

REPORT OF THE INDEPENDENT REVIEW PANEL

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ON THE SEPTEMBER 8, 2004 60 MINUTES WEDNESDAY SEGMENT

“FOR THE RECORD”

CONCERNING PRESIDENT BUSH’S TEXAS AIR NATIONAL GUARD SERVICE

JANUARY 5, 2005

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REPORT OF THE INDEPENDENT REVIEW PANEL

I. INTRODUCTION

On September 8, 2004, CBS News' *60 Minutes Wednesday* aired a segment entitled "For the Record" (the "September 8 Segment" or the "Segment") concerning President Bush's Texas Air National Guard ("TexANG") service.¹ The first part of the Segment was an interview with Ben Barnes, the former Lieutenant Governor of Texas and Speaker of the Texas House of Representatives, who said that he had recommended that President Bush be given preferential treatment to obtain a position in the TexANG in 1968. Whether President Bush had received such preferential treatment had previously been the subject of many news stories dating back to 1994 when he first ran for public office.

The second part of the September 8 Segment highlighted four documents² obtained by *60 Minutes Wednesday* just a few days earlier. These documents were allegedly "taken from" the personal files of the late Lieutenant Colonel Jerry B. Killian, the Commander of the 111th Fighter Interceptor Squadron in which then-Lieutenant Bush served from May 1968 to October 1973. These documents, which were said to provide new information on Lieutenant Bush's TexANG service, were:

1. A memorandum dated May 4, 1972 in which Lieutenant Colonel Killian ordered Lieutenant Bush to take his annual flying physical;
2. A file memorandum dated May 19, 1972 in which Lieutenant Colonel Killian discussed a conversation with Lieutenant Bush about a transfer from Texas to Alabama to work on a political campaign, as well as Lieutenant Colonel Killian's displeasure with the requested transfer;
3. A memorandum dated August 1, 1972 in which Lieutenant Colonel Killian stated that he ordered Lieutenant Bush suspended from flight status due to his failure to meet TexANG standards and his failure to take his required flying physical; and

¹ Transcripts of the September 8 Segment and the other *60 Minutes Wednesday* and *CBS Evening News* reports pertaining to the Segment that aired from September 8 through September 22 are attached as Exhibits 1A-1L to this Report.

² These four documents, along with two others obtained by *60 Minutes Wednesday*, are referred to collectively as the "Killian documents." Copies of the six Killian documents are attached as Exhibits 2A-2F to this Report.

4. A file memorandum dated August 18, 1973 in which Lieutenant Colonel Killian stated that a retired TexANG General was putting pressure on various officers to “sugar coat” Lieutenant Bush’s officer evaluation.

In referring to the Killian documents, the September 8 Segment reported that *60 Minutes Wednesday* “consulted with a handwriting analyst and document expert who believes the material is authentic.” In further support of the documents, former TexANG Lieutenant Robert Strong, identified as a “friend and colleague of Colonel Jerry Killian,” was asked whether there was “any doubt in your mind that these are genuine?” Lieutenant Strong responded, “Well, they are compatible with the way that business was done at that time. They are compatible with the man that I remember Jerry Killian being. I don’t see anything in the documents that are discordant with what were the times, what were the situations, and what were the people that were involved.”

Within hours after the Segment aired, questions about the authenticity of the Killian documents were raised, initially in an outpouring from the so-called blogosphere³ on the Internet. These early questions focused mainly on the typography of the documents. Specifically, it was claimed that since the documents contained a superscript “th,” were proportionally spaced and had Times New Roman font style, they must be forgeries because typewriters in existence at the time the documents were purportedly written did not have the capabilities to produce these features. This was quickly followed by a raging media firestorm in print, on the air and on the Internet about the documents’ authenticity. In response to this crisis, CBS News issued a number of statements and broadcast additional reports between September 9 and 15 defending the Segment and the authenticity of the documents (the “Aftermath”).⁴ Finally, on September 20, 2004, Andrew Heyward, President of CBS News, issued a statement that said, among other things, “Based on what we now know, CBS News cannot prove that the documents are authentic, which is the only acceptable journalistic standard to justify using them in the report. We should not have used them. That was a mistake we deeply regret.”

On September 22, 2004, CBS News announced the appointment of an Independent Review Panel consisting of Dick Thornburgh, former Attorney General of the United States, and

³ A blog is a website that contains an online personal journal, often with reflections, comments, and hyperlinks provided by the writer.

⁴ Copies of the CBS News press statements issued in connection with the Segment between September 8 and September 22 are attached as Exhibits 3A-3L to this Report.

Louis D. Boccardi, former Chief Executive Officer and President of *The Associated Press*, (the “Panel”) to examine the process by which the September 8 Segment was prepared and broadcast. The Panel was also asked to examine the circumstances surrounding the public statements and news reports by CBS News after September 8 defending the Segment, as well as to make any recommendations it deemed appropriate. Kirkpatrick & Lockhart Nicholson Graham LLP was retained as counsel to the Panel.

II. EXECUTIVE SUMMARY

The stated goal of CBS News is to have a reputation for journalism of the highest quality and unimpeachable integrity. To meet this objective, CBS News expects its personnel to adhere to published internal Standards based on two core principles: accuracy and fairness. The Panel finds that both the September 8 Segment itself and the statements and news reports by CBS News that followed the Segment failed to meet either of these core principles.

The Panel has not been able to conclude with absolute certainty whether the Killian documents are authentic or forgeries. However, the Panel has identified a number of issues that raise serious questions about the authenticity of the documents and their content. With better reporting, these questions should have been raised before the September 8 Segment aired.

While the focus of the Panel's investigation at the outset was on the Killian documents, the investigation quickly identified considerable and fundamental deficiencies relating to the reporting and production of the September 8 Segment and the statements and news reports during the Aftermath. These problems were caused primarily by a myopic zeal to be the first news organization to broadcast what was believed to be a new story about President Bush's TexANG service, and the rigid and blind defense of the Segment after it aired despite numerous indications of its shortcomings.

The most serious defects in the reporting and production of the September 8 Segment were:

1. The failure to obtain clear authentication of any of the Killian documents from any document examiner;
2. The false statement in the September 8 Segment that an expert had authenticated the Killian documents when all he had done was authenticate one signature from one document used in the Segment;
3. The failure of *60 Minutes Wednesday* management to scrutinize the publicly available, and at times controversial, background of the source of the documents, retired Texas Army National Guard Lieutenant Colonel Bill Burkett;
4. The failure to find and interview the individual who was understood at the outset to be Lieutenant Colonel Burkett's source of the Killian documents, and thus to establish the chain of custody;

5. The failure to establish a basis for the statement in the Segment that the documents “were taken from Colonel Killian’s personal files”;
6. The failure to develop adequate corroboration to support the statements in the Killian documents and to carefully compare the Killian documents to official TexANG records, which would have identified, at a minimum, notable inconsistencies in content and format;
7. The failure to interview a range of former National Guardsmen who served with Lieutenant Colonel Killian and who had different perspectives about the documents;
8. The misleading impression conveyed in the Segment that Lieutenant Strong had authenticated the content of the documents when he did not have the personal knowledge to do so;
9. The failure to have a vetting process capable of dealing effectively with the production speed, significance and sensitivity of the Segment; and
10. The telephone call prior to the Segment’s airing by the producer of the Segment to a senior campaign official of Democratic presidential candidate John Kerry - a clear conflict of interest - that created the appearance of a political bias.

Once questions were raised about the September 8 Segment, the reporting thereafter was mishandled and compounded the damage done. Among the more egregious shortcomings during the Aftermath were:

1. The strident defense of the September 8 Segment by CBS News without adequately probing whether any of the questions raised had merit;
2. Allowing many of the same individuals who produced and vetted the by-then controversial September 8 Segment to also produce the follow-up news reports defending the Segment;
3. The inaccurate press statements issued by CBS News after the broadcast of the Segment that the source of the documents was “unimpeachable” and that experts had vouched for their authenticity;
4. The misleading stories defending the Segment that aired on the *CBS Evening News* after September 8 despite strong and multiple indications of serious flaws;

5. The efforts by *60 Minutes Wednesday* to find additional document examiners who would vouch for the authenticity of the documents instead of identifying the best examiners available regardless of whether they would support this position; and
6. Preparing news stories that sought to support the Segment, instead of providing accurate and balanced coverage of a raging controversy.

The Panel expresses the earnest hope, however, that the failures identified in this Report will not induce timidity at CBS News or chill its investigative reporting. Done accurately and fairly, investigative reporting serves a critical role in a free society. Done inaccurately, it can cause great harm. The recommendations made by the Panel at the end of this Report will, we hope and expect, strengthen *60 Minutes Wednesday* and CBS News' capacity to fulfill this role.

A. *60 Minutes Wednesday* Background

60 Minutes Wednesday first aired in 1999. While similar in format and concept to the original *60 Minutes* which began in 1968 and which continues to air on Sunday, there is little overlap between the two shows. They have separate staffs and offices, and work on distinct stories.

At *60 Minutes Wednesday*, the Executive Producer and Senior Broadcast Producer are ultimately responsible for the production of the stories that are broadcast. They work closely with correspondents and producers to identify and develop stories. They also are responsible for determining the appropriate amount of vetting that a segment needs before it is ready for broadcast.

Executive Producer Josh Howard and Senior Broadcast Producer Mary Murphy were the senior producers for the September 8 Segment. Senior Producer Esther Kartiganer, who is responsible for ensuring that excerpts of any interview used in a story are a fair representation of the entire interview, assisted them in the vetting of the Segment. All three assumed their positions with *60 Minutes Wednesday* during the summer of 2004. They each had significant experience at CBS News and all had previously worked at *60 Minutes*.

The September 8 Segment was the first original story aired for which Howard was the Executive Producer and Murphy was the Senior Broadcast Producer. Moreover, neither had an extensive working relationship with either Dan Rather or Mary Mapes, the correspondent and producer, respectively, of the September 8 Segment. The Panel recognizes that an effective working relationship between an Executive or Senior Broadcast Producer and the people who

investigate and produce a show can take time to develop. This consideration, along with the production speed, significance and sensitivity of the story, caused the President of CBS News, Andrew Heyward, to task his direct report, Betsy West, Senior Vice President, Prime Time, CBS News, with closer supervision of the production of the Segment than was typical.

Correspondents at *60 Minutes Wednesday* work with producers they select to develop ideas for stories and to prepare a story once the concept is approved by *60 Minutes Wednesday* management. The correspondents have varying degrees of involvement in investigating and developing stories, and the producers typically take the lead in this process. Rather and Mapes had worked together for more than five years, and Rather gave Mapes significant responsibility to produce stories, in part due to the great confidence and respect that he had for her work, and in part due to the demands of Rather's other duties at CBS News. In late August and early September 2004, as the September 8 Segment was being developed, Rather had even greater demands on his time than usual as he was covering the Republican Convention in New York City and then a hurricane in Florida. Thus, he was not able to spend extensive time on the development of the September 8 Segment.

Mapes has been with CBS News since 1989 and joined *60 Minutes Wednesday* in 1999, working exclusively as a producer assigned to Rather. Mapes was described by many people interviewed by the Panel as one of the most highly regarded producers at *60 Minutes Wednesday*. Mapes' reputation grew dramatically in 2003 and 2004 as she produced a number of noteworthy stories with Rather, including segments on Senator Strom Thurmond's biracial daughter and the Abu Ghraib prison abuses.

B. The Pursuit of a Story on President Bush's TexANG Service

The interests of Rather and Mapes in pursuing a story about President Bush's TexANG service date back to at least 1999. At that time, and again during the presidential election of 2000, they investigated allegations that then-Texas Governor Bush had received preferential treatment in getting into the TexANG in 1968. Although Rather did two interviews about the subject in 1999, no story was put together for airing. They did little further investigating on this matter until 2004, when numerous stories appeared in the media about both presidential candidates' military service during the Vietnam War era.

C. Obtaining Documents

On August 23, 2004, Mapes learned from a source that Lieutenant Colonel Burkett might have a previously unreleased document related to President Bush's TexANG service. Mapes believed that a number of news organizations were pursuing this same document from him. She and Michael Smith, a freelance journalist from Texas who was working with Mapes on this story, thereafter had a number of conversations with Lieutenant Colonel Burkett in an effort to determine whether he had the document. Ultimately, Mapes and Smith met with Lieutenant Colonel Burkett and his wife on Thursday, September 2, when Lieutenant Colonel Burkett provided Mapes and Smith with two of the Killian documents: the August 1, 1972 memorandum and another document dated June 24, 1973, which was not used on the September 8 Segment. On September 5, Lieutenant Colonel Burkett provided Smith with four more documents, three of which were to be used on the September 8 Segment.

Smith told the Panel that when Lieutenant Colonel Burkett provided the documents on September 2, he said that he had received them anonymously in the mail. Mapes had a different recollection of what Lieutenant Colonel Burkett said at the same meeting about the source of the documents. Mapes said that Lieutenant Colonel Burkett stated that he received the documents after he was interviewed on a national television show in February 2004 concerning President Bush's TexANG service, but did not say how he received them or from whom. Mapes added that she spoke to Lieutenant Colonel Burkett on several occasions over the next couple of days to get more information about the source of the documents. Ultimately, Lieutenant Colonel Burkett told Mapes on either September 4 or 5 that he had received the documents from another former Texas Army National Guardsman, Chief Warrant Officer George Conn, a statement that Lieutenant Colonel Burkett would later admit was not true. Mapes and her team of associate producers did virtually nothing to attempt to contact Chief Warrant Officer Conn to confirm this story and further trace the chain of custody of the documents.

D. The Production of the September 8 Segment

Once the documents were obtained by Mapes and Smith, there was a frenetic effort to "crash" the Segment, meaning to prepare the Segment for broadcast quickly. Among other things, the documents needed to be authenticated, five interviews had to be taped, including with former Lieutenant Governor Barnes, and with White House Communications Director Dan

Bartlett, and the script for the story needed to be written and vetted. Despite this enormous amount of work and the great sensitivity of the subject matter, it was decided to move up the date the story would air from September 29, the first scheduled show for the *60 Minutes Wednesday* fall season, to September 8, a mere six days after the first Killian documents were obtained and only three days after the four other Killian documents were received. This decision on timing was driven in significant part by competitive pressures, as other news organizations were working on stories related to President Bush's TexANG service.

1. Efforts To Authenticate Documents

Since Mapes' regular associate producer was out on maternity leave, another associate producer with whom she had not previously worked, Yvonne Miller, was assigned late on Thursday, September 2, to assist Mapes in putting the story together. The first assignment that Mapes gave to Miller on Friday, September 3, was to have the documents authenticated. Neither Mapes nor Miller had any prior experience in document or handwriting analysis or the mechanics of document authentication.

The field of forensic document examination is fraught with controversy and has differing and sometimes antagonistic certifying organizations. However, it is generally agreed that authentication of a document is best done with the original, so that a chemical analysis of the ink and paper, as well as a close review of any signature and the typography, can be conducted. In addition, document examiners typically reach their conclusions with varying degrees of certainty. A common finding is that the document in question does not have any indication that it is not authentic.

Given the tight deadline, Miller did not have sufficient time to learn the fundamentals of document authentication. Had she known the basics, she would have realized that it would be extremely difficult, if not impossible, to authenticate the Killian documents because they were copies, the alleged author was dead and no person could be located who was alleged to have been present when the documents were prepared. She instead called various people who she believed had experience in the document and handwriting field to identify potential examiners with requisite expertise. After approximately six hours of work on Friday, September 3, Miller had found four examiners who seemed to have expertise in document and handwriting authentication and who were willing to work over the Labor Day weekend.

The four examiners initially were provided with the two documents obtained from Lieutenant Colonel Burkett on September 2: (i) the June 24, 1973 memorandum, which was not used in the Segment but included a signature which purported to be that of Lieutenant Colonel Killian; and (ii) the August 1, 1972 memorandum, which only contained initials. The four examiners also were provided with 17 other pages of documents from Lieutenant Bush's TexANG records that had been obtained from the government via requests pursuant to the Freedom of Information Act ("FOIA") (the "official Bush records") so that Lieutenant Colonel Killian's purported signature on the June 24, 1973 memorandum could be compared with his signatures on those documents.

Over the next few days, the examiners analyzed the two documents and had several conversations with both Mapes and Miller. Two of the examiners told the Panel that they informed Mapes and Miller that they had various concerns about the documents. Significantly, all four of the examiners told the Panel that they informed Mapes and Miller that they could not authenticate the documents, primarily because they were copies.

One of the examiners, Marcel Matley, informed Miller on September 5 that based on his initial review, he believed that the signatures from the June 24, 1973 memorandum and those from the official Bush records were from the same person since he noticed "consistent inconsistencies." Mapes decided to bring Matley to New York on September 6 to be interviewed for the September 8 Segment. When Matley arrived in New York, he was shown the four other documents provided by Lieutenant Colonel Burkett on the previous day. Matley told the Panel that he informed Mapes and Miller at the time that he could not authenticate the documents, and Matley's contemporaneous notes from September 6 support this recollection.⁵ Instead, Matley advised Mapes and Miller that he could comment only on the signatures of Lieutenant Colonel Killian that were included in some of the documents. Matley opined that while one of the signatures of Lieutenant Colonel Killian that he had examined had "conspicuous differences" from signatures on the official Bush records, the "preponderance of available handwriting evidence" was that one person had written all of the signatures. Matley repeated this opinion in an interview with Rather that evening. It was ultimately decided not to include any portion of the Matley interview in the September 8 Segment, at least in part because it was felt that Matley did not clearly explain his opinion.

⁵ Copies of Matley's handwritten notes from September 6 are attached as Exhibit 5 to this Report.

2. Efforts to Verify the Content of the Documents

Aside from the efforts to authenticate the documents, Mapes also attempted to locate people who could verify the content of the documents. One such person contacted by Mapes was Lieutenant Robert Strong, who had served as an administrative officer in the TexANG. Lieutenant Strong had previously been interviewed by Rather for a possible story in 1999. At that time, he was asked about preferential treatment in getting into the TexANG, and he said that a number of people appeared to get preferential treatment. He noted at the time, however, that he had no personal knowledge about whether Lieutenant Bush received preferential treatment in getting into the TexANG.

On September 5, as the production of the September 8 Segment gathered force, Rather left his coverage of a hurricane in Florida to interview Lieutenant Strong in Austin, Texas. Mapes was also present at the interview. Lieutenant Strong was shown the Killian documents for the first time 20 minutes before the interview began. During the interview, Lieutenant Strong was asked whether he had any doubt that the documents were genuine. Lieutenant Strong responded, “Well, they are compatible with the way business was done at that time. They are compatible with the man that I remember Jerry Killian being. I don’t see anything in the documents that are discordant with what were the times, what were the situations and what were the people that were involved.” This response was included in the September 8 Segment.

The Panel finds this use of Lieutenant Strong’s statement to be misleading. Lieutenant Strong told the Panel that he resigned from the TexANG in March 1972, two months before the date of the earliest Killian document used in the September 8 Segment, that he had no personal knowledge of Lieutenant Bush’s service in the TexANG, and that he did not have any personal knowledge of the content of the documents. Lieutenant Strong explained to the Panel that he gave the response he did because Mapes had assured him that four experts were in the process of authenticating the documents. Lieutenant Strong advised the Panel that his response should have included the caveat that he did not have any personal knowledge of the content of the documents, but if they were authentic, then they reflected the “principles” of Lieutenant Colonel Killian.

Rather and Mapes arrived back in New York after the Lieutenant Strong interview early in the morning of September 6. The rush to prepare the Segment for possible broadcast on September 8 continued in full force. Among other matters, Mapes called Major General Bobby Hodges, Lieutenant Colonel Killian’s commanding officer during the relevant time period, on

Monday, September 6 to discuss the content of the Killian documents. Mapes told the Panel that Major General Hodges would not agree to an on-camera interview, but agreed to have the documents read to him over the telephone. Mapes told the Panel that he confirmed the content of the four documents and that this was a key factor in bolstering the conclusion that the documents were authentic.

Major General Hodges told the Panel a different version of his conversation with Mapes. Major General Hodges said that he did not confirm the content of the documents but only said that he and Lieutenant Colonel Killian had discussed the fact that Lieutenant Bush had missed a flying physical and that Lieutenant Bush wanted to transfer to Alabama. Major General Hodges also told the Panel that he did not believe that Lieutenant Colonel Killian had ever ordered anyone to take a physical, including Lieutenant Bush. Major General Hodges further told the Panel that General Walter (“Buck”) Staudt had never pressured him regarding Lieutenant Bush, as alleged in the August 18, 1973 memorandum. Moreover, Major General Hodges said that when he finally saw the documents after the September 8 Segment aired, he was convinced that they were not authentic and told this to Rather and Mapes in a telephone call on September 10, 2004.

Major General Hodges gave the Panel a number of specific reasons why he did not believe that the documents were authentic, including the use of a number of allegedly erroneous terms and abbreviations. Some of the deviations from standard format and usage mentioned by Major General Hodges included: (i) the location and format of the signature block; (ii) the abbreviations for Fighter Interceptor Squadron, Texas Air National Guard, group and officer efficiency training report; (iii) the use of the terms “billet” and “billets”; and (iv) the reference to a flight review board. While some of these observations may seem trivial, each branch of the military uses specified standard abbreviations and terms. Major General Hodges did not think that Lieutenant Colonel Killian, with whom he served for 20 years, would have written documents with so many deviations from standard format.

3. Barnes Interview

On Tuesday, September 7, Rather interviewed Ben Barnes, and a number of excerpts from this interview appeared in the September 8 Segment. The Panel has several concerns about whether the airing of the Barnes interview excerpts constituted fair and accurate reporting by *60 Minutes Wednesday*. For example, the excerpts pertaining to Barnes conveyed the

unmistakable impression that President Bush gained entry into the TexANG through preferential treatment. Barnes stated, however, that he did not know if his call to a TexANG official back in 1968 made any difference with respect to President Bush. Further, Mapes had been told previously by several former TexANG officers that President Bush entered the TexANG without any preferential treatment. Finally, Mapes confirmed to the Panel that there was conflicting information about whether there even was a waiting list to get in the TexANG as of the spring of 1968. At a minimum, these issues should have been disclosed to the *60 Minutes Wednesday* management, but they were not.

4. White House Reaction

The morning of Wednesday, September 8, the Killian documents were delivered to White House Communications Director Dan Bartlett in anticipation of an interview to get a reaction from the White House. CBS News correspondent John Roberts interviewed Bartlett at around 11 a.m. at the White House. Bartlett did not dispute the authenticity of the documents at that time but denied in the interview that the documents showed that President Bush did anything improper during his service in the TexANG. The Panel was informed by West, Howard, Mapes, Kartiganer and two CBS lawyers involved in the vetting, Jonathan Sternberg and Richard Altabef, that Bartlett's failure to challenge the authenticity of the documents hours before the Segment was to air provided further comfort that the documents were authentic.

E. The Vetting Process

All *60 Minutes Wednesday* stories go through a vetting process. The degree of vetting depends on a variety of factors, including whether the story is an investigative report and what information is presented in the segment. At a minimum, the vetting of all stories entails a review by Executive Producer Howard and Senior Broadcast Producer Murphy, a review by Senior Producer Kartiganer of the excerpts of interviews that are to be used in stories to ensure that they reflect a fair edit from the full interviews and a final fairness and accuracy screening by West. Sternberg and Altabef, who have been in-house counsel for CBS for over 20 years each, also may become involved in the vetting process depending on the type of story and issues involved.

The September 8 Segment should have received the highest degree of vetting because, among other reasons, the Segment:

1. Was a major investigative piece that was produced in a very short period of time;

2. Was pursued intermittently for over five years, which could cause the correspondent and producer to become too personally invested in the story;
3. Was to be released in the middle of a presidential campaign and was highly negative to one candidate (President Bush);
4. Involved a source who did not want his identity disclosed;
5. Involved a second source who had never been located by *60 Minutes Wednesday*;
6. Relied on documents that could not be verified by their purported author because he was deceased;
7. Relied on documents that were not originals; and
8. Was the first original story aired under the direction of the new *60 Minutes Wednesday* management team.

The Panel finds that the vetting process for the September 8 Segment was seriously flawed. The Panel believes that this was caused in large part by the speed with which this Segment was produced. The Panel also believes that the vetting process was not sufficient because too much deference was given to Mapes because of her experience and much admired history at CBS News and *60 Minutes Wednesday*, as well as her association with Rather. Rather does not appear to have participated in any of the vetting sessions or to have even seen the Segment before it was aired.

Mapes began to write the script in earnest on Tuesday, September 7. There were several meetings and screenings to vet the script with various combinations of West, Howard, Murphy, Kartiganer, Sternberg and Altabef on September 7 and 8. West typically did not get involved in the vetting process until the story was ready for a final screening. Heyward, however, asked West by no later than September 7 to become more deeply involved, which evidenced his recognition that this was an important and potentially controversial story. Thus, Heyward cautioned West and Howard in an e-mail on September 7 not to be “stampede[d]” and that “we’re going to have to defend every syllable of this one . . .”

Given the significance of the Killian documents, it was critical for the vetters to know the background, identity, credibility, motivations, biases and other relevant information about the sources of the documents. All agree that they knew virtually nothing about Chief Warrant Officer Conn, who at that time was thought to be the ultimate source. Mapes and the vetters have different accounts as to what she told them about Lieutenant Colonel Burkett. Most of the

veters told the Panel that they did not think they heard the name Bill Burkett as the source of the documents prior to the airing of the Segment but did know that the source was a former National Guardsman. Even if the name Bill Burkett had been mentioned, all the veters said it would not have meant anything to them.

Significantly, no one said that Mapes gave any indication of the level of controversy in her source's background. They told the Panel that the source was described by Mapes in different meetings and conversations on September 6 through 8 in various terms, including "solid," "without bias," "credible," "a Texas Republican of a different chromosome," a "John McCain supporter," "reliable" and "a maverick." The only significant negatives about her immediate source that they described hearing from Mapes were that he had a quarrel with the National Guard over disability payments, that an investigation that he and three other National Guardsmen had been directed to conduct concerning the National Guard had been abruptly stopped and that he was not a supporter of President Bush.

These descriptions are in stark contrast to how Mapes told the Panel she described her source during the vetting process. First, Mapes said that she did not shield Lieutenant Colonel Burkett's name from West, Howard, Murphy or Kartiganer. Second, Mapes said that she provided all of the details of Lieutenant Colonel Burkett's background that she knew to these same people, that he became a controversial figure in February 2004 when his story about the "scrubbing" of President Bush's TexANG records had been publicized and challenged, that he was a "moralistic whistleblower," and that he was one of the most vocal critics of President Bush's TexANG service. Mapes also claimed that she disclosed less significant details about Lieutenant Colonel Burkett, including the name of his wife, his financial condition and the fact that he used a dog to assist him with an illness.

As noted above, Lieutenant Colonel Burkett had told Mapes on either September 4 or 5 that he received the documents from Chief Warrant Officer Conn. Mapes told the Panel that Lieutenant Colonel Burkett told her that Chief Warrant Officer Conn, if contacted by Mapes, would not confirm that he had provided the documents to him. Mapes said that she attempted to call Chief Warrant Officer Conn at an address in Texas, but was unable to contact him. Mapes added that it was her understanding that he was living in Germany, but she did not try to locate him in Germany. Mapes further told the Panel that since she believed she had independent

verification of the content of the documents from Major General Hodges late on Monday, September 6, she did not believe it necessary to pursue Chief Warrant Officer Conn further.

The Panel finds this explanation difficult to accept. Mapes had known that Chief Warrant Officer Conn was the alleged source of the Killian documents since sometime on September 5 at the latest and could not have known in advance that Major General Hodges allegedly would confirm the content of the documents late on September 6. Further, the Segment would contain the statement that the Killian documents “were taken from Colonel Killian’s personal files.” Mapes told the Panel that she was told this by Lieutenant Colonel Burkett, but had not been able to corroborate it with Chief Warrant Officer Conn. Thus, it appears to the Panel that a crash to air the story was under way without effective consideration of the chain of custody.

In contrast, the vetters told the Panel that Mapes informed them that the source of the documents received them from another person who could not be located. None of the vetters recalls hearing Chief Warrant Officer Conn’s name or other details about this ultimate source of the Killian documents. The failure to obtain more information about the chain of custody should have raised the bar for proof of authenticity. Instead, it was not pursued and Lieutenant Colonel Burkett’s later different version as to how he got the documents would prove to overwhelm *60 Minutes Wednesday’s* dogged but doomed defense of the Segment.

The Panel finds that the vetters should have asked more questions about the ultimate source of the Killian documents. Given the importance of the documents to the Segment, the high sensitivity of the story, and the use in the Segment of the uncorroborated assertion that the documents came “from Colonel Killian’s personal files,” it was critical to understand precisely and in great detail how the source came to acquire the documents. Without a detailed understanding of the ultimate source of the documents and the chain of custody, the other efforts to authenticate the documents and their content became that much more critical.

The authentication of the Killian documents is another area where a serious conflict exists between what the Panel was told by the vetters and what Mapes told the Panel. Mapes said that she told everyone involved in the story that there were four examiners and that while two of the examiners (Matley and James Pierce) could not authenticate the documents, they found “no exclusionary points” that would preclude them from being authentic. Mapes told the Panel that the statement from the September 8 Segment that “we consulted a handwriting analyst

and document expert who believes the material is authentic” was based on conclusions by Matley. Mapes further told the Panel that she disclosed that a third examiner (Emily Will) had raised questions, but had deferred to Matley when she was told that he had endorsed the documents, and that a fourth examiner (Linda James) said she could not authenticate the documents without reviewing the originals.

The recollections of the vetters concerning what they were told by Mapes about the document examiners were not always clear or consistent. Most of the vetters told the Panel that Mapes told them that there were four examiners, including the “Dean” of document examiners (Matley), who had authenticated all or some of the documents, without any reservation or qualification. In any event, none of the vetters believed that there were any outstanding concerns related to the authentication of the documents prior to the airing of the Segment.

Regardless of what was told to the vetters about the examiners, the Panel is seriously troubled by the vetting process pertaining to the authentication of the Killian documents. Like Mapes and Miller, none of the individuals involved in the vetting process had any prior experience in the authentication of documents or handwriting analysis. None of these people sought to learn more about the document authentication process, including the limitations of having copies instead of originals. Had any of the vetters spoken to any of the examiners, they would have immediately realized the challenges posed in attempting to authenticate a copy of a document.

Mapes also told the Panel that she informed the vetters that the substance of the documents had been verified by another National Guardsman, Major General Hodges, whose name was included in an early version of the script that was available to the vetters on September 8, though his name was not actually used on the air in the final script.⁶ Mapes told the vetters that Major General Hodges’ confirmation of the content of the documents gave her significant additional comfort as to the authenticity of the documents.

This alleged confirmation by Major General Hodges started to march *60 Minutes Wednesday* into dangerous and ultimately unsustainable territory: the notion that since the content of the documents was felt to be true, demonstrating the authenticity of the documents became less important.

⁶ However, as noted above, Major General Hodges denied to the Panel that he gave such confirmation.

The Panel's investigation included interviewing other people who might have had knowledge of the content of the documents, but who were not interviewed by *60 Minutes Wednesday* about the documents prior to airing the September 8 Segment. These people included officers who served at Ellington Air Force Base ("Ellington AFB") with Lieutenant Colonel Killian, including Lieutenant Colonel Doug Via, former Operations Officer for the 111th Fighter Interceptor Squadron, and Colonel Rufus Martin, former Personnel Staff Officer for the 147th Fighter Interceptor Group. Neither Lieutenant Colonel Via nor Colonel Martin believed that the documents were authentic or that their content was correct.

F. Authenticity of the Killian Documents

The Panel was not able to reach a definitive conclusion as to the authenticity of the Killian documents. However, Mapes made oral and written presentations to the Panel during its investigation in an effort to demonstrate that the content of the Killian documents was in fact authentic. These presentations were done primarily by comparing the Killian documents with official Bush records to show how well she believed that the Killian documents "meshed" with the official Bush records.

The Panel finds that the meshing analysis submitted by Mapes does not withstand scrutiny for two reasons. First, in many instances, the content of the Killian documents does not mesh well substantively with the official Bush records. Second, the Killian documents vary in significant ways from the standard format and jargon of documents issued by the 147th Fighter Interceptor Group in the early 1970s. Thus, the Panel believes that there remain substantial questions regarding the authenticity of the Killian documents. The Panel believes that careful reporting prior to airing the Segment should have identified these questions and, at a minimum, should have delayed the broadcast so that more reporting could be conducted.

In terms of meshing with the official Bush documents and the deviations in format, the Panel observes the following by way of example:

May 4, 1972 Memorandum. The official Bush records make no mention of this alleged order for Lieutenant Bush to take a physical, and Guardsmen who served with Lieutenant Colonel Killian, including Major General Hodges, Lieutenant Colonel Via and Colonel Martin, told the Panel that they never heard of any such order.

The format of this document varies from standard format:

The signature block is on the right, while standard format was for the block to be on the left.

Lieutenant Colonel Killian's name is listed as "JERRY B. KILLIAN," while it was standard for his name to be "JERRY B. KILLIAN, Lt Col, TexANG."

Fighter Interceptor Squadron in the official Bush records is overwhelmingly abbreviated as "FIS"; in this Killian document, it is abbreviated as "F.I.S."

May 19, 1972 Memo to File. The first paragraph pertaining to Lieutenant Bush's obtaining equivalent training at a location in Alabama meshes reasonably well with the official Bush records.

August 1, 1972 Memorandum. This memorandum suggests that Lieutenant Colonel Killian verbally suspended Bush from flying status. However, the official Bush records document that it was then-Colonel Hodges who suspended Lieutenant Bush and that he did so solely because Lieutenant Bush had failed to take his flight physical and not for the additional reason that he had failed to meet TexANG standards.

The format of this document varies from standard format:

Same signature block location and format deviations as with the May 4, 1972 memorandum

Lieutenant Colonel Killian is shown to have used only initials to sign this document. Lieutenant Colonel Killian always wrote out his full name in the official Bush records.

This document abbreviates Texas Air National Guard as "USAF/TexANG." The official Bush records from the 147th Fighter Interceptor Group abbreviate it as "TexANG."

The memorandum calls for the convening of a "flight review board." The proper term is "Flying Evaluation Board."

August 18, 1973 Memorandum. This memorandum states that retired General Staudt was putting pressure on then-Colonel Hodges to provide Lieutenant Bush with a good Officer Efficiency Report. No official Bush record supports this document and the Guardsmen interviewed by the Panel, including General Staudt and Major General Hodges, deny that General Staudt exerted any influence after he retired.

The language in this document varies from standard language:

The standard abbreviation for "Group" was "Gp"; this document abbreviates Group in two places as "Grp."

This memorandum abbreviates Officer Efficiency Training Report as "OETR." The official Bush records abbreviate it as "OER," and Guardsmen confirmed for the Panel that OER is the correct abbreviation.

G. The Aftermath

Almost immediately after the September 8 Segment aired, there was an escalating controversy about the authenticity of the Killian documents. The criticisms focused initially on

the allegation that typewriters that existed during the relevant period did not have the ability to create the superscript “th” that was included in the May 4, 1972 and August 18, 1973 memoranda, that they could not have produced the proportional spacing that all four documents allegedly contained, and that they did not have the Times New Roman font allegedly utilized in all four documents.

Over the next week or so, CBS News issued a number of press statements and *CBS Evening News* reports that staunchly defended the September 8 Segment despite increasingly strong indications that the reporting for the Segment was flawed. The Panel finds that these statements and reports contained numerous misstatements and inaccuracies. Moreover, the Panel finds that once serious questions were raised, the defense of the Segment became more rigid and emphatic, and that virtually no attempt was made to determine whether the questions raised had merit.

1. The Initial Response

The initial response of *60 Minutes Wednesday* was to stand by the September 8 Segment, a concept familiar to many journalists. This defense is only effective, however, when a story can be proved to be true, even in hindsight. The rush to air and the flawed vetting put *60 Minutes Wednesday* in the untenable position of publicly defending the Segment, but being unable to prove it.

On Thursday, September 9, in response to growing criticism of the Killian documents on the Internet and in mainstream media like ABC News and *The Washington Post*, CBS News issued its first statement defending the Segment. That statement said that the documents had been “thoroughly examined and their authenticity vouched for by independent experts.” The Panel finds that this statement is not accurate as no expert had vouched for the authenticity of the documents.

On Friday, September 10, press coverage about the authenticity of the documents intensified. In an effort to respond to the mounting criticism, CBS News issued a statement that the September 8 Segment “was not based solely on recovered documents, but rather on a preponderance of evidence, including documents that were provided by unimpeachable sources. . . . In addition, the documents are backed up not only by independent handwriting and forensic document experts, but sources familiar with their content.” The Panel finds that Lieutenant Colonel Burkett could not be reasonably described as an “unimpeachable source,”

given his own inconsistent public statements, as well as his criticisms of President Bush and the National Guard. Further, the statement was inaccurate because the Killian documents were not backed up by forensic document experts.

The *CBS Evening News* on September 10 included a report that stated that an official Bush record from 1968 included the same superscript “th” as in the Killian documents and that the owner of a company that distributes typeface said that Times New Roman typeface had been available since 1931. Moreover, the report continued that “[d]ocument and handwriting examiner Marcel Matley analyzed the documents for CBS News. He says he believes they are real” The report then included an excerpt of the September 6 interview with Matley in which he discussed only the signature on one of the documents and not the authenticity of the documents themselves. Finally, the report stated that Lieutenant Strong was “standing by his judgment that the documents are real” and replayed the excerpt of his interview from the September 8 Segment.

The Panel finds a number of deficiencies with the September 10 *CBS Evening News* report. First, while an official Bush record did include a superscript “th,” it is far different in appearance from the superscript “th” in the May 4, 1972 and August 18, 1973 memoranda. Second, while Times New Roman typeface may have been available since 1931, the Panel understands that it was only available in typeset machines and not in typewriters during the period the Killian documents were allegedly written. Third, neither Matley nor Lieutenant Strong ever authenticated the documents or said that they were “real.” Fourth, no one asked Lieutenant Strong after the Segment aired and before the September 10 report whether he was “standing by his judgment.”

Friday, September 10, should have been a watershed day in dealing with the growing controversy about the Segment. First, CBS News President Heyward, concerned about mainstream media’s increasingly critical reporting about the Segment, directed Betsy West early that morning to investigate the details of the examiners’ opinions and confidential sources that allegedly supported the Segment. No such investigation was done at that time. Had this directive been followed promptly, the Panel does not believe that *60 Minutes Wednesday* would have publicly defended the Segment for another 10 days.

Second, during the day, three events took place that should have alerted CBS News management that the reporting for the Segment may have been flawed. First, the CBS News

strategy to get *60 Minutes Wednesday's* document examiners to defend the Segment was not followed, as only Matley made an appearance. As noted above, Matley did not attest to the authenticity of the documents. Second, a respected typewriter expert, Peter Tytell, contacted Miller and Howard and explained in detail why he believed the Killian documents were likely fakes. His views were not pursued or analyzed in part because *60 Minutes Wednesday* was searching only for experts who would defend the September 8 Segment. Third, Major General Hodges contacted Mapes and Rather and told them that Mapes had misquoted him about his alleged confirmation of the Killian documents and now that he had had the opportunity to review them, he believed that the documents were not authentic. Neither Mapes nor Rather asked Major General Hodges to explain why he believed the documents were not authentic and the Panel finds no discussion of this conversation with others at CBS News at the time.

Thus, within two days following the airing of the September 8 Segment, *60 Minutes Wednesday* ignored significant opportunities to take a fresh look at the reporting that allegedly supported the Segment. This was especially unfortunate because the criticisms of *60 Minutes Wednesday* thereafter only continued to mount.

Another unsettling disclosure occurred on Saturday, September 11. The media reported that General Staudt had retired from the TexANG on March 1, 1972, approximately 18 months before Lieutenant Colonel Killian allegedly had written the memorandum about General Staudt's trying to "sugar coat" Lieutenant Bush's officer efficiency report. This obviously triggered questions among the media about how General Staudt could have had such influence well after retiring, but it did not trigger any re-examination by *60 Minutes Wednesday* of its reporting. Instead, Mapes told *60 Minutes Wednesday* personnel that General Staudt remained influential after his retirement. That representation went unchallenged. The Panel's investigation suggests that it is doubtful that General Staudt exerted any such influence after he retired.

On Monday, September 13, the *CBS Evening News* aired yet another report on the continuing controversy about the Killian documents, despite misgivings by the *CBS Evening News'* Executive Producer that CBS News had anything new to report. The report said that "CBS used several techniques to make sure these papers should be taken seriously, talking to handwriting and document analysts and other experts who strongly insist that the documents could have been created in the 70s." The report included excerpts from an interview of Bill Glennon, described as a technical consultant, who said that typewriters in the 1970s could have

produced a superscript “th” and proportional spacing. The Panel finds this statement unpersuasive as Glennon conceded to the Panel that he was not a typography expert and did not say which typewriters would have had those capabilities. Moreover, he did not know what type of machine allegedly produced the Killian documents. Nevertheless, Rather closed this *CBS Evening News* report by stating that CBS News “believes the [Killian] documents are authentic.”

2. The ABC News Report

Another significant rebuke to *60 Minutes Wednesday*'s defense of the Segment occurred on September 14. ABC News' *World News Tonight* on that date featured two of the original four document examiners, Linda James and Emily Will, who had reviewed certain of the Killian documents for *60 Minutes Wednesday* prior to the airing of the September 8 Segment. James and Will told ABC News that they did not authenticate the documents and that they had each raised concerns about the documents prior to the September 8 broadcast with *60 Minutes Wednesday* personnel. James and Will said that these concerns were not addressed by anyone at *60 Minutes Wednesday*.

60 Minutes Wednesday learned before the airing of the ABC News broadcast that Will and James were going to express their concerns about the documents publicly. In response, Matley and James Pierce, the other examiners who had been retained by *60 Minutes Wednesday* prior to the September 8 Segment, were asked by Miller to prepare letters confirming the authenticity of the documents. Matley's initial letter stated that he only addressed whether the purported “Jerry B. Killian” signatures were done by the same person and concluded that “the preponderance of the available handwriting evidence was that one writer made all the signatures examined.” There is no mention in the original letter about the authenticity of the documents. Pierce's conclusion in his initial letter was that “[t]he findings of the aforementioned physical evidence strongly suggest the probability that the documents in question are authentic.”

60 Minutes Wednesday received revised letters from Matley and Pierce. While it was not clear who suggested changes to the letters, handwritten notes on the initial drafts indicate that West and Sandy Genelius, a member of the CBS Communications Group, provided proposed edits to a representative of *60 Minutes Wednesday*, who then provided the proposed edits to Matley and Pierce. In the revised letters, which were posted on the CBS News website, Matley added a sentence that “I observed nothing about the documents that could disprove their authenticity.” Pierce revised his conclusion to state “[I]n my professional opinion, with what I

know and have examined based on the photocopied questioned documents, the documents in question are authentic.”

Pierce would not agree to be interviewed by the Panel. However, in a conversation with counsel to the Panel, Pierce stated that a representative of *60 Minutes Wednesday* asked him to strengthen his conclusion and that he informed her that it did not represent his views. He said that he told the representative that he would provide an unqualified opinion since he was asked to do so by *60 Minutes Wednesday*, but only if the letter was not made public. Pierce told counsel to the Panel that he further told the representative that *60 Minutes Wednesday* would “get in trouble” if it made his letter public. Nevertheless, the revised letters from Matley and Pierce were posted on the CBS News website.

3. The Statements of Marian Carr Knox

A further rebuke to *60 Minutes Wednesday*'s defense of the September 8 Segment occurred on September 14. On that date, an interview with Marian Carr Knox, a clerk typist who worked with Lieutenant Colonel Killian during the relevant time period, was quoted in a Dallas newspaper. Knox stated in the interview that she did virtually all of Lieutenant Colonel Killian's typing and that she did not believe that the documents were authentic, although the content reflected Lieutenant Colonel Killian's feelings. She was contacted by *60 Minutes Wednesday* and agreed to do a televised interview. Knox was flown to New York and interviewed by Rather on September 15.

The interview with Knox was shown on *60 Minutes Wednesday* on September 15. In that segment, Knox, who was described by Rather as a “credible voice,” said that she did not type the documents. While she did state in the interview that she did not think the documents were authentic, she added that she did believe that the facts included in at least some of the documents reflected Lieutenant Colonel Killian's beliefs at the time.

The Panel spoke with Knox on two occasions, and she stated that she did not have any personal knowledge about the content of any of the Killian documents, aside from the fact that she knew Lieutenant Bush had sought to transfer to Alabama so that he could run a political campaign. She informed the Panel that she answered Rather's questions on the assumption that the content was accurate. She made clear in her Panel interviews that she did not have any personal knowledge about the thrust or content of the documents.

4. The Change in Source

In light of the interviews of James, Will and Knox questioning the authentication of the documents, Heyward directed West to accompany Mapes to Texas to interview Lieutenant Colonel Burkett about the documents. Before that occurred, a conference call was held on Thursday, September 16 among Heyward, Rather, West, Mapes and Lieutenant Colonel Burkett. The call lasted about three hours. Among other things, Lieutenant Colonel Burkett acknowledged that he did not get the documents from Chief Warrant Officer Conn, but had identified him as the source only because of pressure by Mapes to name his source and because he wanted to protect the actual source. He then disclosed that his actual source was a woman who identified herself as Lucy Ramirez. Lieutenant Colonel Burkett said he received a call from Ramirez after he had been interviewed extensively by the media in February 2004 in connection with his published claim that some of President Bush's TexANG records had been purged. Ramirez told Lieutenant Colonel Burkett that she had some documents related to President Bush's TexANG service that she wanted to give to him. They arranged for him to receive the documents at a livestock show in Houston in early March 2004, where an unidentified man delivered the documents. Lieutenant Colonel Burkett agreed to repeat this information in an on-camera interview and it was agreed that Rather would travel to Texas and interview Lieutenant Colonel Burkett on Saturday, September 18. Rather interviewed Lieutenant Colonel Burkett on that date, and Lieutenant Colonel Burkett repeated his story about obtaining the documents from an unidentified man at the livestock show in Houston.

5. The Apology

On Monday, September 20, the *CBS Evening News* aired a report in which Rather stated that CBS News could "no longer vouch for [the Killian documents'] authenticity." As one of the reasons for this position, the story prominently cited the fact that Lieutenant Colonel Burkett had changed his story and said that he got the documents from a different source that could not be verified. The Panel finds this statement confusing, since *60 Minutes Wednesday* had never verified the original source from whom Lieutenant Colonel Burkett initially said he received the documents. Moreover, the source of the documents was not the sole factor in determining whether the documents were authentic.

On that same day, Rather was interviewed at length by Marcia Kramer at WCBS, the CBS-owned television station in New York City. In the interview, Rather made clear that the blame for the airing of the September 8 Segment lay with *60 Minutes Wednesday* personnel. The Panel finds these statements to have been far more appropriate than the *CBS Evening News* broadcast on September 20.

Rather told the Panel that he delivered the apology and gave the WCBS interview in support of CBS News' decision that the time had come to stop defending the Segment and, indeed, to disown it. He told the Panel, however, that he did not fully agree with this decision and still believes that the content of the documents is accurate. The Panel is troubled by these conflicting statements.

6. The Contact With the Kerry Campaign

Another troubling aspect of the September 8 Segment emerged in the public disclosure on September 21 that Mapes had been in contact with Joe Lockhart, a senior staff member of the Kerry presidential campaign, in connection with the production of the Segment. Mapes told the Panel that before Lieutenant Colonel Burkett turned over any of the documents, he had pressed her to arrange for him to be put in touch with someone from the Kerry presidential campaign so that he could provide the campaign with strategic advice on how to rebut the attacks by the "Swift Boat Veterans for Truth" group. Mapes told the Panel that she did not know anyone from the Kerry campaign, but got Lockhart's telephone number from Chad Clanton, a Kerry campaign official who had been quoted by Mapes' husband, a newspaper reporter, in an article on an unrelated matter.

Mapes also told the Panel that before calling Lockhart, she discussed this request with Howard and that he approved the contact. Mapes said that Howard had reasoned that reporters exchange information from various sources and this request was not problematic. Howard, however, told the Panel a very different version of this conversation and said that he clearly informed Mapes that it would be inappropriate to intervene with Lockhart or anyone else associated with the Kerry campaign on Lieutenant Colonel Burkett's behalf.

Mapes further told the Panel that at some point prior to September 8 she spoke to Lockhart. According to Mapes, Lockhart called her and the conversation lasted only approximately two minutes. Mapes told the Panel that she merely informed Lockhart that Lieutenant Colonel Burkett wanted to speak with him. She did not think she described

Lieutenant Colonel Burkett as a source or that the subject of the documents ever came up during the call.

Lockhart told the Panel a contrasting version of this conversation. Lockhart said that Clanton, who reported to Lockhart, had asked Lockhart to take a call from Mapes about a story she was working on related to President Bush's TexANG service. Lockhart told the Panel that Clanton said that the story involved documents and that a call from Lockhart to a *60 Minutes Wednesday* source who wanted input into the Kerry campaign might assist *60 Minutes Wednesday* in obtaining the documents from the source. Lockhart was reluctant to speak with Mapes given that he did not want to give the impression that the campaign was assisting on the matter. Lockhart said that he agreed to speak with Mapes only after he was assured by Clanton that Mapes already had obtained the documents in question and that the reporting stage of the story was complete.

Lockhart informed the Panel that Mapes called him on the evening of Saturday, September 4. Lockhart said that she told him that she had lined up an interview with Ben Barnes and had obtained documents that had been authenticated by some number of experts. Lockhart stated that Mapes said that there may be more documents and Mapes asked him to call Lieutenant Colonel Burkett, whom she described as a source for the story. Lockhart said that it was his impression that a call to Lieutenant Colonel Burkett could be helpful in obtaining the additional documents.

Lockhart told the Panel that he did not immediately call Lieutenant Colonel Burkett as he recognized it could be perceived negatively. However, he ultimately changed his mind and spoke to him on Monday, September 6, by which time Mapes had received the rest of the Killian documents. Lockhart said the call lasted less than five minutes and that Lieutenant Colonel Burkett gave his opinion on how the campaign should address the Swift Boat issue. Lockhart stated that he said very little during the call and the subject of documents never came up.

The Panel is unable to resolve definitively the conflict between the accounts of Howard and Mapes concerning whether permission was given to speak with a representative of the Kerry campaign in connection with the TexANG story. Whether or not permission was given to Mapes, the Panel finds this contact to be highly inappropriate. The September 8 Segment had a strong political focus and it was to air in the middle of a hotly contested presidential campaign. While it is certainly proper to receive information from a variety of sources, this contact crossed

the line as, at a minimum, it gave the appearance of a political bias and could have been perceived as a news organization's assisting a campaign as opposed to reporting on a story.

H. Political Agenda

The Panel is aware that some have ascribed political motivations to *60 Minutes Wednesday's* decision to air the September 8 Segment just two months before the presidential election, while others further found political bias in the program itself. The Panel reviewed this issue and found certain actions that could support such charges. However, the Panel cannot conclude that a political agenda at *60 Minutes Wednesday* drove either the timing of the airing of the Segment or its content.

Given that the Panel does not believe that political motivations drove the September 8 Segment, questions likely will be raised as to why these massive breakdowns occurred on this story at an organization like CBS News with its heritage and stated commitment to the highest standards of journalism. The Panel heard from many that the Rather/Mapes team was a formidable force at *60 Minutes Wednesday*. Great trust was placed in Mapes, a highly respected producer who had just produced a widely acclaimed segment on the Abu Ghraib prison abuses, and vast deference was given to Rather, the "face" of CBS News. These factors, along with the "crash" of the production, contributed greatly to the failures of the September 8 Segment and the Aftermath.

I. Recommendations

The Panel concludes that the September 8 Segment reflected a widespread breakdown of fundamental processes at *60 Minutes Wednesday*. CBS News has an historic and deep-seated commitment to accurate and fair reporting, and the Panel was impressed by the fact that so many of its personnel have been with CBS News for many years and appear fully committed to the Standards of accuracy and fairness that CBS News has articulated. That makes it all the more difficult for the Panel to understand how this breakdown could have occurred.

While the Panel was not asked to look at any other segments of *60 Minutes Wednesday*, it did not find any evidence that the flaws of the September 8 Segment carried over to any other segment. More than a few of the staff members interviewed by the Panel likened this breakdown in the production of the September 8 Segment to a "perfect storm," in which a confluence of factors came together and led to the failures. The Panel believes that there is some basis for this

analogy, as the combination of a new *60 Minutes Wednesday* management team, great deference given to a highly respected producer and the network's news anchor, competitive pressures, and a zealous belief in the truth of the Segment seem to have led many to disregard some fundamental journalistic principles, including but not limited to: tracking down the chain of custody for the Killian documents; thoroughly understanding everything relevant about the confidential sources; thoroughly understanding the document authentication process and what the *60 Minutes Wednesday* experts actually did and said; and thoroughly understanding the corroboration process for critical information, such as the lack of personal knowledge of Lieutenant Strong and the failure to attempt to show Major General Hodges the critical Killian documents before the Segment was aired.

However, the “perfect storm” analogy cannot be used as an excuse. The fact is that basic journalistic steps were not carried out in a manner consistent with accurate and fair reporting, leading to countless misstatements and omissions in the reporting by *60 Minutes Wednesday* and CBS News. Those misstatements and omissions lead the Panel to conclude that it is not sufficient simply to exhort those responsible to do better in the future. The Panel believes that certain process changes must be put in place to strengthen controls so that similar problems are less likely to occur in the future.

In making these recommendations, the Panel is mindful that no system can totally prevent a breakdown, particularly a system such as that at *60 Minutes Wednesday* which depends so heavily on the trust and integrity of the individual participants. The Panel urges CBS News to consider implementing the recommendations set forth in Chapter XI, including but not limited to, the following:

- Create a new senior Standards and Practices position (“Standards Executive”), outside of the production structure of *60 Minutes Wednesday* and reporting directly to the President of CBS News, whose mission would be as follows. Before airing any *60 Minutes Wednesday* segment that involves investigative reporting, confidential sources or the authentication and/or chain of custody of materials received from outside sources, the Standards Executive must be consulted and must review whether proper processes have been followed. The Panel observes that CBS News has had a person in charge of “Standards and Practices,” but this position has not been tasked to function as outlined here. The Standards Executive should have the authority to delay or veto the segment.
- The Standards Executive would also be identified throughout *60 Minutes Wednesday* as someone with whom the staff can communicate on a confidential basis, without

fear of retaliation, if they have concerns that a planned story or segment may not meet CBS News' Standards of accuracy and fairness, or for any other reason.

- If the validity of information presented in a *60 Minutes Wednesday* segment comes under a significant challenge, such as occurred with the September 8 Segment, reporting on the challenge should not be left largely or entirely in the hands of those who created the segment at issue. Instead, an additional team, led by someone not involved in the original segment, should be assigned to take the lead in the coverage. The Panel notes that once the attacks began on the September 8 Segment, essentially the same people who developed the challenged segment had control of the news reports defending it. This resulted in opportunities for other news organizations to do the reporting that exposed serious problems in the Segment.
- The same standards for accuracy and fairness prescribed by CBS News' Standards Manual for its news stories should be applied to its press releases and public statements. That did not consistently occur here, as our Report on the Aftermath illustrates. CBS News management and the CBS Communications Group should coordinate their efforts and develop a protocol that accomplishes this objective.
- Competitive pressures are a fact of life in journalism and may impact the timing of a news story. The leadership of CBS News should make clear to all personnel that competitive pressures cannot be allowed to prompt the airing of a story before it is ready. It would have been better to "lose" the story on the Killian documents to a competitor than to air it short of investigating and vetting to the highest standards of fairness and accuracy.
- In sensitive stories relying on sources who cannot be identified on the air, senior management must, as appropriate, know not just the name of the source, but all relevant background that would assist in news decisions. Limitations in this regard must be reviewed with the Standards Executive that the Panel has proposed.

III. PROCESS OF INVESTIGATION

The Panel and its counsel, Kirkpatrick & Lockhart Nicholson Graham LLP, conducted the investigation in a completely independent manner.⁷ CBS News did not control or influence the scope of the investigation or the methods employed by the Panel. CBS News did not have any input or influence with respect to the findings of the Panel, other than to commit itself at the outset to make this Report public.⁸ The Panel received full cooperation from CBS News and its personnel, including those who might have reason to believe that this Report would contain findings critical of their work. Significantly, the Panel was given access to personal notes and the investigative materials of many of the people, including Mary Mapes, involved in the reporting of the September 8 Segment.

The Panel assembled a vast quantity of information to support its findings. All information obtained by the Panel during the process was done by voluntary means. The Panel reviewed thousands of pages of scripts, e-mails, news releases, investigative notes, military records and other relevant documents. The Panel also interviewed 66 individuals who had knowledge of relevant events. This included 32 people from *60 Minutes Wednesday* and CBS News and 8 people who had been affiliated with the TexANG during all or part of the period that President Bush served in it. Several of those interviewed from CBS News were not involved in the September 8 Segment, but had information or background the Panel believed relevant to its work.

The Panel spoke to every person at CBS News and *60 Minutes Wednesday* who played any substantive role in the production of the September 8 Segment, as well as those who were involved in a significant way in the news reports and press statements following the airing of the Segment. The Panel interviewed many people on more than one occasion to ensure that it received all of the necessary information and to provide people with a complete opportunity to provide the Panel with any relevant information. Mary Mapes and her counsel provided several

⁷ In addition to the attorneys listed on the signature page of this Report, the Panel expresses its great appreciation for the outstanding work and commitment of Matthew B. Bowman and Jennifer Shuttleworth, project manager and administrative assistant, respectively, at Kirkpatrick & Lockhart Nicholson Graham LLP.

⁸ The Panel provided, on December 29, 2004 a substantially completed draft of its Report to Leslie Moonves, chairman of CBS, Linda Mason, a vice president of CBS News responsible for interpreting the Standards of CBS News, and two CBS attorneys just before it was submitted in final form to CBS News. None of these individuals were involved in the production or vetting of the September 8 Segment, nor in the Aftermath. The purpose of the review was to verify for the Panel that the Report contained a proper description of the Standards and processes at CBS News, as well as to identify any potential issues of libel.

written submissions to supplement her interviews with the Panel. These submissions proved helpful to the Panel's considerations.

No court reporter was present at the interviews, but the Panel and its counsel took detailed notes. There were instances when the recollections of certain individuals interviewed were not consistent with the recollections of others. The more significant differences are noted in this Report. The Panel found that e-mails prepared contemporaneously with events proved to be particularly valuable in refreshing recollections of those interviewed and in assisting the Panel in determining which recollections seemed more credible.

With two notable exceptions, the Panel was able to speak with the individuals the Panel believed were important to its investigation. The Panel requested on several occasions the opportunity to speak with Lieutenant Colonel Bill Burkett and Chief Warrant Officer George Conn. Lieutenant Colonel Burkett initially informed the Panel that he did not believe that he had been treated in a professional or ethical manner by CBS News and did not want to speak with the Panel. The Panel also invited Lieutenant Colonel Burkett to make a written submission or respond to written questions submitted to him by the Panel. Lieutenant Colonel Burkett never provided a definitive response to these requests but did later inform the Panel, through an intermediary, that he would consider providing information to the Panel if it was agreed that the Panel would not include such information in its Report. The Panel could not agree to such a condition. Chief Warrant Officer Conn did not respond to two requests made by the Panel to be interviewed. Despite this, the Panel believes that it has obtained a substantial record on which to base its findings and recommendations.

Notwithstanding its findings of numerous deficiencies related to the reporting, production and vetting of the September 8 Segment and its Aftermath, the Panel was impressed with the professionalism, dedication, commitment and intelligence of the individuals it interviewed from CBS News and *60 Minutes Wednesday*. Many of these individuals have been associated with CBS News for many years and expressed great pride and respect for the organization and its mission. Many spoke, often with emotion, of their "love" for CBS News. Some expressed disbelief that CBS News could find itself in the situation created by the September 8 Segment. CBS News has had a proud and storied tradition, and the Panel believes that it would be a substantial loss if the troubled episode under discussion here were somehow allowed to diminish its journalistic commitment or investigative zeal.

The Panel expects that some may ask why it took from September 22, 2004, the date this Panel was announced, until January 5, 2005 for the Panel to issue its Report. The primary reason is that the investigation needed to be much broader than initially anticipated. The Panel believed at the outset that its investigation would focus primarily on the Killian documents. While the Killian documents were, indeed, important to the investigation, it also became clear relatively early in the Panel's work that the problems affecting the Segment and its Aftermath involved much more than the Killian documents. The Panel and its counsel devoted essentially full time to this endeavor since September 22 and completed the Report in as thorough and expeditious a manner as possible.

IV. BACKGROUND

A. *60 Minutes* – The Sunday Show

CBS News divides its news programming into two categories: “hard” news and news magazines. The hard news division includes the *CBS Evening News*, the *CBS Morning News*, *The Early Show*, *CBS News Sunday Morning*, *Face The Nation*, *Up To The Minute*, and certain other special events and political coverage. The news magazine division includes *60 Minutes*, *60 Minutes Wednesday* and *48 Hours*.

60 Minutes debuted on September 24, 1968 as television’s first news magazine show. *60 Minutes* became one of the most popular shows in television, finishing in Nielsen’s Top Ten programs for 23 consecutive seasons, a record unmatched by any other program. Now in its 37th season, the show has developed into a “blend of hard-hitting investigative reports, interviews, feature segments and profiles of people in the news.” *60 Minutes* is still a top-rated show and airs on Sunday evenings.

B. *60 Minutes Wednesday*

In the middle of the 1998-1999 season, CBS News launched a weeknight edition of *60 Minutes* with a separate staff of management, producers and correspondents. The new show was billed as having “the signature style, journalistic quality and integrity of the original *60 Minutes*.” Originally entitled *60 Minutes II*, the broadcast has since been renamed *60 Minutes Wednesday* and includes regular reports from the show’s own correspondents, periodic pieces from other CBS News journalists and updated reports on previous *60 Minutes Wednesday* stories. *60 Minutes Wednesday* airs Wednesday nights at 8 p.m. Eastern time.

Several differences between *60 Minutes* and *60 Minutes Wednesday* were described to the Panel. For example, *60 Minutes Wednesday* was created to appeal to a “younger and jazzier” demographic group than the original *60 Minutes* audience. Although both shows gravitated toward a team model, people familiar with the operation of both broadcasts told the Panel that *60 Minutes Wednesday* correspondents typically have less contact with their producers and associate producers than their counterparts at *60 Minutes* because several *60 Minutes Wednesday* correspondents have additional responsibilities. For example, Dan Rather is not only a *60 Minutes Wednesday* correspondent, but he also is the Anchor and Managing Editor of the *CBS*

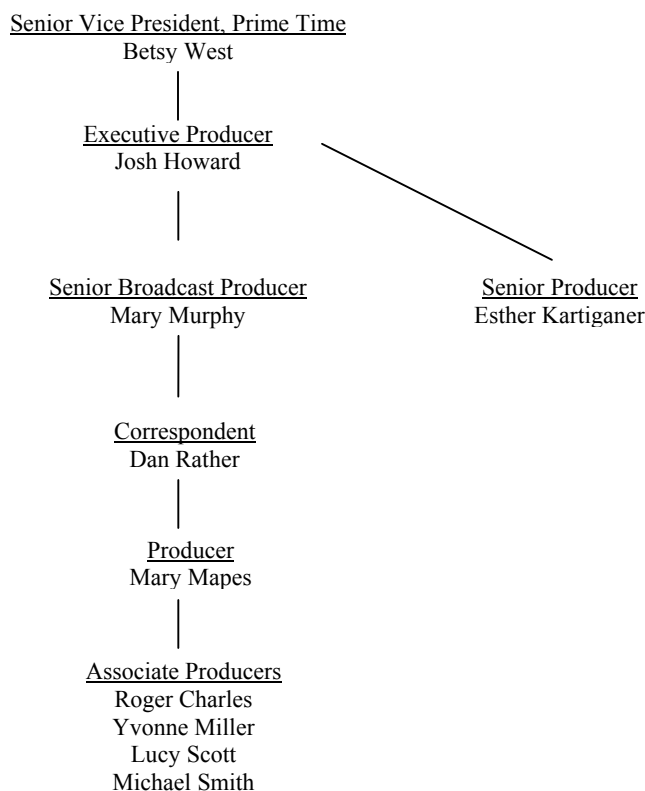
Evening News. Charlie Rose, a *60 Minutes Wednesday* correspondent, also hosts a show on PBS.

Another difference is that all of the *60 Minutes* producers, associate producers and senior management have offices on the same floor and seem to interact a great deal, while the *60 Minutes Wednesday* production staff is located on a different floor from the senior management of the show. The Panel was told by some that this physical separation makes it more difficult for the *60 Minutes Wednesday* staff and management to interact effectively.

V. ORGANIZATIONAL STRUCTURE OF *60 MINUTES WEDNESDAY*

A. Introduction

The following chart⁹ depicts the hierarchy of those involved in the reporting, production or vetting of the September 8 Segment:



In addition, two CBS lawyers, Jonathan Sternberg and Richard Altabef, also were involved in the vetting. A more detailed description of the roles of the various individuals involved follows.

B. Description of the Organization

1. Correspondents, Producers and Associate Producers

The correspondents for *60 Minutes Wednesday* are ultimately responsible for the production of the stories that air and are expected to exercise oversight over their producer teams. In practice, the degree of oversight exercised by correspondents varies, with some being very involved in their producers' work on a regular basis while others give great authority and

⁹ This chart is not intended to include every individual in the *60 Minutes Wednesday* structure. There were a number of other individuals involved in the production of the Segment.

freedom to their producers. The correspondents at *60 Minutes Wednesday* who have other responsibilities, including Rather, tend to delegate significant responsibilities to their producers. During the relevant time period, Rather had substantial additional responsibilities on his already full schedule as anchor and Managing Editor of the *CBS Evening News*, as he was also anchoring CBS News' coverage of the Republican Convention in New York from Monday, August 30 through Thursday, September 2, and he traveled to Florida to cover Hurricane Frances on Friday, September 3, through late afternoon on Sunday, September 5.

Producers at *60 Minutes Wednesday* are primarily responsible for researching and developing stories and are assisted by associate producers. A producer and associate producer gather facts and put a story together. It is also the producer and associate producer's responsibility to put interview transcripts into context, so that a story fairly and accurately reflects the contents of the interviews conducted. Producers also typically have the greatest role in drafting the script for a segment. Thus, there is a great amount of responsibility and trust placed in the producers.

Mary Mapes has served as a producer for Rather on *60 Minutes Wednesday* since the show's inception. During that time, she produced more than 30 stories for the show. Her stories have covered a wide variety of topics, including death penalty cases, an interview of Strom Thurmond's biracial daughter, an interview of George Clooney, an interview of former First Lady and current Senator Hillary Rodham Clinton and, notably, the Abu Ghraib prison story. Mapes was considered by everyone at CBS News with whom the Panel spoke as "a superstar" reporter and producer, and some of her superiors said that they stood in awe of her work.

Mapes was given permission to engage three part-time freelance associate producers to assist her on the TexANG story: Colonel Roger Charles, a former Marine officer, who also assisted Mapes on the Abu Ghraib prison story; Mike Smith, an Austin-based freelance journalist who had worked on stories pertaining to President Bush for many years;¹⁰ and Lucy Scott, a Dallas-based former *CBS News Sunday Morning* producer. In addition, late on September 2, 2004, Yvonne Miller, an experienced associate producer who regularly works with another producer assigned to Rather, was asked to assist on the production of the Segment. Miller knew Mapes but had never worked with her before. The associate producer who had worked with

¹⁰ Smith spent portions of 1997-99 working with Bill Minutaglio in writing *First Son*, which was published in 1999 and is generally considered to have been an objective book about then-Governor Bush.

Mapes since 1998 did not work on the September 8 Segment because she had left for maternity leave on August 11, 2004.

The time to produce a *60 Minutes Wednesday* segment once the reporting is complete can last for several days or several weeks. There is no typical process or timeline. In fact, it is not unusual for a “crash” piece to be written in less than 24 hours. The term “crash” is used to describe a segment that is produced within a very short period of time. Crashes are generally day-of-air reports, such as coverage of the 9/11 terrorist attacks, and are less often investigative journalism pieces.

2. Executive Producer and The Senior Broadcast Producer

The Executive Producer is involved in approving a story concept proposed by a correspondent or producer and has varying involvement in the production of the segment. When a correspondent/producer team nears completion of a *60 Minutes Wednesday* segment, a detailed review or vetting process begins. The Executive Producer is ultimately responsible for everything that goes on the air.

The Executive Producer’s top assistant, a Senior Broadcast Producer, works closely with the Executive Producer to form the senior management team of *60 Minutes Wednesday*. The Senior Broadcast Producer is generally deeply involved in both the production and vetting processes.

3. Additional Layers of Review

Besides the Executive and Senior Broadcast Producers, there are at least three other layers of review. First, the Interview Reviewer has both a formal and informal role in the vetting. The current Interview Reviewer at *60 Minutes Wednesday*, Senior Producer Esther Kartiganer, has more than 40 years of experience at CBS News and is viewed as a valued voice in the vetting process. Kartiganer’s formal role is to review excerpts of interviews used in a segment and to compare them to the full interview transcripts (and interview notes when necessary) to determine whether the excerpts are a fair and accurate portrayal of the full interview. Kartiganer’s informal role is to raise questions about any aspect of a proposed segment that may catch her attention, regardless of whether they involve edits of an interview.

On any proposed segment that may have legal implications, CBS lawyers, likely Jonathan Sternberg and Richard Altabef, become involved in the vetting process. Like the Interview

Reviewer, they have both formal and informal roles. The formal role is to protect CBS News from potential legal liability.

The Panel was told that the lawyers do not always limit their involvement to a review of the legal issues. Given that they each have been with CBS for more than 20 years, their views on editorial content and other matters are valued. For example, with respect to the September 8 Segment, Sternberg and Altabef asked questions about the source of the documents and the authentication process and whether the Killian documents contained newsworthy information.

Finally, the Senior Vice President, Prime Time, Betsy West, usually does not play an active role early in the production or vetting processes. Instead, her standard practice is to carry out a final fairness and accuracy review once all other reviewers, including the Executive Producer, have signed off and the segment is ready to be broadcast. In this role, she reviews every story on *60 Minutes*, *60 Minutes Wednesday* and *48 Hours*, a total of over 200 stories a year.¹¹ West told the Panel that she functions as the vetting representative of CBS News President Andrew Heyward in the review process. Heyward generally does not have a role in the production or vetting of *60 Minutes Wednesday* segments, and he usually does not see a segment before it is aired. Heyward will, however, become involved in the production or vetting process if a segment is particularly sensitive or if he is asked to do so.

4. CBS' Communications Group

CBS has a Communications Group that, among other things, promotes *60 Minutes Wednesday* shows before they are broadcast and handles media inquiries after shows are aired. Gil Schwartz is the head of the Communications Group at CBS. Sandy Genelius, a Vice President of the Communications Group at CBS, is in charge of press relations for the CBS News Division. Kelli Edwards, who reports to Genelius, is responsible for *60 Minutes Wednesday's* press relations.

C. The Unique Characteristics of the Production Process for the September 8 Segment

The production process for the September 8 Segment had a number of unique characteristics. First, the Segment was the first original story to be aired under the new team of Howard, Murphy and Kartiganer. In June 2004, the Executive Producer, Jeff Fager, the

¹¹ Although it is atypical for West to be involved early in the production process, she might become involved if a segment has a shorter deadline or is particularly sensitive.

Executive Editor, Patti Hassler, and the Interview Reviewer, Claudia Weinstein, left *60 Minutes Wednesday* to assume similar positions at *60 Minutes*. Fager and Hassler had been with *60 Minutes Wednesday* since its inception in 1998. They were succeeded by Howard, Murphy and Kartiganer. These three had a combined 71 years of CBS News experience. Howard had spent the previous 14 years with *60 Minutes*, serving as part of the management team for seven years and one year as the top assistant to then Executive Producer Don Hewitt. Murphy had been with CBS News for 17 years and had served as Senior Broadcast Producer with *CBS News Sunday Morning* for four years and as a producer for *60 Minutes* for one year. By all appearances, the new management team at *60 Minutes Wednesday* was well qualified to lead the show.

Second, while there is no “typical” timeframe for the evolution of a *60 Minutes Wednesday* story, the September 8 Segment’s production was significantly shorter than a normal investigative story. As previously noted, the September 8 Segment aired only six days after the first Killian documents were received and only three days after the second batch of documents was received.

Finally, the September 8 Segment differed from other segments in that West played a greater role in the production and vetting processes than was customary. The production of the segment began in force at *60 Minutes Wednesday* offices on Monday, September 6. At the direction of CBS News President Andrew Heyward, West became heavily involved in the production the next day. In a normal production, she would not have been involved until the piece was finished and ready to be aired. The early involvement of West underscored the recognition by CBS News management that this story required the highest degree of vetting possible.

VI. BACKGROUND ON CBS NEWS STANDARDS, THE TEXAS AIR NATIONAL GUARD AND DOCUMENT AUTHENTICATION

A. CBS News Standards

CBS News established Standards for its News Division in 1976 and most recently revised those Standards in 1999. The Standards are set forth in an internally published CBS News Standards Manual covering four areas: personal standards; production standards – newsgathering; production standards – editing and production; and legal issues. As set forth in the Introduction to the Manual, most of the Standards “come down to two essential principles: **accuracy and fairness.**”

The Panel makes reference to a number of the Standards that seem particularly relevant to this Report, although the noted accuracy and fairness principles are the overriding guide. Those particular Standards are reproduced in Appendix 1 to this Report.

B. Texas Air National Guard Background

In the late 1960s and early 1970s, the top tier of the Texas National Guard was the Adjutant General’s Office, located in Austin, Texas. The Adjutant General was appointed by the Texas Governor and oversaw both the TexANG and the Texas Army National Guard. The TexANG was led by the Assistant Adjutant General - Air, who was Brigadier General James Rose when President Bush sought admission to the TexANG in 1968. Reporting to TexANG headquarters were three flying units and three non-flying units. The flying units were the 147th Fighter Interceptor Group in Houston, the 136th Tactical Airlift Wing in Dallas and the 149th Fighter Interceptor Group in San Antonio. The non-flying units were two electronic units in La Porte and Port Arthur and one communications unit in Garland.

The Commander of the 147th Fighter Interceptor Group in Houston was responsible for seven squadrons: the 111th Fighter Interceptor Squadron; the Civil Engineering Flight Squadron; the 147th Combat Support Squadron; the 111th Weather Flight Squadron; the 147th Supply Squadron; the 147th CAMRON (maintenance) Squadron; and the 147th USAF Dispensary Squadron.

In spring 1968, then-Colonel Walter Staudt was Commander of the 147th Fighter Interceptor Group and then-Major Jerry B. Killian was the Commander of the 111th Fighter Interceptor Squadron. Then-Lieutenant Colonel Bobby W. Hodges was Operations Officer for

the 147th Fighter Interceptor Group. In 1969, Colonel Staudt moved to Austin to assume a new Chief of Staff position in the TexANG headquarters, and then-Colonel Hodges became Commander of the 147th Fighter Interceptor Group. Colonel Staudt eventually was promoted to General of the TexANG, and he retired from the TexANG on March 1, 1972.

The following additional people were located in Houston during the period that Lieutenant Bush served in the TexANG. Colonel Rufus Martin was the Group's Personnel Staff Officer. Lieutenant Colonel Richard Via was the Flying Training Instructor in the 111th Fighter Interceptor Squadron. Lieutenant Colonel William Harris was a fighter pilot who commanded one of the four flight groups of the 111th Fighter Interceptor Squadron and was Lieutenant Bush's rating officer. Marian Carr Knox was the clerk typist for the 111th Fighter Interceptor Squadron.

The chief function of the 147th Fighter Interceptor Group in the early 1970s was to be on alert for possible air attacks from the south, most likely from Cuba. The 111th Fighter Interceptor Squadron had approximately 30 pilots, who mostly flew F-102 jet fighters. The 30 pilots were organized into four flight groups, each of which had a flight commander. At all times, two pilots and two planes needed to be on alert so that they could be airborne within five minutes if an unidentified or threatening aircraft was detected. Lieutenant Bush flew these alert missions regularly during his period on flying status. In addition to alert duty, people like Lieutenant Bush who were not full-time TexANG employees would normally have one duty weekend per month and then a two-week duty period during the summer.

President Bush joined the TexANG in May 1968. After completing pilot training in Georgia, Lieutenant Bush was assigned to fly F-102s at Ellington AFB in Houston in early 1970. He flew F-102s until May 1972, when he sought a transfer to a National Guard unit in Alabama. A transfer was granted in September 1972. Lieutenant Bush returned to Ellington AFB in approximately May 1973 and sought an early discharge in September 1973. He was honorably discharged as of October 1, 1973.

C. Background on Document Authentication

The authenticity of the Killian documents was recognized as a significant issue before the airing of the September 8 Segment and became the lightning rod for attacks thereafter. To provide context, the Panel offers background information pertinent to the authentication of documents in Appendix 2.

As discussed in Appendix 2, it is extremely difficult to establish the authenticity of a document if the original document or its author is not available. These basic concepts, and the other challenges posed in authenticating documents, needed to be understood by the correspondent, producer, associate producer and those at *60 Minutes Wednesday* who vetted the Segment. As described in Chapter VII, this requisite knowledge does not appear to have been developed, leading to some significant errors pertaining to the purported authentication of the Killian documents.

VII. THE PRODUCTION OF THE SEPTEMBER 8 REPORT

Like many other reporters and news organizations, Mapes, Rather and others at *60 Minutes Wednesday* investigated intermittently for more than five years possible stories on President Bush's TexANG service. Mapes began her research in early 1999, when then-Governor Bush's first presidential campaign was getting under way but did not produce a segment at that time. After the 2000 presidential election, Mapes did not pursue this topic again until during the next presidential campaign in mid-2004. In search of a story about President Bush's TexANG service record, Mapes and her team attempted to interview as many people as they could at the time and to obtain many official records of his service.

By late August 2004, despite months of work, the only firm element in Mapes' story was a possible interview with Ben Barnes, the former Speaker of the Texas House of Representatives and former Lieutenant Governor of Texas, who reportedly had used his influence to help President Bush enter the TexANG in the spring of 1968. On August 23, and seemingly out of the blue, Mapes learned that a never-before-seen document might be in the possession of Lieutenant Colonel Burkett and that it might shed new light on the President's Guard service. Mapes and her team speculated that the document was the "holy grail" for which they had been searching in the course of previous efforts.

After more than a week of coaxing, Lieutenant Colonel Burkett provided Mapes and her freelance associate producer Mike Smith with two documents on Thursday, September 2. Four additional documents were provided by Lieutenant Colonel Burkett to Smith on Sunday, September 5. All six documents were purportedly copies of memoranda taken from the personal files of Lieutenant Colonel Killian, Lieutenant Bush's commanding officer in the TexANG. Where and when they were found, and by whom they were taken, remains clouded in mystery. Moreover, Lieutenant Colonel Burkett was a former officer in the Texas Army National Guard, as opposed to the TexANG. He was also a controversial figure for, among other reasons, making many public statements about the alleged "scrubbing" of the President's TexANG files.

Prior to giving the documents to Mapes and Smith, Lieutenant Colonel Burkett demanded that he not be revealed as the source, and Mapes agreed to protect his identity. In addition at some time either before or after Lieutenant Colonel Burkett gave the documents to Mapes and Smith, he requested various "arrangements," including the following: a consulting contract,

which would allow him to be compensated by *60 Minutes Wednesday*; security protection or relocation assistance if the story put him or his family in danger; and for Mapes to place him in touch with someone from Senator John Kerry's presidential campaign so that he could provide strategic advice to that campaign as to how to rebut the attacks on Senator Kerry's Vietnam service by the "Swift Boat Veterans for Truth." We return later to the outcome of those requests.

Between Thursday, September 2 and the broadcast on Wednesday, September 8, Mapes and her team attempted to confirm that the documents were authentic, *i.e.*, that they were indeed what they purported to be. Attempts at this confirmation included: an on-camera interview of one person who had served in the TexANG in an administrative position but had no personal knowledge of the documents or Lieutenant Bush's service; seeking the opinions of four handwriting and document examiners; discussing the documents with Lieutenant Colonel Killian's former commanding officer over the telephone; speaking with Lieutenant Colonel Killian's widow; and providing the documents to the White House for comment.

The work to air the Segment by 8 p.m. EST on September 8 included much more than just seeking to authenticate the Killian documents, a daunting task by itself. Mapes, Rather and their team needed to arrange for and conduct five interviews between Sunday night, September 5, and Wednesday, September 8. In addition, the script for the Segment had to be written. Further, various graphics and background footage needed to be assembled. Finally, the entire Segment needed to be thoroughly and carefully vetted, particularly since this involved a highly sensitive investigative story about the incumbent President in the middle of a presidential campaign.

The Panel finds that there were serious deficiencies in both the investigative reporting for the September 8 Segment, as well as in the production and vetting process leading up to the broadcast. A detailed chronology of the facts that lead to these conclusions follows.

A. The Initial Pursuit of the Story in 1999

Mapes started researching President Bush's TexANG service in 1999, when then-Governor Bush's first presidential campaign was heating up. He was the Republican front-runner in polls as far back as November 1998, when he was re-elected Governor of Texas.¹²

¹² Wayne Slater, *Governor Plans 'Private Time' To Weigh Presidential Bid*, DALLAS MORNING NEWS, Nov. 4, 1998, at 28A.

By late April 1999, Mapes' reporting was well under way. She was researching how then-Governor Bush, along with professional athletes and the sons of other politicians, had obtained what looked to be coveted assignments in the TexANG, thereby likely avoiding active duty in Vietnam. At the time, Mapes was operating under the assumption that political favoritism had contributed to various aspects of then-Governor Bush's TexANG service, including his admission into the TexANG, his rapid promotions (from Airman to Second Lieutenant and then to First Lieutenant), his 1972 transfer to an Alabama National Guard unit so that he could work on the U.S. Senate campaign of a Bush family friend and his early exit from the TexANG in October 1973. Mapes observed in an e-mail to her then-Senior and Executive Producers on April 27, 1999, on which she copied Rather, that "in his military career, Bush was truly born on third base." She suggested that "the way we ultimately do the story [could be] by establishing a pattern in this unit that just happened to have been a safe haven for children of privilege at the height of the Vietnam War."

Mapes' research at the time consisted of gathering public documents through multiple requests under the Freedom of Information Act ("FOIA") and interviewing people who had served in the TexANG at the same time as President Bush. Significantly, Mapes indicated in the April 1999 e-mail that she had been informed that there was no waiting list for President Bush's TexANG unit at the time he entered. She posited the "darkest spin" that then-Colonel Walter Staudt, then in charge of the 147th Fighter Interceptor Group, deliberately kept these spots open "to take in the children of privilege . . . while maintaining deniability." Mapes told the Panel that she never found any proof for this theory.

Mapes told the Panel, as her interview notes reflect, that the interviews she conducted at that time revealed a sharp division about President Bush's service record among people who served in the TexANG. She noted that most of the people interviewed could not or would not confirm publicly that President Bush's admission to the TexANG reflected preferential treatment. Among the people she interviewed off-camera was Colonel Rufus Martin, the Personnel Staff Officer of the 147th Fighter Interceptor Group, who told Mapes that President Bush "did not get preferential treatment to get into the Guard."¹³

¹³ Colonel Martin, however, told the Panel that he did not recall speaking to Mapes or anyone else from *60 Minutes Wednesday*.

Mapes also spoke to Major General Bobby Hodges, who was the Group's commander during most of the time that President Bush served in the TexANG. Major General Hodges told Mapes that they "were hurting for pilots at that time" due to "big turnover." He said that there were "no strings pulled" to get President Bush into the TexANG.

In addition, Mapes interviewed General Staudt, who was Major General Hodges' commanding officer at the time and who interviewed President Bush in May 1968 before he was accepted into the TexANG. General Staudt told Mapes that no influence had been used to get President Bush into the TexANG. Specifically, General Staudt told Mapes, according to her contemporaneous notes of their conversation, "No influence used to get [President Bush] into the Guard. Nobody called me."

Mapes did speak, however, to others who claimed that President Bush had indeed received preferential treatment. Former Texas State Representative Jake Johnson, who served as the Chairman of the House Veterans and Military Affairs Committee in the late 1960s, told Mapes that he heard General James M. Rose, then the Assistant Adjutant General - Air for the State of Texas, say that he had put Bush in the TexANG.¹⁴ Another individual who knew General Rose was quoted in notes kept by Mapes in 1999 in an off the record interview as saying, "if Barnes says he talked to [General Rose], I can't dispute that," but added, "I believe Bush didn't personally ask for help." This individual also commented that "[t]here's no politics like Guard politics."

During this time in 1999, Mapes turned her attention to getting an interview with former Texas Lieutenant Governor and Speaker of the Texas House of Representatives Ben Barnes. In anticipation of that interview, she drafted a summary of what she had learned regarding then-Governor Bush's service in the TexANG. The summary stated:

Our big deal in this story is a promised interview with Ben Barnes after he gives his deposition [in connection with the GTECH litigation] on August 24. For 30 years, he has told no one what he did for Bush . . . Barnes says he is only telling now because he's being asked under oath. And he's only doing the interview because he thinks the world of Dan [Rather].¹⁵

¹⁴ Johnson also told the same thing to *The Washington Post* in September 1999. See George Lardner Jr., *Texas Speaker Reportedly Helped Bush Get into Guard*, WASH. POST, Sept. 21, 1999, at A4.

¹⁵ Barnes was a consultant to GTECH Corp., the principal outside consulting firm for the Texas Lottery. GTECH Corp. was sued by the former Director of the Texas Lottery who claimed that Barnes influenced his termination and that Barnes had ties to then-Governor Bush because he allegedly helped President Bush enter the TexANG. *Legal Showdown Possible Over Barnes' Deposition*, AP, Sept. 22, 1999.

Lieutenant Governor Barnes' deposition was not held until on or about September 27, 1999. Soon after the deposition, the *Houston Chronicle* reported that Barnes had issued a statement through his lawyers in which he admitted that he had made a call to General Rose at the behest of a friend of the Bush family, prominent Houston businessman Sidney A. Adger, and recommended President Bush for a pilot's position in the TexANG.¹⁶

Mapes also sent an e-mail around this time to her Senior and Executive Producers regarding President Bush's TexANG service records, indicating that she had consulted an officer who worked at the Air Reserve Personnel Center in Denver, Colorado ("ARPC"), which is the national personnel headquarters for the Air Force Reserve and Air National Guard. According to the e-mail, the officer Mapes consulted noticed significant gaps in President Bush's service record – particularly that he did not take his flying physical in 1972 and that there was a gap or abrupt stop to his service around that time – and commented that, "This guy just stopped performing."

Like most of the other people whom Mapes contacted, this individual at the ARPC would not speak on-camera. In fact, the only two people who were interviewed on-camera in the 1999/2000 time period in connection with the possible *60 Minutes Wednesday* TexANG story were writer Bill Minutaglio¹⁷ and former Guardsman Lieutenant Robert Strong,¹⁸ neither of whom had any personal knowledge of President Bush's TexANG service. Rather interviewed both of them in October 1999, but the interviews never aired.

Ultimately, Lieutenant Governor Barnes did not agree to be interviewed on-camera in 1999 by *60 Minutes Wednesday*. Without Barnes, Mapes did not think she had a story. Mapes told the Panel that she was then tied up on other work and abandoned the story until mid-2000.

¹⁶ Clay Robison, *Barnes Says He Sought Spot in Guard for Bush*, HOUSTON CHRON., Sept. 28, 1999, at A1.

¹⁷ Minutaglio is the author of *First Son*, a biography of the Bush family published in October 1999. Minutaglio said in the interview that he believed that Bush's status as the son of Congressman George H.W. Bush had helped him to secure one of three to five sought-after pilot slots in the TexANG out of a waiting list of 150, but Minutaglio did not indicate that Bush won the slot as the result of a specific request by the Bush family or any other direct political influence.

¹⁸ Robert Strong was a First Lieutenant in the TexANG and, during the relevant period, worked in an administrative capacity in TexANG's headquarters in Austin, Texas. As previously noted, Lieutenant Bush served at Ellington Air Force Base in Houston. In the interview with Rather, Lieutenant Strong said that there were long waiting lists to get into the TexANG, but that he did not have any first hand knowledge whether that was why any individual, including President Bush, was selected.

B. The Continuing Investigation in 2000

Throughout the first half of 2000, as the presidential primaries were under way, there were continuing allegations in the press, as well as in new books, that then-Governor Bush had avoided active duty during the Vietnam War and had pulled strings to obtain a spot in the TexANG. Mapes began work again on a TexANG story in mid-2000, and she enlisted the assistance of Mike Smith, a freelance reporter based in Austin, Texas. Mapes had worked with Smith in March 2000 on unrelated stories. Smith had been a researcher for Minutaglio on *First Son* and knew Mapes' husband, a reporter for a Dallas newspaper. Smith told the Panel that, because *First Son* was well-regarded, he received requests for assistance from many news organizations on research related to then-Governor Bush.

In September 2000, Smith also learned from a source about a retired Lieutenant Colonel in the Texas Army National Guard named Bill Burkett, who reportedly had knowledge of “scrubbing” of the TexANG files relating to then-Governor Bush. The source said that Lieutenant Colonel Burkett had sent a letter regarding the alleged “scrubbing” to a Texas-based group, “Veterans for Truth.” Smith was told by his source that, in the letter, Lieutenant Colonel Burkett had alleged that Dan Bartlett, then an aide to Governor Bush and currently the White House Communications Director, had cleaned out then-Governor Bush's TexANG files. Lieutenant Colonel Burkett also claimed that he overheard a speakerphone conference call on which people said that they needed to “scrub” embarrassing TexANG files related to then-Governor Bush. Smith told the Panel that he called Lieutenant Colonel Burkett in October 2000, found him to be “nice” and “cut and dried,” and reported this to Mapes. Mapes, however, appeared to be focused on another story at the time and did not pursue the TexANG investigation further at this point.

On November 4, 2000, three days before the 2000 presidential election, Lieutenant Colonel Burkett's allegations of President Bush's “scrubbed” TexANG files were reported on the Internet by anti-Bush activists Linda Starr and Bev Conover of the *Online Journal* and Bob Fertik of Democrats.com.¹⁹ The *Online Journal* article contained the following account of Lieutenant Colonel Burkett's allegations:

¹⁹ Linda Starr & Bev Conover, *Former National Guard Officer Says Bush Aide Scrubbed Military Records*, Nov. 4, 2000, at www.onlinejournal.com/bush/110400Starr-Conover/110400starr-conover.html; Bob Fertik, *Bush Aides Possibly Altered National Guard Records To Conceal Grounding and Missed Duty*, Nov. 4, 2000, at www.democrats.com/display.cfm?id=171.

A former officer in the Texas National Guard says an aide to George W. Bush scrubbed Bush's military records to get rid of the disparities between those files and an account of Bush's military service in his official biography.

Bill Burkett . . . said, "As the State Plans Officer for the Texas National Guard, I was on full-time duty at Camp Mabry when [Bush aide] Dan Bartlett was cleansing the George W. Bush file prior to G.W.'s presidential announcement This [cleansing] effort [also] involved . . . General Daniel James and Chief of Staff William W. Goodwin at Camp Mabry. . . . I knew one person who [was involved in] the records scrub who commented to me . . . that the Bush files really showed some problems with his blue-blood service record."

Fertik's article contained a similar description of Lieutenant Colonel Burkett's allegations, although he noted that "Burkett stops short of directly accusing Bartlett of doctoring Bush's records."

Lieutenant Colonel Burkett's allegations were not picked up by the mainstream media except for *The Times* (London), which briefly reported Lieutenant Colonel Burkett's "scrubbing" allegations in two articles on November 5, 2000. The first article stated:

The Bush camp was equally dismissive of a claim by Bill Burkett, a former lieutenant-colonel in the Texas National Guard, that the governor's aides had doctored his military record.

Burkett said that Bush aides had visited the National Guard headquarters at Camp Mabry "on numerous occasions" to make sure that records available to the public about [then-Governor Bush's] military service would tally with his autobiography²⁰

Another article that day in *The Times* (London) stated, "Bill Burkett . . . said that Bush aides had been 'scrubbing the files' to bury disparities between his record while serving as a reserve pilot during the Vietnam war and an account of the period in his official biography."²¹

A "clarification" attributed to Lieutenant Colonel Burkett was immediately issued, which was and still is posted on various Internet blogs.²² His clarification did not revisit the facts of the "scrubbing" allegations but addressed the extent of his allegations and the motivations and circumstances surrounding his statements to the media. Lieutenant Colonel Burkett posed

²⁰ Matthew Campbell, *Gore Puts on Knuckle-dusters and Aims a Blow Below the Belt*, *TIMES* (London), Nov. 5, 2000.

²¹ Tom Rhodes & Matthew Campbell, *Bush Holds Narrow Lead Despite Last Minute Row*, *TIMES* (London), Nov. 5, 2000.

²² See Bill L. Burkett, *Air National Guard Commanding Officer Alleges Bush Military Records Cleansing*, at www.americanassembler.com/almanac/truth_about_bush_military.html.

several questions to himself, including, “Did you allege that the governor’s staff doctored the records?” In response, Lieutenant Colonel Burkett wrote, “No, instead I stated that the way this had been handled by the Bush staff including knowledgeable military officials at the Texas National Guard, that it left the implication that the Bush staff had first incompetently provided an incomplete military file for the Governor which was consistent with his autobiography.” Lieutenant Colonel Burkett also said that, when speaking to the media regarding his allegations, he was “extremely careful not to point an accusing finger.” He also said in his clarification that his point in revealing his “scrubbing” allegations was to ask why then-Governor Bush had not “simply release[d] his military pay files and retirement points accounting records” in order to show that he had completed his service commitment satisfactorily and honorably. Years later, in February 2004, Lieutenant Colonel Burkett reportedly described this “clarification” as a “mistake.”²³

After President Bush was elected in November 2000, little more was reported in mainstream media on his TexANG service until the 2004 presidential campaign began in earnest. President Bush’s military service record became a campaign issue when his presumptive opponent, Senator John Kerry, began to highlight his own military service in the Vietnam War. The press then started reporting extensively on the military backgrounds of both candidates in early 2004.

C. Lieutenant Colonel Burkett’s National Media Appearances in February 2004

In February 2004, Lieutenant Colonel Burkett issued statements in advance of the release of James Moore’s book, *Bush’s War for Reelection*,²⁴ in which Lieutenant Colonel Burkett is cited as a source regarding the alleged “scrubbing” in the late 1990s of then-Governor Bush’s TexANG records. Lieutenant Colonel Burkett’s allegations, as well as interviews of Lieutenant Colonel Burkett, were reported in February by many major news outlets, including CBS News, *The Boston Globe*, *The New York Times*, *USA TODAY*, the *Los Angeles Times*, the *Houston Chronicle*, *The Dallas Morning News*, *The Kansas City Star*, the *Detroit Free Press*, *The Washington Post*, *The Associated Press*, MSNBC and CNN. The various interviews and statements revealed inconsistencies in Lieutenant Colonel Burkett’s allegations, which led to questions regarding his credibility and whether his claims could be proven. Mapes told the Panel

²³ Kevin Drum, *An Interview with Bill Burkett*, Feb. 12, 2004, at www.calpundit.com/archives/003249.html.

²⁴ JAMES MOORE, *BUSH’S WAR FOR REELECTION* (2004).

that she was aware of the news reports at the time, but she was not involved in any of the contemporaneous reporting related to Lieutenant Colonel Burkett given that she was then investigating the Abu Ghraib Iraq prison scandal.

The Panel views this news coverage as significant because, although such information could have been accessed nearly instantly through Internet or Lexis-Nexis searches, the Panel found that no one involved in the vetting of the September 8 Segment seemed to be aware of it. The Panel finds it unlikely that the Segment would have aired as it did if the vetters had been provided details of Lieutenant Colonel Burkett's controversial history.

1. Lieutenant Colonel Burkett's Allegations

Lieutenant Colonel Burkett claimed in Moore's book and repeated in numerous media interviews²⁵ that he had overheard a speakerphone conversation through an open door in the spring of 1997 between Joseph Allbaugh, Chief of Staff to then-Governor Bush, and Adjutant General Daniel James III, then head of the Texas National Guard. Lieutenant Colonel Burkett said he overheard Allbaugh tell General James that Bartlett and Karen Hughes, then-Governor Bush's Communications Director, were going to review then-Governor Bush's TexANG files in connection with a book Hughes was writing regarding the Governor. Allbaugh allegedly asked General James to gather up the files and ensure that "there's not anything [in the files] that will embarrass the governor."

Lieutenant Colonel Burkett also said that, not long after he overheard this conversation between Allbaugh and General James, he heard General James tell General John Scribner, who was then head of the Texas Military Forces Museum at Camp Mabry, to gather the records because Hughes would be coming out to look at them. According to Lieutenant Colonel Burkett, another senior officer added that General Scribner should "clean it up" so that there would not be "anything in there that will embarrass the governor." Lieutenant Colonel Burkett said that he and a fellow officer and friend, Chief Warrant Officer George Conn, were walking through the Camp Mabry museum approximately 10 days after he overheard the phone call and saw General Scribner reviewing then-Governor Bush's TexANG records. Lieutenant Colonel Burkett said that he saw a trash can next to where General Scribner was working, and that in it were some of then-Governor Bush's records.

²⁵ See MOORE, *supra* note 24, at 214-17. See, e.g., Ralph Blumenthal, *Move to Screen Bush File in 90's Is Reported*, N.Y. TIMES, Feb. 12, 2004, at A33.

These allegations were not only more specific than those Lieutenant Colonel Burkett had made in November 2000, but they also suggested – contrary to his earlier retraction – that relevant files were actually discarded by then-Governor Bush’s aides or Texas National Guard personnel during the “scrubbing” incident. In addition, Lieutenant Colonel Burkett’s suggestion in 2000 that retirement documents and pay records were missing from then-Governor Bush’s files is consistent with his later allegations that he saw such documents in the trash can at the Camp Mabry museum.²⁶

2. Lieutenant Colonel Burkett’s Retractions

As in 2000, Lieutenant Colonel Burkett made claims during this time period that he soon after retracted. In Moore’s book, for example, Lieutenant Colonel Burkett was quoted as saying that he was sent to Fort Clayton in Panama as punishment because he had “refused to falsify personnel records of Governor Bush.”²⁷ He had made the same allegation in a March 19, 2003 article he authored that was posted in the *Online Journal*.²⁸ The February 14, 2004 edition of the *Houston Chronicle*, however, reported that, when interviewed, Lieutenant Colonel Burkett “backed off the claim that he was ordered to falsify Bush’s records” and said that “[t]hat statement was not accurate, that is overstated.”²⁹ One month later, the *Abilene(Tex.) Reporter-News* Lieutenant Colonel Burkett reportedly delivered a speech at the Taylor County, Texas Democratic Club in which he stated that his prior allegation that he had been ordered to falsify records was “poorly stated.”³⁰

3. Additional Questions Raised Regarding Lieutenant Colonel Burkett’s Allegations

Soon after Lieutenant Colonel Burkett’s allegations surfaced in February 2004, most of those people implicated in his account denied all allegations of wrongdoing, including General

²⁶ See, e.g., Wayne Slater & Michelle Mittelstadt, *Aides Say Records Show Bush Served*, DALLAS MORNING NEWS, Feb. 11, 2004, at 1A; *Hardball* (MSNBC television broadcast, Feb. 12, 2004) (featuring interview of Lieutenant Colonel Burkett).

²⁷ MOORE, *supra* note 24, at 130.

²⁸ See Bill Burkett, *What Do You Say?*, Mar. 19, 2003, at www.onlinejournal.com/bush/031903Burkett/031903burkett.html.

²⁹ Michael Hedges, *Story of Purged Bush Files Has Been Around the Block*; HOUSTON CHRON, Feb. 14, 2004, at A24.

³⁰ Jerry Daniel Reed, *Area Man Repeats Claims About Bush’s Guard Service*, ABILENE (Tex) REPORTER-NEWS, Mar. 12, 2004, at A11.

James, Allbaugh, General Scribner and Bartlett.³¹ There also were conflicting reports from other purported associates of Lieutenant Colonel Burkett. *USA TODAY* reported that it had contacted a dozen of Lieutenant Colonel Burkett's "former comrades" and that both Chief Warrant Officer Conn and another colleague, Dennis Adams, then a Lieutenant Colonel in the Texas Army National Guard, had confirmed that Lieutenant Colonel Burkett told them in 2002 of the overheard Allbaugh/General James conversation.³² The *Houston Chronicle* reported that Colonel Adams confirmed that Lieutenant Colonel Burkett told him in 1997 about the records destruction in 1997, and stated that "I have no doubt [Lieutenant Colonel Burkett] is telling the truth . . . Bill is one of my heroes. He was trying to take on certain rotten SOBs inside the Guard."³³ The *New York Times* reported that Chief Warrant Officer Conn declined to comment on Lieutenant Colonel Burkett's allegations, but stated that "I know LTC Burkett and served with him several years ago in the Texas Army National Guard. I believe him to be honest and forthright. He 'calls things like he sees them.'³⁴

The *Boston Globe*, however, reported that Chief Warrant Officer Conn's only recollection of the speakerphone call was that Lieutenant Colonel Burkett had told him that he, Lieutenant Colonel Burkett, was concerned that Lieutenant Bush's files would be sanitized and not that anyone had been ordered to do so.³⁵ With respect to the Camp Mabry Museum incident, Chief Warrant Officer Conn told *The Boston Globe* that he recalled introducing Lieutenant Colonel Burkett to General Scribner but did not recall that General Scribner was reviewing then-Governor Bush's files. The *Houston Chronicle* also reported that Chief Warrant Officer Conn "emphatically" denied that he escorted Lieutenant Colonel Burkett to the Camp Mabry museum where Lieutenant Colonel Burkett claimed to have seen several pages from then-Governor Bush's military file in a trash can.³⁶

Some reporters also suggested that Lieutenant Colonel Burkett's allegations might be motivated by his personal struggles with the National Guard. *The Boston Globe* reported that Lieutenant Colonel Burkett "has, in the past, raised his allegations about the Bush records as part

³¹ Ralph Blumenthal, *Move to Screen Bush File in 90's Is Reported*, N.Y. TIMES, Feb. 12, 2004, at A33; Hedges, *supra* note 29.

³² Dave Moniz & Jim Drinkard, *Ex-officer: Bush File's Details Caused Concern*, USA TODAY, Feb. 12, 2004, at A9.

³³ Hedges, *supra* note 29.

³⁴ Blumenthal, *supra* note 31.

³⁵ Michael Rezendes, *Doubts Raised on Bush Accuser*, BOSTON GLOBE, Feb. 13, 2004, at A3.

³⁶ Hedges, *supra* note 29.

of his personal struggle with the Guard over medical benefits.”³⁷ A local newspaper in the area where Lieutenant Colonel Burkett lives also reported: “Burkett’s motives have been questioned by critics who noted that he and others, including [his comrades in the Army Guard, former Chief Warrant Officer Harvey] Gough and [Chief Warrant Officer] Conn, had been at odds with the Texas Guard leadership over issues regarding the Guard’s military preparedness and Lieutenant Colonel Burkett’s claim that he was denied military-paid medical care for five months in 1998.”³⁸

Virtually all of the above is from public records or news files of the period. As noted previously, Lieutenant Colonel Burkett declined to meet with the Panel under acceptable conditions.

4. Doubts at CBS News

On February 12, 2004, the *CBS Evening News* broadcast a report produced by the network’s Washington Bureau regarding Lieutenant Colonel Burkett’s “scrubbing” allegations. The report included a sound bite from an interview of Lieutenant Colonel Burkett by John Roberts, CBS News’ White House Correspondent, and a statement by Allbaugh denying the charges against him. In his statement, Lieutenant Colonel Burkett said, “I was troubled sufficiently within my own conscience that there was possibly an effort here to . . . cast . . . an image that was better maybe than the individual’s record.” In the report, Roberts indicated that the White House dismissed the claims and that Allbaugh had called them “hogwash.”

Roberts explained to the Panel that he had asked his producer to seek a statement from Allbaugh because he thought Lieutenant Colonel Burkett was “unreliable.” He told the Panel that when he initially contacted Lieutenant Colonel Burkett to question him regarding his allegations, Lieutenant Colonel Burkett launched into an unprovoked “tirade” against him and insisted that he call author Jim Moore to get Moore’s permission before Lieutenant Colonel Burkett would speak further with Roberts. This struck Roberts as highly unusual as Lieutenant

³⁷ Rezendes, *supra* note 35.

³⁸ Jerry Daniel Reed, *Area Man Repeats Claims About Bush’s Guard Service*, ABILENE (Tex.) REPORTER-NEWS, Mar. 12, 2004, at A11. Months later, the *Abilene Reporter-News* interviewed Dr. James Hays, a 20-year veteran of the Guard, who served on a committee that reviewed illness claims for active duty personnel, including Lieutenant Colonel Burkett’s. *See Local Opinions of Burkett’s Actions Vary*, ABILENE (Tex.) REPORTER-NEWS, Sept. 26, 2004. Dr. Hays told the *Abilene Reporter-News* that Lieutenant Colonel Burkett “was trying to get a permanent disability discharge . . . We didn’t grant it.” Dr. Hays then stated his view that “[t]hat’s why he’s so mad at Bush,” and “I think . . . his intentions were to go after George Bush.”

Colonel Burkett had already given many interviews to other media outlets. Moore approved the interview and Roberts interviewed Lieutenant Colonel Burkett on February 12. Roberts described the interview as “meandering.” Roberts was not aware at that time of Mary Mapes’ previous work regarding President Bush’s TexANG service and thus did not consult with her regarding the report.

5. Mapes’ Awareness of the Lieutenant Colonel Burkett News Coverage

While Mapes was not involved in the production of the February 2004 *CBS Evening News* report, it is the Panel’s understanding that she was considered a resource at CBS News at that time for information about President Bush’s TexANG records. In fact, Mary Murphy, who was then the head of the Campaign Desk for CBS News at the time these allegations surfaced, told the Panel that Dotty Lynch of CBS News’ Washington Bureau had recommended that she call Mapes for more information on the news reports because Mapes “knew everything” about President Bush’s TexANG service and had repeatedly “mined” the subject. Murphy said she attempted to reach Mapes at that time, but does not believe that Mapes returned her call.

Mapes told the Panel that she was generally aware of the February 2004 reports regarding Lieutenant Colonel Burkett’s allegations. Indeed, Mapes’ investigative notes reveal that Lieutenant Colonel Burkett had informed Mapes before the airing of the September 8 Segment that he had spoken with over 200 media entities in February 2004. Mapes said that she did not “pay much attention” to the interviews of Lieutenant Colonel Burkett at the time because she was “up to [her] eyeballs” in the Abu Ghraib prisoner abuse story, which Mapes began working on in January 2004 and which was first aired on April 28, 2004.

D. The Continued Pursuit of a TexANG Story in the Summer of 2004

Mapes and her team of associate producers again took up the review of various aspects of President Bush’s TexANG service during the summer of 2004. Based on the information available to the Panel, it appears that Mapes and her team were not focused on any particular event or topic between June and late August, but instead, amid competition from many other news organizations, were trying to identify a viable story line regarding the President’s military service. The leads on the TexANG story that Mapes and her team pursued at the time were ultimately not included in the September 8 Segment.

1. Following the Leads

Sometime in the summer of 2004, Mapes discussed stories in progress and the plans for the new season starting in September 2004 with her new Executive Producer, Josh Howard, and new Senior Broadcast Producer, Mary Murphy. Mapes recalled discussing the TexANG story and receiving authority to hire an additional freelance associate producer, Lucy Scott, who previously had been a producer for CBS News, to work on a possible story on President Bush's TexANG service. Mapes already had a military affairs consultant, Colonel Roger Charles, working on the story. Significantly, it does not appear that either Howard or Murphy met in person with Mapes from at least the beginning of August until September 7, the day before the broadcast of the September 8 Segment.

Scott and Colonel Charles spent time during the summer of 2004 pursuing various leads. Colonel Charles researched President Bush's pilot training at Moody Air Force Base in Georgia in 1968 and 1969. He told the Panel that he found two sharply different perceptions of Lieutenant Bush, *i.e.*, either that he was a "middle of the pack guy" or that he was given special attention. Colonel Charles said that he was concerned at the time because he did not see how *60 Minutes Wednesday* could reconcile these perceptions. Mapes and her team continued to focus on President Bush's training at Moody AFB to determine whether he had received preferential treatment there.

With Colonel Charles' help in obtaining lists of other pilots and members of the TexANG from military records, Scott spent most of her time attempting to locate and interview people who had first-hand knowledge of President Bush's TexANG service. Some of the people Scott contacted around this time had information about issues or people that would ultimately become relevant when Mapes obtained the Killian documents. However, when Scott spoke to these people during this time period there was no indication that *60 Minutes Wednesday* was ever going to obtain documents. Scott and Colonel Charles also filed FOIA requests for documents related to President Bush's TexANG service. They continued this research through mid-August.

Smith also was retained by Mapes to work on the TexANG story as a freelance researcher, but not until later in the summer. Nonetheless, they corresponded regarding the topic and other leads regarding President Bush in June and July. In mid-June, Smith e-mailed Mapes and indicated that he was working on a documentary for a German television network regarding the Bush family and that he had a "tasty brisket" of information. It is not clear what Smith

meant. At the end of June, Smith asked Mapes whether she was “serious” about pursuing the TexANG story. Mapes responded:

I am DEADLY serious about it. I have two other people working with me, looking at various aspects of the story, trying to find an opening. Barnes is on board, as on board as he can be anyway. I expect him to do it. The piece (if I get it) will run in early September. I need all the help I can get. Just tell me what you’ve got.

Mapes was targeting the beginning of the new *60 Minutes Wednesday* season in September for broadcast of a story. *60 Minutes Wednesday* generally does not air new shows between June and September but instead airs reruns.

2. Mounting Pressure To Get a Story

On July 23, while Mapes was away on vacation, Smith e-mailed Mapes and said:

I am close to something that the bushies are worried about; it’s a new angle and I have access to a variety of palace alert pilots [*i.e.*, Guardsmen who volunteered for 90-day tours of active duty in Vietnam and elsewhere] that are on the edge of giving us something, but I think that access is closing.

Smith hinted that, if she were interested in the story and working with him, he needed to formalize his contractual arrangement with *60 Minutes Wednesday*. Mapes responded on July 26, “I desperately want to talk to you. . . . Do NOT underestimate how much I want this story.”

At the end of July, President Bush’s service in the TexANG received additional attention from the media after Senator Kerry made his service in the Vietnam War an issue at the Democratic Convention. As set forth below, Mapes’ e-mails during this time conveyed both a sense of urgency in the face of heavy competition and her eagerness to break the story.

On July 30, Mapes e-mailed Howard and said, among other things:

. . . there is some very interesting Bush stuff shaking out there right now. I am getting about 4 calls a day from Austin. Re . . . his qualification and refusal of service in Vietnam, etc. Lots of goodies. We are in pursuit . . . as are Vanity Fair, NY Times, New Republic, various others. I’ll let you know what (if anything) comes of it.

A few days later, on August 3, Mapes again e-mailed Howard and Murphy:

There is a bit of a storm brewing in Austin re the Bush stuff. Many many reporters from various print outlets (Harpers, Vanity Fair, NY Times mag, etc) all chasing the Bush National Guard stuff again. It is much more intense than it was four years ago and there is a strong general feeling that this time, there is blood in the water.

At the time, Mapes' team was exploring many angles but it does not appear that any single story line had developed. Nonetheless, Mapes continued to believe that she would have something ready by the start of the new season in September. In fact, CBS News President Andrew Heyward recalled being told by either Mapes or Rather as early as July or possibly the beginning of August about the existence of a potentially "big" story, but he recalled no details.

E. The Potential for Documents Between Monday, August 23, 2004 – Thursday, September 1, 2004

In late August 2004, Mapes got a break on the TexANG story. As discussed in detail below, on Monday, August 23, Mapes was told that documents allegedly missing from President Bush's TexANG service record had surfaced. Mapes and her team spent the next 10 days courting the person who was believed to be in possession of the documents: the same Lieutenant Colonel Burkett who had burst into the mainstream news media with his "scrubbing" allegations six months before. While attempting to obtain the documents, Mapes was in frequent contact with Howard regarding developments. In addition, Howard was alerted to the fact that Lieutenant Colonel Burkett had requested various types of assistance from Mapes, including that she put him in touch with the staff of Senator John Kerry's presidential campaign. Howard's response concerning this request to contact the Kerry campaign remains in dispute, as discussed below. Mapes also continued throughout this week and a half to attempt to convince Ben Barnes that he should tell his story to Rather on *60 Minutes Wednesday*.

1. Courting Lieutenant Colonel Burkett

On Monday, August 23, Mapes learned that Lieutenant Colonel Burkett was rumored to have important documents regarding the President's TexANG service. Paul Lukasiak, who operates a website on which he posts disparaging analyses of President Bush's TexANG service, told Mapes that another blogger, Linda Starr, had seen new TexANG documents regarding President Bush. Starr hosts a website that recently contained the slogan, "Bush lied, Americans died," and is the editor of *Online Journal*, an online newsletter often critical of President Bush.

Mapes contacted Starr, who responded that she believed that Lieutenant Colonel Burkett had a two-page, classified document regarding President Bush's TexANG service, and Starr speculated that it might be a disciplinary report. This disciplinary report was thought to relate to an assessment of whether Lieutenant Bush was fit to fly jets armed with nuclear weapons. Starr

told Mapes that Lieutenant Colonel Burkett was trying to determine the best way to disseminate the information to journalists “without leaving any fingerprints.”

Mapes told the Panel that she recognized Lieutenant Colonel Burkett’s name and knew that he was the person who had been in the news back in February 2004 alleging that President Bush’s TexANG records had been “scrubbed.” Mapes asked Smith to follow up with Lieutenant Colonel Burkett, which he did that evening. Smith said that it seemed clear that Lieutenant Colonel Burkett already was talking to other news outlets, including *The New York Times*. Smith spoke to Lieutenant Colonel Burkett again later that evening and asked him about the two-page disciplinary report that Lieutenant Colonel Burkett was rumored to have in his possession. Smith told the Panel that Lieutenant Colonel Burkett neither admitted nor denied that he had it, but Smith interpreted his response to be a confirmation that he had something. A few days later, on August 25, Lieutenant Colonel Burkett posted a commentary for the *Online Journal*, in which he addressed his involvement in reporting the “scrubbing” he said he witnessed in 1997, and hinted about the documents. His posting stated, among other things, “George W. Bush, you may be the president. *But I know you lied*” based on the “files that we have now reassembled.”³⁹

Between August 24 and August 31, Mapes and Smith spoke to Lieutenant Colonel Burkett many times. They also spoke to Starr because they believed that Lieutenant Colonel Burkett respected and trusted her, and they thought that an alliance with Starr might help them to convince Lieutenant Colonel Burkett to give them the document(s). While waiting for Lieutenant Colonel Burkett to agree to share the document(s), Smith speculated in an e-mail to Mapes about how Lieutenant Colonel Burkett obtained the “holy grail.” Smith’s principal theory was that Lieutenant Colonel Burkett was protecting the true source. Smith thought the true source might be one of the three Guardsmen (Chief Warrant Officer Conn, Chief Warrant Officer Gough or Lieutenant Colonel Dennis Adams) who, according to Lieutenant Colonel Burkett, had investigated the Texas National Guard in 1997 with him to determine whether there was a “ghost soldiers” problem, *i.e.*, keeping troops on the books who were no longer in the Guard in order to maintain federal funding levels.

Smith told the Panel that on August 28, 2004, Lieutenant Colonel Burkett began to hint that Lieutenant Colonel Killian had something to do with the Bush TexANG documents. Mapes

³⁹ Bill Burkett, *Bush Lies About His Service, Smears Kerry’s and Seeks Exoneration for the Abu Ghraib Brass*, Aug. 25, 2004, at www.onlinejournal.com/Commentary/082504Burkett/08-25-04_Burkett.pdf.

and her team then set out to find a relative of Lieutenant Colonel Killian, as he was deceased. Mapes eventually tracked down Lieutenant Colonel Killian's son who, according to her notes, told her that then-Lieutenant Bush had volunteered for active duty in Vietnam but did not have enough flight hours to qualify. He also told her that Lieutenant Bush may have had "disciplinary issues," and said the fact that he was the only TexANG pilot in the training class at Moody AFB created morale issues for the unit.

Late on Monday, August 30, Lieutenant Colonel Burkett agreed to meet with Mapes and Smith on Thursday, September 2 and to show them some documents. In apparent anticipation that Lieutenant Colonel Burkett might be reluctant to show them the documents, Smith e-mailed a detailed proposal to Mapes on Tuesday, August 31, regarding putting Lieutenant Colonel Burkett in touch with an agent for a book deal, and Smith indicated that he would try to work something out with his publishing friends:

Today I am going to send the following hypothetical scenario to a reliable, trustable editor friend of mine . . .

What if there was a person who might have some information that could possibly change the momentum of an election but we needed to get an ASAP book deal to help get us the information? What kinds of turnaround payment schedules are possible, keeping in mind the book probably could not make it out until after the election . . . What I am asking is in this best case hypothetical scenario, can we get a decent sized advance payment, and get it turned around quickly.

Then they will respond with some possible scenarios of what they could do. When we get to Burkett's house I will have at least some scenarios to show Burkett about what could happen if he played ball with the documents. If he shows us what we want, then I can call my friend and tell him the real details and start the process.

Smith told the Panel that the book deal was his idea, and that it was "not a *60 Minutes* deal."

Mapes responded in an e-mail to Smith's proposal, stating "that looks good, hypothetically speaking of course." Notably, she did not tell Smith in her reply e-mail that he could not promote the book deal in order to entice Lieutenant Colonel Burkett, although she told the Panel that neither this, nor the options presented in Smith's reply e-mail described below, were real options in fact. Smith wrote in reply:

Just in case Burkett asks – let me make sure I have this right. This is our plan: If he shows us some leg, we are going to talk to him about his options in the following areas: 1) Security, 2) Publishing, 2A) (related topics of "taking care of him" with money) and 3) forcing Kerry campaign

to acknowledge his wisdom and strategic abilities . . . If his leg is sexy and useful then we are going to then do whatever it takes to help him in those areas.

(emphasis added). Smith told the Panel that his e-mail was “dripping with sarcasm” and reflected “the initial push to get [them] in” with Burkett. The Panel has discovered no written response by Mapes to this e-mail. Smith, however, told the Panel that after he had sent the e-mail, Mapes told him that he was not allowed to negotiate on CBS News’ behalf with Lieutenant Colonel Burkett.

On September 1, Smith e-mailed Mapes and expressed frustration about not having been able to get the documents yet. He wrote:

When I talk to [LTC Burkett] later today, I will make sure that we can get a copy of at least one of the credible documents immediately. I don’t want to get caught in a situation where he is holding us hostage with increasing demands as we are getting close to air date.

Smith explained to the Panel that Lieutenant Colonel Burkett was “high maintenance,” but Smith never recalled his making monetary demands.

The Panel has found no evidence that any of the proposals contemplated in these e-mails was ever consummated, except for putting Lieutenant Colonel Burkett in touch with the Kerry campaign. Furthermore, it is unclear whether Lieutenant Colonel Burkett was ever even offered a publishing deal. To the extent that any of the other proposals outlined by Smith were offered to or discussed with Lieutenant Colonel Burkett as a possible enticement to convince him to give the documents to *60 Minutes Wednesday*, such an offer would have constituted a clear violation of CBS News’ Standard II-1 as an “unethical newsgathering practice.” See Appendix 1.

2. Background Research on Lieutenant Colonel Burkett

Mapes told the Panel that she “did her homework” on Lieutenant Colonel Burkett during this time by doing background research on him and speaking to other people who knew him. Mapes said that she read some of the articles in which Lieutenant Colonel Burkett was quoted in early 2004. Mapes said that she also recalled an article in which Chief Warrant Officer Conn had denied Lieutenant Colonel Burkett’s claims relating to the “scrubbing” incident. It was Mapes’ understanding, however, based apparently on something she was later told by Lieutenant Colonel Burkett, that Chief Warrant Officer Conn was still in the military and that his wife

threatened to leave him if he spoke out against President Bush. Accordingly, she told the Panel, she did not consider Chief Warrant Officer Conn's denial to be reliable.

Mapes also said that she contacted Chief Warrant Officer Gough, whom she described as a former Guardsman of a "different political ilk." Mapes also spoke to author Jim Moore and David Van Os, Lieutenant Colonel Burkett's personal attorney. According to Mapes, they all said that Lieutenant Colonel Burkett was an honest person. In addition, Mapes told the Panel that she spoke to a mainstream media reporter, who had known Lieutenant Colonel Burkett since 2001, and she stated that he viewed Lieutenant Colonel Burkett as reliable.

Mapes said that she did not think of Lieutenant Colonel Burkett in political terms. She said that he was "embittered" about his Texas Army National Guard experience. She believed that he had close "friendships with Republicans" but that his "allegiance was more military." Mapes later formed the impression that he was a "folksy son of a minister" who viewed things "in black and white" and "had strong feelings about right and wrong." She described him to the Panel as the "classic" whistleblower in that he is "cantankerous and demanding" and "has a martyred view of his role in life."

3. Mapes' Communications with *60 Minutes Wednesday* Management Regarding the Shifting Focus of the Story and Lieutenant Colonel Burkett's Requests

As the courtship of Lieutenant Colonel Burkett continued between August 23 and September 2, Mapes was pursuing the parallel path of an interview with Barnes. Mapes was also in frequent contact with Howard about the possible story. Thus, on the afternoon of August 23, Mapes e-mailed Howard to suggest that they consider airing the Ben Barnes interview that week, although Barnes had not yet agreed even to do the interview. Howard responded in an e-mail that he had concerns about airing a *60 Minutes Wednesday* segment at that time due to competing programming (the Olympics) and other issues.

Later that evening, Mapes e-mailed Howard regarding her activities and the new developments in the story. She told him that Barnes was about to make a decision regarding his interview, but she also mentioned a "new and compelling document," a classified disciplinary report dated April 1972 on then-Lieutenant Bush. Mapes told Howard that she believed that the person who had the document was in the National Guard "for years and could have gotten access to it in 1997 . . . when this thing supposedly was copied and made off with." She did not name

the source but indicated that “this is fraught with problems . . . [and] may all fall apart by tomorrow.” Howard responded: “how interesting. thank you for sharing! as for this week, i’m told dan [Rather] is pretty fully booked . . . [but] that can be cancelled if we decide to go ahead with barnes.”

The next day, August 24, Mapes e-mailed Howard again. She said that she was “still working the new document story” and may have to go to “the wilds of East Texas to get a copy of it.” Mapes also told Howard that she “should . . . hear from Barnes this morning after he talks to the Kerry camp.” Howard responded: “keep me posted on barnes – i’m really starting to lean toward holding this till september. particularly since (this is between us) we may be airing a regular show on the 8th after all, and it could air then.”

On August 30 and 31, Mapes’ phone records show that she spoke with Howard at least two times for 12 and 11 minutes, respectively. Further, on August 31, Mapes e-mailed Howard that “our bitter little buddy” (a reference to Lieutenant Colonel Burkett) agreed to meet with her and Smith on Thursday, September 2, “and show [them] some documents.” Mapes told Howard in the e-mail that she thought they could do a “preliminary . . . verification” of the documents on the spot, given her and Smith’s knowledge of President Bush’s TexANG records. She also noted that Barnes wanted to do the interview in New York the following week and suggested that Howard consider the story for the *60 Minutes Wednesday* show on September 29.

4. Mapes’ Initial Contact with the Kerry Campaign

Per Lieutenant Colonel Burkett’s demands, Mapes called Howard and asked him whether she could pass along the number of her confidential source to the Kerry campaign. Neither Mapes nor Howard recalls the precise date of the call, but the Panel believes that it occurred during the last week of August. Both Mapes and Howard recall the conversation, but they agree on little else about it.

Howard emphatically denies having given permission to Mapes to make the call. Specifically, he told the Panel that the call with Mapes was short. He said that he and Mapes discussed the sharing of information during the reporting process, and he told Mapes clearly that she could not make such a contact with the Kerry campaign. Mapes’ recollection, however, is that Howard gave her permission to call the campaign. Mapes told the Panel that Howard was “very open” and said words to the effect that “producers and reporters talk to all kinds of people

all the time.” Mapes also recalled that Howard told her it was not “a big deal” and that they did not “go into right and wrong.”

The Panel cannot resolve this conflict, as both Mapes and Howard have consistently maintained their respective positions during the investigation, and the Panel has not located any other information that sheds further light.

Mapes told the Panel that, on or about August 26 or August 27, she called Chad Clanton, who was a Kerry campaign communications official. Mapes’ phone records reflect a 13-minute call with Clanton on August 27. Mapes told the Panel that she did not know anyone from the Kerry presidential campaign and obtained Clanton’s name and number from her husband, a newspaper reporter in Dallas who had quoted Clanton in a recent article. Mapes described this call to Clanton as a “one time contact.” Mapes’ recollection is that she wanted to call Clanton both to confirm Lieutenant Colonel Burkett’s claim that he had spoken to former Governor Howard Dean and former Senator Max Cleland when they came through Texas, as well as to pass along Lieutenant Colonel Burkett’s phone number and his request to be called. According to Mapes, she told Clanton that Lieutenant Colonel Burkett said he had strategic advice for the Kerry presidential campaign as to how to respond to the attacks on Senator Kerry’s Vietnam service by the “Swift Boat Veterans for Truth.” Mapes told the Panel that she did not think that Clanton would call Lieutenant Colonel Burkett and that they discussed the fact that other news organizations were also covering the TexANG story.

Clanton told the Panel a different version of his contact with Mapes. He told the Panel that he spoke to Mapes several times during this period, not just once. He further told the Panel that Mapes initially called him not long before the broadcast of the September 8 Segment to see what he was hearing from other reporters regarding stories on President Bush’s TexANG service. He said he and Mapes discussed in another conversation the story that she was working on for *60 Minutes Wednesday*. Clanton added that Mapes asked for a phone number for Joe Lockhart, a senior advisor to Senator Kerry’s presidential campaign and President Clinton’s former press secretary, and that he gave it to her. Clanton did not recall Mapes’ mentioning Lieutenant Colonel Burkett’s name or requesting information regarding Lieutenant Colonel Burkett’s contacts with Senator Cleland and Governor Dean. Mapes and Lockhart did not speak until at least a week later, and their conversation is discussed in Section F.4.f of this Chapter.

5. The Involvement of Dan Rather

Beginning on or around Saturday, August 28, Rather was working extremely long hours preparing for, and then covering, the Republican Convention in New York, which ran from Monday, August 30, through Thursday, September 2. Beginning Wednesday, September 1, Rather also was paying attention to looming Hurricane Frances, as he wanted to get to Florida in time to cover it. Rather recalled receiving a message from Mapes sometime during the Convention and returning her call on Wednesday, September 1. He said that Mapes asked him to call Barnes to assure him that he would be treated “fairly and accurately, if he did an on-camera interview.” He said that Mapes told him she had “other things working” that she would tell him about after the Convention. Rather said that he called Barnes, whom he had known for many years, and that Barnes said that he was close to making a decision on an interview and would be in touch.

6. Ben Barnes’ Speech at a Kerry Campaign Rally

On or about August 27, video footage of a Barnes speech at a Kerry campaign rally in May 2004 claiming that he had helped President Bush get into the TexANG was being circulated on the Internet. Jim Moore, author of *Bush’s War for Reelection*, sent a copy of this video to various reporters, including Mapes, just before the Republican Convention. Soon thereafter, a rumor began to circulate in media circles that Barnes had been, or would soon be, interviewed by Rather for *60 Minutes Wednesday*.

On September 1, Salon.com reported that *60 Minutes* planned to air an interview of Barnes the following week.⁴⁰ The article also contained excerpts from Barnes’ speech at the Kerry campaign rally. According to the article, Barnes said, “I got a young man named George W. Bush into the Texas National Guard . . . I got a lot of other people in the National Guard because I thought that was what people should do when you’re in office, and you help a lot of rich people.” In the video, as reported in the Salon.com article, Barnes recalled a recent visit to the Vietnam Memorial and said, “I looked at the names of the people that died in Vietnam, and I became more ashamed of myself than I have ever been, because it was the worst thing I ever did, was help a lot of wealthy supporters and a lot of people who had family names of importance get into the National Guard. And I’m very sorry about that, and I’m very ashamed.”

⁴⁰ Eric Boehlert, *Ben Barnes to Break Silence on "60 Minutes,"* Salon.com, Sept. 1, 2004, at <http://archive/salon.com/news/feature/2004/09/01/barnes60minutes/>

7. Other News Media Coverage of TexANG Issues Between August 23, 2004 and September 1, 2004

As Mapes and her team were pursuing the documents from Lieutenant Colonel Burkett and an interview with Barnes, several major newspapers were reporting on TexANG issues. Specifically, *USA TODAY*, *The New York Times*, the *Los Angeles Times*, *The Associated Press*, *The Dallas Morning News* and *The Boston Globe* published stories regarding President Bush's TexANG service between August 23 and September 1. The articles included the following:

- On August 23, *USA TODAY* reported on the failure of the documents released by the White House to answer fundamental questions about President Bush's TexANG service, such as why he stopped flying, his failure to take an annual physical, and the apparent gap in his service records in 1972-73 despite requests made to the Pentagon's FOIA office.⁴¹
- On August 25, 27, and September 1, articles in *The Associated Press* reported that there were questions about President Bush's service in the TexANG and that an anti-Bush group had run television ads stating that he had shirked his duty.⁴²
- On August 28, *The Associated Press* reported that President Bush told NBC News that Senator Kerry's "going to Vietnam was more heroic than my flying fighter jets. He was in harm's way and I wasn't. On the other hand, I served my country. Had my unit been called up, I would have gone."⁴³ That same day, *The Associated Press* also reported that Ben Barnes had said he was "ashamed" of helping President Bush and others gain entry to the TexANG.⁴⁴ The article noted that President Bush had denied that family influence helped him get into the Guard. *The Boston Globe*, the *Los Angeles Times*, *USA TODAY* and *The Washington Post* also covered one or both of these stories.⁴⁵
- On August 29, the *Los Angeles Times* reported that President Bush was periodically absent from his duties while in the TexANG and that he lost his flying status because he had not taken a required physical that included random drug testing.⁴⁶ That same day, *The New York Times* published an article that summarized what was known

⁴¹ David Moniz & Jim Drinkard, *Questions About Bush's Guard Service Unanswered*, *USA TODAY*, Aug. 23, 2004, at 6A.

⁴² Robert Tanner, *Vietnam revisited: Newspaper Editorials Weigh in on Accusations, Defenses for Kerry's Wartime Record*, AP, Aug. 25, 2004; Matt Kelley, *Navy's Report from 1969 Supports Kerry's Version of Disputed Incident*, AP, Aug. 25, 2004; Ron Fournier, *Republicans Urge Bush to Turn Attention from Iraq, Vietnam with Second-Term Agenda at Convention*, AP, Aug. 27, 2004; Ron Fournier, *Democrats Press Kerry to Step Up Attacks on Bush*, AP, Sept. 1, 2004.

⁴³ Ron Fournier, *Bush Readies Second-Term Proposals*, AP, Aug. 28, 2004; Pete Yost, *On Bus Tour in Ohio, Bush Says Economic Policies Will Bring Jobs to Farms and Factories*, AP, Aug. 28, 2004.

⁴⁴ *Former Speaker of Texas House Says He's Ashamed for Getting Bush into Texas Guard*, AP, Aug. 28, 2004.

⁴⁵ Glen Johnson, *Clark Defends Kerry's Record, Slams Bush*, *BOSTON GLOBE*, Aug. 29, 2004, at A24; *Bush Bows to Rival's 'Heroic' Military Service*, *L.A. TIMES*, Aug. 29, 2004, at A23; *Democrat 'Ashamed' He Helped Bush*, *WASH. POST*, Aug. 29, 2004, at A05; Bill Nichols & Martha T. Moore, *Praise and Protests Greet GOP*, *USA TODAY*, Aug. 30, 2004, at 1A.

⁴⁶ Kevin Phillips, *History Haunts Bush and Kerry*; *L.A. TIMES*, Aug. 29, 2004, at M1.

about President Bush's TexANG service from his entering training in June 1968 to his honorable early discharge in October 1973 to attend Harvard Business School.⁴⁷

F. Thursday, September 2, 2004 – Monday September 6, 2004

1. Thursday, September 2: The First Two Documents Were Obtained

a. Meeting with Lieutenant Colonel Burkett

On September 2, Mapes and Smith met with Lieutenant Colonel Burkett and his wife at a restaurant near their home for approximately three hours. The Burketts arrived with stacks of documents, including two binders full of depositions and other documents that were apparently from his litigation with the National Guard over health benefits. Lieutenant Colonel Burkett spent a long time telling Mapes and Smith about his service in the Texas Army National Guard, his fight with the Guard to get medical treatment and various threats he and his wife had received over the years relating to allegations that Lieutenant Colonel Burkett had made against the Guard. The Burketts expressed great concern for their family's personal safety if Lieutenant Colonel Burkett was revealed as their source in light of the Burketts' prior experiences. Mapes told the Panel that she promised Lieutenant Colonel Burkett that she would protect his identity, although she said she informed Lieutenant Colonel Burkett that she would have to disclose his name to her superiors at *60 Minutes Wednesday*.

At Mapes' prodding, Lieutenant Colonel Burkett finally handed over one document, a "Memorandum for Record" purportedly written by Lieutenant Colonel Killian and dated August 1, 1972. Later in the meeting, Lieutenant Colonel Burkett provided another document, a letter addressed simply to "Sir," dated June 24, 1973, that also was purportedly written by Lieutenant Colonel Killian. Copies of these documents are contained in Exhibits 2D and 2E to this Report. Mapes and Smith told the Panel that they immediately recognized the significance of these documents.

The August 1, 1972 memorandum, which was ultimately used in the September 8 Segment, refers to a verbal order by Lieutenant Colonel Killian that Lieutenant Bush be suspended from flight status due to his failure to take his physical and his failure to meet TexANG standards. It also references Lieutenant Bush's request to transfer "out of state." The June 24, 1973 document references a request to rate Lieutenant Bush and states that, "Neither Lt.

⁴⁷ David M. Halbfinger, *Three Decades Later, Vietnam Remains a Hot Issue*, N.Y. TIMES, Aug. 29, 2004, at 1.

Colonel Harris or I feel we can rate 1st Lt. Bush since he was not training with 111 F.I.S. since April, 1972.” No mention was made of this document in the September 8 Segment.

Mapes told the Panel that Lieutenant Colonel Burkett informed her that the documents came from Lieutenant Colonel Killian’s personal file and that he had received them in March 2004 after he had appeared on the MSNBC cable television program *Hardball* in February 2004. Mapes recalled that Lieutenant Colonel Burkett said that he had received them from someone who said that Lieutenant Colonel Burkett would “know what to do with [the documents] better than” he or she would. Mapes said that she did not press Lieutenant Colonel Burkett about the chain of custody during the September 2 meeting because her primary objective was to be allowed to take the documents with her, and she thought that Lieutenant Colonel Burkett might be offended if she pressed too hard at that time on source issues.

Smith told the Panel a different story about what Lieutenant Colonel Burkett said about the source of the documents. Smith said that Lieutenant Colonel Burkett claimed that he had received the documents anonymously in the mail. Colonel Charles also recalled hearing from Smith or Mapes that Lieutenant Colonel Burkett “had received the two documents in the mail from an anonymous source after he appeared on television in February 2004” and his recollection is consistent with his contemporaneous notes. Thus, Colonel Charles’ handwritten notes, apparently reflecting a phone call with Mapes or Smith on September 2, state “Bill B got them in the mail after going on TV” and “source anonymous.” Mapes told the Panel that she did not recall Lieutenant Colonel Burkett ever saying that he received them anonymously in the mail.

Mapes told the Panel that she informed the Burketts that she was worried the documents might be a “political dirty trick.” Mapes said that the Burketts appeared “genuinely shocked” at the suggestion and this reaction gave her comfort. She said that she also told Lieutenant Colonel Burkett that she would “verify” the documents and noted that this seemed to be important to him as well.

Smith told the Panel that Lieutenant Colonel Burkett tantalized them during their meeting on September 2 about the existence of additional documents and suggested that they needed to go through his personal lawyer, David Van Os, to get them. Lieutenant Colonel Burkett was not willing to discuss any additional documents at that time. Mapes did not recall learning about any

additional documents at that first meeting, but believed that she learned about them when she spoke to Lieutenant Colonel Burkett later that night.

After the meeting on Thursday, September 2, Mapes called Howard and told him about the documents. Howard recalled that she described the source to him in a series of calls over the next few days. According to Howard, Mapes said that in the mid- to late 1990s, four middle-ranked National Guard officers were commissioned to do an investigation of a Texas National Guard office relating to allegations about “ghost soldiers.” Mapes explained to Howard that “ghost soldiers” were people whose names were listed on Texas National Guard payroll records but did not report for duty. Howard recalled that Mapes said to him that at some point these four Guardsmen were told to stop the investigation. Howard told the Panel that Mapes said that her source was one of the four officers. According to Howard, Mapes said that one of the three other officers removed certain documents from the Texas National Guard office at that time and gave them to Mapes’ source in March 2004.

Howard did not recall whether Mapes mentioned the source’s name to him during these conversations. He said that it would not have meant anything to him if she did tell him that the source was a man named Bill Burkett. Murphy recalled that Howard also relayed the background information about the source to her but did not recall whether she knew at that time that the source was Lieutenant Colonel Burkett.

b. Preliminary Review of the Documents

Mapes and Smith drove to a Kinko’s store in Abilene after the meeting with Lieutenant Colonel Burkett and faxed the documents to Colonel Charles and Howard. Howard said that when he initially looked at the two documents, he wondered why Mapes was excited about them as he did not think that they contained significant new information.

Colonel Charles told the Panel that he had some initial questions regarding a few details after he reviewed the documents, including the format of Lieutenant Bush’s service number. He told the Panel that, after studying certain of the official Bush records, he was no longer concerned. In addition, Colonel Charles felt that the date and content of the documents were in line with the released records. Specifically, as he told Mapes and her team in an e-mail dated September 2, Colonel Charles noted that the date of the earlier document, August 1, 1972, was the exact date cited in the official Bush record of September 29, 1972, which confirmed the verbal order suspending Lieutenant Bush from flying status. Colonel Charles also noted that the

August 1, 1972 memorandum cited the same reference from the Air Force Manual, AFM 35-13, that was cited in the September 29, 1972 Order.

c. Contact with Rather

On Thursday, September 2, Rather was still in New York covering the last day of the Republican Convention. Mapes told the Panel that on her way back to Dallas after meeting with Lieutenant Colonel Burkett, she called Rather and Jim Murphy, the Executive Producer of the *CBS Evening News*. Murphy told the Panel that he remembered Mapes calling that night while Rather was busy with the *CBS Evening News* and that Rather returned her call after the broadcast. Murphy recalled that Mapes told him that “something big had come up” and that she had obtained documents that were the “missing links” in President Bush’s TexANG service record.

Mapes told the Panel that she also spoke to Rather that night and told him that she had obtained two documents from Lieutenant Colonel Burkett. She said that Rather was familiar with Lieutenant Colonel Burkett and knew that he was the person who had earlier alleged that President Bush’s files had been “scrubbed.” Mapes said that she also told Rather about Lieutenant Colonel Burkett’s litigation over his Texas Army National Guard medical benefits and that Rather understood that Lieutenant Colonel Burkett was not the original source of the documents.

Rather had only a vague recollection of speaking to Mapes either late on Thursday, September 2, or early on Friday September 3, but said he could not recall the specifics of the conversation as he was focused on getting to Florida to cover Hurricane Frances. Rather told the Panel, however, that he was not aware before the September 8 broadcast of Lieutenant Colonel Burkett’s notoriety, that Lieutenant Burkett had been interviewed by John Roberts on the *CBS Evening News* in February 2004 or that Lieutenant Colonel Burkett was a source for Jim Moore’s book. Rather did recall at some point learning Lieutenant Colonel Burkett’s name and knowing that he was a “key source” but not necessarily the source of the documents. He also said that he did not know before the broadcast that there was another source. He told the Panel that he recalled hearing something about the “scrubbing” allegations, and he recalled Mapes telling him that Lieutenant Colonel Burkett had been in the Texas National Guard for a long time and would have had access to the documents. He also recalled that Mapes described Lieutenant Colonel Burkett sometime before September 8 as a “straight-talking West Texan” with a “good

reputation in the county where he lives even among people who do not like him, and they say he is a truth teller.” Rather said that Mapes told him that Lieutenant Colonel Burkett was a supporter of Senator John McCain and, while he did not recall being told that Lieutenant Colonel Burkett was anti-President Bush, he did not have the view that Lieutenant Colonel Burkett was a supporter of President Bush.

2. Friday, September 3, 2004: Additional Reporting and The Search for Document Examiners

a. Additional Reporting

Early in the morning of Friday, September 3, Mapes sent an e-mail to Smith, Scott and Colonel Charles indicating that there was much work to do on the story and she was very energized – “[t]oo excited, busy, stressed, etc. to sleep, I guess.” She said, “I should be hearing from [Colonel Burkett’s] lawyer [Van Os] this morning. He has more docs and more info. I want it.” Mapes asked Scott to get in touch with one of her contacts who asked for anonymity⁴⁸ and who had served in the TexANG with then-Lieutenant Bush, and Mapes commented, “We HAVE to have an interview with him for this piece as it stands right now.” She also suggested that Scott show the documents to General Staudt, with whom Scott had developed a cordial relationship over the preceding few months.

Scott attempted to confirm the content of the two Killian memoranda with General Staudt and her other contact. Neither would speak to Scott on the record. General Staudt refused to discuss the documents with her and her subsequent attempts to reach him through Tuesday, September 7 were unsuccessful. Scott then met with her other contact and showed him the two documents that Mapes had received from Lieutenant Colonel Burkett. Scott told the Panel that this contact provided confirmation of the content of the two documents to her and that she passed along this information to Mapes. This contact had no personal knowledge about the documents or their substance, however, and the contact even suggested the names of two other people Scott should contact who might have such knowledge.⁴⁹

Colonel Charles focused on finding people who worked in the 111th Fighter Interceptor Squadron to confirm how Lieutenant Colonel Killian maintained his files, but he was

⁴⁸ The Panel was provided the name of this contact but does not believe it appropriate to disclose it in this Report given the request for anonymity.

⁴⁹ One such person was deceased. It does not appear that Scott sought to contact or determine the status of the other person.

unsuccessful. He told the Panel that he did not know that Lieutenant Colonel Killian had a secretary or clerk typist at that time. One would surface after the Segment aired.

On either Friday, September 3, or Saturday, September 4, Mapes also reached out to Lieutenant Robert Strong, whom Rather had interviewed in 1999. Lieutenant Strong had worked at the TexANG headquarters in Austin in 1971 and part of 1972 in an administrative capacity and knew Lieutenant Colonel Killian. Mapes told the Panel that she felt Lieutenant Strong was a good person to interview about the documents because “paperwork was his specialty.” Mapes said that Lieutenant Strong claimed that he knew Lieutenant Colonel Killian well.

b. Retention of the Document Examiners

On Friday morning, September 3, Yvonne Miller, who had been assigned to work on the story the night before, talked with Mapes, who was still in Dallas, to discuss her initial assignment. The Panel believes this call occurred around 11:15 a.m. EST and lasted about 10 minutes based on the available telephone records. At the time of this call, Miller had not seen the two Killian documents faxed to Howard the day before. Miller told the Panel that Mapes said that there had been an effort to cleanse TexANG files regarding Lieutenant Bush’s service record but that someone in the Texas National Guard had seen the files in a trash can and took them. She also said that the person who took Lieutenant Bush’s records gave them to Mapes’ source in March 2004. Based on Miller’s notes of the conversation, it appears that Mapes provided Miller with Lieutenant Colonel Burkett’s name during their conversation. Mapes told Miller that the gist of the documents was that Lieutenant Bush had failed to fulfill his TexANG duties.

During this conversation, Mapes asked Miller to find handwriting and document examiners to analyze the documents that Mapes had faxed the previous day to Howard. As noted, Miller had not yet seen the documents at the time of the call with Mapes and, in fact, does not recall receiving the documents until after she had completed her task of finding the examiners later that day. In addition, neither Mapes nor Miller had ever attempted to authenticate documents before, and they were unfamiliar with the authentication process and with the field of document authentication in general.

Mapes told Miller that Colonel Charles had the name of a document examiner who had been recommended by someone in the FBI and that Colonel Charles would call Miller with the

examiner's contact information. Miller did not know Colonel Charles, but Mapes told her that he had been involved in the Abu Ghraib story and that she trusted him.

Mapes told Miller at some point, either during this conversation or in a subsequent one, that the documents were copies. Miller said that Mapes told her to focus on authenticating the signatures. Miller recalled that Mapes said she wanted three examiners, although Mapes believes that she did not give Miller a specific number and merely told her to locate "a handful" of the "best document authentication experts."

Mapes informed Miller that she needed a response from the document examiners by the end of the Labor Day weekend and that "complete confidentiality was required." Mapes told the Panel that she discussed briefly with Miller how to research such examiners, including finding examiners frequently used as witnesses in litigation, a discussion that Miller did not recall. Miller told the Panel that she did recall that someone, either Mapes or Colonel Charles, told her that day she should try to find examiners who were familiar with government documents and/or had worked for the government, but that she could not use anyone who was actively working in the government. Miller was unable to do extensive research on the topic of document authentication due to the time constraints imposed by the schedule.

Colonel Charles then called Miller and gave her the name of Linda James, a handwriting and document examiner in Plano, Texas. Colonel Charles said that James was a professional document examiner who lived and worked in a town close to where Mapes lived.

Miller called James, and was told that James was willing to work over the Labor Day weekend and that it would take approximately five hours to do a general assessment. Miller then asked James for referrals to other examiners. James gave her names of other people she had either worked with or against in litigation, including two of the examiners who eventually would be retained by *60 Minutes Wednesday* (Marcel Matley and Emily Will). Miller told James that the documents would be delivered to her by hand on Saturday.

Miller spent approximately six hours on Friday, September 3 attempting to find handwriting and document examiners by calling people and getting referrals. She had difficulty reaching many of the examiners who were referred to her. Others were reachable but not willing to work over Labor Day weekend or refused to work with copies. Ultimately, Miller found four handwriting and document examiners who were willing to work for *60 Minutes Wednesday* in

the time frame dictated: James,⁵⁰ Matley,⁵¹ Will⁵² and James Pierce.⁵³ At approximately 5 p.m. on Friday, September 3, Miller called Mapes and sent her an e-mail with contact information for the four examiners.

Miller learned at or around this time that Colonel Charles would be overnighting a package of documents to her for Saturday delivery and that Miller should then send some of those documents to the examiners on Saturday by courier. Miller said that she felt frustrated at the time and “very uncomfortable” because she was rushed in this process and did not have a handle on the documents that were to be authenticated. As noted, Miller did not see either of the two documents that Mapes had received from Lieutenant Colonel Burkett until after she had located the examiners. When she initially contacted the examiners on Friday, she knew only that the documents were memoranda involving President Bush.

Miller and Mapes spoke several other times on Friday, September 3, regarding the selection of the examiners. During one of these conversations, Miller told Mapes that Matley had been recommended by a number of people. Mapes called Matley on September 3 and provided him with the following information: (1) that the documents were copies; (2) that the writer was now dead; (3) that they had official documents that Matley could use as a comparison for the signatures; and (4) that the work was highly confidential because it involved President

⁵⁰ James, based in Plano, Texas, told the Panel that she has been a document examiner for 13 years and that she has completed 800 hours of training sponsored by the National Questioned Document Association and the American Institute of Applied Science. James’ primary focus is on analyzing handwriting, and although she is trained on a basic level on typography issues, she does not claim to be a typography expert. She is a member of the National Association of Document Examiners (“NADE”) but is not certified by the American Board of Forensic Document Examiners (“ABFDE”).

⁵¹ Matley, based in San Francisco, has a Master’s Degree in Library Science from Immaculate Heart College in 1963 and received private instruction in graphology in 1979 and 1980. Matley has no government training. Matley told the Panel that he decided to become a document examiner in the early 1980s and learned the field through “self-study.” Matley has been an honorary member of NADE since 1992 and received board certification from NADE in October 2000. He is not certified by the ABFDE. Matley is not a typography specialist, although he told the Panel that courts have recognized him as an expert in typeface analysis.

⁵² Will, based in Raleigh, North Carolina, told the Panel that she has been a forensic document examiner for approximately 18 years. She stated that many of her cases involve handwriting and signature analysis, but she also has worked on cases involving document alterations, obliterations, chronological dating, typography and other document features. She considers herself competent to handle typewriter typography issues only up to a certain point and generally refers typewriter issues beyond her expertise to Peter Tytell, whom she views as a “recognized authority” and “top expert” on typewriter issues. Will also is a member of NADE, but is not certified by the ABFDE.

⁵³ Pierce, based in Newport Beach, California, has substantial government training in document examination. Pierce was initially a member of the ABFDE, but the Panel was informed that Pierce has not kept up his certification. Pierce’s resume indicates that he has been employed since 1970 in the field of forensic document examination, including the comparison of handwriting, typewriting and paper/ink analysis. He is currently in private practice, but he previously managed the Questioned Documents Section of the Los Angeles Police Department Crime Lab. Pierce declined to be interviewed by the Panel, but he did speak with counsel to the Panel.

Bush. Mapes said that she asked Matley to “compare and authenticate” the documents. Matley told the Panel that he told Mapes that it was not possible for him to authenticate the documents completely because they were not originals and, therefore, he would not be able to carbon date the ink or paper. Mapes told the Panel that she did not view this as a problem.

Mapes also spoke to Will on Friday evening, September 3, and Mapes’ telephone records reflect that the call lasted approximately half an hour. Will recalled that Mapes told her that the documents related to President Bush’s TexANG service and that Mapes had been working on the story for five years. Will told the Panel that Mapes told her she was concerned that political operatives, perhaps one of President Bush’s senior campaign strategists, had planted the documents. Mapes also said that someone she had been interviewing over a long period of time had brought her the documents voluntarily, which gave her comfort, and that the source had been present when President Bush’s records were “cleaned out.” Will also recalled being told at some point, either during this conversation or in a subsequent one, that Mapes’ source had received the documents anonymously in the mail. Will said that she told Mapes that it was likely that her opinion would be qualified based on the fact that there were no originals. Will told the Panel that Mapes told her to do the best she could do. Mapes had a different recollection and told the Panel that she never told Will about the source of the documents.

(i) Qualifications of the Handwriting and Document Examiners

The Panel has reviewed the backgrounds of the examiners selected by Miller and Mapes. Miller conducted brief interviews of each, as did Mapes, but given the time constraints under which they were working, neither Miller nor Mapes had the opportunity to conduct a detailed examination of their experience and the scope of their expertise prior to retaining them. Miller said that if the story had not been produced in a rush over Labor Day weekend, it is likely that she would have spent a week or more learning about the document authentication process and the field of expertise prior to choosing the examiners. The types of information that Miller should have learned about are set forth in the Authentication Background, which is included in Appendix 2 to this Report. Some of the more relevant considerations can be summarized as follows:

At its base, document examination is divided by a fundamental difference over the significance of training in “graphology.” Graphologists claim to be able to determine personality

characteristics through the analysis of handwriting. Graphology training is the focal point of controversy in the field. Some document experts believe graphology is akin to astrology, and do not believe that those trained as graphologists can perform as competently as document experts. *See Appendix 2.*

This dispute has given rise to competing professional organizations, which in turn offer competing certifications. The two organizations relevant with respect to the four experts selected by *60 Minutes Wednesday* are the American Board of Forensic Document Examiners (“ABFDE”) and the National Association of Document Examiners (“NADE”). ABFDE is the credentialing body used by the Questioned Document Section of the American Academy of Forensic Sciences, and this group is considered by some to be the “most aggressive” in maintaining its membership superiority. The ABFDE rejects graphology training. The NADE accepts those with graphology training.

(ii) The Panel’s Findings Regarding the Examiner Selection Process

The Panel believes that the process of examiner selection by *60 Minutes Wednesday* should have been given more careful attention and time. If Mapes and *60 Minutes Wednesday* had been better informed regarding the examiners’ credentials and the authentication process, it is likely that the Segment either would not have aired or would have contained appropriate disclaimers as to the limits of such analysis. For example, none of the four examiners retained appears to have extensive typography expertise, and many of the criticisms of the Killian documents in the Aftermath were focused on typography. The Panel recognizes, however, that there are situations where news is time-sensitive and a crash is necessary. Therefore, as discussed in Chapter XI of the Report on the Panel’s recommendations, the Panel believes that *60 Minutes Wednesday* should maintain a list of document examiners who are qualified to provide opinions as needed regarding a document’s authenticity.

c. Communications with Lieutenant Colonel Burkett’s Lawyer

Smith met with Lieutenant Colonel Burkett’s lawyer, David Van Os, on Friday, September 3. Van Os was running for justice of the Texas Supreme Court⁵⁴ and was in Austin campaigning. Smith and Van Os met at a campaign event and then went to a restaurant where

⁵⁴ Van Os was defeated in November 2004.

they talked for several hours, although much of the discussions involved Texas politics as opposed to Lieutenant Colonel Burkett's situation.

Van Os explained to counsel for the Panel that he had been asked by Lieutenant Colonel Burkett in late August, before any documents were given to Mapes and Smith, to help him negotiate a deal with *60 Minutes Wednesday*. At that point, Lieutenant Colonel Burkett's concerns were that *60 Minutes Wednesday* (1) authenticate the documents, (2) ensure his confidentiality and anonymity, and (3) guarantee a consulting contract. Van Os was surprised when Lieutenant Colonel Burkett told him in a telephone conversation on Thursday night, September 2, that he had given documents to *60 Minutes Wednesday* that day, since it took away most of his leverage in seeking a deal. Lieutenant Colonel Burkett told Van Os that he still wanted him to meet with *60 Minutes Wednesday* on Friday to discuss what could be done for him.

At the restaurant, Smith and Van Os discussed Lieutenant Colonel Burkett's concerns about his personal safety and his relationship with *60 Minutes Wednesday*. Van Os also told Smith that he thought CBS News should work out a consulting arrangement with Lieutenant Colonel Burkett, and, according to Van Os, Smith told him that he thought CBS News would be willing to discuss that with him.⁵⁵ Van Os reiterated that Lieutenant Colonel Burkett's identity must be kept strictly confidential by *60 Minutes Wednesday*. Van Os told counsel for the Panel that Lieutenant Colonel Burkett also needed relocation assistance because "when you go against the Bush machine, you tend to become a target for threats and harassment and problems."

Van Os did not discuss specific terms of an arrangement with Smith but understood that Smith would pass along the requests to Mapes. There appears to have been no discussion regarding a possible publishing deal. In addition, Van Os told counsel for the Panel that Smith showed Van Os one of the two documents he had obtained from Lieutenant Colonel Burkett, which Van Os had not previously seen. They did not discuss whether Lieutenant Colonel Burkett had additional documents, but they did talk about Lieutenant Colonel Burkett's concern that the documents be authenticated.

At some point over the Labor Day weekend, Mapes also spoke to Van Os. Van Os recalled that they spoke about his concern, which was shared by Mapes, that a senior campaign

⁵⁵ Smith agreed that this issue came up during the meeting, but he said that he merely told Van Os that he would forward the request to Mapes.

strategist for President Bush was “capable of doing this as a setup,” *i.e.*, of planting fake documents. He recalled that Mapes reassured him that *60 Minutes Wednesday* “had really good experts . . . and that CBS was not going to do anything with the documents until they were absolutely sure they were authentic.”

Van Os told counsel to the Panel that, while “the cows were out of the barn,” since Lieutenant Colonel Burkett had given the documents to Smith and Mapes, Lieutenant Colonel Burkett still wanted Van Os to “negotiate something to protect his interests.” Van Os recalled that he told Mapes that Lieutenant Colonel Burkett thought *60 Minutes Wednesday* might retain him as a consultant and Mapes indicated that someone from *60 Minutes Wednesday* would get in touch with him, although no one ever did. Van Os said that he also requested that *60 Minutes Wednesday* cover Lieutenant Colonel Burkett’s expenses if relocation was necessary and Mapes said that it was something they could consider, but they did not discuss the request again until after the broadcast. Finally, Van Os told counsel for the Panel that he also discussed the possibility of Mapes’ passing along Lieutenant Colonel Burkett’s name and number to the Kerry presidential campaign. According to Van Os, Mapes said that she had previously discussed this with Lieutenant Colonel Burkett. Van Os told the Panel that Mapes responded that she thought it would be okay to pass along his name and number but that she could not “help anyone politically” because she had “journalistic independence.”

d. Mapes’ Communications with *60 Minutes Wednesday* Management Regarding Additional Burkett Demands

Howard told the Panel that on either Thursday, September 2, or Friday, September 3, Mapes asked for two other concessions for her source beyond the Kerry campaign contact: (1) that CBS News pay for the source to “get out of town” because he was concerned for his safety; and (2) that CBS News obtain a pre-paid cell phone for him. Howard said that he refused the first request, but told Mapes that if she was really concerned for her source’s personal safety she should alert Betsy West, Howard’s boss. Regarding the second request, Howard said that he approved it because Mapes claimed that she needed to give the source the phone in order to keep in touch with him.

3. Saturday, September 4, 2004: The Authentication Process Continued and Other Issues

a. Contacts with the Document Examiners

Miller's primary task on Saturday, September 4, was to get the documents to the document examiners. Miller went into the office that morning to pick up the package that Colonel Charles had overnighted to her. It contained approximately 100 pages of documents from the official Bush records. During a subsequent telephone call, Miller was told by Mapes and Colonel Charles to send to the document examiners the two Killian documents that Mapes had received from her source, as well as 17 other pages of documents from the official Bush records. After the call with Mapes and Colonel Charles, Miller arranged for the 19 pages to be couriered to three of the experts. Mapes planned to deliver one set personally to James later that day.

In mid-afternoon on Saturday, September 4, Mapes and her husband drove to James' house to deliver the documents and then met with James in her home office for 30-40 minutes. Mapes handed James the same 19 pages of documents that had been sent to the other examiners. Mapes explained to James that she should compare the signatures and other aspects of the two documents (the August 1, 1972 memorandum and the June 24, 1973 memorandum) to the remainder of the documents in the package.

Mapes recalled that James showed her a book written by Matley during this meeting and that James referred to Matley as the "Dean of Document Analysts." James, however, told the Panel that she did not recall discussing Matley or any of the other examiners retained by *60 Minutes Wednesday* with Mapes.⁵⁶ Mapes also told the Panel that James told her she had never heard of Emily Will, although this appears unlikely since James had referred Will to Miller the previous day. James told Mapes that she was concerned that the documents were copies instead of originals, but that she thought she had enough material to compare the signatures.

b. Other Background Reporting

On Saturday, September 4, Scott spoke to an off-the-record contact who had known Brigadier General James M. Rose, the Assistant Adjutant General – Air at the time that President Bush was admitted to the TexANG. Mapes had spoken to this contact in 1999 (*see* Chapter

⁵⁶ Mapes recalls that she did, and Yvonne Miller and Betsy West both recalled that Mapes told them that James showed her Matley's book.

VII.A. above). Scott told the Panel that her contact said that Brigadier General Rose had once admitted that he helped President Bush get a spot in the TexANG and had confirmed this fact with Brigadier General Rose's assistant at the time, although the assistant later "changed his tune." The contact would not agree to be interviewed on camera.

c. Rather's Involvement

On Saturday, September 4, Rather was still in Florida covering Hurricane Frances. At some point that day, Mapes and Rather spoke on the telephone. Mapes told the Panel that she asked Rather to call Lieutenant Colonel Burkett to thank him for cooperating and asked him to call Van Os as well. She also said that she spoke to Rather after he made the calls, and he commented that they went fine. Rather, however, recalled only that Mapes told him she had the documents and did not recall speaking to Lieutenant Colonel Burkett or Van Os prior to the broadcast of the September 8 Segment. Smith told the Panel that he thought that Rather spoke to Lieutenant Colonel Burkett before he gave them the documents on Thursday, September 2.

Rather was also in touch with Heyward on Saturday, September 4, or Sunday, September 5. Their recollections of the substance and timing of their contact differ somewhat, although they both recalled speaking about the National Guard story. Rather believed that he had one call with Heyward about coverage of Hurricane Frances and that Mapes and the Killian documents came up briefly during that call. Rather said that both he and Heyward agreed that it was a potentially important and controversial story. According to Rather, he told Heyward that the story could be "radioactive" and that Heyward should have it "checked out thoroughly." Rather said that he and Heyward agreed that Betsy West should be brought in to look at it closely. Rather told the Panel that Heyward said to him, "Keep your focus on the hurricane. We're looking a full day broadcast."

Heyward, on the other hand, told the Panel that sometime during that weekend,⁵⁷ Rather told him that the "big story" to which Rather had previously referred was going forward and involved President Bush's TexANG service and that they had documents. Heyward also recalled that, when Rather mentioned documents, he told Rather that they had to make sure the documents were real. He said that Rather responded, "Of course."

⁵⁷ Heyward told the Panel that this conversation occurred two weeks before the broadcast, but said that he believes Mapes had the documents at the time they spoke. Based on the content of the conversation, it appears that he is recalling the same conversation as Rather, which appears to have taken place on Saturday, September 4.

Heyward recalled a second conversation with Rather over the weekend as well. He told the Panel that Rather said that Mapes had asked Rather to go to Texas to do an interview for the TexANG story late on Sunday, September 5, and that Rather felt competitive pressure to do the interview and get the story done even though he was tired. Heyward recalled that Rather did not want to “lose the exclusive.” Heyward said that Rather told him that Mapes thought the story had to get out soon and that they were aiming to air it on Wednesday, September 8. Heyward’s impression was that another news outlet was also working on the same story and that Rather and Mapes wanted to beat the competition.

d. Mapes’ Communications with Murphy

Senior Broadcast Producer Mary Murphy told the Panel that Mapes called her on Saturday, September 4 and expressed concern about losing the story to competitors. According to Murphy, Mapes said that “everyone was descending” and reporters from the *Los Angeles Times*, *The Boston Globe*, and *USA TODAY* were “on to the story and the documents.” Murphy told the Panel that Mapes also said that the source’s attorney had asked Mapes to pay the source a consultancy fee. Mapes asked Murphy whether it would be possible to do so. Murphy said she told Mapes that *60 Minutes Wednesday* could not retain the source as a consultant.

4. Sunday, September 5, 2004: Document Authentication Issues, Interviewing and Contact with Lockhart

a. Additional Documents from Lieutenant Colonel Burkett

Smith met with Lieutenant Colonel Burkett again on Sunday afternoon, September 5, for about two hours at the same restaurant where they had met the previous Thursday. Smith obtained four additional documents, which he faxed to Colonel Charles and to Miller at around 6 p.m. EST from the same Kinko’s shop in Abilene, Texas. Mapes, who was home in Dallas, also received a copy of the documents at or around that time. The documents were memoranda purportedly written by Lieutenant Colonel Killian. They were as follows: (1) an unsigned note from Lieutenant Colonel Killian to then-Major Harris regarding flight certifications dated February 2, 1972; (2) a signed memorandum dated May 4, 1972 ordering Lieutenant Bush to take his flying physical; (3) an unsigned memorandum to the file dated May 19, 1972 regarding Lieutenant Bush’s physical and his request to transfer to Alabama, which noted that Lieutenant Colonel Killian thought Lieutenant Bush was “also talking to someone upstairs”; and (4) an

unsigned memorandum dated August 18, 1973 stating that Lieutenant Colonel Killian had been pressured by General Staudt to “backdate” and “sugar coat” the performance rating of Lieutenant Bush. These documents are attached as part of Exhibits 2A, 2B, 2C and 2F to this Report. All but the February 2, 1972 document were used in the September 8 Segment.

Notably, these documents were shown only to Matley and not to the other document examiners prior to the broadcast, despite the fact that several of the other examiners asked for additional documents prior to September 8. Mapes conceded to the Panel that she should have sent these documents to all the examiners but in the frenzy of the “crash,” she was too busy. In the Panel’s view, this is another indication of the pressure the “crash” was putting on sound reporting.

Smith told the Panel that Lieutenant Colonel Burkett lectured him during the Sunday meeting about providing protection for him and expressed worry that CBS News might “hang him out to dry.” Lieutenant Colonel Burkett told Smith that he wanted a private guard. Smith told the Panel that Lieutenant Colonel Burkett again raised the issue of his being retained as a consultant by CBS News regarding the TexANG documents, a request which Smith passed along to Mapes. Smith also informed the Panel that he told Lieutenant Colonel Burkett that they did not know whether they could use documents that were provided anonymously. Lieutenant Colonel Burkett then said that “one of those military guys” had given him the package, but offered no name. Smith further recalled that Lieutenant Colonel Burkett reiterated that he wanted to ensure that *60 Minutes Wednesday* properly vetted and authenticated the documents.

b. Further Attempts To Confirm the Killian Documents’ Content

On Sunday, September 5, Colonel Charles was still involved in attempting to confirm facts related to the Killian documents. Colonel Charles spoke to Lukasiak and asked him for additional samples of Killian’s signatures from public documents. Colonel Charles told the Panel that he also was in contact with Lieutenant Strong to arrange the interview Rather was to conduct that night. According to Colonel Charles, Lieutenant Strong said that Lieutenant Colonel Killian was a “straight arrow” and that General Staudt exerted influence over Lieutenant Colonel Killian’s unit while he was in charge of the squadron. Colonel Charles also interpreted Lieutenant Strong’s comment to mean that General Staudt still had influence after he retired, even though General Staudt had not been in the TexANG for nearly a year and a half by the time the August 18, 1973 memorandum allegedly was written.

c. Concerns and Issues First Raised by the Document Examiners

As set forth below, on Sunday, September 5, Miller had conversations with Pierce, Matley, James and Will regarding their assessment of the Killian documents, though Mapes spoke only to Will and James. All of the examiners raised certain concerns about the documents themselves and/or their ability to authenticate the documents. Significantly, none of these concerns made their way into the September 8 Segment.

(i) Emily Will

Will sent an e-mail to Miller on Sunday afternoon at around 3:30 p.m. in which she discussed some of her concerns regarding the signature on the June 24, 1973 memorandum addressed to “Sir.” The e-mail attached a pdf file that illustrated the problems that Will had detected regarding the signature when compared to four other signatures contained in the official Bush records. That e-mail and pdf file is Exhibit 4 to this Report.

Miller told the Panel that she called Mapes as soon as she received Will’s e-mail and urged Mapes to talk to Will. Miller forwarded the e-mail to Mapes at 4:24 p.m. Will told the Panel that she spoke to Mapes that afternoon and that Mapes told her that she had the e-mail but for some reason could not open the attachment. Will said that Mapes did not speak to her for very long because Mapes had to get to the airport to meet Rather who was flying in from Florida to do the Lieutenant Strong interview.

Nonetheless, Will told the Panel that she had enough time with Mapes on the telephone to review the signature discrepancies reflected in her e-mail in addition to the potential problems she had noticed in the typography of the two documents. Will referred to the two documents in her contemporaneous notes as Q1 (the August 1, 1972 memorandum) and Q2 (the June 24, 1973 memorandum):

1. Is there suppose [sic] to be a letterhead?
Note differences in th in 111th in top line of “letterhead” and note lack of third line in Q2 “letterhead.”
2. Q2 has superscript th
3. Has the general appearance of a proportional spaced and proportional width font
4. Q2 has a comma in the date, which is not found in Q1 or any of the knowns
Q2 does NOT look like a military document . . .

Will told the Panel that she informed Mapes that she wanted more documents for comparison and analysis, and Mapes told her that she would send them. Will was never sent any

more documents. Will also recalled that, when she started to discuss concerns regarding the content of the documents, Mapes cut her off. Will's notes regarding her conversation with Mapes indicate that Mapes told her that this was not something Will "should be worrying about [because] she [had] taken care of that part of it." Miller also recalled that Mapes had commented that Will was focused on the substance of the memoranda, but that it did not matter for purposes of her analysis what the facts were. Mapes told Miller that she just wanted Will to look at the signature. Will told the Panel she regarded examining content to be part of her job in assessing a document's authenticity.

Based on Will's recollection and her notes, it appears that Will raised the issue of proportional spacing with Mapes on Sunday. This topic would receive substantial attention in the Aftermath of the broadcast of the Segment. The Panel finds it significant that Mapes did not focus on this criticism and later would alert *60 Minutes Wednesday* management only to the issue of the superscript "th."

Mapes recalled talking to Will on Sunday, although she did not recall the specifics of the conversation. She told the Panel that she did not recall discussing Will's e-mail containing the pdf file with anyone and did not, in fact, review the e-mail until the following day.

(ii) Linda James

James told the Panel that she called Mapes on Sunday, September 5, and told her about the "potential problems" she had noticed with the documents. She had conducted some research regarding the typography and had concluded preliminarily that the superscript "th" was not in common use at the time the documents were purportedly prepared. James was not certain whether she told Mapes about this particular problem, however, and Mapes did not recall this conversation. James also said that she was unable to reach a conclusion about the authenticity of the signature on the June 24, 1973 document without more samples of Lieutenant Colonel Killian's signature.

(iii) James Pierce

Miller told the Panel that she called Pierce on Sunday, September 5, to confirm that he had received the documents. She recalled that Pierce told her that he believed the two Killian documents were from the same person and that the signatures on the June 24, 1973 Killian document and in the official Bush records were consistent. The Panel does not know the basis

for this conclusion, as only one of the documents included Lieutenant Colonel Killian's signature. Miller's notes from this call show that Pierce noticed a possible alteration in one of the official documents. Miller said that Pierce also told her that there was nothing in the Killian documents that indicated they had been tampered with but that he could not reach a definite conclusion because he did not have the originals. Mapes recalled that Miller told her the following day, Monday, September 6, that Pierce had said that he had not seen anything in the documents that would exclude them from being authentic.

(iv) Marcel Matley

Miller also spoke to Matley on Sunday, September 5. In the 19 pages that he received from Miller, Matley located five samples of Lieutenant Colonel Killian's signatures, only one of which was on a document that Mapes had obtained from Lieutenant Colonel Burkett (the June 24, 1973 memorandum). The other document obtained from Lieutenant Colonel Burkett (the August 1, 1972 memorandum) contained only initials, which Matley said "does not help" because there were no other exemplars with initials in the official Bush records for comparison. Matley said that there were similarities and "consistent inconsistencies" among the signatures, and that they all appeared to be written by the same individual. Miller recalled that Matley had said that there were some problems but not enough to raise any suspicions. Miller said that Matley seemed fairly confident that the signature on the June 24, 1973 memorandum was Lieutenant Colonel Killian's.

Matley informed the Panel that he told Miller that he could compare only the Killian signatures on the June 24, 1973 memorandum with the signatures on the other documents. His recollection is that Miller consulted with Mapes and then confirmed to Matley that he should look only at the signatures. Miller and Matley spoke again later that day to arrange for Matley to come to New York to be interviewed by Rather on Monday, September 6.

d. Lieutenant Strong Interview

Mapes called Rather on Sunday afternoon, September 5, while he was covering Hurricane Frances, and told him that he needed to leave Florida for Austin immediately. Mapes met Rather at the Dallas airport, where he was connecting from a flight from Miami, and they flew together to Austin for the interview with Lieutenant Strong.

While they were sitting in the public waiting area at the gate for their connection to Austin, Mapes showed Rather the six Killian documents for the first time. According to Rather, he told Mapes that she needed to vet the documents completely. He knew at that time that the documents had been given to Mapes by a confidential source, but he told the Panel that he did not know where the documents had been or how long the source had possessed the documents. He also said that he did not recall whether Mapes had mentioned Lieutenant Colonel Burkett's name to him at that time. Rather said that he did not spend much time going over the documents with Mapes as he was trying to get focused on preparing for the Lieutenant Strong interview he was to do in a few hours.

Mapes' recollection regarding their preparations for the Lieutenant Strong interview is somewhat different. She told the Panel that she and Rather spent most of the time before and during the flight going over the Killian documents. She said that she also reminded Rather of his 1999 interview of Lieutenant Strong, although she did not bring the transcript of that interview with her. Rather told the Panel he did recall the 1999 interview of Lieutenant Strong, but did not recall the substance of it.

Rather and Mapes arrived in Austin to interview Lieutenant Strong at around 10:30 p.m. CST on Sunday, September 5. In addition to Mapes and Rather, Scott, Smith and various crew members were also present. Lieutenant Strong informed the Panel that Mapes met with him prior to the interview for approximately 20 minutes and showed him the Killian documents, which he had not seen previously. Lieutenant Strong informed the Panel that when he tried to express his opinion regarding the format of the Killian documents, he was told by Mapes that there were five experts who were authenticating the documents and that was not his concern. Lieutenant Strong also said that he made clear to Mapes that he had no personal knowledge regarding the Killian documents or the events described in the documents since he was no longer working full-time at the TexANG when they purportedly were written.

Mapes said that she asked Lieutenant Strong about the typewriters used at the TexANG and that Lieutenant Strong recalled personally using an IBM Selectric, which contained a typing ball that was ordered separately, and seeing IBM Selectrics at the 111th Squadron. Mapes said that Lieutenant Strong did not comment on the superscript "th." Lieutenant Strong told the Panel that he did not recall discussing with Mapes the typewriters used at the TexANG until after the September 8 Segment aired.

The actual interview of Lieutenant Strong lasted about an hour.⁵⁸ It covered three areas: Barnes and whether political favoritism was used to get people into the TexANG; the documents allegedly authored by Lieutenant Colonel Killian; and General Staudt's influence in the TexANG. The transcript of the interview makes clear that Lieutenant Strong had no personal knowledge regarding Barnes' role with respect to President Bush, the documents or Lieutenant Colonel Killian's views regarding President Bush. Mapes told the Panel that, while she knew that Lieutenant Strong did not have personal knowledge, she felt that he was a valuable witness because (1) he knew all of the people involved, (2) he knew how the TexANG operated, and (3) paperwork was his specialty.

As in his prior interview with Rather in 1999, Lieutenant Strong said that the TexANG was highly politicized and that he suspected that "politically-connected people . . . had help getting in." He admitted, however, that he could not "prove it." He was asked whether he believed that Ben Barnes had helped President Bush get into the TexANG, and he said that it "was the worst kept secret of the time." He explained to Rather later in the interview that the "secret" to which he was referring was the fact that "everybody knew [Barnes] was getting people in." Lieutenant Strong did not state that Barnes had specifically assisted President Bush and has told the Panel that he does not know this as fact, although he would not be surprised if it were true.

Lieutenant Strong also said that he knew Lieutenant Colonel Killian "quite well." Lieutenant Strong worked in Austin and Lieutenant Colonel Killian worked at Ellington Air Force Base in Houston. Rather asked Lieutenant Strong whether there is "any doubt in [his] mind that these [documents] are genuine." Despite the fact that he had not seen the documents until 20 minutes before the interview and that he said he had no personal knowledge of their content, Lieutenant Strong responded, "Well, they are compatible with the way business was done at the time. They are compatible with the man that I remember Jerry Killian being. I don't see anything in the documents that are discordant with what were the times, what were the situations, and what were the people that were involved." This exchange was ultimately to be included in the September 8 Segment.

Significantly, Lieutenant Strong was not asked whether he had discussed Lieutenant Bush with Lieutenant Colonel Killian, whether he had seen the Killian documents before or whether

⁵⁸ The Lieutenant Strong interview transcript is Exhibit 9L to this Report.

he knew that private memoranda of this type generally were kept by Lieutenant Colonel Killian. In fact, when Rather commented in the interview that President Bush “didn’t have the physical,” Lieutenant Strong said, “Well, I don’t know that,” and Lieutenant Strong then proceeded to rely on the information contained in the documents themselves to conclude that “he had not taken his physical.” This exchange with Rather was not included in the September 8 Segment. In addition, he was not asked in the interview about the types of typewriters used in the unit or who might have typed the documents.

Finally, Mapes told the Panel that Lieutenant Strong described General Staudt as a political creature who was “bullying” and that Lieutenant Strong said General Staudt had retained a good deal of influence after he left the TexANG. The issue arose because Lieutenant Colonel Killian’s August 18, 1973 memorandum states that General Staudt had exerted his influence to “sugar coat” then-Lieutenant Bush’s record, although records reflect that General Staudt had retired on March 1, 1972, at or around the time that Lieutenant Strong also left full-time TexANG service. Rather never asked Lieutenant Strong directly whether General Staudt could have exerted influence a year and a half after he retired, and Lieutenant Strong’s comments appear focused on General Staudt’s influence while he was still in the TexANG. While Lieutenant Strong did comment on General Staudt’s power over his unit after he became the Chief of Staff of the TexANG in 1969 and left Houston, Lieutenant Strong was not asked and did not state that General Staudt had influence after he retired from the TexANG in 1972. However, it is clear that Lieutenant Strong had no personal knowledge regarding whether General Staudt continued to exert influence over TexANG officers after he retired, and, when asked by the Panel, Lieutenant Strong said that he could only speculate as to General Staudt’s influence.

As discussed in greater detail below in Chapter VII.I.2., the Panel finds that, given Lieutenant Strong’s lack of personal knowledge, it was inconsistent with standards of fair and accurate reporting for *60 Minutes Wednesday* to use Lieutenant Strong’s interview in the September 8 Segment to confirm both the content of the documents and the alleged preferential treatment accorded President Bush.

e. Discussions with Lieutenant Colonel Burkett Regarding the Source and Efforts To Find Chief Warrant Officer Conn

Mapes told the Panel that once she obtained the first two Killian documents, she pressed Lieutenant Colonel Burkett for information about his source, particularly on Saturday,

September 4, and Sunday, September 5. She said that she discussed with him the importance of the chain of custody and that she needed to know “whose hands” were last on the documents.

According to Mapes, Lieutenant Colonel Burkett eventually told her that Chief Warrant Officer George Conn, a former officer in the Texas Army National Guard and a long-time friend, had given him the documents. He told Mapes, however, that she should not call Chief Warrant Officer Conn because he would deny it. Lieutenant Colonel Burkett also said that Chief Warrant Officer Conn was on active duty and could not be reached at his Dallas home.

Once Mapes obtained this information from Lieutenant Colonel Burkett, she did not ask for more details regarding how he got the documents from Chief Warrant Officer Conn because she thought she had “pushed [Lieutenant Colonel Burkett] to the wall.” Mapes said that it concerned her when Lieutenant Colonel Burkett said that Chief Warrant Officer Conn would not corroborate his story, and she was also aware that Chief Warrant Officer Conn had denied in February 2004 having knowledge of the “scrubbing” incident. Her understanding, however, was that Chief Warrant Officer Conn’s denial was a means to protect his job with the military and she felt comforted that Lieutenant Colonel Burkett and his wife spoke well of Chief Warrant Officer Conn despite his prior statements undercutting charges Lieutenant Colonel Burkett had made.

Nevertheless, Mapes said she placed a call to Chief Warrant Officer Conn at a number believed to be his residence in Dallas, but was not able to contact him. Mapes knew that Chief Warrant Officer Conn worked in Germany, but she told the Panel that she tried his number in Dallas because it was her understanding that he was sometimes in Dallas. Mapes said that she also asked former Chief Warrant Officer Harvey Gough, another former Guardsman, for Chief Warrant Officer Conn’s number in Germany, but he refused. She does not recall any subsequent attempts to reach Chief Warrant Officer Conn or asking anyone else to find him.

Mapes told the Panel that she believed that the confirmation of the content of the Killian documents was more important than finding the source to trace the chain of custody. She also had reviewed the Killian documents and believed that they “meshed” well with known facts about President Bush’s service record and documents previously released from his TexANG file. The alleged “meshing” of the Killian documents with the official record is discussed in detail in Chapter VIII.

The Panel finds the chain of custody an important aspect of authenticity and finds that *60 Minutes Wednesday* should have made every effort to locate Chief Warrant Officer Conn

prior to the broadcast. As discussed previously in this Report, Lieutenant Colonel Burkett by now had given Mapes and Smith at least two different stories as to how he obtained the documents –that they were sent to him anonymously in the mail and that they were given to him by Chief Warrant Officer Conn. Particularly in light of her earlier concern that the Killian documents could have been planted as a political dirty trick, more resources should have been devoted to determining who had the documents and when, even at the risk of not being able to air the Segment on September 8.

There is a further reason as well that the chain of custody issue should have been important. The September 8 Segment reported: “*60 Minutes* has now obtained a number of documents we are told were taken from Colonel Killian’s personal files.” Mapes informed the Panel that Lieutenant Colonel Burkett provided her with this information. However, since Lieutenant Colonel Burkett did not himself purport to take the documents from those files, that necessarily meant that Chief Warrant Officer Conn or someone else provided Lieutenant Colonel Burkett with this information. The Panel believes it was incumbent on *60 Minutes Wednesday* to confirm this information or not use the information in the Segment. That did not occur, constituting another failure in the reporting and vetting process.

f. Mapes’ Contact with Joe Lockhart

Mapes spoke to Joe Lockhart at some point over the Labor Day weekend. The Panel is unable to determine exactly when, as Mapes’ and Lockhart’s recollections differ widely with respect to both the timing and the substance of their conversation.

Mapes’ recollection is that Lockhart called her at some point prior to September 8, probably on or around Monday, September 6. She said that he left a message with his cell phone number and that she returned his call shortly thereafter. She said that the conversation lasted approximately two minutes. She believes that she told him that one of her sources, Lieutenant Colonel Bill Burkett, wanted to speak to him about how the Kerry campaign should respond to the attacks by the “Swift Boat Veterans for Truth.” She did not recall discussing the Killian documents with him. She recalled ending the conversation by saying to him that she could “not wait to do a tough story on your guy,” *i.e.*, Senator Kerry.

Lockhart’s recollection of this conversation with Mapes is quite different. Lockhart told the Panel that Clanton approached him about speaking to Mapes regarding a story she was doing about President Bush’s TexANG service involving documents, but Lockhart was “wary” to do

so. Lockhart said that he believed that it was not good for the campaign or CBS News for him to be involved during the fact-gathering phase of a *60 Minutes Wednesday* story. He explained that if the story held up, his involvement would merely cast doubt on it, and if the story did not hold up, he did not want to be associated with it. Lockhart also told the Panel that he did not want to speak with Mapes until she had already obtained the documents in question and that the reporting had been completed. Some time thereafter, Lockhart said that Clanton informed him that the reporting on the story was finished.

Lockhart said that he recalled receiving a call from Mapes on Saturday night, September 4, and that the call lasted approximately five minutes. Lockhart told the Panel that Mapes told him that there was going to be an interview on *60 Minutes Wednesday* with former Lieutenant Governor Barnes. Lockhart said that this was not news to him, as he had heard about it both through Clanton and campaign gossip.

Lockhart told the Panel that Mapes then said that there had been a significant break in the story. She explained that she had obtained some documents regarding President Bush's TexANG service. According to Lockhart, Mapes indicated that Lieutenant Colonel Burkett wanted to talk to the Kerry campaign regarding strategy and that he had suggested to her that more documents could be made available. Lockhart's understanding was that there was some connection between his talking to Lieutenant Colonel Burkett and the latter's willingness to cooperate further with Mapes. Lockhart said that he told her that he was reluctant to get involved, as he wanted to know how sure she was that it was not a setup. Lockhart said that something did not "feel right." Mapes told him that CBS News had retained experts to verify the documents. Lockhart did not recall Mapes' comment that she could not wait to do a "tough story" on Senator Kerry.

Despite his wariness, Lockhart ultimately called Lieutenant Colonel Burkett on Monday, September 6. He said that the call lasted only a few minutes. After introductions, Lieutenant Colonel Burkett told him that he wanted to talk about the direction of the campaign and he talked about how the campaign could push back on the Swift Boat attacks. Lockhart said that Lieutenant Colonel Burkett did not raise the issue of either President Bush's TexANG service or any documents. Lockhart told the Panel that he had a bad feeling "15 seconds into the conversation" that he was being taped, so he merely listened and responded very briefly and

generally to what Lieutenant Colonel Burkett was saying. He told the Panel that he wanted simply to get off the phone.

g. Return to New York and Discussion About the Documents

After the interview of Lieutenant Strong, Rather, Mapes, Scott and Smith flew back to New York on a chartered jet. Heyward had wanted Rather to be back in New York early on Monday to cover any news developments emerging from former President Clinton's quadruple bypass heart surgery, which was scheduled for 8 a.m. Monday, September 6.

Rather told the Panel that, during the flight back to New York, he discussed the Killian documents with Mapes. He said that he told Mapes that they needed to authenticate the documents and make sure they were accurate. According to Rather, Mapes said that the "process was under way and . . . would be accelerated upon their arrival in New York." Rather did not recall being told at the time that any experts had been retained. Rather said that he told Mapes to retain "at least four independent experts" who did not know of the other experts retained so that their views would not be influenced by the others. Rather also recalled discussing the Barnes interview with Mapes.

5. Press Coverage of TexANG Issues and the Timing of the September 8 Segment

As discussed previously, Mapes mentioned in e-mails and in conversations with Howard and Murphy the fact that other news organizations were aggressively trying to break TexANG stories during this period. Indeed, there appears to have been a surge in media interest.

There were daily references to President Bush's TexANG service in several major newspapers without substantial discussion, such as *The New York Times* (September 2 and 4), the *Los Angeles Times* (September 5) and *The Boston Globe* (September 3).⁵⁹ On Sunday, September 5, *The Associated Press* reported that documents that should have been prepared to explain gaps in President Bush's TexANG service were missing from released military records detailing his service in 1972 and 1973.⁶⁰ The article stated that regulations at the time required

⁵⁹ See Elisabeth Bumiller & Richard W. Stevenson, *A Leader Now Tested by Tragedy – George Walker Bush*, N.Y. TIMES, Sept. 2, 2004, at P1; Richard W. Stevenson, *Job Figures Help President Promote Economic Record*, N.Y. TIMES, Sept. 4, 2004, at A1; Matea Gold & Nick Anderson, *The Race to the White House*, L.A. TIMES, Sept. 5, 2004, at A23; Patrick Healy & Glen Johnson, *Kerry Calls Rival 'Unfit,' Rips VP on Deferments*, BOSTON GLOBE, Sept. 3, 2004, at A1.

⁶⁰ *Bush's Air National Guard File Missing Some Required Records*, AP, Sept. 5, 2004.

superiors to write an investigative report for the Air Force when Lieutenant Bush missed an annual medical exam in 1972 and required commanders to certify that Lieutenant Bush received counseling after missing five consecutive months of drills. In addition, the article stated that a May 1973 yearly evaluation from Lieutenant Bush's unit did not include ratings for Lieutenant Bush and stated that he had been absent from the Texas base since April 1972. Mapes forwarded this article to Howard and Murphy with the note, "I have some of these missing documents on my desk. Yikes!" Clearly, as Mapes saw it, everything was coming together.

The Washington Post reported on Saturday, September 4, three days before Barnes' interview actually occurred, that Barnes' friends said that he had already recorded an interview for CBS News' *60 Minutes* that would address whether President Bush pulled strings to avoid Vietnam.⁶¹ The article summarized the statements made by Barnes in 1999 during the GTECH litigation.

Finally, information available to the Panel, including e-mails and interviews, indicates that reporters from other news organizations were also trying to get information from Lieutenant Colonel Burkett at the same time as *60 Minutes Wednesday*. In fact, on Thursday, September 9, *USA TODAY* would publish a story using some of the same documents that Lieutenant Colonel Burkett had given to Smith and Mapes, which its reporters had independently obtained directly from Lieutenant Colonel Burkett.⁶²

The impact of this increase in interest by other news organizations in the TexANG story on the timing of the September 8 Report is a matter of dispute. Mapes told the Panel that she had insisted to her superiors that she wanted more time to prepare the Segment, but that Howard decided to run it on September 8 despite her wishes. Howard's recollection differs as explained below. Mapes said that she told Howard she could be ready with the story by September 8, but believed it would be beneficial to have some additional time. Mapes also told the Panel that Howard had specifically refused to postpone the story to the *60 Minutes* program on Sunday, September 12. The Panel was informed by *60 Minutes* management, however, that Howard did approach them about broadcasting the story on September 12, but that it was they who declined.

⁶¹ Michael Dobbs, *Democrat Says He Helped Bush into Guard To Score Points*, WASH. POST, Sept. 4, 2004, at A02.

⁶² See Dave Moniz & Jim Drinkard, *Guard Commander's Memos Criticize Bush*, USA TODAY, Sept. 9, 2004, at 4A. See also Dave Moniz, Jim Drinkard & Kevin Johnson, *Texan Has Made Allegations for Years*, USA TODAY, Sept. 21, 2004, at 4A.

West, Howard and Murphy have a different recollection of Mapes' wishes regarding the timing of the Segment. They all told the Panel that Mapes expressed concern to them that she would lose the story if *60 Minutes Wednesday* did not broadcast it on September 8. The impression they had from Mapes was that other news organizations were ready to publish stories on the Killian documents and that if the Segment was not broadcast on September 8, it would be old news by the time of the next show. In addition, in an e-mail on the evening of Sunday, September 5, from Murphy to Howard, Murphy stated that Mapes was "more convinced we will need to go this week."

Based on the information available to the Panel, it appears that competition from other news outfits propelled the Segment forward and that Mapes was driving the Segment to air on September 8. Nonetheless, West, Howard and Murphy were also complicit in allowing the concern about timing that they perceived from Mapes to dictate the production process to rush the Segment to air as described below.

6. Monday, September 6, 2004: The Matley Interview and the Call with Major General Hodges

a. Communications with Lieutenant Colonel Burkett

Lieutenant Colonel Burkett, to whom Mapes and Smith referred as the "Overlord" or "Bill" while in *60 Minutes Wednesday's* New York office so as to keep his identity confidential, sent a flurry of e-mails to Mapes on the morning of Monday, September 6. He was apparently frustrated regarding Senator Kerry's response to the Swift Boat attacks. In the first e-mail, he suggested that the attacks were in "response to the rumors about Ben Barnes and others." In the second e-mail, he stated, "I need you to pass a message a little earlier than we had expected Have them call and give me a secure number." His third e-mail conveyed a sense of urgency. He stated, "I need to expedite the Friday event with a serious call contact today and as early as possible . . . I hate to do this because it leaves a fingerprint, but if your inside contact won't call me, at least maybe they can give me an e-mail address don't want you caught in the middle. But I need the Point #1 agreement contact expedited."

Mapes responded to his first e-mail. She stated, "You are right as always on this stuff. I will make some phone calls." Mapes told the Panel, however, that she did not make any additional calls to the Kerry campaign on Lieutenant Colonel Burkett's behalf at that point. She believes that the "Point 1 agreement" referred to the fact that Mapes told him that she would pass

along his telephone number to the Kerry campaign. While it appears that Mapes and Lockhart had spoken by this time, the Panel does not believe that Lockhart had contacted Lieutenant Colonel Burkett yet.

b. Colonel Hackworth Interview

Colonel David H. Hackworth was interviewed by Rather as an expert to evaluate the documents that Mapes obtained from Lieutenant Colonel Burkett. Colonel Hackworth is a retired Army officer who has been a columnist, commentator and reporter for various news organizations.⁶³ Mapes said that she asked Colonel Hackworth to “look at the back and forth” in the Killian documents because he had worked in the Pentagon and knew about Pentagon politics. Even though Colonel Hackworth was never in the TexANG, did not know Lieutenant Colonel Killian or any of the other relevant individuals, had no personal knowledge of President Bush’s service in the TexANG and had no personal knowledge regarding the Killian documents, he reached some highly critical conclusions in his interview regarding President Bush’s TexANG service based solely on the purported authenticity of the Killian documents and his general knowledge of the military.

First, Colonel Hackworth concluded that the documents were “genuine.” He reached this conclusion by relating his own experience at the Pentagon during the Vietnam War when he was running the “Army input system for . . . basic training.” Colonel Hackworth said that, while in that post, he received and refused requests by members of Congress and generals to assign certain men to particular units and wrote “cover my own butt” memoranda in many cases to document his refusals. Colonel Hackworth then concluded that Lieutenant Colonel Killian was “in the same kind of pickle that I found myself in” and proceeded to discuss what Lieutenant Colonel Killian was thinking at the time he wrote the memoranda. Rather asked Colonel Hackworth whether there was any doubt in his mind that the documents were real, and Colonel Hackworth replied, “Having been down that road before I would say that these are genuine documents.”

Second, Colonel Hackworth concluded that, by not taking his physical, then-Lieutenant Bush was “insubordinate” and would have been treated more harshly had he been “an unconnected Lieutenant.” Third, Colonel Hackworth stated repeatedly throughout his interview

⁶³ See David H. Hackworth Biography, at <http://www.hackworth.com/biography.html>. The Hackworth interview transcript is Exhibit 9E to this Report.

that then-Lieutenant Bush was “AWOL” and that a person would have to reach that conclusion when reviewing the documents “unless you’re the village idiot.” Colonel Hackworth appeared to be referring to the fact that he had seen no evidence that President Bush was “present for duty” once he left for Alabama in 1972, although he did not articulate clearly how he reached his conclusion. Finally, Colonel Hackworth concluded that “the bottom line here is – is the abuse of power.” He said that “[I]t’s how people up at the top can . . . lean on the little people.”

Rather thought Colonel Hackworth was a “strong and valuable expert witness.” Mapes also believed that Colonel Hackworth was important for the Segment and included excerpts of his interview in early drafts of the September 8 Segment script. These excerpts were ultimately cut from the final script by Heyward and West.

c. Discussions Regarding When To Contact the White House

Kathy Sciere, Senior Editor of the Political Unit of CBS News, Dotty Lynch, CBS News’ Senior Political Editor, and Janet Leissner, CBS News Washington Bureau Chief, each told the Panel that they recalled having discussions with Mapes over Labor Day weekend, about the September 8 Segment. Specifically, Mapes contacted them to seek advice as to how to notify and obtain an interview from the White House about the Killian documents. Mapes did not recall these conversations specifically, although she recalled generally speaking to Sciere, Lynch and Leissner at or around this time.

One or more of the three recalled specifically that Mapes made the following representations:

- 1) That she had obtained the Killian documents relating to President Bush’s TexANG service;
- 2) That she had interviewed someone who served in the TexANG at the same time as President Bush who said that the documents seemed accurate to him;
- 3) That she had asked four experts to review the documents and was satisfied that she had “covered her bases”;
- 4) That, in response to a question as to whether Democrats had been involved in handing over the documents, Mapes said, “Texas Republicans of a different chromosome” were her source; and
- 5) When asked why she was rushing the story, Mapes said that *USA TODAY* had also obtained the documents and planned to publish them on Wednesday.

None of these three editors recalled hearing Lieutenant Colonel Burkett’s name during these conversations. All told the Panel that if they had heard his name, it would have caused

concern because they believed him to be a controversial figure. Sciere recalled that CBS News' Chief White House Correspondent, John Roberts, had interviewed Lieutenant Colonel Burkett in February 2004 and did not find him to be credible. Leissner told the Panel that Lieutenant Colonel Burkett's name had been "around for a long time" as someone who was connected to Bush TexANG issues but had been embroiled in controversy surrounding his earlier statements.

Mapes told the Panel that she spoke to Sciere about the documents she had obtained and explained how the documents "meshed" with the known factual record. Mapes said that she told Sciere that she had been working on the story for a long time but that she did not identify her source to Sciere. Mapes did not recall using the term "Texas Republican of a different chromosome" to describe her source and told the Panel she would not have done so because Lieutenant Colonel Burkett did not fit that description. Mapes said that she used that term to describe those Republicans in Texas who were not Bush supporters, but were supporters of William Clements (a former Texas Governor). Mapes said that, for example, she had used the term "Texas Republicans of a different chromosome" when speaking to Josh Howard about another of the former Guardsmen who had been involved in the "ghost soldier" investigation.

d. Matley Interview

Matley flew from San Francisco to New York on Monday, September 6 to be interviewed by Rather. While he was waiting for his flight, Matley created a one-page handwritten list of eight points regarding the Killian documents, which he revised later in the day as he received more Killian documents and information from Miller and Mapes. Matley arrived at the *60 Minutes Wednesday* offices around 5 p.m. but was not interviewed until Rather had finished the *CBS Evening News* broadcast.

(i) Meetings with Matley Prior to the Interview

When Matley arrived, he was shown the four additional Killian documents that Smith had received from Lieutenant Colonel Burkett the previous day. Significantly, Matley was the only document examiner to be shown these additional documents prior to the airing of the September 8 Segment.

After reviewing the new documents, Matley met with Miller and Mapes in Miller's office and reviewed his notes with them. Matley told the Panel that he informed Mapes and Miller that he could not authenticate the documents due to the fact that the documents were poor quality

copies. Thus, he was obliged to assume that they were reliable copies of authentic documents. Matley told Mapes and Miller that the preponderance of the available evidence suggested that all of the signatures on the documents he was asked to analyze appeared to have been written by the same person, which included two of the six documents that Mapes received from Lieutenant Colonel Burkett, only one of which was used in the September 8 Segment. The Panel notes that three of the six Killian documents did not contain any handwriting, and two of these were used in the September 8 Segment. Moreover, Matley explicitly said that he could not opine on the document that contained only initials, the August 1, 1972 memorandum, which was used in the September 8 Segment.

Matley, whose specialty is handwriting analysis, was invoked as the authority for the following statement in the September 8 Segment: “We consulted a handwriting analyst and document expert who believes the material is authentic.” The Panel finds this statement troubling given that of the four Killian documents relied on in the Segment:

- Two had no handwriting at all on them;
- One had only initials which Matley said he could not verify; and
- One had a signature which Matley said matched, with qualifications, signatures in the official documents.

These points are all reflected in Matley’s handwritten notes that he prepared that day, which are attached as Exhibit 5. Matley said that Mapes and Miller did not make a copy of his notes. He recalled that Mapes said to him that they were “not interested in all the parameters” of his findings. As later reported in Chapter IX, Matley later had these notes typed up and faxed them to *60 Minutes Wednesday* on Friday, September 10. These typed up notes of Matley are attached as Exhibit 6.

(ii) The Matley Interview

In preparation for Matley’s interview, Miller had the signature portion of several of the documents enlarged and placed on easels so that Matley could explain his analysis during the interview by pointing to them. In addition, she prepared questions for the interview and e-mailed them to Mapes around 6:20 p.m. The questions are as follows:

- Whats [sic] your specialty?
- What do you look at to determine whether signatures are written by the same person?

- What do you see with the group of signatures that we gave you? The quality of the copies is not good, but.....
- Do you believe these were all written by the same person?
- Why? Be specific (he can use the board)
- If you were testifying in court to give your opinion on whether or not these signatures matched.... what would you say?

None of the questions addressed the typography of the documents or other indicia of authenticity about which Will and James had raised concerns the previous day.

Rather came over to the *60 Minutes Wednesday* offices after the *CBS Evening News* broadcast on Monday, September 6, to interview Matley. Mapes introduced Matley to Rather shortly before the interview as the “leading authority on documents.” According to Rather, Mapes said that he was “the best,” and that he was an expert on both signature and document authentication. He also recalled that Mapes had told him that Matley was “going to explain . . . why the documents are real.”

Rather interviewed Matley in front of the easels with the enlarged signatures. By all accounts, the interview did not go well. Rather said that he did not have concerns regarding Matley’s expertise and noted that he “came across strong and solid in person,” but did not interview well on-camera. Rather said that he was concerned only that “if CBS News had to put an expert out there, [Matley] would not be very persuasive.”

As a result of the problems with the interview, *60 Minutes Wednesday* decided to do a second interview immediately following the first one.⁶⁴ This second interview appeared to have gone better than the first. Rather felt that they “were able to get what they needed in the retake.” At the end of the interview, Rather asked Matley whether he thought Rather would be “on safe ground” if on television he told people that “this is a memorandum written by Lieutenant Colonel Killian on these dates, in so far as it’s humanly possible, to determine so.” Matley responded, “Yes, sir.”

However, prior to responding to this question, Matley had made clear in the interview that his authentication of the signatures – without even reaching to the question of the authentication of the documents – was equivocal and limited, as follows:

- Matley noted that “we have poor material” and he was relying on the “available handwriting evidence”;

⁶⁴ The transcript of the second Matley interview is Exhibit 9H to this Report.

- Matley said that he analyzed whether the signatures on the documents provided to him “were written by the same person” and concluded that the “significant features” on four were the same. None of these was used on the September 8 Segment;
- Matley noted that the signature on the June 24, 1973 document, one that was not used on the September 8 Segment, was “different from the other four” and hypothesized that stress might account for the difference as a comparison of the content of the six documents could indicate stress;
- Matley could not analyze the memorandum that had only initials (August 1, 1972) because there was no basis for comparison;
- Matley could not provide an opinion as to two of the documents that had no handwriting on them (May 19, 1972 and August 18, 1973);
- Matley was asked if CBS News was “safe in saying these documents . . . were written by the person whose signature it purports to be.” Matley responded that if he was advising a client who was preparing to go to court with the documents, he would answer “yes” to that question, but would encourage his client to force discovery from the other side, and “if they [didn’t] come forth with [discovery to the contrary,] that would confirm that yeah, we’re on the right track.”

With regard to the last question, Rather told the Panel that he interpreted Matley’s response as an indication that Matley believed both the documents and the signatures were authentic, although Rather acknowledged that Matley pointed out some problems with one of the signatures. Rather’s impression upon the conclusion of the interview was that Matley had authenticated all of the documents, even those without handwriting.

As discussed in more detail below, Matley’s interview was not used in the September 8 Segment. Instead, his purported conclusions were summarized in a voiceover in the September 8 Segment that did not accurately represent Matley’s carefully circumscribed observations regarding the documents.

e. Telephone Call with Major General Hodges

On Monday evening, after Matley’s interview, Mapes spoke by telephone to Major General Hodges for the first time since she had received the six documents from Lieutenant Colonel Burkett. Major General Hodges had been Lieutenant Colonel Killian’s commander for most of the time that Lieutenant Bush served in the 111th Fighter Interceptor Squadron and worked with Lieutenant Colonel Killian for 20 years.

Mapes and Major General Hodges have differing recollections as to what transpired during their conversation. It is undisputed, however, that Mapes never provided Major General Hodges with copies of the Killian documents but merely read at least some of the content to him

over the telephone. In addition, both Mapes and Major General Hodges had contemporaneous handwritten notes of this conversation, with Mapes' notes filling up one page and Major General Hodges' notes being considerably longer.

Mapes recalled that she told Major General Hodges that she had obtained documents relating to President Bush's service in the TexANG. Mapes also recalled telling him that the documents were from the personal files of Lieutenant Colonel Killian and that she read all six of the documents to him verbatim. She further said that Major General Hodges remarked that Lieutenant Colonel Killian's words "sounded harsh" but said the documents sounded "very familiar" because he "was angry when [President] Bush left [the unit]." Mapes recalled that Major General Hodges said that Lieutenant Colonel Killian thought Lieutenant Bush should keep flying and was upset that he was leaving the unit. Mapes said that he told her that he had thought it was "no big deal that Lieutenant Bush missed a physical," but that Lieutenant Colonel Killian was angry about this. Mapes' notes of the conversation contain the following additional notations regarding Lieutenant Bush's transfer to Alabama:

Jerry mad @ Bush leaving
Can't treat weekenders like full-timers
4-6 months Bush was gone
Killian miffed because some of his pilots were [bailing] out rather than go to F-101
Jerry was miffed
He was a hard nose. Overboard hard nose
Jerry thought he could have kept . . . flying
Black and white sounds harsh

Mapes recalled that, in Major General Hodges' view, Lieutenant Bush was "an outstanding officer for four years" and "could have continued to fly if he had not gone to [Alabama to] work for [the] campaign [of a family friend]." According to Mapes, Major General Hodges said that President Bush went to Alabama "with everybody's blessing" except for Lieutenant Colonel Killian's. Mapes' notes reflect only that "He went to Alabama w/ everybody's blessing." Mapes told the Panel that Major General Hodges chided her for just "trying to make news" and that it would be wrong for CBS News to air Lieutenant Colonel Killian's personal thoughts. Mapes' notes reflect that Major General Hodges said, "You're trying to make news. Trying to create a problem here when there isn't one. Public info – OK / For somebody's personal notes, that's going overboard."

For his part, Major General Hodges told the Panel that he was under the impression that Mapes was reading from Lieutenant Colonel Killian's personal handwritten notes and not from typed memoranda. Major General Hodges also said that Mapes told him that CBS News knew that Lieutenant Bush had left his unit at Ellington Air Force Base in April 1972 and asked him whether he and Lieutenant Colonel Killian had discussed Lieutenant Bush's leaving for Alabama and missing his required physical for that year. Major General Hodges told the Panel that he told Mapes that he and Lieutenant Colonel Killian had talked about these topics and that they had given Lieutenant Bush permission to go to Alabama.⁶⁵

According to Major General Hodges, however, he did not confirm to Mapes that the Killian documents were consistent with how Lieutenant Colonel Killian felt about Lieutenant Bush. Major General Hodges' handwritten notes of this conversation do not reflect that he told Mapes that Lieutenant Colonel Killian was angry with Lieutenant Bush for leaving. Major General Hodges told the Panel that Lieutenant Colonel Killian never expressed that he was angry regarding Lieutenant Bush's leaving the unit or failing to take the physical.

In addition, while Mapes insists that she read all six documents to Major General Hodges, his notes reflect references to only four of the documents – the four that were ultimately used in the September 8 Segment (the May 4, 1972, May 19, 1972, August 1, 1972 and August 18, 1973 memoranda), and he advised the Panel that “very little of the documents” was read to him. Major General Hodges also did not recall stating that the documents sounded familiar. In fact, Major General Hodges told the Panel that, had the documents been read in their entirety, he believes he would have remembered certain words and phrases, such as “billet” and the phrase “administrative officer,” which were inconsistent with traditional TexANG jargon and certainly would not have been familiar terms.⁶⁶ Major General Hodges told the Panel that he and Lieutenant Colonel Killian never disagreed about then-Lieutenant Bush and said that then-Lieutenant Bush had his and Lieutenant Colonel Killian's permission to go to Alabama and to take his physical when he returned.

Mapes ultimately relied heavily on her conversation with Major General Hodges as confirming the content of the Killian documents. For example, both Scott and Smith recalled

⁶⁵ Mapes' handwritten notes of their conversation state: “He went to Alabama with everybody's blessing.”

⁶⁶ In an e-mail dated September 9, 2004, Mapes told Walter Robinson of *The Boston Globe* that Major General Hodges had “confirmed that *some* of the memos sounded familiar,” thus suggesting that Major General Hodges did not confirm all of the documents, as she represented to people at *60 Minutes Wednesday*. (emphasis added).

that after Mapes got off the phone with him, she represented that he had “verified the contents of the documents.” In addition, Mapes told Murphy the next morning in an e-mail, “Got confirmation on the docs last night from a longtime Guard Bush backer. Gee, they’re not just juicy. They’re TRUE.” Miller recalled that Mapes said that Major General Hodges would not be able to authenticate the memoranda, but he could verify that the memoranda reflected what was happening at that time. Miller commented that Mapes and Smith thought that Major General Hodges was the “holy grail.”

f. Communications with Senior Management

Despite the sensitivity and significance of the subject matter of the September 8 Segment, and despite the fact the story was being crashed, no members of *60 Minutes Wednesday* senior management were present in the office on Monday, September 6, which was Labor Day. Mapes expressed frustration about this fact at the time.

Howard and Murphy checked in with Mapes periodically during the day. At one point, Mapes e-mailed Murphy and said that she and Rather were interviewing “the country’s best graphologist,” *i.e.*, Marcel Matley, and that he “believes these things [*i.e.*, documents] are real.” Mapes did not mention in her e-mail to Murphy that Matley could not opine regarding all of the documents or that all his opinions were limited by the fact that the documents were copies.

Heyward recalled speaking to Rather on Monday, September 6, and being told that the story was thoroughly vetted. Heyward also told the Panel that Rather said he had not “been involved in this much checking on a story since Watergate.” Heyward also said that Rather commented, “This isn’t as big as Abu Ghraib, but it’s very big, and you should probably look at it before it goes to air.”

G. Tuesday, September 7, 2004: Additional Interviews and the Vetting Process Begins

As of Tuesday, September 7, there was still much work to be done to get the Segment ready for broadcast, including two interviews: the Barnes interview part of the September 8 Segment and the Bartlett interview for comment from the White House. In addition, a draft of the script was not prepared until late Tuesday night. Additional concerns were raised by some of the document examiners about the documents on Tuesday night, but these concerns were set aside as Wednesday’s deadline loomed.

1. Additional Attempts To Locate People Who Might Know About the Documents

Smith told the Panel that he called Brigadier General Belisario Flores, who succeeded General Rose as Assistant Adjutant General – Air for the Texas National Guard in 1972, on Tuesday or Wednesday and read him the August 1, 1972 memorandum, which was used in the September 8 Segment. This document related, in part, to a verbal order to suspend then-Lieutenant Bush “from flight status due to failure to perform to USAF/TexANG standards and failure to meet annual physical . . . as ordered.”

Smith told the Panel that Brigadier General Flores’ “breathing got quicker” when Smith read the memorandum. Smith recalled that Brigadier General Flores was reluctant to get involved but said that the document sounded “right or authentic.” According to Smith, Brigadier General Flores also said words to the effect that Lieutenant Bush “renewed on his commitment and was removed from flying status.” Smith told the Panel that he informed Mapes of the conversation after he spoke to Brigadier General Flores. He said that Mapes did not exhibit interest in what Brigadier General Flores had to say about the documents at this juncture, however, because she was focused on the fact that Major General Hodges had verified the contents.⁶⁷

In addition, on Tuesday evening, Scott telephoned Lieutenant Colonel Killian’s widow to verify the content of some documents. Scott asked her whether her husband had felt conflicted about Bush, and she responded that her husband had “loved the President” and would be campaigning for him if he were alive. Scott said that she tried to engage Lieutenant Colonel Killian’s widow in a discussion about the documents but was unsuccessful. It does not appear, based on the information available to the Panel, that she was asked whether her husband had personal files, used a typewriter or had a secretary.

Based on the information available to the Panel, it appears that no further attempts were made to vet the content of the documents with others who might have had personal knowledge of them or the people or issues referenced in them. Instead, it all seems to have rested heavily on

⁶⁷ Mapes had interviewed Brigadier General Flores off-camera on a number of occasions previously and, according to her notes, he had said with respect to Lieutenant Bush, “I have no respect for someone who did not fulfill his obligation,” and added that it was “unthinkable” for a pilot to turn in his wings. Brigadier General Flores was quoted by *USA TODAY* as saying a few days after the broadcast of the September 8 Segment, however, that Lieutenant Colonel Killian had not mentioned any problems in dealing with Lieutenant Bush and noted that it would be unusual for a personal file to be maintained for so many years. See Jim Drinkard & Dave Moniz, *Memos Debate Eclipses Content*, *USA TODAY*, Sept. 12, 2004, at A11.

Major General Hodges. The Panel believes that the attempts to investigate the people and the issues presented in the documents were insufficient.

The Panel has interviewed a number of other former Guardsmen who worked closely with Lieutenant Colonel Killian and/or were in a position to have personal knowledge of the matters discussed in the documents. None of these former Guardsmen was contacted regarding the Killian documents by Mapes or her team in 2004 prior to the airing of the September 8 Segment. Some of these men had been interviewed by Mapes in 1999, but had not agreed that President Bush received preferential treatment. Collectively, they presented a credible critique of the Killian documents, including the format, terminology, abbreviation usage and the underlying substance. These issues are explored in more detail in Chapter VIII, in which the Panel discusses Mapes' theory that the Killian documents "meshed" with the official Bush records. While the concerns raised by these former Guardsmen in the end may be simply different views of events, they should have been uncovered and vetted prior to airing given the highly sensitive nature of the Segment.

2. Contact with the Document Examiners and Their Concerns About the Documents

a. Emily Will

On Tuesday evening, Miller received a call from Emily Will at about 8:25 p.m. Miller told that Panel that Will said that she objected to the use of the documents in the story and expressed the following concerns, which are reflected in Miller's contemporaneous handwritten notes:

- Will could not determine that the signatures matched based on the samples she had been provided;
- Will could not opine on the initials (August 1, 1972 memorandum, which was used in the September 8 Segment) because there was no basis for a comparison;
- The fact that the documents were multi-generational copies made it difficult to analyze them;
- The font was troublesome, including the superscript "th";
- There was no city, state or zip code indicated in the return address of the June 24, 1973 memorandum; and
- Will did not think that these documents could have been prepared in 1972 and believed that they must have been prepared using a word processor.

Miller told the Panel that she was troubled by Will's concerns and transferred the call to Mapes. Miller said that she was not present when Will spoke with Mapes.

Will told the Panel that she did not recall discussing the substance of her concerns with Miller at any time, but she did recall speaking to Mapes directly that night and repeating the same concerns she had discussed with her on Sunday, September 5. According to Will, Mapes told her that James had raised the same question regarding the superscript, but that the story was going to air because Matley supported the documents and had attributed the signature differences to stress. Will also noted that Mapes said that Matley had seen all of the documents, whereas Will had seen only some of the documents. Will further told the Panel that Mapes said that Major General Hodges had said that the content of the documents "sounded right."

Will said that she told Mapes that Matley's theory about stress was speculative and that Major General Hodges' statement did not go to the authenticity of the documents. Will also told the Panel that she warned Mapes that, if she used the documents, "every document expert in the country will be after you with hundreds of questions." Will told the Panel that she had typed the two documents in Microsoft Word and noticed they were very similar to the documents she had been provided, but she is not sure that she told this to Mapes. Will recalled that Mapes asked her whether she was absolutely certain that the superscript "th" could not have been produced by a typewriter in the 1970s because she did not want to lose the story over the "little 'th.'" Will told Mapes that she was reasonably certain but that *60 Minutes Wednesday* should consult Peter Tytell, a typewriter expert. Per Mapes' request, Will located Tytell's phone number, which she then relayed to Miller.

Mapes told the Panel, as well as others at the time, that she told Will that Matley was not concerned about the superscript "th" and that Will had deferred to Matley. Will strongly denied to the Panel that she had deferred to Matley.

After Will spoke to Mapes, Mapes told Miller again, as she had on Sunday, that Will was "more concerned about the facts about President Bush's National Guard service than on her job and that the facts were none of Will's business." Miller said that Mapes was not concerned about Will's comments because she believed that she had enough information to support the story and the content of the documents. Scott also recalled that Mapes said that one of the experts "canceled herself out" and showed a bias by researching President Bush's TexANG service on the Internet.

b. Linda James

Miller told the Panel that she received a call from Linda James not long after getting off the phone with Will. As reflected in Miller's contemporaneous handwritten notes, James said that there were "unexplainable differences in the signatures" and that she did not have enough documents to reach a conclusion. James also noted the superscript "th" on the June 24, 1973 memo and said that she thought it might be too sophisticated for that time but that it could be unique to the military." Miller's notes reflect that she transferred the call to Mapes.

Miller also told the Panel that she had the impression that Will and James had spoken to each other, although neither indicated that they had. James also recalled that she had spoken with Miller and that she suggested that Miller and Mapes call Peter Tytell regarding the superscript issue.

Miller said that when she told Mapes about James' call, Mapes responded, "Enough about the [expletive] 'th'." Miller recalled that Mapes then said that James had already told her that there was not enough information or enough documents to do her work and that James had also deferred to Matley. Miller advised the Panel that James had not said anything to her about a deferral to Matley. In addition, James told the Panel that she did not tell Mapes that she would "defer" to Matley and said that she did not even know what Matley's opinions were prior to the broadcast.

c. Marcel Matley

While it appears that Mapes and/or Miller did consult with Matley regarding the "th" issue, the Panel is unable to determine whether this occurred when he was in New York on Monday, September 6, or after his return to San Francisco on Tuesday, September 7. Whenever the conversation occurred, Matley recalled telling them the following: (1) IBM had multiple characters that could be specially ordered for its typewriters during the early 1970s; and (2) one could modify any typewriter to include a special character like the "th" at that time. He also believes he told them, in effect, that "it would not have been impossible" to have produced the superscript "th" in the early 1970s. Matley also said that he told Mapes and Miller that proportional spacing was "available" on IBM electric typewriters. Matley believes that this conversation lasted no longer than five minutes, and that this was the full extent of their consultation with him about the issue.

Mapes' recollection was fairly consistent with Matley's regarding this discussion, although she also recalled that he told her that the inconsistency in the appearance of the "th" on the documents (sometimes a superscript and sometimes a regular "th") was an indicator that it was typed by a person who was not used to working with a typewriter. She said that Matley told her that there was a typing ball containing the "little 'th" that could have been ordered at the time.

d. James Pierce

Miller told the Panel that she also spoke to Pierce on Tuesday, as reflected in her contemporaneous notes. Pierce mentioned at that time that there was a possible alteration in one of the documents, although the document was from the official Bush records and was not one of the two provided by Colonel Burkett. She said that Pierce did not raise any serious questions regarding the authenticity of documents and that he indicated he believed that the samples of Lieutenant Colonel Killian's signature among the documents he had received "appeared consistent." She also recalled that he said the typeset in the Killian documents appeared consistent with the typeset in the official documents. Miller had the impression that Pierce was very thorough in his analysis. The Panel has not seen any evidence suggesting that Pierce raised the "th" issue or otherwise discussed this issue with Miller during this conversation.

e. Colonel Charles

Colonel Charles informed the Panel that at some point on Tuesday night, he told Miller and Mapes that he also had concerns regarding the documents, including form, the superscript "th," inconsistent references to the 111th Fighter Interceptor Squadron and Bush's service number. Miller recalled this conversation and told the Panel that she was upset that Colonel Charles had not raised his concerns earlier. Colonel Charles at some point also pointed out to Mapes that the Killian documents did not conform to Air Force correspondence guidelines. Colonel Charles could not recall any reaction by Mapes to his concerns and told the Panel that there were "so many things going on" that he was not sure that "it even registered." Mapes did not recall any concerns raised by Colonel Charles about the documents.

f. Search for Other Document Examiners

Miller recalled that Mapes asked her on Tuesday evening to find another document examiner to weigh in on the superscript "th" issue and Miller made calls to Peter Tytell and Bob

Phillips. Tytell was referred to Miller and Mapes by both Will and James. According to Miller's notes, Bob Phillips was referred by Matley. Miller told the Panel that she was unable to reach Tytell, and Phillips would not take the assignment. Mapes also did not recall any further attempt to find additional examiners prior to the broadcast of the Segment.

Tytell confirmed to the Panel that Miller had left a voicemail message at his office at about 9:20 p.m. on Tuesday, September 7, which he did not retrieve until the next day. When Tytell returned Miller's call at around 11 a.m. on Wednesday, Miller did not go into any detail about the issue and told him that they did not need him anymore.

g. Miller's Concerns

Miller told the Panel that, by Tuesday night, "everything but the ceiling tiles" was falling down on Mapes. She said that Mapes was angry and worried because the examiners appeared to be questioning the documents. Miller was seriously concerned about the issues raised by Will and James. Miller told the Panel that she was reluctant to alert West, Murphy or Howard about her own concerns regarding the documents, in part because Mapes had retorts for every challenge to the documents and in part because it would have raised a "storm" internally. She also said that she was preoccupied with all of the work that she had that night to get the Segment ready for airing the following evening.

h. Alerting Management

Mapes called West on Tuesday evening and alerted her to the potential superscript "th" issue. West recalled that Mapes said the examiners had "spooked" her. Mapes explained that one of the examiners was not certain whether a typewriter at the time could have produced a superscript "th." West told the Panel that this call from Mapes was "highly unusual," and that she told Mapes that they did not have to go with the document story if they were not able to resolve the issue. Mapes also told Howard about the issue at some point on Monday or Tuesday, and Howard informed Murphy. Significantly, Mapes did not alert Howard, Murphy and West to the other issues raised by Will, such as her concern about the signatures and proportional spacing of the Killian documents.

Shortly after midnight, Mapes told Howard in an e-mail that she was "pretty much over that whole little "th" problem I had. No one can agree on it because no one knows . . . and if [Will] had not brought it up, I wouldn't have obsessed about it. She is also the woman who

started arguing with me about when Bush was in Alabama . . . I think all these people are nuts.” Notably, Mapes did not state that Will had deferred to Matley. West recalled, however, that when she inquired about the “th” issue early Wednesday morning, Mapes told her that she had spoken to the examiner who had also raised the issue, and that she had deferred to Matley, who thought that the documents were “fine.” As previously noted, Will told the Panel that she did not defer, and would not have deferred, to Matley. Similarly, James told the Panel that she did not tell Mapes that she deferred to Matley.

The Panel finds that the concerns raised by Will and James, which were communicated at least in part by Mapes to *60 Minutes Wednesday* management, should have been vetted in detail before the Segment aired. Instead, as detailed below, Mapes advised management that the issues were resolved and no further vetting on this issue occurred. The failure to vet further was problematic given the prominence the documents were accorded on the Segment and the significance of the subject matter. This is not the only time, as discussed later in this Report, that information that challenged the thesis of the September 8 Segment was either ignored or not given adequate consideration.

3. Vetting Sessions

Much of Tuesday was spent working on the production, such as arranging to get background clips and stills (*e.g.*, photographs of then-Lieutenant Bush and others in the TexANG at that time, footage of Ellington AFB and footage of President Bush’s comments regarding his TexANG service) and pulling pieces of interviews together to form the basis of a script. By Tuesday afternoon, the vetting process was under way, although there was no script until late that night.

The show’s senior management met with Mapes several times that day as well. Esther Kartiganer, whose primary responsibility is to review full transcripts of interviews to ensure the fairness and accuracy of what is aired, first became involved in the substance of the story on Tuesday. Kartiganer said that she was informed about the story by Howard and Murphy, who told her that Mapes was working on a report for the following day’s broadcast. Mapes, however, recalled that she herself had brought the story to Kartiganer’s attention and told the Panel that she met with Kartiganer in her office for about twenty minutes that morning.

Betsy West, who had heard about the story a week or so before the Segment aired, did not become involved in the vetting of the piece until Tuesday, and she noted that Heyward asked

her that afternoon to “watch over” the story given its “sensitivity.” Heyward also urged West and Howard in an e-mail later that afternoon to “work closely with” Rather and Mapes but to not let them “stampede us in any way.” Heyward expressed concern about being fair to President Bush and noted that “we’re going to have to defend every syllable of this one, which is how it should be.” West’s involvement in the piece this early in the process was unusual, as her role is normally to screen reports as the final phase of the vetting process.

A challenge for the Panel in determining whether the vetting was adequate is that the recollections of the people involved in these discussions vary dramatically. In general, Mapes recalled disclosing all the potential shortcomings of the story, while the others not only did not recall learning about these shortcomings prior to the broadcast, but, to the contrary, they recalled being reassured that the story, the documents and the source were solid. These recollections are set forth below.

a. The Questions Mapes Was Asked

One or more of the vetters, who included at various times West, Howard, Murphy and Kartiganer, recalled that Mapes was asked the following questions on Tuesday, September 7:

1. Does the source have “an axe to grind”?
2. Is there anything “problematic” or “embarrassing” about the source?
3. How did the source obtain the documents?
4. What is the significance of the documents?
5. Are the documents real?

Significantly, none of the vetters recalled asking Mapes who the source was and did not recall hearing Lieutenant Colonel Burkett’s name on Tuesday, although they all told the Panel that the name would not have meant anything to them even if Mapes had mentioned it. Several of the vetters explained that, at the time, they did not think that the source was the key to the process. Similarly, they did not ask Mapes whether the document examiners had put any of their opinions in writing to *60 Minutes Wednesday*.

b. Representations Made About the Source

Specifically, one or more of the vetters recalled being told by Mapes the following information about Lieutenant Colonel Burkett by the end of the day on Tuesday at the latest:

1. The source was an ex-Guardsman who was one of four officers investigating “shadow” or “ghost” soldiers;

2. The source had obtained the documents from someone who now lived in Germany and who had taken the documents when President Bush's TexANG records were being "scrubbed";
3. The source was present at the "scrubbing" of the records;
4. The source was not a supporter of President Bush;
5. The source had medical issues and had a service dog to assist him;
6. The source had a quarrel with the National Guard regarding disability payments;
7. Mapes had obtained the documents from a "reliable source who had access";
8. Mapes knew the source and did not have any questions regarding his credibility;
9. The source "is a Democrat but a John McCain supporter"; and
10. The source had a grudge about preferred treatment in the National Guard, but was a "maverick."

Mapes recalled, however, telling at least some of the vetters that her source allegedly witnessed the "scrubbing" incident in 1997 and that he had become a controversial figure when his story "had not proven out." None of the vetters recalled being told this.

c. Representations Made About the Document Examiners and the Documents

The vetters recalled being told that there were four document examiners, one of whom was the "dean of document analysis." Howard and Murphy were under the impression that all four experts had authenticated the documents. West recalled being told less categorically, however, that the experts "had found nothing that ruled out the documents," that the authentication process was an inexact or "voodoo" science, that one or more experts had authenticated the documents to the extent possible, considering they were copies and not originals, and that the preponderance of the evidence indicated that they were real. Significantly, however, none of the vetters recalled being informed that only one of the experts, Matley, had seen all of the documents. In addition, they did not recall hearing that Matley said that he could not authenticate any of the documents or opine on the documents that did not contain full signatures, including three documents that were used in the September 8 Segment.

In addition, Mapes told the vetters that she had also spoken to other people who said that the content of the documents was accurate, including the leader of President Bush's TexANG unit, Major General Hodges, and that someone who knew Lieutenant Colonel Killian well, Lieutenant Robert Strong, had said that the memoranda were consistent with what Lieutenant

Colonel Killian thought at the time. It does not appear that the vetters were told that Lieutenant Strong had no personal knowledge and had left his full-time position in the TexANG by the time the documents purportedly were written. Further, it does not appear that the vetters were told that General Staudt had left the TexANG 17 months before he allegedly sought to “sugar coat” Lieutenant Bush’s rating.

Finally, one of the vetters recalled that Mapes had walked them through the documents to explain how they fit into the official record regarding President Bush’s TexANG service and that Mapes was very persuasive. Mapes also recalled explaining to the vetters how the documents meshed.

The Tuesday discussions about authenticity between Mapes and *60 Minutes Wednesday* management raise significant issues. The fact that Mapes believed that Major General Hodges confirmed the content of the Killian documents and the meshing discussion had little or nothing to do with whether the documents were authentic, *i.e.*, what they purport to be. *See* CBS Standard II-15, discussed in Appendix 1 to this report and the Background on Authentication, discussed in Appendix 2 to this Report. The Panel finds that on Tuesday, September 7, there had been no clear communication to the vetting group about what the document experts had done and the limits on their conclusions. The Panel also finds that on Tuesday, those in *60 Minutes Wednesday* management did not probe adequately to understand how document authentication works and what the *60 Minutes Wednesday* document examiners actually had been shown and what they actually had found. Unfortunately, the situation would not improve on Wednesday, as described hereafter.

d. Kartiganer’s Review of the Transcripts

Kartiganer initially reviewed the transcripts of the interviews of Matley, Colonel Hackworth and Lieutenant Strong, the only interview transcripts available during the day on Tuesday. Kartiganer thought that Matley spoke in a “narrow range” about the signatures on the documents and used a lot of “expert garble.” She told the Panel that she had read that Matley told Rather it was “safe to go on the documents.” Based on that statement, she did not think other examiners were needed in the Segment. It appears that, with all of that “garble,” the fact that Matley’s opinions were qualified and limited, as he stated in his interview, was not picked up by Kartiganer. In addition, Kartiganer said that she was never told that Matley had said that copies of documents could not be authenticated.

Similarly, Kartiganer did not focus at the time on the fact that Lieutenant Strong opined regarding Lieutenant Colonel Killian's state of mind as if he had personal knowledge despite his plain disclosures during his interview that he had no such knowledge. Moreover, she was not provided with a copy of Lieutenant Strong's 1999 interview transcript. Kartiganer also reviewed the Colonel Hackworth transcript, but the portion of the Colonel Hackworth interview that was included in a draft script was ultimately removed by others in the vetting process because it was considered inflammatory and gratuitous.

Kartiganer told the Panel that she felt that the production was moving at such a fast pace that she was unable to become substantially involved in reviewing the scripts. As a result, she said, she eventually stopped providing comments on the Segment and "got out of the way" so that it could proceed on schedule. This is another example where the "crash" overcame what is supposed to be an important part of the vetting process.

4. Ben Barnes Interview

On Tuesday afternoon, Ben Barnes was finally interviewed, after years of coaxing by Mapes to come forward. The Barnes interview transcript is Exhibit 9A to this Report. Barnes' interview lasted approximately one hour. Most of the interview consisted of a discussion of what he perceived to be his role in getting people into the Texas National Guard despite allegedly long waiting lists, a role for which he apologized, as he now believed that he may have determined life or death for some men. In many respects, Barnes' interview was about Barnes and his own sense of responsibility for actions he took at a time when he had political ambitions and political power. Significantly, it does not appear that Barnes' interview was especially newsworthy, given the fact that he had issued through his lawyer a press release containing essentially the same information in September 1999 following his deposition in the GTECH Corp. litigation and a video of similar statements by Barnes was already on the Internet. Thus, the Barnes interview could hardly be regarded as shedding significant new information or light regarding his role in getting President Bush into the TexANG.

Specifically, Barnes told Rather in his interview that Sid Adger, whom he described as a "friend of the Bush family," came to see him and asked if he would recommend George W. Bush for the TexANG. Barnes said that after Adger spoke to him, he talked to General Rose and recommended President Bush. He said that General Rose was "a personal friend . . . as well as a

political friend.” He noted that there was a long waiting list of people applying for the National Guard, as it was a route “available to a very special few . . . to avoid going to Vietnam.”

Significantly, Barnes said that he did not know whether his recommendation “was the absolute reason [President Bush] got into the Guard.” Although Barnes had a vague recollection of President Bush thanking him for his help after he was elected Governor, he could not describe the communication in detail. Further, when commenting on President Bush’s assertion that he “just happened to get one of the spots” in the TexANG, Barnes said that he could not “answer . . . with any real certainty” whether or not that was possible. He also had no knowledge regarding President Bush’s service while in the TexANG.

The Panel’s concerns regarding the portions of the Barnes interview used in the September 8 Segment are detailed below in Section I.3 of this Chapter.

5. The Promotion of the September 8 Segment

Kelli Edwards, who works in the Communications Group at CBS and is primarily responsible for *60 Minutes Wednesday* publicity, began to work on a press release to promote the upcoming broadcast. Ultimately, only the Barnes interview was promoted because *60 Minutes Wednesday* management and Mapes were waiting to hear the reaction from the White House regarding the documents. See Exhibits 3A and 3B. By this time, *60 Minutes Wednesday* management still had not made a final decision to include the documents in the Segment.

6. Notifying the White House

By Tuesday, December 7, Dan Bartlett had heard that *60 Minutes Wednesday* was working on a story involving the TexANG, and Ben Barnes and wondered whether anyone from the show would ask him to comment about it. Accordingly, Bartlett asked his assistant to reach out to *60 Minutes Wednesday* to determine the status of the story.

Bartlett told the Panel that his assistant called Howard around 4:30 p.m. on Tuesday and said that the White House had heard about the story from sources outside of *60 Minutes Wednesday*. Howard said that he could not confirm that the Segment was going to air the next night. Bartlett also said that his assistant told Howard that if the Segment was going to air, it was unfair that *60 Minutes Wednesday* planned to give the White House only a few hours to respond. Bartlett said that Howard left a message for him at 6:50 p.m. to inform him that *60 Minutes Wednesday* did indeed plan to air a report involving Barnes, but Howard did not mention the

TexANG documents. Howard told the Panel, however, that he recalled that the person from the White House who initially called him about the story knew that *60 Minutes Wednesday* had documents.

Howard spoke to Bartlett later that evening. Howard told Bartlett about Ben Barnes' "side" of the story. Howard also told Bartlett that *60 Minutes Wednesday* had obtained new documents from the personal files of President Bush's commanding officer in the TexANG. Bartlett said that he told Howard that this was "new news" to him and asked Howard what the documents said. At that point, Mary Murphy read the documents to Bartlett over the telephone. Murphy's impression was that Bartlett took notes about the documents' content as she spoke. Bartlett also recalled that Howard told him that *60 Minutes Wednesday* had someone on camera verifying the documents.

Bartlett asked Murphy to fax the documents to him that evening. Murphy and Howard did not want to give him the documents that night, however, but made arrangements to get the documents to Washington Bureau Chief Leissner so that she could have them delivered to the White House by seven the next morning. The four documents provided to Bartlett were the four used in the September 8 Segment.

7. Two New Articles on Missing Records

At around 10 p.m. on Tuesday, September 7, Chad Clanton of the Kerry campaign forwarded to Mapes a copy of an article regarding new records released by the Department of Defense pursuant to *The Associated Press*' FOIA requests.⁶⁸ According to the article, the new records stated that then-Lieutenant Bush had rated in the middle of his Guard flight class and that he had flown 336 hours in a fighter jet before letting his flight status lapse. The records also showed that his last flight was in April 1972 and that he missed a key 24-hour active alert mission to safeguard against surprise attacks in the southern United States beginning on October 6, 1972. The article claimed that the newly released records did not include any documents from the five required categories that Lieutenant Bush's commanders should have kept, such as an investigative report on why he skipped his flying physical. Mapes forwarded Clanton's e-mail to Howard and Murphy.

⁶⁸ Matt Kelley, *Lawsuit Prompts Release of New Records Showing Bush Grades as Guard Pilot*, AP, Sept. 7, 2004. (Note: this article also ran on September 8, 2004).

At around the same time, Mapes sent a draft of the script to Howard with the following preamble:

JUST HEARD FROM A SOURCE WHO HAS SEEN A BOSTON GLOBE STORY FOR TOMORROW THAT SAYS THAT IN REEXAMING BUSH DOCS, THEY HAVE FOUND EVIDENCE THAT HE DIDN'T SERVE OUT HIS FULL TIME. I'M SURE THEY ARE SCRAMBLING TO LOOK ON TOP OF THINGS.

On September 8, *The Boston Globe* article was published on the front page of the newspaper.⁶⁹ The article concluded that the records related to President Bush's TexANG service showed that then-Lieutenant Bush did not satisfy his training commitments or face any punishment for this. The article also stated that President Bush's attendance at required drills was "irregular" and that he failed to sign up with a Boston-area reserve unit when he moved to Cambridge to attend Harvard Business School. Finally, the article reported that "[s]ince the *Globe* first reported Bush's spotty attendance record in May 2000, no one has come forward with any credible recollection of having witnessed Bush performing guard service in Alabama or after he returned to Houston in 1973."

H. Wednesday, September 8, 2004: Completing the Vetting Process and Airing the Segment

1. Bartlett Interview

The TexANG documents were delivered to Bartlett early on Wednesday morning. Rather was unable to fly to Washington, D.C. for the Bartlett interview due to inclement weather and Leissner was told that John Roberts should conduct the interview in Rather's place. Leissner met Roberts at the White House with the Killian documents. Roberts had about 45 minutes to prepare for the interview, during which time he called Mapes to get a primer on the documents. Leissner said that Mapes told them that she thought the White House would say that the documents were not real. Roberts recalled that Mapes "sounded 100 percent confident" about the story and the documents and told him the following:

- (1) The documents were from the personal files of Lieutenant Colonel Jerry Killian, who died in 1984; and
- (2) If the White House questioned the content of the Killian documents, Roberts should know that Mapes had talked to Major General Bobby Hodges, Lieutenant Colonel Killian's commanding officer, who told Mapes that the documents described exactly how Lieutenant Colonel Killian felt at the time. In addition, Mapes spoke to Robert

⁶⁹ Walter V. Robinson, *Bush Fell Short on Duty at Guard*, BOSTON GLOBE, Sept. 8, 2004, at A1.

Strong, the administrative head of the TexANG, who said that the documents were consistent with the man he knew Lieutenant Colonel Killian to be and with documents he had seen every day at the TexANG.

Roberts told the Panel that Mapes did not say that the documents had been authenticated, how she got the documents or Lieutenant Colonel Burkett's name. Like Sciere, Lynch and Leissner, Roberts told the Panel that if he had known on Wednesday morning that Lieutenant Colonel Burkett was the source of these documents, he would have had serious concerns about the *60 Minutes Wednesday* Segment.

At approximately 11 a.m., Roberts interviewed Bartlett at the White House. The Bartlett interview transcript is Exhibit 9B to this Report. Roberts asked several questions to ensure that the White House was not challenging the authenticity of the documents. Bartlett told him that CBS News was a reputable news organization and that he was not suggesting that the documents were not real. Nonetheless, Bartlett made several comments during his interview that supported President Bush's military record and appeared to challenge the veracity of the September 8 Segment. For example, Bartlett stated: "President Bush, after his fourth year of service, asked for permission to go in a non-flying capacity to Alabama. There was no reason for President Bush to take a flight exam if he wasn't going to be flying." Bartlett explained further that President Bush "did not take a flight exam . . . [b]ecause in Alabama they weren't flying the same plane that President Bush was trained in."

Roberts told the Panel that he had the impression that Bartlett kept referring back to the administration's prior positions in his interview because he did not know what he was dealing with as he had not had much time to review the documents. In addition, Roberts said that the fact that he asked Bartlett whether he was challenging the authenticity of the documents was not planned. It was prompted by one of Bartlett's responses to his questions and not by Mapes. Roberts said that neither Mapes nor anyone else told Roberts that he needed to get an opinion from the White House regarding the documents or provided him with questions to ask Bartlett, other than, "You've seen the documents. What do you think?"

Mapes told the Panel that Roberts called her after the interview and told her that the White House had not challenged the authenticity of the documents. Roberts recalled that Mapes responded with words to the effect that she had several experts lined up to vouch for the veracity of the documents and did not need to include them because the White House is not challenging the documents.

2. Vetting Meeting

CBS lawyers, Jonathan Sternberg and Richard Altabef, were first informed about Mapes' TexANG story on the morning of Wednesday, September 8, when they attended the screening for another story which was scheduled to air that night if the TexANG story did not air. In contrast to the September 8 Segment, the lawyers had been extensively involved in reviewing the other piece.

Immediately after the screening of the other segment, at or around 11 a.m., the vetting session with the lawyers regarding the Segment was held. A final decision had not yet been made to air the story that night. Present at this meeting were at least Mapes, Sternberg, Altabef, Howard, Kartiganer, Murphy and West, although West apparently was in and out of the meeting. At this meeting, Sternberg and Altabef were shown the documents and a rough script for the first time.

a. Discussion of the Documents

Mapes was asked to explain why the documents were newsworthy, as some participants did not think that they advanced the story of President Bush's TexANG service. Mapes told the Panel that she recalled being asked this question and said that she gave an abbreviated version of the way in which the Killian documents meshed with the known factual record and said that the documents provided insight into "what went on in the unit and with Killian."

With regard to the August 18, 1973 memorandum that states, in part, that General Staudt purportedly had pressured then-Colonel Hodges to "sugar coat" Lieutenant Bush's evaluation, Mapes was asked whether General Staudt was alive. Mapes responded that she had contacted him, but he refused to speak with her. Instead of pulling the document from the Segment, the lawyers asked Mapes to contact General Staudt again to seek his comment, but no one followed up with her later that day to determine whether she had contacted General Staudt as requested. In fact, it does not appear that Mapes or anyone else attempted to reach General Staudt on Wednesday after the meeting. If they had reached him and he had agreed to talk, and if he repeated the same statements that he did when he was interviewed by the Panel, General Staudt would have denied having any influence over TexANG matters after he retired in the first quarter of 1972 and would have said that he was unaware of any problems with then-Lieutenant Bush while he served in the TexANG.

Mapes was also asked at the meeting whether the original documents were available. At least two people present at the meeting recalled that Mapes indicated that it was not possible to get the originals. Mapes said that, if originals existed, they were in the possession of her source's source, who was not willing to cooperate. Mapes also said that the documents were not on letterhead because these types of personal memoranda typically would not be on letterhead.

b. The Source

One or more of the people present at the meeting recalled that Mapes was asked various questions about the source, such as who he was, did she trust him, what was the source's relationship to the documents, where did the "scrubbing" take place and whether the source had witnessed the "scrubbing." Several people recalled that Mapes said that her source and her source's source had witnessed the purging of President Bush's files in the 1990s, were offended by this and had taken other files that they realized might have been purged, including those of Lieutenant Colonel Killian. One person recalled that Mapes said her source was nearby when her source's source took the documents and that the documents remained with her source's source, who now lived in Germany and was "unavailable," until he gave copies to her source. No one present at the meeting asked Mapes why the source's source was "unavailable" or demanded that she find him before airing the Segment. The Panel finds this to be a significant omission.

Those present at the meeting recalled that Mapes expressed "enormous confidence" in her source's reliability and said that he was solid with no bias or credibility issues. In terms of trust, those present at the meeting also recalled that Mapes conveyed confidence in her source and did not reveal the source's name or anything negative about the source. Mapes, on the other hand, told the Panel that she was "almost certain" that she identified Lieutenant Colonel Burkett by name when speaking to the group. Mapes also recalled giving them a sketch of Lieutenant Colonel Burkett, and, in particular, telling them that he was a "difficult," "moralistic stickler" who had medical problems, was a disgruntled former Guardsman, and was anti-Bush. Mapes also told the Panel that she told the vetters that her source had become a controversial figure in February 2004 when his story about the "scrubbing" was publicized and challenged. Mapes said that she told the group that she did not think that the source had forged the documents.

c. Colonel Hackworth

During the meeting, a CBS lawyer expressed relayed his concerns about using Colonel Hackworth in the Segment and suggested that it might not be appropriate to rely on him. As previously noted, Colonel Hackworth was not included in the September 8 Segment.

d. The Document Examiners

No one present at the meeting had prior experience with document authentication, but no one asked Mapes to explain the techniques utilized by the examiners engaged by *60 Minutes Wednesday*. Some people present at the meeting recalled Mapes' saying that four examiners believed that both the signatures and the documents they reviewed were authentic. One of the lawyers recalled being told that one examiner had authenticated all four documents and that others had authenticated some of the documents or some parts of the documents. Similarly, the other lawyer present recalled that Mapes said that one examiner had looked at all four documents and the three others had looked at several. No one inquired why all four examiners had not seen all of the documents.

When asked whether any examiner had found problems with the documents, Mapes said that one of the examiners had raised an issue regarding the superscript "th," but that, ultimately, all of the examiners were satisfied that the concern was resolved. In addition, they discussed at length whether the documents' content was accurate, and Mapes told them that Major General Hodges recalled that this was how Lieutenant Colonel Killian felt at the time and that Lieutenant Strong thought that they reflected the way in which Lieutenant Colonel Killian expressed himself and felt generally.

Mapes told the Panel that she recalled discussing the examiners at the meeting, although her recollection differs in some respects. Mapes told the Panel that she said to the vetting group that she had received a "strong endorsement" from both Matley and another examiner who was a former Los Angeles police officer (Pierce) and that they found "no exclusionary points." She said that one document examiner had deferred to Matley's opinion and another said that she could not authenticate the documents without reviewing the originals. Mapes said that the group discussed the little "th," but they agreed that they did not have the expertise required to determine whether the "th" could have been produced at the time the documents were written.

e. Deficiencies in the Vetting Process

Based on the recollections of those present at the meeting and the vetting sessions the previous day, it appears that Mapes did not disclose the following to *60 Minutes Wednesday* management prior to the airing of the Segment on September 8:

- That she had interviewed several people in 1999, including General Staudt and Major General Hodges, who told her that, contrary to Barnes' statements, no influence was used to get President Bush into the TexANG, and that Barnes himself was not certain that his call to General Rose had gotten him in;
- That Barnes had given a speech similar to his interview in May at a Kerry campaign rally;
- That none of the experts could authenticate the documents because they were copies;
- That Matley's analysis was limited to the Killian signatures, which appeared on only one of the four documents used in the Segment, and that the other three documents used had not been verified by any of the document examiners;
- That at least one expert had raised concerns not only about the superscript "th," but also proportional spacing, font, terminology and the signatures;
- That Lieutenant Strong did not have personal knowledge of then-Lieutenant Bush's service record in the TexANG or the Killian documents;
- That inadequate steps had been taken to confirm Lieutenant Colonel Burkett's statement, which would be included in the Segment, that the Killian documents were taken from Lieutenant Colonel Killian's personal files.

The Panel finds that Mapes' failure to disclose to the vetters and the lawyers all of the information that tended to undermine the Segment was a serious problem in the production of the Segment. The Panel faults not only Mapes, however. The Panel also finds that those present at the meeting, including *60 Minutes Wednesday* management, West and the lawyers, should have probed more deeply. Specifically, as a group, they should have asked more specific questions of Mapes in order to: determine the chain of custody and what had been done to find Chief Warrant Officer Conn; learn about the authentication process, the extent to which the documents had, in fact, been authenticated and what exactly the examiners had said; and understand what the basis was for the statements made by Lieutenant Strong that were included in the script.

The Panel does not feel that it is unfair hindsight to have expected the vetters to have probed far more deeply at the meeting on September 8. This was an extraordinarily sensitive and significant story that was being crashed, which should have caused great care and thoroughness in the vetting process. This clearly was not achieved.

The Panel was told by some of the vetters why they did not press further on the issues identified above. The practice and tradition at *60 Minutes Wednesday* is to put a large amount of responsibility and trust in producers. In this instance, every member of the vetting group, including West, Howard and Murphy, expressed the view that while tough questions were asked of Mapes, she responded adequately, and they did not feel the need to probe more deeply. Mapes told the Panel that she answered fully each question asked by the vetters. While the Panel continues to believe that the vetting for the September 8 Segment was not adequate, West Howard and Murphy did not feel compelled to have done more, given their experience in trusting producers and the stellar reputation of Mapes in particular. Accordingly, nothing in this Report should be construed to suggest that the vetting group believed that the Segment had any unresolved issues or was otherwise not ready to air by 8 p.m. EST on September 8.

3. Response at *60 Minutes Wednesday* to the White House Interview

During the vetting session, Mapes received word from John Roberts that the Bartlett interview had gone well and that he had not disputed the authenticity of the documents, as discussed above. Many of the people that the Panel interviewed said that they had been concerned about how the White House would react and believed that Bartlett's reaction provided additional confirmation that the documents were real or that it had given them comfort. In the Panel's view, this reaction seriously misplaced responsibility for making sure that the documents were authentic.

4. Script Revisions

The Panel has identified, reviewed and compared a number of versions of the script of the September 8 Segment that were prepared between Tuesday night and Wednesday evening and circulated to some or all of those involved in the vetting. The script was finalized at about 5 p.m. on Wednesday. Various versions of the script were reviewed by Howard, Murphy, Kartiganer, Sternberg, Altabef, West and Heyward.

As might be expected with any show, there were many stylistic and other non-substantive changes made between drafts. Without recounting all such changes from draft to draft, the Panel observes the following significant omissions, additions, revisions and deletions:

- Due to fairness concerns raised by Heyward and West, the sound bites from Colonel Hackworth's interview were taken out of the final script in mid-afternoon.

- An early version of the script contained a reference to Major General Hodges and stated that he “confirmed to us that these memos were consistent with the way Killian felt about Bush’s move to Alabama and failure to take a physical.” This passage was removed from the script sometime later that day. Mapes told the Panel that she was upset that the passage was removed and suggested that Howard had removed it because it was too wordy. Howard told the Panel, however, that Mapes had requested to take out the reference to Major General Hodges because he had talked to her off the record.
- In a draft circulated at 4:43 p.m. by Murphy, an additional excerpt from the Bartlett interview was added regarding Kerry-supporter Barnes’ alleged motivation in speaking out during an election year.⁷⁰
- The unsigned August 18, 1973 “Memo to File/ Subject: CYA” was featured prominently in the scripts and in the final version despite the fact that it was reviewed by only one expert, Marcel Matley, who informed Mapes and Miller that he could not authenticate it because it contained no signature.
- The draft scripts never included an excerpt from Matley’s interview but merely a place marker to insert a sound bite from his interview “if necessary.”
- Ultimately, the following language was added to a draft that was circulated at 4:53 p.m. on Wednesday: “[CBS] consulted a handwriting analyst and document expert who believes the material is authentic.” The Panel believes that this representation does not accurately represent Matley’s conclusions, as reflected in his interview and in his conversations with Mapes and Miller, as discussed in greater detail below in Section I.2 of this Chapter.
- None of the scripts contained sound bites or narrative indicating the presence of contrary views or conflicting evidence, as discussed previously in “Deficiencies in the Vetting Process,” which were known to Mapes and/or her team at the time that the September 8 Segment aired.

5. First Screening

Around 2 or 3 p.m., the initial screening of the September 8 Segment was held in two parts in the edit rooms. This was unusual because segments normally are viewed in their entirety and in one screening room. Howard, Murphy, Kartiganer, West, Mapes, Sternberg and Altabef attended the screening. Surprisingly, Rather did not attend any of the pre-air screenings. The comments at the screening were focused on form rather than substance. No one who attended the screening recalled any question of the authentication of the documents or raised any other questions or concerns about the Segment at that time. It appears that by then, the vetters had moved beyond these issues.

⁷⁰ Murphy had been asked by West to review the transcript and sound bites from Bartlett’s interview to ensure that Bartlett’s statements were fairly represented.

6. Decision to Air the Show

In the late afternoon, at Betsy West's direction, a backup show was put together just in case the TexANG story was not ready to go by the deadline that evening. *60 Minutes Wednesday* management attempted to keep its options open until the latest possible moment in the event that it could not get enough comfort with the TexANG story to let it go to air. Sometime that afternoon, although it is not clear exactly when due to the differing recollections of those involved, the decision was made by West, Howard and Murphy to go with the entire Segment, including both the Killian documents and the Barnes interview

7. CBS Evening News Promotional Piece: Late Afternoon

A report also was recorded on Wednesday for the *CBS Evening News* to promote the *60 Minutes Wednesday* show. Initially the script for the piece was only about the Barnes interview, but it was later changed to include references to the documents. Murphy, Executive Producer of the *CBS Evening News*, told the Panel that he was assured by Mapes, Rather and Howard that the vetting and sources were solid.⁷¹

8. Final Screening

The final screening took place at 7 p.m. Heyward, West, Howard and Murphy were present, but Rather and Mapes were not. Heyward's presence at the screening and involvement in reviewing the script were notable because it is extremely rare for him to attend a screening, let alone be involved in the editing process for any story. Heyward told the Panel that he previewed the Segment because it was a "politically sensitive piece." No concerns were expressed at the 7 p.m. meeting and everyone agreed that the Segment was ready to go.

The Panel feels that Rather's absence from the screening and vetting, and his regrettably limited participation in the Segment's production, deprived it of valuable perspective. This detachment may have been due in large part to his considerable other work, the speed with which this Segment was put together and his reliance on Mapes, for whom he expressed to the Panel the highest professional regard.

⁷¹ The script of the *CBS Evening News* for Wednesday, September 8, is Exhibit 1A to this Report.

I. The September 8 Segment Contained Inaccurate and Misleading Statements

A transcript of the Segment is attached as Exhibit 1B. As discussed previously, the Panel has identified many deficiencies in the reporting, production and vetting of the September 8 Segment. The Panel also concludes, as set forth below, that portions of the Segment were neither fair nor accurate given the facts that were known or should have been known to Mapes, her team, and/or others at *60 Minutes Wednesday* at the time the Segment was aired.

1. The Document Authentication Statement Lacked Support

Approximately one-third of the way through the September 8 Segment, Rather introduced the audience to the first of the Killian documents, the May 19, 1972 file memorandum, and made reference to other documents. Rather said, “*60 Minutes* has now obtained a number of documents we are told were taken from Lieutenant Colonel Killian’s personal files We consulted a handwriting analyst and document expert who believes the material is authentic.” (emphasis added). This statement was without factual support.

The Panel in its interviews was advised that the “handwriting analyst and document expert” referred to in the Segment was Matley, the expert interviewed by Rather on Monday, September 6. It is without question, however, that Matley did not authenticate any of the documents. Indeed, he authenticated with qualifications only the signature on the May 4, 1972 memorandum.

It was suggested by some people who were interviewed by the Panel that the authentication sentence was proper because Matley had informed Mapes and Miller that he had not discerned any factors that would rule out the possibility that the Killian documents were what they purported to be. In the Panel’s view the script goes well beyond what Matley said. For *60 Minutes Wednesday* to say that Matley believed the “material” was authentic was to suggest that Matley had authenticated all four of the documents used on the Segment. The Panel believes that this was not fair and accurate reporting.

2. The Lieutenant Strong Interview Excerpts Conveyed Inaccurate Information

The Panel is similarly concerned about the Lieutenant Strong excerpts used in the September 8 Segment. As discussed previously, the Lieutenant Strong interview revealed the following: Lieutenant Strong had left the TexANG in March 1972, which was before the date of

the earliest Killian document used in the Segment (May 4, 1972); Lieutenant Strong knew Lieutenant Colonel Killian but worked in the TexANG headquarters in Austin, approximately 180 miles away from Ellington AFB, where Lieutenant Colonel Killian was located; Lieutenant Strong had no personal knowledge about any preferential treatment given to Lieutenant Bush; Lieutenant Strong had no knowledge of the Killian documents; and, while Lieutenant Strong believed that he had witnessed preferential treatment in terms of well-to-do and connected men being admitted into the TexANG, he identified no preferential treatment of the type suggested in the Killian documents, *e.g.*, the ability to defy a direct order to take a physical examination or to have his records “sugar coat[ed].”

Against the foregoing facts, the Panel has considered the use of the Lieutenant Strong interview excerpts in the September 8 Segment. The first mention of Lieutenant Strong in the Segment is the introduction: “Robert Strong was a friend and colleague of Colonel Jerry Killian. Strong ran the Texas Air National Guard administrative office during the Vietnam era. He’s now a college professor.” While Lieutenant Strong considered Lieutenant Colonel Killian to be a friend, as he told both *60 Minutes Wednesday* personnel and the Panel, there was no disclosure here or anywhere else in the Segment that Lieutenant Strong did not work in the same location as Lieutenant Colonel Killian or that Lieutenant Strong had left the TexANG more than two months before the May 4, 1972 memorandum is alleged to have been prepared. To provide proper context, and to allow the audience better to consider the weight to give to Lieutenant Strong’s statements, there should have been such disclosures.

The second Lieutenant Strong excerpt that troubles the Panel immediately follows the first and is a sound bite taken directly from Lieutenant Strong’s interview with Rather on Sunday, September 5:

Rather: When you read through these documents is there any doubt in your mind that these are genuine?

Strong: Well, they are compatible with the way that business was done at that time, they are compatible with the man that I remember Jerry Killian being, I don’t see anything in the documents that are discordant with what were the times, what were the situations, and what were the people that were involved.

While this excerpt accurately reflects Lieutenant Strong’s response to the question, the Panel finds it misleading to have included it in the Segment as there was no disclaimer that Lieutenant Strong had no personal knowledge about the documents or their content. Lieutenant Strong told

the Panel that he had not seen the documents until 20 minutes before the interview and had no personal knowledge of the content of the documents, but was told to assume that the content was accurate.

The third troubling excerpt consists of a narration by Rather and a sound bite from Lieutenant Strong's interview in which Lieutenant Strong is commenting generally regarding the documents:

Narration by Rather: This memo is from August 18, 1973. Colonel Killian titled it "CYA." In it, Colonel Killian says General Buck Staudt, the man in charge of the Texas Air National Guard, is putting on pressure to "sugar coat" an evaluation of Lieutenant Bush. Staudt, a longtime friend and supporter of the Bush family, would not do an interview for this broadcast. The memo goes on with Killian saying "I'm having trouble running interference and doing my job."

Strong Sound Bite: He was trying to deal with a volatile political situation, dealing with the son of an ambassador and a former congressman. He was trying to deal with at least one superior officer, General Staudt, who is closely connected to the Houston political establishment. And I just saw him in an impossible situation. I felt very, very sorry because he was between a rock and a hard place.

(emphasis added).

This Lieutenant Strong sound bite, particularly the quote, "I just saw him in an impossible situation . . .," suggests that Lieutenant Strong had personal knowledge about the particulars of Lieutenant Colonel Killian's alleged difficulties with Lieutenant Bush, which clearly he did not. Moreover, the question assumes that General Staudt was actually in charge of the Texas Air National Guard on August 18, 1973. That was not true, as General Staudt had left the TexANG approximately eighteen months before.

A final Lieutenant Strong excerpt used in the Segment is also troubling:

Narration by Rather: Robert Strong says he saw many well-connected young men pull strings and avoid service in Vietnam.

Rather: Why would these men do this? Didn't conscience come into play somewhere here?

Strong: What you saw here is the way power works. Power begets power. Power goes to power to get more power. And if you have a little bit of power and someone offers you an opportunity to gain more power by doing power a favor, this is what power does. It trades on itself. It feeds on itself. This is the way the system worked. This is the way state government worked, this is the way the Guard worked.

The clear inference from this excerpt is that President Bush was in the TexANG to avoid service in Vietnam. Bush did state in his 1968 TexANG application that he did not volunteer to go overseas. However, Mapes had information prior to the airing of the September 8 Segment that President Bush, while in the TexANG, did volunteer for service in Vietnam but was turned down in favor of more experienced pilots.⁷² For example, a flight instructor who served in the TexANG with Lieutenant Bush advised Mapes in 1999 that Lieutenant Bush “did want to go to Vietnam but others went first.” Similarly, several others advised Mapes in 1999, and again in 2004 before September 8, that Lieutenant Bush had volunteered to go to Vietnam but did not have enough flight hours to qualify. The Panel is troubled that this excerpt was used when there was information that contradicted, or at least weakened, the implication of the exchange between Rather and Lieutenant Strong.

The Panel finds that virtually every excerpt used from the Lieutenant Strong interview was either inaccurate or misleading. Indeed, the Panel questions whether any Lieutenant Strong excerpts should have been used at all, given his total lack of personal knowledge.

3. The Ben Barnes Interview Excerpts Were Misleading

As discussed previously, at the time that President Bush was admitted into the TexANG in 1968, Barnes was Speaker of the Texas House of Representatives and a powerful figure in Texas. In the excerpts of Barnes’ interview that were included in the Segment, Barnes stated that he had made a call to General Rose to recommend Bush for a position in the TexANG. Then, in additional excerpts, Barnes stated that this was preferential treatment and that he was sorry about having done it. The clear impression created by the Barnes excerpts was that there was no question but that President Bush received Barnes’ help to get into the TexANG and that this constituted preferential treatment. The Panel has several concerns.

First, while the Panel acknowledges that Barnes believes his call probably assisted President Bush in getting into the TexANG, there was no proof that it did. In fact, Barnes admitted in his interview with Rather that he did not know whether his call to General Rose had any effect on President Bush’s admission to the TexANG and that sometimes a call to General Rose did not work. This portion of his interview, however, was not included in the September 8 Segment. Moreover, as discussed previously, General Staudt, Major General Hodges and other

⁷² In the late 1960s, the U.S. government had the so-called Palace Alert program, by which Air National Guard pilots could volunteer for 90-day tours of active duty in Vietnam and other locations.

ex-Guardsmen told Mapes in 1999 that “no influence” was used and that no strings were pulled, as reflected in Mapes’ contemporaneous notes.⁷³

The Panel would have expected this contrary information that General Staudt and other Guardsmen had told Mapes that President Bush did not receive preferential treatment to get into the TexANG to have been disclosed to those doing the vetting and that there would have been discussion about the possible need to disclose in the script that others disagreed with the views expressed by Barnes about how President Bush got into the TexANG. There was no such disclosure and, accordingly, no such discussion.

Second, the Panel is also concerned about the airing of the Barnes statement that “[t]here were hundreds of names on the list of people wanting to get into the Air National Guard and the Army National Guard.” The fact is that there is sharply conflicting information about whether a waiting list existed at all as of spring 1968 for entrance into the TexANG, particularly for fighter pilots. As discussed previously in Section A of this Chapter, Mapes expressed in a 1999 e-mail to her Senior Broadcast and Executive Producers that “this squad did not have a waiting list” in 1968 and that the “Colonel who ran it appeared to keep about 20 places open at all times.”⁷⁴

In addition, a distinction must be made between vacancies in the Guard generally and vacancies for pilot positions. When Rather interviewed author Bill Minutaglio in 1999, Minutaglio advised Rather that, while the Group did, in fact, have a waiting list of about 150, there were 3-5 open pilot slots at that time. Further, as discussed previously, Major General Hodges had also advised Mapes in 1999 that the Group had no waiting list, particularly for volunteers who wanted to be fighter pilots. In fact, Mapes’ 1999 notes reflect that he told her that they “were hurting for pilots.”⁷⁵

Mapes advised the Panel that she had sought in her reporting to attempt to determine for certain whether there was in fact a waiting list for the TexANG in Spring 1968 but was never successful. In these circumstances, where Mapes had been unable to confirm the existence of a waiting list, the Panel must question the failure of the September 8 Segment to address this issue. It does not appear that Mapes brought to management’s attention the fact that she had received

⁷³ In a brief interview with counsel to the Panel, General Staudt stated that no one had called him to ask that President Bush be admitted to the TexANG.

⁷⁴ General Staudt also told counsel to the Panel that the Group had no waiting list and needed pilots as of spring 1968.

⁷⁵ General Hodges confirmed for the Panel that in the early 1960s, the Group had had a waiting list but that it had disappeared by 1968.

conflicting information about the waiting list issue. This was contrary to the requirement that a producer make sure that management is apprised of all potentially relevant information.

In sum, the Panel finds that the inaccuracies and misleading statements and sound bites contained in the final Segment that aired on September 8 resulted from failures at every level. They also reflect the deficiencies in both the reporting and the vetting process and the failure of Mapes and others at *60 Minutes Wednesday* to probe deeply enough into the factual accuracy of the story.

VIII. WHETHER THE CONTENT AND FORMAT OF THE KILLIAN DOCUMENTS ARE CONSISTENT WITH THE OFFICIAL BUSH RECORDS

Prior to airing the Segment, Mapes told her *60 Minutes Wednesday* colleagues that the Killian documents fit well, or “meshed,” with the official Bush records, an important assertion in evaluating the documents provided by Lieutenant Colonel Burkett. Thus, several people in the vetting group recalled that Mapes persuasively argued that the Killian documents were consistent with the publicly available records, although it does not appear that the vetters asked for or were provided with a detailed analysis of this comparison.

In her presentations to the Panel, Mapes relied heavily on the meshing concept to support her continuing belief in the authenticity of the Killian documents. Thus, at her initial interview in October, Mapes submitted a chronology of the Killian documents intermixed with documents from the official Bush records, and explained to the Panel why she believed they meshed. Subsequently, on November 12, Mapes, through her counsel, submitted a 14-page letter to the Panel on the subject.

Mapes was interviewed a second time in December. In this second interview, the Panel indicated to Mapes and her counsel through its questions possible inconsistencies that might cause the Panel to question the meshing analysis. Thereafter, on December 23, 2004, the Panel received a further submission from counsel for Mapes, setting forth arguments why the questions raised by the Panel did not refute the meshing analysis.

The Panel addresses the meshing claim these issues in this Chapter. The Panel observes at the outset, however, that what was at first asserted by Mapes prior to the broadcast of the Segment to be a good meshing without any apparent qualification has now been transformed into an argument that there is nothing in the official Bush records that would rule out the authenticity of the Killian documents. This is similar to statements made by Matley, one of the document examiners, before the airing of the Segment that he could not see anything in the Killian documents that would rule out the possibility that they were authentic. While such an argument may have legitimacy in an advocacy proceeding, the Panel does not find it to be a sufficient standard for journalism, which should not stand on a “nothing to rule it out” foundation.

With the foregoing in mind, the Panel has considered the meshing concept in two ways: content and format.

First, the Panel sought to determine if there is, in fact, a reasonable meshing of the data in the official Bush records with the information and assertions in the Killian documents. To inform itself on the subject, the Panel not only interviewed Mapes and reviewed the official Bush records, but it also interviewed a number of former Guardsmen, who served at Ellington AFB with Lieutenant Colonel Killian and Lieutenant Bush and who were or could have been contacted by *60 Minutes Wednesday* before the Segment was aired. These included Major General Hodges, Lieutenant Colonel Killian's commanding officer, Colonel Rufus Martin, the Group's Personnel Staff Officer, and Lieutenant Colonel Doug Via, Operations Officer for the 111th Fighter Interceptor Squadron. In every instance, the Panel made sure that the Guardsmen had available both the Killian documents and many of the official Bush Records to review.

The Panel concludes that while certain of the Killian documents mesh well with the official Bush records in terms of content, there are several significant inconsistencies that undercut the meshing notion. At a minimum, the inconsistencies should have prevented an unqualified assertion as of September 8 that the Killian documents fit precisely into the pattern of the official Bush records.

Second, the Panel has examined whether the Killian documents fit with the official Bush records in terms of format, jargon and language. The Panel concludes that there are significant differences in these areas between the Killian documents and the official Bush records. The Panel recognizes that the Killian documents were supposed to have come from Lieutenant Colonel Killian's personal files, which might suggest he would not have felt compelled to utilize customary military formalities. However, immediately after the Segment aired, Mapes represented that the Killian documents "are absolutely in accordance with reasonable military formats and memo formats used at the time." In any event, the differences between the official Bush records and the Killian documents are sufficiently great that this "personal files" explanation does not resolve all the discrepancies and the Panel is left without a basis to conclude that the format, jargon and language support the authenticity of the documents.

The Panel reaches no definitive conclusion as to whether the Killian documents are authentic. Given that the Killian documents are copies and not originals, that the author is deceased, that the Panel has not found any individual who knew about them when they were created, and that there is no clear chain of custody, it may never be possible for anyone to authenticate or discredit the documents. However, based on a comparison to the official Bush

records and the other data referred to in this Chapter, the Panel finds many reasons to question the documents' authenticity. At a minimum, if the official Bush records had been compared carefully to the Killian documents prior to airing the September 8 Segment, there would likely have been, in the Panel's view, enough issues raised to prevent a rush to air within days of obtaining them.

A. Comparing the Content of the Killian Documents and the Official Bush Records

The Panel has compared the content of the purported six Killian documents with the official Bush records to determine whether they are factually consistent. To provide a context for this comparison, the Panel lists chronologically the relevant documents that have been examined. The Killian documents are identified with an asterisk after the date and are quoted in full below.⁷⁶ Copies of the documents from the official Bush records listed below can be found in Appendix 3 to this Report.

February 2, 1972* Lt Col Killian asks Maj Harris, Lt Bush's flight supervisor and rating officer, for an update on the flight certifications of Lt Bush and Lt Bath. Thus, Lt Col Killian wrote:

Update me as soon as possible on flight certifications. Specifically – Bath and Bush.

May 3, 1972 The 90-day window for Lt Bush to take a physical examination begins on this date. Lt Bush must take a physical before July 31, 1972 or he will lose his flight status.⁷⁷

May 4, 1972* Lt Col Killian orders Lt Bush to report for a physical examination no later than May 14, 1972. He states:

1. You are ordered to report to commander, 111 F.I.S., Ellington AFB, not later than (NLT) 14 May, 1972 to conduct annual physical examination (flight) IAW AFM 35-13.

2. Report to 111th F.I.S. administrative officer for schedule of appointment and additional instructions. Examination will be conducted in duty status.

⁷⁶ In this portion of this Chapter, the Panel attempts to use the rank of individuals as of the time the documents were prepared unless the context dictates otherwise. The Panel also attempts to use appropriate military abbreviations.

⁷⁷ The Panel notes that this entry in the chronology is not a document, but rather is based on data provided by former Guardsmen.

- May 19, 1972* In a file memorandum, Lt Col Killian discusses a telephone call with Lt Bush. He states:
1. Phone call from Bush. Discussed options of how Bush can get out of coming to drill from now through November. I told him he could do ET for three months or transfer. Says he wants to transfer to Alabama to any unit he can get in to. Says that he is working on another campaign for his dad.
 2. Physical. We talked about him getting his flight physical situation fixed before his date. Says he will do that in Alabama if he stays in a flight status. He has this campaign to do and other things that will follow and may not have the time. I advised him of our investment in him and his commitment. He's been working with staff to come up with options and identified a unit that may accept him. I told him I had to have written acceptance before he would be transferred, but think he's also talking to someone upstairs.
- May 24, 1972 Lt Bush completes an application for a reserve assignment with the 9921st Air Reserve Squadron in Montgomery, Alabama.
- May 26, 1972 Lt Bush's Officer Efficiency Report for May 1, 1971 – April 30, 1972 is completed by Maj Harris, Lt Col Killian and Col Hodges. The Report, authored by Maj Harris, contains a favorable review and then had one additional comment:
- Lt Bush is very active in civic affairs and in the community and manifests a deep interest in the operation of our Government. He has recently accepted the position of campaign manager for a candidate for the United States Senate. He is a good representative of the military and Air National Guard in the business world. His abilities and anticipated future assignments make him a valuable asset.
- Lt Col Killian concurs in Maj Harris' observations, as does Col Hodges.
- May 26, 1972 Lt Bush's application for assignment to the 9921st Air Reserve Squadron in Montgomery, Alabama is approved by Commander Reese Bricken of the 9921st.
- June 2 and 5, 1972 The Personnel Staff Officer of the 147th Fighter Interceptor Group, Maj Martin, acting on behalf of its commander, Col Hodges, and Maj Charles Shoemake, acting on behalf of the Adjutant General of Texas, approve the assignment of Lt Bush to the 9921st.
- July 31, 1972 Lt Bush is declared ineligible for assignment to the 9921st Air Reserve Squadron by the Headquarters Air Reserve Personnel Center in Denver,

Colorado, because “an obligated Reservist can be assigned to a specific Ready Reserve position only.”

- August 1, 1972* Lt Col Killian verbally orders Lt Bush suspended from flight status. He states:
1. On this date I ordered that 1st Lt. Bush be suspended from flight status due to failure to perform to USAF/TexANG standards and failure to meet annual physical examination (flight) as ordered.
 2. I conveyed my verbal orders to commander, 147 th Ftr. Intrep Gp with request for orders for suspension and convening of a flight review board IAW AFM 35-13.
 3. I recommended transfer of this officer to the 9921 st Air Reserve Squadron in May and forwarded his AF Form 1288 to 147 th Ftr Intrep Gp headquarters. The transfer was not allowed. Officer has made no attempt to meet his training certification or flight physical. Officer expresses desire to transfer out of state including assignment to non-flying billets.
 4. On recommendation of Harris, I also suggested that we fill this critical billet with a more seasoned pilot from the list of qualified Vietnam pilots that have rotated. Recommendations were received but not confirmed.
- August 3, 1972 Maj Shoemake, acting for the Adjutant General of Texas, requests the 147th Fighter Interceptor Group to explain what it plans to do in light of the rejection of Lt Bush’s transfer request.
- September 5, 1972 Col Hodges executes an Order suspending Lt Bush from flying status, effective August 1, 1972, for failure to accomplish his annual medical examination. Maj Martin, Personnel Staff Officer, then sends the Order to TexANG Headquarters.
- September 5, 1972 Lt Bush requests permission from Lt Col Killian to transfer to the 187th Tac Recon Group in Alabama.
- September 6 and 8, 1972 Lt Col Killian and Col Hodges recommend approval for Lt Bush to perform equivalent duty with the 187th Tac Recon Group in Alabama.
- September 15, 1972 The Alabama Air National Guard approves Lt Bush for three months of Equivalent Training with the 187th Tac Recon Group in Alabama. The approval is forwarded to the Adjutant General of Texas on September 19, 1972.

- September 20, 1972 Lt Col Herber, Air Administrative Officer, acting on behalf of the TexANG Adjutant General, recommends approval of the September 5 suspension of Lt Bush from flying status.
- September 29, 1972 Verbal orders on August 1, 1972 of the Commander of the 147th Ftr Gp suspending Lt Bush from flying status are confirmed by the National Guard Bureau. "Reason for suspension: Failure to accomplish annual medical examination."
- May 2, 1973 Instead of completing an Officer Efficiency Report for Lt Bush for the period May 1, 1972 – April 30, 1973, Lt Col Harris, Lt Bush's rating officer, writes: "Lt Bush has not been observed at this unit during the period of report. A civilian occupation made it necessary for him to move to Montgomery, Alabama. He cleared this base on 15 May 1972 and has been performing equivalent training in a non flying status with the 187 Tac Recon Gp, Dannelly ANG Base, Alabama."
- Lt Col Killian concurs with Lt Col Harris' comments.
- June 24, 1973* Lt Col Killian authors a Memorandum to "Sir," stating as follows:
1. I got a call from your staff concerning the evaluation of 1st Lt. Bush due this month. His rater is Lt. Colonel Harris.
 2. Neither Lt. Colonel Harris or I feel we can rate 1st Lt. Bush since he was not training with 111 F.I.S. since April, 1972. His recent activity is outside the rating period.
 3. Advise me how we are supposed to handle this.
- June 29, 1973 A U.S. Air Force Master Sergeant issues a notice stating that an Officer Efficiency Report needs to be completed for Lt Bush and states that data "should be requested from the training unit so that this officer can be rated in the position he held."
- August 18, 1973* Lt Col Killian authors a CYA File Memorandum stating as follows:
1. Staudt has obviously pressured Hodges more about Bush. I'm having trouble running interference and doing my job. Harris gave me a message today from Grp regarding Bush's OETR and Staudt is pushing to sugar coat it: Bush wasn't here during rating period and I don't have any feedback from 187th in Alabama. I will not rate. Austin is not happy today either.
 2. Harris took the call from Grp today. I'll backdate but won't rate. Harris agrees."

- September 5, 1973 Lt Bush requests discharge from the TexANG and reassignment to ARPC (NARS) effective October 1, 1973 to attend Harvard Business School. Lt Col Killian recommends approval on September 6, 1973.
- September 18, 1973 Col Hodges recommends approval of Lt Bush's discharge request, effective October 1, 1973.
- October 16, 1973 Lt Bush is honorably discharged, effective October 1, 1973.
- November 12, 1973 Instead of an Officer Efficiency Report for Lt Bush for the missing period, Maj Martin, Personnel Staff Officer, states: "Not rated for the period 1 May 1972 through 30 April 1973. Report for this period not available for administrative reasons."

The Panel offers the following observations about the meshing claim.

1. February 2, 1972 Memorandum

In this memorandum, Lieutenant Colonel Killian asks then-Major Harris for an update on Lieutenant Bush's flight status. The Panel cannot conclude that this memorandum meshes with the official Bush records, which reflect no such requests for flight certification records pertaining to Lieutenant Bush at or around this date.

Mapes suggested that the Panel rely on a September 10, 2004 analysis by *The Associated Press* of Lieutenant Bush's flight logs, which reported that Lieutenant Bush flew in T-33 trainers nine times in February and March, 1972, rather than in F-102s.⁷⁸ The article also stated that Lieutenant Bush required more passes than usual to land his jet on March 12 and April 10, 1972. Mapes suggested that this information indicated that Lieutenant Bush was having difficulty flying, which, in turn, might explain why Lieutenant Colonel Killian would have sought flight certification data from Major Harris.

The Panel cannot accept this explanation. First, these instances cited in *The Associated Press* article all occurred after the date that the February 2, 1972 memorandum allegedly was authored. Second, the Guardsmen with whom the Panel spoke on this issue, Colonel Martin and Lieutenant Colonel Via, who were at Ellington AFB during the relevant period, stated that they observed no problems with Lieutenant Bush's flying ability. Finally, then-Lieutenant Bush received a highly complimentary Officer Efficiency Report for the period May 1, 1971 through April 30, 1972. Indeed, on a rating scale from 1 (serious problems) to 5 (exceptional),

⁷⁸ Matt Kelley, *Bush Piloted National Guard Trainers*, AP, Sept. 10, 2004.

Lieutenant Bush received three 4's and six 5's. *See* Appendix 3. Thus, the Panel is not aware of any satisfactory explanation for why Lieutenant Colonel Killian would have sought flight certification data for Lieutenant Bush on February 2, 1972.

2. May 4, 1972 Memorandum

The Panel next addresses the May 4, 1972 memorandum by which Lieutenant Colonel Killian allegedly ordered Lieutenant Bush to take a flying physical by May 14, 1972. The Panel finds that this document also does not mesh well with the official Bush records.

The Panel has not found in the official Bush records any document that references such an order. Further, the Panel has spoken to a number of former Guardsmen, including Major General Hodges,⁷⁹ Colonel Martin, and Lieutenant Colonel Via, all of whom served with Lieutenant Colonel Killian at Ellington AFB, and none of them recall ever seeing or hearing of an order commanding anyone to take a physical, much less Lieutenant Bush. In addition, the Panel has learned that there was a 90-day window during which a pilot could take his flying physical. That window ended on the last day of a pilot's birth month, which would have been July 31, 1972 for Lieutenant Bush. That means that the earliest that Lieutenant Bush could have sought a timely physical would have been May 2, 1972.

These Guardsmen explained that taking a flying physical was automatic, like renewing a driver's license. The Panel was told that the 147th Fighter Interceptor Group routinely posted, on a monthly basis, a form notice listing those pilots who were entering their 90-day window for taking a physical.

The Panel asked these former Guardsmen whether they could imagine any pilot being ordered to take a physical on such short notice, as was supposedly ordered by Lieutenant Colonel Killian on May 4, 1972. The only circumstance cited was that a pilot might be ordered to do so if he were having serious problems, which, with respect to Lieutenant Bush, were not apparent to Major General Hodges, Colonel Martin or the other former Guardsmen spoken to by the Panel. Further, the Lieutenant Bush Officer Efficiency Report, dated May 26, 1972 and covering the period that ended April 30, 1972, provides no hint of any such difficulties. Instead, it is extremely complimentary. Major Harris, in rating Lieutenant Bush, stated:

⁷⁹ In Mapes' counsel's December 23 letter, it is stated that Major General Hodges "recall[ed] a written order from Lieutenant Colonel Killian to then-Lieutenant Bush directing that a physical be taken." Major General Hodges denied to the Panel ever telling that to Mapes and Mapes' notes of her September 6 conversation with Major General Hodges provide no corroboration of that assertion.

Lt Bush is an exceptional fighter interceptor pilot and officer. He eagerly participates in scheduled unit activities. During the past year he participated in several target force deployments and an F-102 aircraft element deployment to Canada. His conduct and professional approach to this mission were certainly exemplary and apparent to observers. His skills as an interceptor pilot enabled him to complete all his ADC intercept missions during the Canadian deployment with ease. **STRENGTHS:** Lt Bush's major strength is his ability to work with others. He makes a welcome addition to any group or team effort. **SUGGESTED ASSIGNMENTS:** Lt Bush should be retained in his present assignment. He has gained valuable experience in the operations area and would be a welcome addition to any fighter squadron. **SELF IMPROVEMENT EFFORTS:** Lt Bush is presently enrolled in the Squadron Officer's School by correspondence and progressing satisfactorily. He also participates in unit ground schools and briefings to stay abreast of the F-102 weapons employment and the ADC mission. **OTHER COMMENTS:** Lt Bush is very active in civic affairs in the community and manifests a deep interest in the operation of our Government. He has recently accepted the position as campaign manager for a candidate for United States Senate. He is a good representative of the military and Air National Guard in the business world. His abilities and anticipated future assignments make him a valuable asset. He is a member of the National Guard Association of the United States and Texas.

Lieutenant Colonel Killian then stated on the same Officer Efficiency Report: "I concur with the comments and ratings of the reporting official." Finally, Major General Hodges, Lieutenant Colonel Killian's commander, stated:

I concur with the ratings of the reporting and indorsing officials. Lieutenant Bush is an exceptionally fine young pilot and officer and is a credit to this unit. I have personally observed his participation, and without exception, his performance has been noteworthy.

3. May 19, 1972 Lieutenant Colonel Killian Memo to File

With regard to the May 19, 1972 Lieutenant Colonel Killian Memo to File, the Panel concludes this document about an alleged phone call with Lieutenant Bush meshes well with the official Bush records in some respects. In the first portion of the memorandum, there is a reference to "ET," which the Panel understands to mean Equivalent Training. The memorandum also states that Lieutenant Bush was seeking an opportunity to transfer to Alabama and was prepared to accept any assignment.

The official Bush records from around this time, including documents dated May 24 and 26 and June 2, 1972, confirm that Lieutenant Bush was seeking an assignment in Alabama.

Eventually, in September 1972, Lieutenant Bush was approved for the Equivalent Training in Alabama with the 187th Tactical Reconnaissance Group. Lieutenant Colonel Killian and then-Colonel Hodges recommended approval of Equivalent Training on September 6 and 8, 1972, respectively. *See* Appendix 3. Thus, the request to transfer to Alabama and the issue of Equivalent Training mesh with the official Bush records. Further, the Panel agrees with Mapes that the transfer request was quickly approved, with Lieutenant Bush's application dated May 24, 1972 and the Alabama approval dated May 26, 1972. The Panel has no information from the official Bush records or otherwise regarding how this rapid approval came about.

The May 19, 1972 Killian file memo generally suggests that Lieutenant Colonel Killian was upset with Lieutenant Bush's request to transfer. However, none of the TexANG personnel who spoke to the Panel reported that Lieutenant Colonel Killian was angry with Lieutenant Bush regarding his request to transfer, or for any other reason. In fact, these former Guardsmen told the Panel that transfers were quite common given the nature of civilian jobs. Moreover, as noted above, Lieutenant Bush's May 1972 Officer Efficiency Report, authored by Major Harris, Bush's Flight Commander, and endorsed by Lieutenant Colonel Killian, states:

Lt Bush is very active in civic affairs in the community and manifests a deep interest in the operation of our government. He has recently accepted the position as campaign manager for a candidate for United States Senate. He is a good representative of the military and Air National Guard in the business world. His abilities and anticipated future assignments make him a valuable asset.

Thus, it appears from this official Bush record that Lieutenant Colonel Killian and Major Harris were aware of and supported Lieutenant Bush's request to transfer.⁸⁰

4. August 1, 1972 Memorandum

The next Killian document is the August 1, 1972 memorandum by which Lieutenant Colonel Killian allegedly ordered that Lieutenant Bush be suspended from flight status for failure to perform to TexANG standards and for failure to take his physical as ordered.

60 Minutes Wednesday made much in the September 8 Segment of the fact that Lieutenant

⁸⁰ Mapes advised the Panel that Lieutenant Colonel Killian would not have expressed any concerns in this OER because the OER was for the period ending April 30, 1972 and Bush's transfer arose in May 1972. First, the Panel does not know of any basis for such an assertion. Second, the OER references the transfer request, which was outside the rating period. Thus, the Panel believes it is just as likely Lieutenant Colonel Killian would not have concurred so readily with Major Harris' OER rating if he was upset with Lieutenant Bush.

Colonel Killian had suspended Lieutenant Bush for something going beyond just missing his physical examination. Thus, Rather stated as follows in the Segment:

This says on this date I ordered that First Lt. Bush be suspended not just for failing to take a physical but also for failing to perform to USAF/Texas Air Guard standards.

(emphasis added). The Panel finds that this document does not mesh well with the official records.

According to this document, it was Lieutenant Colonel Killian who verbally ordered Lieutenant Bush's suspension from flight status, and the document further states that Lieutenant Colonel Killian then conveyed his verbal order to his Commander, who was then-Colonel Hodges. The official Bush records show, however, that it was then-Colonel Hodges who suspended Lieutenant Bush from flight status, with the only reason given being failure to take the flying physical. This was on September 5, 1972, with an August 1, 1972 effective date.

5 September 1972

SUBJECT Suspension from Flying Status

To: 147th FG/CBPO

In accordance with paragraph 2-29m, AFM 35-13, failure to accomplish annual medical examination, 1st Lt George W. Bush, _____, is suspended from flying status effective date 1 Aug. 1972. Publish orders as directed in paragraph 2-28, AFM 35-13.

/s/

BOBBY W. HODGES, Colonel, TexANG
Commander

Cy to: 111th FIS/CC

(emphasis added).

Colonel Martin told the Panel that the National Guard Bureau needed to confirm a suspension order. The official Bush records include such a National Guard Bureau confirmation and they indicate that the August 1 verbal order to suspend Lieutenant Bush was issued by then-Colonel Hodges, not Lieutenant Colonel Killian. The official Bush record, dated September 29, 1972, states as follows:

Verbal orders of the Comdr on 1 Aug 72 suspending 1STLT George W. Bush, _____, ANGUS (Not on EAD), Tx ANG, Hq. 147 Ftr. Gp, Ellington AFB, Houston, TX, from flying status are confirmed, exigencies of the service having been such as to preclude the publication of

competent written orders in advance. Reason for Suspension: Failure to accomplish annual medical examination. Off will comply with para 2-10, AFM 35-13. Authority: Para 2-29m, AFM 35-13.

Mapes told the Panel that an interpretation of this document could be that “Verbal orders of the Comdr” could refer to Lieutenant Colonel Killian, since he was the commander of the 111th Fighter Interceptor Squadron. However, the Panel was told by both Major General Hodges and Colonel Martin that this document refers to the Commander (“Comdr”) of the “Hq 147 FTR Gp” who had issued the verbal order suspending Lieutenant Bush. Although Major General Hodges had no specific recollection of issuing the verbal order over 30 years ago, he was the Commander of the 147th Fighter Interceptor Group at the time. Further, the order suspended Lieutenant Bush solely for failing to take his annual physical. No other reason for the suspension, such as failing to perform to TexANG standards, was provided in the official Bush records. This is another indication that the August 1, 1972 memorandum may not mesh with the official Bush records.

5. June 24 and August 18, 1973 Memoranda

The last issue regarding the meshing of the Killian documents with the official Bush records pertains to the refusal of Lieutenant Colonel Killian and Lieutenant Colonel Harris to rate Lieutenant Bush for the period May 1, 1972 through April 30, 1973, due to his absence from Ellington AFB and lack of any feedback from the Alabama unit regarding Lieutenant Bush’s performance there. This implicates both the June 24 and August 18, 1973 Killian documents. It is suggested in the August 18 document that retired General Staudt was seeking to pressure Lieutenant Colonel Harris and then-Colonel Hodges to give Lieutenant Bush a good rating notwithstanding the fact that Lieutenant Bush had not been present at Ellington AFB during the rating period.

The Panel notes that the official Bush records generally support the content of the June 24 memorandum. Lieutenant Bush’s last flight in an F-102 at Ellington AFB is reported to have been on April 16, 1972. The official Bush records show that Lieutenant Colonel Killian and Lieutenant Colonel Harris were asked to rate Lieutenant Bush for the period of May 1972 through April 1973. Those official records also show that both Guardsmen resisted filling out the evaluation due to the fact that they had not observed Lieutenant Bush’s performance because of his transfer to Alabama. Ultimately, Lieutenant Colonel Killian and Lieutenant Colonel

Harris appear to have succeeded in their resistance, since in the end no rating was issued for Lieutenant Bush for that period. *See* Appendix 3, record dated Nov. 12, 1973. Thus, the content of the June 24, 1972 memo appears to mesh well with the official Bush records.

On the other hand, the Panel is unable to find support in the official Bush records or elsewhere for the August 18, 1973 Killian memorandum about alleged pressure regarding Lieutenant Bush from retired General Staudt. First, there is nothing in the official Bush records that supports the veracity of this memorandum.⁸¹ Second, Major General Hodges vigorously denied to the Panel that he received any pressure from retired General Staudt during the relevant time period. Indeed, Major General Hodges and some of the other Guardsmen with whom the Panel spoke were firm that General Staudt did not have any ability to influence anyone in the TexANG after he left in March 1972. Further, counsel to the Panel spoke briefly with General Staudt, who declined a formal interview due to recent health difficulties. However, in that brief phone call, General Staudt denied that he had any role with the TexANG after he retired in March 1972.

B. The Language and Format of the Killian Documents Do Not Match Those of the Official Bush Records

The Panel also examined the Killian documents to determine whether their format, language, jargon and other features are consistent with the official Bush records of the 147th Fighter Interceptor Group from the early 1970s. The Panel observes that on September 9, 2004 among the talking points prepared by Mapes for Rather to help deal with the rising tide of criticism of the September 8 Segment, the following representations were made:

- The military language and references in the documents are all in accordance with the docs being authentic.

⁸¹ Mapes advised the Panel that one could find support for the August 18, 1972 memorandum because Lieutenant Colonel Killian said he was willing to backdate a rating form and because there is a backdated form in the official Bush records. Mapes pointed to a form dated May 2, 1973 that was completed by Lieutenant Colonel Harris and to which Lieutenant Colonel Killian concurred. The form stated:

Lt Bush has not been observed at this unit during the period of report. A civilian occupation made it necessary for him to move to Montgomery, Alabama. He cleared this base on 15 May 1972 and has been performing equivalent training in a non-flying status with the 187 Tac Recon Gp, Dannelly ANG Base, Alabama.

The Panel does not believe this provides any support. This is not a rating and there is no evidence that it was backdated.

- The documents are absolutely in accordance with reasonable military formats and memo formats used at the time.
- We had a variety of military experts look at the documents for authenticity of language and sentiments expressed in the documents. They concurred that they strongly appeared to be authentic.⁸²

The Panel compared the Killian documents with the official Bush records of the 147th Fighter Interceptor Group and interviewed individuals who were in that Group at that time. The Panel finds that there are significant differences between the Killian documents and the official Bush records. The Panel provides below a summary of some key differences.

1. Location of the Signature Block

Four of the Killian documents, the February 2, 1972, May 4, 1972, August 1, 1972, and the June 24, 1973 memoranda, have signature blocks on the right side of the page. Three of the former TexANG personnel interviewed advised the Panel that the signature block in documents from the 147th Group would always be on the left. The Panel has reviewed the official Bush records, including four official documents signed by Lieutenant Colonel Killian, and has confirmed that the signature block in memoranda and letters of the 147th Fighter Interceptor Group was always on the left. Indeed, in the official Bush records available to the Panel, the signature block on documents from the 147th Group was on the left at least 20 times and was never on the right.⁸³ Accordingly, the referenced Killian documents deviate from standard format.

2. Format of the Killian Signature Block

Four of the Killian documents have signature blocks, but the format of the signature blocks varies greatly. Thus, a review of the Killian documents shows the following signature blocks:

February 2, 1972 memorandum to Major Harris:

JERRY B. KILLIAN

May 4, 1972 memorandum to Lt Bush:

⁸² Mapes advised the Panel that jargon, format and language deviations in the Killian documents should not undercut the authenticity of the documents since the Killian documents were for Lieutenant Colonel Killian's personal files. This appears to be an after-the-fact argument, given the talking points she prepared on September 9.

⁸³ There are some documents in the official record from the 147th Group that have signatures on the right side of the page, but these documents are pre-printed forms, not memoranda or letters written by members of the 147th Group.

JERRY B. KILLIAN
Lt. Colonel
Commander

August 1, 1972 memorandum for the record:

JERRY B. KILLIAN
Lt. Colonel

June 24, 1973 memorandum to “Sir”:

JERRY B. KILLIAN
Lt. Colonel

The Panel has reviewed the official Bush records and determined that the 147th Fighter Interceptor Group used a generic signature block format:

NAME, Rank, Branch of Service
Position in which he was signing (*e.g.*, Commander, President of Board, etc.)

It is evident that Lieutenant Colonel Killian used the same standard format for his signature block:

JERRY B. KILLIAN, Lt Col, TexANG
Commander

Among the official Bush records available to the Panel are five documents signed by Lieutenant Colonel Killian. These records evidence instances where Lieutenant Colonel Killian signed in accordance with the standard format and no instances where he signed as in the Killian documents. The Panel identified one instance where Lieutenant Colonel Killian signed in his capacity as President of the Federal Recognition Examining Board, and not in his capacity as Squadron Commander:

JERRY B. KILLIAN, Lt Col, TexANG
President of the Board

The deviation of the Killian documents from standard format of the signature block is another indication that the Killian documents may not be authentic.

3. Abbreviation of “Texas Air National Guard”

The August 1, 1972 Killian memorandum refers to Texas Air National Guard standards as “USAF/TexANG standards.” Several Guardsmen told the Panel that Texas Air National

Guard was always abbreviated by the 147th Group as “TexANG,” not “USAF/TexANG.” None of the official Bush documents for the 147th Group abbreviate Texas Air National Guard as “USAF/TexANG” and the official Bush records from the 147th Group abbreviate Texas Air National Guard as “TexANG” at least 22 times.

4. Abbreviation of “Fighter Interceptor Squadron”

The May 4, 1972 and June 24, 1973 Killian memoranda abbreviate “Fighter Interceptor Squadron” as “F.I.S.” Four former Guardsmen told the Panel that “Fighter Interceptor Squadron” should be abbreviated as “FIS,” without periods. The overwhelming majority of the official Bush records use the abbreviation “FIS” (16 times versus 1 time as “F.I.S.”). *See* Appendix 3.

5. Abbreviation of “Group”

The August 18, 1973 Killian memorandum abbreviated the 147th Fighter Interceptor Group as “Grp” in two places. Four former Guardsmen told the Panel that “Group” was always abbreviated “Gp.” In the official Bush records from the 147th Group, “Group” is abbreviated “Gp” on at least 14 occasions and never as “Grp.”

6. Abbreviation of “Officer Efficiency Report”

The August 18, 1973 Killian memorandum abbreviates “Officer Efficiency Report” as “OETR.” Four Guardsmen told the Panel that the correct abbreviation is “OER” or “ER.” One of the official Bush records, dated June 29, 1972, abbreviates the term as “OER” in three places and none of the official Bush records contains the abbreviation “OETR.” It should be noted that the title of the official Bush record containing the “OER” abbreviation is “Notice of Missing or Correction of *Officer Effectiveness / Training Report*.” (emphasis added). Nonetheless, the Panel believes that it is sound to conclude that the use of the term “OETR” in the August 18, 1973 memorandum represents a deviation from standard language then in use in the TexANG.

7. Abbreviation of “Lieutenant”

The Killian documents repeatedly abbreviate Lieutenant as “Lt.” with a period following the “t.” The official Bush records abbreviate the word as “Lt” with no period following the “t.”

8. Proper Term for Evaluation Board

The August 1, 1972 Killian memorandum states that Lieutenant Colonel Killian requested the “convening of a flight review board” Three former Guardsmen told the Panel that there was no entity called “flight review board.” The Panel has reviewed AFM 35-13, which covers the flying status of rated personnel, and has confirmed that the proper term should have been Flying Evaluation Board.

9. Memorandum Addressed to “Sir”

The June 24, 1973 Killian memorandum, which has Lieutenant Colonel Killian’s signature on it, is addressed to “Sir.” Several Guardsmen told the Panel that they doubted Lieutenant Colonel Killian would have addressed a memorandum to “Sir” because he was very “rank conscious” and would not have addressed anyone without including rank. There are no letters or memoranda from Lieutenant Colonel Killian in the official Bush records addressed to “Sir.”

10. The Superscript “th”

A superscript “th,” and whether it was possible for a document written in the early 1970s to have one, fueled much of the debate immediately after the Segment aired. A superscript “th” appears in the May 4, 1972, June 24, 1973 and August 18, 1973 Killian memoranda. A superscript “th” also was found in the official Bush records. The superscript “th” in the official Bush records, however, has a different appearance from the superscript “th” in the Killian documents. The superscript “th” in the official records has the superscript “th” not rising above the adjacent number and it is underlined. The superscript “th” in the Killian documents has the superscript “th” rising above the adjacent number and it is not underlined. Compare Exhibits 2B, 2E and 2F with Attachment A to Appendix 4.

The Panel sought to determine the types of typewriters in use at the 111th Fighter Interceptor Squadron in 1972-73. The Panel cannot reach a definitive conclusion, but the available data suggest that an Olympia manual was in use during at least a portion of President Bush’s service in the TexANG. Marian Carr Knox, the clerk typist for the 111th Fighter Interceptor Squadron in the early 1970s, told the Panel that she believes the typists in the building where Lieutenant Colonel Killian worked were using Olympia manual typewriters during this era and that these typewriters did have a superscript “th” key. Knox also stated that

sometime during the 1970's, she thinks around 1975, Ellington AFB switched from the Olympia manual typewriters to IBM Selectric typewriters. Knox could not recall whether the Selectric had a superscript "th" key, but thought that it probably did.

The Panel confirmed with Peter Tytell, a New York typewriter expert, that the Olympia manual did have the superscript "th" key. *See* Appendix 4, Attachment D, which shows a superscript key on the Olympia manual keyboard. He further expressed the opinion that the superscript "th" in the Bush official records matches the superscript produced on an Olympia manual typewriter from 1972-73, but did not match the "th" from the Killian memoranda. Tytell further expressed the opinion that the Olympia manual could not do proportional spacing, which appears to be a feature of the Killian documents but not of the official Bush records. More detail on Tytell's views are set forth in Appendix 4.⁸⁴

C. Concluding Observations on Meshing of Content and Language

The Panel acknowledges that it is possible to seize on one or other fragment of "proof" in the meshing analysis from which one could conclude that the Killian documents mesh to some degree with the official Bush records. However, when a careful analysis is conducted, which was not done by September 8, it is evident that there are serious inconsistencies. This is another instance where it appears that the zeal to air the Segment trumped the need for thorough reporting and vetting.

Again, the Panel stresses that it is making no finding as to the authenticity of the Killian documents. The Panel, with the assistance of its counsel, has sought to review the Killian documents carefully against the official Bush records and other available information. The Panel also acknowledges, however, that the review of military records is a highly technical exercise, which is fraught with difficulties even with the help of knowledgeable Guardsmen. Accordingly, it bears repeating that the Panel simply finds that its meshing review has revealed inconsistencies between the official Bush records and the Killian documents that have not been satisfactorily explained.

⁸⁴ The Panel notes that Tytell believes that Attachment A to Appendix 4, the official Bush record with the superscript "th," reflects not only the use of an Olympia manual typewriter but also some other model for some of the entries after 1968. Appendix 4, footnote 4. Given such information, the Panel cannot conclude with any degree of certainty that the Olympia manual was in service at Ellington AFB through President Bush's entire TexANG service. The Panel also observes, however, that Tytell is of the opinion that no IBM typewriter from the 1970s could have created the Killian documents. *See* Appendix 4. The Panel addresses these issues further in Chapter IX.C.2.d.ii.

IX. THE AFTERMATH

A. General Observations

In dealing with the Aftermath, *60 Minutes Wednesday* and CBS News made numerous mistakes. Among other things: it refused for a long period even to acknowledge that it might have erred; it focused its search for fresh examiners only on those who would agree with the conclusions of the September 8 Segment; it let “We stand by our story” substitute for “Let’s make sure we’re right”; it brushed aside criticism; and it issued inaccurate public statements.

Indeed, in the Panel’s view, if *60 Minutes Wednesday* and CBS News had simply acknowledged the issues raised and told its viewers promptly that it would seek to re-verify what *60 Minutes Wednesday* had reported and would correct and apologize if it found anything wrong, the Panel would not be writing this Report.

To be sure, *60 Minutes Wednesday* and CBS News felt itself in a sudden conflict, if not a war, with a variety of critics and competitors. As the Panel views what happened, a sense of siege appears to have dominated the climate and prolonged the agony for 12 extremely difficult days.

The Segment aired at 8 p.m. on Wednesday, September 8, and the four Killian documents used in the Segment were posted on the CBS News website that night at approximately 9:30 p.m. Immediately after the broadcast, Mapes received a large number of e-mails from CBS News and *60 Minutes Wednesday* colleagues, praising the Segment. The words used – “Excellent piece Thanks for including me,” “I continue to be in awe of you,” “You are amazing,” “[I]’m in awe of your total command of this project,” “You are great,” “You continue to astound” – are testament to the high regard for Mapes within CBS News and *60 Minutes Wednesday* and the utter belief and trust in the story. Clearly, *60 Minutes Wednesday* did not put out a story that it believed might be untrue.

At the same time, some people on the Internet, at first primarily supporters of President Bush with their own conservative political agenda, started to question the authenticity of the documents. By the next afternoon, however, it became clear that the criticisms were no longer simply partisan. Mainstream media, including ABC News, *The Associated Press*, *The New York Times* and *The Washington Post*, were investigating whether *60 Minutes Wednesday* had used fake documents in the September 8 Segment. Thereafter, and continuing well after

September 20, 2004, when CBS News issued its apology and stated that it could not vouch for the Killian documents' authenticity, CBS News and *60 Minutes Wednesday* were under continuous attack by the media, political personalities and others. Indeed, CBS News advised the Panel that between September 8 and October 13, it received nearly 109,000 e-mails related to the September 8 Segment, most of them negative.

The Panel has examined how *60 Minutes Wednesday* responded to the attacks. That response can be broadly characterized as follows:

- Strong public statements insisting that the Killian documents were authentic, that the content of the September 8 Segment was accurate, and that *60 Minutes Wednesday* had relied on extremely reliable, even "unimpeachable," sources;
- Continuous efforts by *60 Minutes Wednesday* to identify additional examiners who would support the authenticity of the documents;
- News reports on the *CBS Evening News* and *CBS Evening News Saturday Edition* defending the September 8 Segment; and
- Virtually no effort, despite the vigorous assault on its work, to take a fresh, objective look at the September 8 Segment, both in terms of the authenticity of the documents used and the sources from which they came, to make certain that the Segment was sound in all respects.

From the outset, there appeared to be differing opinions within *60 Minutes Wednesday* about how to respond to the criticisms of the Segment. Since the critics claimed that the Killian documents were fakes, one tack was to defend the authenticity of the documents. In addition, however, *60 Minutes Wednesday* also argued from the outset that regardless of the authenticity of the documents, the content of the documents was accurate and thus provided confirmation in and of themselves of the documents' authenticity. Another view, which was quickly rejected, was that *60 Minutes Wednesday* should take a new, harder look at the reporting of the story before defending it further. Ultimately, the *60 Minutes Wednesday* focus on the accuracy of the content of the documents overtook the authenticity issue, such that *60 Minutes Wednesday* came to argue that the most important issue was that the content of the September 8 Segment was accurate.

The Panel finds that the questions and assaults directed towards the September 8 Segment should have been answered with fresh, independent reporting to determine their validity, certainly by or shortly after September 10. Instead, *60 Minutes Wednesday* answered with an unyielding and strident defense and lost the battle.

B. September 8-9 – The Initial Attacks

60 Minutes Wednesday personnel were well aware that the September 8 Segment addressed extremely sensitive issues – the incumbent President’s TexANG service record in the midst of an increasingly bitter Presidential campaign. Indeed, Rather regarded the Segment as “radioactive.” Accordingly, senior personnel within CBS News, including those at *60 Minutes Wednesday*, fully expected that there would be many critics. However, they seriously underestimated the ferocity of the assaults on the documents and CBS News’ alleged motives in airing the Segment.

The attacks on the September 8 Segment began virtually immediately. One of the first came on freerepublic.com, a website:

[E]very single one of these memos to file is in a proportionally spaced font, probably Palatino or Times New Roman. In 1972 people used typewriters for this sort of thing, and typewriters used monospaced fonts. The use of proportionally spaced fonts did not come into common use for office memos until the introduction of laser printers, word processing software, and personal computers. They were not widespread until the mid to late 90’s. Before then, you needed typesetting equipment, and that wasn’t used for personal memos to file. Even the Wang systems that were dominant in the mid 80’s used monospaced fonts. I am saying these documents are forgeries, run through a copier for 15 generations to make them look old.⁸⁵

This was followed on the morning of September 9 by further attacks, mostly by bloggers with a conservative agenda, challenging the authenticity of the documents. These included stories on Powerlineblog.com⁸⁶ and littlegreenfootballs.com.⁸⁷ Finally, by about 3 p.m., Matt Drudge, the author of the widely read Drudge Report website, had joined the fray, and, thereafter, the onslaught of attacks on the authenticity of the Killian documents was unrelenting.

The initial attacks on the Killian documents focused on several technical issues. First, many critics claimed that the superscript “th” in the May 4, 1972 and August 18, 1973 memoranda did not exist on typewriters in the early 1970s.⁸⁸ Second, others questioned the authenticity of the Killian documents because they displayed proportional spacing, which was

⁸⁵ Harry MacDougald, *Documents Suggest Special Treatment for Bush in Guard*, Sept. 8, 2004, at <http://freerepublic.com/focuslf-news/1210662/posts?q=1&&page=1>

⁸⁶ See *Powerline Wins, CBS Loses*, Sept. 9, 2004, at <http://powerlineblog.com/archives/2004-09.php>. “Powerline” is a Minnesota-based blog run by John Hinderaker and Scott Johnson, both of whom are attorneys.

⁸⁷ See *Bush Guard Documents: Forgeries?*, Sept. 9, 2004 at <http://littlegreenfootballs.com/weblog1?entry=12524>

⁸⁸ Heyward was concerned early on about the superscript “th” issue. Thus, in the early evening of September 9, he had inquired of West: “What does Mapes say about the little ‘th’ that ABC mentioned?”

thought not to be widely available on typewriters used in the early 1970s and was not used on other TexANG records that were known to be authentic. A *Washington Post* reporter posed the following question to CBS News on September 9:

The documents purporting to come from Lt. Col. Killian are written in a proportional type face. Other documents generated by the 111th Fighter Squadron whose authenticity has been established beyond question are written in a non-proportional type face. How do you explain the discrepancy?

Third, other critics contended that the Killian documents appeared to be in Times New Roman, a font that they said was not available on typewriters in the early 1970s. As discussed below, the Panel finds that CBS News and *60 Minutes Wednesday* never developed satisfactory answers to these questions.

One of the earliest defenses of the September 8 Segment came in a Mapes e-mail to a journalist outside of CBS News. In a 2:38 p.m. e-mail on September 9, Mapes referred to document authentication as “sort of a black art” and that “[e]xperts disagree on all kinds of [expletive] about typeface.” Instead of relying on the experts, she made clear in this e-mail, “the bottom line for [her] as a reporter” was that she had “talked to [Major General] Hodges who confirmed that some of the memos sounded familiar . . . and that [Lieutenant Colonel] Killian did indeed feel this way about [President] Bush leaving for Alabama.”

The attacks on the September 8 Segment continued throughout the day on September 9. In response to these growing attacks, two actions initially were taken. First, at Rather’s request, Mapes prepared “bullet points” that could be posted on the CBS News website and that could be used by him when speaking to reporters. The bullet points stated as follows:

- We had analysis done of the documents prior to air and expert support of authenticity. Bear in mind that document and handwriting analysis are not exact sciences and experts are hired to disagree on these kinds of issues in court every day.
- We had confirmation by Killian’s commander that the documents were “familiar” to him and that Killian did indeed feel this way. Hodges and Killian were the two commanders closest to Bush and dealing with his issues every day. And Hodges supports the documents authenticity. By the way Hodges is a long-time advocate for Bush and his guard service...and he agreed they were real.
- Former Administrative Asst. Robert Strong looked at them and agreed they were all in accordance with the papers he dealt with every day on his job and with the person he knew Killian to be.

- The military language and the references in the documents are all in accordance with the docs being authentic.
- The source for the documents was vetted by CBS not just for truthfulness but for ability to get access to these documents.
- The documents are absolutely in accordance with reasonable military formats and memo formats used at the time.
- We had a variety of military experts look at the documents for authenticity of language and sentiments expressed in the docs. They concurred that they strongly appeared to be authentic.
- Using journalistic and legal tools, we decided there was a preponderance of evidence that the documents are real.

CBS News personnel subsequently used these bullet points in speaking to the media, although they were not posted on the CBS News website.⁸⁹

The Panel finds many of these bullet points inaccurate, in whole or in part. The Panel notes the following:

- “[E]xpert support of authenticity.” In fact, no expert had provided an opinion that the documents were authentic. Indeed, only one expert had seen all the documents and that expert had stated that he could not authenticate the documents because they were poor copies and he had authenticated only one signature on one document used on the Segment.
- “[Hodges] agreed [the Killian documents] were real.” Mapes’ notes from her September 6 telephone call with General Hodges do not reflect him saying this. Further, Major General Hodges denied to the Panel that he said the documents were real. Instead, he advised the Panel that he merely confirmed to Mapes that he and Lieutenant Colonel Killian discussed the fact that then-Lieutenant Bush had missed his physical and had requested a transfer to Alabama. Further, it seems unlikely that Major General Hodges would have said the documents were real since he was not even shown the documents at the time of this phone conversation. Major General Hodges told the Panel that he did not fully comprehend in the phone conversation what it was that Mapes was reading to him.
- Reliance on Lieutenant Robert Strong. As addressed in Chapter VII of this Report, Lieutenant Strong had no personal knowledge about the documents or any disagreements that may have existed between Lieutenant Colonel Killian and then-Lieutenant Bush.
- “The documents are absolutely in accordance with reasonable military and memo formats used at the time.” There are multiple reasons not to agree with this statement, as addressed previously in Chapter VIII.B of this Report.

⁸⁹ For example, many of the bullet points subsequently were reported in *The Washington Post* on Saturday, September 11. See Howard Kurtz, *Rather Defends CBS Over Memos on Bush*, WASH. POST, Sept. 11, 2004, at A7.

- “The military language and the references in the documents are all in accordance with the docs being authentic.” As demonstrated in Chapter VIII.A and Chapter VIII.B of this Report, the meshing claim leaves many questions.
- “The source of the documents was vetted” As previously noted, *60 Minutes Wednesday* management told the Panel that they were not aware of many significant facts related to Lieutenant Colonel Burkett before the broadcast of the September 8 Segment. Moreover, the alleged primary source, Chief Warrant Officer Conn, had not even been contacted. Further, Mapes had been told by Lieutenant Colonel Burkett that if Chief Warrant Officer Conn were contacted, he would deny that he was the source of the documents.

The Panel must also comment on the last bullet: “Using journalistic and legal tools, we decided there was a preponderance of evidence that the documents are real.”⁹⁰ The September 8 Segment contained the following sentence: “We consulted a handwriting analyst and document expert who believes the material is authentic.” The language in the Segment had no qualification about “a preponderance of the evidence” and most of those interviewed by the Panel who had been involved in the preparation and vetting of the Segment believed that four handwriting and document experts and Major General Hodges had reached an unqualified conclusion as of September 8 that the Killian documents were authentic. It was only on September 9, that the Mapes-drafted bullet points introduced the legalistic notion that “a preponderance of the evidence,” *i.e.*, anything over 50 percent, supported a finding that the documents were authentic. This should have given management a strong signal that the authentication process carried out before the September 8 Segment was broadcast might not have been as airtight as initially believed.

Second, CBS News issued a Press Statement late in the afternoon of September 9. *See* Exhibit 3C. The Press Statement, reflecting input from Mapes, Howard, West and the Communications Group, stated:

As is standard practice at CBS News, the documents in the 60 Minutes report were thoroughly examined and their authenticity vouched for by independent experts. As importantly, 60 Minutes also interviewed associates of Colonel Jerry Killian. They confirm that the documents reflect his opinions and actions at the time.

The Panel has concerns about this Press Statement as well. First, the statement that the documents’ “authenticity [was] vouched for by independent experts” is false for reasons that the

⁹⁰ Mapes informed the Panel that the “legalistic tools” were Freedom of Information Act requests to gain access to the official Bush records.

Panel has already explained. Second, the statement that “associates of Lieutenant Colonel Killian confirm that the documents reflect his opinions and actions at the time” is also problematic. Assuming that “associates” refers to Major General Hodges and Lieutenant Strong, they told the Panel that they did not have any personal knowledge regarding the existence of these documents and could not confirm whether they reflected the opinions and actions of Lieutenant Colonel Killian. To the Panel’s knowledge, no other person in a position to have personal knowledge had done so either.

The Panel observes that an early draft of the Press Statement contained a statement that “CBS verified the authenticity of the documents by talking to individuals who had seen the documents at the time they were sent originally” Although the Panel has found no basis for this assertion, it is apparent that a CBS News official speaking with the media also was of the view that this assertion was accurate. Thus, *The Washington Post* on September 10 reported that CBS News had “verified the documents by talking to unidentified people who saw them ‘at the time they were written.’”⁹¹ The Panel believes that such defective statements to the media, which CBS News could not defend, compounded the network’s difficulties as the Aftermath proceeded. As set forth in Chapter XI, Recommendations, the Panel recommends that Press Statements and other information provided to the media on news matters must in the future adhere to the same level of accuracy and fairness that any CBS News story is expected to achieve.

The *CBS Evening News* on Thursday, September 9, 2004 included a report by Correspondent John Roberts about the fallout from the September 8 Segment.⁹² Interestingly, this report focused solely on the recriminations between Republicans and Democrats about President Bush’s TexANG service record. The September 9 report did not mention at all the already widespread and growing controversy about the authenticity of the Killian documents, which the Panel finds to be a conspicuous omission.

Mainstream news media also focused heavily on the authenticity issue on Thursday, September 9. Sometime during that afternoon, and before the CBS News September 9 Press Statement was issued, CBS News learned that ABC News planned to air a story that evening on

⁹¹ Michael Dobbs & Mike Allen, *Some Question Authenticity of Papers on Bush*, WASH. POST, Sept. 10, 2004, at A1. The Panel recognizes that *The Washington Post* and other media may not have quoted CBS News accurately. Nonetheless, this is strong evidence that CBS News disseminated some false information.

⁹² The full text of the report can be found in Exhibit 1C.

the developing controversy. In fact, ABC News subsequently did run stories that night concerning the September 8 Segment on its *ABC World News Tonight* and on *Nightline*.

World News Tonight on September 9 included the following statement about the document authenticity issue:

[S]everal document experts contacted by ABC News have raised serious questions about the authenticity of these new documents. They point to the typeface, spacing and perfectly even imprint of the letters that look more like the creation of a computer than an old-fashioned typewriter. And there's this, the little superscript "th." That's something very few typewriters could do in 1972.

Later that night on *Nightline*, ABC News carried a longer story about the controversy. Among other things, ABC News carried statements from Lieutenant Colonel Killian's widow and son. Lieutenant Colonel Killian's widow stated:

But he wasn't a typist. And what is remarkable to me is that he was a person who did not take or make copious notes. He carried everything in his mind. I mean, he didn't have time to make notes.

Lieutenant Colonel Killian's son then stated:

I don't believe the documents are authentic for several reasons. One, it was not the nature of my father to keep private files like this. Nor would it have been in his own interest to do so.

The *Nightline* show then proceeded to discuss more technical issues as well:

Among the questions experts raise about the Killian memos include the print font and letter spacing that they say is rare for typewriters in the early 1970s. CBS News has not said where it obtained the memos. But in a statement tonight, it insisted the documents in the 60 Minutes report were thoroughly examined and their authenticity vouched for by independent experts. 60 Minutes also interviewed close associates of Colonel Jerry Killian. They confirm the documents reflect his opinions and actions at the time.

The Panel believes that such comments provided a strong basis for undertaking a thorough, re-examination of the September 8 Segment. Unfortunately, as the Panel describes below, that did not occur, despite a directive the following morning from CBS News President Heyward.

On the evening of September 9, Mapes believed that she had an answer to whether the superscript "th" was available on typewriters in 1972-73. She found among the official Bush records a document with a superscript "th." The superscript "th" in the official Bush record, however, did not rise above the adjacent number and was underlined, as can be seen in Attachment A to Appendix 4 to this Report. *See also*, Appendix 4 at 3. In contrast, the

superscript “th” used in the Killian documents rose well above the adjacent number. *See* Exhibits 2B, 2E and 2F. Notwithstanding this potentially significant difference, as discussed later in this Report, the September 10 *CBS Evening News* report pointed to the existence of the superscript “th” in the official Bush records as evidence that the documents used by *60 Minutes Wednesday* were authentic. The Panel does not believe that this was sound reporting.

In response to the mounting criticism, Heyward sent West an e-mail the evening of September 9, 2004 stating: “I’d leave nothing to chance [referring to the just-discovered superscript “th” document]. Did Mary’s expert vet the whole doc or just Killian’s signature?” West responded that her understanding was that the “expert(s) examined the whole document” and that Mapes “remains steadfast” She then added, “Privately, of course, we have to stay on top of every allegation in case one of them shakes our confidence in the story.”

C. CBS News Strategy, September 10-13, 2004

CBS News and *60 Minutes Wednesday* refined their strategy to address the controversy over the September 8 Segment early on Friday, September 10, 2004. This strategy was supposed to have two aspects: (i) a private directive from Heyward to West to take a confidential but hard look at the September 8 Segment to make certain that the Segment was correct in all respects; and (ii) a strong public defense of the September 8 Segment, coupled with presentations by *60 Minutes Wednesday*’s experts to demonstrate that the Killian documents were authentic. The Panel discusses, in turn, each aspect of these strategies and the respects in which they were or were not adequately implemented.

1. Andrew Heyward’s September 10 Directive

On Friday, September 10, George Stephanopoulos and Charles Gibson on ABC’s *Good Morning America* reported at length on the growing controversy, including the use of graphics about proportional spacing and the superscript “th” and the following:

Gibson: But yesterday we were talking about these documents from the early ‘70’s that called into question whether George W. Bush had really fulfilled his duties to the National Guard. Now we’re talking about the fact they may be forgeries. So what’s going on?

Stephanopoulos: Well we’ve turned to a lot of experts, a lot of forgery experts, and they point to a lot of clues which show that these documents may have been doctored. That they had to have been produced by a word processor not a typewriter that was available at the time.

Number one, they say the documents have proportional spacing which means that different letters are different sizes, and it's in a kind of font, Times Roman, which is only used on word processors, not widely available on typewriters. Number two, look at the little superscript in the documents, "th" after the 111 and the 187.

Again, they say that this kind of superscript was not available on a typewriter in 1972 or 1973.⁹³ And then, finally, on the documents, the apostrophes are curved.

Again, one more time, that's what you see on word processors not typewriters.

Gibson: So, can the experts say, George, positively, that these weren't typed and, therefore, couldn't have been made in the early '70s?

Stephanopoulos: They say all the clues indicate that. They're not making an absolute, 100 percent guarantee. And CBS is still standing by its story and, in fact, they're also pointing to another source, a Colonel Robert Hodges, who was an immediate superior of Mr. Killian. They say they read these documents to Colonel Hodges and he said, that sounds like what Killian was telling me at the time. Hodges is not speaking to anyone else yet.

Gibson: Mm. Has it come to this, though, George? You were talking about the fact we've all become experts on documents in the last few days, and we've been going to these document experts. Has it come to this that, that questions get raised? I mean, these charges in these documents, if you interpret them at the worst for the president, are not all that explosive. But are we really into dirty tricks, perhaps, of this magnitude?

Stephanopoulos: It's certainly possible. And Charlie, I just gotta tell you, from people all over the political world yesterday, they don't even know where the dirty tricks are coming from. I should say, just before we got on the air, Joe Lockhart of the Kerry campaign denies that the Kerry campaign had anything to do with these documents. Another Kerry researcher says they learned about them on television. A lot of Democrats suspect this was a set-up, something set up by Republicans. So, there's a lot of suspicion going around on all sides.

It was clear to Heyward from viewing this ABC News report that the controversy over the September 8 Segment had worsened. Accordingly, at 7:49 a.m. on Friday, September 10, Heyward sent an e-mail to West instructing her to supervise a careful re-examination of the September 8 Segment to make certain that the *60 Minutes Wednesday* reporting was sound in all

⁹³ ABC News did not identify their experts. As discussed in this Report, the official Bush records during this time did include a superscript "th," although it appears different than the superscript "th" in the Killian documents. Moreover, Peter Tytell told the Panel that typewriters during that time did have a superscript "th" key. See Appendix 4.

respects. In short, Heyward wanted to know promptly, indeed, he suggested that West seek answers by noon on September 10 if possible, if there were any possible difficulties with the Segment. Heyward stated:

Don't we have to come up with OR SHARE more evidence rather than just "stand by" our statement? This is a direct attack on our credibility that will stick if we don't come back as hard as possible – not by saying "we'll investigate all allegations" (which of course we should), but by giving some indication WHY we're so confident.

Specifically, let's find out much more about Mary's expert(s) on the authenticity of the papers. How many were there? Why are we keeping their names back? Did any of them raise these questions about typography? If not, why not? If so, how were they resolved? (I know we discussed a bit of this yesterday). The critical analysts have no problem going public. Why not the ones who agree with us? That's not a rhetorical question, because maybe there's a good reason, but it makes our position seem cryptic and arbitrary when I don't believe it is.

You should also talk to Mary more about how she got the documents. At this point, we need to know more than we do. I read them again, and they seem plausible and very subtle if they are indeed "disinformation," but is it possible that it's a clever dirty trick by Rather-haters – a SETUP aimed at CBS? According to Stephanopoulos this morning, "some Democrats" are suggesting that, and it occurred to me as well, although it seems farfetched. Close questioning of Mary should shed light on that.

You also have to talk to Mary about what the Evening News does tonight. The Early Show did a tell on the controversy. But the EN broke the story even before 60; it seems odd not to address the controversy there. Since we believe strongly that we are on solid ground, that would be a great place to show why we think so, but it has to be done with specific information, not just stubborn repetition of what we've already said.

I think this can all be done without undercutting our own people. Your posture with Mary should be that since we're confident in our reporting, we should be able to prove it. Let's see how far we can go down that road.

(emphasis added).

As will be discussed below, the Panel concludes that this directive was not implemented in a prompt or systematic way. The Panel does not underestimate the storm that hit CBS News. However, there was no prompt, in-depth examination of the document authentication process or of the examiners used by *60 Minutes Wednesday*. Similarly, there was no prompt, in-depth examination about how Mapes obtained the Killian documents. Instead, contrary to Heyward's directive, there was more "stubborn repetition of what [CBS News had] already said."

2. CBS News' Public Defense of the September 8 Segment

a. Development of the Strategy: The September 10 Conference Call

By early on Friday, September 10, it was clear that the controversy over the Segment had not abated but had increased. Not only had ABC News continued to cover the story but *The Washington Post* (page A1) and *The New York Times* (page A17) ran lengthy stories on the controversy on September 10.⁹⁴ Thus, as of early on September 10, CBS News needed to decide how it should respond to the controversy.

Howard had developed concerns about the September 8 Segment on September 9, and acknowledged that the bloggers and other matters, such as the differences in the superscript “th” in the official Bush records as opposed to the Killian documents and the ABC News *Nightline* report that he found “credible,” had shaken his confidence. Indeed, when asked by the Panel if he found the events of September 9 unsettling, Howard stated: “Yes, that is an understatement.”

Thus, in an e-mail sent at 4:53 a.m. on September 10 to West, Howard proposed a media strategy that would acknowledge the possibility that *60 Minutes Wednesday* had been the victim of a hoax:

I wonder if it's time for us to take the offensive and say, look, we think we're on solid ground, but we're not just sitting on our hands. We're continuing to investigate, and if we were the victims of an elaborate hoax, no one would be more anxious to get to the bottom of it than CBS News.

A statement might say:

There have been allegations that the documents on which we reported were either forgeries or re-creations. Nothing we have learned over the past 48 hours leads us to believe that. We remain enormously confident in the thoroughness and accuracy of our reporting.

If indeed one or more of the documents is not authentic, it would mean that CBS News was the victim of an elaborate hoax. We have no evidence that that was the case. But we are continuing to aggressively investigate, and should we find that anyone - the Kerry campaign, the Bush campaign, or anyone else -- was responsible for circulating fraudulent documents and orchestrating a hoax, no one would be more anxious to break that story than CBS News.

⁹⁴ Dobbs & Allen, *supra* note 91; Katherine Q. Seelye & Jim Rutenberg, *Commander's Son Questions Memos on Bush's Service*, N.Y. TIMES, Sept. 10, 2004, at A17. Many other stories were run as well. For example, the *Houston Chronicle* on September 10 ran *The Washington Post* article of that morning verbatim. Major General Hodges happened to be in Houston on that day and read the article and saw that he was identified as the “trump card” to authenticate the Killian documents. The Panel reports further on Major General Hodges' reaction below.

The point would be to shift the conversation from CBS did something wrong, to something wrong was done to us and we're mad as hell.

West rejected Howard's suggestion via a return e-mail at 8:39 a.m.:

I think we need to defend ourselves specifically [and] not even concede that we think it could be a hoax.

Later on September 10, Howard would again express concerns to West, Mapes and Heyward about the Segment after speaking with Peter Tytell, an individual with extensive typewriter experience. At that time, Howard's concerns again were not acted upon and thereafter Howard did not have a major role in the Aftermath, with West apparently taking the management lead and Mapes taking the production lead on follow-up stories that defended the Segment.

On Friday, September 10, at approximately 9 a.m., a conference call was convened to discuss the strategy for defending against the growing controversy. On this conference call were West, Howard, Mapes and three people from the Communications Group: Gil Schwartz, Sandy Genelius and Kelli Edwards.

During the call, which lasted about 45 minutes, Mapes was questioned about the September 8 Segment and whether there was any reason to give credence to any of the questions being raised. According to people interviewed by the Panel, Mapes was unflinching in her defense, although participants had varying recollections about precisely what was said. For example, one participant recalled that someone referred to *60 Minutes Wednesday's* sources as "unimpeachable" and that they were told that *60 Minutes Wednesday* had four experts who supported the September 8 Segment. None of the participants recalled any detailed discussion, however, of the sources of the documents or the precise findings of the four experts. Schwartz recalled Mapes' saying that the two women experts had seen only one of the four documents and were "flaky" and that Matley was described as "timid." This might have served as an additional early indication that at least one aspect of the reporting for the September 8 Segment, authentication of documents, was problematic.

With regard to the issue of document authentication, Schwartz also recalled Mapes stating that document validation was a "black art" and an "inexact science." In response, Schwartz demanded to know why *60 Minutes Wednesday* thought that the documents were real. Schwartz recalled that Mapes listed a number of reasons: the source was "impeccable"; the source had worked in the Texas National Guard for years and had no axe to grind; the chain of custody was solid; and a person would have to know a great deal about President Bush's

TexANG service record in order to fake the documents, such as dates, places, etc. There appears, however, to have been no detailed interrogation about who the sources were or why the chain of custody was considered to be so good. Given the lack of such details, the Panel cannot conclude that Heyward's directive to get details on these issues was being carried out at this time.

b. The September 10 Press Statement

CBS News' public strategy developed out of the September 10 conference call. It was agreed that a Press Statement would be issued to strongly defend the Segment given Mapes' assurances that the Segment was solid.⁹⁵ It was further agreed that CBS News would present strong evidence through *60 Minutes Wednesday's* experts to demonstrate that the documents were authentic, beginning with the September 10 *CBS Evening News*. Genelius told the Panel that she recalled someone from *60 Minutes Wednesday* stating that they would get on the experts issue and "work all weekend" to get them lined up. She told the Panel that this struck her as odd, since she thought that *60 Minutes Wednesday* would already have had the experts "lined up." In any event, Jim Murphy, the Executive Producer for *CBS Evening News*, described the September 10 plan as follows in an e-mail to West and Howard:

Mary and Dan feel they have enough material and expert testimony to do a new piece refuting the stuff that's floating out there. We are going to go down that road.

The Press Statement issued by CBS News just before noon on September 10 read as follows:

For the record, CBS News stands by the thoroughness and accuracy of the 60 Minutes report this Wednesday on President Bush's service in the Texas Air National Guard. This report was not based solely on recovered documents, but rather on a preponderance of evidence, including documents that were provided by unimpeachable sources, interviews with former Texas National Guard officials and individuals who worked closely back in the early 1970s with Colonel Jerry Killian and were well acquainted with his procedures, his character and his thinking. In addition, the documents are backed up not only by independent handwriting and forensic document experts but by sources familiar with their content. Contrary to some rumors, no internal investigation is

⁹⁵ In a 10:29 a.m. e-mail to the Executive Producer of the CBS Evening News, West stated, "We're working on a statement to strongly deny the idea that we're retracting the story or conducting an internal investigation."

underway at CBS News nor is one planned. We have complete confidence in our reporting and will continue to pursue the story.

See Exhibit 3D (emphasis added).

The Panel has sought to determine how this Statement came to be issued, in particular with respect to the derivation of the language referring to “unimpeachable sources,” a reference to a “preponderance of evidence” and the backing of “independent handwriting and forensic document experts.” The Statement appears initially to have been drafted by West, whose draft was sent to Schwartz at 9:56 a.m. and read as follows:

Nothing that we have learned in the past 24 hours has shaken the confidence we have in the thoroughness and accuracy of our reporting on the documents related to President Bush’s service in the Texas Air National Guard. The content of the documents is supported by a number of unrelated, independent sources. The handwriting and document analysts consulted by CBS News continue to believe that the documents are authentic. We stand by our reporting and will continue to aggressively pursue the story.

At 10:36 a.m., Schwartz circulated a revised draft to West, Jim Murphy, Howard, Heyward, Mapes and Genelius, which dropped West’s reference to the documents being authentic and used language very close to that contained in the final draft. Schwartz’s revised draft read as follows:

For the record, CBS stands by the thoroughness and accuracy of our reporting on the documents related to President Bush’s service in the Texas Air National Guard. These documents are backed up not only by independent experts but by several sources familiar with their content. This report was not based solely on recovered documents, but rather on a preponderance of evidence, including the documents, which were provided by unimpeachable sources, interviews with former Texas National Guard officials and individuals who worked closely back in the early 1970s with Lieutenant Colonel Killian and were well acquainted with his procedures, his character and his thinking. Beyond that, the documents themselves were examined by independent handwriting and forensic analysts. No internal investigation is underway nor is one planned. We stand by our reporting and will continue to aggressively pursue the story.

Thereafter, Rather and Heyward suggested some minor changes and the Press Statement was issued.

The Panel is troubled that such a Statement would be issued with no detailed internal discussion of the sources before calling them “unimpeachable.” Further, it is telling to the Panel

that there similarly was no detailed discussion of what *60 Minutes Wednesday's* examiners had done and could be expected to present to the public, particularly since part of the adopted strategy was to have those examiners strongly and publicly defend the authenticity of the documents. Finally, the reference to “a preponderance of evidence” should have raised questions regarding the strength of the support for the documents.

Clearly, in the Panel’s view, the ground had begun to shift. But the earthquake would not come until four days later when two of *60 Minutes Wednesday's* document examiners would themselves seriously undermine the documents in interviews with ABC News.

The Panel has also considered whether CBS News erred when it stated in the September 10 Press Statement that “no internal investigation is underway nor is one planned.” The Panel concludes that it would be unfair hindsight to fault CBS News for this portion of the Press Statement, particularly after senior management had received unequivocal assurances from Mapes that the September 8 Segment was sound. However, as noted later in this Chapter, when the purported examiners were not produced and other problems arose, an investigation should have begun.

The Panel has also sought to assess whether any fault for the aggressive defense of the September 8 Segment should rest with the Communications Group, which issued the various statements on behalf of CBS News, including the Statement issued the morning of Friday, September 10. The Communications Group serves as the public relations arm of CBS News and relies on CBS News personnel for the factual information that forms the basis for Press Statements and other information provided to the public. The Communications Group was told repeatedly by *60 Minutes Wednesday* that the September 8 Segment was solid, the documents were real and the sources were reliable. Given such assurances, the Communications Group structured an aggressive defense, with every significant statement reviewed and approved by management of CBS News before it was issued. The Panel finds that the responsibility for the public statements lies with the management of CBS News, and not the Communications Group.

c. Failure to Have Experts to Defend the Documents and the September 10, 2004 *CBS Evening News* Broadcast

The strategy of getting *60 Minutes Wednesday's* examiners to defend the authenticity of the Killian documents was put in place by approximately 10 a.m. on Friday, September 10. It became clear thereafter, however, that none of the examiners retained by *60 Minutes Wednesday*

could authenticate the documents. This should have prompted questions from management about whether and how the Killian documents were, in fact, authenticated.

At about 1 p.m. on September 10, Jim Murphy sent an e-mail to a group of CBS News colleagues, reporting that his media contacts thought CBS News was putting up a weak defense. For example, he referred to comments from a *Time* magazine editor: “He said he couldn’t understand why we haven’t issued a more thorough defense...it’s making him and his investigative guys think they are missing something big.” This prompted an immediate reaction from Schwartz:

We need two things:

1. We need our expert available NOW to speak to all those who are reporting this story. We need the expert. Now. We need him now.
2. We need the talking points that can be crafted into a statement of defense and talked about by Dan when he calls people.

#1 is essential RIGHT NOW. We NEED THAT EXPERT.
[W]ithout him, we’re TOAST.

Then we need #2, about six seconds later.

Mapes, meanwhile, appears to have been focused on the superscript “th” and on producing a piece for the September 10 *CBS Evening News*. She sent an e-mail to Schwartz, stating that they had put the superscript “th” issue to rest by finding the superscript “th” in the official Bush records:

[F]OR THE 100TH TIME, THE “TH” ISSUE IS GONE. WE HAVE
EXAMPLES FROM THE “OFFICIAL” WHITE HOUSE DOCS.
WE’RE SET.

This prompted an almost immediate reaction from Schwartz, who again expressed frustration that *60 Minutes Wednesday*’s experts were nowhere to be seen:

The problem, Mary, is one of perception. As far as the press is concerned, the “th” issue is NOT gone. It’s very much alive, and they have people crawling all over it. If we wait to address the issue until tonight’s news, we will DIE in the press tomorrow. Die. As in...dead.

You tell me. How do I get the message out RIGHT NOW, as in RIGHT THIS VERY MINUTE, that the “th” thing is no longer an issue?

They've got a bunch of "experts." We have nothing. We need to communicate something in the next hour or so if the story isn't going to thunder away from us on a Friday afternoon. Help me out.

During the day on September 10, the only examiner among the original four contacted by *60 Minutes Wednesday* personnel was Matley, who agreed to be interviewed again that day for the *CBS Evening News*. The Panel was told that Pierce was unavailable. No efforts were made to talk further with Will or James. Significantly, Mapes instructed Miller to find additional examiners. The fact that the *60 Minutes Wednesday* staff was able to produce only one of four examiners on September 10 should have been yet another red flag for management.

Early in the afternoon on September 10, Heyward endorsed a plan suggested by Schwartz in an e-mail:

1. Dan get on the phone right now. He can say that we believe the forensics and will have more in that regard in tonight's report – and also say we have a document from the 60s that shows a clear "th." Beyond that, he can stress what else went into the report and reply to criticisms.
2. We begin to prepare our point by point response for a press release that will be sent out late this afternoon to everybody, stating what will be in tonight's evening news and offering a complete defense.
3. [*CBS Evening News* Executive Producer] Jim [Murphy should] call back his various buds and tell them to watch tonight's evening news.
4. After the news, we make transcripts of the text of the report available on the Internet, fax, wire, etc.

CBS News launched its upgraded defense of the September 8 Segment during the afternoon of September 10. Rather began making phone calls to the media, using Mapes' bullet points from the prior day. Later in the afternoon, CBS News issued a Press Statement and a Media Alert, announcing that the *CBS Evening News* would address the issues surrounding the September 8 Segment, including the authenticity of the Killian documents. The Statement was as follows:

Later today, CBS News will address on the air and in detail the issues surrounding the documents broadcast in the 60 MINUTES report on President Bush's service in the Texas Air National Guard. At this time, however, CBS News states with absolute certainty that the ability to produce the "th" superscript mentioned in reports about the documents did exist on typewriters as early as 1968, and in fact is in President Bush's

official military records released by the White House. This and other issues surrounding the authenticity of the documents and more on this developing story will be reported on tonight on THE CBS EVENING NEWS WITH DAN RATHER.

Exhibit 3F. The Media Alert was as follows:

Tonight's (10) CBS EVENING NEWS WITH DAN RATHER (6:30 – 7:00PM, ET/PT) will address, in detail, the issues surrounding the authenticity of the documents broadcast in the 60 MINUTES report on President Bush's service in the Texas Air National Guard.

A transcript will be available.

Exhibit 3E.

After this buildup for the Friday, September 10 *CBS Evening News* show, the Panel observes that the actual defense of the September 8 Segment, including the authenticity of the documents, fell far short of matching the hype.⁹⁶ For example, instead of presenting several or all of the four experts allegedly on board, CBS News presented only Matley, who did not state that the Killian documents were authentic. Matley merely talked about the Lieutenant Colonel Killian's signature, which appeared only on one of the four documents used on the Segment. The portion of the September 10 *CBS Evening News* addressing expert issues was brief and not compelling:

Rather: Document and handwriting examiner, Marcel Matley, analyzed the documents for CBS News. He says he believes they are real but he is concerned about what exactly is being examined by some of the people now questioning the documents because deterioration occurs each time a document is reproduced and the documents being analyzed outside CBS have been photocopied, faxed, scanned, and downloaded, and are far removed from the documents CBS started with which were also photocopies. Document and handwriting examiner Marcel Matley did this interview prior to the *60 Minutes* broadcast. He looked at the documents and the signatures of Colonel Jerry Killian comparing known documents with the Colonel's signature on the newly discovered ones.

Matley: We looked basically at what are called significant or insignificant features to determine if it's the same person or not. There was no problem identifying them. I would say based on our available handwriting evidence, yes, it's the same person.

Rather: Matley finds the signatures to be some of the most compelling evidence. We talked to him again today by satellite.

⁹⁶ The full text of the September 10 *CBS Evening News* report is attached as Exhibit 1D to this Report.

Rather to Matley: Are you surprised the questions came about these? We're not, but I wonder if you were surprised?

Matley: I knew going in that this was dynamite one way or the other and I knew that potentially it was far more potential damage to me professionally than benefit to me. And I knew that. And uh, but we seek the truth. That's what we do. You know you're supposed to put yourself out to seek the truth and take what comes from it.

(emphasis added).

The Panel has examined the process by which this portion of this *CBS Evening News* report was prepared. In early drafts, the script stated that Matley “still believes the documents are authentic . . . both the typeface and handwriting.” (emphasis added). Significantly, the emphasized language was dropped in the final script and the word “real” was substituted for “authentic.” The Panel is not surprised that these words were dropped, since Matley had advised Mapes’ team orally on September 6, and then in a fax on September 10 (*see* Exhibit 6) that he could not authenticate the documents.

The Panel finds the use of the word “real” in Rather’s lead in on the September 10 report to have been misleading and inconsistent with CBS News’ basic commitment to fair and accurate reporting. First, this suggests that the documents had been found by Matley to be authentic when that was not the case. Second, Matley had never said that the Killian documents were “real.” Instead, Matley at most had said that he could discern no features, such as use of a typeface unavailable in the early 1970s, which would preclude the possibility that they were authentic. The Panel finds this to be another example of journalism that failed to meet CBS News’ Standards of fair and accurate reporting.

Further, the remainder of this September 10 *CBS Evening News* report also appears to be questionable, failing to meet CBS News’ fair and accurate standard. First, the *Evening News* showed the superscript “th” that it had discovered the night before in one of the official Bush records and stated that the official Bush records “already released by the White House . . .” “showed the same superscript.” (emphasis added). This was not an accurate statement. The *Evening News* failed to address the fact that the superscript “th” in the official Bush records looked significantly different from the superscript “th” found in the Killian documents.⁹⁷

⁹⁷ See Appendix 4 at 4. Mapes and West told the Panel that the purpose of showing the superscript from the official Bush records was not to demonstrate that the superscripts were identical but to demonstrate that typewriters from the early 1970s had the ability to produce superscripts. However, the *CBS Evening News* show on September 10 stated

Second, the September 10 broadcast contained the following statement:

Some analysts outside CBS say they believe the typeface on these memos is New Times Roman which they claim was not available in the 1970s. But the owner of the company that distributes this typing style said that it had been available since 1931.

The Panel has been informed by New York City typewriter expert Peter Tytell that Times New Roman has indeed been available since the 1930s, but only on typesetting machines. The Panel was further informed by Tytell that it did not become available on typewriters or computers until the 1980s. *See Appendix 4 at 4.* The Panel discovered no credible evidence to the contrary.

Third, CBS News re-ran previously shown portions of the Lieutenant Strong interview in an apparent attempt to buttress its position.

Rather: Robert Strong was an administrative officer for the Texas Air National Guard during the Vietnam years. He knew Colonel Jerry Killian, the man credited with writing the documents, and paperwork like these documents were his specialty. He is standing by his judgment that the documents are real.

Rather: When you read through these documents is there any doubt in your mind that these were genuine?

Strong: Well they are compatible with the way business was done at that time, they are compatible with the man that I remember Jerry Killian being, I don't see anything in the documents that are discordant with what were the times, what were the situations, and what were the people that were involved.

Rather: Strong says the highly charged political atmosphere of the Guard at the time was perfectly represented in the newly revealed documents.

Strong: It verged on outright corruption in terms of what would be the favors that were done, the power that was traded. It was unconscionable. From a moral and ethical standpoint, it was unconscionable.

(emphasis added).

Again, the term "real" was used when referring to the documents, which was inaccurate since Lieutenant Strong never stated that he believed the documents were real. This was all the more misleading in this instance because, as noted previously, Lieutenant Strong had no personal knowledge of Lieutenant Colonel Killian's views about Lieutenant Bush beyond what he had read in the Killian documents.

that the superscript from the official Bush records was "the same superscript" as found in the Killian documents. That was not accurate.

Finally, this portion of the September 10 report was also misleading because Lieutenant Strong told the Panel that he was not contacted by anyone from *60 Minutes Wednesday* or CBS News between September 8 and the airing of the September 10 report. Thus, there was no basis to state that Lieutenant Strong was “standing by his judgment that the documents are real.”

Fourth, CBS News completed the September 10 broadcast using portions of an interview with James Moore, an author who was well known for publishing two books about President Bush.⁹⁸

Rather: It is the information in the new documents that is most compelling for people most familiar with President Bush’s record in the National Guard. Author Jim Moore has written two books critical of President Bush and his service in the Guard.

Jim Moore: There’s no doubt in my mind that these documents are stating accurately what we know took place from the records that are available.

Rather: Put it in context and perspective for us, the story and what we’ll call the counter attack on the story. Where are we right now?

Jim Moore: Well I think what has happened is that some incriminating documents have come out. The White House, we should remember, has not discredited the documents. They’re relying on the Blogosphere and other people to do that. Because the White House probably knows that these documents are, in fact, real.

The Panel strongly questions the decision to use excerpts from the Moore interview. Moore seems to be authenticating the Killian documents. Given the anti-Bush sentiments in Moore’s 2004 book and the fact that the Panel has discovered no data to suggest that *60 Minutes Wednesday* had any indication that Moore had personal knowledge about the authenticity of the Killian documents or their content, it does not seem appropriate to have included Moore in the news report.

The Panel offers a final observation pertaining to the September 10 *CBS Evening News* report. Rather offered the following comments during the broadcast:

Today, on the Internet and elsewhere, some people, including many who are partisan political operatives, concentrated not on the key questions and the overall story but on the documents that were part of the support of the story.

⁹⁸ Earlier in 2004, Moore had authored *Bush’s War for Reelection*. Chapters 7, 11 and 12 of this anti-Bush book publicly relied heavily on Lieutenant Colonel Burkett as the source. Moore also had authored an earlier book, entitled *Bush’s Brain*, published in 2003. The Moore interview transcript is Exhibit 9J to this Report.

* * *

It is the information in the new documents that is most compelling for people most familiar with President Bush's record in the National Guard.

This marked a continuation of an apparent strategic tactic by *60 Minutes Wednesday* and CBS News that ultimately was a complete failure. That is, while *60 Minutes Wednesday* and CBS News continued to assert that the Killian documents were “real,” “genuine” and/or “authentic,” they also increasingly emphasized their belief that the information in the documents, *i.e.*, the content, was true. As discussed previously in Chapter VIII, the Panel believes that there are considerable bases to doubt whether the content of the documents is, in fact, accurate. In any case, accurate content is not synonymous with authentic documents, and it is the latter that *60 Minutes Wednesday* needed to prove.

As noted, Mapes produced the *CBS Evening News* report on Friday, September 10, and Rather narrated it. Howard and West both received various drafts of the script prior to that broadcast. The Panel believes that it was a mistake for CBS News to allow the entire defense of the September 8 Segment to be managed by the same people who had produced the challenged broadcast. While someone like Mapes, with her deep knowledge about the subject matter, would necessarily need to be involved, the Panel believes that when a CBS News investigative story is seriously challenged on fairness and accuracy grounds, fresh perspectives need to be brought to the review at an early date. (*See* Recommendations in Chapter XI of this Report.) This did not occur with respect to the September 8 Segment.

d. *60 Minutes Wednesday* Failed to Reassess Its Reporting

There were a number of other events on Friday, September 10, that should have caused *60 Minutes Wednesday* to reassess its original story. First, instead of utilizing the four experts who purportedly supported the September 8 Segment by vouching for the documents, a search was undertaken for additional experts. Second, a typewriting and typography expert spoke at length with Miller and Howard and advised them of reasons to believe that the documents were not authentic. Third, Major General Hodges, whom Mapes had relied on heavily to confirm the content of the Killian documents, announced that he had not told Mapes what she claimed. The Panel discusses each of these matters below.

(i) The Hunt for New Examiners

As noted, only Matley was presented in the widely promoted September 10 *CBS Evening News* report. It was known by many at *60 Minutes Wednesday* that efforts were being made on September 10 to recruit new examiners who would support the Segment, rather than use at least two of the examiners allegedly relied on before going to air on September 8. This should have been a signal to *CBS News* and *60 Minutes Wednesday* management that something might be wrong with the original authentication of the Killian documents.

Further, the Panel was told by Howard and Miller that the criterion for finding new examiners was whether the prospective examiner was prepared to support the authenticity of the Killian documents. There was no effort to find the best examiners possible and have them reach whatever conclusions were warranted. Indeed, as discussed in the next portion of this Chapter, any examiner who raised doubts about the authenticity of the documents was rejected. This focus on a pre-determined outcome instead of an open inquiry is deficient journalism and contrary to CBS News' Standards. The Panel recommends that this area of the CBS News Standards be strengthened.

(ii) Conversations with Peter Tytell

Miller was in contact on September 9 and 10 with Peter Tytell, who *60 Minutes Wednesday* tried to reach without success on the evening of Tuesday, September 7, when the superscript "th" issue was still unresolved. Tytell is a New York City-based typewriter and typography expert whose family has been in the typewriter business for many years. Miller and Tytell spoke one or more times on September 9 and 10.

On September 9, Tytell had downloaded the Killian documents from the CBS News website and told the Panel that he began "working on the case out of curiosity." Tytell told the Panel that he told Miller on Friday, September 10, that the documents aired on the Segment were prepared in Times New Roman, a typeface available on modern computers but one that did not exist on typewriters in the 1970s. Tytell said that Miller responded that the documents were "real" because the documents were obtained from a "trusted source" and other document examiners had indicated that the documents were "good." Tytell asked her to identify the other examiners, but she declined.

Later on September 10, Tytell spoke at length on the telephone with Howard.⁹⁹ Tytell explained his concerns in detail and offered to come to CBS News to explain why he believed the Killian documents were forgeries. Howard told the Panel that he spoke to Tytell for about 30 minutes and found Tytell to be convincing. He found the discussion to be an “unsettling event” that shook his belief in the authenticity of the documents.

Howard later reported his conversation with Tytell to Mapes, West and Heyward. West suggested he tell Mapes about the call. According to Howard, Mapes’ response was that one could always find experts willing to take different sides in an authentication debate.

The Panel met with Tytell and found his analysis sound in terms of why he believed the documents were not authentic. A summary of that analysis is set forth in Appendix 4. The Panel reaches no conclusion as to whether Tytell was correct in all respects. The Panel observes, however, that if *60 Minutes Wednesday* management had met with Tytell and heard the same information as did the Panel, it might not have continued to support so fully the authenticity of the Killian documents absent further investigation.

(iii) Major General Hodges

As noted, Mapes called Major General Hodges on Monday, September 6, and read him at least portions of the Killian documents. Mapes felt that Major General Hodges’ responses to her questions on September 6 offered a significant confirmation of the basic content of the Killian documents.

Major General Hodges had not seen the Killian documents prior to the airing of the September 8 Segment and he did not watch *60 Minutes Wednesday* on September 8. On Friday, September 10, he was in Houston, Texas visiting relatives. The *Houston Chronicle* that day published an article on the September 8 Segment that was nearly identical to an article published that day in *The Washington Post*.¹⁰⁰ The article quoted an unidentified CBS News official as saying that Major General Hodges’ conversation with Mapes on September 6 was the “trump card” which persuaded CBS News that it had authentic documents.

Major General Hodges was upset about being identified in the news story and became more disturbed when a relative showed him copies from the Internet of the four Killian

⁹⁹ Tytell told the Panel that he had obtained Howard’s name from a family friend who was a retired CBS News employee.

¹⁰⁰ Dobbs & Allen, *supra* note 91; Michael Dobbs & Mike Glenn *CBS Findings Are Questioned*, HOUSTON CHRON., Sept. 10, 2004, at A3.

documents used on the September 8 Segment. Major General Hodges read the documents several times and became convinced that they were not authentic, primarily based on his personal knowledge of how the TexANG prepared documents and the types of format and jargon normally included in TexANG documents. When he got home from Houston on the night of September 10, Major General Hodges called Mapes in New York to complain about the *Houston Chronicle* story, to advise her that he believed the documents were forgeries and to announce that he was going to issue a public statement the next day saying that he had not authenticated the content of the documents for *60 Minutes Wednesday*.

According to his handwritten notes, Major General Hodges placed this call to Mapes at 8:30 p.m. Central time on September 10. He told Mapes that he was going to write a press statement because a senior CBS News official had twice misquoted him in *The Washington Post* story. He then asked Mapes who this official was, and Mapes responded that she could not reveal the identity of the official. He also read the following quote from *The Washington Post* article: “These are the things that Killian had expressed to me at the time.” Major General Hodges told the Panel that he reminded Mapes that on September 6 he had only told her that he and Lieutenant Colonel Killian discussed Lieutenant Bush’s request to transfer to Alabama and the fact that Lieutenant Bush had missed his physical. Major General Hodges insisted that he had not authenticated the documents.

Major General Hodges also told Mapes that he took issue with *The Washington Post*’s reference to him to as the “trump card” for the September 8 Segment and with *The Washington Post*’s characterization of him as a Republican who did not want to hurt President Bush. Major General Hodges told the Panel that he had never discussed his political affiliation with Mapes and had stated that it was Lieutenant Colonel Killian’s widow he did not want to hurt, not President Bush. Major General Hodges said that Mapes replied that she was sorry, but that *The Washington Post* had misquoted the CBS News official. He further told the Panel that he then told Mapes that having seen the Killian memoranda, he did not believe the documents were authentic and neither did Lieutenant Colonel Killian’s wife or son. Major General Hodges also told the Panel that Mapes did not ask him to explain why he felt the documents were forgeries. Mapes next asked Major General Hodges if he would be willing to talk with Rather and he said yes. Major General Hodges said the conversation with Mapes lasted about five minutes.

Major General Hodges told the Panel that at around 9:30 p.m. Central time on Friday, September 10, Rather called him with Mapes on the line. Rather told Major General Hodges that he was proud of his service to our nation and wanted to know if he had any comments about the Killian documents. Major General Hodges told Rather that he had been misquoted by a senior CBS News official and asked: “Is that you, Dan?” Rather denied being the official, but stated that the network knew who the official was. Major General Hodges then told Rather that he did not think the documents were authentic. He told the Panel that Rather responded with words to the effect that “We have to go by our experts,” and did not ask him why he did not believe the documents were authentic. Rather then exited the conversation and Mapes and Major General Hodges continued speaking.

Mapes asked Major General Hodges to appear on *60 Minutes Wednesday* to discuss his opinions regarding the documents.¹⁰¹ He told the Panel that he said no because he had a physically weak voice and also because he did not want to get involved in this story any more than he already was. He added that he might consider appearing on *60 Minutes Wednesday* in mid-January 2005 because “things tend to straighten out” after 90 days. Major General Hodges also asked Mapes to send him a copy of the September 8 broadcast. Mapes responded that she would do so, and she later did.

Mapes also took notes of her conversation with Major General Hodges on September 10. One entry in her notes appears possibly to contradict Major General Hodges’ claim that he told Mapes that he believed the Killian documents were not real. Mapes’ notes of this conversation with Major General Hodges include a notation that reads: “In their totality, I believe the documents are real.”

On the other hand, Major General Hodges’ detailed notes of this conversation state that he called Mapes on September 10 specifically to tell her that he was upset that he had been identified as the main authenticator for the Segment and the documents. His notes further reflect that he told both Mapes and Rather that, after having actually seen the Killian documents, he did not believe that Lieutenant Colonel Killian authored them. In addition, he told the Panel that he knew within minutes of seeing the documents that they were not written by anyone in the

¹⁰¹ Mapes informed the Panel that she wanted to get Major General Hodges on-camera because she thought she would be able to get him to confirm the content of the Killian documents.

TexANG, because he could identify many inconsistencies with traditional TexANG correspondence format.

The Panel believes that the Mapes and Rather conversations of September 10 with Major General Hodges should have precipitated additional action. At a minimum, Mapes should have met with Major General Hodges to discuss the Killian documents when she returned to Texas the next day, particularly since they live close to each other. Mapes informed the Panel that she planned to do so and that she spoke to him on Monday, September 13 to arrange for a meeting, but one never took place as new developments overtook that plan.

The Panel asked Rather why he had failed to ask Major General Hodges why he believed the documents were fake. Rather told the Panel that he has dealt with many interviewees over the years who have changed their stories once their names became public. The Panel finds the lack of interest in learning more about what Major General Hodges felt to be very unusual, especially since he was Lieutenant Colonel Killian's former commanding officer and had been described by somebody at *60 Minutes Wednesday* as its "trump card."

(iv) Failure to Reassess CBS News' Reporting

Friday evening, September 10, should have been a turning point. Heyward advised the Panel that he began to have doubts that night when he heard through media sources that Major General Hodges had announced that he had been misled and thought the documents were forgeries. Heyward was also concerned when he saw *60 Minutes Wednesday* expert Matley address only one signature on the *CBS Evening News* that night. Heyward told the Panel that he realized at that point that the effort to authenticate the documents had not been as strong as he had been led to believe. Similarly, Howard had fresh doubts, especially after his phone conversation with Tytell, and Heyward was aware of those doubts. Accordingly, this would have been the time to take an extremely hard look at the September 8 Segment. This did not occur.

e. September 11, 2004

On Saturday, September 11, 2004, Heyward convened a morning conference call with West, Howard, Mapes, Schwartz and Genelius. The primary purpose was to review the press coverage of the *CBS Evening News* broadcast the previous evening and to prepare for the public

statement of Major General Hodges disavowing his alleged authentication of the Killian documents. Heyward chaired the call.

The consensus was that the September 10 *CBS Evening News* show had resulted in relatively good press for CBS News and that the best course was to hope that this would carry forward and the heat would die down. West recalled that Heyward again emphasized the need to learn more about CBS News' sources. Genelius recalled Mapes being asked whether she was absolutely sure of the authenticity of the documents and whether there might be any other problems. Mapes assured the group that there were no problems. Genelius recalled being surprised at how emphatic Mapes was, given the complexity of the issue. The issue of additional experts was raised by several people as an urgent need and the response from Mapes was that they were still working on lining up experts. Matley was mentioned as a "bad interview" and the other three examiners do not appear to have been mentioned at all.

With regard to Major General Hodges' anticipated public statement, there does not appear to have been any inquiry into why he felt he had been misled or why he felt the documents were forgeries. Further, there does not appear to have been any discussion about the telephone calls the previous night involving Mapes, Rather and Major General Hodges.

The Panel finds this to be a significant shortcoming. Whether Hodges was changing his story under pressure (as Mapes and Rather believed), whether he was quoted inaccurately by Mapes, or whether there was just a misunderstanding, this reversal by a significant "trump card" source had the potential to be a critical turn in the CBS News efforts to support the Segment.

On Saturday, September 11, the *CBS Evening News, Saturday Edition* ran a short report about the continuing controversy over the September 8 Segment. There was some debate whether to do this *Evening News* report at all. Heyward favored no report but the Executive Producer for the weekend *CBS Evening News* persuaded him that CBS News should run a piece since CBS News had stated that it would continue to report on the story. Accordingly, on Saturday evening, the following short report was aired:

Weekend News Anchor Russ Mitchell: This week a *60 Minutes* report raised new questions about President Bush's service in the Texas Air National Guard some thirty years ago. Among them: Did then Lieutenant Bush receive preferential treatment to get into the National Guard and out of possible service in Vietnam? Did he refuse a direct order from a commanding officer? Did he take a required physical exam? And did he complete his commitment to the Guard?

The questions grew out of interviews with new witnesses and four documents obtained by CBS News written by then Lieutenant Bush's squadron commander. The documents were authenticated for CBS News by outside experts. On the Internet and elsewhere, some have questioned the documents' authenticity focusing on the type styles in the memos, suggesting the memos are fake.

Today one document expert, Philip Bouffard, who had expressed suspicions about the documents told the Boston Globe and CBS News that he now believes the documents could have been prepared on an IBM Selectric Composer Typewriter, available at the time.

Also today, there are reports that retired National Guard Major General Bobby W. Hodges, one of the sources corroborating the CBS News account, now says he believes the documents were not real, in part because of recent statements by relatives of Jerry Killian, the squadron commander credited with writing the memos.

CBS News responded today "We believed General Hodges the first time we spoke with him, we believe the documents to be genuine, we stand by our story and will continue to report on it."

Exhibit 1E (emphasis added).

The Panel is troubled by the text of this report. First, the strategy agreed to on September 10 was to put *60 Minutes Wednesday's* experts out front. Nonetheless, in this piece, there were no *60 Minutes Wednesday* experts expressing their views. Instead, there was again the unsupported assertion that the documents had been authenticated by outside experts. The Executive Producer for the September 11 show wrote those words after speaking to Mapes, who informed the Executive Producer that two experts had authenticated the documents.

Mapes told the Panel that she has no memory of this conversation. Nevertheless, the assertion that the documents had been authenticated by outside experts, which the Executive Producer distinctly recalled, was at best misleading and at worst false. Matley clearly had not authenticated the documents and Pierce, as of September 11, had seen only one of the four documents used in the September 8 Segment. Further, there was the observation in the report that one non-CBS-engaged expert, Mr. Bouffard (out of literally scores who had previously been identified in the media), stated that the documents could have been prepared on an IBM Selectric Composer typewriter. This statement is also problematic as there was no indication that these typewriters were used at Ellington AFB at the time.

Two other matters pertaining to events on September 11 are worthy of note. First, during the morning conference call, Mapes took the position that one reason that the Killian documents

were likely authentic was that leaving technology aside, someone would have needed to know a huge amount of information about President Bush's TexANG service record in order to fabricate the documents. It was agreed at that time that Mapes would prepare a write-up of all the facts that one would have needed to know to have faked the documents. However, in another failure of implementation, no such write-up was prepared. Schwartz asked again for such a write-up on the morning of September 13 and again on the morning of September 14, but nothing was prepared.

On September 14 Mapes did prepare new talking points for Rather that touched on this subject:

What degree of sophistication would be required to fabricate these documents?

- in-depth knowledge of Air Force manual from 1971
- Bush's service record
- AF regulations from 1971
- All of the people involved at that time
- The attitude of the time

The Panel has been unable to determine whether these talking points were provided to the Communications Group, but it appears unlikely since in an e-mail on September 15, Schwartz again inquired whether "a list of the things that someone would need to know in order to have faked these documents had been prepared." The Panel therefore believes that no such detailed list ever was prepared.

A further unsettling event occurred on September 11, which should have caused CBS News' management to become even more skeptical about the accuracy of the September 8 Segment. Some media reported that General Staudt had left the TexANG on March 1, 1972, raising a question whether he could have exerted influence to attempt to "sugar coat" President Bush's TexANG records almost 18 months later in August 1973, as set forth in the August 18, 1973 CYA memorandum.¹⁰² *60 Minutes Wednesday* management does not recall this information about Staudt being disclosed to them prior to the airing of the September 8 Segment. Asked by reporters to comment on this, Communications Group personnel, relying on information provided by Mapes, asserted that General Staudt continued to have influence well after his retirement. Thus, Genelius advised her colleagues on September 11 that she "shot down

¹⁰² Pete Slover, *Memo's Date Spurs Questions Colonel Had Left Guard Before Note on Bush Was Supposedly Written*, DALLAS MORNING NEWS, Sept. 11, 2004, at 1A.

the importance of the fact” that he had retired from the guard a year before the [August 18, 1973] memo was written.” Indeed, she was quoted the next day in *The Washington Post* as having described Staudt as “a mythic figure” who was still “wielding influence” behind the scenes in 1973.¹⁰³

The Panel attempted to learn the basis for believing that General Staudt would have had influence well after he left the TexANG. The Panel received no satisfactory explanation. Mapes stated that General Staudt had remained at Ellington AFB as a pilot for Conoco Oil and many people told her he continued to have influence within the TexANG. The Panel found no support for this in Mapes’ investigative notes. Mapes also suggested that Lieutenant Strong was a source of this information, but agreed that Lieutenant Strong had no personal knowledge, particularly since he had left the TexANG at the same time as General Staudt. Mapes further stated that she or members of her team had spoken with an assistant to General Rose and another person about General Staudt’s supposed influence after leaving the TexANG. The Panel was provided no corroborating details to support this statement.

Significantly, Panel counsel spoke to General Staudt, who denied having such influence after he left. Moreover, Major General Hodges, Lieutenant Colonel Via and Colonel Martin, who were at Ellington Air Force Base during the relevant period, told the Panel that General Staudt was rarely seen at any TexANG facility and that General Staudt wielded no such influence.

As with other points on which the Panel cannot make a definitive finding, the issue of whether General Staudt had influence within the TexANG after his retirement merited closer investigation at a minimum since it was one of the claims in the Killian documents. The Panel concludes that this issue received scant, if any, scrutiny, which was contrary to sound journalistic practices and contrary to what *60 Minutes Wednesday* should have been doing to assure itself and its viewers of the validity of its original Segment.

f. The Continued Defense: September 12-13

Mainstream media continued to report on the *60 Minutes Wednesday* controversy on Sunday, September 12. For example, both *The New York Times* and *The Washington Post* had

¹⁰³ Michael Dobbs, *Gaps in Service Continue to Dog Bush*, WASH. POST, Sept. 12, 2004, at A08.

substantial articles on that day.¹⁰⁴ This news coverage included Major General Hodges' claim that he had been misled and that the Killian documents were falsified, as well as CBS News' claim that Major General Hodges had changed his account. They also raised the issue of whether General Staudt could have exerted pressure almost 18 months after he had retired from the TexANG. Finally, *The New York Times* story stated that CBS News had a "host of experts" helping to authenticate the documents.¹⁰⁵

On Monday, September 13, CBS News decided that it would prepare yet another *CBS Evening News* report pertaining to the September 8 Segment. Executive Producer Jim Murphy was not enthusiastic about airing another story. He wrote the morning of September 13:

[W]hat are we to do at this point? Dan would like THIS broadcast to spend much time hitting hard on this story when we don't know much more than we did last Wednesday. Is there any new information to move this forward today?

Notwithstanding Jim Murphy's question, a new story went forward, again produced by Mapes. The Panel believes Murphy's concerns were well-placed as *60 Minutes Wednesday* had no new information to present.

Exactly how the September 13 broadcast came about is somewhat unclear, although obviously some additional CBS News producers helped Mapes produce this report since by this time she had returned to Texas. The full transcript of the *CBS Evening News* report from September 13 is attached as Exhibit 1F to this Report. Of particular interest to the Panel is the fact that *60 Minutes Wednesday* for the first time presented certain new individuals with purported expertise related to document authentication. At the same time, Matley gave an interview to *The Washington Post* in which, according to West, he "once again gave his very narrow endorsement of the documents." Indeed, there appeared to be a growing desperation within *60 Minutes Wednesday* to find experts who would vouch for the authenticity of the documents. For example, Schwartz wrote on September 13 in an e-mail to Heyward under the subject line "Total Red Alert":

Our entire reputation as a news division now rests on our fielding a couple of experts on our side TODAY. BY PRESS TIME.

...

¹⁰⁴ Ralph Blumenthal & Jim Rutenberg, *An Ex-Officer Now Believes Guard Memo Isn't Genuine*, N.Y. TIMES, Sept. 12, 2004, at 27; Dobbs, *supra* note 103.

¹⁰⁵ Blumenthal & Rutenberg, *supra* note 104.

Tomorrow will be TOO LATE. . . .

...

I can't tell you how important this is. There is NO OTHER PRIORITY from a press point of view.

The new "experts" found by *60 Minutes Wednesday* were Bill Glennon, who had been an IBM typewriter repairman in the early 1970s, and Richard Katz, a software designer. The portions of the Glennon and Katz interviews aired by the *CBS Evening News* on September 13 were as follows:

Rather: There has also been criticism of the new documents obtained by *60 Minutes* and CBS News. But CBS used several techniques to make sure these papers should be taken seriously, talking to handwriting and document analysts and other experts who strongly insist that the documents could have been created in the 70's.

Bill Glennon: Everything that's in those documents that people are saying can't be done, as you said, 32 years ago are totally false. Not true. Like I said proportional spacing was available, superscripts were available as a custom feature, proportional spacing between lines was available; you could order that any way you'd like.

Rather: Richard Katz, a software designer, found some other indications in the documents. He noted that the lowercase letter "L" is used for the numeral "1" in those documents instead of the actual numeral "1." That would be difficult to reproduce on a computer printer today.

Richard Katz: If you were doing this a week ago or a month ago on a normal laser jet printer it wouldn't work. You just couldn't...the font wouldn't be available to you.

Rather: Katz also noted that the documents have both the so-called superscript "th" and a regular sized "th," that would be common on a typewriter, not a computer.

Richard Katz: There is one document from May of 1972, which contains a normal "th" at the top. To produce that in Microsoft Word you would have to go out of your way to type the letters and then turn the "th" setting off or back over them and type them again.

The Panel has numerous criticisms of this reporting. First, CBS News did almost nothing to examine the credentials of these individuals. Glennon came to the attention of CBS News when he was quoted in a September 11 article in *The New York Times*. Mapes spoke to him on September 13 and learned that he had repaired IBM typewriters in the 1970s. She then persuaded him to go on the air. With respect to Katz, an acquaintance of Mapes suggested that she contact him and she did so on September 13. Without suggesting in any way that Glennon

and Katz lacked qualifications, the Panel believes that CBS News should have undertaken more rigorous checking of credentials before airing stories that rely on expert opinions. The Panel's strong impression is that CBS News was willing to put these individuals on the air with very little credential-checking when CBS News determined that they were willing to support the September 8 Segment.

Second, the Panel believes that the script was misleading. Rather stated that there had been criticism of the Killian documents obtained by *60 Minutes Wednesday* “[b]ut CBS used several techniques to make sure these papers should be taken seriously, talking to handwriting and document analysts and other experts who strongly insist that the documents could have been created in the 70s.” The Glennon and Katz interview excerpts were then aired, implying that Glennon and Katz had been consulted by *60 Minutes Wednesday* before the September 8 Segment was aired. That, of course, was not the case.

Third, the thrust of the Glennon comments in unused portions of his interview was that a particular sort of IBM typewriter available in the early 1970s could do both the superscript “th” and proportional spacing. However, as of the time that Glennon went on the air, there was no solid evidence that that sort of typewriter had been used in the 111th Fighter Interceptor Squadron at Ellington AFB in the early 1970s. The Panel observes that Lieutenant Strong, who appeared in the September 8 Segment, sent an e-mail to Mapes on September 13 stating that he “had no reason to doubt that Lieutenant Colonel Killian or his administrative assistants could have had access to IBMs.” Of equal importance, CBS News was willing to air Glennon's extracts without undertaking any careful typographical analysis to determine whether any IBM typewriter from the 1970s would have had a font consistent with the Killian documents. As set forth in Appendix 4 to this Report, one typographic expert, Peter Tytell, is of the opinion that an IBM typewriter could not have prepared the Killian documents.

Fourth, the Katz excerpts stand for the proposition that it would have been difficult for a person to recreate the Killian documents on a modern word processor. The Panel does not find that compelling. Katz made the point that the Killian documents used a lower case L for the number 1, which he said was typical of typewriters from the early 1970s and not typical of computers. In fact, some typewriters from the early 1970s, including the Olympia manual that may have been in use at Ellington AFB, had a number key for “1.” See Appendix 4, Attachment D.

The Panel does find it compelling that as of September 13, five days after the September 8 Segment aired, CBS News still had not presented a single expert prepared to state with authority and with carefully articulated reasons, that the Killian documents were authentic. That should have been a clarion signal to CBS News and *60 Minutes Wednesday* management that something was seriously amiss with the *60 Minutes Wednesday* reporting.

Fifth, the September 13 *CBS Evening News* report ended with the statement that CBS News “believes the documents are authentic.” This statement was made without any persuasive information from any expert to support the assertion. It was the “stubborn repetition of what we’ve already said” that Heyward in his September 10 e-mail had cautioned should be avoided.

Sixth, the Panel is also concerned that *60 Minutes Wednesday* again seemed to seek refuge in the assertion in the September 13 broadcast that the content of the documents was accurate. As we have said elsewhere in this Report, that position had become unsustainable as a response to the charge that the documents were forgeries. A portion of the September 13 broadcast said this:

Rather: CBS News also relied on an analysis of the contents of the documents themselves to determine the content’s authenticity. The new papers are in line with what is known about the President’s service assignments and dates. For instance, the official record shows that Mr. Bush was suspended from flying on August 1st 1972. That date matches the one on a memo given to CBS News ordering Mr. Bush be suspended.

Shortly after *60 Minutes* broadcast the new documents last week, *USA TODAY* obtained another new document. In the memo dated February 2, 1972, Lieutenant Colonel Killian asked to be “updated as soon as possible on flight certifications...specifically Bush.” That could be in line with what documents released by the White House last week show – that in the Spring of 1972, then Lieutenant Bush stop exclusively flying the F-102 and dropped back to piloting a training plane – part of an effort to maintain his flight certification.

As previously noted, the Killian documents do not mesh uniformly well with the official Bush records. See Chapter VIII. With more careful reporting, *60 Minutes Wednesday* should have learned of the meshing problems before airing the September 8 Segment.

Seventh, the reference to “another document,” the February 2, 1972 memorandum obtained by *USA TODAY*, is misleading. It makes it sound as if the February 2 memorandum was something new to CBS News and somehow supported the September 8 Segment. In fact, it was one of the six documents originally obtained by *60 Minutes Wednesday* from Lieutenant

Colonel Burkett prior to the airing of the September 8 Segment. *60 Minutes Wednesday* simply chose not to air that particular document.

In short, the Panel believes that the September 13 *CBS Evening News* report was misleading and added virtually nothing to a search for the truth as to the accuracy of the September 8 Segment. Executive Producer Jim Murphy was extremely concerned about that broadcast because he did not think it added any new information. The next day he advised Heyward that he would not air any further report on the *CBS Evening News* without time to vet the report. Heyward concurred with this change.

Jim Murphy also was concerned that Rather was taking the lead for CBS News in the defense of the Segment. He reported his concerns to Heyward, who made the decision starting Tuesday, September 14, that other CBS News correspondents would take the lead in any future *CBS Evening News* stories about the continuing controversy. For example, John Roberts reported on the continuing controversy on the September 14 *CBS Evening News* and Wyatt Andrews had that role on the September 15 *CBS Evening News*.

D. The Beginning of Changes in CBS News Strategy: September 14-15

The CBS News strategy pertaining to the September 8 Segment finally began to change starting on Tuesday, September 14. The change came about largely due to forces outside of CBS News. Those forces were twofold: 1) two of *60 Minutes Wednesday's* original document examiners claimed on the ABC News' *World News Tonight* on September 14 that *60 Minutes Wednesday* had largely ignored concerns that they had raised; and 2) Marian Carr Knox, the clerk typist for Lieutenant Colonel Killian, stated on the same day that the Killian documents were not authentic. These developments led CBS News to assign additional *60 Minutes Wednesday* staff to the investigation of the September 8 Segment and Heyward became directly involved in a course that would result in the apology that was issued on Monday, September 20, 2004.

1. The Initial Strategy on September 14 was Unchanged

The Washington Post ran a long and critical article on September 14 regarding the September 8 Segment that included the following statements:

The lead expert retained by CBS News to examine disputed memos from President Bush's former squadron commander in the National Guard said

yesterday that he examined only the late officer's signature and made no attempt to authenticate the documents themselves.

"There's no way that I, as a document expert, can authenticate them."

Marcel Matley said in a telephone interview from San Francisco. The main reason, he said, is that they are "copies" that are "far removed" from the originals.

* * *

A detailed comparison by *The Washington Post* of memos obtained from CBS News with authenticated documents on Bush's National Guard service reveals dozens of inconsistencies, ranging from conflicting military terminology to different word-processing techniques.

The analysis shows that half a dozen Killian memos released earlier by the military were written with a standard typewriter using different formatting techniques from those characteristic of computer-generated documents. CBS's Killian memos bear numerous signs that are more consistent with modern-day word-processing programs, particularly Microsoft Word.

* * *

A detailed examination of the CBS documents beside authenticated Killian memos and other documents generated by Bush's 147th Fighter Interceptor Group suggest at least three areas of difference that are difficult to reconcile:

- Word-processing techniques. Of more than 100 records made available by the 147th Group and the Texas Air National Guard, none used the proportional spacing techniques characteristic of the CBS documents. Nor did they use a superscripted "th" in expressions such as "147 Group" and or "111 Fighter Intercept Squadron."
- In a CBS News broadcast Friday night rebutting allegations that the documents had been forged, Rather displayed an authenticated Bush document from 1968 that included a small "th" next to the numbers "111" as proof that Guard typewriters were capable of producing superscripts. In fact, say Newcomer and other experts, the document aired by CBS News does not contain a superscript, because the top of the "th" character is at the same level as the rest of the type. Superscripts rise above the level of the type.
- Factual problems. One CBS memo cites pressure allegedly being put on Killian by "Staudt," a reference to Col. Walter B. "Buck" Staudt, one of Bush's early commanders. But the memo is dated Aug. 18, 1973, nearly a year and a half after Staudt retired from the Guard. Questioned about the discrepancy over the weekend, CBS officials said that Staudt

was a “mythic figure” in the Guard who exercised influence from behind the scenes even after his retirement.

- Stylistic differences. To outsiders, how an officer wrote his name and rank or referred to his military unit may seem arcane and unimportant. Within the military, however, such details are regulated by rules and tradition, and can be of great significance. The CBS memos contain several stylistic examples at odds with standard Guard procedures, as reflected in authenticated documents.
- In memos previously released by the Pentagon or the White House, Killian signed his rank “Lt Col” or “Lt Colonel TexANG,” in a single line after his name without periods. In the CBS memos, the “Lt Colonel” is on the next line, sometimes with a period but without the customary reference to TexANG, for Texas Air National Guard.¹⁰⁶

The Panel believes that such a detailed criticism was yet another occasion that should have resulted in an immediate and careful review of all the reporting behind the September 8 Segment. Instead of reviewing the reporting, however, CBS News simply continued to defend staunchly the September 8 Segment.

This defense had several components as of September 14. First, Mapes and her team prepared a new set of talking points for Rather to use in dealing with the media. The talking points provided to Rather at about 3 p.m. on September 14 were as follows:

1. There are an equal number of experts on both sides of the authenticity argument. We showed our documents to our experts and received confirmation that satisfied our news and reporting standards.
2. The truth of these documents also lies in the signatures and in the content of the documents, not just typeface and fontstyle, which are inexact science. This is not DNA testing folks... .
3. The Washington Post has taken a couple of shots at us concerning the documents. We have answers to their negative comments... basically, their points being that the address doesn't match the Bush service timeframe or their points about writing style in the military. Both allegations are wrong.
4. The criticism comes from two main areas: Partisans and the competitive response of other news organizations.
5. Before airing the story we confirmed it on and off the record with people who knew Killian, said he had felt this way about the physical and people who knew the Guard apparatus at the time. Bobby [sic] Hodges, who confirmed to us that Killian felt this

¹⁰⁶ Michael Dobbs & Howard Kurtz, *Expert Cited by CBS Says He Didn't Authenticate Papers*, WASH. POST, Sept. 14, 2004, at A08 (emphasis added).

way then denied it. Confirmed it again to the NY Times in the Saturday or Sunday story.

6. Many people in the GUard [sic] confirmed to us that Staudt had great influence in the Guard long after he left the Guard.
7. August 18, 1973 document the memo written after Staudt left the Guard, clearly differentiates between Austin (the HQ where Staudt had been when he ran the Guard) and Staudt at the time of the memo's writing. The memo talks about Staudt's pressure on HOdges [sic] and then says "Austin is not happy either". Clearly demonstrates the difference between Staudt and Austin.
8. People need to look at the information inside the documents. It rings true with Bush's service record at the time.
9. What degree of sophistication would be required to fabricate these documents? in-depth knowledge of Air force manual from 1971 – Bush's service record – AF regulations from 1971 – All of the people involved at that time – The attitude of the time

Just as with the talking points prepared on Thursday, September 9, the Panel believes that these talking points contain many misstatements. Some of the more significant inaccuracies follow.

Points 1, 2 and 8. These points suggest that multiple *60 Minutes Wednesday* experts had signed off on the authenticity of the documents before the Segment aired. That clearly was false. In addition, there is a further effort by *60 Minutes Wednesday* to argue that the "content of the documents" somehow proves that the documents are authentic. That strategy was misguided and already clearly a failure.

Points 3 and 4. The talking points reference *The Washington Post* article but do not address at all most of the points made in the paper. Also, the talking points attempt to deflect the media criticisms by blaming partisanship and competition. This was no answer to the detailed substantive points raised by *The Washington Post* and others.

Points 6 and 7. The Panel has not been able to identify any person with personal knowledge to confirm that General Staudt had great influence after he left the TexANG. Indeed, the former Guardsmen who did have personal knowledge, including General Staudt himself and Major General Hodges, all stated that he did not.

During this same time, others at CBS News sought to obtain signed statements from Matley and Pierce in support of the authenticity of the Killian documents. Eventually, such statements were obtained from Matley and Pierce and were posted on the CBS News website along with excerpts from the Glennon and Katz interviews that were previously aired on September 13. The Matley and Pierce statements, as posted on the CBS News website, read as follows:

Matley

To Whom It May Concern:

I examined copies of documents bearing purported signatures of Jerry B. Killian. I observed nothing about the documents that could disprove their authenticity. I specifically addressed this question:

On the preponderance of the available handwriting evidence, are all the purported “Jerry B. Killian” signatures by the same person?

My expert opinion from examining the first documents submitted to me was confirmed by examination of the several that were later submitted to me.

I observed that all signatures had inconspicuous, significant similarities except one signature that had conspicuous, insignificant differences only. Such differences are inconsistent with either an imitated or a traced writing. However, there was a reasonable explanation for the differences. The signature fit the protocol of a writing made under stress, and the text states severe stress. Therefore, the preponderance of the available handwriting evidence is that one writer made all signatures examined.

My work was more detailed, and authorities can be cited for the method and theory employed.

Pierce

As a result of my examinations and comparisons, it is my opinion, based on the available evidence, that the balance of the Jerry B. Killian signatures appearing on the photocopied questioned documents are consistent and in basic agreement.

In regard to the balance of the type-written photocopied questioned documents, the same typed-face designs are strongly similar to corresponding samples that indicate the same typed-face existed prior to the date in question on the photocopied documents.

In my professional opinion, with what I know and have examined based on the photocopied questioned documents, the documents in question are authentic.

The Panel has a number of concerns about these statements. First, the Panel observes that Matley -- the original examiner offered to support the September 8 assertion about authenticity -- did not state in this letter that he had authenticated the documents. Indeed, he stated only that he had looked at signatures and concluded that the signatures had been written by the same individual and that he “observed nothing about the documents that could disprove their authenticity.” This was further confirmation of the fact that Matley had never authenticated the Killian documents aired on the Segment.

Second, Pierce's letter did state that he believed the documents to be authentic, the first such unequivocal statement from any *60 Minutes Wednesday* expert, albeit without any detailed rationale for that conclusion. However, in a phone interview with counsel for the Panel, Pierce said that he told *60 Minutes Wednesday* personnel that he could not authenticate the documents, but that he was asked by them to prepare a letter stating that he did. Pierce further advised counsel for the Panel that he was merely giving the client what it wanted and that he informed *60 Minutes Wednesday* personnel they "could get into trouble" if they used the letter that he signed. Despite these warnings, the letter from Pierce was posted on the CBS News website shortly thereafter along with the Matley letter.

Third, the letters from Matley and Pierce posted on the CBS News website do not constitute their original work. In each instance, they prepared a statement and then were given proposed edits. Copies of both sets of statements are attached as Exhibit 7. While it is not clear who suggested the edits, handwritten notations on the drafts of the letters suggest that they came from West and Genelius. In the case of Matley, the changes were relatively minor, adding the sentence: "I observed nothing about the documents that could disprove their authenticity." But with respect to Pierce, the changes were substantive. Pierce's initial letter was changed from "physical evidence suggests the probability that the documents in question are authentic" to "the documents in question are authentic."

2. Disclosure that Two *60 Minutes Wednesday* Document Examiners Had Concerns About the Killian Documents

On Tuesday, September 14, two of the four examiners initially consulted by *60 Minutes Wednesday*, Emily Will and Linda James, appeared on ABC News' *World News Tonight*. They said that they had raised concerns about the authenticity of the Killian documents they had reviewed before the September 8 Segment was aired, but that *60 Minutes Wednesday* had ignored their concerns. This revelation came as a shock to *60 Minutes Wednesday* management, since in all of the vetting sessions and discussions there had been no disclosure of any serious questions raised by any of the examiners beyond the "th" issue, which was thought to have been resolved.

On September 14, Will told ABC News:

I found five significant differences in the questioned handwriting. And I found problems with the printing itself, as to whether it could have been produced by a typewriter.

ABC News also reported that:

Will says she sent the CBS producer an e-mail message about her concerns. And strongly urged the network the night before the broadcast not to use the documents.

Finally, Will said: "I did not feel that they wanted to investigate it very deeply."

Linda James also appeared on the same ABC News broadcast, making the following statement:

I did not authenticate anything. And I don't want it to be misunderstood that I did. And that's why I have come forth to talk about it because I don't want anyone to think that I did authenticate these documents.

When asked by *60 Minutes Wednesday* management about this sudden turn of events, Mapes listed four "retorts," in an e-mail to West, Genelius and Miller, excerpts of which follow:

1. Emily Will and Linda James saw only one of the documents that we aired and 17 "official" documents bearing Jerry Killian's signature to use for comparison.
2. Neither gave us a definitive answer on typeface or signatures because they wanted to see more comparison docs...but both deferred to Marcel Matley...Linda held up a book to me in her office in TX showing a book of Marcel's that she used as a reference. Emily conceded that Marcel had greater experience and expertise.
3. Linda James called me twice yesterday asking if she could talk to reporters and saying we were no longer paying her. She considered our case closed...but if we wanted her not to talk to reporters we needed to reopen our case and pay her I told her (Betsy I passed this on to you and Yvonne yesterday) that I told [sic] I thought it might be helpful to have a more definitive answer from Linda...and that I had agreed to send her more documents to look at.
4. Emily Will was never told in any way shape or form that we got these documents anonymously through the mail.

Later in the day, West was shown a copy of the September 5, 2004 e-mail (Exhibit 4) that Will sent to Miller, pointing out problems she saw in the Killian signature on the June 24, 1973 memorandum to "Sir." West told the Panel that she did not view Will's e-mail as a warning e-mail and recalled that Mapes described this as only the identification of potential problems.

60 Minutes Wednesday management did not have any detailed discussion with Mapes or Miller about the views expressed by these experts to ABC News or make any effort to speak directly with either Will or James. Instead, *60 Minutes Wednesday* continued to maintain its strong defense of the Segment and on September 14 issued a statement that sought to play down the significance of Will's and James' remarks:

CBS News did not rely on either Emily Will or Linda James for a final assessment of the documents regarding George Bush's service in the Texas Air National Guard. Ms. Will and Ms. James were among a group of experts we consulted to assess one of the four documents used in the report, and they did not render definitive judgment on that document. Ultimately, they played a peripheral role and deferred to another expert who examined all four of the documents used. Most importantly, the content of the documents was backed up by our reporting and our sources who knew the thoughts and behavior of Lt. Colonel Jerry Killian at the time.

Moreover, on the *CBS Evening News* on September 14, John Roberts reported that "CBS News continues to stand by its reporting."¹⁰⁷

The Panel observes that the vetting group was not told prior to the airing of the September 8 Segment that the Segment "did not rely on either Will or James for a final assessment of the documents regarding George Bush's service in the Texas Air National Guard" and that in the end there were only two examiners. Most of the vetters had the impression that there were four examiners who stood behind the Killian documents. Similarly, no one was informed that Will and James played a "peripheral role."

By no later than late afternoon on September 14, there was a clear indication that there were holes in CBS News' defense of the Segment. Even so, the dominant posture was not to investigate the facts but still was to defend what had been aired.

Events may have overtaken the examiner issues, however, because on that same day Marian Carr Knox's revelations became public. West observed to the Panel that due particularly to Knox's statement that she did not believe that the Killian documents were authentic, *60 Minutes Wednesday* was moving away from a focus on typographical issues. Further, Howard told the Panel that he did not confront Mapes about these unsettling revelations because the situation was tense and that an "inquisition" would not have been helpful at that time.

3. Knox's Revelations

At about the same time as the Will and James disavowals became public on the afternoon of September 14, Marian Carr Knox was quoted in *The Dallas Morning News* as saying that the Killian documents were not authentic. Knox reportedly said that she did all of Lieutenant Colonel Killian's typing and that she was positive that she had not typed these documents. She

¹⁰⁷ A copy of this *CBS Evening News* report is Exhibit 1G.

was quoted as saying that she did type similar documents and that the content of the documents did reflect Lieutenant Colonel Killian's views.¹⁰⁸

The initial response by CBS News was to challenge the statements by Knox. Thus, CBS News issued a statement that read as follows:

As far as we can tell, this individual is not a documents expert. We believe the documents, which were one part of the *60 Minutes* story, to be genuine. It is notable that she confirms the content of the documents, which was the primary focus of our story in the first place.

Once more, the argument that content trumps authentication was at the heart of the CBS News defense.

Later, during the evening of September 14, however, a new strategy emerged. Heyward met with Rather and spoke with Mapes and it was decided that Knox, at least in part, might be good news since she appeared to confirm the content of the documents even if she did not believe that they were authentic. Accordingly, it was decided that *60 Minutes Wednesday* would seek to bring Knox to New York for an interview, which would be broadcast on the *60 Minutes Wednesday* show the next night. Knox agreed to fly up, and for the second week in a row, a segment was being "crashed."

Knox was flown by charter jet to New York on Wednesday, September 15. She was then interviewed by Rather and a segment, produced by Mapes, was put together and aired that evening at 8 p.m.

In preparation for the *60 Minutes Wednesday* segment to be broadcast on September 15, CBS News issued a News Release and Statement (the "September 15 Statement"), a copy of which is attached as Exhibit 3H. The September 15 Statement discussed Knox's view that the Killian documents were not authentic but that their content was accurate. The Statement also reasserted the *60 Minutes Wednesday* position on other matters that it believed supported the Segment: how *60 Minutes Wednesday* came to procure the documents; the authentication efforts by four experts (now Matley, Pierce, Glennon and Katz); the limitations of Will and James; and the confirmations of support regarding the content of the story by Major General Hodges and

¹⁰⁸ Pete Slover, *Ex-Aide Disavows Bush Guard Memos*, DALLAS MORNING NEWS, Sept. 15, 2004, at 1A. It is of interest to note that *The Dallas Morning News* article also mentions that Knox recalled using a mechanical Olympia typewriter that had a "th" key. The article also reported that experts said that the Olympia model could not produce proportional spacing. This was yet a further signal that the Killian documents might not be authentic. Yet, this triggered no immediate reassessment of the *60 Minute Wednesday* reporting.

background reporting on General Staudt, notwithstanding the denials by Generals Hodges and Staudt.

The Panel has a number of concerns about this Statement, but two are most significant. First, in discussing the *60 Minutes Wednesday* experts, the following is stated: “Two of the examiners . . . Matley and Pierce, attested and continue to attest to their belief in the documents’ authenticity.” The Statement then proceeds to cite from the Matley and Pierce written statements previously discussed. As noted, Matley had not attested to his belief in the documents’ authenticity, and it was misleading to suggest that Pierce had authenticated any of the four documents either before the September 8 Segment was aired.

Second, the September 15 Statement stated that Will and James, in their appearances on ABC News, “misrepresented their conversations and communication with CBS News.” This was a harsh accusation. To the Panel’s knowledge, no one from CBS News or *60 Minutes Wednesday* had closely questioned Mapes or Miller about their communications with these examiners to determine whether misrepresentations had been made. Similarly, to the Panel’s knowledge, no one from CBS News had made any effort to contact Will or James to get their sides of the story. The Panel would have expected CBS News and *60 Minutes Wednesday* to take such steps before accusing these examiners of misrepresentations.

As Mrs. Knox was being flown to New York on Wednesday, September 15, the CBS News strategy was in flux. Early on September 15, and as reflected in the September 15 Statement, CBS News planned not only to air a segment with Knox but also to present a further defense of all its reporting for the September 8 Segment. Indeed, producers were working through the day on the non-Knox portions to be aired. For example, the draft script included excerpts from the interviews with Glennon, Katz and Pierce,¹⁰⁹ repeating many of the points raised in earlier broadcasts, such as pointing to the superscript “th” in the official Bush records. Thus, even at this late date, the core defense of the September 8 Segment appeared to be unchanged. However, once the Knox interview was taped, it was decided that the *60 Minutes Wednesday* segment would focus only on the Knox interview and the rest of what they had planned to show was dropped.

The *CBS Evening News* on September 15 carried a short piece pertaining to the September 8 Segment, mostly highlighting the fact that the Knox interview would be shown on

¹⁰⁹ The Pierce interview transcript is Exhibit 9K to this Report.

60 Minutes Wednesday that evening. See Exhibit 1H. Significantly, CBS News for the first time dropped its strident defense of the September 8 Segment, although it continued to claim that the content of the documents was accurate:

Wyatt Andrews: CBS News officials say the memos came from a confidential source and that they are certain the content of the story is true.

Andrew Heyward: We would not have put the report on the air, if we did not believe in every aspect of it.

Wyatt Andrews: But News President Andrew Heyward also says the network will try to resolve what he calls the unresolved issues.

Andrew Heyward: Enough questions have been raised that we're going to redouble our efforts to answer those questions.

At 8 p.m. Eastern time that evening, *60 Minutes Wednesday* aired the new segment featuring the Knox interview. A transcript of the September 15 *60 Minutes Wednesday* segment is attached as Exhibit II. Rather described Knox in the segment as a "credible" voice. In essence, Knox stated that she did not believe the Killian documents were authentic, but that she did type similar documents and that she did believe that the content of the documents reflected Lieutenant Colonel Killian's views in 1972-73. Rather then closed the September 15 *60 Minutes Wednesday* segment as follows:

A few personal thoughts on this story we've reported tonight. We shall continue to aggressively investigate the story of President Bush's service in the National Guard and the story of the documents and memos in Colonel Killian's file. Are those documents authentic, as experts consulted by CBS News continue to maintain? Or were they forgeries or recreations as Marian Carr Knox and others believe? We will keep an open mind and we will continue to report credible evidence and responsible points of view as we try to answer the questions raised about the authenticity of the documents. Having said that, we do feel it's important to underscore this point: Those who have criticized aspects of our story have never criticized the heart of it. The major thrust of our report. That George Bush received preferential treatment to get into the National Guard and once accepted, failed to satisfy the requirements of his service. If we uncover any information to the contrary, rest assured, we shall report that also.

Heyward told the Panel that this was a "psychological breakthrough" because CBS News in the person of Dan Rather had for the first time acknowledged that the documents might be forgeries.

Knox agreed to meet with the Panel, once at her home in Houston with two counsel to the Panel and then a second meeting in a telephone interview with the Panel itself.¹¹⁰ The Panel observes that Knox provided the Panel with more details, and some contradicting information, regarding what was reported in *The Dallas Morning News* and later stated by her in her *60 Minutes Wednesday* interview on September 15. Knox, an outspoken critic of President Bush and an admirer of Rather, told the Panel:

- She did not remember Lieutenant Bush's being ordered to take a physical by Lieutenant Colonel Killian.
- She did not remember Lieutenant Bush's being suspended from flying status by Lieutenant Colonel Killian.
- She did not remember typing any documents like the four Killian documents that appeared in the September 8 Segment.
- She did not recall that Lieutenant Bush ever tried to get out of drill.
- She did not recall that Lieutenant Bush ever failed to show up for drill. She did remember that Lieutenant Bush was trying to secure a transfer to Alabama, but she never knew the outcome of the transfer. She did not recall Lieutenant Colonel Killian's being upset regarding the transfer.
- She did not recall having any trouble with Lieutenant Bush, and she did not recall Lieutenant Colonel Killian's having any trouble with Lieutenant Bush. She stated that Lieutenant Colonel Killian liked Lieutenant Bush.
- She stated that Lieutenant Colonel Killian was a private and professional man who would not have discussed Lieutenant Bush in front of anyone.
- She said, hypothetically, if someone did not come to drill, Lieutenant Colonel Killian would be upset.
- She said that she did not recall any conversations regarding General Staudt trying to "sugar coat" Lieutenant Bush's Evaluation Report.
- She said that there was only one type of typewriter in the office during 1972-73 and that she thinks that it was an Olympia manual. She confirmed that the Olympia manual had a superscript "th" key, but did not recall whether it had proportional spacing. She also stated that at some point the office switched to the IBM Selectric but that she thought that was around 1975. Knox could not confirm that the IBM Selectric had a superscript "th" key, but she thought that it probably did.
- Regarding the Killian documents, she confirmed for the Panel that she did not type them because if she did, they all would have been in proper TexANG format. She noted several inconsistencies from TexANG format in the documents: 1) the headings on certain of the documents were too far to the right; they should have been

¹¹⁰ At the second meeting with Knox, one of the Panel's counsel was with her at her Houston home to provide her with copies of the Killian documents about which the Panel was questioning her.

perfectly centered; 2) the signature block would also have been centered¹¹¹; 3) Texas Air National Guard should have been abbreviated “TexANG” instead of USAF/TexANG; and 4) the TexANG would not have used the word “billets,” since this is an Army or Navy term.

The Panel cannot determine whether Knox was more accurate with Rather and the *Dallas Morning News* or in her two Panel interviews. The Panel believes that in all instances she sought to be truthful and discussed 30-year-old events to the best of her recollection. The Panel, however, cannot conclude with any confidence that Knox confirmed the content of the documents used on the September 8 Segment.

E. *60 Minutes Wednesday* Develops a New Strategy Beginning September 15

1. September 15 and 16

A combination of factors, primarily the Will and James ABC News interviews and the Knox interview, led *60 Minutes Wednesday* to revamp its strategy for dealing with the September 8 Segment. The first change occurred late on September 14 or early on September 15. At that time, West decided that additional resources, independent from the September 8 Segment production team, needed to be involved in investigating the various leads being pursued. Thus, she asked Helen Malmgren, an experienced *60 Minutes Wednesday* producer skilled in research, to become involved. Malmgren’s first assignment was to assess the qualifications of the document examiners initially engaged by *60 Minutes Wednesday* and her second assignment was to conduct research on the background of Lieutenant Colonel Burkett. Howard asked Malmgren to use discretion on these issues, since Mapes was continuing to report on the story. Accordingly, Howard asked Malmgren to avoid phone calls in checking out the issues.

Malmgren reported her initial findings on the examiners to West, probably on Wednesday night, September 15, and then to both West and Howard on the next day. Malmgren reported that one cannot make a serious assessment of authenticity without original documents and that while one could not rule out the possibility that the documents were authentic, various experts and Knox had raised real issues. Second, Malmgren found that the experts who questioned authenticity seemed more credible to her than the *60 Minutes Wednesday* experts who by then had publicly defended the September 8 Segment. Third, on September 16, Malmgren

¹¹¹ The Panel believes that Knox was not correct in this belief as none of the signature blocks of the official Bush records reviewed by the Panel were centered.

did a relatively quick background search of Lieutenant Colonel Burkett on the Internet and reported preliminarily to West and Howard that day that there were a number of issues related to the consistency of Lieutenant Colonel Burkett's prior public statements.

Another change in strategy occurred late on September 15, by which time the Knox piece had aired on *60 Minutes Wednesday*. Heyward decided that additional attention needed to be paid to Lieutenant Colonel Burkett and the role he had played in providing the documents. To this end, he directed West to accompany Mapes to a meeting with Lieutenant Colonel Burkett. By this time, Heyward was no longer prepared to allow Mapes to direct the reporting alone and decided that West needed to be involved as well. Despite an established history of producer independence in the *60 Minutes* culture, by the evening of September 15, Heyward had sufficient concerns about the September 8 Segment that established custom would need to be overridden.

On the morning of Thursday, September 16, plans were being made for Mapes and West to travel to Texas to meet with Lieutenant Colonel Burkett. At that time, Mapes suggested to Heyward that she get Lieutenant Colonel Burkett on a phone call with him and others that day. Heyward agreed and a 2-3 hour phone call was held that afternoon, starting at 1:30 p.m., involving Heyward, Rather, Mapes and West in New York and Lieutenant Colonel Burkett in Texas.

During this call, Lieutenant Colonel Burkett stated that Mapes had pressed him hard over Labor Day weekend on the chain of custody issue and that he had misled Mapes by stating falsely to her that he had gotten the Killian documents from a fellow Guardsman named George Conn. Lieutenant Colonel Burkett said this was not accurate and he explained a different scenario concerning how he obtained the documents. Lieutenant Colonel Burkett stated that he had repeatedly been in the news in February 2004, primarily pertaining to his allegation that President Bush's TexANG files had been "scrubbed" or sanitized in approximately 1997-98. Shortly after this media blitz, Lieutenant Colonel Burkett said, he received a phone call from a woman who identified herself as Lucy Ramirez. Ramirez indicated that she had some documents pertaining to President Bush's TexANG service that she wished to provide to Lieutenant Colonel Burkett and asked him to come to Houston to get them. Lieutenant Colonel Burkett said that he and his wife were planning to be in Houston in early March 2004 for a livestock show. When in Houston, he called Ramirez at a pre-arranged Holiday Inn phone

number and was told that he would be given the documents at the show. Thereafter, a man he didn't know handed the six Killian documents to him at the show and disappeared.

No one at CBS News appears to have had any indication before the 1:30 p.m. call on September 16 that Lieutenant Colonel Burkett had misled Mapes about his source. The new information was viewed as highly significant, since it meant that, whatever the other issues, the September 8 Segment had been rendered unreliable insofar as the chain of custody of the documents was concerned. CBS News immediately embarked on a two-part strategy. First, it sent personnel into the field to attempt to find Ramirez and thus possibly to confirm the new account. This effort proved unsuccessful. Second, CBS News decided to seek an on-camera interview with Lieutenant Colonel Burkett so that his new explanation would be available for use on a subsequent *CBS Evening News* report or *60 Minutes Wednesday* segment.

2. The First Indication of Contact with the Kerry Campaign and the On-Camera Interview of Lieutenant Colonel Burkett: September 17-18

On the afternoon of Friday, September 17 a new problem emerged. A *USA TODAY* reporter contacted Kelli Edwards, the *60 Minutes Wednesday* media representative, and asked if *60 Minutes Wednesday* had reached any agreement to compensate any source for the September 8 Segment or to help any *60 Minutes Wednesday* source in making contact with any Kerry campaign officials. Edwards immediately contacted Howard and Mapes. Edwards told the Panel that Howard said that the campaign contact issue had come up before the September 8 Segment aired and that he had told Mapes that she could not serve as an intermediary to put the source in contact with the Kerry campaign. Edwards further told the Panel that Mapes replied that there was no compensation for any source and there was no help for any source in making contact with the Kerry campaign.

Lieutenant Colonel Burkett's interview with Rather took place in Dallas on Saturday, September 18. The attendees included Lieutenant Colonel Burkett, his wife and his attorney, as well as Rather, Mapes, West, Smith and Scott. Before the interview began, Lieutenant Colonel Burkett's attorney discussed with West his view that Lieutenant Colonel Burkett should be viewed as a resource for the September 8 Segment and should receive a contract as a consultant. West replied that that was not possible. The Burketts then met with their counsel and decided to go ahead with the interview.

Lieutenant Colonel Burkett's interview lasted more than 2 hours. The interview covered the alleged document "scrubbing" from 1997-98, as well as how he came to obtain the documents and how he misled Mapes by stating that he originally got the documents from Chief Warrant Officer Conn. A copy of the interview transcript is attached as Exhibit 9C.

3. Events Leading to the September 20 Apology

Shortly after this interview was over, Heyward determined that CBS News would issue an apology for the September 8 Segment on Monday, September 20, on the *CBS Evening News*. Work on that story went forward well into the night of Sunday, September 19, with the script at that point running for more than five minutes and featuring reasonably extensive excerpts from the September 18 interview of Lieutenant Colonel Burkett.

At approximately the same time that the story containing the apology was being prepared on Sunday evening, West received a new media inquiry from *USA TODAY* concerning allegations that Mapes had asked the Kerry campaign to call Lieutenant Colonel Burkett to get his strategic advice pertaining to a rebuttal of the Swift Boat attacks on Senator Kerry. In response to this inquiry, two things occurred.

First, Heyward, who learned of the media inquiry to West, spoke directly to Joe Lockhart about these allegations. Lockhart told Heyward that Mapes had called him on Saturday, September 4 and had asked him to call Lieutenant Colonel Burkett. Mapes gave Lockhart Lieutenant Colonel Burkett's telephone number and Lockhart subsequently called him. Lockhart told Heyward that his call with Lieutenant Colonel Burkett was very brief and that they discussed the Swift Boat advertisements and the subject of documents never came up.

Second, after West received the media inquiry, she contacted Edwards. Edwards told West that Mapes had denied on Friday, September 17 that she had put her source in contact with the Kerry campaign. Later that evening, West met with Mapes at *60 Minutes Wednesday's* offices and asked if she had put Lieutenant Colonel Burkett in touch with the Kerry campaign. West recalled that after a brief hesitation, Mapes confirmed that she had done so after the September 8 Segment had aired because she wanted to confirm Lieutenant Colonel Burkett's statements to her that he had previously contacted Senator Max Cleland and Governor Howard Dean. Mapes also told West that Howard had approved this contact.

Mapes recalled that Howard was present during this conversation with West and did not deny that he had given approval. Howard denied that he was present at this conversation. West

did not recall that Howard was present during any such conversation with Mapes and doubts that he was as West would have immediately asked Howard if he had given Mapes permission given that she believed that the contact with the Kerry campaign was inappropriate. West further said that Mapes in a later conversation corrected her recollection and stated that she believed that she passed on Lieutenant Colonel Burkett's request to be contacted prior to the airing of the September 8 Segment.

During the day on Monday, September 20, work continued on the script of the apology that was to air on the *CBS Evening News* that night. Executive Producer Jim Murphy was involved in reviewing the draft script. He objected to a long piece, arguing that *CBS Evening News* personnel had not had sufficient opportunity to check Lieutenant Colonel Burkett's interview for accuracy. An initial review by Malmgren of Lieutenant Colonel Burkett's September 18 interview versus his other public statements had revealed some disparities. Murphy's view prevailed and the script was cut significantly.

At approximately 11 a.m. on September 20, Howard convened a meeting of the *60 Minutes Wednesday* staff. Howard announced to the staff that the documents used on the September 8 Segment could not be authenticated and that CBS News later in the day would issue an apology. Howard did not recall precisely what he said at this meeting, but he had prepared an e-mail to himself that he told the Panel was largely consistent with his remarks:

I want to add to that my apology to all of you. We have a remarkable team of reporters at this broadcast. Everyone of you strives to be fair and honest and get it right. And you don't deserve to be caught up in this controversy. The fact is, your management failed you. I failed you. Yes, this story went through the usual vetting proves [sic], and all the usual players were involved. But the final decision about what goes on this broadcast is mine. I would do anything to be able to turn back the clock, and change the course of these events. Obviously I can't do that. But there is something I can do, and that is to help in whatever way I can to find out what went wrong, and figure out how we make sure it doesn't happen again. I look forward to the investigation, and I trust anyone who has anything to contribute, will cooperate as fully as possible.

Prior to the *CBS Evening News* report on September 20, CBS News issued a Press Statement, announcing that the September 8 Segment was flawed and that an independent investigation would be convened. The Press Statement read as follows:

Bill Burkett, in a weekend interview with CBS News Anchor and Correspondent Dan Rather, has acknowledged that he provided the now-disputed documents used in the Sept. 8 60 MINUTES WEDNESDAY

report on President Bush's service in the Texas Air National Guard. Burkett, a retired National Guard lieutenant colonel, also admits that he deliberately misled the CBS News producer working on the report, giving her a false account of the documents' origins to protect a promise of confidentiality to the actual source. Burkett originally said he obtained the documents from another former Guardsman. Now he says he got them from a different source whose connection to the documents and identity CBS News has been unable to verify to this point. Burkett's interview will be featured in a full report on tonight's CBS EVENING NEWS WITH DAN RATHER (6:30 –7:00, ET/PT).

In light of this and other developments reported by CBS News and other news organizations, CBS News President Andrew Heyward issued the following statement: "60 MINUTES WEDNESDAY had full confidence in the original report or it would not have aired. However, in the wake of serious and disturbing questions that came up after the broadcast, CBS News has done extensive additional reporting in an effort to confirm the documents' authenticity. That included an interview featured on last week's edition of 60 MINUTES WEDNESDAY with Marian Carr Knox, secretary to the late Lt. Col. Jerry Killian, the officer named as the author of the documents; the interview with Bill Burkett to be seen tonight (20); and a further review of the forensic evidence on both sides of the debate. Based on what we now know, CBS News cannot prove that the documents are authentic, which is the only acceptable journalistic standard to justify using them in the report. We should not have used them. That was a mistake, which we deeply regret. Nothing is more important to us than our credibility and keeping faith with the millions of people who count on us for fair, accurate, reliable, and independent reporting. We will continue to work tirelessly to be worthy of that trust."

CBS News and CBS management are commissioning an independent review of the process by which the report was prepared and broadcast to help determine what actions need to be taken. The names of the people conducting the review will be announced shortly, and their findings will be made public.¹¹²

(emphasis added).

CBS News carried the following report on the September 20 *CBS Evening News*:

Rather: Now news about CBS News and the questions surrounding documents we aired on this broadcast and on the Wednesday edition of *60 Minutes* on September 8th. The documents purported to show that George W. Bush received preferential treatment during his years in the Texas Air National Guard. At the time CBS News and this reporter fully believed the documents were genuine. Tonight, after further investigation,

¹¹² The CBS Press Statement was incorrect in stating that Lieutenant Colonel Burkett had served in the Texas Air National Guard. In fact, Lieutenant Colonel Burkett served in the Texas Army National Guard. The same error later was made by Rather in the *CBS Evening News* report.

we can no longer vouch for their authenticity. The documents were provided to CBS News by a former commander in the Texas Air Guard, Bill Burkett. He did not come to us; we went to him and asked him for the documents. Burkett is well known in National Guard circles for a long battle over his medical benefits and for trying for several years now to discredit President Bush's military service record. Burkett initially told CBS News he got the documents from a fellow guardsman. But, when we interviewed Burkett this past weekend, he changed his story and told us he got the documents from a different source, one we cannot verify. Why did Burkett tell CBS News something he now says is not true? We put the question to him.

Rather: Why did you mislead us?

Burkett: Well I didn't totally mislead you. I did mislead you on the one individual. You know your staff pressured me to a point to reveal that source.

Rather: Well we were trying to get the chain of possession.

Burkett: I understand that.

Rather: And you said you had received it from someone?

Burkett: I understand that.

Rather: And we did pressure you – to say well you received them from someone?

Burkett: Yes.

Rather: And that someone was whom? And it's true, we pressured you?

Burkett: Right.

Rather: Because it was a very important point for us.

Burkett: Yes. And, and I simply threw out a name that was basically, it was - I guess to get a little pressure off for a moment.

Rather: Have you forged anything?

Burkett: No sir.

Rather: Have you faked anything?

Burkett: No sir.

Rather: But you did mislead us?

Burkett: Yes I misled you. Yes I did.

Rather: You lied to us. Why would I or anyone believe that you wouldn't mislead us about something else?

Burkett: I could understand that question. I can. That's gonna have to be your judgment and everybody else's.

Rather: Burkett still insists the documents are real but says he was in no position to verify them.

Burkett: I also insisted when I sat down with your staff in the first face-to-face session, before I gave up any documents, I wanted to know what you were gonna do with them. And I insisted that they be authenticated.

Rather: The failure of CBS News to do just that, to properly, fully scrutinize the documents and their source, led to our airing the documents when we should not have done so. It was a mistake. CBS News deeply regrets it. Also, I want to say personally and directly, I'm sorry. CBS News President Andrew Heyward has ordered an independent investigation to examine the process by which the report was prepared. The results of that investigation will be made public. This was an error made in good faith as we tried to carry on the CBS News tradition of asking tough questions and investigating reports. But it was a mistake. Now, some reaction to our revelations today. It comes from a spokesman for President Bush, Scott McClellan.

Scott McClellan: Obviously, there are still a number of questions that need to be answered. We look forward to seeing the results of the investigations that other media organizations have undertaken and that CBS says that they have now undertaken. And we appreciate the fact that they have said they deeply regret it but we still need – wanna see those questions answered.

Rather: And Scott McClellan repeated the White House insistence that President Bush fulfilled his obligations of the National Guard and he noted again the President was honorably discharged.

The Panel is troubled by this apology. While the apology does address the failure of *60 Minutes Wednesday* to authenticate the documents, the thrust of the apology is that *60 Minutes Wednesday* made mistakes because it was misled by Lieutenant Colonel Burkett. The Panel feels that was unfair. *60 Minutes Wednesday* never carried out basic reporting to attempt to confirm Lieutenant Colonel Burkett's original story that Chief Warrant Officer Conn provided him with the documents. Thus, from the outset, it was the deficient reporting by *60 Minutes Wednesday* that was at the heart of the failures that plagued the Segment.

At approximately the same time as the *CBS Evening News* broadcast was aired, Rather issued his own personal statement about the September 8 Segment. His statement read as follows:

Last week, amid increasing questions about the authenticity of documents used in support of a "60 MINUTES WEDNESDAY" story about President Bush's time in the Texas Air National Guard, CBS News vowed to reexamine the documents in question – and their source – vigorously.

And we promised that we would let the American public know what this examination turned up, whatever the outcome.

Now, after extensive additional interviews, I no longer have the confidence in these documents that would allow us to continue vouching for them journalistically. I find we have been misled on the key question of how our source for the documents came into possession of these papers. That, combined with some of the questions that have been raised in public and in the press, leads me to a point where – if I knew then what I know now – I would not have gone ahead with the story as it aired, and I certainly would not have used the documents in question.

But we did use the documents. We made a mistake in judgment, and for that I am sorry. It was an error that was made, however, in good faith and in the spirit of trying to carry on a CBS News tradition to investigative reporting without fear of favoritism.

Please know that nothing is more important to us than people's trust in our ability and our commitment to report fairly and truthfully.

On Monday, September 20, 2004, Rather also gave a long interview to WCBS-TV, the network's New York City station. A copy of that interview is attached as Exhibit 8. The Panel submits that Rather's statements in this interview were more encompassing and more direct than the statements made on the *CBS Evening News* on that same day. Thus, while Rather mentioned the fact that CBS News had been misled by its source, he, on behalf of himself and CBS News, squarely took the blame for what had occurred.

Marcia Kramer of WCBS: How could you have been so misled that these documents were put on TV?

Dan Rather: I made a mistake. I didn't dig hard enough, long enough, didn't ask enough of the right questions. And I trusted a source who changed his story. And it turns out he misled us, lied to us about one thing. But there are no excuses. This is not a day for excuses. I made a mistake; we made a mistake and I'm sorry for it.

* * *

Marcia Kramer of WCBS: Some critics have pointed out that CBS had four different sources that were verifying the documents. Two said that the documents were true, reportedly, and two raised questions. What about those two that raised questions? Did they give you any pause before you decided to go on TV?

Rather: I think that is a fair criticism, that when you're looking for experts to verify signatures as best they can, the integrity of the documents, you know that you're not going to get definitive answers because this is not like DNA, it's not like fingerprints. It's a very crude art as opposed to a science. I was told that we had four who by and large

had agreed that they were not forgeries, that they probably weren't fake. Now two of those, it's my understanding, came back later, and either changed their story, or the story that I got, and a lot of us got at the time was not true. But again I come back to, it's our job to square all that away in advance and we did not, we were not able to prove the authenticity of the documents.

We're fact-finders and we tried very hard to be fact-finders in this case. But we made the mistake of being more trusting in the source than we should have been. And once we found out that he misled us we came full with the public. I can't underscore too much we believe in leveling with people and total transparency. And as soon as we found out we have been misled we wanted to get our source on the record on videotape so his face and voice is on it and then play it to people and say this is what he now says.

The Panel asked Rather about his interview with Marcia Kramer. Rather said that he did not want to do the interview or the apology on September 20, but Heyward and Schwartz asked him to do so. Rather said that he made his case as to why an apology was not appropriate and that management did not agree with him. Rather agreed to do the apology on September 20 and the Marcia Kramer interview because he is a "team player." Rather informed the Panel that he still believes the content of the documents is true because "the facts are right on the money," and that no one had provided persuasive evidence that the documents were not authentic.

It is clear that Rather's joining in the apology given his role as the correspondent on the Segment and his status as CBS News' most visible presence was critical to its acceptance. The Panel finds his comments disavowing the apology to be troubling, notwithstanding that he said he regarded himself as carrying out what CBS News felt was in its best interest on September 20.

4. The Lockhart Disclosures

On Tuesday, September 21, *USA TODAY* reported that Lieutenant Colonel Burkett "agreed to turn over the documents to *60 Minutes Wednesday* if Mapes would arrange a conversation with the Kerry campaign."¹¹³ Lockhart publicly confirmed that he had spoken to Lieutenant Colonel Burkett. Other news organizations also reported on the story. For example, in a report by *The Associated Press*, Lockhart reported that Mapes asked him over Labor Day weekend to call Lieutenant Colonel Burkett. He was quoted as saying: "She basically said there's a guy who is being helpful on the story who wants to talk to you."¹¹⁴ Indeed, Lockhart

¹¹³ Kevin Johnson et al., *CBS Had Source /Talk to Kerry Aide*, *USA TODAY*, Sept. 21, 2004, at 1A.

¹¹⁴ *Kerry Aide Talked to Texan at Center of Disputed Guard Documents*, AP, Sept. 20, 2004.

informed the Panel that Mapes suggested to him that a call from him to Lieutenant Colonel Burkett might assist her in obtaining additional documents from Lieutenant Colonel Burkett.¹¹⁵

The Panel finds Mapes' contact highly inappropriate. The Panel observes that many at CBS News who reacted with incredulousness and anger. With respect to the content, the Panel heard words like "outrageous," "unbelievable," "hideous," "stunned and horrified," and "incredibly stupid."

CBS News issued this statement on the matter late in the day on Tuesday, September 21:

It is obviously against CBS News Standards and those of every other reputable news organization to be associated with any political agenda. As to what actually happened here, it is one of many issues the independent review will be examining.

The Panel has these observations about Mapes' contact with the Kerry campaign. First, it was clearly wrong. The September 8 Segment was about President Bush's TexANG service records and had the potential to be damaging to him in the midst of a campaign. The Panel finds it inconsistent with the need for CBS News to be nonpartisan and unbiased for one of *60 Minutes Wednesday's* producers to seek to open a door into the Kerry campaign on behalf of a source producing documents damaging to President Bush. While the Panel recognizes it may be appropriate to contact a political opponent in some situations (*e.g.* to seek information or comment), this was a situation where it clearly was not appropriate.

Second, the Panel cannot reach a definitive conclusion about whether Mapes had Howard's permission to make the contact with the Kerry campaign. Howard was adamant that when she asked him, he told Mapes she could not contact the Kerry campaign. Mapes was equally adamant that she had Howard's clear permission. However, the Panel does note that it received information that Mapes was inconsistent in responding to her colleagues' questions about contact with the Kerry campaign. For example, Kelli Edwards said that when first asked, Mapes denied that there had been any contact with the Kerry campaign on behalf of Lieutenant Colonel Burkett. Moreover, Mapes told West that her contact with Lockhart was after the September 8 Segment aired, and then she subsequently admitted that the contact was before September 8. Nevertheless, the Panel does not believe that it can make a clear finding with

¹¹⁵ Similarly, Lockhart informed Heyward in the telephone call on Sunday, September 19, that Mapes had wanted to use the campaign to help convince Lieutenant Colonel Burkett to provide additional documents.

respect to this question. Regardless of whether permission was given, the Panel believes that the contact with Lockhart was entirely inappropriate.

X. WHETHER THERE WAS A POLITICAL AGENDA DRIVING THE SEPTEMBER 8 SEGMENT

There has been widespread speculation in the media that the September 8 Segment was motivated, in whole or in part, by an anti-Bush political agenda. Thus, after the Segment was aired, the following types of comments appeared in print media:

Rather has long been criticized by some conservatives as being emblematic of the liberal news media.¹¹⁶

Rather's involvement in the politically charged story has led some Bush allies to challenge the network's general credibility.¹¹⁷

"I'm really heartsick she made that call [to Lockhart]. It has the air of some kind of conspiracy behind it to help Kerry," said Sandy Socolow, a former executive producer of the *CBS Evening News with Dan Rather* and his predecessor, Walter Cronkite. "She was trying to manipulate the political process in some way that's not clear to me."¹¹⁸

The question of whether a political agenda played any role in the airing of the Segment is one of the most subjective, and most difficult, that the Panel has sought to answer. The political agenda question was posed by the Panel directly to Dan Rather and his producer, Mary Mapes, who appear to have drawn the greatest attention in terms of possible political agendas. Both strongly denied that they brought any political bias to the Segment. The Panel recognizes that those who saw bias at work in the Segment are likely to sweep such denials aside. However, the Panel will not level allegations for which it cannot offer adequate proof.

The Panel does not find a basis to accuse those who investigated, produced, vetted or aired the Segment of having a political bias. The Panel does note, however, that on such a politically charged story, coming in the midst of a presidential campaign in which military service records had become an issue, there was a need for meticulous care to avoid any suggestion of an agenda at work. The Panel does not believe that the appropriate level of care to avoid the appearance of political motivation was used in connection with this story.

It should be noted that *60 Minutes Wednesday* was hardly alone in pursuing the story. Other mainstream media, including *USA TODAY*, *The New York Times* and *The Associated Press*, were pursuing the same story in what was clearly a competitive race to be first. In fact,

¹¹⁶ Mark Memmott, *Amid Criticism, CBS Stands by its Reports*, *USA TODAY*, Sept. 13, 2004, at 11A.

¹¹⁷ David Folkenflik, *CBS Agrees To Try To Resolve Document Dispute*, *BALT. SUN*, Sept. 16, 2004, at 10A.

¹¹⁸ David Folkenflik, *CBS Producer Urged Kerry Aide To Call Source of Memos on Bush*, *BALT. SUN*, Sept. 22, 2004, at 10A.

USA TODAY on September 9 published a similar story relying on the same Killian documents, but has not been as criticized for its story as CBS News has been for the September 8 Segment. The Panel recognizes that some will see this widespread media attention not as evidence that *60 Minutes Wednesday* was not motivated by bias but instead proof that all of mainstream media has a liberal bias. That is a perception beyond the Panel's assignment.

A. Information that Might Suggest a Political Agenda

1. Rather and Mapes' Long Pursuit of the TexANG Story

As described earlier, Rather and Mapes first pursued a story about President Bush's TexANG service in 1999 and 2000. Although a number of stories were publicly reported during that time by other news organizations, Rather and Mapes did not produce any stories at that time. They then set aside reporting on President Bush's TexANG service until 2004, at which time a number of other news organizations renewed their pursuit of the story.

The Panel does not view the length of Rather and Mapes' pursuit of this story as persuasive evidence of a political agenda. Mapes did not believe that she was able to gather enough meaningful information for a story in 1999 and 2000. Mapes and Rather pursued the story again in 2004, but only after a significant number of stories had appeared in the national media on the subject beginning in or about February 2004. Rather and Mapes were able to put together the September 8 Segment because they were the first to obtain documents that they believed were genuine and significant, and because Ben Barnes agreed to do his first nationally televised interview on *60 Minutes Wednesday*.

The Panel cannot be sure why Lieutenant Colonel Burkett provided the documents first to Mapes, particularly since he declined to talk to the Panel. However, Mapes informed the Panel that he told her that her refusal to disclose confidential information in another story that appeared on *60 Minutes Wednesday* about murders in Jasper, Texas, even when threatened with jail, was a major factor in his decision to provide her with the documents. This seems to be a reasonable conclusion since Lieutenant Colonel Burkett made it clear to Mapes and Mike Smith that he did not want his identity disclosed as the source of the documents.

2. The Anti-Bush Sources

Many of the sources of information that were used for the September 8 Segment had an anti-Bush political agenda. First, Lieutenant Colonel Burkett was a visible and outspoken critic

of President Bush. Second, Mapes and Smith also relied on Linda Starr to assist in obtaining the documents from him. Her website was and still is filled with anti-Bush statements. Third, it appears that Mapes first came to learn about Linda Starr and her possible link to TexANG records from Paul Lukasiak, another anti-Bush blogger. Fourth, Ben Barnes appeared on the September 8 Segment to claim that he provided assistance to President Bush to gain entry to the TexANG. Barnes was a well-known supporter of, and fundraiser for, Senator Kerry's presidential campaign.

The Panel recognizes the appearance problems involved in receiving information from partisan individuals. It is not at all unusual or inappropriate, however, for news organizations to obtain information from a political, business or other opponent of the subject of an investigation, given that supporters are manifestly less likely to provide critical or damaging information. It only becomes problematic if the political bias of the source is allowed by the reporter to affect the fairness of the story.

The Panel does not believe that evidence exists to demonstrate that the political leanings of any source influenced the production of the September 8 Segment. Doubtless, however, these sources to some degree sought to use *60 Minutes Wednesday* to further their own political agendas, as they likely viewed a TexANG story on President Bush's service as potentially helpful to efforts to defeat President Bush in his reelection campaign. It goes without saying that CBS News must guard against being used by people pursuing particular agendas and must have careful and balanced reporting and vetting. As noted below, management of *60 Minutes Wednesday* and CBS News recognized the political significance and sensitivity of the story and made a number of edits to the September 8 Segment script to make it more balanced.

3. Proposed Use of Colonel Hackworth

The Panel has already reported on the proposed use of relatively inflammatory statements from the Colonel Hackworth interview for the September 8 Segment. The Panel has considered whether that might be viewed as part of an anti-Bush bias by those who proposed to use the interview excerpts on the Segment.

The Panel is somewhat troubled by the proposed use of these excerpts since they seemed gratuitous and because Colonel Hackworth lacked any personal knowledge pertaining to the TexANG. Mapes and Rather, on the other hand, told the Panel that they felt that he added to the Segment, given his extensive military experience and his ability, as something of an expert, to

comment on the way things were done in the military. The Panel cannot conclude that this proposed use of Colonel Hackworth was part of any political agenda. Instead, it seems more in keeping with efforts to make what was felt to be a solid story even more provocative.

4. Kerry Campaign Connections

The Panel reports elsewhere about Mapes' contacts with the Kerry campaign. Mapes informed the Panel that she did not think that her request to have someone from the Kerry campaign call Lieutenant Colonel Burkett would result in anything that would assist the Kerry campaign.¹¹⁹ Mapes also told the Panel that she was seeking to use the Kerry campaign, and specifically her opening the door to Lockhart, as a means of persuading Lieutenant Colonel Burkett to provide additional documents in support of the September 8 Segment. As stated elsewhere in this Report, the Panel finds that such use of the campaign was entirely improper. The Panel also concludes, however, that these contacts were motivated by Mapes' pursuit of the story and not by any political agenda.

Moreover, the Segment includes an interview with Ben Barnes, a supporter and large fundraiser for Senator Kerry's presidential campaign. The Segment discloses Barnes' affiliation with the Kerry campaign. In addition, a number of media organizations had been pursuing for many years an interview with Barnes about his efforts to get President Bush an appointment. Thus, a televised interview of Barnes was seen as a newsworthy event.

B. Factors that Support a Conclusion that a Political Agenda Did Not Motivate the September 8 Segment

The Panel believes that additional factors in the production of the September 8 Segment rebut the notion that it was politically motivated. The most significant factors are discussed below.

1. The Previous Work of Rather and Mapes

The Panel asked Rather directly to comment on whether he was motivated in any way by a political animus in pursuing the September 8 Segment. He responded: "absolutely, unequivocally untrue." Rather related that over his long career, he has done tough stories on a

¹¹⁹ At the time Lieutenant Colonel Burkett was seeking contact with the Kerry campaign, the campaign was engaged in a battle to regain the momentum that it had achieved shortly after the Democratic Convention and the Kerry campaign already had many advisors pertaining to the Swift Boat attacks. In that context, the Panel doubts that the Kerry campaign would have been interested in the strategic views of a retired military officer from West Texas.

number of Presidents, both Republican and Democrat, including: Lyndon Johnson and the Vietnam War; Richard Nixon and Watergate; Jimmy Carter and the Iran hostages; George H. W. Bush and Iran Contra; and Bill Clinton and Monica Lewinsky. With respect to the September 8 Segment, Rather said that he had full confidence in the people who put the story together and that he had no indication at the time that the documents were not authentic.

Mapes told the Panel that she was motivated by “proximity, not politics.” Mapes has lived in Texas for 15 years and at least six of her thirty *60 Minutes Wednesday* stories before the September 8 Segment had a Texas nexus. The Panel was told by many at *60 Minutes Wednesday* and CBS News who worked with Mapes that she was motivated by reporting on a significant story and that they did not believe that political ideology became a part of her stories. Mapes stridently believed in both the authenticity of the documents and their content, and, indeed, told the Panel that she still does.

The senior producers and management, Murphy, Howard and West, as well as the other veters, all told the Panel that they were comfortable in broadcasting the September 8 Segment because they believed at the time that the Killian documents and their content had been authenticated. They recognized the political sensitivity of the story and took steps to make it more balanced. The Panel finds no evidence that any of these individuals were motivated by political considerations.

2. The Editing Process Added Balance

The management structure at CBS News and within *60 Minutes Wednesday* is intended to serve as a mechanism to ensure that stories are reported fairly and accurately. Thus, the President of the CBS News Division, the Senior Vice President, Prime Time, CBS News and the Executive Producer of *60 Minutes Wednesday* can dictate that changes be made to a story and each has veto power over any story. The producer and correspondent cannot force a show to air over the veto of any of these executives.

With respect to the September 8 Segment, Heyward, West and Howard all were involved before the Segment aired to ensure that it was fair and balanced, although their degree of involvement varied. At least two specific changes in the September 8 script were ordered by some or all of these individuals: 1) the deletion of Colonel Hackworth’s interview excerpts, including his characterization that then-Lieutenant Bush “was AWOL for a whole bunch of his service”; and 2) the inclusion of additional statements from the interview with White House

Director of Communications Dan Bartlett that further rebutted the allegations against President Bush. These changes were designed to make the Segment more balanced.

3. Assuming the Killian Documents Were Authentic, They Added New Data to the Bush TexANG Record

The September 8 Segment addressed some items pertaining to President Bush's TexANG service record that were not previously known and thus could be considered newsworthy.

Significant among them were:

1. Lieutenant Colonel Killian on May 4, 1972 ordered Bush to report for his annual physical no later than May 14, 1972.
2. Lieutenant Colonel Killian on August 1, 1972 suspended Bush from flying status on August 1, 1972 not only for failing to take his physical, but also for "failure to perform to USAF/TexANG standards"
3. Lieutenant Colonel Killian wrote on August 18, 1972 that General Staudt, the then-former TexANG Chief of Staff, was pressuring Major General Hodges and Lieutenant Colonel Harris to "sugar coat" an evaluation of Lieutenant Bush.

If true, these statements appear to have constituted newsworthy information in which the public could have an interest. These documents would have, again if true, been the basis for a legitimate story in the Panel's view, as attested to by the fact that other national media were pursuing the same story. It is a large part of an investigative reporter's mandate to provide this kind of provocative information to viewers or readers, assuming it has been properly reported and vetted, regardless of the reporter's political affiliation or motives.

XI. RECOMMENDATIONS

The Panel was asked to make recommendations with respect to *60 Minutes Wednesday* to help CBS News avoid a repetition of the failures identified in the reporting, production and vetting of the September 8 Segment, as well as the deficiencies identified in the Aftermath. The Panel was not asked to make recommendations related to any individuals associated with the Segment.

CBS News has in place a comprehensive Standards Manual that embodies CBS News' commitment to fairness and accuracy. Had these Standards been rigidly adhered to in the reporting, production and vetting of the Segment, most, if not all, of the problems identified in this Report could have been avoided. Certain specific Standards are discussed later in these recommendations.

Mindful that no two stories are exactly alike, and that no set of recommendations will necessarily guarantee against failure, the Panel offers the following for consideration by management of CBS News:¹²⁰

- Create a new senior Standards and Practices position (“Standards Executive”), outside of the production structure of *60 Minutes Wednesday* and reporting directly to the President of CBS News, whose mission would be as follows. Before airing any *60 Minutes Wednesday* segment that involves investigative reporting, confidential sources or the authentication and/or chain of custody of materials received from outside sources, the Standards Executive must be consulted and must review whether proper processes have been followed. The Panel observes that CBS News has had a person in charge of “Standards and Practices,” but this position has not been tasked to function as outlined here. The Standards Executive should have the authority to delay or veto the segment.
- The creation of the Standards Executive position and consultation process is not intended to diminish the obligation of others in the process - including the correspondent, producer, associate producer, transcript reviewer, Senior Broadcast Producer and Executive Producer of *60 Minutes Wednesday* - to satisfy themselves that all proper standards and processes have been followed. The obligation to bring such issues to the attention of the Standards Executive would rest with all those holding responsible positions in the production and vetting process. The Panel further recommends that such issues be brought to the attention of the Standards Executive as early as feasible in the production of a segment so that issues can be dealt with in a timely way outside of a “crash” environment.

¹²⁰ The Panel’s recommendations are directed at *60 Minutes Wednesday*, the subject of this Report. The Panel recognizes that CBS News may decide that some of the recommendations should pertain to other CBS News shows as well.

- The Standards Executive’s function would be separate from the fairness and accuracy review now regularly performed for all *60 Minutes Wednesday* segments by the Senior Vice President, Prime Time, CBS News another direct report to the President of CBS News. However, in those instances where that person becomes more involved in the production process for a *60 Minutes Wednesday* segment than is customary, as occurred with the September 8 Segment, the Standards Executive shall then be tasked with the obligation to perform the final fairness and accuracy review once the segment is deemed ready for air.
- The Standards Executive would also be identified throughout *60 Minutes Wednesday* as someone with whom the staff can communicate on a confidential basis, without fear of retaliation, if they have concerns that a planned story or segment may not meet CBS News’ Standards of accuracy and fairness, or for any other reason.
- If the validity of information presented in a *60 Minutes Wednesday* segment comes under a significant challenge, such as occurred with the September 8 Segment, reporting on the challenge should not be left largely or entirely in the hands of those who created the segment at issue. Instead, an additional team, led by someone not involved in the original segment, should be assigned to take the lead in the coverage. The Panel notes that once the attacks began on the September 8 Segment, essentially the same people who developed the challenged segment had control of the news reports defending it. This resulted in opportunities for other news organization to do the reporting that exposed serious problems in the Segment.
- Competitive pressures are a fact of life in journalism and may impact the timing of a news story. The leadership of CBS News, however, should make clear to all personnel that competitive pressures cannot be allowed to prompt the airing of a story before it is ready. It would have been better to “lose” the story on the Killian documents to a competitor than to air it short of investigating and vetting to the highest standards of fairness and accuracy.
- In sensitive stories relying on sources who cannot be identified on the air, senior management must, as appropriate, know not just the name of the source, but all relevant background that would assist in news decisions. Limitations in this regard must be reviewed with the Standards Executive that the Panel has proposed.
- All on-camera interviews done for a segment, whether or not aired, should be reviewed by a person assigned such script review responsibility to ensure that the segment presents fairly and accurately what was said in the interviews. As noted herein, the September 8 Segment did not fairly represent the unaired Matley interview. The script reviewer also must be sensitive to ensure that persons interviewed for a *60 Minutes Wednesday* segment have sufficient personal knowledge of the subject matter so that it is fair and accurate to use them in the segment.
- Correspondents, producers and associate producers must be reminded to disclose to the Executive Producer and Senior Broadcast Producer all relevant information unearthed in the reporting, both supporting and challenging the segment’s essential findings. In the instant case, Howard and Murphy should have been told far more about conflicting information obtained by Mapes and her team, including the specific

concerns expressed by at least one of the document examiners, details of the questions raised about Lieutenant Colonel Burkett's past controversies, interviews that contradicted the assertion that President Bush received preferential treatment to obtain a position with the TexANG and the fact that General Staudt had retired from the TexANG approximately 18 months before he allegedly attempted to exert pressure on behalf of Lieutenant Bush.

- *60 Minutes Wednesday* management should require correspondents to regularly participate to the maximum extent possible in the preparation, vetting and pre-air screening of their stories. Management should review instances where the press of other responsibilities does not permit this, and make any appropriate changes to the production and vetting structure to obtain such participation.

CBS News Standards:

- The Panel recommends that the proposed Standards Executive should undertake a comprehensive review of the CBS News Standards Manual, soliciting input from throughout the news division.
- The Panel suggests a particularly close review of at least these standards: *Standard I-9, Political Activities*, to more specifically address matters such as the contact with Kerry campaign official Joe Lockhart, although the Panel feels that existing Standards make clear that the contact was inappropriate as a conflict of interest; *Standard II-2, General Policy on Newsgathering*, to identify in greater detail activities that might be considered "unethical newsgathering practices"; *Standard II-3, Interviews*, to specifically require consideration of whether interviewees have sufficient personal knowledge of the subject matter so that it is both fair and reasonable to use their comments; *Standard II-6, Confidential and Other Restricted Sources*, to specify that the details of any confidentiality promise must be approved by the Executive Producer or higher position in appropriate situations, either in advance or as soon as practical after a promise is made; *Standard II-15, Handout Footage*, to make explicit that this standard covers all materials provided by non-CBS News sources, including documents.
- CBS News should institute a program for regular review of its Standards Manual with its staff to maintain the Manual's relevance to ongoing news work.

Suggested Protocols:

- CBS News should establish a protocol for stories that require authentication of any materials, including documents, videotapes, recordings, and photographs. Such a protocol could identify experts, vetted in advance, who might be called on to assist with authentication.
- The same standards for accuracy and fairness prescribed by CBS News' Standards Manual for its news stories should be applied to its press releases and public statements. That did not consistently occur here, as our Report on the Aftermath illustrates. CBS News management and the CBS Communications Group should coordinate their efforts and develop a protocol that accomplishes this objective.

- Where chain of custody is an issue, the Executive Producer, Senior Broadcast Producer and Standards Executive must be provided evidence that the chain of custody is established before the material is aired or, at a minimum, viewers must be told that the chain of custody has not been or could not be confirmed.
- CBS News personnel should be reminded regularly to check with the CBS News Archives group, particularly on investigative stories, to determine whether information about sources or other relevant background information might be available.

As we said at the outset of this section, no set of recommendations can offer a failsafe guarantee. The Panel feels, however, that all of the above merit serious consideration in light of the problems exposed by the September 8 Segment.

XII. CONCLUSION

The Panel asked many members of the CBS News staff about their expectation for this Report. The answer, often in exactly these words, was “Tell us the truth, and tell us what happened.” The Panel has tried to do just that as it retraced the path from a seeming investigative coup on September 8 to the ignominy of the September 20 apology.

The Panel views CBS News’ initiation of this investigation and its complete cooperation as the mark of a confident news organization determined to understand and fix the causes of such wide-ranging failures in this one story. That confidence was underscored by the fact that the Panel was given unfettered access to people, news processes, reporters’ notes, e-mails, draft scripts and other materials to ensure that its investigation was as thorough as possible. Throughout the investigation, the Panel encountered impressive people of high professional standards and skill, on whose capabilities CBS News has been built and who must now move CBS News past these failures. The Panel appreciates their candor and cooperation.

How did it happen? The Panel believes it happened primarily because of a rush to air that overwhelmed the proper application of the CBS News Standards and the people who are supposed to prevent the problems described in this Report. Those responsible for the Segment believed firmly that it was true (and some still do). In particular, the producer, Mary Mapes, had fervent faith in what she was reporting and the correspondent, Dan Rather, had great confidence in Mapes’ work. Everyone involved wanted the Segment to be right. But in journalism, no less than in other fields, wanting is not enough.

As the Panel goes back to the beginning, it is not difficult to identify a litany of missteps that doomed the effort:

- A sometimes controversial source with a partisan point of view gave *60 Minutes Wednesday* the documents. Only the most cursory effort – one unsuccessful attempt to contact the original source by telephone – was made to establish the chain of custody.
- Efforts at authentication failed miserably. Hired document examiners whose views went against the rush to air were cast aside. The four original document examiners became two and ultimately one, who opined only on one signature in one document. Nevertheless, the Segment contained an unsupported declaration of authenticity.
- Competitive zeal – the desire to be the first to break what was seen as a significant story – fed the rush to air to the point where holding the story to vet it more

thoroughly became unthinkable because some other news organization might surely break the story.

- The person relied on as the so-called “trump card” to confirm the content of the Killian documents was not shown any documents before the Segment aired. He was merely read some or all of the content of the documents over the telephone. The Panel finds this unacceptable as a basis for provenance of a story that turned on the authenticity of pieces of paper. In the rush to air, basic reporting suffered.

The Segment was the product of a strong and accomplished team – Dan Rather and Mary Mapes. Rather has been the “face” of CBS News for almost a quarter of a century and is one of the dominant figures in all of television news. Mapes has been a widely admired star producer with a stunning set of story successes to her credit. A new management team was in charge at *60 Minutes Wednesday* with some 71 years of CBS News experience among them, but they were a new team running the rapids on their first show.

The Panel finds that in the rush to air, and with the Rather/Mapes team producing the Segment, some valid questions raised were pushed aside instead of probed. Issues remained outstanding and the Segment was not ready for air on September 8. Nevertheless, a vetting session was held that day and some of the right questions were asked of Mapes. Mapes answered all the questions and left the vetters with the impression that everything in the story was solid. Given her reputation and stature, and the rush to air, none of the vetters pressed Mapes to get the detailed answers they needed before approving the Segment.

The problems in the Aftermath flow directly from much of the above. Challenge was rejected and investigation of the Segment was barely considered. The strong sense was that the attacks were driven by partisans and competitors, and thus were not valid. “We stand by our story” is an attitude certainly not seen for the first time in history in the halls of *60 Minutes Wednesday* or CBS News. Rarely, however, is the result of taking this position so spectacularly damaging as it was in this case, given the circumstances – the nature of the story, the characters in it, the presidential campaign, the early assault from the Internet and the extensive media coverage of CBS News’ public agony.

Behind all of the Aftermath’s missteps lay the fierce conviction of some at CBS News that the story was true and there was a refusal by some to consider that it might be false. That unwillingness led CBS News to ignore mounting evidence – detailed throughout this Report – that there were problems with the documents and the adequacy of the original reporting.

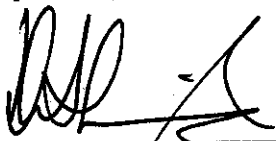
There was a window – early and brief – when the Panel believes that the storm could have been quieted, or perhaps at least its fury somewhat abated, by an acknowledgement from *60 Minutes Wednesday* that it would immediately re-examine the Segment to address the challenges raised. That moment was not seized, and the Report tells the rest of the story.

This Report is about one *60 Minutes Wednesday* segment. Other news organizations confronted by a reporting crisis have recovered by acknowledging their mistakes and taking steps to repair systems that permitted the lapses. This is the task now confronting CBS News and *60 Minutes Wednesday*.

Inevitably, some inside and outside CBS News will fault a few, if not many, of the Panel's findings and conclusions. We will have been too tough, too easy, intrusive, timid, unfair, naïve, gullible or more. This is not a simple story, but we are confident that we have told it fully and fairly.

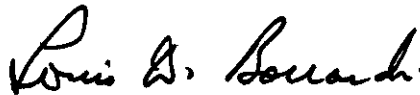
As the Panel noted in the Executive Summary, it would compound the mistakes made if the lasting impact of this Report resulted in any lessening of CBS News' investigative zeal. In contrast, it is hoped that the Panel's findings and recommendations will, in the end, strengthen CBS News and its deeply committed staff.

Respectfully submitted.



Dick Thornburgh

January 5, 2005



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