

Retired Officers Call for Independent Commission To Probe Prison Torture

by Edward Spannaus

In light of the obvious inability of the Bush Administration to investigate its own responsibility for the prison torture scandal, and in light of the unwillingness of Congress to aggressively conduct such an investigation, a group of eight retired flag officers has issued a call for the creation of an independent commission, to investigate and report the truth about the allegations of torture and abuse of prisoners in Iraq, Afghanistan, and Guantanamo.

At a Sept. 8 press conference in Washington, the day before hearings by the Senate and House Armed Services Committees, a spokesman for the officers' group, Rear Adm. John Hutson (ret.), stated that there are so many investigations of prisoner abuse, that critical issues are falling between the cracks. What we need, he said, is an "absolutely bullet-proof investigation," by individuals with nothing to lose or gain.

Hutson, the Judge Advocate General in the Navy in 1997-2000, characterized the current investigations this way: "We said that these were just a few 'bad apples,' and then we reverse-engineered the investigations to prove that it's just a few bad apples." Hutson noted that, in the military, if someone at the top says "bad apples," this is passed down the line and the investigation ends up proving "bad apples."

The call for an independent commission has been endorsed by eight retired generals and admirals, including Gen. Joseph Hoar, the former CENTCOM commander (an interview with whom was published in the May 21 *EIR*), former Army Judge Advocate General Gen. John Fugh, Gen. James Cullen, Gen. Robert Gard, former Navy Inspector General Adm. Lee Gunn, Gen. Richard O'Meara, and former Marine Corps Senior Legal Advisor Gen. David Brahms. The press conference was co-sponsored by Human Rights First, formerly called the Lawyers Committee for Human Rights.

The same day, Sen. Jack Reed (D-R.I.), a senior member of the Senate Armed Services Committee, announced his support for the creation of an independent commission. "I think we really have to investigate this issue as one complete piece," Reed said, noting that, "ideally . . . it should have been done by an investigation by the Congress." Two members of the House Armed Services Committee, Silvestre Reyes (D-Tex.) and Ellen Tauscher (D-Calif.), supported the call for an independent commission at their committee hearing the next day.

Feith and Cambone

At the Sept. 8 press conference, in which the gaps and limitations in the current investigations were being discussed, *EIR*'s correspondent commented that the biggest gap in the investigations, is that pertaining to the civilians who wrote the torture memos. *EIR* further noted that the Office of Undersecretary Defense for Policy Doug Feith, now under fire in the Ahmed Chalabi and Israeli espionage cases, is also the Pentagon office with official responsibility for detainee policy; so it seems that the same group of people, including Feith and Undersecretary for Intelligence Stephen Cambone, who are among those responsible for the mess we're in in Iraq, are also responsible for this policy—but no one has pursued that at all.

Admiral Hutson responded that this is "a politically charged area to pursue, but it's critical," and that this is why an independent investigation is needed.

A report issued by Human Rights First notes that Feith's office has "primary staff responsibility" for overseeing detainee programs, but points out that neither the Army's Fay Report nor other reports have inquired into Feith's role. Human Rights First noted that the reports and Congressional testimony have shown the following officials to be involved: Feith, Cambone, Cambone's deputy William Boykin, Guantanamo commander Gen. Geoffrey Miller, and Defense Secretary Donald Rumsfeld; yet none has been investigated, nor has their responsibility for the prisoner abuses been determined.

The 'Ghost Detainees'

Closely related to this failure, is the most dramatic revelation coming out of the Sept. 9 hearings: the admission by Gen. Paul Kern—the appointing officer for the Fay-Jones investigation on the role of Military Intelligence—that there were "dozens and perhaps up to 100" so-called "ghost detainees," that is, prisoners brought in by the CIA who were kept "off the books" and unrecorded, in violation of Army regulations and U.S. obligations under international treaty arrangements. Investigator Gen. George Fay acknowledged that there are many "unanswered questions" about the ghost detainees, about which, he admitted, Rumsfeld has not been asked, and about which the CIA has refused to provide information.

The crucial background to this, is the report by investigative journalist Seymour Hersh published in the May 24 *New Yorker* magazine, entitled, "The Gray Zone." Hersh described how Defense Secretary Rumsfeld had created a super-secret program which had blanket advance approval to kill, or to capture and interrogate, "high-value" targets in the "war on terrorism." A "Special-Access Program" (SAP) was established which involved Navy SEAL teams, the Army's Delta Force, and CIA paramilitary operatives. Hersh reported that Cambone was deeply involved in this program, and that he had insisted that he be given control of all SAPs related to the war on terrorism.

The Fay Report states that when Guantanamo commander Gen. Geoffrey Miller visited Iraq in August-September 2003, he was tasked to visit Task Force 20 "to discuss current theatre ability to exploit internees rapidly for actionable intelligence." No further description of Task Force 20 is given in the Fay Report, but there have been a number of published accounts of its activities, despite the fact that almost all information about it is classified. It is said to consist of Army Delta Force and Rangers, Navy SEALs, CIA paramilitary operators, and others, and to be based at Baghdad International Airport. TF-20 was in the forefront of the hunt for former regime officials in Iraq, including Saddam Hussein, and was instrumental in the killing of Saddam's sons on July 27, 2003. (On Nov. 7, 2003, the *New York Times* reported that TF-20 in Iraq had been merged with Task Force 5 in Afghanistan, to form Task Force 121.)

By description, TF-20 corresponds to the secret SAP programs created by Rumsfeld. This would explain why the CIA would be bringing prisoners to Abu Ghraib and other facilities for interrogation, and also why, as became evident in the Sept. 9 hearings, there is no formal paper trail regarding the handling of CIA detainees by Army personnel.

Last May, when the gaps in the ongoing investigations were already in evidence, former Deputy Secretary of Defense John Hamre was quoted by the *Washington Post* asking whether the proliferation of new inquiries was part of a strategy "to have lots of activity going on around the center of this thing without quoting the center itself." The *Post* noted the "some defense experts suspect that the Pentagon may be trying to prevent investigations from exposing the existence of a secret intelligence-gathering effort that either overlapped with some of the publicized abuses, or operated in the same combat zones."

After citing the Hersh article on the SAPs, the *Post* quoted Hamre again: "Every intelligence operation has a breakaway point, where you try to protect the organization with a cover story. What some people are saying is that the Pentagon is still trying to keep the breakaway line at the rogue-soldier level."

Hearings To Be Shut Down?

Going into the Sept. 9 hearings, knowledgeable sources advised *EIR* that the Republican leadership in Congress was

planning to shut down any further investigation of the torture scandal, after this double set of hearings which featured one panel consisting of former Defense Secretaries James Schlesinger and Harold Brown—two of four members of the panel appointed by Rumsfeld to review detention operations—and a second panel of Generals Kern, Fay, Anthony Jones, and others involved in the Army investigations.

In the House, Armed Services Committee Chairman Duncan Hunter (R-Calif.) tried to run his hearing as a defend-Rumsfeld rally, with the full cooperation of Schlesinger and Brown. Hunter started the questioning by eliciting testimony that the Abu Ghraib photos aren't as bad as they look. Hunter went to great pains to show that the prisoner photographed with electrodes attached to him, wasn't really subject to electric shocks; the photo was taken "just for fun."

However, many Committee Democrats and a number of Republicans refused to play along, suggesting it may not be possible for Hunter to shut everything down.

Three Republican Congressmen bucked the "party line," two quite forcefully. Roscoe Bartlett (R-Md.) took issue with Schlesinger's and Brown's testimony that there was no policy that encouraged or justified abuse of prisoners. Then why, he asked, did we place prisoners at Guantanamo Bay, beyond the reach of our Constitution, and beyond the protection of the Geneva Conventions? Why would we do that, Bartlett asked, "if we did not intend to treat them in ways not consistent with the Constitution and the Geneva Conventions?"

Heather Wilson (R-N.M.) went after Schlesinger and Brown on the "ghost detainees." Brown had alluded to the lack of information available from the CIA, and suggested that perhaps the Intelligence Committees should take this up. An obviously irritated Wilson pressed for disclosure of what she believes is an official policy guidance allowing certain prisoners to be held outside the protections of the Geneva Conventions.

Significantly, Rep. John Spratt (D-S.C.) raised the matter of the infamous "torture memo" written by the Justice Department's Office of Legal Counsel, noting that although the State Department argued that the Geneva Conventions should apply in Afghanistan, OLC took the opposition position and went on to say that the President as Commander in Chief can authorize torture. Spratt also raised the question of how Guantanamo commander General Miller got sent to Iraq, and noted that Miller had taken with him a list of interrogation techniques authorized for use in Guantanamo, which were not authorized in Iraq.

In the Senate hearing, Edward Kennedy (D-Mass.) criticized the reports issued to date, for not holding anyone accountable for failure to provide leadership at the top levels. The "service men and women down at the lower level of the line in the chain of command . . . have been left holding the bag," Kennedy charged.