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2157 RAYBURN HOUSE OFFICE BUILDING
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REP. WAXMAN'S STATEMENT ON PROVANCE SUBPOENA

Mr. Chairman, I would like to thank both you and Chairman Shays for agreeing to my request to subpoena Defense Secretary Rumsfeld. I would also like to make clear for the record why this subpoena is now necessary.

I have been working on Sergeant Provance's case since last fall.

He first came to my attention as a result of press reports that the U.S. military had allegedly used the children of detainees at Abu Ghraib in order to "break" the detainees during their interrogations.

But rather than investigate Sergeant Provance's claims, the military ignored him, told him he could be prosecuted for not coming forward sooner, and then demoted him and pulled his security clearance.

So, last December, when the National Security Subcommittee was considering holding a hearing on national security whistleblowers, I requested that Sergeant Provance be invited to testify. That hearing happened on February 14 of this year, and Sergeant Provance was able to fly back from Germany to testify.

Sergeant Provance's testimony was gripping and disturbing. I would like to make an excerpt of the transcript from that hearing part of today's record, if I may.

After hearing these serious allegations, I requested that the Subcommittee send two letters to the Defense Department requesting documents. The first letter sought information about Sergeant Provance's substantive claims of abuse at Abu Ghraib; and the second about any retaliation taken against Spc. Provance. Chairman Shays agreed, and on March 7 we sent those letters, with a deadline of April 21.
That deadline came and went. And since that date, the Defense Department's responses have been absolutely deficient.

The Department's response on the abuses at Abu Ghraib has been simply nonexistent. We asked for a host of documents, ranging from information about children at Abu Ghraib to drafts and interview notes relating to the Fay/Jones report on detainee abuse.

We also asked for an unredacted copy of Sergeant Provance's February testimony to our Committee. It turned out that the Pentagon redacted parts of it before he testified here.

To this day, and after more than three months, there has been no substantive response from the Department, and no documents have been provided. To their credit, the majority staff followed-up nearly a dozen times with telephone calls and e-mails, without success.

On the second request, for documents relating to retaliation against Sergeant Provance, the Department took an untenable and ridiculously narrow approach to what it did provide.

We asked for a wide range of documents "relating to" disciplinary actions taken against Sergeant Provance. We wanted to know why commanders issued a written gag order only to Sergeant Provance, how they became aware of Sergeant Provance's contacts with the media, and the manner in which they decided to punish him for his actions. The request included all communications, e-mails, papers, and notes from all Department employees.

Last Tuesday – as soon as they found out we were having today's hearing – Department officials finally responded. They produced a total of nine documents, three of which we already had, and three of which were identical except for the signatures.

Obviously, the response was completely inadequate.

So, again, I thank Chairman Davis and Chairman Shays for agreeing to my request. We worked together in a bipartisan manner to refine the language of the subpoena.

And as a result, I hope the Pentagon will take a careful look at their actions, go back and review the documents in an honest way, and allow us to exercise our constitutional oversight responsibilities effectively.

Thank you, Mr. Chairman.