



Abu Ghraib

Implementing Reforms, Taking Responsibility

May 12, 2004

Center for American Progress
805 15th Street, N.W., Suite 400, Washington, D.C. 20005
(202) 682-1611
www.americanprogress.org

INTRODUCTION

President Bush must take immediate and concrete steps to convince Iraqis - and the rest of the world - that we are deadly serious about correcting the conditions that have led to prisoner abuse in Iraq. The President must build confidence among Iraqis by making transparent and significant changes in the operation of the prisons. He must make room for participation by Iraqis and the international community. Here at home, he must launch a genuinely independent inquiry to investigate this tragedy that will greatly reduce the chance that something like this could ever happen again.

The United States should take the following steps:

- Develop and institute a new system of management of detainees in Iraqi prisons;
- Increase the guard-to-detainee ratio and remove civilian contractors from interrogation teams;
- Transfer prisoners to new facilities and allow Iraqis to determine the fate of Abu Ghraib;
- Compile and maintain a database so Iraqis can locate family members held in detention;
- Create a permanent prison monitoring committee with Iraqi and international representation;
- Expand the Pentagon investigation into the abuses to include the chain of command;
- Appoint an independent panel with a broad mandate to investigate the abuse of detainees;
- Call on the top Pentagon leadership to resign for the good of the country.

At best, the credibility of the United States – and our ability to bring about positive change – has been badly damaged. At worst, the Bush Administration has betrayed the majority of the Iraqi people who seek a democratic future and fatally undermined the war on terror.

This controversy goes far beyond the prison system in Iraq, the prosecution of prison guards, and the horrifying images of abuse. It is the almost perversely logical result of the Bush Administration's post-September 11 mindset.

First, the Administration has tossed aside generations of American commitment to the rule of law and the humane treatment of prisoners. It has created a climate in civilian and military intelligence and detention units that says anything goes.

This controversy goes far beyond the prison system in Iraq. It is the almost perversely logical result of the Bush Administration's post-September 11 mindset.

Second, the willful ignorance of officials in the Pentagon and the White House is all too symbolic of the Administration's inability to deal with

facts – and the chilling effect that has had on those who have dissented or tried to provide constructive criticism. The International Committee of the Red Cross warned of systemic failures – and officials ignored it. Maj. Gen. Antonio Taguba carried out a comprehensive investigation – and the Pentagon tried to bury it.

There are systematic problems across the entire operation that require a full and open investigation and proportional solutions. The White House has to reassess the attitudes – and arrogance – that created an atmosphere in which such abuses could occur. At a time like this,¹

¹ The record clearly demonstrates that this is not an isolated incident of a few soldiers in a reserve unit at Abu Ghraib. Senior civilian and uniformed leaders of the military have known about serious allegations regarding problems with detention practices since at

resignations of top officials and apologies to the Iraqi people – while necessary – are not nearly enough.

We do not question the President's personal outrage at what has happened. But his role now must be more than to pass moral judgment on those who committed these acts or to gloss over the flawed judgments of his most senior advisors. He must move aggressively and rapidly to restore public confidence in the actions and motives of the United States.

The Center for American Progress recommends the following steps to reform and restructure the prison system; build confidence among the Iraqi people; broaden oversight of prisons to include representatives of the Iraqi people and the international community; and ensure the accountability and prosecutions of those responsible.

REFORMING AND RESTRUCTURING PRISONS IN IRAQ

Develop and implement a new system for the management of detainees in Iraqi prisons. The Coalition Provisional Authority (CPA), coalition military command, and Iraqi authorities should set new Standard Operating Procedures (SOPs) for prisons. The SOPs – which would take effect after approval by the Red Cross/Red Crescent – should include but not be limited to:

Immediate education in the rights of prisoners under the Geneva Conventions.

least early 2003. The Army has conducted more than 30 criminal investigations into suspicious deaths and abuse of detainees since January 2003. The International Committee of the Red Cross urged Coalition Forces to address problems in coalition-run prisons in Iraq as early as April 2003. The head of military operations in Iraq, Lt. Gen. Ricardo Sanchez, ordered two investigations of detention facilities in Iraq prompted by allegations of abuse, one in November 2003, another in January 2004.

The evidence from Abu Ghraib demonstrates a systematic disregard for – or ignorance of – fundamental provisions of the Geneva Conventions. Both guards and detainees should receive clear guidance about the Conventions.

Respect for religious practices. Military officials have provided the basic requirements of Muslim religious practice to detainees at Guantanamo Bay. The same should be done in Iraq.

Proper training and command control of military units engaged in operations to capture suspected insurgents. The International Committee of the Red Cross reports that military intelligence officers estimate that from 70 to 90 percent of all prisoners in Iraq are detained by mistake. Military commanders in the field must take responsibility to ensure that their units are properly instructed regarding the proper procedures and criteria for taking prisoners.

Fact-based, efficient processing and segregation of detainees. The vast majority of detainees are not of value to military operations. Coalition forces should develop a theater-wide strategy to segregate prisoners into appropriate categories and designate them for either military or criminal detention, or release.

Experienced military lawyers should be assigned to units responsible for detainees. Drawing from the Judge Advocate General corps, each prison complex should have an on-site lawyer to guide interrogations and treatment of prisoners. The attorney would assist in international monitoring by groups like the Red Cross/Red Crescent, and ensure that guards adhere to the Geneva Conventions.

Provide adequate translation and other communication services. As is clear from the reports of abuse at Abu Ghraib, the poorly trained and understaffed military police who guarded prisoners had little or no Arabic language skills. Translators in interrogations may have been the only

prison officials that detainees came into contact with who could speak Arabic. Translators not involved in interrogations should be provided in all Iraqi detention facilities.

Increase U.S. military police forces and recruit soldiers from other coalition countries in order to increase the ratio of guards to detainees. The astonishingly low ratio of guards to prisoners in Iraqi facilities contributed to abuse. Estimates have ranged from 130 to 450 U.S. guards for up to 8,000 prisoners; this ratio compares unfavorably to Guantanamo, where 800 guards have responsibility for 600 prisoners.² Given the difficulty of bringing more forces into Iraq and the need to establish credibility, the United States should recruit soldiers from other coalition countries. The goal should be a ratio of one guard to every five prisoners, the current level at Fort Leavenworth, Kansas. The United States has said it will reduce the prison population to roughly 4,000 detainees, which would require approximately 800 guards.

Immediately remove employees of civilian contractors from interrogation teams.³ The reliance on private contractors to conduct

The President must build confidence among Iraqis in the action and motives of the United States.

interrogations of prisoners and determine conditions for detainees is inexplicable. They should be immediately removed from these teams and an investigation should be launched into the origins of this practice.

Begin construction immediately on new prison facilities to replace Abu Ghraib. Abu Ghraib stands as a symbol of Saddam Hussein's tyrannical rule, marked by torture and brutality. The CPA should work with Iraqi authorities to modify existing facilities and construct new prisons in order to transfer detainees out of Abu Ghraib as quickly as possible. The Iraqi

people should be empowered to decide on whether Abu Ghraib should be destroyed or – as with the Tuol Seng prison in Cambodia – maintained as a memorial and museum to those who suffered under Saddam.

BUILDING CONFIDENCE AMONG IRAQIS

The new Iraqi Ministry of Interior should compile and maintain a centralized database of all detainees in Iraqi prisons. One of the greatest problems Iraqis face is their inability to determine where and for how long their family members have been detained - what the ICRC has called a policy of “de facto disappearance.” Coalition forces should work with the Iraqi Interior Ministry to immediately establish a publicly accessible list of detainees.

Establish a compensation fund for victims of abuse. While a token gesture, this step would serve to demonstrate a U.S. commitment to making amends to detainees whose rights were violated. The fund would be directed by a board including members of the Iraqi caretaker government, Coalition officials and representatives of the Red Cross/Red Crescent.

Publish the specifically enumerated rights and protections under the Geneva

² Brig. Gen. Janis Karpinski told the Washington Times that, “We had 130 MPs for about 8,000 detainees.” Donald Lombardo, “Prison pressures... and perspectives,” *The Washington Times*, May 10, 2004. The Washington Post reported that 450 MPs were responsible for all Iraqi detainees. Scott Hyman, Josh White, and Christian Davenport, “A Prison on the Brink,” *The Washington Post*, May 9, 2004, at A1.

³ The Bush Administration also had a civilian, Lane McCotter, assist in the reconstruction of the Iraqi prison system after the fall of Saddam. But McCotter was an exceedingly poor choice – he had been forced to resign under pressure as the head of the Utah Department of Corrections in 1997 after a mentally ill inmate died after being strapped naked to a stretcher for 16 hours.

Conventions granted to Iraqi citizens who are detained by Coalition forces. Given that the MPs responsible for guarding the Iraqi prisoners were not familiar with the rights of prisoners under the Geneva Convention, it is improbable that many Iraqis are aware of them. The CPA and Iraqi authorities should publish and distribute, in Arabic and in English, the rights of prisoners, specifically, Part II of the Geneva Convention, the General Protection of Prisoners of War, and any applicable portion of the rights granted by the Transitional Administrative Law.

Appoint and empower a new Minister for Human Rights to act as an ombudsman. The resignation of the former Minister for Human Rights has left a vacuum and built further suspicions. The CPA and Iraqi Governing Council should immediately appoint a new Minister, with the power to investigate cases of human rights abuse by all forces in Iraq.

IRAQI AND INTERNATIONAL OVERSIGHT OF THE PRISON SYSTEM

Immediately establish a Permanent Committee for Monitoring Prison Conditions to formally oversee the prison system. It is vital that Iraqi nationals be given a role in operation of the prison system. U.S. military commanders say the International Committee of the Red Cross (ICRC) should be the only outside organization given access to the prisons – perhaps because the Red Cross is bound by confidentiality. Given the Pentagon’s inaction following earlier and explicit warnings by the Red Cross, this level of international monitoring is inadequate. A permanent committee to monitor conditions should be immediately established and should include representatives from the Iraqi caretaker government, Iraqi civil society, the ICRC, the International Committee of the Red Crescent, U.N. High Commissioner for Human Rights and

The Bush Administration should immediately develop and implement a new system for the management of detainees in Iraqi prisons.

Coalition forces. Representatives of the Committee should be granted unfettered access to prison facilities in Iraq.

The Bush Administration should allow independent rights organizations to monitor the conditions of detainees in all U.S.-run detention facilities outside the United States.⁴

The allegations of abuse in the Iraqi prison system are not the first time that practices at U.S. detention facilities have been called into question. International human rights organizations have documented suspect practices at detention facilities in Afghanistan and Guantanamo.⁵ To restore credibility, independent international organizations like the Red Cross/Red Crescent and NGO’s should be given access to detainees. Procedures can be established to ensure that access to detainees does not interfere with the legitimate requirements of interrogation teams.

ACCOUNTABILITY AND PROSECUTION OF THOSE RESPONSIBLE FOR ABUSES

The President should instruct the Pentagon to expand and expedite the investigation of abuses to include the chain of command. The military investigation to determine responsibility for the abuse of detainees across Iraq should not focus on military police units alone. In his report, Gen. Taguba criticized the recommendations of Gen. Miller and their adoption by Gen. Sanchez.

⁴ This recommendation is contained in an open letter to President Bush signed by the leaders of the human rights community in the United States, available at: <http://www.amnestyusa.org/iraq/directorsletter.html>.

⁵ Two prisoners in U.S. custody in Afghanistan died in what military doctors ruled homicides. Human Rights Watch recently issued a report documenting this and other abuses in Afghanistan, available at: <http://hrw.org/reports/2004/afghanistan0304/>.

The President must insist that the courts martial against the MPs at Abu Ghraib not be mere show trials designed to protect senior commanders from any responsibility.

The President should order a thorough and independent investigation of abuse at Iraqi prisons. The President should immediately appoint an independent commission of former military and civilian judges to investigate all aspects of the allegations, with a mandate similar to the 9/11 Commission. To expedite the commission's work, members of the President's Commission to examine WMD Intelligence with the appropriate security clearances could be asked to serve on the panel.⁶

The Secretary of Defense and the Chairman of the Joint Chiefs of Staff should resign for the good of the country. With his expression of unqualified support for Secretary of Defense Donald Rumsfeld at the Pentagon this week, President Bush has demonstrated that he has placed his own political needs above the demands of leadership. To convince the world that Americans are serious about correcting the terrible mistakes that led to abuses, Secretary Rumsfeld and Chairman of the Joint Chiefs of Staff Richard Myers should resign.

The Bush Administration should immediately release all remaining pictures and other evidence of abuse. Secretary Rumsfeld testified that large numbers of additional photographs and videos exist and are in the military's possession. It is inevitable that these will be leaked to the media. From the outset, the Administration has tried to suppress evidence of this tragedy. However disturbing and painful those images are, the Pentagon must put to rest any suspicion of a cover-up and should release all remaining evidence of abuse. Additionally, if

the images are released by the Pentagon, instead of being leaked to the media, appropriate steps can be taken to better ensure that the identities of the victims can be protected.

Courts martial of soldiers accused of abusing Iraqi detainees should be consistent and transparent. The first of seven soldiers to face criminal charges is scheduled to appear before prosecutors next week in Baghdad, and the court martial will be public. All necessary arrangements, including the protection of identities, should be made to ensure that Iraqi witnesses can testify against the suspects in those hearings. The rules and procedures of court martial hearings should be translated into Arabic and explained to the Iraqi population prior to hearings.

Prosecute civilian contractors under U.S. federal law. The Military Extraterritorial Jurisdiction Act of 2000 was designed to address gaps in the legal system that allows civilian contractors and dependents abroad with the military to commit crimes with impunity in countries without functioning legal systems, or where local courts proved unwilling to act. The law may be one of the only tools available to prosecute the two private contractors employed by CACI of Arlington, Virginia, and Titan Corp, of San Diego, California, who were implicated in the Taguba report.

⁶ The Long Commission created by Secretary Weinberger to investigate the security lapses that led to the Beirut barracks attack delivered its report 43 days after its formation. The Tower Commission established by President Reagan to investigate the Iran-Contra scandal took less than three months to produce its report.

ABOUT THE CENTER FOR AMERICAN PROGRESS

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is "of the people, by the people, and for the people."

Center for American Progress
805 15th Street, N.W., Suite 400
Washington, D.C. 20005
(202) 682-1611
www.americanprogress.org