

Rumsfeld Defends Rules for Prison

Senators Question Interrogation Guidelines

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Defense Secretary Donald H. Rumsfeld yesterday defended U.S. military interrogation guidelines in Iraq against mounting complaints that the authorized techniques violate international rules and may endanger Americans taken prisoner.

Appearing before the Senate Appropriations defense subcommittee, Rumsfeld said all authorized methods had been confirmed by Pentagon lawyers as complying with the Geneva Conventions on treatment of detainees. Rumsfeld's contention was backed by Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, who noted at the hearing that a published version of the approved list -- which includes a number of threatening, disruptive or stressful actions -- also includes an order that U.S. soldiers treat detainees humanely.

But senators challenged the compliance claim and accused Rumsfeld and other administration officials of confusing matters by professing that the Geneva Conventions need not be applied in all cases -- notably, not when captured members of the Taliban and al Qaeda are involved.

Experts in military law and human rights also argued that some of the authorized U.S. methods run counter to international prohibitions against coercive or cruel treatment.

Even within the military, some lawyers have expressed unease with the interrogation rules. Last year, several military lawyers appealed to a senior representative of the New York State Bar Association to try to persuade the Pentagon to revise its practices.

Scott Horton, then head of the bar association's committee on international law, confirmed yesterday that he received unsolicited visits in May and October by a total of eight military legal officers.

"They were quite blunt," Horton recalled. "They were extremely concerned about how the political appointees were dealing with interrogation issues. They said this was a disaster waiting to happen and that they felt shut out" of the rules-drafting process. Horton would not identify the participants, saying they did not want their names publicized.

"They did it out of a sense of desperation and frustration. It's a fairly strong commentary on how they felt," said retired Rear Adm. John Hutson, who served as the Navy's staff judge advocate from 1997 to 2000 and is now dean of the Franklin Pierce Law Center in New Hampshire.

Fueling the rising dispute this week was the release Tuesday by the Senate Armed Services Committee of a list of once-secret interrogation techniques used by the U.S. military in Iraq. The list emerged in connection with hearings into abuses by U.S. military guards at the Abu Ghraib prison outside Baghdad.

The list showed two categories of measures -- those approved for all detainees and those requiring special authorization by Lt. Gen. Ricardo S. Sanchez, commander of U.S. forces in Iraq. Among the items in the second category are "sensory deprivation," "stress positions," "dietary manipulation," forced changes in sleep patterns, isolated confinement and use of dogs.

Holding up the list, Sen. Richard J. Durbin (D-Ill.) said some procedures requiring special approval "go far beyond the Geneva Conventions."

Rumsfeld shot back that "any instructions that have been issued or anything that's been authorized by the department was checked by the lawyers" in the Pentagon and deemed to be consistent with the Geneva code.

The conventions state that "no physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties."

"Most of the things on the list that require approval from the commanding general seem to be coercive to the extent they aren't just lifestyle changes," said Miles Fischer, who heads the New York bar association's committee on military affairs and justice. "Any stress position is coercive."

Kenneth Roth, director of Human Rights Watch, said the U.S. interrogation rules for Iraq "look like someone tried carefully to avoid torture but forgot about the parallel rule against cruel and inhumane treatment." He called those U.S. techniques that require special approval "blatantly illegal."

Hutson said the Pentagon was trying to draw lines within the gray area between torture and benign treatment. "I fundamentally disagree with

where they drew the lines," he said.

One of the concerns of the military lawyers who approached the New York bar association last year was the elimination of the requirement that judge advocates general -- or JAGs -- be present during tough interrogations of detainees or watch from behind two-way mirrors.

At a hearing Tuesday of the Senate Armed Services Committee, Sen. Edward M. Kennedy (D-Mass.) asked the Army's judge advocate general, Maj. Gen. Thomas J. Romig, about this complaint, which was first reported in the Washington Times.

"Sir, I'm not aware of the use of the two-way mirror as a regular standard method of monitoring interrogations," Romig answered. "The fact that there are so many interrogations going on at different locations, we wouldn't have enough JAG officers to sit through all of these."

During yesterday's hearing, Rumsfeld complained that the administration's policy on the Geneva Conventions has frequently been misrepresented. U.S. forces in Iraq and Afghanistan, he said, are under orders to observe the conventions.

By contrast, he said, President Bush decided two years ago that Taliban and al Qaeda fighters do not warrant protection under the conventions because they belong to terrorist groups, not nations, and do not abide by the norms of regular militaries. Nonetheless, U.S. policy has been to accord those detainees treatment "consistent with" the Geneva Conventions, Rumsfeld said.

But both Durbin and Sen. Dianne Feinstein (D-Calif.) criticized this attempt to differentiate. Feinstein said the United States has a "moral imperative" to apply the conventions in all cases. Durbin said the administration's statements have generated confusion and could encourage the mistreatment of U.S. soldiers taken captive. He noted that one U.S. soldier is currently missing in Iraq.

"Wouldn't it be good for us, at this moment in time, to clearly and unequivocally state that we will follow the Geneva Conventions with civilian and military detainees?" Durbin asked.

Rumsfeld responded that applying the conventions to terrorist groups would weaken the international standards, not strengthen them.

Rumsfeld also faced a grilling about the overall course of U.S. policy in Iraq. Sen. Pete V. Domenici (R-N.M.), who has been an administration ally on the issue, said he is "very worried" about how prepared Iraqis are to assume responsibility after the planned transfer of limited authority on June 30.

"We have cities we are abandoning to a bunch of thugs and yet at the same time we're saying we're going to form a new government and turn over power to them. I believe that you have to be better prepared for this transition than I have heard," Domenici said.

Sen. Robert C. Byrd (D-W.Va.) asked how long before "we can see the end of the tunnel" and U.S. troops can withdraw from Iraq.

Myers responded that this fall or winter, "after the Iraqis are in charge," U.S. officials will be able to make a judgment about "the way forward."

In a closing comment, Rumsfeld said he has been reading a book about the Civil War and noted that dire, despairing reports about high casualties and other problems from that era echo those from Iraq today.

"The carnage was horrendous, and it was worth it," he said of the Civil War. "And I look at Iraq, and all I can say is I hope it comes out well. And I believe it will, and we're going to keep at it."

Staff writer Bradley Graham contributed to this report.

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