2142 then it says, "I felt that it was essential that you receive
2143 this information as soon as we detected it in order to
2144 preclude any unknowing statements by our country's leaders
2145 which might cause public embarrassment if the circumstances
2146 of Corporal Tillman's death become public." And the
2147 circumstances he is referring to here are the circumstances

2148 involving fratricide. Correct?

2149 General MYERS. The possibility of fratricide, right.

2150 Mr. BRALEY. So if you had access to the potential that
2151 fratricide was involved and you were aware that public
2152 statements were being made by the President and others about
2153 Corporal Tillman's heroism, can you explain to the committee
2154 what steps you took, as Chairman of the Joint Chiefs, to
2155 raise concerns that this information might be misleading?

2156 General MYERS. Bear in mind I did not see the P4, so I
2157 didn't have the benefit of General McChrystal's wisdom.

2158 Mr. BRALEY. Let's eliminate the P4.

2159 Ms. NORTON. [Presiding.] Let him answer the question,
2160 and then the gentleman's time has expired.

2161 General MYERS. Can I finish answering?

2162 Ms. NORTON. You can finish answering the question.

2163 General MYERS. What logically I would have done, and I
2164 do not recall this nor does the Secretary recall, that we
2165 would have had a discussion that there is potential for
2166 fratricide. And that would have been probably--I didn't know
2167 the President was speaking about Corporal Tillman. I mean,
2168 that would not be something I would know.

2169 Ms. NORTON. The gentleman's time has expired. Mr.
2170 Shays for 5 minutes.

2171 Mr. RUMSFELD. Madam Chairman, may I just make a comment
2172 on that same point?

2173 Ms. NORTON. Yes, you may. Go ahead.

2174 Mr. RUMSFELD. I indicated that I have been reading some
2175 of the materials, and there has been some confusion, I think,
2176 about the White House. I have never heard of this person who
2177 apparently sent an e-mail to the Pentagon. But the person
2178 who responded from the Pentagon was described in a hearing as
2179 a speechwriter. And she was actually a fact-checker, not a
2180 speechwriter.

2181 And second, my understanding of the e-mails that went
2182 back and forth, which I was not aware of at the time but I
2183 have familiarized myself with since, is that the subject that
2184 they were discussing in the e-mails was not the nature of his
2185 death, but rather the nature of his enlistment, and that that
2186 was the subject that was being asked, apparently, by the
2187 White House of a fact-checker in the Pentagon.

2188 Thank you, Mrs. Chairman. Thank you.

2189 Ms. NORTON. Mr. Shays for 5 minutes.

2190 Mr. SHAYS. Thank you. We all agree that Pat Tillman is
2191 a true American hero, however he died. He died in battle
2192 risking his life, and he volunteered for service. And it is
2193 also clear he was such a high-profile member of the Army and
2194 the Special Forces, it is understandable his death would have
2195 gotten special attention. And frankly, it would be
2196 surprising if it didn't.

2197 Mr. Secretary, I want to thank you for being here today.

2198 I want to thank you for rearranging your schedule to be
2199 here. I think this is perhaps one of the first appearances
2200 you have had in Congress since you have retired as Secretary.

2201 And I want to thank you, Chairman Myers, and Generals
2202 Abizaid and Brown, for being here.

2203 And I want to say I did not choose to ask questions at
2204 the beginning. I think it centers around, you know, two
2205 issues. Who knew what when, and who did they tell? And
2206 those answers have come by pretty quickly. So, you know, it
2207 is almost like let's get on with it. And we have General
2208 Kensinger, who clearly needs to be here. But you really
2209 answered the questions. And you are on record, and you are
2210 under oath, and so--but what I wrestle with in this committee
2211 is we had one hearing where we were going to subpoena
2212 Condoleezza Rice on yellowcake to try to determine that--we
2213 had a hearing this week on the embassy in Iraq, and the whole
2214 focus was on a temporary structure that wasn't built as well
2215 as it could have been electronically for \$6,000, when we have
2216 learned that the embassy in fact is on schedule and is built
2217 under cost. And now we have this hearing.

2218 And what I am wrestling with, and I just want to say
2219 this, Madam Chairman, is there are a lot of important issues.

2220 I mean I have had differences with the Secretary and others
2221 that it would have been interesting to have a dialogue about
2222 that. Our men and women are risking their lives every day.

2223 I mean I wrestled with Abu Ghraib, one, that it should never
2224 have happened, but we spent a whole year exposing our dirty
2225 laundry while our men and women are risking their lives. I
2226 am hard-pressed to know how this is going to save one
2227 American life. I am hard-pressed to know how this is going
2228 to help us achieve the results that we need to achieve in
2229 Iraq or Afghanistan. And we have asked some of our best and
2230 brightest to come and spend their time talking about this.

2231 And so as far as I am concerned, gentlemen, you have
2232 answered the question. And I am particularly grateful, Mr.
2233 Rumsfeld, that you called their bluff, because really what
2234 they wanted is for you to not show up, in my judgment. For
2235 you not to show up, and then they could keep criticizing you.

2236 So is there anything that you all would like to put on
2237 the record that you think needs to be put on the record that
2238 isn't part of the record? And I would be happy to use my
2239 time that way.

2240 Mr. DAVIS OF VIRGINIA. Would you yield?

2241 Mr. SHAYS. Absolutely.

2242 Mr. DAVIS OF VIRGINIA. Let me ask a question. General
2243 Abizaid, you said personal e-mails from the field are a
2244 common method of communication. I think we have all been
2245 there and seen that and talked to families. Do you or any of
2246 you know whether the inspector general or the CID
2247 investigation looked at personal e-mails about the Tillman

2248 matter sent from the battlefield?

2249 General ABIZAID. Sir, I don't know. I believe that
2250 every record was open to them. They came to my headquarters.
2251 I think they went to all the headquarters.

2252 Mr. DAVIS OF VIRGINIA. Personal e-mails wouldn't have
2253 been part of that necessarily, would they?

2254 General ABIZAID. I can't tell you whether they looked
2255 at that or not, sir.

2256 Mr. DAVIS OF VIRGINIA. That could be a source of
2257 information from the committee dealing with what happened
2258 down on the ground, Mr. Shays, not what happened here. I
2259 think these members, they have come up here and they have
2260 spent the morning with us, but I am not sure they have a lot
2261 to share. But thank you very much.

2262 General ABIZAID. Although I would say, Congressman,
2263 that I think from Afghanistan it is a lot different than
2264 Iraq. Afghanistans very, very isolated, and it is difficult
2265 for information to flow as freely from that theater as Iraq.

2266 Mr. SHAYS. Reclaiming my time, I want to be on record
2267 with the fact that I think this was a huge screw-up,
2268 bordering on the lines of malfeasance, and I think we all
2269 agree with that. So I am not belittling the issue. I am
2270 just simply saying this committee should be spending time
2271 dealing with some other issues that we clearly have to
2272 wrestle with.

2273 Ms. NORTON. The gentleman's time has expired. Mr.
2274 Kucinich.

2275 Mr. KUCINICH. I thank the gentlelady. I think it is
2276 very important for this committee to put into context the
2277 Tillman case, because there is an underlying question here
2278 that I don't believe has been probed adequately. With
2279 respect to my good friend on the other side of the aisle,
2280 when you are talking about matters of fact and fiction in a
2281 war, it is incumbent upon this Congress in its oversight
2282 capacity to be able to determine whether or not there was a
2283 particular type of management of the news of the war.

2284 And so in connection with that, Mr. Rumsfeld, can you
2285 tell this committee whether or not in your capacity as
2286 Secretary of Defense you had discussions within the White
2287 House regarding press strategies that would be involved in
2288 the communication of the events of the war to the American
2289 people?

2290 Mr. RUMSFELD. I can say without qualification that I
2291 can't recall ever having a discussion with anyone in the
2292 White House on press strategy relating to the Tillman matter
2293 in any aspect of it.

2294 Mr. KUCINICH. Did you ever have discussions in the
2295 White House, generally speaking, about press strategies with
2296 respect to the conduct of the war in Iraq?

2297 Mr. RUMSFELD. I am sure that the subject of the press

2298 | and the government's dealing with the press has come up on a
2299 | number of occasions. I can recall one when General Casey was
2300 | out there and there were questions raised about the
2301 | relationship that the command had with some Iraqi press
2302 | people. And there was a criticism, for example, of the fact
2303 | that stories were ending up in the articles which were
2304 | accurate, but would not have been in there had there not been
2305 | some relationship between his command and the reporter. And
2306 | there was a big debate on that.

2307 | I remember another example, which General Myers will
2308 | remember well, and that is the very phrase "global war on
2309 | terror" and the differences that some people had, thinking
2310 | that terror is not--you don't war on terror. Terror is a
2311 | technique of choice, a weapon of choice for a terrorist, but
2312 | it is not something you necessarily war against. And that
2313 | that type of thing would be discussed. And I frequently
2314 | would end up using the phrase that this was the first
2315 | conflict of the 21st century, and it was really a struggle
2316 | against violent extremists.

2317 | Mr. KUCINICH. Was there a press strategy in the White
2318 | House with the war in Iraq?

2319 | Mr. RUMSFELD. You would have to ask the White House. I
2320 | am not--

2321 | Mr. KUCINICH. Was there a press strategy that the
2322 | Department of Defense was expected to be mindful of with

2323 | respect to the conduct of the war in Iraq?

2324 | Mr. RUMSFELD. To my knowledge there was no White House
2325 | press strategy that the Pentagon was told to be mindful of.

2326 | Mr. KUCINICH. Was there a Department of Defense press
2327 | strategy with respect to the war?

2328 | Mr. RUMSFELD. If there was, it obviously wasn't very
2329 | good.

2330 | Mr. KUCINICH. You know, maybe it was very good, because
2331 | you actually covered up the Tillman case for a while, you
2332 | covered up the Jessica Lynch case, you covered up Abu Ghraib.

2333 | So something was working for you. Was there a strategy to
2334 | do it, Mr. Rumsfeld?

2335 | Mr. RUMSFELD. Well, Congressman, the implication that
2336 | you said "you covered up," that is just false. You have
2337 | nothing to base that on. You have not a scrap of evidence or
2338 | a piece of paper or a witness that would attest to that. I
2339 | have not been involved in any coverup whatsoever, and I don't
2340 | believe there is an individual at this table, who I know well
2341 | and observed at close quarters in very difficult situations,
2342 | who had any role in a coverup on this matter.

2343 | Mr. KUCINICH. Thank you for acquitting yourself. I was
2344 | speaking of the Department of Defense, and I was speaking of
2345 | things that are manifest and obvious.

2346 | We held a hearing on the Tillman case, we held hearings
2347 | on Abu Ghraib, and the hearing on this. You have not been

2348 | able to establish how is it that this news could get out; no
2349 | one managed it, no one communicated it to the American
2350 | public, it just happened. I mean you haven't really given
2351 | this committee a good explanation as to how it happened, Mr.
2352 | Rumsfeld.

2353 | Mr. RUMSFELD. This committee has held many hours of
2354 | hearings on the subject, and they have had the witnesses of
2355 | the people who were responsible for the management of this
2356 | issue, and it was the United States Army.

2357 | Mr. KUCINICH. Was there any outsourcing of that
2358 | message? Was the Rendon or Lincoln Group involved in
2359 | communicating any messages--

2360 | Mr. RUMSFELD. You would have to ask them. You would
2361 | have to ask the Army.

2362 | Mr. KUCINICH. Did the Department of Defense have any
2363 | connection at all with any outside individuals to communicate
2364 | messages to the general public to help in the shaping of that
2365 | message? Was there a press strategy involved?

2366 | Mr. RUMSFELD. On this subject, not to my knowledge.

2367 | Mr. KUCINICH. Was there a press strategy involved?

2368 | Mr. RUMSFELD. On this subject, not to my knowledge.

2369 | Mr. KUCINICH. Was there a press strategy involved
2370 | generally that you used--

2371 | Mr. RUMSFELD. I have already answered that question.

2372 | Mr. KUCINICH. Well, I don't think you have. Not to my

2373 satisfaction.

2374 Mr. RUMSFELD. To the best of my ability.

2375 Mr. KUCINICH. Was the Rendon Group involved in
2376 communicating a press strategy on behalf of the Department of
2377 Defense with respect to the war in Iraq?

2378 Mr. RUMSFELD. You would have to ask the people in the
2379 Department.

2380 Mr. KUCINICH. You have no knowledge of this whatsoever?

2381 Mr. RUMSFELD. I am aware that there have been, over the
2382 years, contracts with that organization from various entities
2383 within the Department and outside of the Department. Whether
2384 there was in a manner that would fit your question, I am not
2385 in a position to answer.

2386 Mr. KUCINICH. You just said that you have some
2387 awareness of it. Could you elaborate on that, sir?

2388 Mr. RUMSFELD. I elaborated to the extent of my ability.
2389 I know that there are some entities in the Department that
2390 have used contractors for some things of that type over the
2391 years. And you would have to ask experts on that subject,
2392 not me.

2393 Mr. KUCINICH. Mr. Chairman, I think it is very
2394 important that this committee determine whether or not the
2395 outsourcing of press was one of the elements responsible for
2396 communicating to the public something that seemed to be
2397 beyond the understanding of the Department of Defense.

2398 Chairman WAXMAN. [Presiding.] Thank you, Mr. Kucinich.
2399 Mr. KUCINICH. Thank you.
2400 Chairman WAXMAN. Mr. Yarmuth?
2401 Mr. YARMUTH. Thank you, Mr. Chairman, and thanks to all
2402 the witnesses. I apologize if the questions I ask will cover
2403 ground that has already been covered.
2404 Secretary Rumsfeld, you testified on a number of
2405 occasions that you don't remember when you were first alerted
2406 to the fact that the Tillman death had been mischaracterized.
2407 Do you remember whether you were satisfied or dissatisfied
2408 as to whether you had been notified in a timely fashion?
2409 Mr. RUMSFELD. You are directing the question to me?
2410 Mr. YARMUTH. Yes, sir.
2411 Mr. RUMSFELD. I tell you, earlier on in this hearing I
2412 indicated that there was the problem of command influence.
2413 And I think I indicated that it is not a surprise to me that
2414 the Secretary is not brought into periodic reports on what is
2415 taking place with various investigations of a criminal
2416 nature--potentially criminal nature.
2417 Mr. YARMUTH. I am speaking before there would have been
2418 any reason for an investigation. When you were--at some
2419 point you obviously knew that--you came to know that there
2420 was suspicion that the Tillman death had not been
2421 characterized appropriately or accurately.
2422 Mr. RUMSFELD. True. And at that moment there was

2423 | already an investigation going on, because it was a--

2424 | Mr. YARMUTH. My question, though, sir, is do you
2425 | remember whether you were upset that you had not been
2426 | notified, or was this something that you would have expected
2427 | not to be notified about? Did this bother you that you
2428 | weren't notified?

2429 | Mr. RUMSFELD. As I say, the fact that I was not an
2430 | addressee on the P4 did not surprise me. There are all kinds
2431 | of communications that I was not engaged in.

2432 | Mr. YARMUTH. So you would not necessarily have expected
2433 | to be notified about this on a timely fashion. That is the
2434 | question I am asking.

2435 | Mr. RUMSFELD. It does not surprise me that I was not.
2436 | It was not something that I would have had a voice in or a
2437 | role in.

2438 | Mr. YARMUTH. How did people who worked for you know
2439 | when to tell you about things that they thought you ought to
2440 | know?

2441 | Mr. RUMSFELD. Oh, goodness. How did they know? You
2442 | would have to ask them. But what we had is frequent
2443 | meetings. We had a roundtable session almost every day. And
2444 | the senior people from the various entities within the
2445 | Department were there, and their task was to raise issues
2446 | that they thought the group and I ought to be aware of. And
2447 | General Myers participated in those every day.

2448 Mr. YARMUTH. So you didn't have any policy as to what
2449 people should bring to your attention and what they
2450 shouldn't?

2451 Mr. RUMSFELD. Except the one I mentioned earlier, which
2452 is the one of command influence, where the general counsel
2453 issued regulations--not regulations, recommendations for the
2454 senior people in the Department to be very careful about
2455 getting into and commenting on, internally or externally,
2456 investigations and matters that potentially could end up in
2457 the Uniform Code of Military Justice, as indeed this has.

2458 Mr. YARMUTH. General Abizaid, what about you? Did you
2459 have policies as to when you should be informed about things
2460 such as whether a casualty had been mischaracterized?

2461 General ABIZAID. Yes, sir. I wanted to know right away
2462 what happened. Of course.

2463 Mr. YARMUTH. And were you satisfied in this case that
2464 you were?

2465 General ABIZAID. No, I was not satisfied.

2466 Mr. YARMUTH. Some of this seems--and maybe I am
2467 naive--but seems surprising to me, because we have this
2468 perception of there being fairly rigid lines of command in
2469 the military. And it seems to me it would be fairly
2470 simple--and I hope you will explain to me why I am wrong--to
2471 go down that line of command, starting at the top, and say,
2472 basically, did you know? Why didn't you know? And to follow

2473 | that line down. Is that not a reasonable expectation?

2474 | General ABIZAID. I think that this was a simple case
2475 | that should have been transmitted efficiently and quickly.
2476 | It was not. It should have been transmitted the day after
2477 | the P4 arrived in my headquarters. But as I have testified,
2478 | there was a problem somewhere between the 28th, and I guess
2479 | that probably the earliest I would have told the Chairman is
2480 | the 6th. But I called him from Qatar. I was in Qatar the
2481 | 6th, 7th, 8th, 9th, 11th. And when I called him I was
2482 | embarrassed about it. And I do take responsibility for the
2483 | fact that my headquarters screwed up. I didn't punish
2484 | anybody. We fixed the problem. It wasn't the first P4 that
2485 | went astray and it wasn't the last one. But it happened, and
2486 | that is all I can say about it.

2487 | Mr. YARMUTH. I know my time is about to expire, so I
2488 | just want to ask one further question of Secretary Rumsfeld.
2489 | Was there ever, other than this particular--you talked about
2490 | the investigation. Was there any other circumstance in which
2491 | the people who worked for you were directed not to inform you
2492 | about certain things? Were there things that they were told
2493 | you weren't supposed to be informed about?

2494 | Mr. RUMSFELD. No. And I did not want to leave the
2495 | impression in this instance that I was--instructed anybody to
2496 | not inform me of something like that. What I was describing
2497 | was the admonitions that the general counsel issued directly

2498 | to me and to others that you must not get--you should not get
2499 | involved in matters where, as the general said, a defense
2500 | attorney could allege that you had exerted undue command
2501 | influence in a way that damaged the case or polluted the
2502 | environment for the defendant, either favorably or
2503 | unfavorably. And that is something that people were aware
2504 | of. Not that they shouldn't tell me something, but that I
2505 | shouldn't get involved in those things. And people watched a
2506 | pattern of behavior, I suppose, and I didn't get involved
2507 | with them, except one time.

2508 | Mr. YARMUTH. Thank you.

2509 | Chairman WAXMAN. The gentleman's time has expired. Mr.
2510 | Burton, do you seek recognition?

2511 | Mr. BURTON. I am sorry, Mr. Chairman, I am late. Mr.
2512 | Secretary, it is nice seeing you again.

2513 | Mr. RUMSFELD. Thank you.

2514 | Mr. BURTON. June 25th of 2002, you wrote a snowflake to
2515 | Army Secretary Tom White, and you wrote, "Here is an article
2516 | on a fellow who is apparently joining the Rangers. He sounds
2517 | like he is world class. We might want to keep our eye on
2518 | him." Can you tell us what you meant by that?

2519 | Mr. RUMSFELD. Exactly what I wrote. That a fine
2520 | individual who was quite prominent had joined the Rangers.
2521 | And that was a good thing.

2522 | Mr. BURTON. Well, when you said to Secretary White keep

2523 his eye on him, you meant that he has potential?

2524 Mr. RUMSFELD. I wouldn't know that. I just think here
2525 is an individual who is serving his country and is prominent
2526 and gave up a good deal to do that; and that we, as people in
2527 the Department, ought to acknowledge that and be grateful for
2528 his service, as I was.

2529 Mr. BURTON. You didn't single him out asking for
2530 progress reports or anything like that?

2531 Mr. RUMSFELD. No. Of course not.

2532 Mr. BURTON. Okay. Thank you very much.

2533 Chairman WAXMAN. Let's see, the next one in line is Mr.
2534 Hodes.

2535 Mr. HODES. Thank you, Mr. Chairman.

2536 Gentlemen, as I understand it, there have been at least
2537 six different investigations into this matter. It appears
2538 that each of those investigations had serious flaws. First
2539 there was Captain Scott's investigation, completed within 2
2540 weeks of the incident. Second, Colonel Kauzlarich's
2541 investigation--I don't know whether I have butchered his
2542 name--which was finished on May 16, 2004.

2543 The DOD IG concluded that these two investigations were,
2544 quote, "tainted by the failure to preserve evidence, a lack
2545 of thoroughness, and the failure to pursue investigative
2546 leads," unquote.

2547 Third was an investigation by General Jones completed 6

2548 months later. The IG had similar criticisms of that report.

2549 Fourth, the IG report itself, issued in March of this
2550 year. But the IG was unable to determine who doctored key
2551 witness statements supporting the Silver Star award.

2552 And fifth, was an Army Criminal Investigation Division
2553 investigation finished at the same time as the IG
2554 investigation. This report inexplicably concluded there were
2555 no rules of engagement violations, even though there was a
2556 friendly-fire fatality and multiple injuries.

2557 And finally, as of yesterday, General Wallace has
2558 completed his investigation. General Wallace's investigation
2559 apparently suffered from an overly narrow scope, failing to
2560 examine the actions of key military leaders. And we have
2561 before us the top military brass involved in these questions
2562 at the time: General Brown, General Abizaid, General Myers,
2563 and Secretary Rumsfeld.

2564 Now, let's put aside for a moment the merits of each of
2565 the individual investigations. Do you all, gentlemen, agree
2566 that it should not take six different investigations, 3
2567 years, congressional investigations, and millions of taxpayer
2568 dollars to address the significant failures that have
2569 occurred in this case?

2570 Mr. RUMSFELD. Absolutely.

2571 General MYERS. Agree.

2572 General BROWN. Yes, sir.

2573 General ABIZAID. Agree.

2574 Mr. HODES. Secretary Rumsfeld, the approach of ordering
2575 a series of military investigations that are limited in scope
2576 and that do not address the question of what top officials
2577 knew appears to be the Department of Defense's MO when it
2578 really doesn't want accountability.

2579 When the allegations of abuse at Abu Ghraib arose in
2580 2004, the Pentagon took the same approach. First, there was
2581 the Taguba investigation, limited to the conduct of the
2582 military police at Abu Ghraib. Second was the Fay
2583 investigation that examined the conduct of the military
2584 intelligence personnel at Abu Ghraib, but there was no
2585 inquiry into the involvement of the civilian leadership.
2586 Third was the Army inspector general's investigation, which
2587 focused on interrogation practices in general in Iraq and
2588 Afghanistan, without examining the role of top Pentagon
2589 leadership. In all there were over a dozen investigations by
2590 the Pentagon into detainee abuse issues, but none has
2591 resulted in a full understanding of the civilian leadership's
2592 involvement in the abuses. None has resulted in a full
2593 understanding of your involvement or the involvement of the
2594 White House.

2595 Mr. Secretary, do you see the parallels here? Do you
2596 see why some would think that in the case of both Abu Ghraib
2597 and in the Tillman investigation there were deliberate

2598 | efforts to avoid accountability? And if you see that, the
2599 | manner in which this serial kind of narrow investigating,
2600 | never answering the questions about who at the top knew what
2601 | is a problem, what do you think ought to be done so that the
2602 | American people can be assured that the top leadership in
2603 | this country is accountable, is willing to come forward and
2604 | tell the truth, and is going to take the actions to reassure
2605 | the American public that abuses won't happen again?

2606 | Mr. RUMSFELD. Congressman, I don't obviously agree with
2607 | your characterization of the history of this. There was an
2608 | independent panel that looked at Abu Ghraib at the senior
2609 | level and issued a report. There is a problem, I don't
2610 | disagree at all, with the perception that you end up in a
2611 | situation like the Tillman case, where you have five, six or
2612 | seven separate investigations. And there are a variety of
2613 | reasons as to how they got from where they were to where they
2614 | are today with the most recent Army investigation and
2615 | announcement.

2616 | None of the answers are satisfactory. It is
2617 | unfortunate. It is harmful. It causes exactly the
2618 | perception that you are promoting. And it is regrettable.

2619 | Mr. HODES. What should be done about it?

2620 | Mr. RUMSFELD. I don't know. I wish I had some
2621 | brilliant answers. One of the things I might just mention is
2622 | that under Goldwater-Nichols, the command responsibility is

2623 separated from the organized train-and-equip responsibility.
2624 And as a result, you end up with people who are down one of
2625 those chains of accountability and responsibility, and some
2626 people who are down the opposite chain, the administrative as
2627 opposed to the command. However, in the middle at various
2628 places, there are individuals who have a hat, if you will, in
2629 both of those. And you end up frequently with a long pause
2630 as to who should do what, who has got the responsibility.
2631 Should it go up? Should the court martial or the
2632 investigation be done at this level or that level? Should it
2633 be done in the administrative chain or the command chain?
2634 Obviously, the problems usually happen in the command chain,
2635 so there is a tendency to be biased towards that.

2636 On the other hand, you take a man like John Abizaid, who
2637 was the combatant commander in that case, he was fighting a
2638 war. He was busy. He was traveling all over the world. And
2639 there is an attraction to moving the responsibility for such
2640 an investigation over to the administrative chain, because
2641 those individuals are not engaged in the actual chain of
2642 command and wrestling with those problems.

2643 I don't know what the answer is. But I know that there
2644 is a tension there that I find confusing as to who is going
2645 to take responsibility for it from the bottom up. And you
2646 end up--possibly one of these gentlemen who have lived it can
2647 make a better analysis than I have, but I have been concerned

2648 | about it, and expressed concern about it within the
2649 | Department, and I think it in some way contributes to the
2650 | problem that you are talking about.

2651 | Mr. HODES. Thank you. I see my time is up.

2652 | Chairman WAXMAN. The gentleman's time is up, but
2653 | General Abizaid, did you want to comment on that point?

2654 | General ABIZAID. Sir, I think it is very important to
2655 | understand that the way the warfighting system is designed is
2656 | to keep the operational commanders' hands free with
2657 | forward-looking battlefield activities and operational
2658 | decisions. The administrative chain of command in this case,
2659 | going through the Department of the Army, handles things like
2660 | notification of families, awards, logistics, et cetera, et
2661 | cetera, et cetera. And I think it would not be beneficial to
2662 | try to saddle the combatant commander with all the
2663 | administrative functions, because it would cause his staff to
2664 | become too big, too unwieldy, and would frequently cause that
2665 | person to take their eye off of the immediate actions going
2666 | on in the battlefield.

2667 | And I would like to point out that during this time
2668 | period, if it had been the only event that was occurring in
2669 | the theater, it could hardly be understood that the
2670 | information didn't flow freely. But the battle of Fallujah
2671 | was taking place around this time, all sorts of various
2672 | military activities, both in Iraq and Afghanistan, 27

2673 | different countries in the region responding to various
2674 | political-military activities, et cetera, et cetera.

2675 | It is absolutely essential that we keep track of what is
2676 | happening in order to make sure that the right resources are
2677 | applied at the right place and that lives are preserved in
2678 | the way that we conduct our military operations.

2679 | Chairman WAXMAN. Thank you, General. Mr. Shays.

2680 | Mr. SHAYS. I have had my time.

2681 | Chairman WAXMAN. Oh, you have had your time. So the
2682 | next would be Mr. Davis.

2683 | Mr. DAVIS OF ILLINOIS. Thank you very much, Mr.
2684 | Chairman.

2685 | Secretary Rumsfeld, I understand that Mr. DiRita was one
2686 | of your closest advisers. And I would like to ask about your
2687 | knowledge of Mr. DiRita's actions with respect to the White
2688 | House. In the 1970s you issued your famous Rumsfeld's Rules,
2689 | with lessons for the Secretary of Defense. Here was one of
2690 | those lessons. Manage the interaction between the Pentagon
2691 | and the White House. Unless you establish a narrow channel
2692 | for the flow of information and tasking back and forth, the
2693 | process can become quickly chaotic.

2694 | Was Mr. DiRita your channel to the White House?

2695 | Mr. RUMSFELD. No, Mr. Congressman, he was not. He was
2696 | a link in the sense that he was in charge of the Public
2697 | Affairs Office. And the public affairs officers in the

2698 executive branch of the government do communicate on a
2699 regular basis, including the White House. There were
2700 multiple channels to the White House. There was not a single
2701 one. There can't be, regrettably. I mean the Chairman has
2702 already indicated he not only was the senior military adviser
2703 to me, but also to the President, to the Secretary of State,
2704 the National Security Council, and the Vice President. But
2705 the principal link tended to be my senior military assistant.

2706 Mr. DAVIS OF ILLINOIS. This may have been mentioned
2707 earlier, but we have a copy of an e-mail dated April 23,
2708 2004, the day after Corporal Tillman was killed, from Jeanie
2709 Mamo, the White House--

2710 Mr. RUMSFELD. From whom?

2711 Mr. DAVIS OF ILLINOIS. Mamo. From Jeanie Mamo, who was
2712 the White House Director of Media Affairs, to Mr. DiRita.
2713 The e-mail asked for information about the circumstances
2714 surrounding Corporal Tillman's death. The question I wanted
2715 to ask, though, is were you aware that the White House
2716 contacted Mr. DiRita and requested information?

2717 Mr. RUMSFELD. I have no recollection of that from that
2718 time, and I have not heard of this e-mail even in the
2719 preparation for this hearing.

2720 Mr. DAVIS OF ILLINOIS. Let me ask, could there have
2721 been some reason that Mr. DiRita didn't inform you of these
2722 communications, or would it be normal for him to inform you

2723 | that he had been contacted by the White House?

2724 | Mr. RUMSFELD. When he was head of Public Affairs, which
2725 | I think is the case at this time, he met in the roundtable,
2726 | he met every day with the Chairman and with me. What he
2727 | decided to inform me of was his call.

2728 | But someone just put this in front of me, and I have not
2729 | read it. It says, "Jeanie, is there anyone who can hook me
2730 | up with someone at the Pentagon that can give me an
2731 | off-the-record brief on the mission in Afghanistan where the
2732 | former NFL star Pat Tillman was killed yesterday?" and that
2733 | was from a press person, I believe. Jeanie Mamo, I don't
2734 | know who that person is. I think it is a press person, not
2735 | the White House, but I just don't know. It says Sports
2736 | Illustrated.

2737 | Mr. DAVIS OF ILLINOIS. Well, when he replied to the
2738 | White House, Mr. DiRita stated, "See what we can do. Details
2739 | are sketchy just now."

2740 | Mr. RUMSFELD. Apparently this is a request from someone
2741 | in the press for him to give him some information. And
2742 | the--it looks like the request, this Jeanie Mamo is from the
2743 | press or else--and sent it to the White House or to DiRita.
2744 | I just don't know. I don't know anything about it.

2745 | Mr. DAVIS OF ILLINOIS. Except the memo is actually a
2746 | White House official.

2747 | Mr. RUMSFELD. She is?

2748 Mr. DAVIS OF ILLINOIS. Yes.

2749 Mr. RUMSFELD. Okay.

2750 Mr. DAVIS OF ILLINOIS. But my question is did Mr.

2751 DiRita ever tell you what information, if any, he ultimately

2752 gave to the White House?

2753 Mr. RUMSFELD. No, I have no idea. Normally what he

2754 would do would be to talk to the Army and see what the Army

2755 had to say, was saying publicly about it, and then have the

2756 Army talk to the White House or the press person.

2757 Mr. DAVIS OF ILLINOIS. One person the committee

2758 interviewed was NATO Supreme Allied Commander General Vance

2759 J. Craddock, who previously served as your senior military

2760 assistant.

2761 Mr. RUMSFELD. Right.

2762 Mr. DAVIS OF ILLINOIS. General Craddock told us bluntly

2763 that Mr. DiRita often cut him out of the loop on military

2764 matters. And here is what General Craddock said, and I

2765 quote: "I will tell you there could have been discussions

2766 and meetings that I would not have been privy to, because

2767 occasionally that happens. The fact of the matter is, and I

2768 will just tell you that DiRita and I occasionally got into a

2769 bit of a dither over the fact that I felt he was not

2770 informing me of military issues or that he felt I was

2771 usurping his authority to deal with political issues."

2772 General Craddock told us there were oftentimes events

2773 | that happened in Public Affairs that were, quite frankly,
2774 | between Mr. DiRita and the Secretary. And I guess what we
2775 | are trying to find out here is were there communications back
2776 | and forth between you and Mr. DiRita that the military people
2777 | were not getting?

2778 | Mr. RUMSFELD. I am sure that if you take the senior 8
2779 | or 10 people that reported to me, that in each case there
2780 | were activities that I would deal with them individually on
2781 | and not include the whole group. There is no way the whole
2782 | group could be involved in every single thing that was going
2783 | on.

2784 | For example, the senior military assistant might be
2785 | involved in military personnel matters, whereas DiRita would
2786 | not be in Public Affairs. And vice versa. There might be
2787 | some Public Affairs issue that the senior military assistant
2788 | might not be involved in.

2789 | Chairman WAXMAN. The gentleman's time has expired.

2790 | Mr. DAVIS OF ILLINOIS. It has expired?

2791 | Chairman WAXMAN. Yes.

2792 | Mr. DAVIS OF ILLINOIS. So it is possible that Mr.
2793 | DiRita and yourself could have had discussions or
2794 | communications about military matters that--

2795 | Mr. RUMSFELD. No. No. That would be highly unlikely.
2796 | I just can't imagine it. No. The military matters I dealt
2797 | with basically were through General Myers and General Pace.

2798 | And to the extent the senior military assistant was
2799 | appropriate to have him involved, he was involved. But there
2800 | was generally a division of labor. It is not a perfect
2801 | division. There is no way you can say this matter was only
2802 | military or only public affairs. Obviously, the Tillman
2803 | matter was a combination of military and public affairs
2804 | problems. And so too with any number of things. So
2805 | frequently the group discussed things in the roundtable
2806 | meetings.

2807 | Mr. DAVIS OF ILLINOIS. So you disagree with General
2808 | Craddock. Thank you very much.

2809 | Mr. RUMSFELD. I can't do that. General Craddock is a
2810 | terrific officer. I don't know what he said. I don't know
2811 | the context of the questions he was asked. And therefore, to
2812 | say I disagree with him, I think probably wouldn't be
2813 | accurate unless I invested some time to really understand
2814 | what he was saying.

2815 | Mr. DAVIS OF ILLINOIS. Thank you very much.

2816 | Chairman WAXMAN. Thank you, Mr. Davis. Mr. McHenry?

2817 | Mr. MCHENRY. Thank you, Mr. Chairman. I appreciate you
2818 | all testifying today.

2819 | The one thing that has not been read into the record--it
2820 | has been submitted to the record--is the Chairman at the
2821 | beginning of this meeting, of this hearing, spoke of the word
2822 | "embarrassment" in the P4 memo. What he did not actually

2823 highlight, which I think we all should highlight, is that
2824 there was a man involved here. And I say this to my
2825 colleagues and I say to all of those who were listening,
2826 there was still heroism involved in this incident. And I
2827 think some of this is about trying to point fingers and score
2828 political points.

2829 I don't think that is what it should be about. Let's
2830 talk about who Corporal Tillman was. And from this P4 memo,
2831 the potential that he might have been killed by friendly fire
2832 in no way detracts from his witnessed heroism or the
2833 recommended personal decoration for valor in the face of the
2834 enemy. I think that is what this hearing should be about,
2835 that valor in the battlefield of putting himself in harm's
2836 way, not about pointing fingers after the fact.

2837 I think this has been much covered, that there were
2838 screw-ups in the bureaucracy. And there were screw-ups. And
2839 I think everyone agrees. I don't think there was a coverup.
2840 I think there was a screw-up, and that has had a lot of
2841 coverage.

2842 Corporal Tillman was killed in a complicated battlespace
2843 geometry involving two separate Ranger vehicle Serials
2844 traversing through severe terrain along a winding 500- to
2845 600-foot defile in which friendly forces were fired upon by
2846 multiple enemy positions. This is a complicated battlefield
2847 environment. And I know from the gentlemen testifying here

2848 | today who are generals or retired generals, you have been
2849 | under fire. And you know how complicated this is.

2850 | So let us think and give Corporal Tillman his due for
2851 | that heroism in the battlefield. Let us give him his due,
2852 | and let's properly quote the record of what he submitted
2853 | himself to in the battlefield.

2854 | And so with this, I would be happy to yield to my
2855 | colleague from California, Mr. Issa.

2856 | Mr. ISSA. I thank the gentleman. I think you
2857 | characterized a lot of what this committee hearing should be
2858 | about. I want to take note of how it was advertised, to be
2859 | quite frank. I think that is appropriate at this point, the
2860 | Tillman fratricide, that is fair.

2861 | What Defense Department officials knew, you know, I
2862 | don't think that is what this hearing realistically is about.

2863 | I think it has become pretty obvious that at the lowest
2864 | levels people understood there were a problem. At the level
2865 | of a full colonel, it was reported and reported promptly.
2866 | Clearly, there was some confusion about when who got told
2867 | during the specific investigation, because those
2868 | investigations don't just find out was it friendly fire.
2869 | They find out how it happened so it wouldn't happen again.

2870 | General Brown, is that essentially the real reason
2871 | behind what I think is, what, a 15-6, is to make sure these
2872 | don't happen again?

2873 General BROWN. Right. A 15-6 is a military
2874 investigation.

2875 Mr. ISSA. Right. So the fact is that there was a
2876 failure to disclose, pursuant to Army regulations that were
2877 about 2 years old, to disclose that it may have been friendly
2878 fire to the family. And that is certainly beyond
2879 regrettable.

2880 But the actual investigation, I just want to get this
2881 into the record, was begun promptly, related to how he was
2882 killed and the possibility it was friendly fire. Is that
2883 correct?

2884 General BROWN. That is my understanding from General
2885 McChrystal. He called me the day that he was going to
2886 initiate the 15-6.

2887 Mr. ISSA. And at the end of that, is there an
2888 after-action report? Are we better able to prevent this from
2889 happening in the future as a result of that investigation?
2890 Has that circle of quality been adhered to?

2891 General BROWN. I think it has. We had that discussion
2892 I guess before I left command, to ensure that we were doing a
2893 good job of capturing lessons learned to ensure that these
2894 kind of events didn't happen again. I think in the TTP, or
2895 tactics, techniques, and procedures that were used that day,
2896 the radio problems, all the other issues I think have been
2897 addressed, and they are trying to use that 15-6, at least at

2898 | the Rangers and down at General McChrystal's organization, to
2899 | ensure we don't have those kind of problems again.

2900 | Mr. ISSA. Additionally, at the Department of Defense,
2901 | as a result of the pain and suffering the Tillman family went
2902 | through because of the misinformation, has it been made clear
2903 | that this should never happen again, that the family has a
2904 | right to be informed promptly so that this particular mistake
2905 | couldn't happen again?

2906 | General BROWN. Well, I can speak for SOCOM, but at the
2907 | Special Operations Command it is perfectly clear.

2908 | Mr. ISSA. Okay. I thank the Chairman.

2909 | Chairman WAXMAN. The gentleman's time has expired. Ms.
2910 | Norton?

2911 | Ms. NORTON. Thank you, Mr. Chairman.

2912 | I just want to be clear that the family asked this
2913 | committee to investigate the circumstances of Corporal
2914 | Tillman's death, and that Kevin Tillman himself indicated
2915 | that this hearing was no reflection upon the bravery of this
2916 | hero. And no implication should be left that our continuing
2917 | investigation is anything but an attempt to do what this
2918 | family wants done.

2919 | Secretary Rumsfeld, you have indicated, I think quite
2920 | eloquently, that it is your responsibility, the
2921 | responsibility of the military, to tell the truth. And I
2922 | want to make sure this also involves uncovering the truth,

2923 | particularly in light of allegations that have been made in
2924 | the press and elsewhere about whether you sought deniability
2925 | in reconstructing what you were told and when in responding
2926 | to the inspector general in particular.

2927 | Your lawyer, in preparing a response to the DOD
2928 | inspector general, said that you asked a junior staff member
2929 | in your office to help determine when you learned that
2930 | Corporal Tillman's death was a possible fratricide. The
2931 | staff of our committee then contacted that staff member, and
2932 | he told us of placing a few phone calls, found a person who
2933 | had been in a meeting with you on May 20, 2004, during which
2934 | he said Corporal Tillman's case was mentioned. Now, this
2935 | person claimed, however, that he was not the source of the
2936 | information and cannot remember who was. This does not sound
2937 | like the most thorough attempt to reconstruct what you knew
2938 | or what actions you took.

2939 | During our own investigation, the committee staff talked
2940 | with Lieutenant General Craddock. Now, he was your senior
2941 | military assistant at the time in 2004. And he told us that
2942 | he worked closely with you on a daily basis, sometimes in
2943 | touch with you many times a day. But he says that your
2944 | office never contacted him to ask for his recollection or
2945 | documents. I am asking, why did you not consult this close
2946 | assistant of your own, General Craddock, before responding to
2947 | the Attorney General concerning what you knew and when you

2948 | knew it?

2949 | Mr. RUMSFELD. My recollection of this is close to that.

2950 | It was the--I believe the last series of days I was in the
2951 | Department. There were a great many things going on. The
2952 | inspector general asked some questions. And my civilian
2953 | assistant, Mr. Rangel, as I recall--I said figure out if
2954 | there is any way we can know when I was told, because I don't
2955 | remember.

2956 | Ms. NORTON. Your Senior Military Assistant might have
2957 | been one way you might have known.

2958 | Mr. RUMSFELD. He, of course, was gone.

2959 | Ms. NORTON. That didn't keep him from being consulted.

2960 | Mr. RUMSFELD. I understand that. I am going to answer
2961 | your question. He then checked with some people, and one of
2962 | the individuals said what you said he said; namely, that he
2963 | was in the room when I was told, and it was on or after he
2964 | got back from Iraq. And that was this Colonel Buche who has
2965 | been mentioned previously. We were not asked--we were asked
2966 | what we recalled and recollected. We were not asked to
2967 | undertake an investigation and go back and consult a series
2968 | of people and find out the answer. That was the job of the
2969 | inspector general. I think you said Attorney General, and I
2970 | think you meant inspector general.

2971 | Ms. NORTON. Inspector general, sir.

2972 | Mr. RUMSFELD. That was his job to try to fashion all of

2973 | that. And he did, and he produced a report, and he said he
2974 | felt that my responses were--met his question.

2975 | Ms. NORTON. Mr. Secretary, he was trying to find out
2976 | something very specific, what you knew and when you knew it.
2977 | And his job was to question you and to find out, to the best
2978 | of your ability, what you knew and when you knew it. And
2979 | here was your senior military assistant, the one person we
2980 | would have expected you to consult with, and he was not
2981 | consulted. And I am asking why was he not consulted?

2982 | Mr. RUMSFELD. My guess is there were any number of
2983 | people who were not consulted. And I guess the answer to
2984 | that question is one would have to ask the inspector general
2985 | or ask Mr. Rangel.

2986 | Ms. NORTON. No, I am asking you, because you didn't
2987 | consult them, sir.

2988 | Mr. RUMSFELD. No, they asked me what I recalled, and I
2989 | told them what I recalled.

2990 | Ms. NORTON. I am simply noting that you did consult a
2991 | junior member of your office, but not the man who would have
2992 | been most likely to know, the man who reported to you several
2993 | times a day. You didn't consult as well with Mr. DiRita,
2994 | your director of communications, who during this period had
2995 | been in touch with the White House. Didn't you feel it
2996 | important to consult with him before responding?

2997 | Mr. RUMSFELD. I did not consult with a junior member of

2998 | my office. I consulted with the senior civilian assistant,
2999 | who is your principal assistant as Secretary of Defense,
3000 | along with your senior military assistant. Mr. Rangel was
3001 | that individual. He is the one who then talked to people to
3002 | find out, and one of the people he talked to was Colonel
3003 | Buche. Mr. DiRita also was no longer in the Department.
3004 | There are any number of people one could have--we could have
3005 | gone to Dick Myers, who was no longer in the Department. And
3006 | there must have been 20, 30 people who were in the roundtable
3007 | meeting, where I may very well have been informed. But I was
3008 | asked what I recalled, and I gave a very direct, honest
3009 | answer to that.

3010 | Ms. NORTON. Thank you, Mr. Secretary. I understand.
3011 | The point is when the inspector general is trying to find out
3012 | something that is very difficult for you, yourself, out of
3013 | your own consciousness, to have remembered, to have consulted
3014 | with those most likely to have helped you remember would have
3015 | seemed to be appropriate in uncovering the truth.

3016 | Thank you very much.

3017 | Chairman WAXMAN. Thank you, Ms. Norton.

3018 | Mr. Welch is next, but Mr. Davis wanted to just make a
3019 | statement.

3020 | Mr. DAVIS OF VIRGINIA. Mr. Chairman, I just wanted to
3021 | note for the record you and I have signed a letter to Claude
3022 | Kicklighter, the inspector general, and to Brigadier General

3023 Rodney Johnson, the Provost Marshal and the Commanding
3024 General from the Army Criminal Investigation Command, asking
3025 if they did look at the personal e-mail accounts of soldiers,
3026 which was a common means of communication over there, as we
3027 said, to try to keep all the stones, look under every one of
3028 them. We think this will make the investigation more
3029 complete. I want to note that for the record.

3030 Chairman WAXMAN. Thank you. We have joined together in
3031 that letter. Mr. Welch?

3032 Mr. WELCH. Thank you, Mr. Chairman. Thank you for
3033 conducting this hearing.

3034 There are, I think, two issues. One is the treatment of
3035 the family of the fallen soldier. My impression and
3036 experience here so far in Congress is that the military takes
3037 very, very seriously its obligation to the soldier and to the
3038 family members to try to provide them with as much
3039 information as possible, understanding the desperate need
3040 that a mom and a dad have, a brother and a sister, to know as
3041 much as they possibly can about the circumstances of their
3042 loved one's death. And we have been through that here with
3043 you, and I don't think I will go onto that enormously.

3044 I think there is a second issue that has been raised,
3045 and it is whether the pressure on the administration to give
3046 good news versus bad news about its initial decision to go to
3047 war at times causes the information to be emphasizing the

3048 | good instead of the bad, and, at its worst, to actually
3049 | distort what the facts are.

3050 | What is significant about this war, in contrast to any
3051 | other in our history, is that the sacrifice associated with
3052 | the war has been borne entirely by the men and women and
3053 | their families of an all-volunteer military. It is the first
3054 | war where we have had multiple tax cuts. It is the first war
3055 | where we have paid for it by going off budget. It is the
3056 | first significant war where it has been an all-volunteer
3057 | force, and there has been no draft requiring middle-class or
3058 | well-to-do families to be part of it, whether they wished to
3059 | or not.

3060 | And the question I have, and I am going to direct this
3061 | initially to General Myers, is this. General, in contrast to
3062 | Vietnam, which was a war that was going on when I was in
3063 | college, every time there was a fallen soldier whose remains
3064 | were returned to Burlington, Vermont, or Springfield,
3065 | Massachusetts, or Chico, California, the local press was
3066 | there. It was a solemn occasion. It was sad, but it was
3067 | real. And it conveyed to that local community the awesome
3068 | price that this war was inflicting on the lives of their
3069 | neighbors.

3070 | It is my understanding that the Pentagon policy in this
3071 | war is to deny access to the press upon the return, the
3072 | official return of the soldier's remains. And can you advise

3073 | me whether I am correct on that?

3074 | General MYERS. My understanding is that the policy for
3075 | the folks returning through Dover, that there is no press
3076 | there. It is a policy in respect for the families. Other
3077 | than that, you are absolutely right. And I think, by the
3078 | way, that is appropriate. I don't think it is appropriate to
3079 | hide the fact that the men and women in this country are
3080 | dying in the defense of this country. And we should never do
3081 | that, because people need to understand the sacrifice. And
3082 | as you pointed, out too few people understand that.

3083 | I might just add it is not the military; there are
3084 | ambassadors, foreign service officers, a lot of American
3085 | civilians and third-country nationals that share this risk
3086 | with us in Afghanistan and are killed, as well in Iraq.

3087 | Mr. WELCH. This policy was changed. In the past the
3088 | press has been allowed to document the arrival of our
3089 | returning fallen soldiers. Correct?

3090 | General MYERS. I can't tell you. I do not recall if it
3091 | was changed.

3092 | Mr. WELCH. I mean you are my age or older.

3093 | General MYERS. Right. Yeah. It must have been
3094 | somewhere along the line, if you recall it that way. I was
3095 | overseas for most of the sixties when Vietnam was going on
3096 | and part of that process, so I don't remember what was
3097 | happening back home frankly.

3098 Mr. WELCH. Secretary Rumsfeld, could I ask you to
3099 comment? What would be the rationale for the Pentagon
3100 denying access to a respectful press to document the return
3101 of the remains of a fallen soldier?

3102 Mr. RUMSFELD. I think you would have to ask the
3103 Department of Defense Public Affairs people, but my
3104 recollection is the same as General Myers'; that the policy
3105 at Dover is that the press does not cover that arrival, but
3106 that it is up--I thought it was up to the families to
3107 determine the extent to which the press would or would not be
3108 involved in the actual memorial services or burial services,
3109 and that--it leaves it to the families to make those
3110 decisions.

3111 Mr. WELCH. But the official return in the custody of
3112 military personnel of a casket--

3113 Mr. RUMSFELD. They remain in the custody of the
3114 military personnel until they reach the family.

3115 Mr. WELCH. But it is different the way this is handled
3116 in this war, Iraq and Afghanistan, than it was, for instance,
3117 in Vietnam.

3118 Mr. RUMSFELD. I don't know that. I accept your comment
3119 but I just--

3120 Mr. WELCH. General Abizaid?

3121 General ABIZAID. Sir, I don't know what the policies
3122 are on returning soldiers. I do know that since I have been

3123 | retired, the press certainly covers those services that take
3124 | place in northern Nevada and eastern California, and they
3125 | always do so in a most respectful way.

3126 | Mr. WELCH. And the soldiers when they return initially,
3127 | they arrive at Dover?

3128 | General ABIZAID. Most remains go through Dover, yes,
3129 | sir.

3130 | Mr. WELCH. And no press is allowed to document their
3131 | return?

3132 | General ABIZAID. I don't know. I think it would be
3133 | best for me not to answer. I don't know.

3134 | Mr. WELCH. All right. I waive the balance of my time.
3135 | Thank you, Mr. Chairman.

3136 | Mr. LYNCH. [Presiding.] The gentleman yields. The
3137 | Chair recognizes the gentleman from Idaho.

3138 | Mr. SALI. Thank you, Mr. Chairman.

3139 | Either General Abizaid or General Brown, it would be
3140 | fair to say that when there is an event that is suspected of
3141 | involving friendly fire, that has an impact on morale on your
3142 | troops, doesn't it?

3143 | General BROWN. Absolutely.

3144 | General ABIZAID. That is correct.

3145 | Mr. SALI. And if I understand things correctly, at this
3146 | point you really have to choose what the procedures will be
3147 | for the military. If you have an allegation of friendly

3148 | fire, which I understand was already in the works on April
3149 | 23rd of 2004, you knew that there was some suspicion at
3150 | least.

3151 RPTS STRICKLAND

3152 DCMN MAYER

3153 [1:00 p.m.]

3154 Mr. SALI. You have got to choose at that point whether
3155 you disclose to the family or whether you don't disclose to
3156 the family and wait until the outcome of the investigation
3157 before you announce that there was or was not some, perhaps,
3158 involvement with friendly fire from the death.

3159 You have to choose between one of those two things; is
3160 that correct?

3161 General BROWN. I don't think you have to choose. I
3162 think that is maybe part of the problem. There are people
3163 that believe that you have to wait until the investigation is
3164 fully completed before the family is allowed to be told. I
3165 believe those were older Army regulations.

3166 The current Army regulation, as I understand it, is that
3167 you immediately notify the family if there is an
3168 investigation going on, but in all cases sooner than 30 days.

3169 No later than 30 days the family has to be notified if there
3170 is an investigation going on and kept informed of the ongoing
3171 investigation, as I understand the regulation.

3172 Mr. SALI. Am I correct from the time of Corporal
3173 Tillman's death to the time the investigation was finished
3174 was, in this case, 37 days?

3175 General BROWN. I'd have to look at the time line. I

3176 don't know, Congressman.

3177 General ABIZAID. Congressman, on the 28th I approved
3178 the report that came from General McChrystal's command as
3179 being definite proof of friendly fire. The 28th of May.

3180 Mr. SALI. The 28th of May, a little over 30 days in
3181 this case, versus what you are telling me now, General Brown,
3182 is that the requirement is now 30 days.

3183 General BROWN. The requirement is no later than 30
3184 days.

3185 Mr. SALI. But it could be up to the full 30 days.

3186 General BROWN. And I'm not sure why the regulation is
3187 written that way. I am assuming there could be some
3188 extenuating circumstances that they give you the 30 days, but
3189 I think the requirement is to notify the family immediately,
3190 but no later than 30 days.

3191 Mr. SALI. Immediately following what?

3192 General BROWN. Immediately following the beginning of
3193 an investigation.

3194 Mr. SALI. But that could be up to 30 days later?

3195 General BROWN. I believe that's what the regulation
3196 says, and I'd be glad to take it for the record and provide
3197 that Army regulation to you.

3198 [The information follows:]

3199 ***** COMMITTEE INSERT *****

3200 Mr. SALI. Okay. I would appreciate it if you would do
3201 that.

3202 It seems like we're fighting over about 6 days here in
3203 difference in time. If you are saying that it could
3204 be--within 30 days, no longer than 30 days would meet the
3205 current regulation; is that correct?

3206 General BROWN. Well, I think it goes back to my earlier
3207 point that it doesn't matter what the regulation says, it has
3208 to be followed. So if there were errors made in the
3209 execution of that policy or there were people that didn't
3210 understand that was the policy, then that is where there may
3211 be a problem.

3212 Mr. SALI. The regulations that were in place at the
3213 time were followed; is that correct?

3214 General BROWN. I don't know. I'd have to go back and
3215 see what--the regulation that we are talking about that is
3216 the current regulation, as I understand it, was enacted in
3217 '03.

3218 Mr. SALI. Can you let me know about that?

3219 General BROWN. I will be glad to.

3220 [The information follows:]

3221 ***** COMMITTEE INSERT *****

3222 Mr. SALI. Mr. Chairman, I yield the balance of my time
3223 to the gentleman from California.

3224 Mr. ISSA. I thank the gentleman. I just want to--I
3225 hated to get into Vietnam, but we have gotten into it. I
3226 want to go through a couple of quick things.

3227 During Vietnam, we drafted men and women. Several of
3228 you are Vietnam vets. At that time, as I understand it, we
3229 were drafting those who didn't go to college, those who
3230 couldn't get deferments, that that was a war of the poor and
3231 a war of the minorities. At the time, that was the way it
3232 was said, and as someone who entered the service in 1970, I
3233 saw it that way.

3234 Today, isn't it true that every man and every woman
3235 joins the military voluntarily, we have no draftees left on
3236 active duty, they have all either enlisted or reenlisted;
3237 that every one of these people for the first time is somebody
3238 who went to war knowing they were going to war?

3239 Certainly Corporal Tillman enlisted knowing that our
3240 Nation was at war. Isn't that true?

3241 And I appreciate--General Brown? I have just two quick
3242 questions. One as a Vietnam era vet, a Vietnam vet actually.

3243 General BROWN. Right.

3244 Mr. ISSA. You remember the military where, if you were
3245 a rich college kid, you didn't go for the most part; and we
3246 had the minorities as draftees, the poorest as draftees,

3247 | versus today every man and woman enlisted, and we have no
3248 | draftees on active duty.

3249 | General BROWN. Correct.

3250 | Mr. ISSA. I wanted to make clear that Corporal Tillman,
3251 | like every one of the men and women serving today, did so
3252 | voluntarily.

3253 | The Vietnam War was not a panacea of the right way to do
3254 | it. What we're doing today is the right way, and I think you
3255 | would all agree this is the right way to run the modern
3256 | military as volunteers, knowing volunteers.

3257 | General BROWN. Sir, it is my opinion--I served in the
3258 | draftee Army, and I served in Vietnam; and I also served in
3259 | the all-volunteer Army, and the all-volunteer Army is better.

3260 | Mr. LYNCH. [Presiding.] The panelists are allowed to
3261 | answer the gentleman's question if they would like to
3262 | elaborate.

3263 | Okay. The Chair yields himself 5 minutes.

3264 | Gentlemen, I want to extend my thanks for your
3265 | willingness to come forward and help the committee with its
3266 | work. I want to acknowledge the Tillman family, and my heart
3267 | goes out to them for having to relive this every time a
3268 | hearing is held.

3269 | Now, a number of us, including Mr. Murphy, Mr. Welch,
3270 | Mr. Shays and others, have been out to the area where Mr.
3271 | Tillman was ambushed. And we certainly appreciate the

3272 | complex battle space, as you have described it, and we can
3273 | understand that there was some chaos in this firefight.

3274 | However, I do want to follow the time line here because
3275 | Chairman Waxman spoke earlier about the testimony of
3276 | Specialist O'Neal. And as you may remember, Specialist
3277 | O'Neal was with Corporal Tillman on the ground there, on that
3278 | canyon road near Manah. And Specialist O'Neal went back to
3279 | Salerno, just north of that area, a couple of days after the
3280 | firefight, and actually he wrote a witness statement in the
3281 | immediate aftermath of Corporal Tillman's death that made it
3282 | quite clear that this was a case of friendly fire.

3283 | But then something happened. Someone rewrote that
3284 | statement and the revised version--we had Specialist O'Neal
3285 | in, and we showed him the statement and we asked, Did you
3286 | write this part? No, I didn't. Did you write this part?
3287 | No, I didn't.

3288 | So there was a drastic revision between what the
3289 | eyewitness wrote and what eventually went to the press and
3290 | went to some of you. And we don't know if it went to the
3291 | President or not, but it served at least in part as the basis
3292 | for the Silver Star citation. We know that.

3293 | And while we understand the chaos that might have
3294 | occurred during this firefight, this rewriting, this
3295 | revision, happened after the fact, after the smoke had
3296 | cleared. And I can appreciate the frustration of some of my

3297 | colleagues who feel that something else is going on here, and
3298 | we're not sure what.

3299 | Some people think it was a mix-up, not a cover-up; and I
3300 | can certainly appreciate them feeling that way. But we have
3301 | had an opportunity, all of us, a lot of us, to go out there
3302 | and also observe the high excellence of our military, the
3303 | high excellence of our military officers and folks in
3304 | uniform. And they have performed brilliantly. And yet here
3305 | we have this major, major disconnect between what the people
3306 | on the ground observed and recounted, and then the report
3307 | that gets out to the press and the public and to the family.

3308 | And another issue that is confusing is the P-4 memo. It
3309 | was written explicitly to warn the senior defense officials
3310 | and the President that Pat Tillman, it was highly possible
3311 | that he died of friendly fire. But from the testimony today
3312 | it would seem that no one passed this information to either
3313 | Secretary Rumsfeld or the President. And knowing what I know
3314 | about the best of the military, I find that mind-boggling,
3315 | just stunning, that this happened.

3316 | I want to ask you--because I haven't heard a good
3317 | explanation today, I have to say that, and I am trying to
3318 | pull all of this together--we talked about six different
3319 | investigations. Can anybody on this panel give me an answer,
3320 | how that happened, that the specialist, on-the-ground
3321 | eyewitness right beside Corporal Tillman, right in the unit,

3322 | wrote an accurate description of what happened indicating
3323 | friendly fire; and yet downstream we follow that time line,
3324 | we in the Congress and the American people got a different
3325 | story. And I need to know the answer to how that happened.

3326 | That's why we are having--we owe this to the family.
3327 | And I understand that there was some element of this that
3328 | folks wanted to honor the memory of Corporal Tillman in the
3329 | highest tradition of the military. And he was a hero; the
3330 | minute he put on that uniform, he was an American hero, and
3331 | nothing changes that.

3332 | But we also owe it to our servicemen to accurately
3333 | account for them. And we owe it to their families who offer
3334 | up their sons and daughters to serve this country.

3335 | So I ask you, can anybody here on this panel explain how
3336 | that happened? Explain to the American people how that
3337 | happened?

3338 | Mr. Secretary?

3339 | Mr. RUMSFELD. I--needless to say, it happened the way
3340 | you've described it and the way the various investigations
3341 | have reported it. It happened in the field that somebody
3342 | took somebody else's words and altered them. I have no idea
3343 | who did it. I have no idea what their motive might have
3344 | been.

3345 | I had no knowledge that that had happened.

3346 | Mr. LYNCH. General Myers?

3347 General MYERS. It would be extremely difficult to
3348 divine that. I would really like to know, obviously, why
3349 somebody would do that. I don't have any idea.

3350 And certainly it is the way you described it. I haven't
3351 seen how the words were altered, but it is inappropriate and
3352 inexcusable. But I don't know why.

3353 Mr. LYNCH. General Abizaid, good to see you again, sir.

3354 General ABIZAID. Sir, it is good to see you as well.

3355 It is very difficult to come to grips with how we
3356 screwed this thing up, but we screwed this thing up. It was
3357 clear to me on the 28th of April, when I talked to the
3358 platoon leader who was Corporal Tillman's platoon leader,
3359 that he did not think of it as being anything other than an
3360 enemy action. We didn't talk long about it. He had been
3361 wounded. But he didn't give any indication of friendly fire
3362 at that time.

3363 Clearly, General McChrystal knew by the 29th that there
3364 was a high probability, as he described in his message, that
3365 there was friendly fire. The message that General McChrystal
3366 sent to me, which was delivered late for problems that took
3367 place at my headquarters--as a result of problems that took
3368 place at my headquarters, undoubtedly delayed the information
3369 being relayed to the Chairman in the manner that it should
3370 have been.

3371 When I discovered the problem, I relayed it to the

3372 Chairman in as timely a manner as I could, given the
3373 circumstances. But it was clear that somewhere between the
3374 29th and the--and the period where I notified the Chairman
3375 that this P-4 just hadn't gone to me. It had gone to General
3376 Brown, it had gone to the Department of the Army, and it was
3377 my supposition that the Department of the Army was acting on
3378 the notion that friendly fire had occurred, which can
3379 probably be the reason that the Chairman accounts for--and
3380 again this is supposition on my part, it is not a fact, I
3381 don't know what happened--which is why the Chairman
3382 recollects having heard it as early as the 30th or the 31st,
3383 whatever day it happened.

3384 Again, no excuses can be offered, but I can tell you a
3385 couple of facts. General McChrystal reported the incident in
3386 a forthright and in a timely fashion.

3387 That the information flowed poorly through the chain of
3388 command to include me is a problem of the chain of command,
3389 both administrative and operational. It should have been
3390 handled better and it wasn't. From that, a lot of other bad
3391 things may have flowed.

3392 But it is clear that all along fratricide was called as
3393 early as the 29th of April, and that on the 28th of May, we
3394 conclusively stated it was fratricide, a report that I
3395 rendered to the Chairman and to the Secretary.

3396 In terms of fratricide investigations, by the way,

3397 | that's not a slow investigation. That's a fast
3398 | investigation. In looking back, of how we go about
3399 | investigating these things after they've happened, it may
3400 | seem slow; but in my experience with a lot of fratricides, it
3401 | went probably faster than most.

3402 | Mr. LYNCH. Thank you.

3403 | General Brown, any conclusion?

3404 | General BROWN. Sir, I'd just say, as I mentioned
3405 | earlier, as Secretary of the Army Geren said, it could not
3406 | have been more poorly handled. I think it was a process--it
3407 | is a difficult process to start with, and it was just very
3408 | poorly handled.

3409 | When I got the P-4, I made the assumption--and probably
3410 | a bad assumption, since I was an "info" addressee and not the
3411 | "to," that that flow of information would flow through the
3412 | chain of command. It would have been simple for me to pick
3413 | up the phone and call the General. I didn't.

3414 | I did respond to the P-4, back to General McChrystal.
3415 | But, quite frankly, I just made the assumption--a bad
3416 | assumption now, I know--that normal P-4 traffic moves pretty
3417 | fast, that that would go to the Chairman immediately.

3418 | So it's unfortunate it was poorly handled, and
3419 | unfortunately it is the Tillman family that had to pay the
3420 | price for it.

3421 | Mr. LYNCH. Thank you, sir.

3422 The Chair recognizes the gentleman from Connecticut, Mr.
3423 Murphy, for 5 minutes.

3424 Mr. MURPHY. Thank you, Mr. Chairman. I understand we
3425 have votes pending, so I will be brief.

3426 Gentlemen, thank you very much for being here today. I
3427 joined Representative Lynch and some others of our colleagues
3428 in a trip earlier this year to Iraq and Afghanistan; and
3429 frankly, as someone who has never worn the uniform or fired a
3430 gun or been shot at, I left there with a deep and, frankly,
3431 unconditional sense of appreciation for what our men and
3432 women are doing there. And I thank you for your role in
3433 leading them.

3434 My question is this: It is my understanding that the
3435 Pentagon regulations require that a family be notified that a
3436 fratricide investigation is pending even before the official
3437 results are concluded. And I have a little bit of
3438 trouble--and I will present the question first to General
3439 Myers--with the contention that simply because the
3440 malfeasance wasn't in your direct chain of command that the
3441 leaders of the military didn't have an accompanying personal
3442 or moral responsibility to act on what they knew was
3443 misinformation being given to the public--and certainly, if
3444 not misinformation, a complete lack of information given to
3445 the family.

3446 I know this is a complex question for military leaders

3447 | when you have a responsibility to break outside of the chain
3448 | of command, when you know that something is being
3449 | miscommunicated or you know that something is being
3450 | uncommunicated. I will ask it of General Myers first.

3451 | There are a couple of weeks, 2 or 3 weeks, that you have
3452 | been informed that there is a fratricide investigation going
3453 | on. The family has not been notified. There are Sports
3454 | Illustrated articles and much public awareness of the initial
3455 | conclusion of death of Mr. Tillman. As Chairman of the Joint
3456 | Chiefs of Staff, in retrospect, do you feel that you had a
3457 | personal or moral responsibility to alert the family even
3458 | though the chain of command may not have dictated that it was
3459 | your responsibility?

3460 | General MYERS. I think it would have been absolutely
3461 | irresponsible of me to interfere with the Army procedures,
3462 | frankly. First of all, they are not Pentagon regulations;
3463 | they are Army regulations. The Army was the one that had the
3464 | regulations that said we have to notify the family as soon as
3465 | we know of the possibility.

3466 | And frankly, with the investigation ongoing, what I was
3467 | concerned about was exerting any kind of undue command
3468 | influence if this ever got to UCMJ, if it ever got to the
3469 | Secretary's desk; if he ever said, What do you think, which
3470 | would have been the only reason I would ever look at it--if
3471 | the Secretary would say, Give me your opinion on this.

3472 You want to stay out of those matters so that you cannot
3473 be used by some defense attorney that, Gee, we have had Myers
3474 saying this and the Secretary saying this; therefore, my
3475 client who is accused of wrongdoing is not guilty. There is
3476 obviously command influence.

3477 So it didn't occur to me at the time, clearly. I knew
3478 there was an investigation ongoing. I thought that was
3479 appropriate. I didn't know what had been told to the family
3480 or not been told. I just wasn't aware.

3481 I mean, it sounds harsh, and it is harsh, but the
3482 reality is there is a lot of things going on, and
3483 this--Corporal Tillman's death was significant, but it wasn't
3484 the kind of issue that occupied a whole lot of time. As John
3485 said, we were working on the battle of Fallujah. We had a
3486 myriad of issues. Abu Ghraib had just broke; we spent a lot
3487 of time in the media with Abu Ghraib. There were a lot of
3488 issues taking our attention.

3489 I think it would have been irresponsible for the
3490 chairman to get involved in what are Army matters. I would
3491 have to override the Secretary of the Army, acting Secretary.

3492 That would be something that would be totally inappropriate,
3493 or get into General Schoomaker's, Chief of the Staff of the
3494 Army's, business.

3495 Mr. MURPHY. I appreciate there were a lot of pressures
3496 occupying your time and occupying an immense amount of the

3497 public's time. There were some things that many, many people
3498 were paying attention to. Do you feel, in retrospect, that
3499 you should have asked during those intervening weeks whether
3500 or not the Tillman people knew?

3501 General MYERS. No, the matter should have been handled
3502 by the Army. And it would not--I mean, I don't think it
3503 would have occurred to me to say, Gee--I mean, this was
3504 not--unfortunately, not the first fratricide, not the first
3505 death.

3506 Even if it is not fratricide, there are issues with the
3507 family members that the services are handling. And I don't
3508 think it is my position, certainly not in any of the statutes
3509 or even morally, I believe, to get involved when other people
3510 are trying to handle that.

3511 I mean, that's the services' business, and it is pretty
3512 explicit. It would have been very unusual for me to ask
3513 those kinds of questions, and frankly, it didn't occur to me.

3514 Mr. MURPHY. General Brown, do you regret not looking
3515 back, not asking more questions about what the family knew?
3516 Do you feel you had an obligation, whether or not it was
3517 within the direct chain of command, to intervene and try to
3518 make sure--I am concerned mostly about the family, I think.
3519 As the family has noted, this was a fraud perpetrated on the
3520 American public as well. But specifically, in relation to
3521 the family, why weren't more questions being asked within the

3522 | chain of command of whether or not the family was being told?

3523 | General BROWN. What I would say is that the Army ran
3524 | this investigation. They also run the casualty notification
3525 | process, and so do it routinely. And so when you see them
3526 | doing the actions that they are supposed to be doing, I was
3527 | not questioning them every day, were you doing every step in
3528 | the process.

3529 | Quite frankly, when I found out there was an issue that
3530 | the family hadn't been notified, by asking the
3531 | question--which was before the press release, I asked the
3532 | question, had the family been notified by the Army and our
3533 | Army component, and I found out that they had not.

3534 | And then we tried to take actions to help facilitate
3535 | getting the family notified before the press release came
3536 | out, when I did ask the question.

3537 | Mr. MURPHY. Thank you, Mr. Chairman.

3538 | Chairman WAXMAN. [Presiding.] Thank you Mr. Murphy.

3539 | Mr. Honda.

3540 | Mr. HONDA. Thank you, Mr. Chairman. And I appreciate
3541 | the witness' presence and your endurance at this time. Let
3542 | me get back to the P-4 discussion, quick question.

3543 | P-4 is the classified memo to those that the memo has
3544 | been written to; is that correct?

3545 | General ABIZOID. That's correct, sir. I mean, it
3546 | is--in the channels that this was sent, it was actually sent

3547 | in very highly classified channels.

3548 | General MYERS. But a P-4 can be unclassified.

3549 | Mr. HONDA. So it was an important memo?

3550 | General ABIZAID. There are a lot of different P-4s that
3551 | are sent around, but it is usually commander-to-commander
3552 | communication.

3553 | Mr. HONDA. And these are for the eyes, including those
3554 | who are cc'd?

3555 | General BROWN. I'm sorry. I didn't understand the
3556 | question.

3557 | Mr. HONDA. It is also not only for--the memo is
3558 | directed to a couple of people, but someone said that the
3559 | others were cc'd.

3560 | General BROWN. Right.

3561 | Mr. HONDA. And that also means that this was meant for
3562 | your eyes also?

3563 | General BROWN. Right.

3564 | Mr. HONDA. I'd like to read the last sentence of the
3565 | P-4 memo and ask for a clarification of the gentlemen here.

3566 | In this sentence, General McChrystal writes that he
3567 | feels it is essential that the three generals receive
3568 | information about Corporal Tillman's death, and here is why.

3569 | He says, "In order to preclude any unknowing statements
3570 | by our country's leaders which might cause public
3571 | embarrassment if the circumstances of Corporal Tillman's

3572 | death becomes public..."

3573 | He says, "if the circumstances of Corporal Tillman's
3574 | death are ever made public." For the record, were you
3575 | involved in any discussion about withholding information
3576 | about Corporal Tillman's death from his family or the
3577 | American public?

3578 | Second question: Was there any conversation that the
3579 | information about his death would never be released to his
3580 | family or the public?

3581 | General BROWN. There was no conversation about his
3582 | death or fratricide ever not being released. There was never
3583 | a discussion on that.

3584 | The only discussion I ever heard--and we weren't the
3585 | investigating body or the notification and next-of-kin
3586 | responsible agency--was the normal assumption that people
3587 | were waiting until the investigation was concluded before the
3588 | family would be notified. Okay.

3589 | So then that is--that is routinely understood. And as a
3590 | matter of fact, it is as I understand from this hearing this
3591 | morning, that is still current Marine Corps policy, that the
3592 | investigation is completed and then the family is notified.

3593 | So that information would have been protected at that
3594 | time so that it was not released to the press, so that the
3595 | family would not wake up and find it in the press
3596 | prematurely, before the investigation was completed and

3597 | signed off by the combatant commander.

3598 | General ABIZAID. Yes, sir, there was never any
3599 | intention at any level to keep the idea that it was
3600 | fratricide from either the family or the public. It was
3601 | clear that it would be disclosed at the appropriate time, as
3602 | decided by the Department of the Army.

3603 | Mr. HONDA. General Myers?

3604 | General MYERS. I agree with General Brown.

3605 | Mr. HONDA. You are saying that there were no
3606 | discussions, or you were not involved in any discussions
3607 | about withholding information from the family or the public?

3608 | General MYERS. I was not involved in any discussions
3609 | where withholding information from the family or the public,
3610 | or anybody, ever came up.

3611 | Mr. HONDA. Okay.

3612 | General MYERS. I was not.

3613 | Mr. RUMSFELD. Nor was I.

3614 | General BROWN. Sir, if I could go back to that for just
3615 | a second, when we get a casualty notification, which in my
3616 | headquarters we will get for every one of our casualties, we
3617 | are very careful to protect the names of the individuals, and
3618 | the individuals, until the family notification of next of kin
3619 | has taken place. So that would fall into the same category.

3620 | Mr. HONDA. The P-4 was written April 29th, 7 days after
3621 | the incident. So the 7 days ensuing, for 7 days there wasn't

3622 | an investigation, and there was a report by Mr. O'Neal; is
3623 | that correct?

3624 | General BROWN. I don't know. A report by Mr. O'Neal,
3625 | I'm not familiar with.

3626 | Mr. HONDA. He is the gentleman who wrote the initial
3627 | report.

3628 | General ABIZAID. I know there was an initial 15-6 that
3629 | was initiated, but I would have to look at the report to say
3630 | what date it was initiated. Perhaps we could find that
3631 | information.

3632 | Mr. HONDA. And the contents of that first report were
3633 | changed, and it appears on the P-4 as it has been changed.
3634 | Are you aware of that? Or is that a correct statement?

3635 | General BROWN. Just to be clear, could you restate that
3636 | statement again? And I think we will have better chance of
3637 | answering it.

3638 | Mr. HONDA. There was previous testimony that there was
3639 | a written report by a combatant next to Mr. Tillman, who
3640 | wrote down the events, the accurate events of his death. And
3641 | I understand through the testimony today that that has been
3642 | changed and that change is reflected in the P-4. Is that a
3643 | correct statement?

3644 | General BROWN. I don't know.

3645 | General ABIZAID. Here is what I do know, to make sure
3646 | that we are all talking about the same dates.

3647 The incident took place on the 22nd. The chain of
3648 command, through me, was notified of Corporal Tillman's
3649 death.

3650 There was a P-4 sent on the 29th.

3651 The first 15-6 report was completed on the 4th of May,
3652 and it was deemed not sufficient by General McChrystal, and
3653 another 15-6 officer was appointed on the 8th of May.

3654 And on the 25th of May, that report reached my
3655 headquarters, and on the 28th of May, I approved that report.

3656 Those are the dates as I know them.

3657 Chairman WAXMAN. Thank you very much, Mr. Honda. I
3658 appreciate your joining this committee for this hearing and
3659 the previous one. You are not a member of the committee, but
3660 I know of your strong interest in the concern about Corporal
3661 Tillman.

3662 Could I just ask this question? Is it--on how many
3663 occasions would you get a P-4 memo saying, Let the President
3664 and the Secretary of the Army and the Secretary of the Armed
3665 Services know about a certain fact, get it to them because we
3666 want to help them avoid embarrassment?

3667 Have you ever received a P-4 like that, General Brown.

3668 General BROWN. Never, sir.

3669 Chairman WAXMAN. General Abizaid, did you ever receive
3670 a P-4 like that?

3671 General ABIZAID. Yes, I've received some very

3672 interesting P-4s; and sometimes they would say, Make sure the
3673 President knows, or make sure this happens or that happens.

3674 There is an interesting thing about the P-4 that says,
3675 Deliver during normal duty hours; and so again General
3676 McChrystal did exactly the right thing. He sent a timely
3677 message in a timely fashion through the most secure channels.

3678 And, again, it went to Tampa. I was forwarded. It
3679 didn't get to me in a timely fashion, forward. That's a
3680 problem that was strictly in my command.

3681 But, again, when I told the Chairman, I did not tell the
3682 Chairman in order that the Chairman would run to the
3683 Secretary and then run to the President. I told the Chairman
3684 so he would know, and I explained to him in general terms the
3685 basic information in the P-4.

3686 Chairman WAXMAN. Did you tell him that this was
3687 something that we ought to--he ought to let the civilian
3688 authorities in the White House, even the President, know this
3689 information to avoid embarrassment?

3690 General ABIZAID. I don't know that I used those words,
3691 but I said that it was important that the leadership know.
3692 And between the Chairman and me--I mean, it's clear that the
3693 leadership up above us is the Secretary and the President.

3694 Chairman WAXMAN. Yes. See, the issue is not just
3695 failure to let the family know; there is an issue of whether
3696 there was a failure to follow the routine way things are

3697 | handled, to let the President know, to avoid embarrassment,
3698 | let the President know and our Nation's leaders know.

3699 | General Myers, have you gotten P-4 memos that asked you
3700 | to let the President and our national leaders know something?

3701 | General MYERS. I probably have.

3702 | Chairman WAXMAN. And when you get that kind of
3703 | information, what do you do with it?

3704 | General MYERS. You have to put your judgment on it,
3705 | because people are recommending to you what they think is
3706 | appropriate, and you have to put your judgment on it.

3707 | Like I said, in this case, what would have been logical
3708 | would have been to inform the Secretary. I can't recall that
3709 | I did that. I don't know. I don't have any documentation
3710 | that says I did that.

3711 | But that would have been a logical thing to do when I
3712 | got a P-4 like this, to say, Mr. Secretary, you know this has
3713 | now gone from "Corporal Tillman was killed by enemy fire" to
3714 | "possible fratricide." But that would have been the logical
3715 | thing to do.

3716 | I can't tell you that I did it, because I just don't
3717 | recall whether I did it or not.

3718 | Chairman WAXMAN. Okay. Well, let me conclude the
3719 | hearing by indicating the facts that General Myers and
3720 | General Brown knew about the friendly fire issue at the end
3721 | of April.

3722 General Abizaid learned on May 6th.

3723 Secretary Rumsfeld learned on May 20th.

3724 All of these are the senior leaders that knew before the
3725 public and the family--

3726 Mr. RUMSFELD. Could I correct that?

3727 Chairman WAXMAN. Yes.

3728 Mr. RUMSFELD. I want to make sure this is precisely
3729 accurate. I do not believe I testified that I learned on May
3730 20th, and if that impression has been left, I don't want that
3731 left.

3732 My testimony is that I do not recall; that is the letter
3733 I gave to the IG. I was told that a person was in a meeting
3734 after May 20th when I was informed. But that is--I just
3735 simply do not know when I first learned of the possibility of
3736 fratricide.

3737 Chairman WAXMAN. I appreciate that correction.

3738 General ABIZAID. And, sir, if I may, I also wanted to
3739 make sure that the 6th is a logical day. It is not "the"
3740 day; the day is somewhere between 10 and 20 days after the
3741 event. It's the best that my staff and I could come to a
3742 conclusion on at this point.

3743 Chairman WAXMAN. You were all very busy. There is no
3744 question about it.

3745 General BROWN. Sir, one other thing, if I could
3746 interrupt also to correct.

3747 Your statement was that I knew about the friendly fire,
3748 I knew that there was an investigation ongoing, the potential
3749 for friendly fire.

3750 General MYERS. That goes for me, too.

3751 General ABIZAID. And for me, as well.

3752 Chairman WAXMAN. Well, you all knew or didn't know
3753 within that time frame. But it appears that all of you had
3754 some indication before the ceremony where the world was being
3755 told that Corporal Tillman was killed in the line of duty.
3756 He was getting the Silver Star. It was a memorial service
3757 where this information, this misinformation, was given out.

3758 And you have all admitted that the system failed. So I
3759 just think that the public should have known, the family
3760 should have known earlier who was responsible. But--none of
3761 you feel that you personally are responsible, but the system
3762 itself didn't work.

3763 Ironically enough, the President could have called you
3764 all in and said, Why didn't I know about this when there was
3765 a P-4 memo? But somehow or another it seemed like the
3766 President avoided embarrassment as well. So maybe somebody
3767 did know at the White House that this was likely to be
3768 friendly fire, on more thorough investigation.

3769 You have been here a long time. I appreciate your
3770 taking the time to be with us. We are obviously trying to
3771 find out what went on and who had responsibility, who dropped

3772 | the ball.

3773 | The system didn't work. Errors were made. That's too

3774 | passive.

3775 | Somebody should be responsible, and we're trying to

3776 | figure that out.

3777 | That concludes our hearing today, and we stand

3778 | adjourned.

3779 | [Whereupon, at 1:33 p.m., the committee was adjourned.]