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House of Representatives

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July 24, 2007

Mr. Fred F. Fielding
Counsel to the President
The White House
Washington, DC 20500

Dear Mr. Fielding:

We are writing to thank you for meeting with us on July 19, 2007, to discuss the Committee's investigation into when and how White House and Pentagon officials learned that U.S. Army Corporal Patrick Tillman's death in Afghanistan in April 2004 was caused by friendly fire.

We also want to thank you for making available to our staffs for review approximately 400-450 pages of documents the White House had previously redacted or withheld. This review has enabled us to narrow our differences and focus our request for documents. After reviewing these documents, we understand that some of the withheld documents were communications that were private and/or otherwise not germane to this investigation thus necessitating in camera review. Additionally, many of the documents that the staff reviewed appear unnecessary to the Committee's investigation, and we are no longer requesting production of these documents.

There are some documents that the staff reviewed that are relevant to the inquiry and that we ask that you produce to the Committee, including all responsive e-mails in the respective e-mail chains. They are identified in a list enclosed with this letter. They include several e-mail communications among White House officials discussing Corporal Tillman's death, including (1) an e-mail exchange between Scott McClellan, the White House spokesman, and Dan Bartlett, the White House communications director, on April 23, 2004, discussing how to respond to press inquiries regarding Corporal Tillman's death; (2) e-mail exchanges between White House officials involved with drafting the President's speech for the White House Correspondents' Dinner on May 1, 2004; and (3) e-mail exchanges between White House officials and outside individuals regarding suggestions on how to respond to the news of Corporal Tillman's death. While these communications do not explain when or how the White House learned that Corporal Tillman died from friendly fire, they do appear to demonstrate that White House staff was acutely sensitive about responding appropriately to Corporal Tillman's death and are important to our investigation.

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Apart from these documents, you informed us last week that the White House continues to withhold other documents from the Committee. In particular, you stated that the White House had not provided or allowed Committee staff to review drafts of the President's speech at the White House Correspondents' Dinner on May 1, 2004. You expressed special concern about providing to the Committee copies of draft speeches actually reviewed by the President.

In deference to your concerns, we will not insist at this time on production of drafts that were reviewed by the President. We do believe, however, that you should provide to the Committee (or make available for staff review to assess their relevancy) drafts of the speech that were not presented to the President for his review. We note that the Administration has previously provided drafts of the President's 2003 State of the Union Address making the case for war against Iraq — perhaps the most significant speech of the Bush presidency — to the Senate Select Committee on Intelligence. We see no reason why drafts of the President's remarks to a Correspondents' Dinner would merit greater secrecy than drafts of the State of the Union Address.

As we explained at the meeting, the draft speeches are relevant to the Committee's investigation because it appears that it may have been an inquiry from one of the White House speechwriters, John Currin, that led Army Major General Stanley McChrystal, the commander of the Joint Task Force for Afghanistan, to send a "Personal For" (P4) memo on April 29, 2004, to three of the highest ranking generals at the Department of Defense warning that Corporal Tillman may have been killed in a friendly fire incident. In this memo, General McChrystal wrote: "I felt that it was essential that you received this information as soon as we detected it in order to preclude any unknowing statements by our country's leaders which might cause public embarrassment if the circumstances of Corporal Tillman's death become public."¹ Thomas Gimble, the Acting Inspector General of the Department of Defense, testified before this Committee: "[w]e think the P4 memo stopped with the three generals ... [and] that it didn't go any further."²

We do not doubt your good faith in collecting responsive documents, but as you agreed to do last week, we do request that you re-examine whether you are in possession of any documents

¹ E-mail from Maj. Gen. Stanley McChrystal, Joint Task Force Commander, to General John P. Abizaid, Commander, U.S. Central Command, Gen. Bryan P. Brown, Commander, U.S. Special Operations Command, and Lt. Gen. Philip Kensinger, Commander, U.S. Army Special Operations Command (Apr. 29, 2004) (online at <http://oversight.house.gov/documents/20070424160511.pdf>).

² *Hearing on Misleading Information from the Battlefield before the House Oversight and Government Reform Committee*, 110th Cong. (Apr. 24, 2007) Tr. 93 (statement of Thomas Gimble, Acting Inspector General, Department of Defense).

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that would explain when and how the White House learned of Corporal Tillman's death by friendly fire.

As part of our ongoing investigation, the Committee plans to interview or depose former White House officials regarding when and how White House and Pentagon officials learned that Corporal Tillman's death in Afghanistan in April 2004 was caused by friendly fire. As a courtesy, we are providing you with the names of individuals to whom we are sending invitations. They are: Dan Bartlett, former Assistant to the President for Communications; Scott K. McClellan, former Assistant to the President and Press Secretary; Michael Gerson, former Assistant to the President for Speechwriting; John Currin, former Director of Fact-Checking; and Taylor Gross, former Spokesperson.

We look forward to your continued cooperation with the Committee's investigation and ask that you provide the enclosed list of documents and the copies of the Correspondents' Dinner speech that were not reviewed by the President to the Committee by Wednesday, July 25. If you have any questions about this request, please contact one of us or ask your staff to contact the Committee staff.

Sincerely,



Henry A. Waxman
Chairman



Tom Davis
Ranking Minority Member

Enclosure