

PATRICK K. TILLMAN

Attorney at Law

June 21, 2005

David Morriss
Senate Armed Services Committee
Washington D.C.

Sent By Facsimile to 202/228-0037

Re: Senate Investigation – Pat Tillman

Dear Mr. Morriss,

Thank you for taking the time to talk to me the other day. Sorry about bending your ear so much. I'm sure that after my second rant, at least, you were sorry you returned my call. Now that I've vented, I'm fine.

To follow up on my comments:

On or about April 21, 2005 I exchanged the attached letter dated April 21, 2005 for a box of documents reputed to be the latest "15-6" homicide investigation. I presume General Jones and Michael Hargis, Esq. received their respective original/copy, though I have not heard back from either of them. The letter has gone to no one else – or to any press organization. "But for" your comment regarding General Jones's presentation, I doubt seriously that I'd have released the letter to anyone. But I have a feeling this guy is trying to sell you the same used car he tried selling me.

You advised me that General Jones briefed your committee in April 2005. I was not notified of this briefing, though military press releases have repeatedly represented that I am kept abreast of all aspects of this investigation. I was told only that the Senate & House Armed Services Committees requested an unredacted copy of the 15-6. It never dawned on me that you would accept a briefing from the same people you are investigating or I'd have called sooner. It makes no sense. But it probably committed them to the same presentation as that given me, which should give you a flavor of my frustration.

I will assume the General used the same Power-Point presentation he used on me, the one (1) I found to be absolute bullshit. Personally, I think it's an outright lie. He relies on insupportable garbage, most of which was made up. He holds a serious position of authority- kinda like you guys. You're all obligated to scrutinize this material and base your conclusions (and presentations) on accurate, supportable facts. I'm still waiting.

Since I did not have the 2000 pages at the time I wrote the letter, I had to rely on their presentation, the 64 page Briefing Book they gave me as soon as I arrived, and the baseline facts provided me approximately six (6) months earlier. After reviewing the 2000 pages, I can say that the letter I sent could have been much longer, but not much more accurate with the exception of the identity of the killer.

As well as reviewing the underlying documents, I had a forensic pathologist review the autopsy report. He's also a ballistics expert. Though he is not as critical of the report as me, stating it's a "typical military autopsy," I think that misses the point. Pat's death was not a typical KIA. He does affirm that standard operating procedure is to use the metric system to measure wounds, not the English system, e.g. $\frac{1}{4}$, $\frac{1}{2}$, $\frac{5}{8}$. It's much more accurate. He also added that measurements of bullet piercings to the skin are nowhere near as helpful or accurate as measurements of piercings to the skull in determining the caliber of those bullets that struck Pat. Skin has more flexibility. No such measurements were taken. Most importantly, he advised me that the two (2) tightly spaced/grouped shots (.762 bullets from M240 machine gun) probably killed Pat and probably did not push his body backwards, as I assumed in my letter. If he was ~~hening~~ leaning forward, and he probably was, his weight would have carried him forward, placing him face down in the dirt, dead. Then, a single shot from a M-4 rifle - a kill shot - made sure there was no need to walk up the hill to confirm his death.

From 60 yards away with good visibility, a kill shot was put into my son's head. Someone ought to be curious. The shooter was the team leader, a 7-year veteran, a Ranger.

With respect to the three (3) investigations you asked about, Captain Scott submitted the first one. A superior(s) wrote the second one when Captain Scott refused to change his. Version two (2) was the 15-6 first presented to me. It contained falsified baseline facts like distance and lighting conditions, and omitted some of the graphics of the killings. Captain Scott disavowed the second 15-6 as his work product. The third 15-6, presented to me March 31, 2005, was a co-signing, a rubber stamp of the second.

I recognize the U.S. Senate is not interested in participating in a homicide investigation. It should, however, be interested in the integrity of military investigations, especially in situations of public interest, and in the accuracy of presentations made to you. The Senate should be able to rely on a decorated General when he makes a statement, especially a prepared statement with pictures. General Jones was not only in charge of the investigation, he personally investigated particular aspects thereof. I'm sure he made comments to that effect when making his presentation to you; of course, to assure you of the accuracy of his presentation.

I ASSURE YOU, no investigator worth a damn would have made the presentation I sat through unless they had an agenda different from the truth. The initial investigation was changed. Conflicting testimony was disregarded. Key evidence was destroyed and/or omitted. Witnesses, probably with supervision of superiors, changed their testimony. No one has been confronted with their conduct ... I'm just repeating my points in the attachment. Sorry.

With respect to the timing of the family's notification, it's almost irrelevant. Slight-of-hand for the press. The issue of importance, at least to you, is the integrity of the military, from the Lieutenant-Colonel on the ground who effected an immediate cover-up, all the way up and past General Jones.

I'll spare you the balance unless you ask. I hate having clients spoon feeding me. I always think they're lying. But the information that should have been highlighted by General Jones, information you now have, was not even addressed in his presentation to me. I pressed many of the points set forth in my letter and received responses that were simply evasive lies, e.g. "*our goal was*

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simply to determine if there was fratricide. It does not preclude others from using this information for other purposes.” And maybe so, but the presentation clearly states that no one did anything wrong. Whose going to challenge a General? You?

If you're interested, please call.

Respectfully,



Patrick K. Tillman

Attachment

PATRICK K. TILLMAN

Attorney at Law

April 21, 2005

Gary M. Jones, Brigadier General
Department of the Army
Special Forces Command (Airborne)
Fort Bragg, North Carolina 28310

Re: Patrick Daniel Tillman
Report of Death

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General Jones,

The "briefings" you gave me – approximately six (6) months ago and March 31, 2005 – were dishonest. They were misleading, and I believe deliberately so.

Before the first briefing, I asked no fewer than four times (4x) for a copy of the 15-6 before I flew myself to Seattle, Washington, "*for the facts of my son's death.*" It seemed appropriate to prepare if I was being allowed to ask questions. Apparently, contrary to assurances otherwise, you wanted me to listen, only. The presentation, of course, sympathized with the family and criticized the actions of those in the field. The paperwork, however, was different. After the presentation, when finally given the Briefing Book/Summary, along with some of the supporting documents, I had the opportunity to review your conclusions and address the limited baseline facts provided. Your conclusions and criticisms were insupportable, many in the field were superficially and/or inappropriately criticized, and you omitted or clouded many of the baseline facts. The 15-6 was a sham. My criticisms were made known to you. I again asked for the new and improved report before the March 31, 2005 briefing. I got nothing. The March 31, 2005 briefing went much the same way as the first.

As far as I'm concerned, all investigations were to address two (2) issues:

1. **How was my son killed.**
2. **Was there a cover up.**

1. **How was my son killed.** The updated, thoroughly investigated, 2000+ page report omits an answer but clearly implies that it doesn't matter. It was an accident. "*The confusion of it all.*" The prior 15-6 also omitted an answer. At the March 31, 2005 briefing, repeatedly I was told that your mission was simply to determine if fratricide¹ occurred. If that was the scope of your mission, you wasted an awful lot of time, effort and money. A fortunate by-product,

¹ Fratricide is defined as "the act of killing one's own brother." (Webster's Dictionary) This was a "homicide," which is defined as "the killing of a human being by another, whether murder or manslaughter." (Id.)

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however, is your concession that *baseline facts* are needed to make appropriate decisions. Here's a few:

a. **Afghan.** When Sgt. Baker (7+ years military experience) came out of the canyon ambush, he knew full-well enemy soldiers were situated 4-800 meters above and behind him. He had been shooting up at them moments earlier. He spotted the Afghan 78 meters away, somewhat uphill and directly to his right. (P-13-14²) The Afghan was firing further uphill, cross-canyon, well over Baker's head and behind him (P-2, #3), at the same enemy ambushers Baker was earlier concerned about. Could Baker, the first shooter, make out the details of his first victim? Baker admits that he recognized "it" was a man, his nationality, his skin color, he had a beard, and was firing an AK-47. Was he standing or prone? Baker's statement (not referenced) put him prone. Your report does not conclude or adequately address this lie. The Afghan was on a fairly steep slope. Doubtful he was on his belly, head down hill, shooting up. That makes no sense. (P-5 & 15) He was standing, or dropped to one (1) knee, like Pat and O'Neill. He was dressed in military garb³ (the enemy has no military garb). "Tracers" were leaving the area. His underbelly was exposed. He was no threat. He was, in fact, the proverbial "*duck on a pond*." Eight (8) rounds were pumped into/at the Afghan. Not mentioned. Pat and O'Neill are within five (5) yards of him. Not mentioned.

From this same general location (Position #1; P 13-15), all four (4) shooters unloaded an un-Godly barrage into Pat's position. Details of what they saw immediately before and while shooting are omitted. Details of how many rounds were fired, the duration or pattern are sketchy, at best. "*Derr, we're supposed to shoot where he shoots.*" (N-5) You or someone at the briefing actually said -- repeatedly -- "that's what they're trained to do." NO! They're not.

The GMV driver saw the Afghan, recognized the AK-47, and recognized he was a "friendly." The report places this recognition after passing the corner of the rock wall and just before reaching the spur that would have masked Tillman's position. (N-7) By then, he was dead. He was shot dead when the GMV was in the "#1" position -- approximately 55 meters earlier. (P-13) "A[nother] crew member" -- not the shooter - identified the Afghan at "3:00 o'clock," (N-5) which is a hard right. Look at the pictures. (P-13-14) That was well after coming out of the canyon. Baker -- the shooter -- then "engaged him with his M-4," (N-5) meaning he killed him from the position where he was initially sited, i.e. 3:00, position #1. O'Neill's statement, as well as that of two (2) others, have the Afghan dead before the lull, which

² Citations of this nature throughout this letter refer to "USASOC-Directed AR 15-6 Investigation BG Gary M. Jones, Investigating Officer, Briefing Book" provided me March 31, 2005. References to "P" are for the "pictures" section, designated as Exhibit A. References to "N" are for the "narrative" section, designated Exhibit B.

³ Note: nowhere does any document describe the Afgan, what he was wearing or why he was carrying a Russian rifle (if he was).

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is before the GMV reached the corner of the rock wall twelve (12) meters away. (P-13) Shooting him from position "#2," or thereafter, as intimated in the report, would have placed him more at "1:00 - 1:30." At 65 meters distance, that's more than 46 meters difference - left/right. A Ranger is not likely to make this error and there is no testimony to support this position.

These "facts" earmark 3 of the 5 in the GMV identifying an AMF - an "Afgnan Military Fighter," one of us - not "just an Afghan," well after exiting the canyon and *before firing commenced*; one of them - the one not charged with malfeasance⁴ - admitting he recognized him as a "friendly."

Rangers are specialists, so maybe they can obliterate a still target while moving laterally at 20 mph over rocky terrain (up & down movement of GMV), but I doubt it. Most of these guys were green. The more logical conclusion is that they slowed down or stopped momentarily - twice. "Not long after the firing stopped, the GMV moved out," (O'Neill) versus "he never slowed down."

Now, who gives a shit about an Afghan? I do. Not only was he a "friendly," a human being on our team, my son's life was taken with the same regard - none.

b. Pat. Pat was not shot from position #1, he was shot at. He and O'Neill took cover. They suffered through a barrage during which they conversed. Pat, from an awkward situation, freed up a smoke grenade and threw it. There was a lull during which both stood up, talked, and stretched their legs. Pat waived at the shooters to confirm recognition. From less than 65 meters away, he was fired on and this time hit by machine gun fire, knocking him down.

He's not dead yet.

"I'm Pat 'fucking' Tillman dammit. He said this *over and over again* until he stopped."
(O'Neill statement)

A single shot was then put through the top, right-side of his head that went cross-wise through his left jaw and out his neck. (autopsy) This bullet came from either an M-4 or the M249 ("SAW") - they use the same ammunition. Doubtful it was from the "SAW." Had it been, more rounds would have ended up in Pat's head and/or body, e.g. shoulders, chest, back. The "SAW" fires at 725 rounds per minute, faster than the M240 (7.62) - grouping issue and comparison. Two (2) more rounds were then fired from a M240 (7.62 mm) that took off the back of his head. I place the order of the head shots as I do because machine gun bullets (2) of this caliber (7.62 mm), tightly grouped, hitting him simultaneously, would have moved his position so as not to allow for a single shot to enter and exit as evidenced by the autopsy.

⁴ Not being charged tends to make witnesses more talkative.

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Accordingly, the kill shot was sent on its way by Sgt. Baker. What did he see? What thoughts were running through his mind as he was taking a bead on my son's head from 65 meters distance. I don't know if Pat was still wearing his helmet at the time (another detail left out). Did Baker sight-in a Ranger helmet or the top of a whiteman's head? Certainly, this was no random shot nor made while traveling over rough terrain at 20 mph. "Not long after the firing stopped, the GMV moved out." (O'Neill statement)

All this happened in 6.45 seconds?

c. Investigation – Shooting.

i. Who killed either – omitted.

ii. Location of kill shots. Implied as location #2 (N-5) 78 meters versus 65 meters; 1st, 2nd, 3rd attempt to kill Pat – not mentioned.

iii. Lighting. Obfuscated. "Unable to distinguish features (such as faces, ..." (N-5) ... such as skin color, nationality, beard, AK-47? They were 78 meters away for Christ's sake. How about from 65 meters? Think their vision was any better at 65 meters? Uniforms? Helmets? Arms? Smoke? Pat weighs 200 lbs. He was carrying a "SAW." He was waving a hand. At a standing position, the rock they took cover behind barely reaches their knees – they obviously and deliberately put themselves in clear view, waving, not firing back. 65 FUCKING METERS away.

In the original 15-6 investigation, of all the statements taken, no contemporaneous comment was made – none, nada, not a single one - that could arguably inculcate lighting conditions. If lighting was a factor, every guy there would have said so. "Yeah, big fucking mistake, but you just couldn't see shit." You take a stray comment ... from a fucking shooter ... and make it a factual finding. Sunset was at 1401Z (N-6, fn 47) – Fact - they started taking fire at 1404Z (N-3) – Fact - the matter was over (?) by 1418Z,⁵ (N-8) which included time to light up a small village and assess the situation, including the condition of Pat, who was uphill. Fewer than 17 minutes after sunset, probably closer to 10, lighting conditions are good. (Bagram Light Data)

O'Neill, when asked about the lighting conditions "[w]hen you were being shot at" said: "They were still pretty good." Another Ranger said: "I could clearly see once we left the canyon area." Another said: "Light conditions were OK ..." Baker, the shooter, said: "The sun was going down." (emphasis added)

⁵ Not exactly. That's when the first call to headquarters occurred, calling for a MEDEVAC. (TOC Log) It took some time to assess the situation before making the call.

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The shooters were always looking North or Northwest. Even in Afghanistan, the sun sets in the West - Southwest. How on God's green earth can you add in a "glare factor" looking away from the sun that has set? (P-16) Immediately after sunset, facing the wrong direction (North vs. Southwest), the glare impaired their vision? Don't you need sun to have glare?

iv. Evidence Destruction. *All evidence*, with the exception of Pat's body, was destroyed. All of it "*slipped through procedural cracks*" that will be corrected "*now that we've identified them.*" And the autopsy - a joke.

Pat's "personal remains," molle, clothing/uniform, RBA, flash-bang grenade, helmet, and other equipment were destroyed in different places for different reasons - all acceptable to you. His helmet was with his molle. Was it (helmet) burned, too? Were there any holes in it? And nobody - nobody - burns a garment like a molle without first checking the pockets. Nobody. Pat's diary probably still exists, and I want it back. The flash-bang grenade had a bullet hole in it. What caliber bullet pierced it? His uniform, did it match that of the Afghan's, whose garb was never described. Simply an unfortunate set of circumstances we have here, the trashing of evidence.

The autopsy was for what purpose - to determine he was dead? Or shot? Was there a "suspicion" he was dead? That he was killed by bullets? The autopsy provided minimal detail. Its purpose was to further cover up this incident. You simply wanted to say that you performed one. For general information purposes, the metric system is used exclusively by the medical profession - "... *the wound to the skin is 1/4-inch in diameter*" ... "*Both wounds are 5/16-inches in diameter* ..." Lack of detail clouds the issue of "caliber," don't it.

v. Driver. LIED. They fired on Pat from at least two (2) locations. They fired on the village from two (2) more. Think this guy should have stopped the truck? He consistently, three (3) times at least, placed out-of-control shooters in a better position to kill Americans after he recognized the Afghan as a "friendly." (supra) His placement of the GMV effectively co-signed the shooters' activity, i.e. he agreed with it. FOR CHRIST'S SAKE ... maybe a comment.

2. Was there a cover up.

Army's Conclusion: was none.

Fratricide was never suspected,⁶ my ass. It was known while it was happening. No fewer

⁶ Suspected is defined as, inter alia: imagined; to believe (someone) guilty of something to his discredit without conclusive proof; to form a notion (someone) not necessarily based on fact; to be suspicious. (Webster's Dictionary & The American Heritage Concise Dictionary, 3rd Edition) Note: the definition of "suspicion" basically refers the reader to the word "suspect."

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than fourteen (14) people witnessed it. A full-blown Colonel was there within hours. (N-8) How did he get notified? Not mentioned. What was said? Not mentioned. Do Colonels fly in for every soldier killed? You have recordings of every conversation leading up to their deployment on this mission. Got a transcript of the call from this platoon leader? (TOC Log @ 1418Z, 1420Z, 1412Z, 1427Z, 1435Z) Bet me that during *at least* one of these conversations he said that Pat was killed by one of his own and he wanted assistance on how to handle the situation. Bet me a full-blown Colonel said: "*Keep it quiet, get Kevin the hell out of there, and I'll be right over.*" Not mentioned. Evidence omitted. I bet you saw the transcript, though.

At the March 31, 2005 briefing, I was told that "Operations" correctly notified "Admin." that it was simply a KIA. "Operations" needed a "suspicion" before telling "Admin." to tell the family the cause of their son's/brother's death is "unknown." That they had to investigate their "suspicions" before providing such notification. We certainly didn't want the family to get some "half baked" story about their son's death. Again, no one -- *ever* -- suspected fratricide -- they fuckin-well knew it, immediately. Kevin, at the scene, was not told. Another Ranger, sent home with Kevin for Pat's funeral was told not to tell Kevin or us. He honored his superiors' order.

No cover up??

Those "on the ground" had a sworn duty, and they were trained, to positively identify whoever it was they were about to kill. People in other positions of authority, too, had a sworn duty -- Colonels, Generals, attorneys - to do their job. We relied on all of you to exercise your duty/authority/responsibility properly, at least not maliciously or pursuant to some bullshit agenda. Telling us the truth about how Pat died was the least you could do. Every one of you have disregarded your duty, acting deliberately and shamelessly to kill my son and lie about it -- including this "update." Accountability has been zero, for all of you. (see Report)

I don't remember the name or rank of the clown who put together the first 15-6. As I told several of you, it was an outright lie. When I heard the investigation had been reopened, I had hopes the military would regain the high ground of truth and accuracy. But the second version, under color of a one-star General with the assistance of many, including an attorney, turned out worse, primarily because of the authority your rank carries.

I think I understand the importance of ferreting out the facts, cutting the crap, considering the credibility of witnesses, and basically getting to the truth. The above are not insignificant details overlooked. Any attorney contending the "evidence" set forth in this report is persuasive, or "preponderates," should be ashamed of theirself. They have truly wasted a privileged education. And integrity, apparently it varies with the client.

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“The foundation of the ethical code at West Point is found in the Academy’s motto, ‘Duty, Honor, Country.’ Cadets also develop ethically by adhering to the Cadet Honor Code, which states ‘A cadet will not lie, cheat, steal, or tolerate those who do.’”

(Emphasis added)
West Point Publication
www.usma.edu/about.asp

You are a General. On paper you subscribe to this motto and honor code. To say otherwise means its life ends on graduation and is limited to cadets. I believe it carries over into the service. There is no way a man like you, with your intelligence, education, military experience, responsibilities (primarily for difficult situations), and rank (authority – both apparent and real), believes the conclusions reached in the March 31, 2005 Briefing Book. But your signature is on it. I assume, therefore, that you are part of this shameless bullshit. I embarrassed myself by treating you with respect March 31, 2005. I thought your rank deserved it and anticipated something different from the new and improved investigation. I won’t act so hypocritically if we meet again.

The Rangers stand for something – to this day, in my mind, the best. None of the five (5) soldiers on the ground, nor anyone in a discretionary capacity involved in this “Briefing Book,” deserve to be affiliated with the Rangers. If your uniforms are so decorated, you should remove those items.

In sum: Fuck you ... and yours.

Sincerely,

Patrick K. Tillman

P.S. I understand that Baker is applying for or has been accepted into Delta Force. You are a Brigadier General, Special Forces Command. Coincidence?

cc: Michael J. Hargis, Esq.