

tion), Hutson said that the United States had always been a role model with respect to the treatment of captives during wartime, “but I don’t think we are now.”

“We’ve been the country that has given hope to the oppressed and the afflicted around the world, which has made us stronger and the world safer,” Hutson continued. “Unfortunately, we’ve now taken a dramatic step down a slippery slope.”

If this continues, we will have lost more than we have gained, Hutson said. “We will take generations to recover from this, unless we stand up on behalf of these plaintiffs who have been abused under our control and authority, and say, ‘Enough, Mr. Secretary! We want the old United States back.’”

“This lawsuit,” Hutson concluded, “is an attempt to get this country back on the course that our forefathers charted for us.”

In his statement, Hutson noted that the drafters of the Constitution had ensured civilian control of the military, but, he said, civilian leadership “is not a guarantee of success . . . civilian leaders bear a grave responsibility.” Defense Secretary Rumsfeld, Hutson charged, “has failed to uphold that duty,” and “has permitted, and indeed encouraged, military personnel to fall far short of the aspirational standards that Americans deserve and expect in our armed forces.”

Hutson pointed out that not only do direct orders go down the chain of command, but so do attitudes: “In dealing with detainees, the attitude at the top was that they are all just terrorists, beneath contempt and outside the law, so they could be treated inhumanely. Our effort to gain information vitiated 200 years of history. International obligations didn’t matter, nor did morality or humanity. It was okay to lose our soul as long as we got information, no matter how unreliable.

“That attitude dropped like a rock down the chain of command, and we had Abu Ghraib and its progeny. The self-respect of the military and the country was diminished. Our international reputation will be tarnished for generations. In the end, Secretary Rumsfeld’s nonfeasance and malfeasance has imperilled the war effort and endangered troops.”

In a response to questions from *EIR* following the press conference (see Documentation), General Cullen charged that Rumsfeld’s policies have “undermined core principles on which the military’s values and training have been based,” and he said that Rumsfeld’s “short-sighted and arrogant leadership” has put at risk the protections on which the U.S. military depends, when its personnel are made prisoners of war.

Cullen pointed out that, after World War II, the U.S. insisted that leaders be held to account for breaches of international law committed by forces under their command, and that the U.S. today cannot declare itself exempt from this same standard. He showed how the Commission investigating the My Lai massacre in Vietnam applied the same standard, specifically, that “the culture created by the then-Secretary of Defense, Robert McNamara,” that is, the “body count syn-

drome” as the measure of success, played a significant role in the circumstances leading to the My Lai massacre. The My Lai Commission also cited the dehumanization of the enemy, which Cullen compared to the dehumanization and humiliation of detainees under Rumsfeld’s policies today.

Documentation

Brig. Gen. James Cullen and Rear Admiral John D. Hutson (ret.) made statements on the law suit being brought against Donald Rumsfeld, reported below. Part of the lawsuit follows their statements.

Retired Officers Hold Rumsfeld to Account

Gen. James Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General’s Corps, and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

EIR asked General Cullen to briefly explain why he is participating in the lawsuit against Defense Secretary Rumsfeld, what he hopes to accomplish through this, and what has been the reaction of his military colleagues to his involvement in these matters, including his earlier call for an independent commission, and his opposition to the Alberto Gonzales nomination.

Here is General Cullen’s statement in response to EIR’s questions. Subheads have been added.

The decision to bring this action against Mr. Rumsfeld was taken out of a sense of deep frustration.

Mr. Rumsfeld’s policies have undermined core principles on which the military’s values and training have been based. His policies cast aside decades of military experience in employment of proper detention interrogation techniques. His policies also had us ignore Geneva Convention requirements to classify and treat properly individuals detained by our forces. Detainees are treated as though they are criminals before there has been any minimally satisfactory determination of their status in accord with the Geneva Conventions.

Mr. Rumsfeld authorized techniques that have led directly to acts constituting grave breaches of the Geneva Conventions. The Geneva Conventions have served as protection for our military in conventional wars and guerrilla wars. We rightly invoked their protections even when our adversaries



Brig. Gen. James Cullen (ret.) last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals: "Command and leadership bear distinct responsibilities. . . . Mr. Rumsfeld put in place policies that facilitated the disgraceful acts about which we read with numbing regularity.

were guerrillas or a non-functioning government. Mr. Rumsfeld's short-sighted and arrogant leadership has put at serious risk those protections on which our prisoners of war and civilians caught in war zones have relied.

We sought appointment of an independent commission outside of the Department of Defense to investigate patterns of torture, inhumane treatment, and other abuse of detainees in facilities under the control of Mr. Rumsfeld. Those patterns of abuse bear striking similarities that defy suggestions of coincidence. There has been no effort to investigate these patterns independent of Mr. Rumsfeld's control. Earlier litigation and leaks by those outraged by Mr. Rumsfeld's directions revealed memoranda he issued authorizing interrogation techniques not previously permitted by the military. He refused to recognize some basic rights of detainees until the Supreme Court felt his notions of executive power; i.e., his power to detain indefinitely, violated fundamental constitutional principles.

Command and leadership bear distinct responsibilities. If there were any doubts about the range of these leadership responsibilities, those doubts were put to rest in cases decided by the courts after World War II. It is no longer sufficient for a leader to claim "I did not do the criminal act," or "I did not personally order it." Mr. Rumsfeld put in place policies that facilitated the disgraceful acts about which we read with numbing regularity. A leader has clear responsibility to take meaningful measures to stop grave violations of international law in facilities and areas under his control, especially grave violations spawned by his policies. A few public utterances issued for damage control purposes are not sufficient.

We called General Yamashita to account after World War II for grave breaches of international law committed by his forces, even though circumstances cast some doubt about his actual control of and communications with those forces. The courts felt he had failed to take sufficiently strong measures to insure his forces did not carry out grave breaches of interna-

tional law, and for these failures he was held to account. Our country argued that this standard of leadership responsibility should apply, and no one can persuasively argue we should exempt ourselves from the same standard.

The Lessons of the My Lai Massacre

The Peers Commission findings after the My Lai massacre reinforced these lessons. Among those lessons was the culture created by policies of the then Secretary of Defense, Robert McNamara, to measure success in war. The "body count syndrome" that evolved from the focus on quantitative "success" played a significant role in the circumstances leading to My Lai. Dehumanizing the enemy was also prominently mentioned by General Peers among factors bearing on war crimes' predictability.

The dehumanization and humiliation of detainees under Mr. Rumsfeld's policies should cause us to amplify the warnings that General Peers sounded three decades ago. Mr. Rumsfeld has made clear that he does not intend to accept responsibility for the patterns of misconduct emerging in the wake of his policy decisions. We feel the honor of our military is at stake. We owe it to those who still wear the uniform and continue to serve their country honorably to bring this suit. Mr. Rumsfeld's policies have stained our military's record for adherence to the rule of law and observance of human rights. We want to remove that stain.

I have been called by many on active and reserve duty, who serve proudly, and have been thanked privately for doing what they cannot do. They want the American people to look with pride on their sacrifices. They do not want to risk loss of that pride or support by imposition of policies in stark violation of core national values and military culture.

'Regaining the Moral High Ground'

Rear Admiral John D. Hutson (Ret., USN) is "of counsel" to Human Rights First in the litigation against Defense Secretary Rumsfeld. Admiral Hutson served as the Navy's Judge Advocate General from 1997 to 2000. He currently serves as the President and Dean of Franklin Pierce Law Center in Concord, N.H.

Here is Admiral Hutson's prepared statement on the Rumsfeld lawsuit. The subhead is added.

It is the mission of the United States Armed Forces to fight and win our nation's wars. Whatever contributes positively to that mission is good. Whatever degrades it or undermines it is bad.