

FDCH TRANSCRIPTS

Congressional Hearings

May 13, 2004

Senate Armed Services Committee Holds Hearing on \$25 Billion Iraq Contingency Fund

LIST OF SPEAKERS

WARNER:

The committee meets this morning to receive testimony from deputy secretary of defense, Paul Wolfowitz; vice chairman of Joint Chiefs of Staff, General Peter Pace, United States Marine Corps; deputy director of the Office of Management and Budget, Joel Kaplan; on President Bush's request for a fiscal year 2005 contingent reserve fund for ongoing military operations in Iraq and Afghanistan.

We look forward to your testimony.

On May 5th, President Bush announced his intention to request a \$25 billion contingent reserve fund for fiscal year 2005 for United States military operations in Iraq and Afghanistan. The president stated that, quote, "While we do not know the precise cost for operations next year, recent developments on the ground and increased demands on our troops indicate the need to plan for contingencies. We should make sure there is no disruption in funding and resources for our troops."

This is a prudent course of action, which I personally support. The Congress received the president's formal request for this additional funding just yesterday.

It's important to note that even with this reserve fund, the administration will still request a full fiscal year 2005 supplemental after the first of next year -- 2005 is the current schedule -- when it can better estimate the cost of the ongoing war on terrorism.

When the president made his announcements last week, the committee was in the process of marking up the fiscal year 2005 national defense authorization bill. At the request of Senator Byrd, the committee deferred action on this request for additional funding until we could hold a hearing to receive more information on this request.

I'm pleased that we're able to conduct this hearing prior to the floor action on the defense bill, and I would say the ranking member was very active in putting this hearing together, and it was one that you also wanted very much.

When the administration presented its budget request for fiscal year 2005 in February, the request did not include funding for costs associated with the ongoing global war on terrorism. This is in keeping with longstanding tradition of funding on ongoing military operations through supplemental appropriations. At that time, the administration stated that it expected to request a supplemental to cover the costs after the start of calendar year 2005.

Prior to the passage of the supplemental, the administration planned to cover the costs of the war with funds from other military accounts, a process commonly called cash flowing. Administration officials assured the committee in February and March that cash flowing ongoing military ops presented acceptable and manageable risk.

However, circumstances have changed. Increased demands on our troops, particularly in Iraq, have led to concerns that additional funding may be needed prior to the start of calendar year 2005, thus the need for contingency funding.

I suppose the contingent reserve fund would act as a bridge between the fiscal year '05 budget request and the fiscal year '05 supplemental expected in February of '05.

If the president determines that additional resources are needed for ongoing military ops, he would first report to the Congress and then be able to use funds in the contingent reserve, up to \$25 billion.

The Senate is scheduled to begin its consideration of the '05 authorization bill on Monday, this coming Monday, May 17th. This hearing is designed to inform the Senate of the specifics of the proposed contingent reserve fund prior to floor action.

We will then be in a better position to decide how and whether to authorize the additional funding for '05 as part of our bill.

I look forward to our witnesses outlining the reason for this request for a contingent reserve fund, how the fund will be used to provide the additional resources our troops need to continue military ops in Iraq and Afghanistan.

I'm also interested in the administration's recommendations on how the fund should be structured, including any suggested mechanism to govern the disbursement of these funds and necessary reporting requirements to ensure accountability for the use of these funds.

I concur with the president that our first commitment must be to America's security and that our troops, quote, "have the resources they need when they need them."

We stand by to assist.

Now, I may say, there were a number of colleagues on my side of the aisle -- I talked to Senator Sessions this morning (inaudible) on the Budget Committee, Senator Allard -- for the need of this hearing.

So, Senator Levin, do you have a few comments?

LEVIN:

Thank you, Mr. Chairman.

Today we're meeting to hear testimony on the administration's request for \$25 billion to fund the cost of ongoing operations in Iraq and Afghanistan over the first few months of fiscal year 2005.

U.S. armed forces are currently spending over \$5 billion per month for operations in Iraq and Afghanistan and the homeland defense activities known as Operation Noble Eagle.

A supplemental for fiscal year 2004 was enacted in early November, five weeks into the fiscal year, so that the services would not have to absorb these tremendous incremental costs out of their regular budgets.

In his State of the Union address in January, President Bush told us, "In two weeks, I will send you a budget that funds the war." But the fiscal year 2005 budget that the president sent to the Congress contained no funding to fund the substantial costs of these ongoing operations.

On February 24th, I wrote to the Senate Budget Committee on the need to provide this type of funding to cover the expenses for these ongoing operations during the first few months of fiscal year 2005.

I wrote the Budget Committee as follows: "We should not wait until some time during fiscal year 2005 to submit a supplemental budget request as the administration did last year. Circumstances are different this year. Last year, the war had not begun. Now having

U.S. troops on the ground is a fact, and recognizing this reality and paying for it is the responsible thing to do.

"While it is certainly true," I wrote, "that no one can predict with precision what these fiscal year 2005 costs will be, we could certainly provide funds to cover likely requirements for some period of the year."

And I suggested in that letter increasing the budget authority in the national defense function by \$30 billion in fiscal year 2005 to cover up to six months of the incremental costs at the current pace of operations.

LEVIN:

The Senate Budget Committee agreed with that proposal, and Section 312 of the Senate Budget Resolution provides for up to \$30 billion to fund the activities in Iraq and Afghanistan if the president makes a request for such funding.

This language was contained in the resolution adopted by the Senate on March 11th.

On April 15th, the Department of Defense announced it was extending the tours of 20,000 service members in Iraq, effectively increasing the size of our forces there and guaranteeing that the so-called "burn rate," which already exceeds \$5 billion per month for these operations, will climb still higher.

Yet when Deputy Secretary Wolfowitz appeared before this committee to discuss Iraq and Afghanistan a week after that announcement, there was still no acknowledgement of the need to adopt a supplemental budget.

Last September, Section 8139 of the 2004 defense appropriations bill stated that the cost of ongoing operations in Iraq and Afghanistan should be included in the budget request.

And last October, the chairman of the House Budget Committee told the DOD comptroller that these costs should be included in the 2005 budget request. Yet for months, Department of Defense witnesses have asserted that no supplemental was needed until some time next year.

Since September 11th, 2001, Congress has provided this administration with considerable sums of money and considerable flexibility in using that money. That flexibility has led to problems.

In April 2003, the conferees on the fiscal year 2003 supplemental for Iraq and Afghanistan stated the following: "Approximately \$750 million appropriated to operation and maintenance accounts has been obligated for construction activity, supporting the global war on terrorism and operations in Iraq. Funds for these projects have been expended without providing notice to Congress despite repeated requests for information by both House and Senate appropriations, and House and Senate Armed Services Committees, and as required by law."

Given the recent statements by Senator Byrd and other members of Congress that the Department of Defense failed to keep Congress properly informed about how emergency funds have been spent, we need to find a way to act quickly to support our troops while still holding the executive branch accountable for how these funds will be used.

We have to do better as we move forward. Congress has recognized that our federal budget should not sweep these costs under the rug until after November and pretend that because we can't predict the exact costs of these operations that we should not estimate the cost and budget for them now.

On May 5, the president issued a statement finally acknowledging the problem, requesting that Congress, quote, "establish a \$25 billion contingent emergency reserve fund" to support operations in Iraq and Afghanistan."

When the president announced his intention to submit this budget amendment, I'd already prepared an amendment for last week's mark-up to authorize the \$30 billion in additional funding that the Senate budget resolution has provided.

The amendment that I circulated at that time contained budget detail. On learning of the president's statement, Senator Byrd very appropriately asked that our committee withhold action on providing these funds for 2005 until we could hold a hearing on how the administration intends to use such funds.

The defense authorization bill, as our chairman has mentioned, is scheduled to go to the floor next week and it's essential that we address this issue. We cannot pretend that our bill addresses the most pressing needs of our men and women in uniform if we do not address a major readiness issue facing our forces.

Our bill does not yet fund the cost of these ongoing operations. We should act to do so in order not to damage the readiness of our forces by forcing them to borrow against their entire year's budget just to get through the first four or five months of the year.

But -- but to budget responsibly, we need information from the Department of Defense, the Office of Management and Budget, and we need to have control over these funds in the detail which is proposed and necessary so that we can budget in a reasonable and responsible way, and that is what today's hearing is intended to be.

Over a week now has elapsed since the president announced his decision, and yet there was no formal request made until last night.

The administration has acted too unilaterally in many ways in the Iraq war. They've failed to budget for the costs of the war. Now they want, apparently, as I read these letters, what amounts to a blank check for the supplemental costs.

Congress should write a check. In fact, we've been pressing to write a check, but not a blank check. We need to support our men and women in uniform who are performing very difficult and challenging tasks under dangerous circumstances, but we should do so in a way which provides the accountability that the taxpayers expect and deserve.

Finally, Mr. Chairman, while this hearing is focused on funding these operations for fiscal year 2005, many of us are concerned that the Army in particular does not have sufficient funds to make it through the rest of fiscal year 2004, especially in light of the department's decision to increase our planned troop levels in Iraq by about 20,000 personnel.

And I hope our witnesses are prepared to tell us whether or not we have the resources necessary to sustain our forces for the rest of this fiscal year.

Thank you, Mr. Chairman.

WARNER:

Thank you, Senator Levin.

Colleagues, I'd like to turn to an administrative announcement and request to the committee.

Indeed the president, the secretary of defense and deputy secretary have been in consultation with the committee about the promotion of General David H. Petraeus from the rank of major general to be lieutenant general. The president has asked him to return

to Iraq, where he once commanded the 101st Airborne, to take on the really challenging and vital task of working with strengthening the security forces.

In consultation with my colleague, Mr. Levin, we feel that we'll take his nomination out of order and if confirmed by the committee here today, we'll send it to the floor for full confirmation.

So, a quorum being present, I ask the committee to consider the nomination of Major General David H. Petraeus to be lieutenant general and chief office of security transition Iraq.

All in favor say aye? Opposed?

Ayes have it. The nomination is confirmed.

Colleagues, also it's the desire of the chair to move through this morning the important testimony with regard to the budget. Should senators have questions other than what's specifically before the committee this morning, I would ask that you defer them and the chair, working with the ranking member, will see that hopefully an opportunity is made to have our witnesses reply.

I know having been working here daily with Secretary Wolfowitz and General Pace that both of you have been concentrating on the ongoing business of the building, and as such there is some details about the prison that has been handled by the secretary himself and the chairman. But nevertheless, we'll see what occurs by way of desired future questions.

KENNEDY:

Mr. Chairman, I must express some reservation about that. We've had a limited amount of time to try and deal with something which is of enormous importance.

KENNEDY:

The secretary was directly informed by the Red Cross about some of these allegations and abuses that took place in the prison and I have intention of questioning him.

(CROSSTALK)

WARNER:

We'll try and make that arrangement.

KENNEDY:

I'm glad to conform with the chair, but I'd like to be able to reserve my six minutes for matters which I think are enormously important.

WARNER:

The senator is heard. I would like to, however, continue with the budget hearing and we'll make that possible toward the end.

Thank you very much.

Secretary Wolfowitz?

WOLFOWITZ:

Thank you, Mr. Chairman, and members of the committee.

And I'd like to actually begin by thanking you for that speedy action on the nomination of General Petraeus. It is a very important appointment to a critical post, because as you pointed out, he's going to be pulling together all of the different pieces involved in training and equipping and organizing Iraqi security forces, which is one of the key elements for our strategy for success in Iraq. I can't imagine a better qualified individual to take on that assignment and I appreciate the speed with which the committee has addressed that nomination.

WARNER:

Many members of the committee met him in the course of their individual visits to the country of Iraq.

WOLFOWITZ:

In fact, Senator, I think one can see even in some of the success that's been achieved in spite of the difficulty of recent weeks in Mosul and in the area that General Petraeus was in charge of that he has, I think, a fundamental understanding of what it takes to succeed.

Mr. Chairman and members of the committee, I appreciate the opportunity to testify today in support of President Bush's request for a \$25 billion reserve fund and to receive your input on the structure of that reserve.

WARNER:

If I might interrupt you, we'll put into the record the statements by each of you in their entirety. And we also note the presence at the witness table of Mr. Lanzillotta. We welcome you back -- a former very valued staff member of our committee. And you're here, as they say, as back up. Is that correct?

Thank you.

Thank you, Mr. Secretary.

WOLFOWITZ:

He's performed magnificently, as you are no doubt aware.

The reserve fund we are requesting will provide an insurance plan so that the Department of Defense has adequate resources for both its core defense activities and its operations in Iraq and Afghanistan. It is critical so that we can avoid any disruption in funding for our military forces.

The department's plan had been to cash flow fiscal year 2005 operations in Iraq and Afghanistan until a supplemental budget request could be prepared with more precision in the first quarter of calendar year 2005.

Now, however, our higher projected troop levels increase the risk that certain accounts, especially operation maintenance army, could have difficulty cash flowing operations beyond the February-March time frame in 2005. This reserve fund will eliminate that risk and provide a margin of safety.

The reserve fund would be used primarily for O&M requirements, but a portion is expected to be used for force protection needs as well.

Requirements are likely to include fuel for helicopters, tanks and other vehicles, transportation costs for movement of personnel and equipment in and out of the theater of operations, equipment maintenance and logistic supplies, force protection needs such as

body armor and up-armored Humvees, and very importantly, continued momentum to achieve a more modular Army and a larger brigade structure in the Army.

The administration still anticipates submitting a supplemental appropriation request to Congress in early 2005 to fund the incremental costs for contingency operations in fiscal year 2005.

But as of today, it continues to be impossible to know what our total supplemental funding needs will be for the next fiscal year, particularly after the election in Afghanistan and after sovereignty is transferred in Iraq.

Depending on the circumstances, we could face the need for either more troops or fewer troops, for more intensive operations or less intensive operations.

Mr. Chairman, support of this request will ensure that our wonderful men and women in uniform have the tools that they need to continue winning the fight in Iraq, a victory that will also make our country more secure.

America's commitment to success in Iraq was underscored again this past Monday when the president visited the Pentagon.

As the president said on that occasion, "The United States has a vital national interest in the success of free institutions in Iraq as the alternative to tyranny and terrorist violence in the Middle East."

As we carry out this mission, we are confronting problems squarely and we are making changes as needed. Despite recent violence, and at a time when so much attention is being focused, properly, on the abuses of detainees in Iraq, we need to continue to move forward on all fronts, implementing the coalition strategy to set conditions that will ensure a free Iraq that is stable and at peace with its neighbors.

Our strategy involves three interdependent lines of operation to build indigenous Iraqi capacity and to transition responsibilities from the coalition to Iraq rapidly, but not hastily.

While there are lessons to be learned from the violent events of the past few weeks which will affect the way we pursue these lines of operation, we think these are still the three key elements that will bring us success in Iraq.

The first line of operation involves building capable Iraqi security forces to achieve stability. That is the effort that now Major General Petraeus will undertake.

We have redoubled our efforts to recruit, train, equip, and most importantly, mentor Iraqi security forces; all five branches -- the police, the Iraqi Civil Defense Corps, the army, the border police and the facilities protection service.

Over the next few months, our aim is to certify the ability of these forces, that they are ready to assume greater responsibilities from coalition forces.

Similarly, through technical assistance and mentoring by U.S. prosecutors and judges of their Iraqi counterparts, we have been helping to build the capacity of the Iraqi criminal justice sector.

The second line of operation involves nurturing Iraq's capacity for representative self-government, with the aim of creating a government that the Iraqi people will feel is theirs and that moves us out of the position of being an occupying power.

While many think that June 30th will be a magical date on which the Coalition Provisional Authority will suddenly transition out of all its responsibilities to a new Iraqi government, it is actually just one step in a process. Already, free Iraqis have been gradually assuming responsibility for governmental functions for quite some time.

WOLFOWITZ:

Many Iraqi ministries report to the governing council rather than to the CPA. Iraq now has a functioning judiciary. At the local and provincial levels, elected assemblies are up and running.

When the interim government assumes office on June 30th, its most important task will be to prepare the way for elections to establish that transitional government in January of 2005 -- another step in the process.

That government in turn will be replaced by elections for a fully constitutional government at the end of 2005.

The third line of operation involves the reconstruction of Iraq's infrastructure and the restoration of essential services to provide better lives for Iraqis and put people back to work.

Iraq has tremendous potential. It has well-educated and industrious people. It has fertile land and water resources and abundant natural resources. Our strategy aims to put Iraq on course to realizing that potential and setting conditions for Iraqis to reap greater prosperity in the future.

This strategy remains a valid guide to working through new realities and uncertainty about events after Iraqis begin governing themselves. We've encountered intense armed resistance in recent weeks, but that does not invalidate these three basic elements of the strategy.

In fact, what the enemy fears most is that Iraqis will be in charge of their own country, and then the enemy will face what that key terrorist Abu Musab al-Zarqawi called suffocation.

The surviving hard-core elements of Saddam's regime have everything to lose from eradication of the old order and the prospect of being held to account for their crimes. They and the terrorists and foreign fighters with whom they make common cause are tough and ruthless killers, but they have no positive vision to offer Iraq, only fear and death and destruction.

They are trying to destabilize the country before it has a chance to stand on its own feet. While we cannot inspire fear the way that they do, and we would not want to, we offer a hopeful vision of a new Iraq that the great majority of Iraqis look forward to.

The transition to Iraqi sovereignty and elected constitutional government will eventually make the enemy's position untenable.

Let me say a word to thank the committee for its support of our request for authority for the Commander's Emergency Response Program.

As I think most of you know, this has been a remarkably successful way of helping the people of Iraq and Afghanistan and gaining their support for our operations there.

I'd also like to thank you for providing training and equip authority to help us enhance the ability of Iraqi and Afghan military and security forces to combat terrorism and to support U.S. and coalition military operations. And I appreciate the expansion of that authority as we requested to all Iraqi and Afghan security forces.

As I think you know, in the past, our military commanders have been hampered by the lack of flexible funding for indigenous security forces, especially in Iraq.

As you move toward conference, I ask that you let us discuss with you the possibility of building on this important step to adopt the fuller authority the president requested and, in particular, to raise the ceiling above \$150 million.

In closing, I would also like to thank the wonderful men and women who wear the uniform of the United States of America and particularly the nearly 140,000 in Iraq and more than 15,000 in Afghanistan who serve on the front lines of the global war on terrorism. Words cannot adequately express how proud and grateful we are for their service.

I also thank this committee for the strong support given to U.S. security and to our military people in your fiscal year 2005 national defense authorization bill.

The president's staff and the Department of Defense are still reviewing the details and we will provide you our view shortly.

We look forward to working with you in achieving the best possible support for America's armed forces and our vital missions around the globe.

Thank you, Mr. Chairman.

WARNER:

Thank you, Mr. Secretary.
Director Kaplan?

KAPLAN:

Thank you, Mr. Chairman, members of the committee for inviting me to appear before you today to discuss the president's request.

I do have a full text I'll submit to the record. But in the interest of time and because Secretary Wolfowitz covered much of what I have to say, I'll highlight the key factors that shaped our thinking in working with the department in putting together the president's request.

KAPLAN:

First, we were guided by the president's clear and consistent direction: make sure the commanders and men and women in the field have the resources they need to accomplish the mission.

Second, the funding is requested as a contingent emergency reserve with funds activated only after the president submits a request designating all or parts of the funding as an emergency and essential to operations in Iraq or Afghanistan.

Third, and relatedly, the reserve is intended for operations in Iraq and Afghanistan only.

Finally, I'd just like to note, as Deputy Secretary Wolfowitz has, that we do continue to plan to come to the Congress with a full supplemental request for 2005 early in the year, when we can have more precise and reliable estimates of what operational needs are likely to be in Iraq and Afghanistan in 2005.

Thank you again, Mr. Chairman. I look forward to answering the committee's questions.

WARNER:

General Pace?

Thank you.

PACE:

Mr. Chairman, members of the committee, thank you very much. I want to get to your questions as quickly as possible.

I'd be remiss, though, if I didn't say thank you on several levels.

First, to this committee, and indeed to all the Congress, for your very strong bipartisan support of your military. We're on a very difficult mission. You are making sure -- you have made sure -- you continue to make sure that we have the assets available to get the job done, and we thank you very much for that.

Second, to the magnificent young men and women who are, in fact, carrying forth the missions in Iraq and Afghanistan and around the world. They are making us proud. And to their families, whose sacrifices are equal to that of the soldiers in combat.

And lastly, to the employers of our tremendous members of the Guard and reserve. They have shown incredible flexibility and support. And we know that this is a sacrifice for them as well, and we'd like to publicly thank them for that.

Sir, thank you.

WARNER:

What I would like to do is to -- I've looked through carefully all the documents that have come up requesting the committee to take this issue up, and I'd like to put this in some historical context.

So I would start with you, Director Kaplan. This particular type of financing arrangement -- I'm not talking about the substance at the moment for what the funds are needed -- seems to me clear documentation, but the mechanism by which this particular vehicle was chosen and titled. What is the historical precedent, if any, for this type of financing?

KAPLAN:

Thank you, Mr. Chairman.

Certainly, the first element of the character is the account...

WARNER:

The what?

KAPLAN:

The account structure which we've identified. We've tried to put this into the Iraqi Freedom Fund, which was a creation of the Congress in the April 2003 supplemental.
(CROSSTALK)

KAPLAN:

Yes, sir. And within that account structure we've tried to identify those areas where we think there'll be the greatest pressure points, or likely to be the greatest pressure points as we enter the beginning of the calendar year. As Secretary Wolfowitz mentioned, we had intended to cash flow. We want to make sure that in particular the Army O&M accounts,

the commanders and the service, knows that it has the confidence that as we get into calendar year 2005 those resources will be there.

So, again, the account that we've identified is the Iraqi Freedom Fund, which is something...

WARNER:

It's an existing fund and ongoing expenditures are being made out. Is that correct?

KAPLAN:

I believe that's correct, that ongoing expenditures are still being made out of it, yes, sir.

WARNER:

To what extent was the normal supplement route considered?

KAPLAN:

Well, Mr. Chairman, as many administration witnesses and officials have noted, we did consider a supplemental, both when we submitted the February budget, the president's February budget, in 2005. We concluded that the best way to proceed would be to come forward with a full-year supplemental later in the year -- or rather in the beginning of calendar year 2005 -- when we could identify with some reliability and precision what those needs would be.

As I said in my testimony, that is still our intention. As Secretary Rumsfeld and Secretary Wolfowitz talked to their commanders and their service chiefs, they concluded that we needed to provide some additional assurance that as we progressed in the beginning part of fiscal year 2005, and particularly early calendar year 2005, we wanted to make sure that the commanders knew they would have those resources.

KAPLAN:

It is still our intention to cash flow, and we believe, and the services believe, as I understand it, that that can be done without disruption to ongoing operations.

It's still our intention to do that. It's just that we want to make sure as we get into the early months of calendar year 2005 the services have the confidence that the money will be there.

And if there is a delay in getting a supplemental in early 2005, either because of the congressional calendar...

WARNER:

Does this procedure give the executive branch any advantages or more flexibility over the use of the funds in comparison to the normal supplemental -- and most specifically, the fund in '03 supplemental that you designated?

KAPLAN:

I believe it gives similar flexibility that existed in the Iraqi Freedom Fund component of the '03 supplemental. And I think that flexibility is important and it does go to why we've requested it in this fashion.

And that, again, is that we don't know right now what the needs are going to be as we proceed later into the year, and I want to make sure that commanders and the secretary and the president have the flexibility, after notification to the Congress, have the flexibility to direct those resources to the needs and to the requirements.

WARNER:

So there's flexibility over and above what was agreed upon between the executive branch and the legislative branch with regard to the '03 supplemental?

KAPLAN:

I think, and maybe Larry can correct me if I'm wrong, it's similar flexibility...

WARNER:

Well, "similar" is a nice word, but I want to know how it varies.

KAPLAN:

I think, Mr. Chairman, that in the Iraqi Freedom Fund language...

WARNER:

You think.

Does anybody know.

Excuse me, I don't mean to be embarrassing.

Mr. Secretary, would you like to deal with this for a few minutes or turn it over to Mr. Lanzillotta?

(CROSSTALK)

LANZILLOTTA:

Mr. Chairman, the flexibilities in this reserve account, as submitted to the Congress, are the same flexibilities on transfer authority that we already have.

What it does allow, it allows us...

WARNER:

Over and above previous procedures?

LANZILLOTTA:

The general transfer authority would be over and above previous procedures.

What it allows, it allows us as an insurance fund to reduce the risk to our ongoing program. Normally, historically, to go back to your original point, historically the department submits a supplemental late winter/early spring. And it is the normal procedure for the services to cash flow those expenses...

WARNER:

We understand that. We understand that.

LANZILLOTTA:

This fund, though, will allow us to reduce the risk to the program, especially Army O&M, who has an exceptionally high burn rate at this point...

WARNER:

We understand that.

LANZILLOTTA:

... to restore to the commanders the stability in funding that they need to continue their program so it'll have no negative effects on readiness.

WARNER:

According to the General Accounting Office, the incremental cost of the global war on terrorism are about \$5 billion a month. Such a monthly expenditure rate could translate into a requirement for \$60 billion for the cost of the war for all of fiscal year '05.

Do you agree with those cost estimates?

LANZILLOTTA:

Currently, Mr. Chairman, our costs in Iraq, operational cost, the marginal cost right now, is running about \$4 billion. Some months it's \$4.1, some months it's \$3.9. But it's about \$4 billion.

In Afghanistan it's been running between \$600 million to \$800 million, but a downward trend.

So generally it's about \$4.6. I agree that a full supplemental in the spring is going to be more. This isn't the supplemental. This is only an insurance fund, and the supplemental will be a larger number in the spring.

WARNER:

Well, why \$25 billion? If you use that formula you should be a higher amount for this.

LANZILLOTTA:

What this reserve fund will allow the department to do, when we look at the burn rate, particularly for the Army, who is carrying the burden of this burn rate right now in the operations, it will allow us to ensure that the Army accounts have sufficient funding to when we think it is a probable outcome to get a supplemental submitted and approved in the Congress. This will allow the Army to reduce their risk into the March/April time frame when a supplemental is likely to be approved.

WARNER:

I can see advantages.

WOLFOWITZ:

Mr. Chairman, if I could just make it clear, it is not intended to be the amount that we need for the first six months. It is intended to allow us to cash flow during that period without disrupting key programs or...

WARNER:

That's clear.

WOLFOWITZ:

That's the point.

WARNER:

But we want to ensure that the Congress has its traditional oversight responsibilities to monitor the expenditures, and I think we have to focus in very closely on how this particular -- and I think it's the first of a kind, would that not be correct, of a financing package?

WOLFOWITZ:

As far as I'm aware.

LANZILLOTTA:

It's unusual.

WARNER:

Well, "unusual" is a different word. But it's the first of a kind. And we want to make certain that it is in conformity with the traditional practices to the extent we can so that we can maintain our oversight.

Now, my time is up, so I cannot pursue other questions. I'll have to...

WOLFOWITZ:

Could I just say one thing to be clear.

WARNER:

Yes.

WOLFOWITZ:

There will be a request for a full-year supplemental early next calendar year. It will sure be much larger than \$25 billion.

WARNER:

Don't question that, but this is a very significant sum of taxpayers' money over which Congress must exercise its appropriate...

WOLFOWITZ:

Absolutely.

WARNER:

... oversight.

Senator Levin?

LEVIN:

According to the letter to the president, that this contingent emergency reserve fund would be accessed should there be a need for additional resources. As a matter of fact, your testimony makes it very clear that there will be a need for additional resources. Is that not clear?

LEVIN:

General Pace, is there any doubt in your mind we're going to need additional resources?

PACE:

There is no doubt in my mind, sir.

LEVIN:

So when the letter reads "should there be a need," you're already fudging. This is your letter I think, Director Kaplan, or this is Director Bolten's letter.

KAPLAN:

Yes, Senator. I think what's meant by should there be a need to provide additional resources prior to the enactment of the supplemental that can't reasonably be covered by cash flow. We know, and we have consistently said, there will be a supplemental.

LEVIN:

That's not what the letter says. The letter says "the emergency reserve fund would be accessed should there be a need for additional resources."

(CROSSTALK)

LEVIN:

In any event, it's clear in everyone's mind we're going to need additional resources.

We're presently spending about \$4.6 billion more than we have appropriated for Iraq and Afghanistan, and the question is, why not consider a supplemental at this time. We know it's -- I mean, this is not a very great range, by the way. This is not some highly speculative expenditure. This is a very obvious expenditure that we know we're going to need of about \$4.6 billion a month. That's pretty precise.

Why don't we consider a supplemental for that and be honest about it?

WOLFOWITZ:

Senator, I think the problem is we really don't know what the number is. It easily could be higher; it might be lower.

LEVIN:

If it's higher, fine, then we'll have another supplemental. If it's lower, fine, don't spend it.

But you say it's \$4.6 billion -- I mean, you actually added up the exact amount for Iraq, the exact amount for Afghanistan, and it came to somewhere around \$4.5 billion, \$4.6 billion. That's plenty precise for us to consider a supplemental.

There is no reason not to be direct on this issue and to acknowledge what the costs are of this war, and to simply call this a speculative or a possible or a contingent emergency reserve fund it seems to me just continues to fudge what the reality is, which this war is costing us about \$4.6 billion a month more than the president requested in his budget.

And I think we ought to have an honest presentation of a supplemental request rather than presenting it this way. That's number one.

Number two, in terms of the flexibility, the way this is written, it says -- you divide it among six categories here, then you say that in addition to the transfers authorized in the previous proviso (ph), which are already plentiful, after consultations with the Office of Management and Budget, the secretary of defense may transfer funds provided here into any appropriation or fund of the Department of Defense.

So under this letter, this request, the secretary of defense after consultation basically inside the administration can transfer that money from any of those areas to any of the other areas.

Is that right, Director Kaplan?

KAPLAN:

Yes, Senator, that's correct.

LEVIN:

This is just a \$25 billion blank check.

KAPLAN:

Senator, I don't think so. We have tried...

LEVIN:

Well, where is the congressional control? Do you say here that the Congress can -- has to approve these expenditures? I know there is notice of five days.

Is there any approval either before the expenditure or after the proposed expenditure required by Congress?

KAPLAN:

No, Senator, other than the appropriation and this committee's authorization.

LEVIN:

Yes, but that's a blank -- you're asking for \$25 billion, because you say, to go anywhere you want it.

KAPLAN:

For purposes in Iraq and Afghanistan.

LEVIN:

For any purpose you determine in Iraq and Afghanistan, and all this is is window dressing. These accounts, when you allocate \$14 billion for operation and maintenance, \$1 billion for operation and maintenance Navy, \$2 billion for O&M Marines and so forth,

that's just window dressing because you can move it from one account to another at your whim. Is that not correct?

KAPLAN:

Senator, that's our attempt as we sit here today to identify where we think the pressure points are most likely to occur.

LEVIN:

I understand that. But you have the authority under your -- if you are given the authority -- to move that money from any account to any other account without any congressional involvement other than a five-day notice. Isn't that correct?

KAPLAN:

For use in Iraq and Afghanistan, yes, Senator, that's correct.

LEVIN:

That's the only limit. Here's \$25 billion more for use in Iraq and Afghanistan. So these numbers that you're giving us are just numbers that your -- are window dressing numbers.

KAPLAN:

No, Senator. They represent the Department of Defense's best estimate today as to...
(CROSSTALK)

LEVIN:

But they don't limit your expenditure in any way, do they?

KAPLAN:

No, sir.

LEVIN:

All right. So you have an unlimited \$25 billion, that's what this amounts to. That is a -- what we call, I think that's the definition of a blank check. I can't think of a better definition of a blank check.

Before my time runs out...

WARNER:

Could we allow Mr. Lanzillotta to...
(CROSSTALK)

WARNER:

... so he can answer the question.

LANZILLOTTA:

Senator, what this will allow us to do, and we outlined it for the operational cost, we know during this period of time that we're going to have operational cost and force protection needs.

LANZILLOTTA:

The reason we allowed that flexibility, because we're going through the '04 right now, and what has happened to us, when we got very specific as where the accounts are, we're trying to match the money to where the bills are.

We currently have a stress point with general transfer authority, and so what we are trying to do is find that balance with the Congress, because we know we need to support the operational cost and force protection cost as they happen on the ground and have the flexibility to deal with that, especially the force protection, without going through lengthy processes which would delay us getting that equipment to the troops in Iraq.

LEVIN:

I understand. That's exactly what Director Kaplan said, basically. But you need to understand, you're not talking about balance with the Congress here, you're talking about you want \$25 billion for Iraq and for Afghanistan, and you can spend that in any way that you want.

By the way, you don't provide any personnel costs for those additional 20,000 troops, which is another problem I have with this.

But because I'm going to run out of time, this is the definition of a blank check.

By the way, I think most of us want to provide funds. We want a supplemental. It's pretty ironic here. We've been trying to pressure this administration to cough up a request for the additional money, to come forth with a reasonable request for additional money. The administration's refused to do that until now, and this is what we get as a result of all our effort to have some responsible budgeting for the cost of this war.

It's Congress which has said this war's costing \$5 billion a month, at least, more than you have requested. That's not responsible budgeting. Give us a responsible request. It hasn't been forthcoming until last night, and this is not responsible, because it's just a blank check for \$25 billion.

So in terms of balance with Congress, there's no balance here. There's no balance here at all that I can see.

Here's my last question.

And, Secretary Wolfowitz, it seems to me you opened up an area of questions with your opening statement, I must say. Your opening statement is not limited at all the budget issues in front of us. And so I understand the chairman's desire to have this be a budget hearing, and I think that is what it should be, too, but your statement, Mr. Secretary, went way beyond budget issues, and it seems to me it is then appropriate that people use their time, if they want, to ask you questions about what you testified to here this morning.

And I want to ask you just one question, about the prison situation in Iraq.

WARNER:

I'm just going to ask the senator...

LEVIN:

Well, I think his statement opened this up. His statement was not limited to budget numbers. His statement was an argument for the administration's whole position in Iraq. It was not just a budget presentation.

So I think, Mr. Chairman, that in fairness, if we're going to hear an opening statement like that...

WARNER:

Fine.

LEVIN:

... that senators ought to have an opportunity, if they want to use their time, to ask questions of Secretary Wolfowitz on the subject of Iraq, because he went way beyond the budget issues which we were supposed to be talking about this morning.

WARNER:

I suppose that this is the responsibility of the chairman. The notice that went out to all members related to the budget hearing. Many members are here for that purpose. I'd like to contain the questioning to the questions of the budget, and as soon as that is over we'll then recognize members for the purpose of asking other questions.

I thank the indulgence of all members.

LEVIN:

I have one question: Did Secretary Wolfowitz get...

(CROSSTALK)

LEVIN:

No, no, no, this is my question. It's not my substantive question, it's my procedural question.

Did Secretary Wolfowitz get a copy of the notice of this hearing? Because he sure didn't comply with the notice of this hearing in his opening statement.

WOLFOWITZ:

Senator Levin, I thought -- since we're asking for funding for operations in Iraq -- that it was appropriate to say something about the purposes of those operations.

LEVIN:

Thank you, Mr. Chairman.

WARNER:

I thank the indulgence of my members. I will not take further time. I'll put into the record at this place my own study of the reports of the Congress with reference to October 23 conference report on the Iraqi Freedom Fund and the April 12th, 2003, report in which language is adopted by the Congress, I think closely related to what you're here for today. I'll ask those be placed in the record.

Senator McCain?

MCCAIN:

Thank you, Mr. Chairman.

I believe that every member of this committee want to provide the executive branch with whatever funds are necessary to prosecute the conflict in Iraq in the most successful fashion. But I am very troubled because I have never seen a request that basically outlines some priorities and then states that it can be used for any fund, unquote. I've never seen anything like that, Mr. Chairman. There may be some precedent for it. But I agree with Senator Levin's characterization: This is a blank check.

MCCAIN:

I am intrigued that there's no mention in this set of priorities, Director Kaplan, about increased personnel costs. We have 20,000 additional personnel there now.

I think we need more. I said we needed more nine months ago when the unanimous response was: Well, the commanders on the ground haven't asked for them. One of the most disingenuous answers I've ever heard in response to what was clearly a requirement for which we're paying a very price for right now, lack of enough sufficient troops on the ground.

And so now we're going to give you \$25 billion -- which, by the way, just a few months ago testimony before this committee was not going to be needed. Just a very short time ago it wasn't going to be needed in testimony. Now we're going to give \$25 billion. And I'll give \$50 billion, I'll give \$100 billion.

But it seems to me, Mr. Chairman, that we do have an oversight responsibility as to where this money is spent. I don't think that all of that money has been well spent in the past.

So I guess my first question is, what about personnel costs, Mr. Secretary? And I hope I'm within the confines of the chairman's narrow interpretation of what this hearing is all about. Do we need more troops? And if so, how many?

WOLFOWITZ:

Senator McCain, I think that on personnel costs, we're talking about an account that is large enough that we think we can cash flow until we have a clear idea of how many troops we need.

You're absolutely right, we needed more in the recent months than we had anticipated, and we don't know what we're going to need next winter or next spring. And by next January we should have a much clearer idea of it.

But the Army personnel account is large enough, I believe -- and I ask Mr. Lanzillotta to correct me if I'm wrong -- not to create that problem. Army O&M is only \$26 billion, and at the rate we're going to be consuming our Army O&M we can run into serious problems early next spring without this kind of reserve available.

And let me emphasize, this is not any number designed to get us through any fixed period. It is a number designed to allow us to cash flow in a responsible way without breaking the momentum of the key Army (inaudible) program or requiring us to shortchange the troops on things they need in the field.

MCCAIN:

Well, I won't take up the time of the committee, Mr. Chairman, except to say that I have never seen a request exactly like this. If we want to, again, give up all oversight responsibilities, which apparently is the case, then that's the wish of the majority to do that.

I want to give them sufficient funding. I think they're going to need more money. I think they need a lot more than \$25 billion, given the tempo of operations.

But the way I read this proposal is that we will be notified perhaps within five days, and that will pretty much sum it up. And so this committee has become a very interesting debating institution, but I don't know where our oversight responsibilities lie.

And I hope that at some point we would respond to our constituents' desire to have much more careful scrutiny over this conflict and the way it is being conducted and the mistakes that have been made, which have led us to a situation which I think is very grave at this particular point in the history of this conflict, which I have believed from the beginning and believe now, it is of the most vital importance to the future of the world and our democracy and freedom that we win in this conflict.

But I don't believe, very frankly, Mr. Chairman, that we are playing nearly the role that is our constitutional responsibilities to carry out.

Thank you, Mr. Chairman.

PACE:

Mr. Chairman, may I take a minute and just add a bit more information on the troop strength?

Because, Senator McCain, you're absolutely correct, sir, it would be disingenuous for any of us in a leadership position to simply take numbers from the field (inaudible) say that's what they need or that's what they don't. You are correct, sir.

I will speak for myself. I'm a member of the Joint Chiefs of Staff. I have a responsibility to absorb the data that first General Franks gave to us, and now General Abizaid is giving to us, and to do my own analysis, and to provide my best guidance -- correction, my best recommendations.

As recently as this past Monday the Joint Chiefs met via VTC with General Abizaid, and we reviewed his plans for the coming months and his request to maintain the current 19,000- to 20,000-man increase for the foreseeable future.

I personally, and we collectively, agreed with that assessment, but it is not to lay this on the commanders in the field. It is a responsibility of us collectively as leaders to absorb that data and to make judgments.

MCCAIN:

Well, I sure wish the answer had been for months, when those of us who believed that we needed more troops, and the answer was, "Well, the commanders in the field haven't asked for it." I can provide you, that was the response given for the record on 50 to 100 occasions.

WARNER:

Thank you very much.

MCCAIN:

And again I want to emphasize, I want us to do everything possible to help you win this conflict. I mean that with all sincerity.

MCCAIN:

I am concerned about where we are in this conflict today. I believe we can and will still win it. But I wish we played a more participatory role, not because of my own ego, but because I believe the Constitution deems that we do so.

Thank you, Mr. Chairman.

WARNER:

Thank you, Senator.
(CROSSTALK)

WARNER:

Gentlemen, I've got to continue.
Senator Kennedy, I appreciate your indulgence to defer.

KENNEDY:

Well, Mr. Chairman, I want to just point out in the secretary's statement he talks in page 2 about capacity, Iraq's capacity for representation. He talks about assuming responsibility for governmental function. He talks about a functioning judiciary. He talks about elected assemblies. He talks about preparation for a way for elections. He talks about reconstruction of Iraqi infrastructure. He talks about fertile ground, water resources and natural resources.

And in his first page, he says, "Despite recent violence, at a time when so much attention is being focused properly on the abuses of detainees in Iraq." I think I'm entitled to ask my question and I intend to use it for the five minutes.

WARNER:

Senator, I respectfully ask that you indicated you'd be willing to defer.

KENNEDY:

No, I didn't. Excuse me, Mr. Chairman. I didn't. I recognized that you mentioned that comment, but I've been on this committee for 24 years, I've been in the Senate 42 years, and I have never been denied the opportunity to question any person that's come before a committee on what I wanted to ask for it. And I resent it and reject it on a matter of national importance.

And we're talking about prison abuses; we're talking about the Red Cross meeting with Mr. Wolfowitz in January of last year; we're talking about published reports about this; we're talking about what he did do and what he didn't do in the activities as the number two person in the Department of Defense.

And we are entitled to answers, Mr. Chairman, and I'm going to use my six minutes.

WARNER:

Well, I indicated to you I would recognize you immediately upon the conclusion of the first round...

KENNEDY:

Well, Mr. Chairman, then you're going to have to rule me out of order, and I'm going to ask for a roll call of whether the committee is going to rule me out of order.

I think I am entitled to ask a question on a subject which is relevant to his testimony on it. I am entitled to that, Mr. Chairman. This is the United States Senate.

WOLFOWITZ:

Senator Kennedy, I'd be happy to answer your question about meeting the Red Cross.

KENNEDY:

I'd appreciate it.

WARNER:

You have opened the inquiry broader than the scope that was intended, Mr. Secretary, so I expect that the senator has a point. It had been my intention to conduct this hearing on the budget; that was the notice; that was the purpose. And then at the conclusion of the testimony on the budget, I was perfectly willing to allow senators to ask other questions.

(CROSSTALK)

WOLFOWITZ:

... Mr. Chairman.

WARNER:

Well, you have opened it up in your opening statement to, I think, any legal constructs and you opened it up to all issues.

KENNEDY:

Well, we're having our -- we're limited by our six minutes.

(CROSSTALK)

WARNER:

I will not detract from your time...

(CROSSTALK)

WARNER:

So let us proceed with your six minutes at this time.

KENNEDY:

I want to say, Mr. Chairman, at this time you've always been a respected chairman and once in a while we get worked up around here...

(CROSSTALK)

WARNER:

That's all right. That's the way the committee should work.

But I see the point that you and the ranking member take.

KENNEDY:

Thank you.

WARNER:

But I would hope that we could continue on the budget and then have a second round.

KENNEDY:

Thank you, Mr. Chairman.

And thank you, Mr. Secretary, for your willingness to address this issue.

The question I have is, as you saw in the New York Times report this week, that the president of the Red Cross met with you in January to talk about -- he was here for two days to talk with the State Department, with Secretary Powell, Condi Rice and yourself about detention problems, and at least on their calendar and in my conversations and contacts with the president, he raised the issues, the detention issues on Guantanamo as well as in Iraq. He didn't get into the specifics, as your aide has reported in the (inaudible) but he raised the issues of abuses in Iraqi jails.

And my question to you is when those issues were raised to you, what did you do about it? You came here about five weeks ago and made a very eloquent statement about human rights issues, about the concern that the administration had about the abuses of the previous regime -- very, very legitimate. No mention of that issue about any of the violations or the problems in Iraqi jails.

My question to you is when the head of the Red Cross briefed you that there were going to be problems, there was going to be a report later in February, what did you do? You heard the bells go off. Did you ask to read the previous reports in the department?

Did you ask for an early report from the Red Cross so that you would have been alerted on February? Did you check with the DOD to find out that this just the time that they -- Sanchez was reporting to Taguba to do an independent report, already in the Defense Department, actions were already being taken.

What did you do that at that time when you, as the number two person in the Department of Defense, had this notification by the Red Cross?

WOLFOWITZ:

Mr. Chairman, and Senator Kennedy, I am as horrified as anybody at these abuses, and I think we -- Secretary Rumsfeld has made it clear just how horrified he is and how seriously he takes this issue, how determined he is to find out what has happened, to make sure that in the appropriate legal fashion we deal with people who have committed offenses and that we find out what we need to do to prevent these kinds of things from taking place in the future.

At the same time, we have incredibly important businesses of this department to run. He has designated a considerable number of officials to assist him in getting to the bottom of this whole issue and to going through hours of testimony before this committee and other committees of the Congress, hours and hours of briefings from the various investigations that have been launched, and I would emphasize launched by the Army and by the Department of Defense. And it's a very time-consuming business.

He's asked General Pace and me to make sure that the remaining business of the department, the critical issues of training and equipping and making sure our forces have what they need, and most of all, that our forces in the field have what they need; that those things are being properly staffed. And he specifically asked the two of us to focus on that.

So I can't answer in detail on those issues.

I can tell you I do remember the meeting with the chairman of the Red Cross. I took it very seriously. My recollection of it was that it was entirely about Guantanamo.

There are some serious issues between us and the Red Cross about Guantanamo. I might emphasize they have nothing to do with the kinds of abuses that we've been hearing about in Iraq. Those issues mostly have to -- the central issue is the issue that everyone is aware of about the impact of long-term detention. That's not the issue in Iraq.

The abuses that took place in Iraq were clearly outside of anything that was authorized in any circumstances anywhere by U.S. military officials.

KENNEDY:

My time is up, but your own staff, Charley Cooper, indicated that the Iraqi prison issue was discussed at that time.

WOLFOWITZ:

Because some people in the meeting believe that the chairman of the Red Cross, as he was leaving, mentioned that there was a report coming on Iraq. I honestly don't...

KENNEDY:

There was no follow up, no further follow up from your own...

WOLFOWITZ:

We were waiting for it.

WARNER:

Thank you very much, Senator Kennedy.
Senator Inhofe?

INHOFE:

Thank you, Mr. Chairman.

I might add that after listening to all the testimony, there are seven people responsible primarily for the problems that existed. They are all in some stage of prosecution under the Uniform Code of Military Justice at this time.

INHOFE:

And I might add, they were before any of this came to the public's eyes. That was already under way, and that was done swiftly.

In your opening statement you may have addressed this. I just have one question. Your requests are entirely of funds allocated to O&M accounts, and yet there are some other areas that we know are going to have to be covered, like some of the equipment that's

been destroyed and so forth. Do you have a way of using this for those purposes become necessary?

LANZILLOTTA:

Senator, this was just meant to be a bridge account, to allow us to support operational costs and force protection costs. Equipment losses in some of the major expenses that we're incurring would be in the full supplemental request that would be submitted later.

INHOFE:

That's good.

Let me use this opportunity to recall something that happened three years ago. I think it was during the secretary's confirmation hearing. I asked a question about the problems we seemed to have had -- and I've experienced this, not for 42 years, but for 18 years -- that always seems like we're under crisis control. Something will come up and all of a sudden we're going to have to come up with the money and we're going to have to do it. I remember during the '90s, during the '90s, in order just to get bullets, some of the training commanders were actually taking money out of their RPM accounts, real property maintenance accounts. I think we call something else now. Consequently, we didn't have roofs on our barracks down at Fort Bragg and different places.

So it's always kind of in a crisis. And I asked the question of Secretary Rumsfeld at that time, how can we overcome this? Sometime you have to look down the road, not just look at today and the problems today, and I'd like to ask you to be doing that. And he said -- and he took this from memory, and I remember what he said, he said, if you go back all throughout the 20th century the percentage of GDP that went to the defense budget has been an average of 5.7 percent on nonwar years. And that slowly went down to, in the '90s, it went down to 2.7 percent. Now, I understand, the most current percentage is 3.6 percent. And at that time he said, "I think we're going to have to look at it some day in order to be able to resolve these problems and not always be meeting it as a crisis, around 4.5 percent." And I would only observe that what he said three years ago seemed to have been pretty prophetic, because it seems to be that way to me. And I would just hope that your staff, as time goes by, might look to the future, look at where we're going to be 10 years from now.

And by the way, General Pace, our mutual friend from Texas called the other day and sent along his best wishes to you and his congratulations for the great job you're doing.

PACE:

Thank you, sir.

INHOFE:

Thank you, Mr. Chairman.

WARNER:

Thank you very much.
Senator Lieberman?

LIEBERMAN:

Thank you, Mr. Chairman, Mr. Secretary, General, Mr. Kaplan and Mr. Lanzillotta. Mr. Secretary, as you know, on this Senate Armed Services Committee you've got senators who have been steadfastly and fervently in support of our military involvement in Iraq, you've got members here who are skeptics about it, and you've got some who have been opposed to it.

But there's not a member of this committee that doesn't want to provide our military with the resources they need to do the job that you and we are asking them to do.

In that regard, having listened to Senator Levin and Senator McCain, with whom on this matter I agree, I believe we're heading into, in a situation that is already conflicted enough and difficult enough, into an unnecessary disagreement about whether this money is provided through this committee and Congress by a reserve fund, which is very unusual -- at least unusual, and perhaps unprecedented -- or through a supplemental request.

And of course the skeptics will say that the administration is doing this because were demanding in Congress all along that you come in with a supplemental, and so you didn't want to yield to that, you're calling it a reserve fund.

In the interest of achieving some unified ground here in pursuit of what I believe we all support, which is adequate resources for our personnel in Iraq, would you consider reshaping this request as a more traditional request for supplementary funding for the war in Iraq?

WOLFOWITZ:

I think the problem, Senator Lieberman, is, if you start to do that, then you start to try to predict the unpredictable, and you either underestimate what you're going to need, and then that has consequences, and when you later come in with a larger number then people say, "You weren't honest with us," or, "You got it wrong." If you overestimate what you need, you end up with money that doesn't get spent wisely.

WOLFOWITZ:

And, frankly, we'll have a -- we're not pretending that this is -- not only we're not pretending this is not the supplemental, we're not pretending this is six months of the supplemental. It is very likely -- you can do the arithmetic, Senator, we're not hiding the ball on what we're spending now, it's roughly -- and I'm not using the precise \$4.4 billion, it's roughly four and a half billion, or if you add some other things, pushing closer to five billion a month. It is \$50 billion to \$60 billion, if you look at all of our operations in Iraq and in Afghanistan. It's a big bill.

We'll manage much better if you will give us the time to wait until early next year, when we really know what that bill is going to be. If it turns out, miraculously, or happily, to be significantly lower, it'll be much better to ask for a small amount. If it turns out to be higher, we will ask for a larger amount.

This is a war. It's a war in Iraq. It's a war in Afghanistan. War is, unfortunately, a very unpredictable operation. And we're not pretending we are predicting, we're not pretending it's cheap.

With respect, if I might add, too, with this issue about a blank check, I mean, we're not looking for a blank check, we are looking for the kind of flexibility that will make sure

that when a need arises we can allocate funds to where that need exists. And I don't know if...

LIEBERMAN:

I would just -- I understand, I hear you, I understand what you're saying. But I want to repeat what I said before: We're heading down a road to an unnecessary fight, in a circumstance where that battle may do damage to our cause and may lead others to question more than they should the willingness of Congress to continue to support our troops regardless of the individual attitudes of members of Congress on this.

We all agree. You've said it. All of you on the panel. We know it. This is not a supplemental request for all the money we're going to need to prosecute the war in Iraq through the end of fiscal year '05. But the answer to that is just to come in with a partial supplemental request. We all know that. We won't be deceived by it. We know that there's going to need to be one more coming in next year.

But I just worry that we're heading down a road here where we all ought to be unified, where we're going to have a lot more use of the term "blank check," and more conflict over this than I think we need to have.

I got your answer, and I just want to ask you to go back and speak to the secretary and perhaps the White House about whether this is really a fight you want to fight.

I want to go briefly, if I can, to the prison abuse scandal, which troubles us all. Here's another case where, no matter where you stand on the war, everybody agrees this was horrific, unacceptable, damaging behavior.

WARNER:

If the senator would indulge me. I don't intend to prolong this, but the chair did ask with regard to the restriction by members, in no way have I ever in my 26 years in the Senate tried to curtail a senator's right to question, but it was pointed out, and I wasn't fully aware of your opening statement, your opening statement, as we would say in the law, opens up the subject. And as such, the chair hereby withdraws the request to the members to confine their questions to matters related to the budget.

I did not want to go to a vote, because I know how to count votes.

WARNER:

Well, having said that, the chair withdraws that admonition. But bear in mind we're here on the question of this budget. I did not deduct from the time of the senator.

(CROSSTALK)

LEVIN:

Could I just add one quick comment and also request that it not be deducted?

I just want to thank the chair. He is always very reasonable, a gentleman, and maintains the dignity, decorum of this committee, and the good relations of our members sometimes under very, very difficult circumstances. And I just want to commend him publicly for the way he is able to do all that at the same time.

WARNER:

My thanks...

(CROSSTALK)

(UNKNOWN)

You'd have all the votes on that one.

WARNER:

I thank my good friends. I always remember Yogi Berra said, good guys finish last; I'm still trying to place up here.

Go ahead.

LEVIN:

You'll finish first by that standard, Mr. Chairman.

WOLFOWITZ:

If I might just say, I addressed the issues I did in my opening statement because I think it is...

(CROSSTALK)

WARNER:

Well, we've covered all this ground.

WOLFOWITZ:

... proper for the committee to ask what is this \$25 billion being used for.

But as I said earlier, if you want to get into the issue of the prisoner abuse scandal, you really need to get people who are able to devote pretty much full-time to digging into the facts. And we have multiple officials who have been testifying, I think, over 20 hours on those issues.

WARNER:

But where we are, and I indicated at the beginning of the hearing that you and I in the course of our conversations preparatory to this hearing said that your full attention really had been put on the maintenance of the department and everyday demands together with, to a great extent, General Pace. Is that correct, General?

But the questions will be asked and you'll respond to the best of your knowledge.

Thank you very much.

Senator Lieberman?

LIEBERMAN:

Mr. Chairman, thank you.

WARNER:

Your time is restored, you've got another minute.

LIEBERMAN:

I appreciate it.

One question, and I'll try to draw a line from your initial purpose to the wider agenda now, and it is this -- to maintain public and congressional support for the troops on the mission, it seems to me that we have to guarantee that there is the widest and most unfettered investigation of how the prison abuse scandals happened, including up the chain of command, to look wherever responsibility for action or inaction should be placed.

And I wanted to ask you in that regard whether you think the various investigations going on now have the latitude to do that, and particularly I thought one of the most important things Secretary Rumsfeld said last Friday which was lost in the coverage of his testimony was the creation of the four-person independent investigating group with Secretary Schlesinger and Brown and General Horner and former Congresswoman Fowler.

Am I correct that they will have independent staff and that they will independently review the other investigations, including any culpability not only by those in the prisons, but up the chain of command?

WOLFOWITZ:

Senator, this is where I feel I'm not sufficiently informed on the details to give you a confident answer. I'd like to give it to you for the record. I think the answer is yes, but I'd like to confirm that.

And I think they also have the ability to recommend additional investigations if they think additional investigations are needed, but I will confirm that for the record.

LIEBERMAN:

General Pace, do you have a response to that?

PACE:

Sir, I have not read the document that -- the original one that the secretary may have signed on that to the members.

I do know that in the discussions leading up to it that the concept was that these would be four individuals who would have the opportunity, the authority, the support to take all investigations no matter what level they were derived from, read them, look at them, cross reference them and make recommendations to the secretary about what other investigations might be needed to flesh out the story.

I do not know the specific guidance he has given to the individual members.

LIEBERMAN:

I thank you.

And I'd just say, finally, that as a supporter of the war I think it is critically important that at some level -- and that looks to me like the most natural level -- that there be that independent review by people outside of the Pentagon who can guarantee the American public and the world that they have looked without limits at anyone who may bear blame for this scandal and hold them accountable.

LIEBERMAN:

I thank you, Mr. Chairman. You're both a winner and a good guy, as far as I'm concerned.

WARNER:

Thank you very much.

Senator Allard?

ALLARD:

Thank you, Mr. Chairman. And I just want to say that, along with all my colleagues here on this committee that have stated the fact they fully support our men and women in Iraq and Afghanistan and really respect the great job that they're doing, we want to make sure that the money that we're making available has some oversight, at least as far as the Congress is concerned.

And we've had this discussion in the Budget Committee, on which I serve, Mr. Chairman, and we had worked out a solution which I thought might take care of your concerns.

I can understand when we have a supplemental and everybody adds their own projects on there, because they're outside the budget, and it gets abused.

And there are members on this committee have abused that, and there's members in the Congress have abused that, because it goes beyond what was intended in the supplemental, it ties it up, and it doesn't make dollars available for the department. I can understand all that concern.

But on the other side, on this side, I think we need to have some oversight.

So what the Budget Committee came up with in their resolution -- this is another reason why we need to get it passed -- is we've made a provision here where the committee set aside \$30 billion to go through a process where you make your request to the Committee on Appropriations, and the Appropriations Committee is in a position to manage that request. That expedites the procedure so you don't have a supplemental out here that gets abused. Then it goes ahead and makes the process move much faster, so that as your needs come up, then you can go ahead and make those requests to the appropriators, and they can make the money available to you.

It seems to me like that's a reasonable approach. It's Section 312 in the Budget Committee, which we're working to get passed. And I hope you'd take a look at it. Maybe you'd like to comment further on this approach. Maybe General Pace would like to comment on it. You can perhaps comment on it, Mr. Secretary, and even Director Kaplan, maybe he'd like to comment on that provision.

WOLFOWITZ:

Let me just say, first, I think you're absolutely right that it is important that we not -- there's a temptation when you have emergency accounts available to start using them for things that are not emergencies.

And I think it was Senator Inhofe who correctly pointed out that when Secretary Rumsfeld testified here in his confirmation hearings and in the summer of 2001 we were working very hard to make sure that we stopped funding regular expenditures out of pretending that they were emergencies. It had very bad effects on the management of the department.

The other side of the coin is, if you overbudget for something that you predict is going to be an emergency 12 months from now, you're inevitably going to have people using those funds in an undisciplined way. And I think that's, as I believe it, the philosophy for waiting until part way into the fiscal year, when we have a better fix on those.

I'm not familiar on the vehicles, and I think Director Kaplan might want to address that.

KAPLAN:

Senator, we're, of course, appreciate of any efforts and ideas that the Congress has to provide expedited procedures to make sure that the flexibility exists to get the resources where the department and the commanders say they need them.

We want to be mindful, of course, of the appropriators, their ability to consider these requests, and expect that they will want to act on this -- will act on this contingent emergency reserve fund, as well as the ultimate 2005 supplemental.

If I may back up for a minute, I think I may have led to a bit of confusion by my imprecision of language in saying that this proposal was similar to the IFF. I didn't have the language in front of me. But it is, in fact, modeled after the IFF in terms of the Iraqi Freedom Fund that the Congress created in '03 identified several accounts and said money shall be available for transfer for the following activities, and then proceeding to say: not less than, up to, several, enumerated specific accounts. And then provided that in addition to those transfers the secretary of defense may transfer the funds provided herein to appropriations for military personnel, operation and maintenance, overseas humanitarian disaster assistance and civic aid, procurement, research, development -- and proceeded to list actually I think in some ways a more expansive list even than we've asked for because it goes outside of defense.

So we were mindful of Congress' prerogatives and recognize that that was something that Congress had supported and created in the past.

ALLARD:

Now, I just go on again to emphasize, this provision we have in the budget, which is an agreement between the House and Senate, it's to accommodate incremental expenditures associated with ongoing military operations in Iraq and Afghanistan. This is just exactly what you're asking for. And there's \$30 billion that we're setting aside in there to do that.

And then the only caveat that we have here is, you just go to the appropriators, explain that items that you want to use that for, and the appropriators can make that available.

And it seems to me like we've got the proper balance between congressional oversight. It's become a part of our budget process, so we have accountability there. And then it meets your needs, as as you run across these incremental expenditures then you can go ahead and make those requests and the appropriators can provide them.

KAPLAN:

Senator, I think that's not inconsistent with what you in the Budget Committee have provided. It's not inconsistent.

ALLARD:

Well, it is inconsistent in this regard, in that we do have some oversight there, which I don't believe we have in the provision that you're asking for. But I don't think it's excessive oversight. I think that you can rapidly get a decision from our appropriators when you need those dollars.

Mr. Chairman, thank you.

WARNER:

Thank you very much.

LEVIN:

What was their answer?

ALLARD:

I'm not sure that I asked a question.

We were just having a discussion here and I was explaining how I felt like this provision that we have in our current budget right now would work, work in an expedited way, so that we would have congressional oversight and they could have the resources they need there for those incremental expenditures that come up that need to be met on a rather urgent basis. For 2005 is what this is provided for.

WARNER:

The chair recognizes Mr. Ben Nelson.

BEN NELSON:

Thank you, Mr. Chairman.

And thank you, gentlemen, for being here today.

I think it's important to say, as others have, that we certainly want to support the needs of our men and women in uniform both here and abroad, particularly as it relates to the continuing costs associated with the war in Iraq and the war in Afghanistan.

And we need to fund the needs, but I also agree with my colleagues that the process is at the very least confusing and at the very worst it looks like it might be a complete, or at least if not complete, partial erosion of oversight responsibility, which causes us all some concern.

I don't think anybody sitting here wants our oversight to morph into a blank check scenario, so that's why I think there is a lot of concern and a lot of questions that are being asked regarding this.

I mean, but think about the confusion. We've got budget supplements, insurance funds that are not supplements, they're intended to cash flow. We've got a burn rate that conceivably will utilize the \$25 billion in a fairly short period of time, and a request for flexibility in the midst of where we provide for accounts.

So if we're not confused, that will surprise me, and I suspect that there is some effort under way to try to help us understand that.

It's hard to accept in the halls of Congress making a budget the way you make a pie, a piece at a time. We think we've got a budget, then we find out we don't have a budget. And never mind the fact that whatever we do can be changed with 60 votes, so it's hard to call anything permanent let alone temporary.

But I guess what I'm really trying to get to is I'm not averse to block grants in terms of giving you the money that you need to do. I'm not even opposed to considering some flexibility.

But I guess my question would have to be, how realistic is the figure \$25 billion? Just how realistic is that?

We've got a burn rate nearly at \$5 billion, maybe it is depending on how you account for it. So why wouldn't we do it for five months?

I do understand the importance of not leaving money on the table for a longer period of time than you would account for it under most circumstances, because money does get spent. When I was governor I used to worry about the legislature spending it; now I see the administration worrying about the administration spending it because of the money being there.

But how realistic is the money, is the figure \$25 billion? And any one of you can answer, I'm not trying to pick on you, Mr. Secretary.

WOLFOWITZ:

Well, let me try, and when I mess it up I'll go to the experts.

But, Senator Nelson, I don't think the idea is that we'll go \$5 billion a month out of the \$25 billion until that runs out. The idea is that we will cash flow; we will, where accounts are adequate -- and they're all adequate to transfer -- to use up some fourth quarter money in the first and second quarters.

Where we don't want to end up is in a position, and there are particularly some Army accounts where you could be in this position, where by the middle of the second quarter you're already using third quarter money. Then you start to discipline your expenditures in a very harmful way. You break programs. You short people on things. You cut corners in the way any business will cut corners if they see themselves heading into a financial crunch.

We don't want that kind of thing to happen...

(CROSSTALK)

BEN NELSON:

But can we have the assurance -- for example, the kind of assets that are acquired, such as the appropriate armor for vehicles or for personnel, the number of personnel that we're looking to increase to take care of the continuing mission or changing mission as we go along. I think that's our fear.

One of the issues about having some oversight is being able to direct where the money is spent in advance. And I think there is a lot of concern that we have not had adequate armor protection for vehicles, therefore unnecessarily exposing personnel to harm.

That's why we have the lines of authority. That's why it's a line item budget.

BEN NELSON:

How can you assure us that we're going to be comfortable; that the money will be spent on what we consider to be priorities, not simply what DOD considers as its priorities?

WOLFOWITZ:

Well, again, I'm going to turn to the experts in a minute, but we are not looking for a blank check, at least I don't think that's what we're looking for.

What we are looking for is the flexibility to move money when you need to move it. And, in fact, you mentioned up-armored Humvees -- that's precisely one of the places where, as you probably know, the Army requirement has grown and grown and grown, because...

BEN NELSON:

Is that one of the areas identified as an illustration as opposed to a line item account, Director Kaplan?

KAPLAN:

Well, as has been pointed out, the accounts are broad -- operations and maintenance for the various services.

BEN NELSON:

Illustrations, not accounts.

But when we're dealing with illustrations, not accounts, anything goes that's not on there, or what's on there may not be funded, if you follow where I'm going.

So it's the flexibility that almost begins to look like any of the above, or some others, or whatever we decide in the future.

KAPLAN:

Well, it is the -- I mean, there is no question that we're looking for flexibility, and it's for the reason Secretary Wolfowitz pointed out: it's to make sure that the department is able to respond quickly to an emerging threat environment, and as the needs change to make sure to give the troops in the field, and I expect the Congress, the comfort and the confidence that those resources will be there.

BEN NELSON:

Is there a way to limit the number of accounts so that we don't have something going outside of one of these accounts that is now nothing more than a illustration?

I think that might give us more comfort about our oversight.

WOLFOWITZ:

I think that might be possible, Senator.

Mr. Lanzillotta?

LANZILLOTTA:

Senator, to continue using your example of the up-armored Humvees and why we need the flexibility, we have funded the requirement for up-armored Humvees three times. When we put the supplemental in, we put in what we thought was the full requirement for up-armored Humvees.

The requirement grew because of reality on the ground. We fully funded it again, but the reality changed again and so we fully funded it again.

We don't have a specific...

BEN NELSON:

I'm not challenging you on that point. I think you're doing what you need to do.

My point is, couldn't we have some -- fence in all the things for which it could be spent, recognizing that between accounts or among accounts you might have some flexibility to be able to do exactly what you're doing, or as circumstances change, you're able to redirect some money in that way.

But at least we know what the parameters are, not just by the total amount of money, but also by where it might be spent.

LANZILLOTTA:

Our attempt when we structured it for basically operation and maintenance was to assure the Congress that we were using it for operational support costs associated with Afghanistan and Iraq.

BEN NELSON:

Or anything else that might come up. I mean, that's the problem.

LANZILLOTTA:

And that's the flexibility.

But the five-day reporting period, where we come down there and tell you if something changes, was to give the Congress the notice that -- and I'll tell you an excellent example. There are certain R&D efforts that have helped us immensely with the booby traps and the explosive devices that we've encountered.

We wanted to be able to have the flexibility, if we find something, to be able to transfer an amount of money to R&D to be able to rush that to the battlefield. Now, that has happened already -- with the same flexibility that Congress was able to give us in the IFF account; that we're able to find something new, rush it up there and do it.

Our problem is without the flexibility -- and the reason why the account was structured this way is because right now as we sit a year out I don't know what that technology may be.

BEN NELSON:

But you're going to come back to us between now and 12 months.

WOLFOWITZ:

Senator Nelson, I think there is some room here to work on something that gives the troops the flexibility they need, gives the Congress the oversight it needs. And frankly, a little discipline on the process so that people can't go and use this fund for whatever suits their fancy would be quite all right with me.

BEN NELSON:

I thank the chair and I thank the secretary for picking up the point that I think we're making. I may not have made it very well, but I think you've got the idea.

Thank you.

Thank you, Mr. Chairman.

WARNER:

Well, the committee thanks you, Senator, because while in our opening round of questions we expressed these concerns, we now hear you proffering some type of document to this committee which could be incorporated should we move forward on the floor, and that would lend itself to give the specificity and the restrictions on the flexibility that we feel appropriate.

Is that correct? Do I hear you say that?

WOLFOWITZ:

I didn't quite get to the point of a document, Mr. Chairman.
(CROSSTALK)

WARNER:

Well, no, I think I like things in writing.

WOLFOWITZ:

I understand the need, but I need some expert advice though.

WARNER:

Please communicate with the chair and the ranking member, and we'll see that the committee is so advised.

But I believe you detect the concern among the committee, and this is a case of first impression. If we go forward with it, we want to make sure we do it right.

WARNER:

And we will work in consultation with the Appropriations Committee, which in many respects have the principal authority for this type of package.

Thank you.

Senator Collins?

COLLINS:

Mr. Chairman, I'm going to follow up and try to get that commitment for that document.

Mr. Secretary, we need to strike the right balance here between the administration's understandable need for flexibility and the congressional need to closely oversee spending.

I recognize that the administration will be submitting a traditional supplemental request next year, but I want to echo the concerns of many of my colleagues -- Senator Lieberman, Senator Allard, Senator Nelson, and others -- in encouraging you to consider either resubmitting this \$25 billion request in the form of a traditional supplemental appropriation or along the lines suggested by my colleague from Colorado.

We really do need to preserve the important role that Congress plays. It is our duty.

This is not a case where we're not eager to give you the money you need. We are eager to ensure that our troops have all the resources that they need.

You don't need this dispute. And I would encourage you to work with the committee to come up with some controls on the spending. We're very eager to move quickly to give you the funding that you need, but I hope you will consider working with the committee to come up with a more traditional request with checks and balances in it so that we can move forward without having this needless dispute.

WOLFOWITZ:

I appreciate the spirit of that comment, Senator Collins, and we will work with you.

COLLINS:

Thank you.

WARNER:

Senator Collins, without interrupting you, I think it would be nice to get Director Kaplan on the record.

COLLINS:

Thank you for that admonition.

WARNER:

Direct your question to Director Kaplan please.

COLLINS:

Director Kaplan, since you're representing OMB, which tends to play a very important deciding role in these issues, I would like to get from you also a commitment to work with the committee to resolve the concerns that you've heard expressed on both sides of the aisle.

Again, I want to emphasize this is not a dispute over giving you the resources that our troops need. All of us want to make sure that we do that quickly and fully.

But we do need to exercise our constitutional responsibility. So I would ask for the same commitment from you.

KAPLAN:

Of course, Senator.

And thank you, Mr. Chairman, for giving me the opportunity to be on the record as well.

(LAUGHTER)

We share Secretary Wolfowitz's commitment to working with members of this committee and other committee and members with interest to try to strike that balance between making sure the Congress can exercise its constitutional oversight prerogatives while still providing the flexibility that the commanders and the services need.

WARNER:

Fine. Bear in mind we're on the floor Monday, so you've got your weekend work cut out. Thank you.

You take another minute.

COLLINS:

Thank you.

General Pace, I continue to receive the e-mails from soldiers in Iraq who tell me that they still lack the equipment they need, and that is just so troubling to me.

Just a few days ago, a member of my staff received an e-mail from a friend serving in Iraq. Doesn't happen to be from Maine. And let me tell you what he said. He said, despite numerous requests, that he still had no long-range communications, only light armored vehicles, and the only ammunition he had for one of his weapons came from the generosity of a local Danish military unit.

That really troubles me.

Do you believe that this additional \$25 billion will be sufficient to ensure that our troops have what they need? We're sending them into such a dangerous environment, and I feel we have a moral obligation to make sure that they have all of the supplies and equipment, and most of all protection that they need.

Are you confident that the \$25 billion that the administration has requested will solve those concerns once and for all?

PACE:

Senator, thank you. That e-mail and the way you just described it troubles me as well. And in whatever way you think appropriate, if you could share as much information from that that you can with me, I would like to get directly to answering that specific problem.

Second, I am confident that this Congress has already allocated sufficient resources for that problem to not exist today. So if it does exist, it's not because you have not given us the wherewithal, it exists for some other reason.

You have, for example, when we identified to you the need for up- armored vehicles, more armor on them, when we identified the need for the new state-of-the-art personal body protection, all those requests that we have brought forward to this Congress, you have funded very quickly.

So I am confident that you have already given us the assets we need to answer that question. But I cannot answer that question without having more specifics.

COLLINS:

I'll see what we can share with you.

PACE:

Thank you.

COLLINS:

Obviously, I don't want to get the soldier in trouble in any way who brought this to our attention, because it's not just one soldier. I keep hearing similar reports. And we do need to remedy it.

In my remaining time, could you please more precisely, General Pace, to the committee how you arrived at the \$25 billion figure?

PACE:

Ma'am, I did not personally arrive at that number, but I can tell you that it is specifically based on the numbers that Mr. Lanzillotta indicated, which is a current, today utilization of about \$5 billion per month combined between Iraq and Afghanistan, and our understanding that if things did not change, if come 1 October of this year we are operating exactly the way we are today, and that's not a known, but if it is, then that would take us through the first five months of the coming fiscal year in a way that would allow us to not have to reach deep into '05 to come forward with training and fuel and things that we would buy in the fourth quarter to pay for the current expenditures at that time.

COLLINS:

Mr. Secretary or the comptroller, if either of you could add to that.

WOLFOWITZ:

Senator Collins, it was intended to give us a very comfortable margin of error, which doesn't mean that we wouldn't be paying for some first quarter expenses with fourth quarter money. That we think we can do. But we don't want to end up in a situation where we're paying for second quarter expenses with third quarter money and people start to see their accounts running dry, especially Army O&M, which I mentioned earlier.

Sometimes people say, businessmen come and say, "You've got a \$400 billion budget, I mean, certainly that gives you a lot of latitude to move money around." But the account that is most critical here is the Army's \$26 billion O&M account, and it's the Army, as we all know, that is incurring the greatest share of that supplemental funding.

So we need to make sure that those accounts don't start to run dry and the managers of those accounts start to say, "I've got to cut back on something that's pretty important because I need to fund something that's absolutely essential." We want to make sure -- and particularly when it comes to maintaining the momentum of key Army programs like the brigade restructuring.

If I might just make a comment reinforcing what General Pace just said. If there are issues -- and there are issues, and we want to find them and fix them as fast as we can in the area of force protection. In fact, Ron Sega, who's the director of defense research and engineering, has a task force that reports to me on force protection measures across the board, and the joint staff has an Army- led force protection effort that focuses particularly on equipment issues. We've already accomplished nearly \$2 billion -- in fact, \$1.931 billion to be precise -- out of FY '04 funding, particularly for up-armored Humvees and Interceptor body armor.

WOLFOWITZ:

And there is another \$720 million in process -- in other words, over \$2.6 billion -- which is another reason why we do need the kind of flexibility -- some considerable degree of flexibility. Many of those expenditures were different from what we anticipated a year ago.

WARNER:

Thank you very much, Senator Collins.

And I think, Senator Collins, we have made an incremental landing here.

(LAUGHTER)
(CROSSTALK)

WARNER:

We're all waiting until your turn comes, Senator Byrd.

(LAUGHTER)

Senator Dayton?

DAYTON:

Mr. Chairman, I would be honored to defer to Senator Byrd.

WARNER:

I've made that proffer, but there has been a bit of a stiff resistance. He wants to maintain his order because out of respect for his colleagues.

Now, once more, Senator Byrd, do you wish to go forward? Your colleagues have invited you to do so.

DAYTON:

I will defer to you, sir.

BYRD:

Well, thank you. And thank you, my colleagues.

These are the invincible 23 who stood against the resolution of shame on October the 16th, 2002.

Now, Mr. Secretary -- Mr. Chairman, thank you.

Mr. Secretary, turning to the \$25 billion request, which means that the president would be able to transfer any amount from the fund at his discretion at any time effective October 1, which would exempt the spending from any limits on discretionary spending.

This would further transfer authority to the secretary of defense in consultation with the director of OMB, would give the administration a blank check limited only by the requirement that the funds be used to support operations in Iraq and Afghanistan.

There is no requirement for consultation with the Congress -- shame.

There is a modest reporting requirement that Congress included in the FY 2003 and FY 2004 supplemental for the Iraqi Freedom Fund. That is not part of the president's request.

Mr. Secretary, I want to compliment the lady from Maine. She is entitled to the plaudits for the entire committee for the wisdom that she has demonstrated here today. She brought some common sense to the committee.

And I compliment the panelists for their joining in indicating their support for her proposal.

The proposal is deficient in a number of ways. Further, there should be a requirement to consult with the chairman and ranking member of the Armed Services and the Appropriations Committees prior to transferring funds.

There should be a requirement to report to the Congress on the expenditure of funds. There should be detailed justification for the request. In support of the \$25 billion request (inaudible) a full page request.

BYRD:

We don't know how much is for pay. How much is for procurement. How much is for classified projects or for military construction projects.

The proposal provides for a blanket \$25 billion transfer authority, with no requirements for detailed justifications, no consultation, no reporting.

Mr. Chairman, there must be consultation, consultation with the chairman and ranking member of this committee, consultation with the chairman and ranking member of the Appropriations Committees of both houses.

The language is ambiguous about whether the funds would be used for dual-use purposes that could result in missions outside of Iraq and Afghanistan. We need absolute clarity and assurances that these funds will not and cannot be used to export war, to get into another country.

Mr. Chairman, our forefathers would have scorned such arrogance as has been demonstrated by this administration in this request.

Let me call to your attention -- it shouldn't have to be done, but I think should be done -- here is the Constitution of the United States. I hold it in my hand. Section 9, let me call it to the attention of the messengers from this administration: "No money shall be drawn from the Treasury but in consequence of appropriations made by law and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time" -- "appropriations made by law."

And let me read where that comes from -- that comes from Section 1, Article I, "all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and House of Representatives." God bless the Constitution of the United States. God bless the Constitution of the United States.

I call this to the attention of my colleagues. Let us keep in mind this Constitution. Let us keep in mind this Constitution. And let us adhere to it.

Let us remember that we swear an oath to uphold this Constitution. And when we appropriate these monies, Mr. Secretary, we're going to keep in mind this Constitution. And we're going to put limitations on this appropriation.

And it's not going to be -- it's not going to be in this appropriation when we appropriate it. The president will not be able -- he's not going to be able to take these monies from one account to another, as he has requested through you. No. We're not going to allow him to do that. No. The people still reign in this country of ours. The people still reign. And this Constitution guarantees that.

I'm going to support the \$25 billion, but we're going to put limitations on it. We're supposed to do that, because we're sworn to protect the people's money. And remember, remember that great Roman senator who said, "There is no fortress so strong that money cannot take it."

WARNER:

Thank you, Senator Byrd.
Senator Dole?

DOLE:

Senator Warner, I want to thank you for your tireless efforts in support of our military.

And I certainly want to thank our witnesses. I applaud your efforts in protecting our country through your respective positions. And I appreciate your willingness today to facilitate a discussion of the importance of seeing this war through to its completion.

Thousands of men and women from my home state of North Carolina have proudly gone to serve in Iraq. While some have come home, many more remain in theater, fighting for the safety of our world and the freedom of millions. And sadly, some will never come home: The 25- year-old lieutenant, whose first child was just born; the 33-year-old sergeant who can no longer support his five children; the 19-year-old private who leaves behind an 18-year-old widow; and the four guards from Blackwater whose families will be forever haunted by the horrific images of their deaths.

DOLE:

I am so darn proud of our men and women who are risking their lives in the name of freedom. And in the last few months the operation in Iraq has proven to be, as we all know, much more dangerous and grinding than some had expected. Adequate resources are essential to providing security and allowing our troops to complete their assignments in Iraq, and these must be our first priority. We must stay focused on what is most important: providing whatever funding is necessary to move forward.

General Pace, this committee, as is clear today, has been closely monitoring the supply of up-armored Humvees, protective vests, personnel communication systems and other equipment vital to the safety of our individual service members.

Does this supplemental fund your strategic life needs for the remainder of this calendar year?

PACE:

Senator, to my knowledge, this supplemental that takes effect 1 October does not fund this fiscal year's strategic needs. I believe this fiscal year's strategic needs are already taken care of in the monies you've already allocated. But we do have sufficient funding in the current budget to do the transfer of troops that is ongoing as we speak.

DOLE:

Secretary Wolfowitz, Defense Department contractors and private business representatives are critical to the rebuilding effort, of course, in Iraq. Terrorists have shifted their focus and are targeting these unarmed civilians. And, again, I just want to be assured that we do have funds that will increase security for these Americans.

WOLFOWITZ:

That's certainly one of the possible requirements in our operations that is critical.

I would also emphasize, I think it's a reason why, as I emphasized in my opening statement, that we put Iraqis forward as much as possible to do the rebuilding of their own country. It is their country. If someone's going to be targeted, they're the ones appropriately who should. But I also think that, as Iraqis, they're much less likely to be targeted.

We're working very closely with our division commanders to make sure that they and the contractors and the very brave civilians that work for USAID and other agencies are working together so that this effort can go forward safely.

DOLE:

I understand that the Army has shifted resources to provide tighter protection along the lengths of food and supply convoys. Has that left other areas, like oil fields, pipelines, weapons caches, more vulnerable?

PACE:

Ma'am, one of the reasons that General Abizaid asked to retain the 19,000 more troops that he needed, which basically is an additional division plus their support, was to, in fact, cover the kinds of additional security requirements you're talking about.

Part of the ongoing support for pipelines and the like is underneath the auspices of the Iraqi minister of interior and the troops that he has in his security forces. So we work in combination with them.

DOLE:

Thank you, Mr. Chairman.

WARNER:

Thank you very much, Senator Dole.

Now, Mr. Dayton, you've exercised great patience. Please proceed.

DAYTON:

Thank you, Mr. Chairman. Thank you for your wise guidance of our committee today. Thank you.

And thank you, Senator Byrd, for all the incredible education I receive from you about the Constitution and its true meaning to our country. And your service on behalf of that Constitution has been extraordinary, sir, both yours. I thank you both.

Last spring we approved a \$75.5 billion supplemental, and then last fall an \$87.5 billion supplemental, for a total of \$163 billion. And next year, fiscal year starting in five months, we have, as others have pointed out, not received a formal request. And I gather that this today does not constitute such. Rather, it's what's called a contingent emergency reserve fund.

I'm going to support it, but I'm very concerned about doing so before receiving any accounting as to how the \$163 billion that has been appropriated in the previous two supplementals has been spent, is being spent now. And I'd like to ask that we receive that, this committee, not dollar for dollar, but in the base categories. And I would ask for that by close of business Friday, because I'd like to have it before we take it up next week.

As I recall, the last supplemental provided \$15 billion for reconstruction costs of Iraq. I've read some reports that that money has not been expended. I saw the most recent monthly report in terms of the status in Iraq that to date, I believe it was through April, Iraq's oil revenues are \$5.4 billion. I'd be interested to know if that is meeting, falling short of or exceeding your expectations and at what point will those funds become available for the use of -- in Iraq's own reconstruction.

As I recall, the last supplemental provided \$5 billion for security force training. I'd like to know if that's been fully expended. And I believe there was a certain amount -- I don't recall the amount -- provided to extend or provide unemployment benefits to some 1.8

million Iraqis, which is more than we've been able to get out of the Senate this week for American workers. So I'd like to know to what extent that's still being expended, financial aid to Iraqis not currently employed.

DAYTON:

And also, Dr. Kaplan, if you could update the figure that you provided us today. If I heard you correctly, the monthly expenditure approximating \$4 billion I believe is a figure that preceded the retention of the additional 20,000 troops and some of the other intensified activities. So I'd appreciate receiving a current, either now or in writing, a current fix on what is being expended on a monthly basis, say last month, this month and expected for next month.

So my first concern is regarding this request without having received I believe any kind of accounting -- maybe the Appropriations Committee has, but certainly this senator has not seen an accounting for \$163 billion that has been provided literally in the last 12 months.

Then I'm also concerned about approving something when we don't know what plan it is that we're forward funding.

I heard a quote this morning attributed by Fox News to Secretary Rumsfeld that there is a very real possibility that we may not succeed in Iraq, and we've got to realize that now. These pictures could have done immeasurable harm. The alleged acts of these soldiers could have made the difference.

I don't know what the context was for that statement. I don't know if that reflects any shift in the administration's thinking or planning for what our purpose is in continuing to keep the force level that's been described in Iraq.

But I would like, Mr. Chairman, to ask if not in this hearing -- but -- and again, I expect this supplemental will be approved, so it wouldn't be in time for that decision next week in the full Senate -- but I would ask that this committee devote a hearing, either in open or closed session, to what is the plan for the operation in Iraq, what are the objectives, military and diplomatic, and what is the timetable for realizing those goals, so that we know what it is we're buying into here.

WARNER:

I assure you that the ranking member, Mr. Levin, and I are reviewing to do just that shortly after we get back from the recess period.

Could you further define the origin of that quote? What time today, so that we can...

DAYTON:

It was at approximately 8:30 a.m.

WARNER:

Was this attributed to him or was he on himself?

DAYTON:

The comment was -- well, there was footage of him, but it was attributed to him. The commentator or the anchor person was E.D. Hill, and the quote attributed to Secretary

Rumsfeld -- and I wrote it down carefully, in fact I videoed it. While it was on the program, I had my staff video it, so I did get a chance to get it over again.

WARNER:

You've got it on tape then?

DAYTON:

I have it on tape. Well, what she said, but she's reading...

WARNER:

Well, that transcript should be available, and we'll ask staff to immediately get that transcript.

I thank the senator.

WOLFOWITZ:

On that last point, I don't know what was said or the context. I do know that in that in the hearing before the Appropriations Committee yesterday, the secretary was asked in a question by an individual who felt that the situation was -- I don't remember the exact context, but what the secretary's response was, I understand an individual feels that way. I can understand that.

We all go through strong emotions when something like this Abu Ghraib thing occurs. We see it and we're shocked and we're stunned and we're disgusted and we know in our hearts we're better than that. I know it doesn't represent our country and that isn't America. And then he went on to say, but the conclusion that that young person came to, that we're at the beginning of the end, I submit will prove to be wrong. And the good Lord willing, I'll be right and these understandable concerns and comment and emotional reaction, I hope and pray will be wrong.

I don't know the context of the other quote, but I certainly think -- I believe the secretary believes in spite of some difficulties in the last few months and a real body blow from this prisoner abuse that we are succeeding and this is something that we can win and it's very important to win. And that's why I addressed those issues in my opening statement.

We will give you that full accounting that you've asked for. I would note on the reconstruction numbers, they keep growing. And so they tend to change on a daily basis.

The numbers that I have as of a few days ago are that nearly \$11 billion of the \$18.4 billion has been apportioned, which means I think notified to the Congress under the provisions, I think it's Section 2207 as to where we go. Of that, \$6.6 billion has been committed against specific projects and \$3.1 billion has been obligated.

That's by no means the total of reconstruction work that's going on in Iraq. And if you will permit me the fact that this was done more or less overnight by CPA and they'd like more time to be sure the numbers are accurate, but let me just say in round numbers, over \$5 billion of Iraqi funds have been budgeted from July of last year to the end of this year for reconstruction. And of that, nearly \$3 billion of Iraqi funds have been obligated or expended.

So there is a lot going on. We don't want that \$18 billion to go out the door overnight. It wouldn't be prudent. And it would diminish our ability to manage with that over the coming basically couple of years.

So I think it's moving at a reasonable pace.

DAYTON:

I just want to conclude by saying I think we have succeeded in very important respects. I think our military won a tremendous victory in three weeks last year, from the border to taking over Baghdad and toppling the Saddam Hussein regime, which was one stated goal.

DAYTON:

We determined that there are no weapons of mass destruction there that threatened our national security. And this June 30th, turning over the reins of government in the initial phase to a successor Iraqi government.

So I think we should recognize and be very proud of our military and proud of what has been accomplished. And I just wanted to know what it is that our objectives are.

And I'm glad the secretary is, if he is, reassessing -- or assessing anyway, based on current realities, what the timetable is going to be. Are we talking about 134,000 troops into the year 2006? What is their role going to be? What's the role of the couple hundred thousand Iraqis that have been equipped and trained now? They should be taking over responsibility.

I don't know if we have time to get into what's happening in Fallujah, but I note that General Conway there has ceded some authority there, and it seems -- at least it's not in the news as volatile -- I'm sure it's volatile, but at least it's not exploding currently. I don't know what the assessment is of that success, but that seems to me to auger what ought to be the goal, to get the Iraqis responsible for walking the streets and policing their own communities and enforcing law and order, rather than our troops.

So I hope we can have time to devote to that in the near future.

Thank you, Mr. Chairman.

WARNER:

Thank you very much.

If my colleagues would indulge me a minute, I've just been handed a press report, New York Daily News today. It's entitled, "Rumsfeld Has Doubts." But as I read through it, his quotes, which I'll read, are very cryptic. And I think he's addressing the turnover of authority on the 30th of June.

Rumsfeld said the prison abuse scandal had delivered, quote, "a body blow," end quote, to the nation-building effort in Iraq that has cost the lives of more than 770 U.S. troops.

Quote: "Will it happen right on time? I think so. I hope so. Will it be perfect? No. Is it possible it won't work? Yes."

In the overall war on terror, Rumsfeld said the U.S. is making progress in Afghanistan, but, quote, "I look at Iraq, and all I can say is, I hope it comes out well, and I believe it will. And we're going to keep at it," end quote.

I think it expresses his resolve, but a pragmatic observation of the events that we've seen the last 30 or so days.

Thank you very much.

DAYTON:

Thank you, Mr. Chairman.

WARNER:

Senator Sessions?

SESSIONS:

Thank you, Mr. Chairman. And I would just add, I hope those remarks and the decapitation of the American recently there will cause the Iraqi leaders to realize they've got to step up, that it's time for them to lead in Iraq.

Mr. Secretary, as I understand this situation, we've got a number of accounts with money in it, some with some extra money in it, some with some money accounts that may be running low from the last supplemental. And I remember suggesting, I think at a hearing, or maybe in conversation with senior department leadership, that I thought we ought not to take a chance, that we ought not to have some budget hawk, good person in the Defense Department, telling a commander, "I don't think we can afford this item because that account is running low," and we have a soldier lost because we didn't have the money necessary to give to him. Because they have certain responsibilities not to let the account run over. And I don't want them to get panicky and make those kind of decisions.

Is that part of your concern?

WOLFOWITZ:

It's exactly our concern, Senator Sessions. And I would add, we also don't want them to say, "Well, we have money, but it's in the wrong account and it's going to take a month to reallocate it." We don't want them to say, "Well, we have a lot of money for tank ammunition, but we don't have any money to give you body armor, radios for the Iraqi police whom you're trying to equip." That was a problem in last fall. And as I said in my opening statement, I appreciate the flexibility this committee is trying to get us in the next fiscal year.

But flexibility is very important, not just the total amounts that you have, but the ability to meet an emergency need when it arises. So exactly in the spirit of Senator Collins' comment earlier, we want to work with the Congress to make sure the Congress has the right degree of oversight and the troops have the right degree of flexibility.

SESSIONS:

Well, I felt strongly that this was really an unacceptable event when we had this bureaucratic problem with getting money to the security forces in Iraq who are critical, I believe, to stability and success there.

Has that been solved to date? And also, will this money allow commanders, General Petraeus, who's going there to deal with this specific problem, will it give him the funds he needs to bring that force up to the highest level?

WOLFOWITZ:

In terms of total quantity of money, yes. In terms of flexibility, largely, since the supplemental money is now flowing.

There is one issue which I think it's more in the area of the Appropriations Committees with respect to the authorities for which CERP funds can be used, and we want to make sure that we have the right understanding on the flexibility there.

SESSIONS:

Well, I guess I'll ask General Pace.

Are you confident that we can get the funds necessary to bring the security forces, the Iraqi security forces, up to their highest possible level under the current circumstances with this supplemental or this account that you're requesting? Will this help in that area also?

PACE:

Sir, it will help in that area. And it has been pointed out, there had been in the past understandable problems with allocation of dollars on the battlefield to hiring Iraqi military, hiring Iraqi police, hiring local civilians to do work by the commanders on the battlefield.

We should be accountable for every single dollar you've given us and every dollar you may give us. That goes absolutely unquestioned.

SESSIONS:

Well, I appreciate...

WOLFOWITZ:

Senator Sessions, I do want to add, I mean, we did request \$500 million in authority, not funding authority to use accounts for training and equipping Iraqi security forces. And I believe this committee reduced that to \$150 million. And I would encourage any effort that could be made to raise that ceiling.

SESSIONS:

Well, I have been concerned about that. And to me that's just -- since I went there in August of last year, it struck me, I visited with the local security forces. And they will tell the tale, their success or lack of it will make the key difference here.

Just with regard to the philosophy of where we are, I have felt that a supplemental is all right for this effort. In fact, I think it allows us to separate the cost of the war from the cost of operating the Defense Department.

So I'm not agreed with Senator Levin, although he brilliantly raised the question earlier today, on the fundamental idea that it's appropriate to fund an extraordinary military effort by separate accounting. I think it leaves Congress in a better position to watch it.

Now, I tend to agree with the others, however, that this lacks the kind of transparency that we'd like to have and we feel like we need to have. So I'm glad that you're willing to look at it and help us get some more transparency and some more oversight.

SESSIONS:

General Pace, the other thing I would like to ask you is, and your commitment on, we've increased the Defense Department funding, but not greatly. As Senator Inhofe said, as a percentage of the gross domestic product of this country, we're less than we were probably in the '90s; certainly in the '80s -- early '90s or late '80s.

But I'd like to know that the supplementals that are going to Iraq and Afghanistan are not being used to fulfill some Defense Department wish list on the theory that whatever you need for this war you're going to get, so as much as you can stack in there to fill other needs, it would be a temptation, I would think.

Are you watching that?

PACE:

Sir, we are watching that. And we should watch that, and we should be accountable to you for that. And you do have my commitment to ensure that the money you allocate for us to use in Afghanistan and in Iraq is used properly in both those countries.

SESSIONS:

Well, we have voted by better than three-fourths in this Congress, and the American people have supported sending our soldiers there. We have an absolute obligation to support them completely. We committed them. They are performing exceedingly well under very dangerous conditions. Many of them this very moment are in dangerous conditions, perhaps executing the policies of this Congress. And so we need to support them.

I thank you for your answers.

And thank you, Mr. Chairman.

WARNER:

Senator, thank you very much.

Senator Akaka has not come yet, has he? All right.

Senator Bill Nelson?

BILL NELSON:

Thank you, Mr. Chairman.

Senator Byrd, thank you for reminding us of the Constitution.

And it's not honoring the Constitution when we relinquish our constitutional authority without requiring the specificity.

I want to give a couple of examples.

We've now gotten into a routine where we pass an appropriations bill and then shortly thereafter we pass a supplemental appropriations bill.

It happened just last year. We passed the appropriations bill in September, and lo and behold, one month later we pass a supplemental appropriations bill. Now, that's not a way to run a railroad.

We have the administration's request coming to us earlier this year in the Budget Committee, and they do not request in their budget request any of the money for the

operations in Afghanistan and Iraq. That's not a way to run a railroad. That's not a way for us to exercise our constitutional authority as the appropriators.

So I think you all have gotten the message here today that we need some specificity. We need, for example, last year in the supplemental I put in a \$10 million little item, which was for family readiness in the National Guard. That was in October of last year that it was passed, and it has yet to be obligated by the Department of Defense. And that was to help the family members since the National Guard members were being extended on duty.

And, of course, as we look to the interest of -- since the Department of Defense is relying so heavily on the Guard and Reserves these days, it's going to be necessary to refit the National Guard and the Reserves when they are then going to be returned to Iraq.

And so a logical question for me that you all can't answer today is, how much is in this \$25 billion request to reset the Guard and the Reserves so that we know that they are prepared?

BILL NELSON:

But it's not here; you don't have that information.

So I think, personally, ultimately, what's going to have to be done is we're not going to have 105,000 or 130,000, I think we're going to have to go to 150,000 troops.

And I think sooner or later that the world community is going to be convened and some kind of consensus is going to come and NATO is going to be asked to come in, led by the U.S., but that to stabilize Iraq for the long-term is going to take some 150,000 troops, so we're going to have more expenditures, and this -- which I'm willing to support, but I need to know the specificity so that I know what I'm doing, as Senator Byrd has so eloquently pointed out, that I'm fulfilling the oath that I took to uphold the Constitution, so I think this is kind of the message that you all clearly are getting today.

On the prisoner abuse issue, I would just say this in passing, that one of the photographs that struck me the most was the one that had already been printed in the newspaper, which it was of the cell block where the bodies were clumped together naked and where they were, in this particular photograph, it looked like that they were shackled together.

What was instructive about the photograph that we saw in the newspaper was that it seemed like that the troops there were just going on about their normal business.

In the photograph that was not tightly cropped like it was in the newspaper, we could see other troops there, and Senator Clinton and I counted seven or eight troops, as if this was business as usual.

Now, you can't tell me that seven or eight Army privates are going to be responsible for this and that it is our responsibility, indeed, it's your responsibility to go up that chain of command and to find out how these troops were ordered to do what they were doing.

And I personally think that it's not going to lead to General Miller. I think he went over and made a recommendation on what he saw happen in Guantanamo.

I think clearly, General Sanchez, it's not going to lead to him, because in the report that I've seen and the time line, he clearly started the inquiry immediately after he was notified. But we need to know where this goes, Mr. Secretary.

BILL NELSON:

Thank you, Mr. Chairman.

WARNER:

Thank you, Senator, thank you very much for your observations on this question. We will now turn to Senator Reed.

REED:

Thank you, Mr. Chairman, and I understand that your original guidance has been withdrawn.

WARNER:

The senator is correct, for reasons which I stated that...

REED:

So I pose the following question: General Pace, if you were shown a video of a United States Marine or an American citizen in the control of a foreign power, in a cell block, naked with a bag over their head, squatting with their arms uplifted for 45 minutes, would you describe that as a good interrogation technique or a violation of the Geneva Convention?

PACE:

I would describe it as a violation, sir.

REED:

Would your conclusion be different if it was ordered by a high-ranking officer of that foreign power?

PACE:

No, sir.

REED:

As I read General Sanchez's guidance, precisely that behavior could have been employed in Iraq.

Let me ask, since you said in respect to this supplemental appropriation, your responsibility, and I respect it, is to absorb all the details and all the data from the theater of operations and make recommendations and decisions.

Did the Joint Staff review General Sanchez's recommendations, his interrogation rules?

PACE:

Sir, I'm not aware -- what recommendations?

REED:

Well, the rules that we were shown by General Alexander and others which would allow, with his permission, to keep someone in a squatting position and presumably naked, with their arms up, for 45 minutes. Did you review any of those rules or standard operating procedures which General Sanchez approved?

PACE:

Sir, I did not personally see them, and I do not know to what level they were visible or reviewed.

WARNER:

Senator, that's an important question. I think the witness should be given a full opportunity to answer that promptly for the record, because -- and I think we should also provide him with the document that was utilized by this committee and the Intelligence Committee yesterday to which you refer.

REED:

Yes, Mr. Chairman, I concur.

Were there any discussions of these interrogation techniques by the general staff, by the Joint Staff, since General Sanchez is commanding a joint operation?

PACE:

Senator, the only discussions of which I am aware with regard to interrogation techniques and procedures had to do with operations in Guantanamo. I am not personally aware of any discussions beyond the theater of the interrogation techniques in Iraq.

REED:

Mr. Secretary, are you aware of any discussions about these interrogation techniques and General Sanchez's order?

WOLFOWITZ:

I'm not aware, no. I am aware of discussions about Guantanamo, and I can tell you, to what I am aware of, those certainly would not have been remotely permitted in Guantanamo.

REED:

I just heard General Pace say that the behavior that General Sanchez authorized, subject to his order, is a violation of the Geneva Convention. And that was unvetted by the senior members, civilian members, of the Department of Defense?

No discussion? No suggestion to General Sanchez that he could pursue this either in writing or verbally?

WOLFOWITZ:

As I said earlier, there is an enormous amount of detail involved in this investigation. You are talking about things that General Pace and I have not seen and I don't think are in a position fairly to comment upon. We will answer you for the record.

You've heard hours of testimony, including closed testimony, from people who are digging into this subject in great detail and great depths at the secretary's instruction. His instruction to the two of us is to make sure that while that work is going on, that the other business of the department is being attended to.

And Mr. Chairman, I'll be happy to understand for the record what this question refers to, and give you a clear and honest answer. And I know General Pace will also.

REED:

Well, Mr. Secretary, we've heard hours of responses, but until General Pace's response, I haven't heard anything as candid and as forthright, frankly.

And what I've heard from you is dissembling and avoidance of answers, lack of knowledge, beating on past...

WOLFOWITZ:

(inaudible), Senator Reed, I have General Pace's same reaction. What you've described to me sounds to me like a violation of the Geneva Convention. It's the first time I've heard that it was in General Sanchez's direction. And I believe it's the first time that General Pace has heard that it was General Sanchez's direction. And all I know...

REED:

Well, I was suggesting that you're not doing your job then. These were the orders issued to a joint intelligence operation in that prison, presented to us in a hearing yesterday by a representative of the Department of Defense as the standard procedures that could be followed.

WARMER:

Senator, let me interrupt. Just a comment.

In preparing for this hearing, I talked at length with the deputy, expressing the absolutely essential need that he and the vice chairman come up today.

And he told me very candidly that for the past week or so, he has had to focus on the daily operations of the department.

WARNER:

And such questions as might be put to him regarding the prisoner situation in Iraq, he said, "Senator Warner, I simply haven't had the opportunity to keep apace of all the work that the secretary of defense and the chairman are doing on this question."

So I'd like to say in fairness to our two witnesses today, to me, they were very forthcoming about their working on these budget issues at the same time the secretary is working on the other issues, and they may not be able fully to respond to questions of today. And I think he honestly said that.

REED:

Mr. Chairman, I respect immensely your leadership in this committee, and I will...

WARNER:

Well, let's just let the senator finish.

Thank you.

REED I will...

LEVIN:

I wonder if Senator Reed will just yield on this issue for one minute...

REED:

I will yield.

LEVIN:

... because I think you should -- if you haven't seen these rules, they were at a public hearing before this committee. They were presented by General Alexander. You ought to see them if maybe we can have somebody take them out to him.

If Senator Reed would yield on this, because if you folks don't know about what happened in open session on this issue, there's a problem. This goes to the heart of the issue.

And here's what he said on the interrogation rules of engagement. We brought with us the rules -- that's what's going down to you right now -- of engagement that were in effect at the Combined Joint Task Force 7 in Iraq prior to October 2003.

These rules are in compliance with the Geneva Convention, he says.

And I think as Senator Reed had just pointed out, if you look at those rules there, stress positions up to 45 minutes -- that's what I assume Senator Reed is referring to, and directly stem from the interrogation manual. These are the rules that interrogation soldiers are trained on.

And what you were asked about was those rules right there. And if that stress position, which I agree with Senator Reed about -- I think he said 40 minutes is a violation of the Geneva Convention -- which pretty clearly, it seems to me, the fact that a commanding general approves it, as you'll see in that right hand column where it says, "CG approval," does not eliminate the violation of the Geneva Convention. So those are the rules.

But Secretary Wolfowitz, this was in public session in front of this committee here. And it just amazes me that you're not familiar with something that goes to the heart of the issue of the Iraqi interrogation.

I got to point out one other thing. I've taken too much of Senator Reed's time. Perhaps the chairman would allow this not to be counted against his time. But take a look at the title. Have you ever seen a title about rules of engagement relative to interrogation? Rules of engagement relative to interrogation?

General, have you every seen that description before?

PACE:

Not those words. No, sir.

LEVIN:

Rules of engagement have to do with the use of force. The title of that document seems to me to dramatically say it all. And that was approved.

Secretary Wolfowitz -- and you're saying you don't know or you've never seen that document before? That's a formal document.

WARNER:

But it came out of Central Command, is my understanding.

LEVIN:

Well, I know. I'm just asking. I want to make sure, and I'll go back. Because it seems to me this dramatizes the failure of leadership here. And it goes a lot more than just, as Senator Nelson said, the six enlisted personnel. Those are rules of engagement for confronting detainees, using the very term which is not supposed to be used against detainees.

Secretary Wolfowitz, you're not familiar with that document at all?

WOLFOWITZ:

I saw this document for the first time this morning. It seems to me, but I don't know, and this why I'm very reluctant to start commenting, that what Senator Reed described is something that goes quite beyond what is permitted here, even...

LEVIN:

No, no. Look at the dots. Those two dots. "Stress up to 45 minutes."

WOLFOWITZ:

Senator Reed described something that went quite a lot beyond just stress positions.

LEVIN:

OK. I'm sorry.
Senator Reed?

REED:

Well, that's the difference though...

WOLFOWITZ:

Let me say it says here "Detainees will never be touched in a malicious or unwanted manner. Approaches must always be humane and lawful."

I don't think what Senator Reed described is either humane or lawful.

REED:

Mr. Secretary, do you think crouching naked for 45 minutes is humane?

WOLFOWITZ:

Not naked, absolutely not.

REED:

So if he's dressed up, that's fine.

But this also has other environmental manipulation.

Let me put it this way. Seventy-two hours without regular sleep, sensory deprivation, which would be a bag over your head for 72 hours -- do you think that's humane, putting a -- and that's what this is, a bag over you head for 72 hours? Is that humane?

WOLFOWITZ:

Let me come back to what you said the work...

REED:

No, no. Answer the question, Mr. Secretary. Is that humane?

WOLFOWITZ:

I don't know whether it means a bag over your head for 72 hours, Senator. I don't know.

REED:

Mr. Secretary, you're dissembling, nonresponsive. Anybody would say putting a bag over someone's head for 72 hours, which is...

WOLFOWITZ:

I believe it's not humane.

REED:

... sensory deprivation.

WOLFOWITZ:

It strikes me as not humane, Senator.

REED:

Thank you very much, Mr. Secretary.

Thank you, Mr. Chairman.

WARNER:

Thank you very much.

And, again, as I pointed out, it was made clear to the chair that these witnesses for the past week or 10 days have been heavily engaged in the daily operations of the department. And I can understand in a situation of this magnitude how the secretary needs to allocate responsibilities among his subordinates.

So we'll continue now, and we have our wonderful...

WOLFOWITZ:

Mr. Chairman, if I might point out, the reason we know so much about this is because the department, since we first understood back in January there was a problem, has undertaken extensive investigations. That's where this information comes from.

And one of my problems is I don't know what some of these words mean. If they mean what Senator Reed says, then I can tell you I think it's not humane. I don't know what the words mean on a piece of paper.

And I...

WARNER:

I think, Mr. Secretary, you and General Pace have done your very best to be responsive to the questions. I do not detect any evasiveness. To the extent of your knowledge, you've spoken out forthrightly.

WARNER:

Senator from New York.

CLINTON:

Thank you, Mr. Chairman.

And before I get to my questions, I just want to clarify that this entire committee has been supportive of the Department of Defense and particularly of our men and women in uniform, and the questioning and even the contentious nature of our concerns should not in any way be taken as an indication of any lessening of that support.

We have properly focused on the abuses and the improper behavior that has been brought to our attention, because it is an issue that must be investigated, not only because the actions of a few should not be permitted to besmirch the honorable service of all of our men and women in uniform, but also because we are a nation that abides by the rule of law.

And we are a nation that understands not only the necessity of adherence to our Constitution, but that due process is one of the great inventions of Western civilization.

And so these issues go to the real heart of the use of power. An occupying army, by its very nature, is in a powerful, dominant position.

We deplore the barbaric conduct of those who murdered Mr. Berg; we deplore the extraordinary cruelty that they have evidenced with respect to our civilians and military personnel, but we are not them.

And it is not just in the nature of ensuring that our conduct is held to a higher standard, but that we safeguard the rule of law.

And I have to say, Mr. Secretary, you come before this committee with respect to this budget request in my view having seriously undermined your credibility over a number of years now.

When it comes to making estimates or predictions about what will occur in Iraq and what will be the cost in lives and money that the people of the United States, particularly our young men and women in uniform will bear, you have made numerous predictions, time and time again, that have turned out to be untrue and were based on faulty assumptions.

For example, in March 2003, you said, and I quote, "There's a lot of money to pay for this reconstruction. It doesn't have to be U.S. taxpayer money. We are dealing with a country that can really finance its own reconstruction and relatively soon," unquote.

Again, another quote: "The Iraqi people understand what this crisis is about, like the people of France in the 1940s they view us as their hoped for liberator," unquote.

And I want to commend General Pace for his candor today. And it reminds me very clearly of another United States officer who served honorably, General Shinseki, who before this committee, told us, based on his best judgment and experience, that it would take several hundred thousand American troops.

And in response to that prediction, you said, and I quote: "The notion that it would take several hundred thousand American troops just seems outlandish," end of quote.

And, Mr. Secretary, the challenge we face in dealing with this request is one that has increasingly caused concern on both sides of the aisle.

The competence and credibility of the leadership team on the civilian side in the Department of Defense has certainly been called into question for good reason.

So when you come before us and ask for a \$25 billion blank check, which, indeed, is what it is, that raises questions among my colleagues on this committee and throughout the Senate.

CLINTON:

But it for me goes beyond just the issue of this particular request. It reminds me very much of what happened, according to Bob Woodward's book, "Plan of Attack," when President Bush acknowledged that months before Congress voted an Iraqi war resolution in October 2002 he approved 30 projects in Kuwait that helped set the stage for war, with no real knowledge or involvement of Congress.

Now, I know all the explanations we've heard about how it wasn't really this and it was contingency that, but it did not come out of any account that the Congress of the United States appropriated for the purposes to which the money was put.

Now, Secretary Wolfowitz, several weeks ago Secretary Rumsfeld said, in response to a question, "If you had said to me a year ago, 'Describe the situation you'll be in today, one year later,' I don't know many people who would have described it -- I would not have described it the way it happens to be today. I certainly would not have estimated that we would have had the number of individuals lost that we have lost in the last weeks."

Mr. Secretary, there have been many veteran members of this committee and elsewhere in the Congress who have repeatedly urged the administration to increase troop strength. There have been, we know, a number of our military leaders who have made the same argument. That has been resisted time and time again.

I think it is appropriate that you have accepted the suggestion made by Senator Collins, and I hope you take it to heart. The United States Congress is a full and equal party in our government. That is the way it was set up, that is the way it has worked very well, and that is the way it should continue to work.

And no matter how strongly anyone in the administration feels about this mission, that cannot be an excuse for undermining the time-proven method of our doing business in this Congress.

So I, for one, will join my colleagues in supporting the money that is needed, but I will not do it without further specificity and without a greater understanding of where we are headed.

And I look forward to the further consultations that the chairman has suggested will be held. Because if we're going to be responsible for sending, along with you, these young men and women to Iraq, Afghanistan and elsewhere, then we should accept the full responsibility for what that entails. And that means working with you as a co-equal branch of government.

Thank you.

WOLFOWITZ:

Senator Clinton, I can't respond to everything you just said, but I would like, Mr. Chairman, to just comment on this issue about troop strength.

You leave the impression that this is a civilian decision and by quoting General Shinseki, that the military has a different view. The reason I said what I said some time ago was because, in fact, General Shinseki's estimate was very, very different from the combatant commander's, General Franks. And, in fact, I had a discussion in a previous conflict, in Afghanistan, with General Franks, pressing him on the question of, "Don't you need more troops?" And he was quite insistent he not only didn't need them, he didn't want them.

I believe in hindsight that General Franks was absolutely right, that he was right to hold down our troop levels in Afghanistan.

We've had many discussions back and forth between the civilian leadership, the military leadership back here, and our combatant commanders in the field about troop levels, about whether you can leave the Shia heartland to a coalition division or you need American troops.

There is not a military view and a civilian view, as you try to suggest. There has been unified view and an attempt to estimate realistically what troops we need.

It is a mistake, it is a serious mistake, to put in more troops than you need, because, as General Abizaid would say, it increases the hostility toward us an occupying power, and of course it exposes us to more casualties.

Equally, it's a mistake to put in too few troops. And when we needed more troops because the situation in Najaf and Karbala in particular had grown into something that that multinational division couldn't handle, we've kept the 1st Armored Division to deal with the job.

We're trying to get the numbers right. We are working closely, military and civilian. It's what General Franks in a long and eloquent presentation to a combatant commanders conference called iterative planning. It's a constant back and forth. There is no ignoring of military advice, I can assure you of that.

WARNER:

We note the vote is on. We're very late. We will return as quickly as possible.
(RECESS)

SESSIONS:

All right. Senator Warner asked that I chair the remainder of the hearing, or until he returns. I hope he does, because he's such a great presider and it's a pleasure and an honor to work with him.

Next is Senator Talent.

SESSIONS:

I would note that we had indicated to the panel that you had some things that had to be done, and 12:30 was where we were trying to finish up. We're past that. Thank you for staying past that time.

And I recognize Senator Talent.

TALENT:

There could hardly be anybody else next, Mr. Chairman, nobody else being here.

SESSIONS:

There may be. You never know.

TALENT:

I appreciate your sticking around. And I came back also because I have a few things I wanted to say that actually differ somewhat from some of the sentiments my colleagues have expressed.

First of all, and a lot of people have said this, appropriately, we're grateful for you being here and answering these tough questions. And I'm grateful for your service on behalf of a very noble cause and one that I share and believe in very much.

Let me phrase it this way to you. If I had been drawing up this supplemental and I'd been in your shoes, I'd have had some concerns about how it was going to go over on the Hill and how I was going to be treated. And I think I might have said to myself: "You know, if I ask for a big number I'm going to be accused of asking for more than I need so that I don't have to come back very soon and get some more money from Congress, and I'm going to be criticized for undermining accountability with the Congress."

"If I ask for a small number, I could be criticized for not saying exactly what it was I really think I'm going to need."

"If I say specifically what I think we're going to need, my best guess now as to what we're actually going to spend this money on, and I'm probably going to have to change some of that later, war being what it is, well, then I'm going to be accused of incompetence and not knowing what I was talking about."

"But if I don't say specifically what I'm going to need for the money, then I'm going to be accused of undermining Congress' oversight ability by not telling Congress exactly what it is I want."

I've sat through a lot of these hearings over the years, and I know, and I think everybody here knows that there's oversight and then there's second guessing, and just sometimes it's possible that this institution doesn't know the difference.

TALENT:

So I know you had a problem. War is a messy and difficult thing. And I've heard a lot here about our oversight responsibilities, and that's very important. I'm a huge believer in the checks and balances in the system.

But the question I ask myself when I consider your request is: Will it help us win the war?

Yes, our oversight responsibilities are very important, but more important than preserving that is, will giving you this money in this form help us win the war?

And I want you to know, I think it makes some sense what you're doing. You're saying: Look, we don't know what the next five or six months, or eight or 10 months is going to entail exactly. Maybe the transition's going to mean we need to train a whole lot more Iraqis or it's going to be a whole lot more difficult than it's been. Maybe there'll be some insurgent leader in some other town besides Fallujah and we're going to need more money for that. Maybe we're going to need to ship this money here or there.

I think it makes sense to come in, to ask for a relatively small number, to say to us: We're going to report all the time to you what we're doing with it, and we're going to have to come back pretty quickly, and if you don't like what we've done with it, we know we're going to hear about it when we come back again.

I think it's a pretty useful compromise.

And I'll say something else. We're going to end up with some compromise version of this, I think, along the lines of what Senator Collins had suggested. And if you had come in and suggested a compromise version, you probably would have ended up being told, hook, line and verse, exactly what to do.

So I know it was difficult figuring all this out. I think it's going to end up you did a pretty good job. And I'm one senator on this committee who supports the approach that you've taken.

Thank you, Mr. Chairman.

SESSIONS:

Thank you, Senator Talent.

I believe...

WOLFOWITZ:

Can I just make one comment, apart from saying thank you...

TALENT:

Thank you. If you dare, go ahead.

WOLFOWITZ:

... because I think you have described the needle we're trying to thread. But you cited one case, which is we may decide we need a lot more Iraqi security forces than we planned on, and that is the one thing that isn't covered because -- let me be clear -- we have a lot of money for Iraqi security forces in the supplemental. We have Iraqi budget money that's been applied to Iraqi security forces, over \$1 billion. I don't know the exact amount; I'll get it for the record.

We have, if this committee's proposal goes through, we will have \$150 million for Iraqi security forces, it will no longer be limited to just the army.

We did ask for \$500 million, which would give us an extra margin, and I must say, and I'll say it again, we tie our troops' hands when it comes to equipping indigenous forces that are fighting with them in a way we wouldn't conceive of tying their hands when it comes to providing them ammunition.

And yet Iraqi troops in the front lines are better than ammunition, they're people dying for their own country. More than 300 of them have already died in the line of duty.

There have been some big disappointments in the last couple months, but there were some big successes, especially up in Mosul, where General Petraeus trained and equipped the Iraqi security forces up there.

So I'll make one more appeal. If this committee would grant the president's request in the main budget for \$500 million in authority rather than \$150 million, we would be very appreciative.

TALENT:

I think if all of us would recognize -- and we do -- and I could pay the respects in which I'm a little critical also. I do think you're going to need this money and maybe calling it a contingency is a mistake. I mean, this back and forth is very important. I think we all have to recognize, sometimes you fail to think adequately and sometimes we fail to.

There is no way to predict in war with any degree of specificity exactly what's going to happen. And I'm always worried when people ask you for predictions, what are you going to need six months from now? Because, again, if you don't predict, then you're accused of not saying what you think. And if you do predict, it's probably going to be wrong.

So I think the overall effort on a strategic level is going very well, because we have the finest people who have ever served in the military, ever in the history of mankind. And I think they're pretty well led, too.

Thank you, Mr. Chairman.

SESSIONS:

Thank you, Senator Talent.

Senator Talent, thank you very much.

Just to get this straight, the president has requested in this budget \$500 million for this fiscal year defense bill for training local police...

WOLFOWITZ:

Training, equipping security forces -- we defined it somewhat more broadly. This committee narrowed it to Iraqi and Afghan security forces. That, we can...

SESSIONS:

So if you get that, you'll be able to handle that without having to use this money, perhaps?

WOLFOWITZ:

No. What I'm saying is we have no authority beyond that to dip into this money for Iraqi security forces.

SESSIONS:

All right.

WOLFOWITZ:

Or in any other money in our budget. We are limited to what's already in the supplemental. Let me not be misleading. There's a lot of money in the supplemental. But it's allocated, and sometimes it's tightly allocated. And we're having some difficult decisions about how much goes to the Iraqi army, how much goes to the civil defense corps.

Senator Talent referred to the distinct possibility, especially if they're successful, that we'll want more Iraqi security forces and better equipped Iraqi security forces.

And the only margin we have beyond the considerable money that's already budgeted is, because of limitations on authorities, would be that \$150 million. We'd like to raise it to \$500 million.

We have authorities -- expansive authorities -- for pretty much everything else we do, which is why with consultation and reprogrammings and so forth, we can move within military accounts. What we don't have is the ability to move into this account, which people have correctly been concerned could be viewed as actually doing foreign security assistance by the back door.

Let me assure you, it's not that either. We will not do any of that funding without the concurrence of the State Department, we've been clear about that and explicit.

SESSIONS:

Thank you, Mr. Secretary.
Senator Levin?

LEVIN:

Thank you, Mr. Chairman.

There was a commitment from other countries to contribute toward the reconstruction of Iraq, and I'm wondering if you could tell us how much money has actually been received.

LANZILLOTTA:

Senator, I don't actually have those numbers off the top of my head. I know it was included in the 2207, with the quarterly report under Section 2207 that was submitted recently. I'd be happy to take that for the record and get you that information as quickly as...

LEVIN:

Do you know how many countries made a commitment and how many have come through with their commitment?

LANZILLOTTA:

I don't have that number.

Senator, I don't have that number. As I said, I'd be happy to take that...

WOLFOWITZ:

We'll get it for the record.

LEVIN:

Secretary Wolfowitz. Secretary Rumsfeld in referring to the Geneva Convention in the Iraq context said just a few weeks ago on NBC that the Geneva Convention did not apply precisely. Do you know what he meant?

WOLFOWITZ:

I think both Geneva Conventions, III and IV, apply in Iraq.

LEVIN:

Do you know what the secretary might have meant when he said that they did not apply precisely then?

WOLFOWITZ:

I don't know.

LEVIN:

Were you aware of that comment before right now?

WOLFOWITZ:

I think I'd heard something like it. And I could speculate, but I'd be speculating.

LEVIN:

All right.

Mr. Feith has made commitments to provide materials that he has not kept. The last time you were in front of us, on April 20th, you said you would look into the delay of materials that I had requested back in November of 2003. On February 26th, Mr. Feith promised in a letter to me that he would provide those materials quickly and promptly. We still didn't receive the letters.

Do you know what is going on with that commitment?

WOLFOWITZ:

Senator, I think there was a big package of materials that may have -- should have come up here yesterday. I'm not 100 percent sure. We will check that.

LEVIN:

Will you let us know what is going on? One way or the other, will you get back to us? And tell us when that's going to...

WOLFOWITZ:

I'm hoping it's here.

LEVIN:

The way I see these pledges of other countries to Iraq reconstruction, there's \$13 billion that had been promised by one, two, three, four, five, six, seven, eight, nine, 10 countries. Does that sound right, Mr. Kaplan?

KAPLAN:

But...

LEVIN:

Does anybody follow this? Japan committed \$4.9 billion. Do you have any idea how much of that they've come through with?

KAPLAN:

Senator, I have in front of me the amounts of the pledges. I don't have...

LEVIN:

No, not the pledges. I want to know whether they've kept their pledges.

KAPLAN:

No, Senator, I don't have that in front of me. But as I've said, if it's OK, we'd be happy to provide it for the record.

LEVIN:

Do you have a sense as to whether most of the pledges have been kept by most of the countries?

WOLFOWITZ:

We've had difficulty in Afghanistan, I know, in slow delivery by the international community on their pledges. I think it's even slower in Iraq because of the security conditions there. But we'll have to get you the exact numbers.

LEVIN:

Whether the security conditions are difficult or not, that's no excuse for the pledges not being fulfilled, is it?

WOLFOWITZ:

The pledge was not for an expenditure by this particular month. It's over a period of time.

LEVIN:

But some of it has been owing so far, I assume, right -- some of the pledges are supposed to have arrived by now?

WOLFOWITZ:

You'd have to ask the State Department or Secretary Powell who chaired the Madrid meeting. I don't believe they pledged a specific time schedule. I think they pledged certain amounts within a couple of years. But I...

LEVIN:

Would OMB know? Does OMB track this?

KAPLAN:

We collect the information from the appropriate departments, Senator. Our responsibility lies with the appropriated funds from the Congress.

LEVIN:

OK. Well, would you let the committee know something that I think we should be on top of. I mean, it's already pretty tiny, compared to what our commitment is. It seems to me at a minimum somebody ought to be knowing whether or not other countries that have made these minimal pledges have come through at even whatever they've pledged.

The \$25 billion that you request also is funding that does not expire, so it's a no-year request. Is that the way you would agree -- would you agree with that characterization?

KAPLAN:

Yes, Senator.

LEVIN:

There's no time limit on it?

LANZILLOTTA:

That's correct, Senator, although I think it's our intention that when we came forward with the full supplemental request in FY 2005, that would supersede whatever is remaining for the contingent emergency reserve.

LEVIN:

All right.

I just want to be clear on this one question which came up before about these interrogation rules. There are rules for Guantanamo, as I understand it. Is that correct, Secretary Wolfowitz?

WOLFOWITZ:

Yes.

LEVIN:

And were you familiar with those?

WOLFOWITZ:

Familiar might be overstating it, but yes, I've seen them.

LEVIN:

OK.

And were you part of the approval process for those rules of interrogation for Guantanamo?

WOLFOWITZ:

Yes.

LEVIN:

OK.

But on these rules, relative to Iraq, of General Sanchez, you did not -- you were not aware of these until just a couple days ago?

WOLFOWITZ:

Actually, I was not aware of them until this morning.

LEVIN:

And General Pace, does that also go for you and the chiefs? You were not aware of these until the last few days? Or were you?

PACE:

I personally was not. I do not know about the other chiefs, sir. I personally was aware of the ones for Guantanamo. I was not aware of the ones for Iraq.

LEVIN:

Can you check out and see whether or not these rules were ever submitted to the chiefs, or whether they were aware of them?

PACE:

Sir, I will find out the individual chiefs. They were not submitted to the Joint Chiefs. I will find out if any of the service chiefs knew.

LEVIN:

General Pace, I asked you before about this use of the term "rules of engagement" relative to interrogation. And I found it so shocking that that term would be used relative -- that rules of engagement, which normally apply to when force is going to be permitted would apply to that term, interrogation.

Do you remember, either of you, relative to the Guantanamo rules of interrogation, whether or not they were called rules of engagement?

PACE:

To my knowledge they were not, sir. That is a term that does not have any military definition to it, to my knowledge, rules of engagement for interrogation. Rules of engagement are what you said, normally -- correction, not normally -- rules of engagement apply to the use of force and the way they were authorized to use force.

LEVIN:

And what about you, Secretary Wolfowitz? Do you remember whether or not that term was used relative to Guantanamo?

WOLFOWITZ:

I certainly don't remember it being used.

LEVIN:

And Mr. Chairman, if I could just have one last question, even though my time I notice has expired, but I think this will be all that I would need.

There was a term -- this was a statement in the annex of the Taguba report. It was an unclassified December 12th, 2003, situation update to Major General Miller. And the

document describes interrogation techniques permissible for use in the Iraqi theater. And it includes the following statement: Interrogation officer in charge will submit memoranda for the record requesting harsh approaches for a commanding general's approval prior to employment, sleep management, sensory deprivation, isolation longer than 30 days and dogs.

Is that something that either of you are familiar with?
Secretary Wolfowitz?

WOLFOWITZ:
No, I'm not.

LEVIN:
General Pace?

PACE:
No, sir. I haven't seen that.

LEVIN:
Have you ever seen the term "harsh approaches" used relative to interrogation, as being something that would be permitted? Is that a term which is used in a sense that harsh approaches can be authorized under certain circumstances?
Mr. Secretary?

WOLFOWITZ:
I don't recall it being used in any of the Guantanamo techniques that we discussed.

LEVIN:
Or anything else you've seen or discussed?

WOLFOWITZ:
No.

LEVIN:
General Pace?

PACE:
It's not a term I'm familiar with, sir.

LEVIN:
And has Secretary Rumsfeld or you ever signed exceptions or approvals for the use of force in specific instances, either in Guantanamo or in Iraq? That you know of? Has there ever been a request for authorization to use certain techniques relative to specific detainees that required secretarial approval that have come to your attention in Guantanamo or in Iraq?

WOLFOWITZ:

I think you had testimony in closed session with OCC (ph) yesterday on issues about interrogation. I don't believe -- they talk about the use of force, but there are certain things. And I think you were in that session, and I'd be happy to have somebody come back and answer any further questions you have on it in a closed session.

LEVIN:

Well, the Guantanamo rules did provide for certain secretarial approval, do they not, of certain kinds of techniques?

WOLFOWITZ:

Yes, sir.

LEVIN:

And without asking which cases or what, do you know whether there were some approvals given, relative to Guantanamo?

WOLFOWITZ:

I believe there were.

LEVIN:

All right. That's...

WOLFOWITZ:

You know, to be clear, too, I mean...

LEVIN:

And I'm not saying there was use of force. I'm just saying there was use of certain techniques which required...

WOLFOWITZ:

To my recollection, and my recollection is pretty old on this, it did not involve the use of force. And so we're clear about this, it was a very exceptional authority to be used in the case of people who had information about possible major terrorist plots against the United States.

That's why that authority was there. You know, the extreme care with which any special techniques, all of which had to comply with humane treatment standards.

LEVIN:

In Geneva?

WOLFOWITZ:

Under Geneva. I mean, even the special techniques were judged by the lawyers to be compliant. But the extreme care with which some of those could only be used I think emphasizes the fact that there was nothing about the Guantanamo operation that can explain the incredible abuses that took place in Iraq.

And I think, Senator, you and many other members of this committee have been to Guantanamo and I think you've seen first hand that that is an operation that we believe met very high standards.

LEVIN:

Thank you.

Thank you, Mr. Chairman.

SESSIONS:

Thank you, Senator Levin.

I know we've kept you past your time.

I served on the Judiciary Committee for a brief few years. I filled a JAG slot, although I'd admit I did not do JAG officer's school -- and did that at the Army Reserve that I served in for several years. But with regard to the Geneva Convention and Secretary Rumsfeld's statement that it did not apply precisely, I would assume and anybody -- you're wise not to speculate -- but I'll speculate that what he meant was that an unlawful combatant, who is in Iraq just like the unlawful combatants in Guantanamo, are not entitled to protection under the Geneva Conventions.

However, the Department of Defense said: Regardless, they will all be treated under the Geneva Conventions.

Is that correct?

WOLFOWITZ:

Yes, with one qualification. As I understand it, and I'm not a lawyer, the Geneva Convention requires...

SESSIONS:

Senator Levin will catch us if we make an error.

WOLFOWITZ:

... humane treatment for all detainees. It gives special very important privileges to lawful combatants or prisoners of war.

SESSIONS:

Yes, and just to follow up on that, in Guantanamo, you had required approval higher up. General Sanchez's memorandum about harsher approaches, General Pace, just to -- you've been a commander in the field -- a commander, that's a restrictive memorandum, is it not?

In other words, General Sanchez said: Some of these things may be legitimate. If you desire to go into these category of interrogation techniques, I want a written request from the field, and I want to approve it first.

Isn't that what he was saying?

PACE:

That would be restrictive -- it would be restrictive guidance from the commander. The way it was read, and the way that I heard it, I heard that as...

SESSIONS:

It was not a permissive memorandum: Go do all of these things. It said: If you're thinking about these things, seek my approval in writing.

And does he have a legal officer on his staff there that could help him...

PACE:

He does, yes, sir.

SESSIONS:

And they know all of these case histories and the Geneva Conventions and can advise him correctly?

PACE:

He does, yes, sir.

SESSIONS:

Things went awry. And we're not happy with them; they went awry. And it's not good. But I don't think that memorandum should be seen as a permissive suggestion that they should go beyond the Geneva Conventions.

I agree with Senator Levin about these pledges. I think it's time for us to ask our allies while they're not on board and haven't come along -- I know some of them did not make specific dates as to when they would do this. But sometimes -- the time is now, it seems to me.

WOLFOWITZ:

I agree with both of you, I mean, I should have been clear about that. I mean, if we say -- I think we just should be careful about whether they've broken the pledge, but I think our allies should be doing more not less, absolutely.

SESSIONS:

They're helping a good bit in Afghanistan, although some of that has been slowed. There was a suggestion earlier that, well the administration made these promises about how many troops there would be utilized and how long we would be there. Mr. Secretary, have you ever stated, or the secretary of defense or the president to your knowledge, said that by a certain date we would be out of Iraq, that we'd only use so many troops?

Isn't it true the president has told us we're going to do what it takes to be successful and it's going to take a long time to win the war on terrorism?

WOLFOWITZ:

Yes, Senator, and I've tried always to emphasize the great uncertainty of war. I frankly anticipated many things much worse than we have encountered that fortunately didn't take place.

And actually I shared Senator Levin's fear that the greatest danger in this war was going to be the possibility that he would actually use weapons of mass destruction, because we both believed he had them.

There are a lot of things that didn't happen that would have been much, much worse.

The thing that I think did happen that has led to this continuing war is that the enemy that was defeated in major combat on May 2nd dispersed into the countryside. And what we're dealing with now are some tough, ruthless killers who were the core of that abusive regime for 35 years. They know how to build bombs; they know how to murder people; they know how to kill and assassinate, and that's what their specialty is. But they offer no hope for the country, that's what I said before.

We need to, I think, speed up the process so the Iraqis understand we're not there to own their country. They've got to step up and take responsibility, but there's a real positive vision, and Iraqis are hungry for it.

SESSIONS:

Well, I think this has been a good hearing. I think, you've heard from this side of the aisle and on the desk, and you've indicated you'll try to respond as you can to meet the concerns.

And I think the panel, the Senate committee, has made clear, we're willing to support the troops and get this funding as you need it.

LEVIN:

One more question for General Pace.

General Pace, there was a decision made basically to disband the Iraqi army or not to try to reconstitute elements of the Iraqi army right after the war. Were the chiefs -- was that a decision of the chiefs or was that made by someone else?

PACE:

Sir, I think it happened first on a battlefield when the Iraqi army disintegrated, so that the units that we expected might be there...

LEVIN:

But I mean after the battles were over. We understand there was a decision made not to attempt to reconstitute those units, even eliminating the top level officers of the Baath party. But there was a specific decision that was made not to try to reconstitute those units.

Did the chiefs support that or make that decision or recommend that decision?

PACE:

Sir, to my knowledge, certainly I know I did not have a discussion about that with my fellow chiefs in the tank. That decision, to my recollection, was made inside of Iraq, in the Coalition Provisional Authority who had the responsibility, Ambassador Bremer and his team had the responsibility to work with rebuilding the new Iraqi army with the governing council, so that was a decision made in theater.

LEVIN:

See, I think a decision of that magnitude, which has had such implications and such ramifications, surely should have been -- should have involved our top military leadership.

LEVIN:

And I've been critical of the decision right from the beginning, but I'm also critical of the failure to involve our top military leadership, from what I can tell. I've been unable to identify our top military uniformed leaders that have been involved in that decision. And I think it was the wrong decision, but it was surely wrong not to include the chiefs.

PACE:

From my perspective, sir, the enemy had disintegrated on the battlefield. There were no units...

LEVIN:

We wanted them to disintegrate too, didn't we? We urged them not to fight, didn't we?

PACE:

We urged them not to fight. We were hopeful that some might surrender en masse and actually start working for the future of the Iraqi people. That did not happen.

Then after we were stood up as the governing authority, the question was, do we try to go out and resurrect these units that have dispersed to places we don't know? And if we did, how do we do that? Or do we start recruiting for a new Iraqi army?

LEVIN:

(inaudible) the units, right?

PACE:

I'm sorry, sir.

LEVIN:

Right. And that was the question. But you were saying you were not...

WOLFOWITZ:

Senator Levin, it was a conscript army. These people went home. I remember videos...

LEVIN:

I understand...

WOLFOWITZ:

... and television of people walking from northern Iraq to southern Iraq. So the issue was, what do you do with the officer corps? And I think hindsight is 20/20. It's easy -- this was, as General Pace said, a CPA decision. I think it was recommended back here and approved back here.

LEVIN:

By?

WOLFOWITZ:

By Ambassador Bremer.

LEVIN:

It was recommended to you?

WOLFOWITZ:

Well, to Secretary Rumsfeld. He reports to the president through Secretary Rumsfeld.

LEVIN:

But my point is that the uniformed leadership...

(CROSSTALK)

WOLFOWITZ:

... for a minute?

LEVIN:

Sure.

WOLFOWITZ:

Because I, as you say...

LEVIN:

But that's not my point.

WOLFOWITZ:

... it was an obvious mistake. I don't think -- as General Pace said, first of all, there wasn't an army to hang together. The mistake with 20/20 hindsight, I believe, and I think most people would agree, was that when it was disbanded, it took a long time before it was clear that the people who were cashiered would get pensions. If that had been made clear from the beginning, we would have avoided a significant problem.

To bring back that officer corps is not a -- by any means, black and white. We just brought back one of those officers in Fallujah, and we pretty much had to sideline him immediately because he was working with the enemy.

We need clean new officers.

LEVIN:

We agree on that.

The question isn't whether it was black and white. I think it was a mistake, OK. And I said so at the time, so it wasn't 20/20 hindsight. But that's beside the point, who is right on this.

My point here on this is apparently our top uniformed military leadership here were not involved in that decision. That's my point.

PACE:

Sir, I was just saying that to my responsibilities there, I was certainly aware that that decision had been taken. I was certainly aware that that recommendation had come

forward. I had the opportunity as an adviser and as a responsibility as an adviser if I thought that was a wrong thing, to have stood up and be counted. I looked at it. I thought it was the correct decision based on...

LEVIN:

You were asked for your advice?

PACE:

No, sir, I was not specifically asked for my advice on that. However, I have a responsibility as a member of the Joint Chiefs to proffer my advice, to be knowledgeable, and to, as best I can, give my best advice.

We looked at this. I looked at it for sure. They had disintegrated, and the decision that was made was A, do we go out and try to resurrect units that had disappeared or do we start recruiting to a new army and vet those as they come on board? That made sense to me.

LEVIN:

My only question was whether you were consulted. And you weren't. You are now saying that you feel you should have initiated comment had you disagreed with it. And I agree with that.

My only question is, were the Joint Chiefs consulted for formal consideration, and apparently they weren't. I think that's bad, just a generally bad, ineffective and insufficient process. That's my only point here, whether it was right or wrong, we can differ on. But on that one process, I think...

WOLFOWITZ:

Senator Levin, you think we should have called the army back, summoned these conscripts back to the army. I think that would have been a terrible mistake. I think it was a mistake not to let them know when they were in effect being retired that they would -- also be paid. That, I think, we might agree on. But I think it would have been a big mistake to summon Saddam's army back to active duty when they...

LEVIN:

You can call it Saddam's army, but as you point out, it was a conscript army. Many of that army hated Saddam, didn't fight for him. We wanted them not to fight for him. We urged them to drop their...

WOLFOWITZ:

They didn't want to be drafted back in.

LEVIN:

It was not a matter of drafted back in. It's a matter of whether they would voluntarily rejoin units to defend a new Iraq. Instead, we had no army. We still have about 9,000 out a huge need much greater than that in an army.