

Torture Trail Leads to White House, Cheney

by Edward Spannaus

The two new reports issued on Aug. 24 and 25, concerning the abuse and torture of prisoners at Abu Ghraib prison in Iraq, contain much new damning and detailed material, which proves that the responsibility for the atrocities at Abu Ghraib runs directly to the highest levels of the Bush Administration, including Vice President Dick Cheney.

Contrary to the spin being put on the reports by the Administration, the facts in the reports lead in a very different direction than their official conclusions of finding no culpability on the part of high-ranking officers or civilians, included Defense Secretary Donald Rumsfeld. The two reports document a direct line from the infamous “torture memos” drafted by the White House—and particularly by Dick Cheney’s top lawyer David Addington, and by the Justice Department’s Office of Legal Counsel—to the torture and deaths of inmates at Abu Ghraib. (For a full analysis of the torture memos, see *EIR*, July 2, 2004.)

These reports should forever put to rest the lie which has been repeatedly put out by the White House and the Pentagon, that what happened at Abu Ghraib was the doing of a few “bad apples” acting on their own, in violation of official policy.

Both reports document that interrogation techniques that were approved or allowed in Afghanistan, in Guantanamo and in other secret detention facilities—where the Administration asserted that the Geneva Convention on prisoners of war did not apply—were brought into Iraq and used at Abu Ghraib, despite the official policy that the Geneva Convention *did* apply to Iraq.

Dispute Over Geneva Conventions

The first of the two reports, issued by a panel headed by former Defense Secretary James R. Schlesinger on Aug. 24, reviews the dispute that took place within the Administration in late 2001 and early 2002 over whether prisoners captured in Afghanistan were entitled to be treated as prisoners of war under the Geneva Conventions.

From the outset, the uniformed military services and the State Department said that Geneva should apply, but the Justice Department’s Office of Legal Counsel (OLC) argued that neither the Geneva Convention nor the Federal War Crimes Act would apply in Afghanistan.

The Justice Department OLC argument against Geneva

was presented to President Bush in a Jan. 25, 2002 memorandum from Alberto Gonzales, the Counsel to the President. However, *Newsweek* reported, consistent with reports received by this news service, that this memo was actually authored by Cheney’s counsel Addington. The Addington memo warned that top U.S. officials might be prosecuted for war crimes by a later Administration, and it argued that the President could set up a legal defense against such a future prosecution by asserting that the Geneva Convention was inapplicable to the fight against the Taliban and al-Qaeda in Afghanistan.

That weekend, Feb. 26-27, 2002, while the debate was still raging within the Administration, Dick Cheney went on the Sunday TV talk shows to proclaim the issue decided: The Geneva Convention should not apply to prisoners at Guantanamo. “These are bad people,” Cheney ranted, who might have information about attacks against the United States. “We need that information, we need to be able to interrogate them and extract from them whatever information they might have.”

And indeed, on Feb. 7, 2002, President Bush did issue an official determination, that the Geneva Convention would not apply in Afghanistan and Guantanamo.

In August 2002, the Justice Department OLC issued the most infamous “torture memo” (according to some sources, in response to a request from the CIA), which presented an extremely restrictive legal definition of torture—for example, that “moderate” torture which doesn’t cause organ failure or death, is permissible. And it argued that the President, under his powers as Commander-in-Chief, could authorize even severe torture under certain circumstances, with which neither Congress nor the Courts could interfere. David Addington reportedly pressed hard for a strong section on Presidential powers in the OLC memo.

Further, as is described in both the Schlesinger Report and the Fay Report (the Army’s report by Maj. Gen. George Fay and Lt. Gen. Anthony Jones), in December 2002 Defense Secretary Rumsfeld issued a listing of authorized interrogation techniques for Afghanistan and Guantanamo, and he then rescinded them in January 2003. At the same time, Rumsfeld created a Defense Department Working Group on interrogation of detainees, which issued its report in April 2003. *EIR*’s analysis showed that the DOD Working Group memo drew heavily on the August 2002 Justice Department OLC torture memo; the OLC memo has now been officially repudiated by the White House, but not its derivative, the Working Group memo.

The Road to Abu Ghraib

What is made clear, in the factual recitation in both the Schlesinger and the Fay reports, is that the policies put forward in these Administration memos, were put into practice in Iraq, at Abu Ghraib.

As the Schlesinger Report puts it, policies and practices

The Gloves Are Coming Off

Following are substantial excerpts from the Military Intelligence memorandum obtained recently by attorney Paul Bergrin, which had been circulated in Iraq in July-August 2003.

ALCON [All Concerned]

Just wanted to make sure we are all clear on the taskers at hand.

1 - A list identifying individuals who we have in detention that fall under the category of "unlawful combatants." I've included a definition from the SJA [Staff Judge Advocate] folks: . . .

2 - An additional list identifying who we have de-

tained who are "Islamic extremist"

3 - Immediately seek input from interrogation elements (Division/Corps) concerning what their special interrogation knowledge base is and more importantly, what techniques would they feel would be effective techniques that SJA could review. . . .

The gloves are coming off gentleman regarding these detainees. Col. Boltz has made it clear that we want these individuals broken. Casualties are mounting and we need to start gathering info to help protect our fellow soldiers from any further attacks. Thank you for your hard work and dedication.

MI ALWAYS OUT FRONT!

William Ponce, Jr.
CPT (C), MI, USA
Battle Captain, CJTF-7 32X

which were used in Afghanistan "migrated" into the Iraq conflict—despite the fact that the Iraq and Afghanistan operations were "wholly different," in that the Iraq operation came under the Geneva Convention and the laws of war. The report also notes that the U.S. command in Iraq decided to classify some individuals captured in Iraq as "unlawful combatants," using the criteria set out in the OLC memos and in the President's Feb. 7, 2002 determination with respect to al-Qaeda and the Taliban.

The Fay Report, which covers the role of Military Intelligence (MI) in Iraq, is much more specific and detailed, even though sections publicly released are only a small portion of the total document. It describes how the DOD Working Group memo was incorporated into a memorandum produced by the legal staff of Lt. Gen. Ricardo Sanchez, the top commander in Iraq. Both reports describe how interrogation techniques intended only for use at Guantanamo came to be used in Afghanistan and Iraq, and how MI personnel who were transferred from Afghanistan to Iraq brought their Afghanistan methods with them—such as the use of nudity (sexual humiliation), "stress positions," isolation and sensory deprivation, and exploiting the fear of dogs. Guantanamo commander Maj. Gen. Geoffrey Miller specifically recommended the use of dogs when he visited Abu Ghraib. The Fay Report states, without further explanation, that the Abu Ghraib interrogations "were influenced by several documents that spoke of exploiting the Arab fear of dogs."

'Smoking Gun Memo'

Something which was not disclosed as part of either the Rumsfeld or Fay reports, is a MI memorandum which surfaced on Aug. 24 at a preliminary military hearing for one of

the seven U.S. soldiers charged in connection with the Abu Ghraib abuses, held in Mannheim, Germany. The memorandum declared that "the gloves are coming off" regarding prisoners, and that the top-ranking MI officer at the U.S. command headquarters in Iraq had made it clear that "we want these individuals broken" in order to obtain intelligence on the insurgents attacking U.S. troops. It also shows that the category of "unlawful combatant"—that is, persons outside the protection of the Geneva Conventions—was being used in Iraq, even though this was only supposed to apply to those captured in Afghanistan.

Paul Bergrin, the civilian lawyer for Spc. Javal Davis, one of the Abu Ghraib defendants, obtained this memo from what he called "clandestine sources" in the intelligence community—not as part of pre-trial proceedings. Bergrin calls the memo "a smoking gun," and he says that it corroborates what he has been arguing all along: "that very aggressive interrogation techniques were being employed at Abu Ghraib prison and that those techniques were called for at the highest levels."

The memo was apparently written in late July or early August 2003, at the point when U.S. forces were facing escalating and increasingly deadly attacks from the Iraqi resistance, before the worst abuses were recorded. It was written by Capt. William Ponce, an MI officer on the staff of General Sanchez. It referred to statements by Col. Steven Boltz, who was the top MI officer in Iraq at that point, prior to the arrival of Maj. Gen. Barbara Fast.

(An interview with Bergrin was published in the July 16 *EIR*, in which Bergrin said that he believed that he could prove that the torture policy came from the top levels of the Bush Administration and the Pentagon.)