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2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051
FACSIMILE (202) 225-4784
MINORITY (202) 225-5074
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August 2, 2007

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

Dear Mr. Fielding:

We are writing to follow up on our July 31, 2007, meeting with you regarding the Committee's investigation into what the White House knew about Corporal Patrick Tillman's death by friendly fire. We believe the accommodations that both sides discussed during the meeting can provide a path forward that, we hope, will avert a conflict between the branches.

There are three areas of dispute. The first is the Committee's request for transcribed interviews with three former Assistants to the President: Dan Bartlett, former Assistant to the President for Communications; Scott K. McClellan, former Assistant to the President and Press Secretary; and Michael Gerson, former Assistant to the President for Speechwriting. At the meeting, you asked that we consider interviewing these officials without a transcript and with the presence of counsel from the White House, but without prejudice to the Committee's right to seek a transcribed interview with these officials or their testimony under oath at a hearing or deposition.

We believe this is a constructive offer and we are willing to proceed on this basis. In dealing with an earlier impasse over documents, we proposed a staff review of the documents to allow the Committee to assess which documents were needed for the investigation and to narrow the areas of dispute. As both sides have acknowledged, this worked well. The staff review revealed that many of the documents about which you had concerns were not needed for the Committee's investigation, and you appropriately agreed to provide the Committee with the narrowed list of documents that were determined to be needed for the investigation.

The approach you have proposed for informal interviews with Mr. Bartlett, Mr. McClellan, and Mr. Gerson holds similar promise. These interviews will allow us to assess whether these individuals have information that is relevant to the Committee's investigation. If they do not have relevant information, an unnecessary dispute between the branches will be avoided. If they do have relevant information, we will ask them to return to the Committee for a

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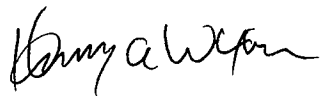
transcribed proceeding so that the Committee has an official record of their statements. We hope that at that point you would refrain from asserting any claims of privilege, though we recognize that you are reserving your rights.

The second area of dispute involves the Committee's request for transcribed interviews two other former White House officials: John Currin, former Director of Fact-Checking; and Taylor Gross, former Spokesperson. These officials are not Assistants to the President and have a more junior status. In fact, they are likely to have had less direct contact with the President than other White House officials who have already provided sworn testimony or transcribed interviews to the Committee, such as Sara Taylor, the former Deputy Assistant to the President and Director of the Office of Political Affairs; Ruben Barrales, the former Deputy Assistant to the President; and Alan Swendiman, Special Assistant to the President and Director of the Office of Administration. For this reason, we ask that they appear for a transcribed interview as we have requested. If they are unwilling to appear for this interview voluntarily, the Committee will subpoena their attendance at a hearing or deposition.

The final area of dispute involves the Committee's requests for drafts of the President's speech at the White House Correspondent's Dinner on May 1, 2004. In deference to your concerns, we will not pursue at this time access to drafts of the speech that the President himself reviewed. But we do ask that you make the other drafts available for a staff review by August 10 to determine whether their production is needed for the investigation. We hope you will find this to be an acceptable accommodation and avoid the need for the Committee to subpoena these documents.

We appreciate the productive discussions we have had with you and reiterate our desire to resolve disputes by mutual accommodation. We hope that the accommodations we are offering will make that possible in this instance.

Sincerely,



Henry A. Waxman
Chairman



Tom Davis
Ranking Minority Member