

Military Investigations into Treatment of Detainees in U.S. Custody

The seven military inquiries described below have – with the exception of the Schlesinger panel – a narrow scope. For the most part, their mission is forward-looking and focused on policy, that is, figuring out how to remedy situations rather than examining who should be held responsible for what went wrong. It is unclear whether the reports they will produce, all of them for the Department of Defense, will be made public. Notably absent so far is the seeking of information from the victims of abuse. Human Rights Watch is unaware of any investigation that is looking into the role and actions of the CIA, the Department of Justice and the White House. None appears to have the capacity to examine the role of the Secretary of Defense.

- **Vice Adm. Albert T. Church**, Navy Inspector General: Ordered by Secretary of Defense Donald Rumsfeld to investigate prisoner operations and intelligence gathering practices conducted chiefly by the U.S. Army. When initiated in early May, the investigation was limited to activities in Guantanamo Bay and the Naval Consolidated Brig in Charleston, SC. Church said at a May 12 briefing that his “snapshot” review in Guantanamo, during which he interviewed no detainees, found “no evidence of current abuse.”¹ Rumsfeld then widened the scope of the inquiry on May 25 to include prison operations in Iraq and Afghanistan. According to Bryan Whitman, a spokesman for Rumsfeld, “The purpose of the ...investigation is to look at the authorized interrogation practices and to ensure that all the appropriate guidance is being followed.”² A team of intelligence and legal advisers formed and led by Church is now visiting detention centers in Iraq and questioning Army military intelligence personnel. A report to Rumsfeld is expected soon.³
- **Lt. Gen. Anthony R. Jones**, deputy commander of the Army Training and Doctrine Command: Leads the investigation ordered and initially led by Lt. Gen. Ricardo Sanchez⁴ into the alleged misconduct of personnel assigned to or attached to the 205th Military Intelligence Brigade, which was in charge of the Abu Ghraib prison. Investigations began April 23 with Gen. George R. Fay, deputy chief of staff of the Army intelligence, as chief investigator. On June 17, Army Gen. Paul J. Kern, Army Materiel Command, was named as the “appointing authority” with oversight responsibility for the investigation to replace Sanchez who had recused himself.⁵ At Kern’s request, Acting Army secretary, Les Brownlee then announced that Gen.

¹ “Media availability with Vice Admiral Church,” DoD News Transcript, May 12, 2004.

² Christine Spolar and Stephen J. Hedges, “Navy to probe how Army runs detention sites; Rumsfeld orders investigations in Iraq, Afghanistan,” *Chicago Tribune*, June 9, 2004.

³ Ibid.; and Bradley Graham, “Top Officer Seeks New Head of Iraq Inquiry,” *Washington Post*, June 10, 2004.

⁴ The Pentagon announced on June 15 that Gen. George W. Casey, the Army’s vice chief of staff, will replace Sanchez as the top U.S. commander in Iraq. The handover date has not been announced.

⁵ “Army announces appointing authority for intelligence investigation,” U.S. Army News Release, June 16, 2004.

Jones would replace Fay in order to question Sanchez.⁶ (A lead investigator was needed who was at least equal in rank to the Sanchez, a three-star general. Fay is a two-star general. Jones technically is senior to Sanchez because he has held his three-star rank slightly longer.) However, Human Rights Watch was told by a military source that questions were also raised about the vigor and probity of the investigation. Pentagon spokesman Lawrence Di Rita told reporters that the report's timetable depended on the scope of work. "The timetable is: When it's complete, we'll provide it."⁷

- **Lt. Gen. Paul T. Mikolashek**, Army Inspector General: Launched an investigation of Army doctrine, training and prison procedures throughout the Central Command area of operation in February 2004. Mikolashek was asked, *inter alia*, to "identify any capability shortfalls with respect to internment, enemy prisoner of war, detention operations, and interrogation procedures and recommend appropriate resolutions or changes, if required."⁸ According to CENTCOM Commander Gen. John Abizaid's testimony before the Senate Armed Services Committee on May 19, preliminary findings cited problems in training, organization and doctrine but found no "pattern of abuse" of detainees in Iraq and Afghanistan.⁹ The final report is said to conclude that serious problems in training, organization and policy regarding military detention operations in Iraq and Afghanistan contributed to the abuses at Abu Ghraib prison.¹⁰ According to the *New York Times*, "the report will probably not assign blame to senior American officers in Iraq.... That task, officials said, will be left to one or more of the half-dozen other inquiries under way."¹¹ Acting Army secretary, Les Brownlee, is expected to make the report public in the next couple of weeks.
- **Adm. William Moore**, former commander of the Fifth Fleet: Heads another team of Navy investigators who will review the Jones/Fay investigation and weigh it against the findings of the Navy inquiry led by Church.¹²
- **Col. Beverly Ertman**, Army Reserve Command Inspector General: Ordered by chief of the Army Reserve, Lt. Gen. James R. Helmly, to assess the training of Reserve units regarding military police and intelligence personnel and the laws of land warfare, ethics, leadership and Army values. Began in March 2004.
- **Brig. Gen. Charles Jacoby**: Ordered in mid-May by Lt.-Gen. David Barno, the commander of U.S. forces in Afghanistan, to investigate the conditions at around 20

⁶ "Army announces an additional procedure 15 investigating officer," U.S. Army News Release, June 25, 2004.

⁷ John Hendren, "Lull in Iraq prison probe won't last, Senator says," *Los Angeles Times*, July 6, 2004.

⁸ Eric Schmitt, "Army report criticizes training and practices at prisons," *New York Times*, July 2, 2004, citing a confidential Feb. 10 memorandum from acting Army secretary, Les Brownlee.

⁹ "Senate Armed Services Committee hearing on Iraqi prison abuse," Transcript, *Associated Press*, May 19, 2004.

¹⁰ Eric Schmitt, "Army Report Criticizes Training and Practices at Prisons," *New York Times*, July 2, 2004.
¹¹ *Ibid.*

¹² Christine Spolar and Stephen J. Hedges, "Rumsfeld places Navy admiral in charge of probe into Army prisoner abuse," *Chicago Tribune*, June 9, 2004.

U.S. jails in Afghanistan, including the main facility at Bagram. Jacoby's job in Afghanistan is "to ensure internationally accepted standards of handling detainees are being met." Jacoby has visited at least two jails at military bases in eastern Afghanistan.¹³

- **James Schlesinger (Chair)**, former Defense Secretary; **Tillie Fowler**, former representative from Florida; retired Air Force Gen. **Charles Horner**; and **Harold Brown**, former Secretary of Defense: Panel chosen by Rumsfeld on May 7 to review Department of Defense detention operations and to advise the Secretary of Defense on the "cause of the problems and what should be done to fix them."¹⁴ Issues to be examined include "force structure, training of regular and reserve personnel, use of contractors, organization, detention policy and procedures, interrogation policy and procedures, the relationship between detention and interrogation, compliance with the Geneva Conventions, relationship with the International Committee of the Red Cross, command relationships, and operational practices."¹⁵ According to Rumsfeld, the team is to "examine the pace, the breadth, the thoroughness of the existing investigations and to determine whether additional investigations or studies need to be initiated."¹⁶ Rumsfeld also noted that "Issues of personal accountability will be resolved through established military justice procedures," although he would "welcome" any information the panel developed.¹⁷ The panel's unpaid executive director, James Blackwell, has done Pentagon consulting as an employee of Science Applications International Corp. of San Diego, the seventh-largest recipient of defense contract awards in fiscal 2002, with \$2.1 billion.¹⁸ This raises the question of whether Blackwell could challenge the Pentagon. The panel has reportedly interviewed two dozen military officers and civilian defense officials, including Pentagon's intelligence chief Stephen Cambone; Maj. Gen. Donald Ryder, the Army's provost marshal general; Maj. Gen. Geoffrey Miller, who commands U.S.-run prisons in Iraq; and Col. Thomas M. Pappas, commander of the 205th Military Intelligence Brigade implicated in the abuse of detainees at Abu Ghraib. General Abizaid and Brig. Gen. Janis Karpinski, the 800th Military Police Brigade commander at Abu Ghraib.¹⁹ According to Schlesinger, "The American people should be confident that this panel will provide an unvarnished assessment of how these abuses happened and what needs to be changed in order for them to never

¹³ "U.S. general begins review of Afghan jails; Abuse allegations spur a senior officer at the Bagram base to inspect 20 facilities nationwide," *Associated Press*, May 25, 2004.

¹⁴ Memorandum from Donald Rumsfeld to Schlesinger, Brown, Fowler and Horner on "Independent panel to review DoD detention operations," DoD website, May 12, 2004.

¹⁵ "Secretary Rumsfeld announces DoD detention operations review," DoD News, May 7, 2004; and Memorandum from Donald Rumsfeld to Schlesinger, Brown, Fowler and Horner on "Independent panel to review DoD detention operations," DoD website, May 12, 2004.

¹⁶ Transcript of Rumsfeld's testimony before the Senate Armed Services Committee, *Washington Post*, May 7, 2004.

¹⁷ Memorandum from Donald Rumsfeld to Schlesinger, Brown, Fowler and Horner on "Independent panel to review DoD detention operations," DoD website, May 12, 2004.

¹⁸ Craig Gordon, "Prison Abuse Investigations: Critics say scope too narrow," *Newsday*, June 6 2004.

¹⁹ "Pentagon probe queries top intel official," *Associated Press*, June 14, 2004; Eric Schmitt, "Army report criticizes training and practices at detention centers," *New York Times*, July 2, 2004.

happen again.”²⁰ Human Rights Watch has learned that Secretary Rumsfeld is in frequent contact with the panel, which raises additional questions about its independence.

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20 “Pentagon probe queries top intel official,” Associated Press, June 14, 2004.