

Abu Ghraib abuse trial shields Pentagon, White House war criminals

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Specialist Charles Graner Jr. was found guilty on January 15 of five counts of assault, maltreatment of detainees and conspiracy. The first of the US troops involved in torture at Iraq's Abu Ghraib prison to face a full court martial, Graner was sentenced by a jury of soldiers to 10 years in prison and a dishonorable discharge.

The main defense offered by Graner's lawyer, Guy Womack, was that his client was following orders. Under US military law, this is a valid defense only if the order is lawful, or if the soldier can reasonably believe it to be lawful.

So far, seven soldiers have been charged in connection with the scandal that erupted after the publication last spring of photographs depicting the abuse. Three have entered guilty pleas, while three others have yet to face a court martial.

According to the statements of Iraqi detainees and some of his fellow US soldiers, Graner, a member of the 372nd Military Police Company and a prison guard on the night shift at Abu Ghraib, was a ringleader in the systematic abuse of prisoners. He figures prominently in the infamous photos, standing behind a stack of naked and hooded Iraqi prisoners and broadly grinning.

It was Graner who forced the prisoners into that position on November 7, 2003. On another occasion, he punched a hooded prisoner in the face so hard as to knock him unconscious.

Ameen Said Al-Sheikh testified that Graner was "the primary torturer" who beat him, handcuffed him to a door for eight hours, watched as another soldier urinated on him, forced other prisoners to eat from a toilet, and threatened them with rape.

Graner flaunted his sadistic exploits, sending e-mails containing photographs of beaten and bloodied prisoners back to his family, including his young children, and bragging about the "really cool stuff" he got to do on the job.

While he is guilty of brutal crimes, and deserves to be punished, the claim of the Bush administration and the US military that he is simply one of a few "bad apples" whose misdeeds in no way reflect on the nature of the US occupation of Iraq is an absurd and contemptible lie.

The photos in which Graner figured so prominently aptly sum up the American occupation. But the Bush administration continues to insist that Graner and the other soldiers who have been charged were "rogue" elements who acted on their own. The prosecutions of Graner and the others have been designed to buttress this lie and enable the media to promote the fiction that those responsible for torture at Abu Ghraib are being brought to justice. The small-fry offenders are being sacrificed in order to whitewash those at the

highest levels of the Bush administration and the military who authored the policies sanctioning the use of torture.

Graner and his cohorts were encouraged by military intelligence officers to abuse and torture detainees. These actions were the direct outcome of policies and guidelines set by Secretary of Defense Donald Rumsfeld and ratified by the White House.

The judge in the Graner case, Army Colonel James Pohl, sought to exclude any evidence pointing to the culpability of higher-level military officers or government officials. Pohl denied the requests of Graner's attorney to call to the stand the former commander of US forces in Iraq, Lieutenant General Ricardo Sanchez, as well as Rumsfeld and his undersecretary for intelligence, Steven Cambone. He further denied attorney Womack's request to grant immunity to Colonel Thomas Pappas, the head of the military intelligence brigade at Abu Ghraib, so that he could testify.

Having excluded these top military and civilian officials, the judge disallowed any questioning of witnesses about orders given by officers regarding the treatment of prisoners. In a classic "Catch-22" maneuver, he refused to permit witnesses to explain what higher-level officers knew about the abuse on the grounds that such statements were "hearsay."

The most senior level officer that Pohl has allowed to testify in any of the cases is Brigadier General Janis Karpinski, who did not testify in the Graner case, but will testify in another case, that of Javal Davis. Karpinski, the one-time head of US prisons in Iraq, has herself accused Sanchez, Major General Geoffrey Miller, who was sent to Iraq to evaluate interrogation methods, and Major General Barbara Fast, the former chief of military intelligence in Iraq, of responsibility in the torture.

The testimony of witnesses who did appear in Graner's case, mainly fellow soldiers at Abu Ghraib and some detainees, indicated that culpability extends well beyond the seven individuals who have been charged. Some of the other soldiers who have already pleaded guilty noted that Graner and others were encouraged in their actions by military intelligence and CIA officials in order to "soften up" prisoners for interrogation purposes.

Former Specialist Megan Ambuhl, who has pleaded guilty to charges relating to the Abu Ghraib torture, said, "They encouraged us all the time." She said military intelligence officers "would come down and let us know what they wanted us to do with the detainees." They told her "to point at detainees and laugh at them while they were in the shower" in order to humiliate them.

Ambuhl also said that Lieutenant Colonel Steven Jordan, head of the Joint Interrogation and Detention Center at Abu Ghraib, saw photos of the abuse that had been placed on the screen of a desktop computer at the prison.

Master Sergeant Brian Lipinski testified that Jordan commended Graner for “doing a good job” shortly after the incident involving naked prisoners stacked in a pyramid, though the performance report chastised Graner for smashing a prisoner’s head into a wall. Graner was not punished for this action, but was offered time off to deal with stress.

According to a *Washington Post* article of January 11, Private Ivan Frederick, who has also pleaded guilty to charges relating to the Abu Ghraib torture, “said he had consulted with six senior officers, ranging from captains to lieutenant colonels, about the guards’ actions, but was never told to stop. Frederick also said that a CIA official, whom he identified as ‘Agent Romero,’ told him to ‘soften up’ one suspected insurgent for questioning. The agent told him he did not care what the soldiers did, ‘just don’t kill him.’”

Sergeant Kenny Davis said that after visiting Abu Ghraib in the fall of 2003, he told his platoon leader that military intelligence “was doing some pretty weird things with naked detainees over there.” Pohl refused to allow further questioning on the subject.

If military intelligence and the CIA were encouraging military police soldiers, including Graner, to torture detainees—as they certainly were—they were not doing so on their own initiative. The pressure to step up interrogation practices at Abu Ghraib and other facilities in Iraq came directly from Rumsfeld and Sanchez, and was part of Bush administration policy.

Harvey Volzer, the lawyer who represented Ambuhl, suggested a reason why Pohl was so eager to cut off questioning about the role of Jordan, Pappas and other top officials at Abu Ghraib. “The higher up they go,” Volzer said, “the more problems they have with people leading to the Pentagon. Pappas gives them to Sanchez, and they don’t want that. Sanchez can give them Rumsfeld, and they don’t want that. Rumsfeld can lead to Bush and [White House Counsel Alberto] Gonzales, and they definitely don’t want that.”

Michael Ratner, head of the Center for Constitutional Rights (CCR), noted, “Whatever Charles Graner did, however heinous his acts may have been, we believe he is taking the fall for the architects of a policy that empowered him to torture and abuse those being held at Abu Ghraib.” The CCR has called for a special prosecutor to examine Rumsfeld’s role. The organization has already filed war crimes charges against Rumsfeld and others in a German court.

It is worth recalling the background to the Abu Ghraib torture revelations. Immediately following September 11, 2001, the Bush administration sought to exploit the attacks of that day to carry out a far-reaching assault on democratic rights, including the rights traditionally granted, under international law, to prisoners of war.

The Bush administration decided not to treat prisoners in Afghanistan and Guantanamo Bay, Cuba as prisoners of war under the Geneva Conventions. A CIA request led to a memo, submitted to Gonzales, who is currently Bush’s nominee for attorney general, which so narrowly defined torture as to allow methods

banned by international and US laws against torture. The memo, written in August 2002, declared that the president, as commander-in-chief, had the right to order the torture of prisoners.

Bush had a direct hand in these developments. Scott Horton of the American Bar Association told the *Age*, an Australian newspaper, “It is now reasonably clear that there was action by the president. I have now seen several further documents which persuade me that there is in fact a determination by the president that dates from roughly April 2002. It is addressing extreme interrogation procedures, though not in detail.”

Journalist Seymour Hersh reported in his book, *Chain of Command*, that sometime in late 2001 or early 2002, Bush signed a top-secret finding authorizing the Defense Department to set up a Special Access Program (SAP) operating outside of any regulation or oversight. The SAP was responsible for secret interrogation practices in Afghanistan.

According to one of the army’s own investigations, led by Major General George Fay, by December 2002 “interrogators in Afghanistan were removing clothing, isolating people for long periods of time, using stress positions, exploiting fear of dogs and implementing sleep and light deprivation.”

In April 2003, Rumsfeld approved a more extensive list of interrogation methods for Guantanamo Bay that included many of these techniques. Though the list was formally withdrawn later, there is much evidence, including a series of documents recently released by the American Civil Liberties Union (ACLU), showing that torture in Guantanamo Bay became institutionalized.

Major General Miller, who at the time was head of the Guantanamo Bay facility, was sent, in the fall of 2003, to Abu Ghraib. Even the whitewash report by a panel headed by former defense secretary James Schlesinger, released in August 2004, felt obliged to acknowledge that practices carried out in Cuba “migrated” to Iraq. An ACLU-released document from an FBI agent states that Miller was sent to implement what the FBI considered to be illegal techniques, and that he received his authority directly from Rumsfeld.

The torture and abuse methods employed at Guantanamo were transferred to Iraq in an attempt to counter a growing insurgency that the American military found increasingly difficult to handle.

Far from being punished, those who are most responsible for the policy of torture have strengthened their position in Bush’s second term administration. Gonzales has been selected as the new attorney general and Rumsfeld is staying on as secretary of defense. Condoleezza Rice, who, according to Hersh, approved the Special Access Program, has been elevated from national security adviser to secretary of state.



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