

[H.A.S.C. No. 110-84]

**FURTHER INQUIRY INTO MARINE CORPS
POLICIES AND PROCEDURES REGARD-
ING NEXT-OF-KIN NOTIFICATION**

HEARING

BEFORE THE

MILITARY PERSONNEL SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

HEARING HELD

AUGUST 2, 2007



U.S. GOVERNMENT PRINTING OFFICE

38-315

WASHINGTON : 2008

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DOCUMENTS SUBMITTED FOR THE RECORD:

[There were no Documents submitted.]

QUESTIONS AND ANSWERS SUBMITTED FOR THE RECORD:

[There were no Questions submitted.]

FURTHER INQUIRY INTO MARINE CORPS POLICIES AND PROCEDURES REGARDING NEXT-OF-KIN NOTIFICATION

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
MILITARY PERSONNEL SUBCOMMITTEE,
Washington, DC, Thursday, August 2, 2007.

The subcommittee met, pursuant to call, at 2:10 p.m., in room 2212, Rayburn House Office Building, Hon. Susan Davis (chairwoman of the subcommittee) presiding.

OPENING STATEMENT OF HON. SUSAN A. DAVIS, A REPRESENTATIVE FROM CALIFORNIA, CHAIRWOMAN, MILITARY PERSONNEL SUBCOMMITTEE

Ms. DAVIS. The meeting will come to order.

I want to thank you all for being here.

This hearing is being held today because the subcommittee was not satisfied with the information provided to us on June 27, 2007, in our hearing on the policies and procedures regarding the notification of next of kin of deceased service members.

At that hearing, the Marine Corps provided testimony that was not accurate. So, as a result of that, Ranking Member McHugh, Dr. Snyder, myself met with Lieutenant General Ronald Coleman, the Marine Corps Deputy Commandant for Manpower and Reserve Affairs, on July 17, 2007, to discuss some of the issues and questions that arose from that hearing.

But as a result of that particular briefing, we still unfortunately, did not feel comfortable that the casualty notification process that the Marine Corps had in effect was sufficient, especially concerning those Marines who were either wounded or killed as a result of friendly fire.

So the purpose of this hearing today is to correct any inaccurate or incorrect information that was previously provided to this committee and to the public, and allow the Marine Corps to set the record straight on this issue.

I look forward to the discussion that we will have here regarding the issue to ensure that the procedures and the tracking system that the Marine Corps has in effect are sufficient to ensure accurate and timely notification to our service members and their families.

Before I introduce our witness, I just wanted to give Congressman McHugh an opportunity for any opening remarks that he may wish to make.

And I certainly want to welcome here General Magnus. We welcome you. We thank you for your service to the country, and we

know that we will want to move forward with this hearing today. Thank you.

Mr. McHugh.

[The prepared statement of Ms. Davis can be found in the Appendix on page 29.]

STATEMENT OF HON. JOHN M. MCHUGH, A REPRESENTATIVE FROM NEW YORK, RANKING MEMBER, MILITARY PERSONNEL SUBCOMMITTEE

Mr. MCHUGH. Thank you, Madam Chair.

Let me join you in welcoming our distinguished panelist here today. General Magnus is to be thanked by every American for the great leadership he brings and, quite honestly, for showing some pretty significant courage for being here today as we look back over the history as you defined it, Madam Chair.

I would ask, Madam Chair, that my prepared statement be entered into the record in its entirety. Let me just make a couple of comments.

I really, when we started out here, wondered if another hearing was necessary. But as we have gone forward, and as the data continuously changes, including as recently as last night, as I understand it, where we were provided yet with another incident of—at least insofar as we are aware—unreported incident, I just have found myself in a position of really doubting virtually everything we have heard. And I find it difficult to find much veracity in what we might hear. And that is a hard thing for me to say, and it is a terrible place for us to be.

I think we have actually come to the point—and I don't want to pre-judge anything General Magnus says. And I am not in any way questioning his honesty. I know the caliber of the man, and I know he will be here today providing the best data that he possibly can.

But given the very difficult road we traveled to this point, I really fear that, particularly amongst the families of those who have suffered, either wounded in action, or of course at the extreme, killed in action, can possibly have in the process that have supposedly assured them of how their loved one met whichever fate they may have encountered.

And I think, Madam Chair, we may be at a point where it would be almost impossible to avoid soliciting the help of an outside organization, be it the GAO, Government Accountability Office, or some other, to take a look at the entire range of incidences, starting with Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF), as to how the reporting has been done.

None of us want to see a circumstance—and I know the Marines are right at the head of this line—none of us want to see a circumstance where a loved one receiving notification or not receiving a notification makes an incorrect assumption based on a system that, for whatever reason, has not worked well and hasn't filled its challenge.

So with that, Madam Chair, I do look forward to General Magnus's comments. And, again, none of what I have said is in any way intended to cast aspersions upon his outstanding record of service—we are so lucky as a country to have individuals such as

he—but as to a system that, frankly, I think has caused doubts in all of us.

So I will yield back the balance of my time.

[The prepared statement of Mr. McHugh can be found in the Appendix on page 33.]

Ms. DAVIS. Thank you, Mr. McHugh.

We are honored today to be joined by the Chairman of the Armed Services Committee, Mr. Ike Skelton, who was previously, quite a number of years ago, chairman of the Personnel Committee. And he tells me every day that he wants to watch and be sure that I handle this committee just the way he did, and I am working to do that.

So thank you, Mr. Chairman, for being here, and we look forward to your participation if you so choose. And I appreciate your being here.

As I mentioned earlier, we have one witness today, General Robert Magnus, assistant commandant of the United States Marine Corps.

As I said earlier as well, we thank you very much for your service to our country. And we know that this has been difficult going back and trying to understand why, in fact, some of the reporting did not occur as it should have, trying to correct that, and to move forward.

We are concerned, as I know you are as well, with how change of notices impact our families. The initial notice is very difficult, but further notices make it especially hard on them. And so we want to be certain that we have it right. And I know that the Marine Corps is working to do that as well.

Your written comments and statements, of course, will be made part of the hearing record, so we encourage you to summarize your remarks if you would like.

We are going to try and keep, I think, today, Mr. McHugh, perhaps to five minutes so people have an opportunity to go around.

And I appreciate everybody being very patient with me yesterday as well.

So, we will get started. General Magnus, please proceed.

**STATEMENT OF GEN. ROBERT MAGNUS, ASSISTANT
COMMANDANT OF THE MARINE CORPS, U.S. MARINE CORPS**

General MAGNUS. Thank you, Chairwoman Davis, Congressman McHugh, distinguished members of the subcommittee, and Chairman Skelton. Thank you very much for this opportunity to correct the record on next of kin notification.

I deeply regret that information the Marine Corps officials provided at the hearing on June 27th and the subsequent briefing on July the 17th was inaccurate. On behalf of the Commandant of the Marine Corps, I offer our sincerest apology to the subcommittee.

Also, for our Marines and families, the Commandant and I are personally and professionally distressed that we have not always provided timely and accurate information to them, which did not alleviate their stress or help them to come to closure.

However, the Commandant and I thank the subcommittee for bringing this problem to light. I solemnly assure you that we will

do the right thing for our Marines, sailors, and their families, making every effort to preclude future errors.

We previously reported that next of kin of Marines killed by friendly fire on the 12th of April, 2004, had been notified. That report was unintentionally inaccurate, although late notifications have been made by general officer visits to those families on the 20th and 23rd of July to the Marine families that were involved.

We also incorrectly reported the number of friendly fire incidents and casualties. That number, as we understand it today, is 23 suspected friendly fire incidents with 19 of those confirmed, including 6 deaths and 38 wounded due to friendly fire.

It is important to note that we are not confident that this is definitive because a preliminary review of our processes has revealed inconsistencies in our record.

That preliminary review revealed deficiencies in three key processes related to notification, processes that we now realize are interrelated.

The first process is the command casualty reporting process, which includes a telephonic report followed by initial and any supplemental personnel casualty reports or PCR's. These reports were not uniformly accurate or complete. While we understand that this was probably due to the stresses of intense combat on reporting commands, increased emphasis on and possibly changes to our casualty reporting process are needed to ensure accuracy and timeliness.

Second, the command casualty inquiry and investigation process may not have been consistently documented, including completion of any actions requested by higher command endorsements to those investigations.

Third, our process for notifications to next of kin was not always in compliance with statute or our own policies and procedures. As a result of these deficiencies, our command reporting information, inquiry and investigation, and casualty notification processes have not always been consistent, accurate, or timely. Timely delivery of accurate information to the next of kin is our responsibility.

Although we believe investigations were conducted on all suspected friendly fire cases, our preliminary review revealed that the PCR's have not uniformly reported all friendly fire investigations as required by regulations.

Although notifications were made to next of kin, in some cases they were late and did not indicate that friendly fire was suspected or determined.

Clearly, the three processes need improved emphasis, training of personnel, and linkages, as well as appropriate oversight measures.

The Inspector General (IG) of the Marine Corps has been charged with providing recommendations to ensure that we have definitive information in order to take effective remedial actions. The Commandant has directed the Inspector General to conduct a detailed and thorough investigation into our casualty reporting and notification processes with full access to all records and personnel.

This subcommittee will be provided a copy of the completed investigation.

We are working with the United States Army to ensure uniform and consistent casualty procedures. We believe that the U.S. Army

has an effective model which can be rapidly adopted by the Marine Corps.

We are also working with the Office of the Secretary of Defense (OSD) and the Navy Secretariat to ensure compliance with the requirements of National Defense Authorization Acts for fiscal year 2006 and fiscal year 2007.

We are taking action without waiting for results of the IG's investigation. We will issue guidance to commanders, reemphasizing the need for timely, accurate reporting, inquiries and investigations, and the linkages to ensure proper notifications are made.

Our duty is to ensure notification is conducted in accordance with statute and casualty procedures. I accept responsibility for the process failures that negatively affected the families of our fallen and wounded warriors. On behalf of the Commandant of the Marine Corps, I apologize for our errors.

We thank the subcommittee for this opportunity to correct the record. We also thank the Congress for its abiding concern for the welfare and care of our Marines, sailors, and their families. Caring for them is simply the right thing to do. It is part of our ethos as Marines, and we will do it.

I am prepared to answer your questions.

[The prepared statement of General Magnus can be found in the Appendix on page 36.]

Ms. DAVIS. Thank you, General.

What I would like to do, because I think it would be for the benefit of the members, if we could go through several of the hearings that we have had, to try and go back a little bit on those numbers.

On the 27th of June, when the Marine Corps testified, they said there were only 19 friendly fire casualties from 2 incidents.

And then on the 17th of July, we were briefed that actually there were 77 friendly fire casualties from 20 incidents.

And then, of course, yesterday we learned that, in fact, there were actually 82 friendly fire casualties from 23 different incidents.

So I would hope that you could go back and help us out a little here. Where did the Marine Corps get the numbers that we received on July 17th?

General MAGNUS. The numbers we received from July 17th were as a result of a first preliminary review, not by the Inspector General, of the records that we had at Headquarters Marine Corps of these three processes and in telephonic contact with Marines in Marine Central Command Headquarters in California.

That preliminary review, particularly subsequent to my review of the briefing that was conducted on the 17th of July, led me to immediately go to the Commandant and indicate that not only had the numbers changed between the 27th of June and the 17th of July, but the reason why the changes gave me pause as to the accuracy of the records that were being cross-referenced.

And subsequent to that, a second review—not by the Inspector General—was done, which gave us the best information that I have, which as I have noted earlier, Madam Chairwoman, I am not confident it is definitive. And it is based upon direct contact between the 17th of July and the date of my letter to the subcommittee between senior officers in Marine Corps Central Command, Camp Pendleton, and officials at Headquarters Marine Corps.

I will be confident in the definition of the process deficiencies we have and in the numbers of incidents and, most importantly of course, in the numbers of killed and wounded casualties on completion of the Inspector General's report.

Ms. DAVIS. If we go beyond the 17th then, and we go to August 1st, what is it then about the new number—where did you look for that information then? Was that also going back to the preliminary review?

General MAGNUS. Madam Chairwoman, the first review gave us the numbers which were still not complete and correct that you received in the briefing on the 17th of July.

A second, more in-depth review, but not by the Inspector General, not with a methodical investigative process, revealed updated numbers. Those numbers were provided, and when I reviewed, subsequent to the briefing, the method by which the numbers were derived, serious questions arose, not as to the professionalism or intent of Marines that were providing the numbers, but simply in the way these numbers were accounted.

And in fact, as you indicated, the number of cases of wounded Marines increased and gave us great pause as to the accuracy of these processes and the checks and balances that would give us numbers. I think the numbers are, of course, different numbers, but we will only be confident when we are 100 percent accurate and are able to change our processes in the future.

Ms. DAVIS. When do you think that the IG's investigation will be completed?

General MAGNUS. Within a matter of weeks.

I have spoken to the Acting Inspector General of the Marine Corps, Mr. Holmgren. He has been given full latitude to go through all of our major subordinate commands that have had casualties, including our reserves. And to ensure that we have access to all the records to be able to cross-reference all of the documents, to ensure that we know each individual by name, their status, the determination of whether or not there was friendly fire, and also to determine our process for ensuring notification.

Notifications, ma'am, are ongoing right now with some of the wounded that were identified in the 12 April, 2004, investigation. Lance Corporal's Zurheide and Shuder were killed in action and that, I think, was covered in the earlier testimony, ma'am.

Ms. DAVIS. Okay, thank you, General.

So that we can get around to members and have several rounds, Mr. McHugh? Would you like to pick it up?

Mr. MCHUGH. Thank you very much.

I would also note, Madam Chair, in your very thorough review, that on the 17th of July briefing, not only were the numbers wrong, we were also misinformed that two families had been notified of the circumstances of their loved ones' death when, in fact, what they had received were letters that an investigation was being done. They could receive those investigations if they asked for it.

So there were really two layers in this information, just to fill out the record.

General Magnus, I heard you describe in part the Marine Corps IG's process of reviewing those cases, but tell me again: Is he trying to coordinate the data and the information strictly between the

headquarters of the Marine Corps and Marine Central Command? Is that the extent of his look-see?

General MAGNUS. No, sir. I wasn't clear——

Mr. MCHUGH. You probably were. I probably just didn't——

General MAGNUS. The Inspector General is going wherever he needs to go. He is going, of course, to Marine Forces Central Command, but he will go to each one of the major subordinate commands that provided Marines since this war began.

So he will be going to all four divisions, all four wings, all four Marines logistics groups, to ensure that we not only have got an accounting for those commands that were deployed, but also that we have taken the effective actions in terms of notifications to next of kin back here, which is mainly in the continental United States and Hawaii.

Mr. MCHUGH. And I appreciate that, and that is what a good Inspector General does, but it may not take him everywhere that perhaps we would like to see it done.

For example, after the very tragic case of Corporal Pat Tillman, the Army really initiated a review from top to bottom and went back to all of the battalions to direct a specific investigation that were done at friendly fire incidences to see if there were any inaccuracies.

Has the Marine Corps done anything like that, contemplated anything like that? Because it seems to me that the Inspector General is going to be subject to whatever data he may be provided that may not be corrected back enough.

General MAGNUS. Again, Congressman McHugh, I must not have been clear. We are doing precisely that. We are going back to every single investigation.

We are also going back to all of our casualties. In other words, this is broader than just friendly fire. This is about the casualty notification and reporting process, a very important part of that, of course, is regarding actual or suspected friendly fire.

So it is the overall process that needs to be looked at and with specific emphasis on the notification of next of kin. So we are doing exactly what the Army is doing.

Mr. MCHUGH. So the place where I was a little unclear, not that he would go to that level, but indeed every case at the battalion level has been directly ordered to be revisited.

General MAGNUS. That is correct, sir.

Mr. MCHUGH. Okay.

Can you help us understand what it was in the system, for example, that caused the discrepancies between the two numbers, with respect to Headquarters Marine Corps and Marine Central Command? I understand you had some reconciliation, some kinds of problems in the system, but do you have any preliminary information as to how those two numbers could have been so disjointed?

General MAGNUS. Congressman, it would be speculative, and so therefore I will go there because it is the reason why I advised the Commandant that we needed an Inspector General's investigation.

When I reviewed the terminology that was used in charts and in information papers that I was provided with terminology in statute and in our regulations and on the documents, people were using different words to describe certain conditions. So there is the termi-

nology, but that doesn't account for the fact that even when you add up the numbers, the numbers changed.

In fact, there were five of the wounded that apparently had just not been correctly accounted for. Those five wounded in the personnel casualty records were in Headquarters Marine Corps.

The system for ensuring that we had a rigorous accounting did not have the checks and balances that I know we need now.

Mr. MCHUGH. I just have a moment left.

When General Downs came before the committee the first time on June 27th, I assume he was taking data from one source. Otherwise, he would have known there was a conflict. Which source was he deriving the data from?

General MAGNUS. Congressman, I can't answer what source the general would have used.

I can tell you that the Marine Corps is in compliance with the Department of Defense (DOD) instructions. There is one casualty reporting and responsible section in each one of the military services. Our casualty section is under Manpower and Reserve Affairs.

I believe retired General Mike Downs testified before the committee. He is the senior officer in that section. That is the one section where these processes need to come together.

Mr. MCHUGH. I see my time has expired.

Thank you, Madam Chair.

Ms. DAVIS. Thank you, Mr. McHugh.

Dr. Snyder.

Dr. SNYDER. Thank you, Madam Chair.

General, the hearing on June 27th was my last hearing in which I participated in as the chairman of this committee, and all of us got really uncomfortable as the hearing proceeded with what we were hearing. But one of them was the very strong testimony from General Downs that there had only been two incidents, two incidents with multiple casualties, but two incidents.

And we challenged him on that: Has anyone ever wondered perhaps, and given everything the Marine Corps has done since spring of 2003, that there couldn't possibly be other incidents? And some very firm statements were made.

Subsequent to that, I think we have gotten information that there had been discussions prior to the hearing that perhaps that is not accurate. Perhaps there had been more than two incidents.

I mean, issue number one is to get this information and get a system right that will work for these families for the Marine Corps, but a lesser issue is this Congress, as a representative for the American people, deserves accurate information.

And this is pretty close to a man sitting there being asked a question, "Did you have any uncertainty about this information?", and had been told before the hearing that there was uncertainty about that information and did not pass it on to this committee.

Have you looked into that aspect of things at all?

General MAGNUS. Congressman, I have not looked into that, and that is part of the—

Dr. SNYDER [continuing]. I would encourage you to do that.

General MAGNUS. Sir, yes, sir, and that is part of the charter of the Inspector General. If in fact, information was incorrectly de-

rived, we will find out why. If, in fact, there was any intentional violation, that will also be reported.

To the best of my understanding, sir, I believe General Downs incorrectly understood what he was preparing for, but I cannot account for why there was literally almost an order of magnitude difference between the numbers.

Dr. SNYDER. Well, it is also my understanding that he was put on notice, that there may well have been—

General MAGNUS. Yes, sir.

Dr. SNYDER [continuing]. Some problems with more junior Marines saying, "We think there may be more than two, and you are about to testify before Congress very firmly there is only two." And we were informed within less than 24 hours by well-meaning Marines that they thought that they were going to need to come and give us a briefing because their information was incorrect.

So my second question is: We were also informed that one of the incorrect things that we were informed was that the Marine Corps did not investigate or have any kind of a preliminary investigation of all deaths. And in fact, when we challenged that a little bit because the Army does that now, probably as a result of the Corporal Tillman case amongst others, we are told that would be a waste of time to do that, that it would be real clear in an Improvised Explosive Device (IED) explosion of what had occurred.

Well, it turned out, as we were subsequently told, that you do indeed do a preliminary investigation on all deaths. Is that correct information?

General MAGNUS. Neither of those, I believe, is correct, but I will talk for the Marine Corps, sir.

The regulation does not require a preliminary inquiry in accordance with our Judge Advocate General's manual which is the same as Army Regulation 15-6, when on the scene it is clear to the senior official there that a death or injury was due to enemy fire.

When there is any doubt of the cause of any casualty including, of course, a mishap—and in this case, we are talking about a hostile action—a preliminary inquiry is done to ascertain that. And then, of course, if in fact that suspicion sustains after a preliminary inquiry, which simply could be a commissioned officer looking at the scene and determining that there is some doubt, then of course, a formal investigation will be undertaken.

The regulations do not require, when there is certainty at the scene that the casualty was caused by friendly fire, for there to be an inquiry.

Dr. SNYDER. Maybe what we have is a terminology problem because I would perhaps argue in defense of your system that, in fact, that was the preliminary inquiry.

General MAGNUS. And, Congressman, that is a great point because we have had that discussion with our service judge advocate, in fact, if there is in fact a questioning, an inquiry at the site—and it is determined by competent authority that it was enemy fire—to their certainty, then what we have to do is document that that took place. Right now, the only documentation of that is the line in the personnel casualty report that indicates enemy fire.

It turns out that, subsequently, that may not be good and sufficient documentation. We are reviewing that along with what the Army does.

Dr. SNYDER. Thank you, General. I will have other questions later.

Ms. DAVIS. Thank you.

Thank you, Dr. Snyder.

And I want to move to Mr. Kline. Mr. Kline, would you yield one second?

Could you define "preliminary inquiry" for us? What does that entail—reporting, telephone call? I mean, it can be a range of things—is that correct? So it is not a written-down report necessarily?

General MAGNUS. Not necessarily, and that is one of the aspects that we are looking at because, to have checks and balances, you have to have some kind of record or documentation to have an audit trail.

Ms. DAVIS. Okay, thank you.

Mr. Kline.

Mr. KLINE. Thank you, Madam Chair.

Thank you, General, for being here and sort of stepping up to the plate, as it were, to answer the questions which in our minds were unanswered and had risen our concern to quite high levels and, I am sure with great confidence, yours and the Commandant's.

I know that there are very good professionals trying to do their very best in very tough circumstances. There is no doubt that in my 25 years, and I am sure in your 35 years, there is nothing harder than going and informing a next of kin that a Marine has been killed.

And so in the process, I think that the Marine Corps has developed in making sure that there is an officer in uniform who shows up to do that and does that very hard job, does a very good one, and is taken very, very seriously for many years, certainly all the years since you and I came into the court.

But clearly, the system had some flaws in it. You have mentioned some of them today, and in your written testimony—I have got it all marked up here—some of them jump out. Obviously, the personnel casualty report, as you indicated, is sometimes disconnected from the investigation.

And so without those two things together, well-meaning, hard-working, serious officers and enlisted can just make a mistake because the information is not accurately recorded onto the PCR, for example.

So I applaud the four of you and the Commandant for getting the IG in it, and I trust that the IG will dig far and wide and deep as we go forward on this.

I see some of your remedies in your written testimony. One of them says, "We will change higher headquarters reporting procedures." I am not sure what that is. I don't know if you know what it is either, but I would like to see those very solid, and perhaps you can tell us when this is done what those might be.

One of your remedies is, "We must and will ensure tight links between the investigation and reporting processes." Again, I don't

know what that is, but I trust those will be written down in Marine Corps order and will be visible to you and to us.

And then with that, you say that you are going to ensure training is “rigorous and effective” and therefore, I trust, ongoing as all training is, that it maintains from commanding officer to commanding officer. Because no matter how good the training is, if it is not done consistently, you won’t maintain those links.

And similarly, I have a little bit of a concern when your number seven—it says, “there will be proactive coordination between Headquarters Marine Corps (HQMC) and our subordinate command elements to strengthen oversight of reporting compliance.” Unless that is a documented procedure, proactive coordination often doesn’t last past the Marine who is in the office at the time.

So all this is to say that at the end of this process, I presume, when the IG completes the investigation, Headquarters of the Marine Corps will be writing these down and promulgating these changes. And I would ask that this subcommittee see what those are as we go forward. Because I know that you are appalled by this, and the Commandant and every Marine, that this could be so confusing, that the testimony here could be so wrong over the period of time that the chairman has indicated, but more importantly, that families didn’t know.

And so I don’t have a question except to ask that we be allowed to see what these procedures are when the Marine Corps promulgates them.

General MAGNUS. We will ensure, Congressman Kline, that the subcommittee receives copies of all the correspondence, including the Commandant’s letter to his commanders, as well as any changes we make in our procedures and, of course, the changes that will be made, that are ongoing right now, and to update the DOD instruction on casualty reporting and notification in general, and we are—

Mr. KLINE. Is there a white letter out now?

General MAGNUS. No, the Commandant is in Iraq right now, and when the Commandant gets back, we will sit down and make sure that we have a letter that does more than simply exhort for reemphasis on the system.

Because we know that there are potential deficiencies in these systems. So we want to make sure that the systems are being reported and done by Marines; they are human beings like everyone else. And so we need more than just reemphasizing the procedures we have.

Mr. KLINE. Thank you.

I yield back.

Ms. DAVIS. Thank you.

Ms. Shea-Porter.

Ms. SHEA-PORTER. Thank you.

The question I have, General, is two-fold. First of all, wouldn’t it help if we had some standard operating procedure across the branches of military? And why don’t we at this point; and would you recommend it?

General MAGNUS. Madam Congresswoman, the answer is yes. We are now actively working—I literally met with the Army three times in the past week.

We believe that the Army has a good if not outstanding model, and we are going to make recommendations to change our procedures. If we believe that the Army procedures need clarification, we will recommend that to them, and we are going to.

And I have already met this morning with the principal deputy undersecretary for personnel and readiness, Mike Dominguez. And he is directing the new overarching DOD instruction so that we are consistent. And I believe that not only uniformity, accuracy, and timeliness within the Marine Corps, but uniformity across the four military services and DOD, is essential.

Ms. SHEA-PORTER. How quickly do you think you would be able to implement a joint policy?

General MAGNUS. I believe that the Army and the Marine Corps can implement the changes within a matter of weeks. The signing out of a DOD instruction might take a bit longer.

Ms. SHEA-PORTER. And the other question I had was: What impact has this had on any of your troops at all? Can you speak to that? Has there been an increased anxiety level? Has there been any kind of blow-back from families? Has there been a negative impact, basically, on Marines from within the ranks?

General MAGNUS. Madam Congresswoman, I am not aware of a negative impact.

On the other hand, I am a dad. I have gone to the Intensive Care Units (ICUs), and I have hugged the moms whose Marines were expectant. I know that this cannot have eased their grief, could not have calmed their uncertainty, and could not have brought them to closure. So we are mindful of our responsibility to take care of our troops and their families. So I just have to take this as seriously as it is.

Ms. SHEA-PORTER. Have you spoken to them? Has the letter gone out, or has there been any kind of communication with everybody to state that yes, you know, it was wrong, it is going to be fixed, and to reassure?

General MAGNUS. In the cases that were investigated determining suspected friendly fire, in the case of Lance Corporal Shuder's and Lance Corporal Zurheide's family, which were the April 12, 2004, incident, that a general officer visited the family at the time of their choosing. That happened on the 20th and the 23rd of July.

We believe we have made contact with the family of every Marine who has been killed in action. I spoke to Lieutenant General Mattis, the commander of Marine Forces Central Command, last night, and he is re-doubling efforts to go back and ensure that we make contact with every Marine who has been seriously injured, or is very seriously injured, as a result of wounds received in hostile fire.

Ms. SHEA-PORTER. Do you think it would be helpful to address everybody and all family members, stating that this situation is being remedied for those who have family members who have not been injured but wonder what would happen to them?

General MAGNUS. Madam Congresswoman, that will be the purpose of the Commandant's white letter to all of his commanders,

which will be followed up by appropriate broader distribution instructions to Marines. And we will make sure that the communication is broad and effective. We don't want any Marine or family to feel that we are not going to take good care of them, and to accurately, and in a timely manner, inform their families of the circumstances of their injury or their death.

Ms. SHEA-PORTER. Thank you.

I yield back.

Ms. DAVIS. Thank you.

Mr. Jones.

Mr. JONES. Madam Chairman, thank you.

And, General Magnus, it is good to see you again here in August.

I am having lunch with—I am looking forward to seeing Lieutenant Ilario Pantano, sir.

General, I want to thank you and the Marine Corps as well as the services. It is a very difficult war, trying to make sure that the families are as well-informed as they can be, and whether that be friendly fire or killed by the enemy.

The casualty officer that goes to tell the family that the loved one has been killed, how long does the casualty officer—and let me tell you, this deals with the Army, and I have already got this settled, but it has raised a lot of questions for me at least—if a Marine is killed in action, how long does it take before the Marine Corps can bring that case to a close?

And the reason I am asking is I have a constituent whose son was killed five months ago. She has requested the autopsy report. She has requested the investigation report as to—and again, he was killed by an IED.

And I have been a little bit amazed, not disappointed, because war is war and you just can't run to a computer and get on a computer and say, "This happened."

How long, generally, should it take for a family to have total closure, meaning that questions they might ask about the death of that loved one, before the Marine Corps can say that the family has received everything that they have requested and we are now ready to close the case?

General MAGNUS. Congressman, thank you for the question.

Unfortunately, it varies depending upon the circumstances of the casualty. Our instructions require that a family be notified within hours of receipt of the casualty report at Headquarters of the Marine Corps.

And the only caveat to that is that we go to family, the next of kin that is identified by the Marine normally in their record of emergency data, during the hours of 5 in the morning and midnight, so that if we are not able to get the right kind of people and they can't get the family members to them in the event that they need other support.

That normally happens within hours or within one day, and it is not a working day; it is one day. And very frequently that happens, literally, within hours.

That information provided is the information that is as good as in the initial personnel casualty report. The initial casualty report in the case of hostile action may indicate enemy fire determined by the official on the scene, or it may indicate that it is indeterminate.

I have not seen one that indicated in the first casualty report that it was friendly fire.

So that is provided to the family within hours.

If there is some doubt as to the circumstance of a Marine's injury or death, the family is notified as soon as we know that there is some doubt. And then there is an investigation process that proceeds that is a legal process as the Judge Advocate General's manual's determination.

And when that is finally endorsed—and for killed in action, those go to the commander of U.S. Central Command for his endorsement. At that point, we will then give the final results of the investigation and its endorsements, including a redacted copy of the investigation as appropriate to the family.

We are required to update the family every 30 days if that investigation has not completed within 30 days of our initial notification. And that should be backed up by not only a telephonic notification of the status, but backed up by a letter.

That is all of the smaller procedures that are in these processes I talked about, which create a series of documents and checks and balances that we need to ensure take place.

Mr. JONES. General, thank you very much.

And, Madam Chairman, I will yield back.

Ms. DAVIS. Thank you.

Ms. Boyda.

Mrs. BOYDA. Thank you for coming and for your testimony.

And thank you, Madam Chairwoman.

I just had a question about process. Generally, and my background is in the pharmaceutical industry, so zero tolerance is pretty much the name of the game there.

And I was just wondering from the Marines' standpoint, when you do something, and when you check something, who is the person who is ultimately responsible for that process? Is it the person who does it or the person who checks it, or do you determine that? Is that part of your ethos?

General MAGNUS. Thank you, Madam Congresswoman.

Ultimately, the Commandant of the Marine Corps is responsible for ensuring these processes come. The checks and balances should be periodic examinations of the process, and it is required by regulation by the Inspector General of each service.

Mrs. BOYDA. May I just ask then, is there—maybe I made an assumption—with each one of these friendly fires, is each one processed? And then, is it also checked by someone? Is there a one-to-one, somebody does it, somebody checks it?

General MAGNUS. There should be, yes, ma'am. That is in accordance with the regulations.

Mrs. BOYDA. I am just curious, is that currently the process?

General MAGNUS. That is correct.

Mrs. BOYDA. Is there something that says in our procedures or in our process—and again, in the industry that I have come from, guess who is the one who is responsible for it? Not the person who did it, the person who checks it. And they are the one whose job is on the line, whose performance review is on the line. The person who does the checking is the person who takes it, and it is very clear to everyone whose name is on the line what that means.

So just again, it doesn't sound like that is necessarily a written procedure, and I just wondered if it might, in fact, be something that is helpful or something that you have ever considered.

General MAGNUS. Madam Congresswoman, I think it is in the regulation that each service have a casualty office that is responsible. Those responsibilities are not delineated; they are implied. I know what they are.

But we need to make sure in the checklist of each office that Mr. Downs represents the senior officer that is responsible for casualty reporting, that he is also aware that he has to be mindful of whether or not the status of a friendly fire legal investigation is complete, and if not, why not, so that from the personal casualty report on, we are constantly checking the completeness of the actions we may take.

If an action is not taken at the beginning, if something is not reported, there is no action that we can take. If an investigation is not correctly done, then it is the responsibility of the endorsers to challenge that.

But as each process comes to its milestones, there needs to be someone who is checking that it has actually been done and that we transmit that information to the families.

Mrs. BOYDA. And I yield back. I don't have any other additional questions.

Thank you.

Ms. DAVIS. Thank you, Ms. Boyda.

I just wanted to check, Ms. Sanchez.

Ms. SANCHEZ. I have no questions.

Ms. DAVIS. All right, great. Thank you.

Just going back for a second, General, if I may, I think one of the concerns, and I am recalling the meeting that we had also on the 17th of July, because I think we had a clear sense then that that was kind of all there was.

And then as you mentioned earlier, going back and taking another look I think that, from our standpoint, I think it is appropriate to characterize that as still a work in progress essentially, rather than something that is pretty definite as I think the impression of those of us who were at that meeting had. Conveying that, is that a better way to move forward?

Obviously, we want to have definite numbers, but on the other hand, it is unsettling to come back and have different numbers as time moves on.

General MAGNUS. Madam Chairwoman, it is unsettling to us, not only in leadership positions but anyone that has been associated with us, including the officials that are responsible for the processing. We believe that we will have definitive information, definitive numbers when the Inspector General is complete with his investigation.

Hope is not a principle of war. I hope that our numbers that we have done on our initial accountings turn out to be definitive. I am not confident in that as I sit here. And we will provide the subcommittee a copy of the Inspector General's investigation.

Ms. DAVIS. A follow up as well, on the 17th, when the Marine Corps stated that 24 Marines—Marine Corps Central Command (MARCENT) had reported—that were killed from friendly fire in

the Nazaria incident. And then they stated that all 18 were included because they were killed as part of the friendly fire incident. But then we learned that actually eight of the 18 were killed by hostile fire.

So I am wondering why the eight would be grouped with the remaining 10 if, in fact, they were not part of the friendly fire incident?

General MAGNUS. Madam Chairwoman, that incident that you are referring to, the 23rd of March, 2003, was the 1st Battalion, 2nd Marines. The investigation on that, which I believe was complete, was done by CENTAF, the Air Forces' Component Central Command.

The troops in the 1st Battalion, 2nd Marines were engaged in fierce combat with Iraqi Army forces on Nazaria. Unbeknownst to the company that was literally behind them, they were in front, and when the fires were authorized by their fellow company, that company thought that they were part of the Iraqi Army.

The Air Force was cleared in on a mission when U.S. troops were in fierce, close contact, already receiving numerous casualties. As a result of the fact that the A-10's then conducted a strike on that vicinity, the Air Force then became the suspected afflicting agency of the friendly fire and therefore it was their responsibility, according to regulations, to conduct a full and complete investigation.

A full and complete investigation, as you can imagine, is quite extensive, including medical forensics.

It turns out that eight of the 18 killed in action were determined to have been killed by the Iraqis and, in fact, the vicinity of the A-10 attack was a casualty collection point for that infantry company.

The other 10 of the 18 casualties were literally "indeterminate cause" of their death. And you can imagine the tremendous amount of damage that was being done in fierce close-combat, plus the ordinance that was delivered by the A-10, made it medically impossible for the investigating officer to determine the exact cause of death.

Likewise, that battalion also reported 17 wounded in action that day. Of the 17, 15 were due to wounds from enemy fire; 2 seemed to be indeterminate, and I know for a fact that 1 of them actually received wounds—this is a living, wounded Marine—from both Iraqi fire and apparently from shrapnel delivered by the A-10.

The actual timing of the fatal injuries and the timing of the wounds can only be determined by the living. The wounded can tell you when they believe they got wounded. It is very difficult to determine the timing of deaths.

Ms. DAVIS. I think the question is why the eight were listed on the friendly fire list at all, though.

General MAGNUS. Because they were part of a friendly fire investigation. And in fact, because the fires were delivered in support of and believed to be against the enemy—so the investigation determines whether or not we can determine whether it is friendly fire, enemy fire, or in some cases here as I have discussed, it is indeterminate.

Ms. DAVIS. So in other instances where there are sizable numbers and there is a friendly fire investigation, all the others would come under that investigation?

General MAGNUS. Madam Chairwoman, in a given incidence. So in other words, at a certain time and place, if there are a number of casualties and friendly fire is suspected, that will all be done in one investigation with determinations made for each and every one of the suspected wounded or killed. If the same unit has a separate operation going on, there would be, if necessary, a separate investigation.

Ms. DAVIS. Does that designation change, though, after the full investigation is done and it is determined that that was not the cause? Should that change in the listing of casualties?

General MAGNUS. Ma'am, no. The reason for the investigation won't change. The determination of the causal factors of the injury of death, they will change upon final determination of the investigating officer and the endorsers.

Ms. DAVIS. But when someone goes back and looks at the lists then, they would still see not the final determination on that list.

General MAGNUS. Madam Chairwoman, it depends on who makes up the list. As I might have indicated earlier, there were 23 total suspected friendly fire incidents, only 19 of which had actual friendly fire determinations for the casualties, 4 of which did not.

Ms. DAVIS. I see. But I think still, for our viewing, when we go back and when we look at the list that we had asked for, those are still listed in that framework. And that is our concern, how that gets changed so that we have that appropriate information. Maybe we can review that.

General MAGNUS. Madam Chairwoman, we will review that. I tried to correctly characterize that in my written letter response back to the subcommittee. If there is a way we can improve it so there is no misunderstanding; accuracy and timeliness of a response to the families and, of course, to the Congress, is essential.

Ms. DAVIS. Okay, certainly. We are just looking for the system to essentially reflect that, and if that is what we are given, that is what we see. And we would like to try to figure out a way to make certain that that isn't there.

Thank you.

Mr. McHugh, did you have any more questions?

Mr. MCHUGH. Yes.

Of course, the comment, General,—well, he is back. I want to associate myself with the comments of the great Marine warrior to my left, Mr. Kline. You spoke about the Army, and the Army, I would tend to agree with you at least in the comparative sense, has a pretty good system. On paper, it looks great, and they have had it in place for a number of years now.

But I think as we look at what did or didn't happen in the Corporal Pat Tillman case where, although the regulations and directive out of the Army required notifications to occur while an investigation was ongoing, virtually every one of the officers with the exception, apparently, of one, were operating under the assumption that that wasn't the policy. They weren't aware even though it was.

So while changing the structure and redefining it through directives is important, as Mr. Kline said, we have got to get that word

out to the field or at least in that one case with Corporal Tillman, it may not work.

So I just wanted to add my one and a half cents onto that.

The only other thing I want to pursue right now is just for my own edification.

General, when you spoke about the evolving data that we have received over the first hearing of June 27th, the briefing of July 17th, and then last evenings letter of August 1st from you, there was apparently—for lack of a better description—a disconnect between MARCENT and Headquarters Marine Corps.

Did I hear that correctly?

General MAGNUS. Congressman, I don't necessarily have the information that MARCENT did not correctly report. What I do know is the records that we have at Headquarters Marine Corps are inconsistent.

Mr. MCHUGH. Well, that is why I said "disconnect." I am not trying to characterize. They weren't the same for whatever reason. That is what you are trying to determine.

General MAGNUS. That is correct, sir.

Mr. MCHUGH. When General Downs—and I agree pretty much with Dr. Snyder's comments in the beginning about General Downs' kind of attitude, but I don't know if that is fair, but it is certainly the impression that many of us got.

But as I look through the transcript of that hearing, I mean, I can at least understand the source of his certainty when we are going through the processes, the two incidences since OEF/OIF as query to the defense casualty system.

He was certain that his data was correct because, as he put it, and I am reading from the comments on the transcript, "this, the data, includes all updated reports, Ms. Davis." He was responding to the Chair. "The casualty information processing system includes the original personnel casualty report and any supplements that have been issued, so the information is updated as each PCR is received."

Where does that process, the defense casualty processing system, fit into this continuum, if you will? Where do the PCR's come in? Where is it then transmitted to, and where did you look to give us the latest updated figures of the 82 casualties, comprised of 23 incidences?

General MAGNUS. The command reporting system that I spoke of as the first of those three processes includes a telephonic report normally within an hour of the command realizing a casualty. It is followed immediately, probably within minutes in most cases, by a digital electronic personnel casualty report.

At the same time, data is entered by the command into DCIPS, the Defense Casualty Information Processing System, which also feeds into a thing called defense casualty system, which is a registry or record that has been accumulated, I believe, going back to at least Vietnam if not before. But those are simply feeder systems. They are taking the data that is originally in the PCR as it is reported, and as it is modified by supplemental PCRs from the command.

Mr. MCHUGH. So it is transmitted initially from the field, as I hear you say it, almost simultaneously to both the defense casualty processing system, sent into that, but also into MARCENT. True?

General MAGNUS. The command in the field will begin to enter casualty information processing as the Marine is evacuated from the battlefield, assuming he has to be evacuated. And at each time there is a change in his casualty information, if he goes from Al Anbar to Balad to Landstuhl, the defense casualty information updates that status.

Now of course, if in fact, there is a fatality, that information stops there. That then feeds into the other system which is the defense casualty system, but each time there is a change in status by the command, they are supposed to indicate a supplemental personnel casualty report until the time that that individual either becomes fatal or the injury is lowered to the status of what is called "not seriously injured." That determination of that status is made by a competent medical authority.

Mr. MCHUGH. The discrepancy, the numbers, was really rectified at least in the moment, and I have heard you say that you are not entirely confident, and I understand that, and you have got an ongoing review.

But that ongoing review really deals between whatever the two data sets are held by the Headquarters of the Marine Corps and MARCENT, yes? What I am concerned about, and I don't know if this is strictly the Marine Corps' duty here, but I am concerned about the quality of data entered across the board into the defense casualty processing system.

Is there any assurance that those data are accurate or jibing with anything else? Did anybody look at that in your case or not?

General MAGNUS. That is going to be part of the deeper review by, basically, a professional investigator. That is what their job is.

I think from my cursory look at this—and I know you have emphasized, Congressman, that I am not yet confident in our information or our numbers—my cursory review is that any error in system has a tendency to be perpetuated inside that system. The Judge Advocate General's investigation is about as close to the flawless process that the congresswoman mentioned that is similar in the pharmaceutical profession, because that is rigorously gone over by lawyers and vetted at each chain.

But it is the casualty reporting chain that is the one that is subject to having either incorrect information later corrected. If it is never entered into that system, it may not have the checks and balances to be corrected.

Mr. MCHUGH. I thank you, General. General, thank you for being here today.

I yield back.

Ms. DAVIS. Thank you, Mr. McHugh.

Dr. Snyder.

Dr. SNYDER. Thank you.

General, you said, I think in response to Ms. Shea-Porter, that you thought that a DOD-wide policy is essential, was your words, and that Secretariat Dominguez is working on putting that together.

Now the Commandant's going to come out with a white letter to disseminate to everyone. Is the timing of that potentially going to be that the Commandant comes out with a white letter, then DOD comes out with a policy, and you are going to have to say, "Well, our white letter is not quite consistent with DOD policy, and we are going to have to adjust it?"

I mean, the Army is very satisfied with their procedures now after going through some real heartache, primarily because of Corporal Tillman's case. The Navy and the Air Force are satisfied; they have recognized their numbers are lower than the Army and Marine Corps.

Do we have the potential that everyone is going to have to adjust in order to follow along this DOD-wide policy that you think is coming?

General MAGNUS. Thank you, Congressman.

While I can't guarantee that we might not have a disconnect, we are working closely with the Navy Secretariat and OSD to ensure that their higher level guidance is consistent with what the Army and the Marine Corps will be doing.

And our job is going to have implementing instructions far beyond that that is going to be in the white letter to the commanders that will literally guide the training, the checklists, and if necessary, any modifications to our process, to ensure that we take note of the Army model and make appropriate changes for the Marine Corps procedures.

Dr. SNYDER. I got you.

You said earlier that it is the inflicting force that is responsible for the investigation. Is that correct?

General MAGNUS. That is correct, sir.

Dr. SNYDER. Is that true, then, if it is the inflicting force that causes casualties of DOD civilians that are in Iraq or Afghanistan?

General MAGNUS. That is correct, sir. The DOD instructions cover DOD civilians and DOD contractors that were killed or injured by hostile fire.

Dr. SNYDER. And what if the inflicting force—your responsibility would be a Marine Corps incident in which other government agency other than DOD civilians are casualties of a friendly fire in which the Marine Corps is inflicting force, are you responsible for that investigation?

General MAGNUS. Congressman, I am not aware of any circumstance, but of course, that potential exists particularly in this war. A determination would be made by the appropriate command as to who is going to do the investigation. And in the event that it was classified—and we have done classified investigations, I just looked at one today—that appropriate unclassified parts of that were transmitted back into the systems that go to track casualties.

Dr. SNYDER. And then you have the potential issues of—I am focusing now on just U.S. citizens—U.S. citizens who would get hurt by a friendly fire incident, which may have no connection with government. They may be missionaries, they may be business people. That is a third potential level of investigation.

My final question is, I would assume that when these incidents occur, they are always heart-breaking for the soldiers and Marines that are a part of them, that there is a learning experience that

goes on at some level, perhaps multiple levels. What could we have done different to avoid this?

And if you had asked me before Mr. McHugh, and I, and Ms. Davis participated in this hearing at the end of June, I would have thought that there would have been, perhaps fairly high level, maybe in the Commandant's office somewhere, someone responsible for—"Yes, we have got a file on each one of these incidents; we are looking for common links; we think it is because, I don't know, the uniforms we were wearing; we think it is poor communication, but there seem to be some links."

But the fact that this has taken literally weeks of gathering these different incidents together, I mean, it is pretty firm evidence there is no one looking at these incidents saying, "Is there a commonality that we can avoid this in the future?" Is that a fair statement?

General MAGNUS. Congressman, I would say that as of today, that is not a correct statement. There are lots of folks looking at this.

Dr. SNYDER. As of a few weeks ago, it was a fair statement.

General MAGNUS. Unfortunately, that is true.

Dr. SNYDER. Because it would have seemed like that would have been the first place you would have gone to is we have got this overt colonel who is responsible for looking at all these just like we have an office that looks at all IED—that we are looking for ways to prevent things from occurring in the future, but there hasn't been any of that occurring in the Marine Corps as near as we can tell. And that is probably unfortunate.

But thank you, General, for being here. We appreciate your time and your service and working on this issue.

Thank you, Madam Chair.

Ms. DAVIS. Mr. Kline.

Mr. KLINE. Thank you, Madam Chair.

General, I would suspect that, following up on Dr. Snyder's questions and remarks, if there are, over time, organizations that look at things like this: the Center for Naval Analysis, the folks down at Quantico who are looking at lessons learned, and so forth.

But that is different from the sort of on-the-spot taking a look at the casualty reports that come in and the investigation. I don't know that to be true, but I know that historically, it is true.

Dr. SNYDER. Would the gentleman yield?

Mr. KLINE. Oh, happy to.

Dr. SNYDER. But if the official word six weeks ago was that there had only been two incidents, that means that those groups that you cited would have probably been only informed of two incidents.

Mr. KLINE. Entirely possible. I am not disagreeing at all. I am just saying that as a matter of course, that sort of after-action investigation has gone on conflict after conflict and I am sure it would here, too. I am not excusing all the discrepancies.

And as I said in my earlier comments, there is no doubt that processes have to be changed, and that is what you are moving forward with.

And I just want to get clear for our understanding, for the record, that in the Inspector General's effort, as he looks at everything that happened, should there be an indication that something other

than courage, honor and commitment was demonstrated by someone involved. That there was an expectation in this process that such person would then be moved to administrative or legal, Uniformed Code of Military Justice (UCMJ), that there will be—if misconduct of any kind occurred—that will be addressed as well? Is that correct?

General MAGNUS. Congressman, that is absolutely correct.

Mr. KLINE. I thought I heard that in an earlier question. I just wanted to make it perfectly clear that as part of this process goes forward, you are not only looking at what happened to an end of change in processes, but if there were misbehavior of any sort, that will be brought to light as well. You have answered it. Thank you.

And I yield back.

Ms. DAVIS. Thank you, Mr. Kline.

All right, thank you.

General, we really appreciate the fact that you have been here and answering the questions and trying to help us clarify a number of issues.

One of the concerns that we heard as we sat in the meeting on the 27th centered around the term, “suspected friendly fire,” and it was our understanding that the family wasn’t notified of that initially, but that that has changed. And I just wanted to clarify that.

At what point is a family notified of a suspected friendly fire incident?

General MAGNUS. A family is required to be notified of suspected friendly fire or indeterminate cause of either a fatality, a very serious injury, or serious injury. They are required to be notified at the same time frames as our preliminary personnel casualty report; in other words, within the hours of 0500 until midnight.

If that status changes, if for good reason it was incorrectly reported as enemy fire, subsequently determined to be indeterminate, we are to immediately do the same thing and then to update that family in 30 days unless there has been a completion backing that up with a letter to let them know what the status is.

Ms. DAVIS. So it is correct to say that families are notified earlier today than they were before we started to take a look at this incident. Is that correct? Because it was our understanding that actually they weren’t notified until after an investigation was done, if it was indeterminate.

Are you saying that now it is that they are notified, if it is indeterminate, early on?

General MAGNUS. Madam Chairwoman, that is correct. And they should have been notified in accordance with statute and regulation previously.

In the case of Lance Corporals Shuder and Zurheide, that incident on the 12th of April, that was not even in accordance with our regulations. Literally, it was over two years to the notification.

Ms. DAVIS. Right, okay.

And finally, just to focus on the educational process for those that are part of this process and are part of the notification process. What do you see in terms of changes, reforms, that would be taking place at the adjutant schools as a result of changes in the white letter, which we understand has not come out yet, and you are suggesting that it is going to be more than a reemphasis. It is

going to be more specific in terms of the standard of procedures that follow that, which we hope are in line with that—there is still this educational process over here.

What changes do you foresee? And is it a matter of time spent in trying to retrain, difference of emphasis? What do you anticipate will be taking place?

General MAGNUS. Madam Chairwoman, first off, I think this will take place quite rapidly. I actually think that our procedures, although they need to be reviewed and there will probably be some changes, they were more than adequate if people understood the necessity to cross check.

But the commanding officers and the commanding generals will be advised of not only the reemphasis, but the changes that we want to put in place immediately and any changes that come subsequently with the DOD instruction and changes in Marine Corps order.

The judge advocates will be advised. And quite frankly, I think they do their process quite well. But of the connectivity, again, of these systems, and perhaps most importantly, the noncommissioned officers and officers that manned the command operational centers which do the initial and update reporting, they need to be ensured that the procedures they are trained by and their reports are consistent.

Quite frankly, the lynchpin on this, though, Madam Chairman, is the casualty section itself. To be ensured that they are aware and get the information on all three of these processes, that they rigorously cross-check and question things that don't match up. And, ultimately, the Inspector General's checklist has to be modified to ensure that we periodically go back and check this process, which can't be something that you only check once every 12 months.

So there are other things the IG, himself, is going to do to ensure that we have appropriate checks and balances.

Ms. DAVIS. What do you think is a fair amount of time for us to allow these changes to take place, whatever training is required, the white letter to move forward, and to bring either you back, General, or your representative to take a look at this and see how we are doing? Is it six months? Is it a year? What is a fair amount of time to take a look?

General MAGNUS. Madam Chairwoman, after you receive the results of the IG's investigation with our endorsements for actions on it, I believe we will have made the necessary changes within the Marine Corps within 30 to 60 days, to get it promulgated across the core. Obviously, the focus will be on the deployed and deploying combat units.

Any changes that may become from changing orders and directives may happen later, but I think the ones that are going to address everyone's correct concerns about the deficiencies in these systems, they will be done within 30 to 60 days.

Ms. DAVIS. I appreciate that.

Can I assume that if there are some problems that arise, that you will let us know about those so that we have an opportunity—

General MAGNUS. Madam Chairwoman, we are going to provide the committee staff copies of every single directive document, including the Commandant's letter that occurs as a result of this.

Ms. DAVIS. Okay, thank you very much, General.

Again, thank you very much for your service. Thank you for your frankness here, today. We appreciate it.

Thank you very much.

[Whereupon, at 3:25 p.m., the subcommittee was adjourned.]

A P P E N D I X

AUGUST 2, 2007

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

AUGUST 2, 2007

**Opening Remarks – Chairwoman Davis
Military Personnel Subcommittee Hearing on the
Policies and Procedures Regarding the
Notification of Next of Kin of Wounded and
Deceased Service Members
August 2, 2007**

This hearing is being held today because this subcommittee was not satisfied with the information provided to us on June 27th, 2007 at our hearing on the “Policies and Procedures Regarding the Notification of Next of Kin of Deceased Service Members.” At that hearing the Marine Corps provided testimony that was not accurate.

As a result of that hearing myself, Ranking Member McHugh, and Dr Snyder met with Lieutenant General Ronald S. Coleman, USMC,

Deputy Commandant for Manpower and Reserve Affairs on July 17th, 2007 to discuss some of the issues and questions that arose from that hearing. However, as a result of that briefing we still did not feel comfortable that the casualty notification process that the Marine Corps had in effect was sufficient, especially concerning those Marines who were either wounded or killed as a result of friendly fire.

The purpose of this hearing today is to correct any inaccurate or incorrect information that was previously provided to this committee and to the public, and allow the Marine Corps to set the record straight on this issue.

I look forward to the discussion we will have here today regarding this issue to ensure that the procedures and tracking system that the Marine Corps has in effect are sufficient to ensure accurate and timely notification to our service members and their families.

Before, I introduce our witnesses, let me give Congressman McHugh an opportunity for any opening remarks he might wish to make.

Panel Introductions:

We have one panel and one witness today.

General Robert Magnus, Assistant Commandant of the United States Marine Corps.

General Magnus, I would like to welcome you to our hearing today and I look forward to your testimony. Your written comments and statements will be made part of the hearing record so feel free to summarize your remarks if you would like. The members will be kept to the five minute rule and I expect to be able to get through all of the members so that each member will have a second opportunity to ask questions.

General Magnus:

**Opening Remarks – Rep. John M. McHugh
Military Personnel Subcommittee Hearing
Marine Corps' Casualty Notification Process Update
August 2, 2007**

General Magnus, I welcome you here today, but candidly, I regret that this hearing is even necessary.

We are here because in two recent sessions – a hearing on 27 June and an informal briefing on 17 July – the subcommittee received inaccurate information from the Marine Corps about the process it uses to investigate, report and notify next-of-kin when friendly fire incidents result in Marine Corps casualties.

In the 17 July briefing, we learned that the Marine Corps had 20 friendly fire incidents, not 2 as we were previously told. And just last night, if I understand the report correctly, the Marine Corps now believes that there have been 23 friendly fire incidents.

Frankly, the repeatedly inaccurate information shakes my confidence in the Marine Corps process. To be clear, I am hesitant to believe there was any intent by the Marine Corps to deceive or mislead. But it is disturbing that the picture of the friendly-fire casualty process compiled and assessed by Headquarters Marine Corps and reported to Congress was so different

from the reality of how it actually was being implemented.

Your testimony today about corrective actions being taken by the Marine Corps may help to restore some confidence. I hope that occurs. I note from your statement that the Commandant has directed the Marine Corps Inspector General to look into the reporting process for Personnel Casualty Reports. However, I will reserve judgment as to whether it may be prudent for this subcommittee to seek an outside review of the overall Marine Corps friendly fire casualty process.

From my perspective, there are three primary areas of concern:

First, has the Marine Corps done a sufficiently thorough and complete review of its casualty reporting system to be able to assure us that all the friendly-fire incidents have been identified, reported and investigated and all that families and next of kin been fully and properly notified?

Second: Why did the Marine Corps system for friendly fire casualty reporting, investigating and notifying not work effectively during OIF and OEF?

Third: Are the corrective actions the Marine Corps has put in place effective and keyed to providing the future successful operation of the casualty notification system?

With that General, I look forward to your testimony.

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THE HOUSE ARMED
SERVICES COMMITTEE

STATEMENT OF
GENERAL ROBERT MAGNUS
ASSISTANT COMMANDANT
UNITED STATES MARINE CORPS

BEFORE THE
MILITARY PERSONNEL SUBCOMMITTEE
OF THE
HOUSE ARMED SERVICES COMMITTEE

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General Robert Magnus
Assistant Commandant of the Marine Corps

General Magnus assumed his duties as Assistant Commandant of the Marine Corps on 8 September 2005.

Gen Magnus is a graduate of the University of Virginia (1969) and Strayer College (1993). His formal military education includes Naval Aviator Training, U.S. Marine Corps Command and Staff College, and the National War College.



Gen Magnus' operational assignments include: Intelligence Officer, HMM-264; Operations Officer, H&MS-15 SAR Detachment, Task Force Delta, Nam Phong, Thailand; Training Officer, SOES, MCAS Quantico; Aviation Safety Officer, MAG-26 and HMM-263; Weapons and Tactics Instructor, MAG-26 and HMM-261; Operations Officer, MAG-29; Commanding Officer, HMM-365; Commander, Marine Corps Air Bases Western Area; and Deputy Commander, Marine Forces Pacific.

Gen Magnus' staff assignments include: Aviation Assault Medium Lift Requirements Officer; Chief, Logistics Readiness Center, Joint Staff; Executive Assistant to the Director of the Joint Staff; Head, Aviation Plans and Programs Branch; Assistant Deputy Chief of Staff for Aviation; Assistant Deputy Commandant for Plans, Policies, and Operations; and Deputy Commandant for Programs and Resources.

Chairwoman Davis, Congressman McHugh, distinguished Members of the Military Personnel Subcommittee, thank you for this opportunity to testify before you today as you continue your inquiry into Marine Corps policies and procedures regarding next of kin notification. Based upon recent Marine Corps testimony, I want to ensure the record is set straight. I deeply regret to say that the information we provided at the hearing on June 27th of this year, and the subsequent briefing on July 17th was not entirely accurate. I greatly appreciate that the Subcommittee is allowing me the opportunity to provide updated, factual information.

Every Marine is precious and the families of our fallen and wounded Marines are entitled to accurate, timely information on the causes and circumstances of their loved one's death or injury. Despite the best of intentions of Marines during the casualty notification and assistance process, an internal review revealed that processing deficiencies directly and adversely affected timely, accurate notification, especially regarding the investigations into and final determinations of two Marines killed in action due to friendly fire. We are immediately acting on mistakes made to prevent further problems, documenting the lessons learned, and decisively moving to correct notification and command oversight procedures.

Investigations and Casualty Reporting Procedures

The Marine Corps investigation policy and procedures are bounded in the Department of the Navy's Manual of the Judge Advocate General. The Marine Corps conducts a preliminary investigation/inquiry into all deaths for the

purpose of documenting the incident and determining if a further investigation is warranted. Further investigation is required, if the preliminary inquiry reveals the circumstances of the death are unclear. Our casualty reporting policies and procedures are established in Marine Corps Order P3040.4E (27 February 2003), the Marine Corps Casualty Procedures Manual. Because the order mandates the timely reporting of all casualties, irrespective of their cause, special procedures are not indicated, specified or needed for reporting of known or suspected friendly fire incidents.

When a reportable casualty incident occurs, it is the responsibility of the casualty's command to telephonically notify Headquarters Marine Corps Casualty Section and the Marine Corps Operations Center within one hour after learning of the incident, followed by the submission of a Personnel Casualty Report (PCR). Commands must provide the Casualty Section with all available, accurate, and verified information pertaining to the casualty incident. When friendly fire is known, or suspected to be involved, that information must be provided in the PCR accompanied by pertinent details available at that time. Actions taken by any personnel to impede disclosure of this type of information are not tolerated. If available information is incomplete upon initial reporting, the command must state so in the PCR and further indicate that a supplemental PCR will follow. When the initial report was believed to be complete, but later discovered to have been incomplete or incorrect, a supplemental PCR is also required. These reporting procedures apply to any Service member, civilian, or contractor serving with deployed Marine units.

Therefore, there must be and is close coordination with the Casualty Assistance Offices of our Sister Services.

Upon receipt of the PCR involving a fatality or where a Marine's duty status or whereabouts is unknown, our Casualty Section locates and tasks the closest unit to the primary next of kin and secondary next of kin to provide official notification and casualty assistance via the assigned Casualty Assistance Calls Officer (CACO). Primary and secondary next of kin are designated by each Service member on his or her Record of Emergency Data. Marine Corps CACO selection is based upon rank (staff NCO or higher), professional maturity, and the ability to represent the Commandant. Marine Corps CACOs are trained and provided additional support and monitoring from the Casualty Section on each case. Primary and secondary next of kin of the deceased are notified in person, between the hours of 0500-2400 local time. The CACO provides the primary next of kin all known facts of the death and provides additional information as it becomes available from any supplemental PCRs that may follow. CACOs are not routinely assigned in wounded/injured cases. Information on wounded Marines is normally passed through command channels to the family and/or the Marine, not through a CACO.

Friendly Fire Incidents

From our review, we learned that the connection between PCRs and investigations is critical to the timely delivery of accurate information to the next of kin. It is also essential that a single repository of information be established at HQMC. Our review revealed that command

investigations were conducted on all suspected friendly fire cases. However, the review also revealed that investigation initiations or results were not routinely reported via a PCR as required. Because this is not acceptable, the Commandant has directed the Marine Corps Inspector General to investigate our procedures.

Remedies

Our duty is to ensure next of kin notification is conducted in accordance with existing casualty procedures. We fully acknowledge past process failures that negatively impacted the families of two Marines.

Marines and the Marine Corps expect that, while ensuring proper readiness for mission accomplishment, we will always take care of our Marines and their families. To reinforce this, the Marine Corps will renew emphasis on casualty reporting requirements. We are taking immediate remedial actions to ensure policy and statute is followed in all cases:

1. We must and will do the right thing for our Marines and their families.
2. We will ensure our training is rigorous and effective.
3. We will change higher headquarters reporting procedures to ensure effective reporting between HQMC and subordinate command elements.
4. We must and will ensure there are tight links between the investigation and reporting processes in order for our system to properly serve Marines and their families.
5. We are issuing a Marine Administrative message to all Marines, as well as a White Letter from the Commandant

to all Commanding Generals, Commanding Officers, and Officers in Charge, to reemphasize investigation and reporting requirements.

6. We will work with the Department of Defense to implement changes to the Defense Casualty Information Processing System (DCIPS) in order to facilitate data entry and reporting of initiated and completed investigations.

7. Finally, there will be proactive coordination between HQMC and our subordinate command elements to strengthen oversight of reporting compliance.

The Headquarters Marine Corps Casualty Section will be our single Marine Corps office responsible for representation of the Marine Corps and quality support of the families of our fallen and injured warriors.

Conclusion

Again, on behalf of the Marine Corps, I apologize for the mistakes we have made, and thank the Subcommittee for this opportunity to correct the record.