

FDCH TRANSCRIPTS

Congressional Hearings

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Senate Armed Services Committee Holds Hearing on Treatment of Iraqi Prisoners

LIST OF SPEAKERS

WARNER:

Committee of the Armed Services meets today in the first of a series of hearings to receive testimony regarding the mistreatment of Iraqi prisoners by some -- I repeat some -- elements and certain personnel of the armed forces of the United States, in violation of U.S. and international laws.

Testifying before us today is the secretary of defense, the Honorable Donald Rumsfeld. He is joined by the chairman of the Joint Chiefs of Staff, General Richard Myers; Acting Secretary of the Army Les Brownlee; Army Chief of Staff General Peter Schoomaker; and Central Command Deputy Commander Lieutenant General Lance Smith.

We welcome each of you today.

I have had the privilege of being associated with and, more importantly, learning from the men and women of the armed forces for close to 60 years of my life, and the I can say that the facts that I now have from a number of sources represent to me as serious an issue of military misconduct as I have ever observed.

These reports could also seriously affect this country's relationships with other nations, the conduct of the war against terrorism, and place in jeopardy the men and women of the armed forces wherever they are serving in the world.

This mistreatment of prisoners represents an appalling and totally unacceptable breach of military regulations and conduct.

WARNER:

Most significant, the replaying of these images day after day throughout the Middle East and indeed the world has the potential to undermine the substantial gains -- emphasize the substantial gains -- toward the goal of peace and freedom in various operation areas of the world, most particularly Iraq, and the substantial sacrifice by our forces, those of our allies, in the war on terror.

Let me be as clear as one senator can be: This is not the way for anyone who wears the uniform of the United States of America to conduct themselves.

This degree of breakdown in military leadership and discipline represents an extremely rare -- and I repeat, rare -- chapter in the otherwise proud history of the armed forces of the United States.

It defies common sense. It contradicts all the values we Americans learned beginning in our homes.

Members of the committee, as we conduct this hearing, I urge you that we take every care that our actions, our words, our individual and collective conduct in this hearing not reflect unfairly on the 99.9 percent of our uniformed personnel who are performing remarkable tasks and in some cases making the ultimate sacrifice of life and limb to win the war on terror.

Each of us on the committee has nothing but the strongest support for our brave men and women in uniform and their families. And what we seek through this and following hearings is to find out for the American people is only to strengthen and honor their efforts, not in any way to detract from them and their accomplishments.

WARNER:

I'd point out that while some systems have failed, we are here today because of a courageous enlisted man and his lieutenant, whose values, American values, compelled them to step forward and inform their superiors. They did the right thing. And as this committee performs its constitutional duties and hearings and oversight, we are working in the same spirit as those two soldiers.

The questions before us today are who knew what and when? What did they do about it? And why were members of Congress not properly and adequately informed?.

In my 25 years on this committee, I've received hundreds of calls day and night from top -- all levels -- top and all levels, uniformed and civilian, in the Department of Defense when they in their judgment felt it was necessary. And I dare say other members on this committee have experienced the same courtesy.

I did not receive such a call in this case. And yet I think the situation was absolutely clear and required it, not only to me but my distinguished ranking member and other members of this committee.

Members of the committee, our central task here today is to get all the facts in this difficult situation no matter where they lead, no matter how embarrassing they may be, so that we can assess our response and in the end make sure that such dereliction of duty as is in this case never, never happens again in the proud history of our country.

WARNER:

Senator Levin?

LEVIN:

Thank you, Mr. Chairman.

The abuses that were committed against prisoners in U.S. custody at the Abu Ghraib prison in Iraq dishonored our military and our nation and they made the prospects for success in Iraq even more difficult than they already are.

Our troops are less secure and our nation is less secure because these depraved and despicable actions will fuel the hatred and the fury of those who oppose us.

General Taguba's investigation, as reported, paints an alarming picture of abuse and humiliation of Iraqi prisoners. It has enraged people here at home and throughout the civilized world.

Humiliating and sexually abusing prisoners has nothing to do with the effective internment or interrogation of prisoners. In fact, such actions are counterproductive to those goals.

As we seek to bring stability and democracy to Iraq and to fight terrorism globally, our greatest asset as a nation is the moral values that we stand for. Those values have been compromised.

To begin the process of restoring them, the people involved who carried out or who authorized or suggested that we should, quote, "loosen prisoners up" or, quote, "make sure they get the treatment," must be held accountable.

So must anyone up the chain of command be held accountable who had command responsibility over the interrogation and security of prisoners and who knew or should have known of these abuses and looked the other way.

LEVIN:

General Taguba's finding that, quote, "Personnel assigned to the 372nd M.P. Company were directed to change facility procedures to set the conditions for military intelligence interrogations," is bolstered by pictures that suggest that the sadistic abuse was part of an organized and conscious process of intelligence gathering.

In other words, those abusive actions do not appear to be aberrant conduct by individuals, but part of a conscious method of extracting information.

If true, the planners of this process are at least as guilty as those who carried out the abuses.

The president's legal counsel, Alberto Gonzales, reportedly wrote in a memorandum that the decision to avoid invoking the Geneva Conventions, quote, "preserves flexibility in the war on terrorism."

Belittling or ignoring the Geneva Conventions invites our enemies to do the same and increases the danger to our military service men and women. It also sends a disturbing message to the world that America does not feel bound by internationally accepted standards of conduct.

The findings of General Taguba's report, as reported on a public Web site, raise a number of disturbing issues. For example, how far up the chain was there implicit or explicit direction or approval or knowledge of these prisoner abuses? Why was a joint interrogation and detention facility at Abu Ghraib established in a way which led to the subordination of the military police brigade to the military intelligence unit conducting interrogation activities?

LEVIN:

What was the role played by the military intelligence, the CIA and any other intelligence units in requesting or suggesting abusive activities?

And how is it in our nation's interest to have civilian contractors, rather than military personnel, performing vital national security functions, such as prisoner interrogations, in a war zone? When soldiers break the law, or fail to follow orders, commanders can hold them accountable for their misconduct. Military commanders don't have the same authority over civilian contractors.

And finally, Secretary Rumsfeld and General Myers, I join our chairman in expressing deep dismay that when you briefed senators in a classified session last week on events in Iraq, just hours before the story broke on television, you made no reference to the impending revelations. Executive branch consultation with Congress is not supposed to be an option but a long-standing and fundamental responsibility.

It is essential that our nation at the highest levels apologize directly to the victims and to the Iraqi people as a whole for these actions. But words alone are not sufficient. Prompt and decisive action, which establish responsibility and holds people accountable,

is essential here. It will also, hopefully, convince the world that our free and open society does not condone and will not tolerate this depraved behavior.

WARNER:

I'll ask our witnesses to rise.

Do each of you solemnly swear that the testimony that you are about to give to the Committee on the Armed Services Committee of the United States will be the truth, the whole truth and nothing but the truth, so help you God?

RUMSFELD:

I do.

MYERS:

I do.

BROWNLEE:

I do.

SCHOOMAKER:

I do.

SMITH:

I do.

WARNER:

The complete statements of all witnesses will be placed into the record. The committee will now receive the opening remarks of the secretary, followed by the chairman of the joint chiefs. And I'm not certain if others desire some recognition for opening remarks. If so, indicate to the chair, and then we'll go into a six-minute round of questions by each member.

Mr. Secretary?

RUMSFELD:

Mr. Chairman, members of the committee, in recent days there has been a good deal of discussion about who bears responsibility for the terrible activities that took place at Abu Ghraib. These events occurred on my watch. As secretary of defense, I am accountable for them and I take full responsibility.

It's my obligation to evaluate what happened, to make sure that those who have committed wrong-doing are brought to justice, and to make changes as needed to see that it doesn't happen again.

I feel terrible about what happened to these Iraqi detainees. They are human beings. They were in U.S. custody. Our country had an obligation to treat them right. We didn't, and that was wrong.

So to those Iraqis who were mistreated by members of the U.S. armed forces, I offer my deepest apology. It was inconsistent with the values of our nation. It was inconsistent

with the teachings of the military, to the men and women of the armed forces. And it was certainly fundamentally un-American.

Further, I deeply regret the damage that has been done. First to the reputation of the honorable men and women of the armed forces, who are courageously and responsibly and professionally defending our freedoms across the globe.

RUMSFELD:

They are truly wonderful human beings. And their families and their loved ones can be enormously proud of them.

Second to the president, the Congress and the American, I wish I had been able to convey to them the gravity of this before we saw it in the media.

And finally to the reputation of our country.

The photographic depictions of the U.S. military personnel that the public has seen have offended and outraged everyone in the Department of Defense. If you could have seen the anguished expressions on the faces of those in our department upon seeing those photos, you would know how we feel today.

It's important for the American people and the world to know that while these terrible acts were perpetrated by a small number of U.S. military, they were also brought to light by the honorable and responsible actions of other military personnel.

There are many who did their duty professionally and we should mention that as well. First, Specialist Joseph Darby, who alerted the appropriate authorities that abuses were occurring. Second, those in the military chain of command who acted promptly on learning of those abuses by initiating a series of investigations, criminal and administrative, to assure that abuses were stopped and the responsible chain of command was relieved and replaced.

Having said that, all the facts that may be of interest are not yet in hand. In addition to the Taguba report, there are other investigations under way and we'll be discussing those today. And because all the facts are not in hand, there will be corrections and clarifications to the record as more information is learned.

From the witnesses, you will be told the sequence of events and investigations that have taken place since the activities first came to light. I want to inform you of the measures under way to improve our performance in the future.

RUMSFELD:

Before I do that, let me say that each of us at this table is either in the chain of command or has senior responsibilities in the Department of Defense. This means that anything we say publicly could have an impact on the legal proceedings against those accused of wrongdoing in this matter.

So please understand that if some of our responses to questions are measured, it is to assure that pending cases are not jeopardized by seeming to exert command influence and that the rights of any accused are protected.

Now let me tell you the measures we're taking to deal with this issue.

First, to ensure we have a handle on the scope of this catastrophe, I will be announcing today the appointment of several senior former officials who are being asked to examine the pace, the breadth, the thoroughness of the existing investigations and to determine

whether additional investigations or studies need to be initiated. They're being asked to report their findings within 45 days of taking up their duties.

I'm confident that these distinguished individuals will provide a full and fair assessment of what has been done thus far and recommend whether further steps may be necessary.

Second, we need to review our habits and our procedures.

One of the things we've tried to do in the department since September 11th is to try to get the department to adjust our procedures and processes to reflect that we're in a time of war, and that we're in the information age. For the past three years we've looked for areas where adjustments were needed, and we've made a great many adjustments. And regrettably we've now found another area where adjustments may be needed.

Let me be clear: I failed to recognize how important it was to elevate a matter of such gravity to the highest levels, including the president and the members of Congress.

Third, I'm seeking a way to provide appropriate compensation to those detainees who suffered such grievous and brutal abuse and cruelty at the hands of a few members of the United States armed forces.

RUMSFELD:

It's the right thing to do.

I wish we had known more sooner and been able to tell you more sooner, but we didn't.

Today we'll have a full discussion of these terrible acts, but first let's take a step back for a moment. Within the constraints imposed on those of us in the chain of command, I have a few additional words.

PROTESTER:

What about the other abuses in Iraq?

(CROSSTALK)

WARNER:

We'll remain seated for a brief period and suspend the hearing. I ask all persons...

(PROTESTERS SHOUTING)

PROTESTER:

Fire Rumsfeld! Fire Rumsfeld! Fire Rumsfeld!

WARNER:

Committee will resume the hearing.

Mr. Secretary?

RUMSFELD:

First, beyond abuse of prisoners, there are other photos that depict incidents of physical violence toward prisoners, acts that can only be described as blatantly sadistic, cruel and inhuman.

RUMSFELD:

Second, there are many more photographs, and indeed some videos. Congress and the American people and the rest of the world need to know this.

In addition, the photos give these incidents a vividness, indeed a horror, in the eyes of the world.

Mr. Chairman, that's why this hearing today is important. It's why the actions we take in the days and weeks ahead are so important.

However, terrible the setback, this is also an occasion to demonstrate to the world the difference between those who believe in democracy and in human rights, and those who believe in rule by terrorist code.

We value human life. We believe in individual freedom and in the rule of law. For those beliefs, we send men and women of the armed forces abroad to protect that right for our own people and to give others who aren't Americans the hope of a future of freedom.

Part of that mission, part of what we believe in, is making sure that when wrongdoings or scandal do occur, that they're not covered up, but they're exposed, they're investigated, and the guilty are brought to justice.

Mr. Chairman, I know you join me today in saying to the world, judge us by our actions, watch how Americans, watch how a democracy deals with the wrongdoing and with scandal and the pain of acknowledging and correcting our own mistakes and our own weaknesses.

And then, after they have seen America in action, then ask those who teach resentment and hatred of America if our behavior doesn't give a lie to the falsehood and the slander they speak about our people and about our way of life. Ask them if the resolve of Americans in crisis and difficulty, and, yes, in the heartbreak of acknowledging the evil in our midst, doesn't have meaning far beyond their hatred.

RUMSFELD:

Above all, ask them if the willingness of Americans to acknowledge their own failures before humanity doesn't light the world as surely as the great ideas and beliefs that made this nation a beacon of hope and liberty for all who strive to be free.

We know what the terrorists will do; we know they will try to exploit all that is bad, and try to obscure all that is good. That's their nature. And that's the nature of those who think they can kill innocent men, women and children to gratify their own cruel wills to power.

We say to the world, we will strive to do our best, as imperfect as it may be.

Thank you, Mr. Chairman.

WARNER:

Thank you, Mr. Secretary.

You and I have had the privilege to know each other for many, many years. We've enjoyed a close working relationship. I want to say I found that statement to be strong and in every sense heartfelt by you.

RUMSFELD:

Thank you.

WARNER:

General Myers?

MYERS:

Mr. Chairman and Senator Levin, I would like to express my deep regret at being here under these circumstances.

The incidents of prisoner abuse that occurred at Abu Ghraib prison are absolutely appalling. The actions of those involved are unconscionable and absolutely unacceptable.

Since Brigadier General Kimmitt's public announcement of the allegations back in January, the commanders' response to the problems highlighted in these investigations has been timely and thorough.

And just as a backdrop, we must also realize that our commanders had been handling some enormous challenges in Iraq, including the fighting that had intensified in Fallujah and An Najaf, the temporary plus-up of troops, which was a decision that was pending, and the departure of the Spanish brigade. All at the same time that they're dealing with some of these reports.

MYERS:

And despite these extraordinary events, our commanders did exactly the right thing in a timely manner. I have great confidence in them, as should the American public and the citizens of Iraq.

I've been receiving regular updates since the situation developed in January and have been involved in corrective actions and personally recommended specific steps. Again, I'm confident that the commanders are doing the right things.

One of the military's greatest strengths comes from the fact that we hold our service men and women accountable for their actions. Our military justice system works very well.

I took an oath to support the Constitution and with that comes the responsibility to ensure that all military members enjoy the full protections of our Constitution, to include the due process of a fair, judicial system. After all, it's respect for the rule of law that we're trying to teach and instill in places like Afghanistan and Iraq.

So like the secretary said, we are now in the middle of a judicial process regarding detainee abuse. And because of my position, I have to be careful I don't say anything that can be interpreted as direction or pressure for a certain outcome in any of these cases.

Moreover, we have to understand that a fair judicial system takes time to work. I know you all understand that. So no one is stalling or covering up information, but it's absolutely essential to protect the integrity of our judicial system.

I have complete confidence in our military justice system. The accused will receive due process. Those found guilty will face punishments based on their offenses.

When I spoke to Dan Rather, with whom I already had a professional association, concerning the "60 Minutes" story, I did so after talking to General Abizaid. And I did so out of concern for the lives of our troops.

MYERS:

The story about the abuse was already public, but we were concerned. But we were concerned that broadcasting the actual pictures would further inflame the tense situation that existed then in Iraq and further endanger the lives of coalition soldiers and hostages.

Again, it's useful to remember the context here. We were in the midst of some very heavy fighting in Fallujah and other places in Iraq. Some 90 hostages had been taken. It was a very delicate situation that we were trying to resolve.

Since the story of the photographs was already public, I felt we were on good ground on asking him to hold off airing the actual photos. As we are now seeing, the photos are having a very real, very emotional worldwide impact.

And I would identify myself with the secretary's remarks on having seen more of them than I wish to have seen about the impact that it has on me.

The situation is nothing less than tragic. The Iraqi people are trying to build a free and open society and I regret they saw such a fragrant violation of the very principles that are the cornerstone of such a society.

I'm also terribly saddened at the hundreds of thousands of service men and women who are serving or who have served so honorably in Iraq and Afghanistan and elsewhere, what have their reputation tarnished and their accomplishments diminished by those few who don't uphold our military's values. I know our service men and women are all suffering unfairly with a collective sense of shame over what has happened.

Their credibility will be restored, day by day, as they interact with the Iraqi people. And I'm confident that our dedicated service men and women will continue to prove worth of the trust and respect of our nation and of the world.

We continue to be very proud of them. As always, I thank you on their behalf for your steadfast support. Thank you.

WARNER:

Thank you, General. Good statement, General.
Secretary Brownlee, do you wish to...

BROWNLEE:

At this point, no.

WARNER:

You defer to General Smith?

RUMSFELD:

Lance Smith, yes.

WARNER:

Thank you.

SMITH:

Senator Warner, Senator Levin, members of the committee, I wish to start by thanking you for the opportunity to testify before this committee concerning the mistreatment of Iraqi detainees.

The more than 250,000 soldiers, sailors, airmen and Marines who have served in the CENTCOM area of responsibility over the past year have faced numerous challenges in prosecuting the global war on terror and Operations Iraqi Freedom and Enduring Freedom.

Throughout these operations, they have worked to better the lives of the people of Afghanistan and Iraq, to bring progress and stability to these countries.

Their efforts, however, have been put at risk by the reprehensible actions of a few. These few have acted in a manner that is inconsistent with the proud history of the American soldier. There is no excuse for their actions, nor do I offer one.

Their unprofessional and malicious conduct has caused considerable harm to our attempts to win the trust and confidence of the Iraqi people. Unfortunately, it has also facilitated the efforts of our enemy to malign our national intent and character, and gives weight to the charge of American hypocrisy.

When the allegations of abuse and improper conduct of U.S. forces against legally detained Iraqis were brought to light by a soldier on 13 January, 2004, our leadership in Iraq prudently informed us of what they knew and immediately initiated a criminal investigation.

That investigation has resulted in profferal of charges against six service members, three of which have thus been referred to court martial, and we are still investigating further allegations of criminal misconduct.

At the request of the CJTF-7 commander, on 24 January, U.S. CENTCOM directed the conduct of a broader administrative investigation, now known as the Taguba report, with a mandate to make a comprehensive examination of our detainee operations in Iraq in order to detect any systemic problems, and if problems were identified to take necessary steps to rectify the situation and hold accountable all those responsible who failed in their duties.

SMITH:

That investigation is near completion, and we have already made significant progress in implementing its recommendations, though we have more ahead of us.

Information flow up and down the chain of command was timely and will continue to be. Commanders regularly briefed their superiors as these investigations progressed.

The first public release of information on the CID investigation happened in January and was reported by the media. The interim results of the Taguba report were briefed to me in late March as the investigation made its way through command channels en route to approval by the command force land component commander on 6 April and formal adverse administrative action by the JTF commander on 1 May. The investigation is ongoing.

Some have asked why it took so long for the allegations to make it up the chain of command. One needs to look at this as a legal proceeding. Once the allegations were made, the investigation was initiated immediately. Evidence was gathered, people were questioned, and a number were removed from their posts.

As with any prosecution, materials and evidence were kept within the investigatory chain for obvious reasons: to maintain confidentiality, to protect individual rights, and to allow the investigation to proceed without danger of exposure to those being investigated.

The actions in the chain of command in Iraq in conducting the investigations connected with detainee abuse or mistreatment have been swift, circumspect and proper. They have carefully uncovered facts, analyzed evidence and gauged the context of the situation, all the while under the stress of ongoing combat operations and ever mindful of protecting the rights of the accused.

Commanders are taking action both to ensure justice is done and to ensure that this kind of deplorable conduct is never repeated.

SMITH:

With regards to the question whether this abuse is systemic, the investigations under way should better inform us of that. At this point we don't know and that's part of what we're trying to determine by conducting investigations. When we have answers, we will provide them.

The Taguba report, in fact, highlights three units for praise for the performance of military detention duties. That is a hopeful sign that these abuses are not widespread, and I don't believe they are.

The vast majority of coalition and U.S. forces have shown great humanity and restraint in this, and have acted with courage and compassion.

The situation at Abu Ghraib is not representative of the conduct of U.S. and coalition forces. It is a distasteful and criminal aberration, and will absolutely not be tolerated.

We deeply regret that these egregious actions occurred, and we are taking the necessary steps to preclude similar incidents in the future.

Thank you, Mr. Chairman.

WARNER:

Thank you, General.

Secretary Brownlee, we need to move on, but we certainly recognize that you might have a few opening remarks.

BROWNLEE:

OK, sir.

WARNER:

Thank you.

BROWNLEE:

Chairman Warner, Senator Levin and distinguished members of the committee, I appreciate the opportunity to be here today, to offer testimony on actions taken by the Army in response to the appalling abuse of detainees at Abu Ghraib prison in Iraq. I join the secretary of Defense in apologizing to those detainees who were abused there.

Let me begin by outlining the range of investigation into detainee abuse.

From December 2002 to present, the Criminal Investigation Command has conducted, or is continuing to conduct, investigations into 35 cases of abuse or death of detainees held in detention facilities in the Central Command theater. Twenty-five of these are death cases, and 10 involve assault.

The CID investigates every death in our custody.

BROWNLEE:

Of the 25 death investigations, the CID has determined that 12 deaths were due to natural or undetermined causes, one was justifiable homicide and two were homicides. The 10 remaining deaths are still under investigation.

Additionally, 42 other potential cases of misconduct against civilians occurred outside detention facilities and are currently under investigation by the Army's CID or by the responsible units.

On 10 February 2004, I directed the inspector general of the Army to conduct a functional analysis of the department's internment, enemy prisoner of war and detention policies, practices and procedures. I directed this inspection to determine if there might be systemic problems relating to the planning, doctrine or training in the detention facilities operating within the Central Command theater.

Phase one of this assessment is oriented on current operations in the Central Command area of responsibility, with assessment team visits to 16 detention facilities.

Phase two of the I.G. assessment will encompass visits to defense facilities worldwide, including previously visited facilities, to ensure compliance to established standards.

Preliminary findings indicate that leaders and soldiers are aware of the requirement and expectation to treat detainees humanely, and that it is their duty to report incidents of abuse.

To date the majority of the abuse cases indicate the underlying cause has been two-fold: an individual failure to adhere to basic standards of discipline, training and Army values, and leadership failures to provide oversight and enforce standards.

To date the Army has taken numerous actions to improve the training for military police and military intelligence soldiers. The Army is retraining select M.P. soldiers to serve as correctional specialists. We have incorporated detainee lessons learned from operations in both Iraq and Afghanistan into the M.P. school curriculum, and have deployed military police training teams to our combat training centers.

BROWNLEE:

In response to a request from the CJTF-7 commander, the Army deployed integrated, multi-disciplined, mobile training teams to oversee and conduct comprehensive training in all aspects of detainee and confinement operations in-theater.

Additionally, the chief of the Army Reserve has directed his inspector general to conduct a special assessment of training for reserve personnel on the law of war, detainee treatment, ethics and leadership. All reserve component M.I. soldiers are now required to mobilize at the intelligence school at Fort Huachuca so they can receive the latest instruction on tactical questioning before deploying.

Finally, the Army is improving the training of military police and military intelligence personnel at our combat training centers by incorporating detainee holding situations into the tactical scenarios. These improvements were initiated for the later-deploying OIF or Iraqi Freedom II units and will be fully implemented for all OIF III deploying units.

The reported acts of detainee abuse at Abu Ghraib are tragic and disappointing and they stand in sharp contrast to the values of our Army and the nation it serves. Were these incidents to reflect negatively on the courage, sacrifice and selfless service of the hundreds of thousands of dedicated men and women who have volunteered to serve our nation in uniform would be a tragedy as well.

Our soldiers, over 300,000 of whom are deployed in over 120 countries around the world, most in Iraq and Afghanistan, have provided the opportunity for freedom and democracy for over 46 million people who have never experienced it before, while at the same time providing protection to the American people.

Mr. Chairman, we will find out how and why this happened and ensure that those individuals determined to be responsible for these shameful and illegal acts of abuse are held accountable for their actions.

BROWNLEE:

I appreciate this opportunity to appear before you today. I thank you and the members of this distinguished committee for your continuing support of the men and women in our Army, and I look forward to answering your questions.

WARNER:

Secretary Brownlee, your statement is very helpful and a significant contribution to this hearing.

General Schoomaker?

SCHOOMAKER:

Chairman Warner, Senator Levin, distinguished members of the committee, I'll be brief. As the chief of staff of the Army, I am responsible for the training and equipping of our soldiers and growing our Army leaders.

I am also responsible for providing ready and relevant land power capabilities to the combatant commanders and the joint team.

Though not in the operational chain of command, I am responsible for our soldiers' training and readiness. Therefore I take it personally when any of them falls short of our standards.

To put it in perspective, what we are dealing with are actions of a few, as has been pointed out. These are conscious actions that are contrary to all that we stand for. This is not a training issue, but one of character and values.

Our Army values of loyalty, duty, respect, selfless service, honor, integrity and personal courage are taught to our soldiers from the moment that they enter the training base.

There's no question that the potential consequences are serious. But we must not forget that these are a few among a great many others who are serving with great honor and sacrifice, as has been pointed out.

We must be careful how we proceed, as it will affect the morale and safety of the great majority of our soldiers who are meeting the standards and are daily placing themselves in harm's way. I promise you they, too, take this personally.

SCHOOMAKER:

I am reminded that in the report by Major General Taguba, he spoke of several soldiers in units who were challenged by the same set of demanding circumstances at the same place, and they did what was right. The inexcusable behavior of a few is not representative of the courageous and compassionate performance of the overwhelming majority of our soldiers who served with pride and honor.

We are currently undergoing an extensive investigation of every allegation. The system works, and will result in fairness and justice. We will also learn and adapt.

Our Army has already taken corrective actions. Our soldiers are performing with distinction and I am proud of them all. We owe them our confidence.

Our Army is taking this very seriously and will meet the standards that our nation expects as we have for 229 years.

Thank you.

WARNER:

Thank you, General.

That statement on leadership reflects your own strong record of leadership. And we're fortunate to have you at the helm of the United States Army today.

We'll proceed with questions now. And colleagues, recognizing that the full committee almost, less one, is present, today we'll have to cut the time to five minutes.

Mr. Secretary, I was particularly impressed by your phrase, "We're going to watch American democracy in action, as the president and all others address this problem swiftly in accordance with the rule of law and American values."

In the meantime, however, it's obvious to all of us that the impact of the facts of this case, as they're unfolding, are affecting our relationship with other nations, our foreign policy. So I ask you, what is that impact, as best you can assess it today?

WARNER:

And secondly, will this impact of this situation affect in any way the transition that I and others support to take place on June 30th?

And will it have any impact on other nations in the coalition to consider their continued participation at this time and the chances of adding additional nations?

And lastly, does it have any impact on the force levels that you anticipate, together with your on-scene commanders of CENTCOM, in the near future?

RUMSFELD:

Mr. Chairman, those are tough questions. I'm afraid no one has the ability to know precisely what will unfold.

We have seen no shift in coalition countries, in answer to your first question.

About future coalition countries, I think the key determinative there is whether or not we are successful in getting an additional U.N. resolution, in which case I think we will get additional countries to participate.

It certainly will not have any effect on the determination to have sovereign responsibility assumed by Iraqis by June 30.

And I would just say one other thing. We have been enormously disadvantaged by false allegations and lies for the better part of a year -- and indeed before that with respect to Afghanistan -- by terrorists and terrorist organizations alleging things that weren't true. So we have taken a beating in the world for things we were not doing that were alleged to be done, and now we're taking a beating, understandably, for things that did in fact happen.

WARNER:

Thank you, sir.

MYERS:

Mr. Chairman, if I could just add, I just returned from a NATO military committee meeting, and had the chance to talk to several of the countries that have major military units inside Iraq. They were very strong in every case about seeing this through and seemed undeterred by any of the recent events. They were looking forward, and we were talking about the future, and about their steadfastness in seeing this mission through.

WARNER:

General, I direct my next question to you.

The Department of the Army has been in the forefront to come back and make the early response, as understandable, to this situation. But nevertheless, CENTCOM, as we all know, composed by officers -- men, women, of all branches of the services.

I would anticipate that you have consulted with your colleagues, not only on the Joint Chiefs but particularly in CENTCOM. And you are making, or have made and will continue to make, an assessment as to the possible increase to the men and women -- the personal increase to the men and women of the armed forces, most particularly in Iraq and perhaps elsewhere in the world, as this story continues to affect very deeply the thinking and actions of others.

MYERS:

Mr. Chairman, absolutely, we will.

And we should not underestimate that impact. It was that impact of the pictures, given that the report was already reported -- given there was a report of pictures, but the actual pictures, possibly coming out on a news program that prompted my call to try to delay that, because I thought those pictures at that particular time would have a particularly bad affect on our troops, perhaps resulting in death to our forces.

MYERS:

I think we have a lot of troops in Iraq right now, after talking to General Smith and others, that are probably walking with -- I mean, they're involved in combat, but they're walking with their head just a little bit lower right now, because they have to bear the brunt of what their colleagues up in Abu Ghraib did. And it's going to take, as General Schoomaker said, good leadership and everything else we can do to get them back up on the step, because they are engaged in some very, very important work.

I continue to think that the way we will -- as I said in my statement -- the way we'll win their trust will be soldier by soldier, patrol by patrol, like we're winning the war over there. And we're just going to have to stay at it.

WARNER:

My time has expired.
Senator Levin?

LEVIN:

Thank you, Mr. Chairman.

Secretary Rumsfeld, I was struck upon seeing one of the photographs from the prison, depicting three naked prisoners in a lump on the floor being overseen by a number of soldiers, while other soldiers in the cell block were assisting, or were going about their

business without any apparent interest in or concern about the obvious abusive treatment, that the conduct that we were witnessing and watching was not aberrant conduct of a few individuals, but was part of an organized and conscious process to extract information.

This picture reinforces the Taguba report, which quotes Sergeant Davis as saying that he witnessed prisoners in the military intelligence hold section, Wing 1-A, being made to do various things that I would question morally.

LEVIN:

And he quoted the military intelligence folks as saying that "Loosen a guy up for us," "Make sure he has a bad night," "Make sure he gets the treatment," and that the wing belonged to the military intelligence and it appeared that military intelligence personnel approved of the abuses.

Now, in the Taguba report itself, General Taguba says the following, and this is his finding: "that military intelligence interrogators and other U.S. government agency interrogators" -- which I assume includes CIA -- "actively requested that M.P. guards set physical and mental conditions for favorable interrogation of witnesses," and that personnel assigned to the M.P. company and brigade were, quote, "directed to change facility procedures to set the conditions for military intelligence interrogations."

My question to you is: What were those changes that were made, and whether or not they were -- it was proper to make changes of the kind that General Taguba refers to?

RUMSFELD:

The conclusions you seem to have drawn in your question, Senator Levin, are issues that I believe are probably all being addressed in an investigation that was initiated last month -- and I believe it's called the Fay.

Possibly you, General Smith, have been involved in this and would want to comment.

SMITH:

Sir, there has been an investigation that was initiated in mid-April by Major General Fay. And it is to look into exactly those allegations as a result.

LEVIN:

Secretary Rumsfeld, would you agree that people who authorized or suggested or prompted the conduct depicted in the pictures that we've seen as well, as those who carried out those abuses, must be held accountable? That anybody who authorized, knew about, prompted, suggested in the intelligence community or otherwise, that conduct must be held accountable? That's my very direct question to you.

RUMSFELD:

The pictures I've seen depict conduct, behavior that is so brutal and so cruel and so inhumane that anyone engaged in it or involved in it would have to be brought to justice.

LEVIN:

Would that include anybody who suggested it, prompted it, hinted at it, directly or indirectly? I just want to know how far up this chain you're going to go. Are you going to

limit this to people who perpetrated it? Or are we going to get to the people who may have suggested it or...

RUMSFELD:

That is exactly why the investigation was initiated, that is why it's being brought forward, and we'll find what their conclusions are. And I'm sure they will make recommendations with respect to prosecutions.

LEVIN:

But in terms of the standard, does anybody who recommended or suggested, directly or indirectly, that conduct in order to extract information, are they also in your judgment, if that occurred, violative of our laws and standards?

RUMSFELD:

Certainly anyone who recommended the kind of behavior that I have seen depicted in those photos needs to be brought to justice.

WARNER:

Thank you, Senator.

LEVIN:

My time is up. Thank you.

WARNER:

Senator McCain?

MCCAIN:

Thank you, Mr. Secretary.

I come to this hearing with a deep sense of sorrow and grave concern. Sorrow for -- after the shock and anger of seeing these pictures for the first time, that so many brave young Americans who are fighting and dying are under this cloud.

I attended the memorial service of Pat Tillman, a brave American who sacrificed his life recently, and he and others, unfortunately, at least in some way are diminished by this scandal.

I'm gravely concerned that many Americans will have the same impulse as I did when I saw this picture, and that's to turn away from them. And we risk losing public support for this conflict. As Americans turned away from the Vietnam War, they may turn away from this one unless this issue is quickly resolved with full disclosure immediately.

With all due respect to investigations ongoing and panels being appointed, the American people deserve immediate and full disclosure of all relevant information so that we can be assured and comforted that something that we never believed could happen will never happen again.

Now, Mr. Secretary, I'd like to know -- I'd like you to give the committee the chain of command from the guards to you, all the way up the chain of command. I'd like to know...

RUMSFELD:

I think General Myers brought an indication of it, and we'll show it.

MCCAIN:

Thank you.

I'd like to know who was in charge of the -- what agencies or private contractors were in charge of interrogations? Did they have authority over the guards? And what were their instructions to the guards?

RUMSFELD:

First, with respect to the...

SMITH:

We did not bring it.

RUMSFELD:

Oh, my.

SMITH:

Yes, oh, my is right.

RUMSFELD:

It was all prepared.

SMITH:

Yes, it was, indeed.

RUMSFELD:

Do you want to walk through it?

MCCAIN:

Anyway, who was in charge? What agency or private contractor was in charge of the interrogations? Did they have authority over the guards? And what were the instructions that they gave to the guards?

SMITH:

I'll walk through the chain of command and...

MCCAIN:

No. Let's just -- you can submit the chain of command, please.

WARNER:

General Smith, do you want to respond?

MCCAIN:

No. Secretary Rumsfeld, in all due respect, you've got to answer this question. And it could be satisfied with a phone call. This is a pretty simple, straightforward question: Who was in charge of the interrogations? What agencies or private contractors were in charge of the interrogations? Did they have authority over the guards? And what were the instructions to the guards?

This goes to the heart of this matter.

RUMSFELD:

It does indeed.

As I understand it, there were two contractor organizations. They supplied interrogators and linguists. And I was advised by General Smith that there were maybe a total of 40.

MCCAIN:

Now, were they in charge of the interrogations?

SMITH:

Thirty-seven interrogators, and...

WARNER:

The witnesses voice are not being recorded. You'll have to speak into your microphone.

Would you repeat the conversation in response to the senator's question?

SMITH:

Yes, sir. There were 37 interrogators that were...

MCCAIN:

I'm asking who was in charge of the interrogations.

SMITH:

They were not in charge. They were interrogators.

MCCAIN:

My question is who was in charge of the interrogations?

SMITH:

The brigade commander for the military intelligence brigade.

MCCAIN:

And were they -- did he also have authority over the guards?

SMITH:

Sir, he was -- he had tactical control over the guards, so he was...

MCCAIN:

Mr. Secretary, you can't answer these questions?

RUMSFELD:

I can. I'd be -- I thought the purpose of the question was to make sure we got an accurate presentation, and we have the expert here who was in the chain of command.

MCCAIN:

I think these are fundamental questions to this issue.

RUMSFELD:

Fine.

MCCAIN:

Were the instructions to the guards...

RUMSFELD:

There's two sets of responsibilities, as your question suggests. One set is the people who have the responsibility for managing the detention process; they are not interrogators. The military intelligence people, as General Smith has indicated, were the people who were in charge of the interrogation part of the process.

And the responsibility, as I have reviewed the matter, shifted over a period of time and the general is capable of telling you when that responsibility shifted.

MCCAIN:

What were the instructions to the guards?

RUMSFELD:

That is what the investigation that I have indicated has been undertaken...

MCCAIN:

Mr. Secretary...

RUMSFELD:

... is determining...

MCCAIN:

... that's a very simple, straight-forward question.

RUMSFELD:

Well, the -- as the chief of staff of the Army can tell you, the guards are trained to guard people. They're not trained to interrogate, they're not -- and their instructions are to, in the case of Iraq, adhere to the Geneva Convention.

The Geneva Conventions apply to all of the individuals there in one way or another. They apply to the prisoners of war, and they are written out and they're instructed and the people in the Army train them to that and the people in the Central Command have the

responsibility of seeing that, in fact, their conduct is consistent with the Geneva Conventions.

The criminals in the same detention facility are handled under a different provision of the Geneva Convention -- I believe it's the fourth and the prior one's the third.

MCCAIN:

So the guards were instructed to treat the prisoners, under some kind of changing authority as I understand it, according to the Geneva Conventions?

RUMSFELD:

Absolutely.

MCCAIN:

I thank you, Mr. Chairman.

WARNER:

Thank you, Senator.
Senator Kennedy?

KENNEDY:

Thank you very much. Thank you, Mr. Chairman.

To the people in the Middle East, and too often today, the symbol of America is not the Statue of Liberty, it's the prisoner standing on a box wearing a dark cape and a dark hood on his head, wires attached to his body, afraid that he's going to be electrocuted.

These incidents of torture and abuse resulted in a catastrophic crisis of credibility for our nation.

Now, since the beginning of the war, the International Committee of the Red Cross provided the Pentagon officials with reports of abuses at this prison, saying that some of them were tantamount to torture. They issued serious complaints during an inspection of the prison in October of 2003 and at several other times.

The State Department and the Coalition Provisional Authority appealed to you to stop the mistreatment of the military detainees. Secretary Powell raised this issue at Cabinet meeting and elsewhere, pleading with officials from your department, Mr. Secretary, to see that detainees were properly cared for and treated, and your department failed to act.

The military leadership put the troops in charge of the prison who weren't trained to do the job, and they assigned far too prisoners (sic) to the prison than were required to do the job right, and they relied on the civilian contractors to perform military duties, as I understand, including the interrogation of Iraqi prisoners.

And as Senator Levin pointed out, the top-level Defense officials directed guards at the prison to set physical and mental conditions for favorable interrogation of the detainees, a decision that directly resulted in the abuses.

And the military leadership failed to respond in a systematic way even after it initiated the 35 criminal investigations into alleged mistreatment of detainees in Iraq and Afghanistan, 25 of these investigations involving a death.

KENNEDY:

I know that Secretary Brownlee referred to this.

In particular, in December of 2002, military doctors at the Bagram Air Base in Afghanistan ruled that two Afghan men in U.S. custody died from blunt force injuries. No one in the military has been held accountable for those homicides.

You and your senior leadership have shown, I believe, a disregard for the protection of the Geneva Conventions in detainee operations. In January, 2002, you were asked why you believe the Geneva Conventions do not apply to detainees in Guantanamo. You replied that you did not have the slightest concern about their treatment, in light of what has occurred in 9/11.

According to the New York Times, you have known about the graphic photographs, evidence of abuse in the Abu Ghraib prison since mid- January. You told President Bush about these reports of abuse shortly thereafter. And yet, rather than work with Congress to deal with the problem together, you and other top Defense Department officials have apparently spent the last three weeks in preparing the public relations plan.

Can you tell us what exactly did you tell the president about these reports of abuse in late January, and what did he say, and what did you do about it, and why month after month after month had to pass before anything has happened and then we find out that the pictures came out and that the president is indeed angry?

RUMSFELD:

First, Senator Kennedy, your statement that other agencies of government were concerned about detainees and the Department of Defense failed to act is simply not correct.

KENNEDY:

This wasn't brought to your attention by the secretary of the State Department?

RUMSFELD:

I'll respond. I did not say that. I said your statement that the Department of Defense...

KENNEDY:

Well, it was brought to you then by the State Department. We don't want to parse words.

KENNEDY:

Was this brought to you by the State Department? I mentioned Secretary Powell. Question is whether this was brought to you and when did you know. When did you know it?

You gave us a laundry list in your presentation about the timeline on it. I'm trying to find out, because it has been published, that you were notified about this a series of times and advised to do something about it and nothing was done.

RUMSFELD:

It's not correct to say "Nothing was done." You're making a set of conclusions that are just simply not accurate.

We've had numerous discussions, interagency, on detainees. All in all, there have been some 43,000 people who were captured or detained in Iraq, of whom 31,850 have already been released. That is a big task for the Army to undertake. The...

KENNEDY:

Can I...

RUMSFELD:

... the actions of the ICRC -- you said they came in and indicated concerns about the Abu Ghraib prison. That's correct. And the prison officials began the process of making corrections and the general's report -- Taguba -- found that a number of those things were already under way, in terms of corrections. And when he made his study, a number of additional things and corrections were made.

So it seems to me that the ICRC report was helpful, and that the military command, as I understand it, undertook a series of corrections.

Now, with respect to when were we knowledgeable of this, the situation was this: Specialist Darby told the CID that he had information about abuses in the prison. I believe it was on the 13th or 14th of January.

RUMSFELD:

By the 15th or 16th, an investigation had been initiated. And the Central Command public affairs people went out and told the world -- they told everyone in the world that there were allegations of abuse and they were being investigated.

Again, by mid-March, when some criminal -- I don't know the legal term but -- some criminal actions were initiated, the Central Command's public affairs people went out again and announced that not only were there allegations of abuses but they listed the types of abuses. And then this is to the world. Everyone knew it. CNN was there asking questions.

And that is the time frame when General Myers and I were meeting with the president and discussed the reports that we had obviously heard because they weren't hiding anything. They disclosed it to the world.

WARNER:

Thank you, Senator.
Senator Roberts?

ROBERTS:

Thank you, Mr. Chairman.

I mean in no way to diminish the seriousness of what has occurred here, but it seems very clear to me that the task before Congress is to determine whether or not these abuses are a result of flaws in the system or if this was a matter, as has been indicated, of individuals that simply broke the rules.

With that in mind, I'd like to know, Mr. Secretary, were any of the abuses that occurred in Iraq encouraged, condoned or committed by Department of Defense regulations or policy? Were any local or unit level policies in effect that would have encouraged or condoned or permitted these abuses?

RUMSFELD:

Certainly not to my knowledge. And when one looks at the abuses and the cruelty, the idea that you would have regulations that would permit or condone or encourage that type of thing is just not comprehensible.

And General Smith is the deputy Central Command under General Abizaid, and he is responsible for the management of the guidance and instructions and can respond if you'd like.

ROBERTS:

No, I think you've answered the question at least to the degree that I want it answered right now. I want to move on.

I do have the privilege of being the chairman of the Intelligence Committee. Three days ago we had a hearing. We had the military intelligence representatives there. We had the CIA there. They indicated that at that particular time they did not know -- had no evidence of any direction on the part of intelligence personnel at this prison suggesting that they commit these abuses at the behest of the military interrogators who asked the military police to, quote, "soften up" the detainees to prepare them for the interrogation.

This, sort of, gets back to the opening statement by Senator Levin and the question by Senator McCain.

Let me remind everybody that as we speak, we have men and women in uniform engaged in combat in Najaf and basically when we interrogate people it is to find out from the prisoners, in terms of force protection and in terms of the mission in Iraq, precisely what's going on. It's a very, very important mission.

I said at the time, at that hearing -- it was a closed hearing -- but I said at the time I would be stunned -- and I've said it to the press -- that anybody in military intelligence that would condone these kind of activities. This criteria is ingrained in terms of their training. It's black and white.

And so my question to you, and I think it's going to result on the Fay report here: Is there any truth to the allegations made in the press and some of the accused military police that they did commit these abuses at the behest of the military interrogators?

RUMSFELD:

I've read the same allegations, comments that you have. That is what the criminal investigations are looking at, among other things. And we will at an early date know what the answers are to those questions.

ROBERTS:

Can you give me, sort of, a time frame when the Fay report will be completed?

SMITH:

Sir, it should be completed in the next couple of weeks if he does not ask for an extension. Part of the problem is that unit has redeployed back to Germany and so there's traveling back and forth engaged.

ROBERTS:

And that would help answer the question that was asked by Senator McCain as to actually who was in charge of that prison?

And I put the "in charge" in quotes. You had the intelligence and then you also had the M.P.s in terms of the maintenance of the unit. And then it seems to me that there's another command that you mentioned, oh, in terms of the contractors.

I think Senator McCain's question is right on: Who was really in charge? And I think you have a tri-part system here. Is that being fixed? Will that be recommended by the Fay report?

SMITH:

Sir, that's already been fixed with the appointment of Major General Jeff Miller as the central...

ROBERTS:

And he's the person that straightened out GITMO down in Cuba.

SMITH:

Sir, and he is there doing that right now. He's been there since the middle of April.

ROBERTS:

I thank you, Mr. Chairman.

WARNER:

Thank you very much.
Senator Byrd?

BYRD:

Thank you for calling this timely, very important hearing.

I apologize for my voice. I've been struggling with a bout of laryngitis.

I share your outrage over the atrocities that have emerged from the Abu Ghraib prison. I believe Congress has a responsibility to demand a public accounting and a public explanation from the leadership of the Defense Department.

I fear this is only the beginning of a long and painful process. And I am glad that you have taken the first steps to begin the necessary public examination of the massive policy failure that led to this catastrophe.

Among the many aspects of this situation that are so troubling to me is why the president and his advisers are only now publicly condemning the prisoner abuses in Iraq when apparently the Defense Department had known about them for months.

BYRD:

I do not recall hearing a peep out of either of you, Secretary Rumsfeld or General Myers, about this before CBS broke the silence. Why did it take the televised broadcast of graphic photos of prisoner abuse, a broadcast General Myers has acknowledged he tried to suppress, to galvanize the leadership of the Defense Department to express its outrage over the situation?

Why was a report that described sadistic, blatant and wanton criminal abuses by American soldiers left to languish on a shelf in the Pentagon unread by the top leadership until the media revealed it to the world?

Why wasn't Congress apprised of the findings of this report from the Defense Department instead of from CBS News?

Mr. Secretary, it was President Truman who was said to have displayed the famous sign on his desk: The buck stops here. I served with President Truman. He was an honorable man. He did not shirk his responsibility.

I see a very different pattern in this administration. I see arrogance and a disdain for Congress. I see misplaced bravado and an unwillingness to admit mistakes. I see finger-pointing and excuses.

Given the catastrophic impact that this scandal has had on the world community, how can the United States ever repair its credibility?

BYRD:

How are we supposed to convince not only the Iraqi people, but also the rest of the world that America is indeed a liberator, and not a conqueror, not an arrogant power? Is the presidential apology to the king of Jordan sufficient?

I ask you that question.

RUMSFELD:

Senator, the facts are somewhat different than that. The story was broken by the Central Command, by the United States Department of Defense, in Baghdad. General Kimmitt stood up in January and announced that there were allegations of abuses and that they were being investigated. He then briefed reporters. And I think it was March 20 -- there's a timeline up here. By March 20, he went back out again and said that these had been filed.

The idea that this is a story that was broken by the media is simply not the fact. This was presented by the Central Command to the world so that they would be aware of the fact that these have been filed.

What was not known is that a classified report with photographs would be given to the press before it arrived in the Pentagon.

BYRD:

Mr. Secretary, we'll put my timeline in the record and compare it with yours. My question is: Is the presidential apology to the king of Jordan sufficient?

RUMSFELD:

Senator, I guess that's for the president and the Congress and others to decide.

There have been many apologies. There have been apologies by every person at this table today. Any suggestion that there is not a full, deep awareness of what has happened, and the damage it has done, I think, would be a misunderstanding.

BYRD:

Have you read the...

RUMSFELD:

The report that we're talking about is sitting over -- right there on the floor. And it is, I don't know -- what? -- two feet high. There is a...

BYRD:

Did you read it?

RUMSFELD:

I read the executive summary, which is 50 to 75 pages, and I looked at some of the annexes and appendices and references. I had been briefed on it in full and as have the people at this table. And you can be certain of that.

BYRD:

The Red Cross claims that it made reports of prison abuse in Iraq throughout 2003. I understand that those reports are confidential by mutual agreement. Secretary Rumsfeld, how do we know that there isn't a broader problem here?

We've heard reports of prisoner abuse from more than just the Abu Ghraib prison. Will you ask the Red Cross to waive its confidentiality agreement on those reports and make public all the pertinent reports on U.S. military-run prison facilities including those in Iraq, Afghanistan, Guantanamo and elsewhere?

RUMSFELD:

We would certainly be happy to provide the committee with all the reports that we have.

I think the issue of the International Committee of the Red Cross allowing one of their reports to be made public is an issue for them, because they worry that they will not be told the truth when they go into countries where there are dictatorships and where people are systematically punished and tortured. And people do not want to talk to them if the ICRC gets a reputation for making their reports public.

So we will be happy to give you our reports on a confidential basis that is respectful of the International Committee of the Red Cross's stipulation.

BYRD:

I must conclude...

WARNER:

Thank you very much, Senator.

BYRD:

... with all due respect to you, the matter is far deeper than that.

BYRD:

The American people need to know what's in those reports. And when the Red Cross surprises the Defense Department with those reports, Congress should have that material.

RUMSFELD:

We'd be happy to give it to you.

BYRD:

Very well. Thank you.

WARNER:

Senator Allard?

ALLARD:

Mr. Chairman, first of all I want to thank you for holding this committee hearing and I know there was some discussion about the format and everything, but I think it's the right thing to do to have this as an open hearing.

And I want to also thank the panel for agreeing to come here and testify before us in an open hearing. You know, that's the strength of America, is that we're willing to come out in a public manner and talk about our strengths and weaknesses and lay out, you know, how we're going to deal with those.

And so as somebody who has participated in this, I think that we are sending a good message to the world that we are open, that we are not a perfect people but we do our best. And I just want to make that in before I asked any questions.

The thing that I heard in your testimony, Mr. Secretary, and I think it needs to be elaborated on, is this issue of command influence. And I know that as the facts become evident that prosecutors of misconduct in the military have a real concern about command influence.

And I wish if you would elaborate more on that, or maybe some other panel members might elaborate on that and how that might affect the case or prosecution. You mentioned you had six courts-martial, I believe, and I wondered if you would share that with the committee.

RUMSFELD:

We are continuously advised by lawyers, counsels, that there's two issues that create a tension. One is the importance of having integrity to the criminal prosecution process.

RUMSFELD:

And that people in the chain of command that conceivably over time would be called upon to make a judgment about the decisions at the lower levels do not inject themselves into that process early or in a way that would lead people to believe that their comments were influencing the outcome of some of those criminal decisions or other decisions.

Therefore people in the chain are in a difficult position. To the extent we have a discussion like this, about what's taken place, we can be certain that the defense counsels for these people who are being accused, and are going to be criminally prosecuted, will say that these hearings and this discussion had an influence on the case.

And the other side of the coin that's equally important -- we don't want to have that be the case, and that's why we're being careful in what we say. The other side of the coin is that we don't someone's rights to be infringed upon, someone who is a defendant and may

be innocent. And a process could lead to a situation where their rights could not be fully protected. So we do have to be careful.

ALLARD:

Now, the six courts-martial now, do you anticipate there will be more courts-martial, and have any of those in command been indicted?

RUMSFELD:

I checked, and last year, we had something like 18,000 criminal investigations opened, and we ended up with 3,000 courts-martial.

So at any given time, and with a large organization like the Department of Defense, there's always something happening.

There's no way in the world I could anticipate. But the investigations are open, the investigators are determined, and to the extent they find information that leads them to believe that a court-martial is indicated, or nonjudicial punishment of other types, they certainly will do so.

RUMSFELD:

They understand the gravity of this.

ALLARD:

Now, a number of months ago -- I want to just follow up on the Red Cross report. Now, were they given full access? And what main issues did that report raise?

RUMSFELD:

I have the report somewhere here and I'd be happy to let you see it. I'm reluctant to start discussing it, but I can say what I said.

They found a number of things that they were concerned about, as they always do. And it's helpful, I must say. The people then began to read it and agree or disagree and make the changes, and they did.

And when General Taguba came in and made his report, he indicated that a number of the issues that had been raised last year by the ICRC had, in fact, been corrected by the command structure between the time that they were observed by the ICRC and the time that General Taguba's team arrived on the scene.

ALLARD:

Mr. Chairman, my time's expired.

WARNER:

Thank you, Senator. Thank you very much.
Senator Lieberman?

LIEBERMAN:

Thank you, Mr. Chairman.

Mr. Secretary, the behavior by Americans at the prison in Iraq is, as we all acknowledge, immoral, intolerable and un-American. It deserves the apology that you

have given today and that have been given by others in high positions in our government and our military.

I cannot help but say, however, that those who were responsible for killing 3,000 Americans on September 11th, 2001, never apologized. Those who have killed hundreds of Americans in uniform in Iraq working to liberate Iraq and protect our security have never apologized.

LIEBERMAN:

And those who murdered and burned and humiliated four Americans in Fallujah a while ago never received an apology from anybody.

So it's part of -- wrongs occurred here, by the people in those pictures and perhaps by people up the chain of command.

But Americans are different. That's why we're outraged by this. That's why the apologies were due.

And that's why I hope as we go about this investigation, we do it in a way that does not dishonor the hundreds of thousands of Americans in uniform who are a lot more like Pat Tillman and Americans that are not know, like Army National Guard Sergeant Felix Del Greco of Simsbury, Connecticut, who was killed in action a few weeks ago; that we not dishonor their service or discredit the cause that brought us to send them to Iraq, because it remains one that is just and necessary.

We've got to get to the whole truth here, and nothing but the truth. We can't be defensive. We've got to be aggressive about it. And as Senator McCain said, we've got to do it quickly so that we and you and most of all our soldiers can get back to fighting and winning the war on terrorism with determination.

As far as I'm concerned, we do have to know how this happened. And we have to know it so we can stop it from happening ever again.

You've said that the behavior of those soldiers was fundamentally un-American. I agree with you. And this goes way back to the first American declaration, the Declaration of Independence, where we said that every human being has those rights as an endowment of our creator.

That even goes to human beings who have been apprehended by our military as they have been in Iraq because they are suspected of being part of the terrorists, of the jihadists, of the foreign fighters, of the Saddam loyalists who are killing Americans and Iraqis every day.

LIEBERMAN:

We know that people are flawed. And that's why we believe in the rule of law, to try to make this better and punish those who fall below appropriate humane standards.

In that regard, it seems to me when it comes to the treatment of prisoners and detainees and conditions of combat, the Geneva Convention adopted by the United States as the law of the land, and that has been implemented by U.S. Army Regulation 190-8.

You made some controversial statements early on, after Afghanistan, that said, "The Geneva Convention was not relevant here" -- that "By-in-large -- and I'm quoting -- "generally, American military interrogators of prison guards would try to carry out the rights of prisoners and detainees according to the Geneva Convention."

But I want to ask you today, as you look back to that, do you think you were right? Did anything replace the rules of the Geneva Convention or Army Regulation 190-8? And if not, why not?

RUMSFELD:

Senator, the president of the United States made a determination in early 2002 that the Geneva Convention provisions did not apply to our conflict with Al Qaida although he concluded the Geneva Conventions did apply to the conflict with Taliban. That was a decision by the president.

He determined the Taliban detainees did not qualify as prisoners of war under the third Geneva Convention criteria for prisoners of war. He also made clear that it was and will continue to be the policy to treat detainees humanely, and in a manner that was consistent with the Geneva Conventions. So these people were treated consistent to the Geneva Conventions.

RUMSFELD:

But he made a distinction with respect to Al Qaida and...

LIEBERMAN:

Are these detainees, do you assume, members of Al Qaida -- that is, the thousands that have been held in Iraq? Or are they in another status?

RUMSFELD:

Oh no, the president announced from the outset that everyone in Iraq who was a military person and was detained is a prisoner of war, and therefore the Geneva Conventions apply.

And second, the decision was made that the civilians or criminal elements that are detainees are also treated subject to the Geneva Convention, although it's a different element of it. I think it's the 4th instead of the 3rd.

LIEBERMAN:

I appreciate the clarification, because I was not aware of that; that you would say that all those held in prison, including those who were abused here, had the rights of prisoners of war...

RUMSFELD:

Absolutely.

LIEBERMAN:

... under the Geneva Convention.

RUMSFELD:

Absolutely. That's true...

LIEBERMAN:

And therefore the fault clearly was that those we've seen, and hopefully not others, were not either properly trained, properly disciplined or in any case not observing the law of the United States of America with regard to the rights of prisoners of war.

MYERS:

If I may, I think that's exactly right. It's abhorrent behavior.

The Taguba report, if you recall, looked at four installations where the 800th M.P. Brigade had operations. They found abuse in one, and that's Abu Ghraib. They found abuse in one.

LIEBERMAN:

My time's up. Thank you.

RUMSFELD:

Thank you very much.

WARNER:

Senator Sessions?

SESSIONS:

Thank you, Mr. Chairman.

These are indeed actions that go against the very core values of America. I want to say, however, that I believe the military responded properly immediately. And I want to join with Senator Lieberman's courageous comments and strong comments about how we do not need to dishonor the soldiers out there this very day, at risk of their lives, with holding firing weapons, being in hostile situations, taking chances with their own lives, to protect the people of Iraq.

SESSIONS:

And yes, this is a serious problem, and we need to do something about it. And those who dishonored -- those soldiers need to be punished.

But I feel strongly that the military deserves a lot of credit here. And I want to go over this chart, General Myers, that you have there.

First, I want to say to Secretary Rumsfeld, thank you for your leadership, and all of you there.

And yes, you have some complainers in the Congress, but we voted to send our soldiers to this effort. Nobody else authorized you to go; we voted to support it.

And I would also note that terrorists aren't happy with you either. I saw they put a \$15 million bounty on your head, along with General Kimmitt and General Sanchez. And I thank you for that service.

MYERS:

Senator Sessions, do you want me to go through that...

SESSIONS:

Yes, I'd just like to ask you a little bit about it because our time is short.

But as I see back in August of last year, you appointed an assessment team. Is that right? Long before this occurred.

MYERS:

Right. As I said in my opening statement, I think we ought to have a lot of confidence in our military leadership, handling the detention situation in Iraq.

It was on 11 August that General Sanchez was worried about detention and interrogation ops, and that resulted in General Ryder going over there and submitting a report.

We, kind of, pushed General Miller on him in August of '03, to look -- because he was so successful in Guantanamo, look at our detention operations to make sure we're doing it right. And that we're also -- that it's well-connected, that the intel is getting to the analysts and so forth, so we can win this...

SESSIONS:

Now, was this in response to any immediate complaints, or was it on your own initiative?

MYERS:

That was our own initiative...

SESSIONS:

Go ahead.

MYERS:

... and that was a discussion between the secretary and myself and our staff.

The abuse, you can see when it took place. When we were told of the abuse was 13 January '04.

MYERS:

The next day, the Army, their police, the Criminal Investigative Division, went on that particular case. We talked about the press.

SESSIONS:

No, let's slow down. On January 14th, you started a criminal investigation based on the complaint of one soldier. And on January 16th, Major General Kimmitt briefed the world about the investigation commencing. Is that correct?

MYERS:

Right. And he talked about abuse. And as I remember, he said there may be pictures involved with this abuse as well.

And then it was three days later where General Sanchez, based on that criminal investigation that he had started, that he asked for an investigating officer -- turned out to be Taguba -- to look at this M.P. brigade that was responsible for detention operations in Abu Ghraib and those three other locations.

It's important to point out as we go through it, and I had it in my opening statement, and I know we need to do things quickly and full disclosure and everything, but this 15-6 report, is what's called in the Army, the Taguba report, can result in administrative action such relief from command and other administrative admonishments to military personnel. So it has to be very, very thorough.

And that's why you'll see it was started and requested in 16 January. It was not approved by General Sanchez until 1 May, and the reason it isn't is because, as you go through the various chains, the people that are implicated in wrongdoing have a chance to look at the report and rebuttal the report. And that's part of this process that I think we owe it to our troops to uphold.

SESSIONS:

But, General Myers, on January 18th, according to that chart, the 320th M.P. Battalion had leadership suspended, is that correct?

MYERS:

That's correct.

SESSIONS:

In other words, that's a pretty dramatic action to take, is it not?

MYERS:

It is. It is but the first look by the Army CID I think gave him the indications that things aren't right.

SESSIONS:

Now, this wasn't by any pressure from the media or anyone else, this was the military's own decision that their high standards had been violated and that strong actions...

MYERS:

General Abizaid, General Sanchez and his folks, absolutely.

SESSIONS:

And I know some in this committee have complained when you took strong action against a brigade commander publicly that he fired a weapon as part of an interrogation effort; fine record. You took strong action on that case. And some of us in Congress complained you were too tough.

MYERS:

The standards are the standards.

WARNER:

Thank you very much, Senator.

We thank you for your service, all of you.

Senator Reed?

REED:

Thank you, Mr. Chairman.

Let me begin by stating the obvious. For the next 50 years in the Islamic world and many other parts of the world, the image of the United States will be that of an American dragging a prostrate naked Iraqi across the floor on a leash. This is unfair to the honor and the courage of our soldiers, but unfortunately I think it's become a fact. This is a disaster.

Mr. Secretary, let me follow up on your proposed commission. As I understand your comments, this commission or this group of people will not have the authority to call witnesses to obtain material independent of your investigation. They'll simply review what you're doing.

RUMSFELD:

We will be happy to give you a copy of the draft charge to the individuals. They will have, I can assure you, the absolute, full cooperation of the Department of Defense.

REED:

Will they have the opportunity to call individuals to testify?

RUMSFELD:

Indeed.

REED:

Thank you.

RUMSFELD:

I wouldn't use the word testify. But certainly they can call individuals.

REED:

Mr. Secretary, the Taguba report indicated the principal focus of Major General Miller's team was on the strategic interrogation of detainees, internees in Iraq. Among its conclusion and its executive summary where that CJTF-7 did not have authorities or procedures in place to affect the unified strategy to detain, interrogate and report information from the detainees-internees in Iraq.

REED:

The executive summary also stated that detention operations must act as an enabler for interrogation -- an enabler for interrogation.

When General Miller was involved with Guantanamo DOD operations in another theater, he was sent to Iraq -- I don't think major generals in the United States Army make up policies about strategic interrogation of detainees unless they've coordinated and communicated to higher headquarters.

Did you ever see, approve or encourage this policy of enabling for interrogation? Did Secretary Cambone ever see, approve or encourage this policy at either facility?

RUMSFELD:

I don't recall that that policy came to me for approval. I think that what we knew from the beginning, since September 11th, is that we had three issues with respect to people that were detained.

One issue was to get them off the street, so they can't kill again more innocent men, women and children, and keep them off. A second was the question of criminal prosecution for wrongdoing. And the third was to interrogate and see if additional information could be found that could prevent future terrorist acts against our country or our forces or our friends and allies.

So all of those things have been part since the beginning. They're different functions, as you point out...

REED:

Is that Secretary Cambone's view too? Did he either see, approve or encourage? He's behind you. Can he respond?

RUMSFELD:

Sure he can respond.

CAMBONE:

Sir, the...

WARNER:

Would you identify yourself for the record. please?

CAMBONE:

Yes, sir. My name is Steve Cambone. I'm the undersecretary for intelligence, Senator.

The original effort by the major general was done down with respect to Guantanamo and had to do with in fact whether or not we had the proper arrangement in the facilities in order to be able to gain the kind of intelligence we were looking from those prisoners in Guantanamo.

CAMBONE:

We had then in Iraq a large body of people who had been captured on the battlefield that we had to gain intelligence from for force protection purposes, and he was asked to go over, at my encouragement, to take a look at the situation as it existed there. And he made his recommendations. His recommendations were that.

REED:

Were the recommendations made to you, Mr. Secretary? Did you approve them?

CAMBONE:

To me directly, no. They were made to the command.

REED:

But you were aware of the recommendations about...

CAMBONE:

I was aware of those recommendations.

REED:

... enabling interrogation?

CAMBONE:

Excuse me, sir?

REED:

You were you aware of those recommendations?

CAMBONE:

I was aware that he went over, made the recommendation that we get a better coordination between those who are being held and those who are being interrogated.

REED:

Mr. Secretary, were you aware that a specific recommendation was to use military police to enable in the interrogation process?

CAMBONE:

In that precise language, no. But I knew that we were trying to get to the point where we were assuring that when they were in the general population, those that were under confinement were not undermining the interrogation process.

REED:

So this was Major General Miller's own policy?

CAMBONE:

No, sir, it was not a policy. It was a recommendation that he made to the command.

REED:

And so General Sanchez adopted this policy, making it a policy of the United States Army and the Department of Defense without consultation with you...

CAMBONE:

Sir, I don't think that's a proper rendering of it.

REED:

Well, I don't know what the proper rendering is, but that seems to be at the core of this issue. Were you encouraging a policy that had military police officers enabling interrogations which created the situation where these...

CAMBONE:

No, sir.

RUMSFELD:

May I comment? I think that that is -- it is probably best put this way.

There are different responsibilities: detaining and interrogating. However, they do need to be looked at together.

They found in Guantanamo that how they are detained, in terms of the rhythm of their lives, can affect the interrogation process, and so the linkage between the two is desirable if in fact you're concerned about finding more information that can prevent additional terrorist acts or, in the case of Iraq, the killing of our forces in Iraq.

RUMSFELD:

So it's important that there be a linkage, a relationship. That is not -- the way it can be put is that it has a bad connotation. And goodness knows that's not desirable or a policy that General Miller would have recommended. On the other hand, it could be...

(CROSSTALK)

REED:

Well, the policy seems to be...

WARNER:

Senator, I have to ask if you would require the witnesses to provide the further responses for the record.

REED:

Mr. Chairman, I will certainly ask for his responses.

WARNER:

Thank you very much, Senator.
Senator Collins?

COLLINS:

Mr. Secretary, the vast majority of American troops performed their duties with compassion, fairness and courage. This abuse makes the task which they've been assigned far more difficult and far more dangerous, and that troubles me greatly.

Worst of all, our nation, a nation that, to a degree unprecedented in human history, has sacrificed its blood and treasure to secure liberty and human rights around the world now must try to convince the world that the horrific images on their TV screens and front pages are not the real America, that what they see is not who we are.

That is why, Mr. Secretary, I'm so troubled by the Pentagon's failure to come forward, to fully disclose this appalling abuse, to express outrage and concern and to outline swift, tough, corrective actions.

COLLINS:

I believe that had you done that, it would have mitigated somewhat how this abuse has been perceived around the world, particularly in the Muslim communities.

I'm not talking about issuing a press release from Baghdad. I'm talking about you personally coming forward and telling the world what you knew about this abuse.

In retrospect, do you believe that you erred in not coming forward, not just to the president and the Congress -- you've made very clear today that you regret not doing that -- but to the world community? Would it have made a difference if it had been the Pentagon itself that had disclosed the full extent of this abuse, whatever you knew, and what actions you were going to take?

RUMSFELD:

I think in my statement I responded in full to your question. The -- I would characterize what was done in the Central Command by way of swift, corrective action as being just that -- swift, corrective action.

And second, the -- I don't know quite how to respond to your question. The Department of Defense announced that their abuse was being charged, there were criminal investigations under way. No one had seen the photographs.

RUMSFELD:

They were part of a criminal investigation. And they were in that Central Command -- I say no one in the Pentagon had seen them. And they were part of that investigative process.

It is the photographs that gives one the vivid realization of what actually took place. Words don't do it. The words that there were abuses, that it was cruel, that it was inhumane -- all of which is true -- that it was blatant, you read that and it's one thing. You see the photographs and you get a sense of it and you cannot help but be outraged.

Now, there are -- at any given time in the Department of Defense as I said, there are these 3,000 courts-martial under way, general courts-martial some 1,200, criminal investigations 18,000 a year last year. And the importance of protecting the people charged, protecting their rights, and the importance of seeing that if in fact they're guilty that they don't get off because of command influence. So there's a pattern of not reaching down into those things, bringing them up and looking at all the evidence before it ever arrives. And in this case, it was released to the press.

Now, we announced the problem to the press. We did not release the Taguba report to the press. That was done by someone to release against the law a secret document.

That's how it surprised everyone. It shocked the Congress. It shocked me. It shocked the president. It shocked the country.

But to suggest that they had not taken tough, swift, corrective actions in the Central Command, it seems to me is inconsistent with what took place.

COLLINS:

Well, Mr. Secretary, that's not what I said. What I said -- and I have no doubt that the military is committed to swift corrective action. It's the disclosure of the abuse and the promise to take those actions -- that's where I feel the Pentagon fell short.

And I think that rather than calling CBS and asking for a delay in the airing of the pictures, it would have been far better if you, Mr. Secretary, with all respect, had come forward and told the world about these pictures and of your personal determination -- a

determination I know you have -- to set matters right and to hold those responsible accountable.

RUMSFELD:

Well, Senator Collins, I wish I had done that. I said that in my remarks.

I wish I knew -- and we've got to find a better way to do it. But I wish I knew how you reach down into a criminal investigation when it is not just a criminal investigation, but it turns out to be something that is radioactive, something that has strategic impact in the world. And we don't have those procedures. They've never been designed.

We're functioning in a -- with peacetime restraints, with legal requirements in a war-time situation, in the information age, where people are running around with digital cameras and taking these unbelievable photographs and then passing them off, against the law, to the media, to our surprise, when they had not even arrived in the Pentagon.

WARNER:

We have to move on.

RUMSFELD:

There isn't a person at this table, except General Smith, who'd even seen them.

WARNER:

You're free to amplify that for the record if you wish, Mr. Secretary.

WARNER:

Senator Akaka?

AKAKA:

Thank you, Mr. Chairman.

Secretary Rumsfeld, according to General Taguba's report, civilian contractors were found wandering around Abu Ghraib unsupervised and with free access to the detainee area. I have two questions on that.

What are the roles of the private contractors at this and other detention facilities in Iraq and Afghanistan? And who monitors and supervises these contracted employees?

RUMSFELD:

The answer is that the civilian contractors, as I indicated, numbered something like 37 in this particular facility. They tend to be interrogators and linguists. And they're responsible to military intelligence who hire them, and have the responsibility for supervising them.

BROWNLEE:

Sir, if I might...

WARNER:

Secretary Brownlee?

BROWNLEE:

... in the theater, we have employed civilian contract interrogators and linguists. The Central Command has done this. And these people have no supervisory capabilities at all; they work under the supervision of officers in charge or non-commissioned officers in charge of whatever team or unit they are on.

And they, most of them, are retired military. And they are usually of the skill that they retired in and that's what they're employed for.

BROWNLEE:

And they assist in these processes, but they are not in a supervisory role. In fact, they would be forbidden from doing that because it would be inherently governmental.

SMITH:

Sir, I might add to that -- in this particular case there's a tiger team that interrogates and goes through that process. One is an interpreter, normally. One is an analyst. And one is an interrogator. And where we have shortages in the military of interrogators and translators, we go to contractors to do that.

And I said the numbers wrong. The numbers were 27 is how we -- are the number of contractors we have with CACI for interrogators. Then we have hundreds of translators that are under contract throughout the country under Titan Corporation.

AKAKA:

Secretary Rumsfeld, the allegations of abuse at this detention facility has been characterized as sadistic, blatant, wanton criminal abuses.

So far, we have discussed allegations against military members. Are there allegations of abuse against contractors who are working with military members? If so, are any of these allegations being investigated?

RUMSFELD:

There -- my recollection is, and I think it's OK to say this, is that the investigations are ongoing and that time will tell.

Go ahead, General.

SMITH:

There are two contractors that are being investigated under the investigation for the military intelligence brigade and that is the -- from the recommendation from the Taguba report.

AKAKA:

Mr. Chairman, I want to say I recently traveled to Iraq and Afghanistan, and I was so impressed with the professionalism of the men and women serving in our military who I had the opportunity to meet.

AKAKA:

And I want to say that I'm really proud of what they are doing there.

General Myers, General Taguba's AR 15-6 report finds a general lack of knowledge, implementation and emphasis of basic legal regulatory, doctrinal and command requirements within the 800 M.P. Brigade and its subordinate units.

Understanding that there is an issue with authority between the military police and military intelligence units at Abu Ghraib, how is it that an entire brigade could be deployed to Iraq and not trained for their mission?

WARNER:

Senator, I'll have to ask that the general provide his response for the record. I thank you for your cooperation.

AKAKA:

Thank you very much. Thank you for your responses.

WARNER:

Senator Graham was to have been -- you're up.

GRAHAM:

Mr. Secretary, have you seen the video?

RUMSFELD:

I have not. The disk that I saw that had photos on it did not have the videos on it. I checked with General Smith and he indicates he does have a disk with the videos on it. I don't know if that means there's two disks with all these photographs or if the photographs are the same and one just doesn't have the video.

GRAHAM:

The only reason I mention that, I want to prepare the public. Apparently, the worst is yet to come, potentially, in terms of disturbing events. We don't need to leave here thinking that we've seen the worst. There's more to come, is that correct?

RUMSFELD:

I indicated in my remarks that there are a lot more pictures and many investigations under way.

GRAHAM:

And my colleagues rightly want it done quickly, but my concern is to do it right, and I don't want to rush to judgment here and let some people go that deserve to be prosecuted, and I would be very disappointed if the only people prosecuted are sergeants and privates.

GRAHAM:

That would be very, very bad and sad. So I want it done right and the sooner the better, but I'll pick right over sooner.

I'm confused. General Smith, when did you first learn of these photos and see them yourself?

SMITH:

Sir, we knew that there were photos on June 14th because that's how the investigation started -- I mean January 14th. When the soldier...

GRAHAM:

When did you see the photos?

SMITH:

I saw the photos toward the end of March.

GRAHAM:

Who did you tell about the photos when you saw them?

SMITH:

Sir, that was part of the investigation. And that went forward. I told my boss.

GRAHAM:

Did it dawn on you that when you saw these photos, "We're in a world of hurt. This is going to look bad"?

SMITH:

Certainly, sir, if those were released we certainly...

GRAHAM:

General Myers, when you called CBS, had you seen the photos?

MYERS:

No, I hadn't.

GRAHAM:

What had you been told about what CBS was about to air and by who?

MYERS:

They were going to air the photos. We didn't talk about that with CBS.

I, previously in our discussions back in January when they said there photos, they described them to me and the secretary up through the chain of command to the secretary. And I was happen to be there. And it was discussed several times. And the general nature of the photos, about nudity, some mock sexual acts and other abuse, was described.

GRAHAM:

When you were informed that these photos, even though you hadn't seen them, were going to come out, who did you tell about that and when?

MYERS:

There are a lot of people that knew inside our building.

MYERS:

The people that have been working with the media knew that there were photos out there, and the media was trying to get their hands on them from January. So they've been working that for three months.

GRAHAM:

At that time, is it fair to say you knew there was a story about to come out that was going to create a real problem for us?

MYERS:

At that time, what my concern was was the impact it could have on our forces in Iraq. That was my focus at the time, was, "OK, if these photos are revealed right now, given the intensity of operations, what could be that impact on our troops?"

And my conclusion was this would be the worst of all possible times for these to come forward, realizing that eventually they're going to come forward; I understand that.

GRAHAM:

Did you feel the need to inform the Congress or the president or the secretary of defense about the potential damage this could do?

MYERS:

We had discussed the potential damage back in January, and in February and in March. And as we marched through those events on that chart, a lot of those events were based on our concern with where this might lead. In other words, is there a...

WARNER:

We just need to -- could you use the microphone, General, we're missing some of your...

MYERS:

OK.

GRAHAM:

Long story short, I do trust the people in uniform to get it right. And I want to take the time necessary to make sure the people responsible are brought to justice and anybody innocently accused has their day in court.

You're right, Secretary Rumsfeld.

Here's the problem: It doesn't take a rocket scientist to figure out the explosive nature of these photos apart from court-martial, apart from legal proceedings. And most of us here found out about it on television. And if we knew enough to say, "Don't air a show that's going to be bad," why did we not call the president, call senior members of Congress to prepare us for what we were eventually going to see? That's the essence of my concern about all this.

MYERS:

Senator Graham, in my opinion we could have done a better job of informing Congress of this -- of these pictures and this situation. And...

GRAHAM:

And that is an honest and fair answer.

And, Secretary Rumsfeld, people are calling for your resignation. Somebody is drafting an article of impeachment against you right now. I've got my own view about people who want to call for your resignation before you speak, but I'll leave that to myself.

Do you have the ability, in your opinion, to come to Capitol Hill and carry the message and carry the water for the Department of Defense? Do you believe, based on all things that have happened and that will happen, that you're able to carry out your duties in a bipartisan manner? And what do you say to those people who are calling for your resignation?

RUMSFELD:

Well, it's a fair question. Certainly since this firestorm has been raging, it's a question that I've given a lot of thought to.

The key question for me is the one you pose, and that is whether or not I can be effective. We've got tough tasks ahead. The people in the department, military and civilian, are doing enormously important work here, in countries all over the world and the issue is: Can I be effective in assisting them in their important tasks?

Needless to say, if I felt I could not be effective, I'd resign in a minute. I would not resign simply because people try to make a political issue out of it.

WARNER:

Thank the, gentleman.
Senator Bill Nelson?

BILL NELSON:

Thank you, Mr. Chairman.
Mr. Secretary, when did you first see the photos?

RUMSFELD:

Last night about 7:30.

BILL NELSON:

Mr. Secretary...

RUMSFELD:

I should say, I had seen the ones in the press. I had seen the ones that are doctored slightly to suit people's tastes. We've been trying to get one of the discs for days and days and days. And I'm told by General Smith that there were only a couple of these, that they were in the criminal investigation process. And we finally, Dick Myers and I, finally saw them last night.

BILL NELSON:

Mr. Secretary, when did you first find out about the abuses?

RUMSFELD:

With everybody else, when they were announced by the Central Command January 16th. They announced they had a series of criminal investigations under way, they told the world, the Congress, me, everyone else that they were under way. And then they came back March 20th and said not only are they under way, but now we've got specific charges. And then they detailed some abuses.

You read it, as I say, and it's one thing. You see these photographs and it's just unbelievable.

BILL NELSON:

When did you first tell the president, Mr. Secretary?

RUMSFELD:

I don't know. Dick Myers and I see the president every week, and he recalls that some time after we were apprised of it through the press, through CENTCOM's announcement, that it was brought up in one of our meetings.

Do you recall?

MYERS:

I don't recall specifically because I think the day it was brought up it was General Pete Pace that was standing in for me, but he remembers exactly when it was -- well, roughly, with a week or so of when he was in that meeting and informed the president. They talked about it.

BILL NELSON:

And was this back in January, Mr. Secretary?

MYERS:

I think General Pace would say early February, is what I think he would say. It could have been late January.

RUMSFELD:

I meet with the president once or twice a week, we cover eight, 10, 15 different points. General Myers or General Pace are generally there with me. And I don't keep notes about what I do. I just don't remember when it was.

BILL NELSON:

And when you all had this discussion with the president, what did the president say that you should do about those abuses?

RUMSFELD:

But, you know, we can argue back and forth whether it was a wise decision or not. I just think that what is not wise is not to formally inquire of our top uniformed leadership what do they think.

I think General Pace is magnanimously saying that he should have initiated it if he had disagreed with it. That's fine, that's magnanimous. That's not the way this process should work.

Our top uniformed, best thinking, should be solicited on an issue of that magnitude. It shouldn't be left up to, it seems to me, just some kind of a point paper which is what it was.

SESSIONS:

Thank you, Senator Levin.

I know you've expressed that prior to the decision being made

And he still adheres to it. And that's all right.

If there's nothing else, you're beyond the time that we asked you to stay. We thank you for your service and for your support. This Senate will give you, our soldiers, the money they need. We just need to work out the details how it will get done.

Thank you.

We are adjourned.

WOLFOWITZ:

Thank you.

PACE:

Thank you, sir.

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U.S. SENATOR JOSEPH I. LIEBERMAN (D-CT)

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U.S. SENATOR DANIEL K. AKAKA (D-HI)
U.S. SENATOR BILL NELSON (D-FL)
U.S. SENATOR BEN NELSON (D-NE)
U.S. SENATOR MARK DAYTON (D-MN)
U.S. SENATOR EVAN BAYH (D-IN)
U.S. SENATOR HILLARY RODHAM CLINTON (D-NY)
U.S. SENATOR MARK PRYOR (D-AR)

WITNESSES:

DEPUTY DEFENSE SECRETARY PAUL WOLFOWITZ
JOINT CHIEFS OF STAFF VICE CHAIRMAN GEN. PETER PACE
OFFICE OF MANAGEMENT AND BUDGET DEPUTY DIRECTOR JOEL KAPLAN
ACTING DEFENSE DEPARTMENT COMPTROLLER LARRY LANZILLOTTA

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Well, I don't know that I'm going to get into private discussions with the president. If I don't remember when it was, my guess is it was more an information item from us to him where we were transmitting and saying, "here's the problem."

The problem at that stage was one-dimensional. It wasn't three-dimensional. It wasn't video. It wasn't color. It was quite a different thing, and as I indicated in my remarks, if there's a failure, it's me.

It's my failure for not understanding and knowing that were hundreds or however many there are of these things that could eventually end up in the public and do the damage they've done.

But I certainly never gave the president a briefing with the impact that one would have had you seen the photographs or the video. I mean, let there be no doubt about that. He was just as blind sided as the Congress and me and everyone else.

NELSON:

Mr. Secretary, what are your instructions from the president to inform him of matters such as this?

RUMSFELD:

Well, I don't know that I'm going to -- I mean, we have had so many discussions. And clearly, a secretary of defense has the responsibility to try to put himself in the shoes of the president and say, what ought a president to know about all the thousands, tens of thousands, of things that are happening in the Department of Defense at any given time?

And we sit down every week, and General Myers and I go through all the things that we've got going on, and pick and choose and say, "What are the things that are appropriate? What do we owe him so that he can provide the kind of leadership that this country deserves? And what is it the department's doing now that we can get in his head and apprise him of, so that he knows about that?"

RUMSFELD:

And it may be a contingency plan. It may be a problem of personnel. It may be any -- it just runs the gamut.

WARNER:

Thank you, Senator.
Senator Dole?

DOLE:

Thank you, Mr. Chairman.

I certainly want to echo the sentiments of my colleagues and the American people by saying that I'm extremely disappointed that any American, and especially one in uniform, would mistreat or humiliate another human being and commit such atrocious acts.

The acts depicted in those photographs shown around the world do not in any way represent the values of the United States of America or our armed forces. I know our military men and women serve their country with great honor.

The abuse of these Iraqi detainees is a serious issue, not just because it violated human rights. It also tarnished our nation's credibility.

Furthermore, the inflammatory actions of a few have provided our enemies with a lucrative venue to question American values and our true intentions in the war on terror.

Unfortunately, a breakdown of discipline combined with a handful of morally deficient individuals has resulted in serious implications for our national security and the security of over 130,000 servicemembers striving to accomplish our goals in Iraq.

Over the past year, through dedication and sacrifice, and, I must emphasize, strong military leadership, our soldiers have made incredible breakthroughs. The United States and its allies have freed 50 million people from oppressive regimes, removed credible threats to our nation's security, destroyed burgeoning terrorist incubators, and set two countries on the path to democratic and free market reform.

DOLE:

In Iraq, 2,600 schools have been rehabilitated and now more than 5.5 million children are enriching their minds free from the corruption of a repressive regime and its teachings. Women now have a voice in their own government. All 240 hospitals in Iraq are open. More than 1,200 clinics have been established. And on the streets and in the countryside, each day our military medical professionals offer assistance to the citizens of Iraq in addition to caring for their own.

After 30 years of being denied the most fundamental freedoms, today more than 170 independent newspapers are currently operating throughout Iraq, providing each member of that country an opportunity to participate in free and robust debate and, yes, the opportunity to view those horrendous pictures.

Trust among the Iraqi people had slowly been established. Bonds have been made. And sadly for now many of those bonds have been broken.

This legislative body is absolutely correct in focusing on the root causes behind these instances of prisoner abuse and doing everything within its power to ensure that such abuse never, never happens again. And I would expect no less from the Department of Defense to do the same. Transparency is of the utmost importance to our nation's credibility and security.

Fundamental to our success in the global war on terror is winning the hearts and minds of freedom-loving people who were held captive by a violent few. We are not company to that violent element and we denounce anyone who is.

Secretary Rumsfeld, the damage already done cannot be swept away but it can be repaired.

DOLE:

You touched briefly on your plans for a way ahead. Could you go into more detail on this plan? Will it require more or different troops; quicker processing of detainees, more Iraqi police involvement?

You mentioned reparations. Could you please provide more details?

RUMSFELD:

I don't think I used the word "reparations." I think -- I hope -- I used the word "compensation" for the detainees who were cruelly treated. And I am told that we have -- the lawyers have looked into it and we believe there are authorities where we can do that and it is my intention to see that we do do it, because it is the right thing.

With respect to the processing of detainees, in Iraq a total of 43,671 were captured. We have released 27,796 and transferred 4,054, and we currently detain something in the neighborhood of 11,821 which includes 3,842 of the so-called MEK -- which are really not detainees; they're in a separate status. So it's really closer to 7,000 or 8,000 that are currently detained.

The key is to process them as rapidly as possible. And General Miller, who was out there and has been addressing all of these things -- they also believe a key element is to see that they are properly identified and that their families know they're there and why they're there and that there isn't a -- it isn't mysterious, and that we continue to process them.

The only people that need to be retained, obviously, are the ones that are either criminals -- and that's a different category, and a number of them are -- or they are individuals who are terrorists and need to be kept off the streets.

Or they have intelligence value and people have got to find out what it is they know so we can track down the remaining remnants of the Baathist regime and the Fedayeen Saddam people and the people that are out killing Iraqis -- not just Americans and -- coalition people, but are killing Iraqis every single day in that country.

WARNER:

Thank you very much, Senator.

DOLE:

Thank you.

WARNER:

Senator Ben Nelson?

BEN NELSON:

Thank you, Mr. Chairman.

And thank you, Mr. Secretary and gentlemen, for being here today.

First of all, I appreciate the apologies. Clearly, the president's apology, I think, is an important step in moving forward, as are the apologies of all of you today, and I think the apology of the American people, for these incidents.

And I agree with my colleague from Connecticut, that what this represents is so unfortunate that it would somehow would adversely impact on the lives and the deaths of those who have served with such distinction for freedom in Iraq.

Last night, I heard Secretary Armitage say that we're in a bit of a hole. I think those are exact words. And when you're in a hole, the first thing you have to do is stop digging. I hope that we have now gotten to the point where we've stopped digging, where we're not making matters worse.

And Mr. Secretary, you're right when you say there are times when words just simply don't do it. Pictures, and perhaps symbols, are more important for expressing or conveying thoughts or images.

In this case, I think tearing down the statue of Saddam, the statues all over Iraq, was a symbolic gesture to say that there was a new era.

I wonder if it wouldn't be just as important to join together, tear down Abu Ghraib as a statement that the torture chamber of Saddam that carried forth, past and present, is no longer, and create a memorial to freedom in the future and the absence of tyranny of any kind.

BEN NELSON:

But what I want to do is I want to get to a question, I think that I'm concerned about, and that is dealing with what seems to be an operative word today: the few and armed services or armed forces.

I think perhaps there are sergeants and privates, as Senator Graham indicated, who have been involved in this activity, and, obviously, the chain of command would be under consideration here. Criminal action will be taken. I suspect responsible action will be taken in terms of the chain of command.

Is it aberrant behavior of a few or can we be expecting to have out of the investigation an indication that there was something more systemic?

I know that we have a two-star Reserve general who has been in some position removed from duty, but isn't there a pretty good indication to date, some expectation that there was a severing of the chain of command somewhere along the line, through military intelligence or other intelligence operations coming in?

It's my understanding that there are reports that General Karpinski was banned from sections of her own prison system. I'm hopeful that we'll be able to get to the bottom of that with the reports. But in the interim, is there anything that you might be able to enlighten us with right now?

RUMSFELD:

Well, let me answer a couple of pieces and let General Smith answer the last piece.

First, you say the first rule, if you're in a hole, is to stop digging. I've said today that there are a lot more photographs and videos that exist.

BEN NELSON:

I didn't mean that. I mean is anything progressing on today, beyond what we already know and what we're going to find out from past performance?

RUMSFELD:

If these are released to the public, obviously it's going to make matters worse. That's just a fact. I mean, I looked at them last night, and they're hard to believe. And so beyond notice. That's just a fact.

And if they're sent to some news organization, and taken out of the criminal prosecution channels that they're in, that's where we'll be. And it's not a pretty picture.

Second, there are people who are talking about the Abu Ghraib prison and tearing it down. And certainly that's something that the Coalition Provisional Authority and the Iraqi Governing Council and the Iraqi government, the transitional government, the interim government that will take over by June 30th, will be addressing and deciding.

I think it's -- frankly, from my standpoint, I think it's not a bad idea. But I think it's really up to the Iraqis. And I think much of what's going to happen.

BEN NELSON:

Thank you, Mr. Chairman.

Thank you, Mr. Secretary.

WARNER:

Senator Cornyn?

CORNYN:

Thank you, Mr. Chairman.

Mr. Secretary, listening to the questions and the answers that have been given so far leads me to at least tentatively conclude that there are two major problems here. One is, first, the shock to our collective conscience at what we have seen human beings do to degrade and abuse other human beings. But secondly, the shock to our sensibilities as members of Congress who have a collective responsibility to the American people, to see these pictures in the press.

But I believe that it was General Myers -- and you also -- who talked about what we have seen as being a violation of American values.

CORNYN:

I agree with that, but I also want to talk about other American values -- and General Myers alluded to this when he talked about due process. And you mentioned the issue of command influence.

First, I'd like to direct your attention back to the news release that CENTCOM issued on January the 16th, 2004, announcing this investigation. The second and third sentences I want to direct your attention to specifically.

This news release says, "The release of specific information concerning the incidents could hinder the investigation, which is in its early stages. The investigation will be conducted in a thorough and professional manner."

I think what the American people expect of all of us here is not only that we have high standards of conduct, which I know that the military subscribes to, but we have the training, the oversight, the leadership, the accountability, but also the due process and desire to seek justice when it comes to holding people accountable for their crimes.

And I want to tell you that what you've described here, in terms of this chronology of investigation, gives me confidence that the Department of Defense has taken this matter as seriously as it should have and indeed, as you and others have said, not all the facts are in yet.

But I do see, on this chronology, that indeed after this investigation that there have been criminal charges proffered against some who are guilty of these crimes.

CORNYN:

But I would ask you please just to briefly talk about your obligation, in terms of seeing that the persons who are accused of these crimes get that due process and to make sure that the investigation -- that you maintain the integrity of the investigation by not dripping information out on this incident in a piecemeal basis over the course of the past few months.

RUMSFELD:

You have your finger on the dilemma, on the tension that exists between assuring that you protect the rights of individuals that are in a serious, difficult, criminal prosecution circumstance and avoiding saying things that either would infringe on their rights or would enable them to escape punishment by virtue of being able to successfully allege that command influence was exercised in a way that prejudiced the decisions up the chain of command. So we have that problem.

And to the extent senior people in the Department of Defense dive down in and start looking in criminal prosecutions in early and mid stages, the hue and outcry would be horrendous.

And yet, on the other hand, if you've got a situation where something like this is buried in there along with 3,000 other courts-martial and buried in there is something of this significance, we've got to find a way to know that.

And our country doesn't need those kinds of shocks. And the troops don't need it.

CORNBYN:

Mr. Secretary, I would just conclude...

WARNER:

Senator, I have to thank you. We must move on. The panel leaves here and goes over to the House Armed Services Committee.

RUMSFELD:

We'll have to leave about 2:30, Mr. Chairman.

WARNER:

That is correct. And that was made clear. We will have sufficient time to include our next senator, Senator Bayh, followed by Senator Chambliss, Senator Clinton and Senator Pryor and Senator Dayton.

BAYH:

Thank you, Mr. Chairman.

Thank you, gentlemen, for being here today and, in addition to that, for serving our country. These are difficult times and your service is not without some personal cost.

I am going to assume some facts up here and then ask what I think may be two somewhat difficult questions.

I assume that you serve at the pleasure of the president. I assume that he sets a policy for our national security in general and for Iraq in particular. And I assume that he is engaged in overseeing the implementation of those policies and, like you, accepts responsibility for that implementation.

This is a long way of saying, as Senator Byrd mentioned, that in our system we have a tradition of the buck stopping at 1600 Pennsylvania Avenue. And as we're all aware, we're now engaged in a debate about who the occupant of that residence will be come next January.

So in many respects I view this as a question of presidential leadership. How does he react? How aggressively? Does he try and minimize the situation or does he try and take dramatic steps to address the magnitude of the problem?

As has been noted, he has apologized for what took place, and as all of you have indicated, particularly you, Mr. Secretary, the criminal process will move forward. That is a hallmark of our system of justice.

One of the questions that's overhanging this procedure today and the situation in general is, is that enough?

And so the difficult question I'd like to ask is to follow up on the question from Senator Graham. Mr. Secretary, I could tell that you struggled in answering his question, that this is something that's been on your mind.

BAYH:

Your resignation has been called for; that's a pretty serious thing for any of us. And you answered that if you ever concluded that you could not be effective in discharging your duties, you would step down. But that you would not do so as part of a political witch-hunt, so to speak.

There's another aspect of this, though, I'd like to ask your opinion about, and that is whether, in your opinion -- and I know it is ultimately a decision for the president to make. But in your opinion, even though you weren't personally involved in the underlying acts here, would it serve to demonstrate how seriously we take this situation, and therefore help to undo some of the damage to our reputation, if you were to step down?

RUMSFELD:

That's possible.

BAYH:

I appreciate your candor.

My second question has to do with some comments that Senator Lieberman made, and I would like to associate myself with what I thought were very appropriate and moving comments by Senator Lieberman.

I believe very strongly that our cause -- and these are not words I use frequently -- but that our cause is morally superior to our adversaries', both the terrorists we fight and those who now seek to undo the future of a free Iraq.

There is growing concern by the supporters of this cause that this situation that we're inquiring into today is part of a broader problem, that the effort may be bogging down, that we may be approaching a tipping point, that momentum needs to be regained if we're going to prevail.

I'd like to just read a couple of sentences from a column in yesterday's New York Times by Tom Friedman, who supported this endeavor in Iraq. He says, "We are in danger of losing something much more important than just this war in Iraq. We are in danger of losing America as an instrument of moral authority and inspiration in the world.

BAYH:

"This administration needs to undertake a total overhaul of its Iraq policy. Otherwise it is courting a total disaster for us all." And he goes on to say how he hopes that such an overhaul can be undertaken because we need to prevail in Iraq.

So my question, Mr. Secretary, my final question is just very simply, do you believe we're on the right course presently? Or is dramatic action necessary to regain the momentum so that we can ultimately prevail in what is a very noble and idealistic undertaking?

RUMSFELD:

I do believe we're on the right track. It's a tough road. It's a bumpy road. It's always been bumpy going from a vicious dictatorship to something approximating a representative government that's respectful of its different, varied religious and ethnic groups. It's not an easy path.

I am convinced that we are doing exactly what ought to be done, and that is to pass responsibility for that country to the Iraqis. I am convinced we're doing exactly what ought to be done in recognizing that they need to have the ability to provide for their own security, which is why so much effort's gone into developing police and civil defense corps and an army and border patrols and site protection people.

We do not want America -- they do not want Americans or coalition forces in their country over a prolonged period, and goodness knows we don't want to be there. The only proper way to pass it off is if they have their own security forces. Which is why we're spending the money and making the effort. It's why General Abizaid and General Sanchez and General Petraeus now are over there working that problem. And I think that we've got a crack at doing it.

I don't think it'll be smooth. I think it'll be rough. It'll be bumpy. But if you don't take your hand off the bicycle seat, you're not going to be able to ride the bike.

RUMSFELD:

And we've got to do that. And we're doing it.

WARNER:

You've got to do that.

Thank you very much, Mr. Secretary, Senator Bayh.

Senator Chambliss?

CHAMBLISS:

Thank you very much, Mr. Chairman.

Mr. Secretary, it's interesting that Senator Roberts and I had previously been talking about the fact that one thing that probably should be done is exactly what Senator Ben Nelson just recommended, and that's tear down that wall -- and that wall is Abu Ghraib prison -- to show a sign of another destruction of Saddam Hussein.

Mr. Secretary, there are different kinds of leaders, and different leaders even provide different kinds of leadership. One easy thing for a leader to do is sometimes hide behind the lower echelon in the chain of command.

And I just want to say to you, I've been prepared to be very critical of you if I needed to be critical today. But by you coming in here and making an admission, as a strong

leader, that a mistake was made and that you're going to be doing whatever is necessary to correct that mistake, shows just what kind of leader you are. And anybody who questions your effectiveness and your ability to lead the United States military has had that question answered today. So for that I commend you.

I commend you also for your selection of General Miller. I've been to Guantanamo twice. I was worried about what might happen down there with respect to those detainees. I had the privilege to observe several different interrogations. And I think I was there the day that General Miller first arrived, as a matter of fact. And I observed random interrogations down there.

And General Miller did correct a problem that existed. There were charges of abuse that were much slighter than these charges of abuse, that General Miller dealt with swiftly and directly.

I am concerned, though, about a couple of different things. First of all, General Ryder did make his report following his visit to Abu Ghraib. From the period of October 13 to November the 6th, we had a United States Army general doing an investigation of a prison and the activities that were ongoing in that prison during a point in time when these alleged atrocities took place.

CHAMBLISS:

Now, my understanding from General Ryder is that he was never told about any of this while he was there. And I don't understand that. I don't understand how the chain of command could be so faulty within that system to allow that to happen.

The only answer I ever got was that these atrocities occurred on the night shift. Well, the Army doesn't operate 12 hours a day. We operate 24 hours a day. And there's a failure in the chain of command that I hope you're in the process of addressing very directly from that standpoint.

Also, in response to Senator McCain, you made two comments. First of all, that guards are trained to guard people, not interrogate; and that guards are trained in the requirements of the Geneva Convention.

I understand those are policies of the Department of Defense, as well they should be. But the fact of the matter is, when you look at page 10 of the Taguba report, you find out that was not done in this case, that these M.P.s simply were not trained in what they were supposed to be doing.

So, again, I hope your folks are moving in the direction of making that correction with respect, particularly, to reservists that are brought on board.

Now, one obvious judgment is that the 800th M.P. Brigade was totally dysfunctional, from Brigadier General Karpinski on down, with few exceptions. And on the surface, you could portray the 800th M.P. Brigade as a Reserve unit with poor leadership and poor training.

However, the abuse of prisoners is not merely a failure of an M.P. brigade. It's a failure of the chain of command, Mr. Secretary.

And what I want to leave here today is, is knowing and taking comfort in the fact that, as Senator Graham said, we're not going to just prosecute somebody with one stripe on their sleeve or four stripes on their sleeve; that you're going to carry this thing to whatever extent is necessary to ensure that there's no good old boy system within the United States Army.

And irrespective of whether they've got a stripe on their sleeve or four stars on their shoulder, that we're going to get to the bottom of this and we're going to make sure that corrective action is taken, and where necessary criminal action is taken against anybody involved in the particular acts or in the shielding of this and the failure or negligence on their part of keeping this information from you in a quick and swift manner.

RUMSFELD:

I agree with everything you've said. And there's no question but that the investigations have to go forward. They have to be respectful of people's rights but they have to be handled in manner that reflects the gravity of the situation. And it does not matter one whit where the responsibility falls. It falls where it does.

SCHOOMAKER:

Senator Chambliss, I'd like to -- if I might, Mr. Chairman just for a minute, since Senator Chambliss characterized our Army in a way that I don't agree with. It doesn't matter whether a soldier is on active duty in the active component, in the Guard or the Reserve. There's one standard and we expect that our leadership and our soldiers adhere to the same standards, and those are those Army values, the soldiers creed and the things that we all believe in.

So I disassociate with your remarks there that for some reason that because this was a Reserve unit that there isn't a standard that's equal to everybody else's.

CHAMBLISS:

General, my remarks were not directed toward this unit being a Reserve unit. They just happen to be a Reserve unit.

But the fact of the matter is that the Taguba report says that this unit, which is a Reserve unit, did not receive training during the mobilization. And that was a fault in the system. And it's a fault because they are a Reserve unit.

SCHOOMAKER:

Sir, and we're going to look into that. We are looking into it. And if that's true, we're going to correct it. Nevertheless they have one standard.

WARNER:

Thank you, gentlemen.
Senator Clinton?

CLINTON:

Thank you, Mr. Chairman.

CLINTON:

I think, Mr. Secretary, that you can discern from the questions that there are still many issues that we need further clarification on. I particularly look forward to the answer that you will provide to Senator Reed's last question -- following up on his line of questioning concerning the enabling of interrogation by M.P.s, something which, based on Army regulations, was not to be either done or condoned.

But, Mr. Secretary, in January 2002, when you publicly declared that hundreds of people detained by U.S. and allied forces in Afghanistan do not have any rights under the Geneva Convention, that was taken as a signal.

And it is clear in looking through the number of investigations that are currently ongoing, that it wasn't just this particular battalion but others that did not receive appropriate training and information about their responsibilities with respect to detention or the Geneva Convention.

The atrocities that have been depicted in photographs were very graphically, verbally, described in the Taguba report. It doesn't take a lot of imagination to read those descriptions and have one's stomach just turn in disgust.

The focus on the pictures being released is, with all due respect, missing the point. The report was well known, and apparently discussed on numerous occasions. And obviously, the release of the pictures to the entire world was devastating.

But the underlying conduct, and the failure of the command, both at the site and further up the chain, to act with the appropriate quick response, is really at the heart of what the most serious problems we face here today are.

CLINTON:

The information in the Taguba report links the atrocities at Abu Ghraib to Camp Bucca. In fact, some of the same people, some of the same command, some of the same M.P.s were involved apparently.

And with respect to the recommendations at the end of General Taguba's report, they call for establishing the conditions with the resources and personnel required to prevent future occurrences of detainee abuse.

I would appreciate, since we don't have time in this round of questioning, to receive for the committee a report about exactly how that is being handled. What changes have been made? Are the Geneva Convention training going on now? Are the appropriate rules being posted in both English and Arabic?

And certainly an explanation as to the adequacy of the punishment that was meted out because, with respect to who was being punished for what, there is a clear distinction -- at least as reported by General Taguba -- between enlisted personnel and those up the command.

But I'm also concerned by a related matter. And let me just quickly reference the case of Chaplain Yee, the Muslim Army chaplain from Guantanamo Bay who was arrested and placed in solitary confinement. Ultimately all of the charges were dropped after his reputation was sullied.

CLINTON:

It's obvious that the information about this particular case came from government sources. It was pushed out and it was widely disseminated.

So, Mr. Secretary, how is it that a case with no basis in fact gets such widespread publicity, based on information from government sources, while egregious conduct like that at the Abu Ghraib prison is cloaked in a classified report, and is only made available when the investigation is leaked to the press?

RUMSFELD:

Well, Senator, first let me say, with respect to the question that Senator Reed raised, I can't conceive of anyone looking at the pictures and suggesting that anyone could have recommended, condoned, permitted, encouraged, subtly, directly, in any way, that those things take place.

Second, the decision that was made by the president of the United States that you referred to was announced. And in the announcement it was said that the Al Qaida in Guantanamo that are captured in the world, mostly in Afghanistan, would be treated consistent with the Geneva Convention. That is a fact.

You say the report was well known. I don't know how you know that. All I know is when it made the public, when somebody took a secret document out of prosecutorial channels and released it to the press, I do not believe it was yet anywhere in the Pentagon. Certainly, I had not been given it or seen it.

I quite agree with you. When you read the report, you do get an impression, as you suggested, that there is something much worse than what was in the press release, for example, in January or the discussion in March by the Central Command.

RUMSFELD:

But that was not something that had been moved past the Central Command, to my knowledge. It may have been somewhere in the Department of Defense, but certainly I had not received a copy. It was still in those channels.

WARNER:

Thank you very much, Senator.
Senator Pryor?

RUMSFELD:

Mr. Chairman, I'm going have to remind you that we do have to leave at 2:30. I apologize for that. Normally I'd stay, but we're due in the House, and...

WARNER:

That is my understanding, and we're within six minutes of finishing at the 2:30 deadline.

RUMSFELD:

Thank you.

WARNER:

Thank you very much.

PRYOR:

Mr. Chairman, thank you.

I notice that the majority leader came in. Would he like to say a few words? I do not want to knock him out of sequence.

Thank you, Mr. Chairman.

You know, in Arkansas, Mr. Secretary, we have an expression that says you cannot unring the bell. And at this point we know where we find ourselves, and that is these

photos -- and as you indicated, there may be more to come, and even videos to come -- are now in the public domain. And we all know that they will be used to undermine U.S. credibility for years to come and that they put our soldiers at more jeopardy inside Iraq and other places today than they were just a few days ago.

In fact, this morning, I must tell you, I had trouble explaining the photographs and what's going on inside that prison with my 10- year-old son. They are very, very hard to explain.

Mr. Secretary, let me say this, that there's been a pattern that I have to bring to your attention from our perspective, and if I can just say this. In the last seven days some of things, some of the revelations that we've heard about Iraq, you know, first, for months and months we've asked, "Do you need more troops inside Iraq?"

PRYOR:

And in the last few days, even though you've assured us many, many times and many people at the Pentagon and the White House have said "No"; we now have learned that you do.

Secondly, we've asked for weeks and weeks and weeks, maybe months -- Senator Byrd could probably tell you more than I could about that -- about whether you'll need a supplemental.

And originally, the answer was "No," at least not until very, very late in the year. And now it appears that you do.

We've been surprised on those two occasions, now we're surprised today.

And, Mr. Secretary, I must tell you that we do not like these type of surprises here in the Congress. And I don't want to sound glib in asking this question, but let me ask: We know the photographs are coming out, but do you anticipate anything else coming out in a relation to this story that we need to know about today?

RUMSFELD:

Well, I'm certain there will be. You've got six investigations going on. You can be absolutely certain that these investigations will discover things, as investigations do, and that they'll elevate other individuals for prosecution and criminal matters. And you can be certain that there's going to be more coming out.

With respect to your other comments, I do need to answer this. I mean, the commanders on the ground, from the beginning, asked for and received all the troops they needed, all the troops they wanted, all the troops they asked for they got them.

You're right. General Abizaid called up and said, "Look, the situation in Iraq is difficult. I'd like to keep an extra 20,000 in this crossover period and go from 115,000 to 135,000."

RUMSFELD:

And we said, "Yes." And I went to the president and the president said, "Yes." And the senior military adviser, General Myers, said he thought that was correct.

And you say you don't like surprises. My Lord, who likes surprises? Nobody in the world likes surprises.

But the world's not perfect. Facts change on the ground. And when facts change on the ground, commanders tell us. And when commanders tell us, they get the troops they need.

Now, on the budget, you don't like surprises. Well, I don't, either. It happens more troops are needed and more money's needed. And it happens that it's a difficult thing for the military commanders to cash flow, taking out of one account to sustain something that came up that was not anticipated. And so the president said, "Fine."

He didn't want to ask a supplemental. General Myers and I went into him and said, "We think we need one." We think that that's not a good way to manage the Department of Defense by jerking money out of one account and sticking it in another account, trying to get reprogramming authority by the Congress. And we said, "We believe that it's the appropriate thing to do."

He didn't want to do it. He knew what he'd said but he said he'd do it. Now, that's not a surprise, it's just a fact.

PRYOR:

Mr. Chairman, thank you for your time.

WARNER:

Thank you very much.

PRYOR:

One last point of clarification, on your chart it says that the...

WARNER:

Senator, I'm going to have to ask that you defer to your colleague, Senator Dayton.

PRYOR:

Will do. Thank you.

WARNER:

Thank you.

DAYTON:

Mr. Secretary were you aware, did you authorize General Myers to call CBS to suppress their news report?

RUMSFELD:

I don't have any idea if he discussed it with me. I don't think he did.

DAYTON:

Over the last two weeks, calling CBS to suppress the news report?

RUMSFELD:

"Suppress" is not the right word at all.

DAYTON:

I'm sorry, sir, but I...

RUMSFELD:

It's an inaccurate word.

DAYTON:

General Myers, did you discuss it with the secretary?

MYERS:

This had been worked at lower levels with the secretary's staff and my staff for some time.

DAYTON:

That you would call CBS to suppress their news report?

MYERS:

I called CBS to ask them to delay the pictures showing on CBS's "60 Minutes" because I thought it would result in direct harm...

DAYTON:

Mr. Secretary, is that standard procedure for the military command of this country to try to suppress a news report at the highest level?

MYERS:

It didn't -- let me just -- Senator Dayton, this is a serious allegation...

DAYTON:

Sure is.

MYERS:

... and it's absolutely -- the context of your question, I believe, is wrong.

DAYTON:

I understand the context, General, you...

MYERS:

Let me just...

DAYTON:

... told us the context earlier. I have very limited time, sir.
(CROSSTALK)

MYERS:

I want to take as much time as we need to straighten this out.

This report -- the report was already out there, the news was out there about the abuse...

DAYTON:

General, if the news had been out there and we had all known about it...
(CROSSTALK)

WARNER:

Senator, I ask that the witness be allowed to respond to your question. They're very important questions.

General, would you proceed?

MYERS:

Thank you, sir.

Thank you, Senator Dayton.

This was not to suppress anything. What I asked CBS News to do was to delay the release of the pictures, given the current situation in Iraq, which was as bad as it had been since major combat ended, because I thought it bring direct harm to our troops; it would kill our troops.

We talked about it, and I said, "I know this report will eventually come out. But this -- if you can delay it for some period of time -- it would be helpful."

DAYTON:

What period of time is that?

MYERS:

I did it based on talking to General Abizaid and his worry was like mine, and he convinced me that this was the right thing to do. There was no -- this report has been around since January. What was new were the pictures. I asked for the pictures to be delayed.

DAYTON:

Did you discuss delaying -- calling CBS to ask them to delay their report, with the secretary of defense, or the vice president or the president?

MYERS:

Of course not.

DAYTON:

None of those.

MYERS:

Of course not.

DAYTON:

I would just say, General -- and I agree with your assessment of the consequences of this on our troops, and that's the great tragedy of this, but attempts to suppress news reports, to withhold the truth from Congress and from the American people is antithetical to democracy.

MYERS:

You bet it is. And that's not what we were doing.

DAYTON:

And whatever the intentions may be, sir, the result is always the same. And it's, I think, terribly tragic that the president, who wants to expand democracy around the world, by actions of his own administration is undermining that democracy in the United States.

DAYTON:

That's always the result when people try to control information, delay it, manage it and suppress it, it has that result. It's antithetical to a democracy.

RUMSFELD:

May I speak a minute, Mr. Senator?

Throughout the history of this country, there have been instances where military situations have existed that have led government to talk to members of the media and make an editorial request of them that they delay for some period disclosing some piece of information. It is not against our history. It is not against our principles. It is not suppression of the news. And it's a misunderstanding of the situation to say it is.

DAYTON:

It is against our principles. It's against our principles when you come before 40 to 45 members of the Senate three hours before that news report is going to occur and don't mention one word about it, sir.

That is antithetical to democracy and the Constitution, which has the Senate and the House as co-equal responsibility for this country.

I want to just ask about the escalation of American forces, sir. You're bringing in, in response to all of this -- and this is also important. This is the future of this nation and the people who are over there.

You're increasing the number of forces, the number of tanks over there. How can this have anything to do but to escalate the level of violence, the opposition of Iraqis, intensify the hatred across the Arab world to the United States, and more atrocities? How can this have any result other than to put us deeper into this situation and make the conditions there worse for our forces and for our nation and for the world?

WARNER:

Senator, I'm going to ask that the witnesses respond to your important question for the record. And I thank your cooperation.

Mr. Secretary and witnesses, we've had a very thorough exchange of views.

WARNER:

We've had a full and complete hearing. I wish to commend my colleagues. And I wonder if you might indulge the majority leader for one minute.

LEVIN:

Mr. Chairman, could the answers for the record which the secretary has promised be expedited given the circumstances? Would that be all right?

WARNER:

Yes, absolutely. It'll be done.

FRIST:

Thank you, Mr. Chairman.

Mr. Secretary, thank you for appearing before the Armed Services Committee today. It has been important, is important for this body, the United States Senate, to hear from you about the reprehensible incidents at Abu Ghraib prison.

Needless to say, the individuals that committed these despicable acts must be held accountable, justice must and will be served in a swift and a fair and transparent matter.

We are all troubled by the fact that actions of a few have tainted the efforts of all Americans who are serving so nobly abroad.

Mr. Secretary, I commend you for taking responsibility for what occurred at Abu Ghraib prison. If we're ever going to repair the damage done to our efforts in Iraq and to the reputation of the armed forces, it's important that we get all the facts out in a quick and a thorough manner.

The committees of jurisdiction here in the Senate will be conducting their own inquiries into this matter. We do look forward to regular updates from you and others on the panel and the department as your investigations proceed, as well as updates as to any other actions you may take to ensure that justice is served and heinous acts never occur again.

Thank you.

WARNER:

Thank you, Mr. Leader.

RUMSFELD:

Thank you very much.

WARNER:

Hearing is concluded.

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