

# US general withholds testimony in Abu Ghraib abuse trial

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The decision by Major General Geoffrey Miller to withhold his testimony in a case involving abuse at Abu Ghraib highlights once again the complicity of top political and military officials in authorizing torture in Iraq and Guantánamo Bay, Cuba. In spite of Miller's role in the events leading up to the torture at Abu Ghraib, he has never been punished or even reprimanded, nor have any of those above him.

Defense lawyers for two Abu Ghraib dog handlers—who have been court-martialed for allegedly using dogs to intimidate prisoners—have sought Miller's testimony to argue that the use of dogs was approved military procedure. Miller has responded by invoking Article 31, the military's equivalent to the Fifth Amendment right against self-incrimination. While from a legal point of view the move does not demonstrate any guilt or innocence on Miller's part, it is nevertheless a clear indication that the general has something to hide. The use of Article 31 is generally considered to be a highly unusual step for a top military official to take.

Lawyers for Miller have argued that he has already answered questions on whether he discussed with US officials in Iraq the need to use dogs against prisoners, and he has denied doing so. In previous interviews with lawyers for the accused dog handlers, Miller asserted, "At no time did we discuss the use of dogs in interrogations."

Miller's announcement that he would not testify in the case, however, comes shortly after defense lawyers reached an agreement with prosecutors to obtain the testimony of Colonel Thomas Pappas, the former commanding officer at Abu Ghraib. Pappas has agreed to testify in exchange for immunity from prosecution, and this raises the possibility that he may testify that he did in fact discuss the use of dogs with Miller.

Pappas told investigators in the past that he did discuss the use of dogs with Miller, a statement that has been corroborated by other witnesses, including the former warden at Abu Ghraib.

Harvey Volzer, who represents Sergeant Santos Cardona, one of the low-level military personnel charged in the case, argued that Miller and the military brass in general may have something to hide. "I think what they're hiding is material that is exculpatory that says the interrogation techniques were approved by powers above General Miller," he told the *Washington Post*. "Having Pappas available to testify may have given Miller the impression that he is next to be accused of doing something inappropriate or giving inappropriate orders."

On the specific issue of the use of dogs in terrorizing prisoners—a clear violation of international law—there is an extensive paper trail documenting the involvement of high-level political and military officials in approving the technique. This by itself does not absolve the soldiers of responsibility for their actions, but it does demonstrate that the abuse is part of a broader criminal policy authorized from above.

In November 2002, Rumsfeld signed a memo in which he included “inducing stress by use of detainee’s fears (e.g. dogs)” among a list of acceptable methods of interrogation in Guantánamo Bay, where Miller was then in charge. While this memo was later officially revoked, it established a precedent for the use of dogs in interrogation, and the practice continued at Guantánamo and later in Iraq.

In August and early September 2003, Miller was sent by Rumsfeld to Iraq in order to “Gitmo-ize” operations there, as some military personnel have called it, referring to the military slang for Guantánamo Bay. On one of these visits, Rumsfeld himself accompanied Miller. On September 14, 2003, General Ricardo Sanchez, then the top military commander in Iraq, issued an order authorizing a number of techniques, including “presence of military working dogs” which will “exploit Arab fear of dogs while maintaining security during interrogations.”

The use of dogs, however, was only one of a number of new methods introduced into Iraq, some explicitly approved and some implicitly condoned by Sanchez, Rumsfeld and Miller. Stripping prisoners naked and forcing them to wear women’s underwear—part of a general policy of deliberate sexual humiliation—were both practiced in Guantánamo Bay before being transferred to Iraq. Miller was specifically cleared of responsibility for the use of these methods in a probe into abuse at Guantánamo Bay, on the grounds that they were approved military practice.

The bombardment of prisoners with loud music, forced sleep deprivation, prolonged shackling in painful positions—all of these methods were approved at one point or another by top officials; all of them are overt violations of the Geneva Conventions. A deliberate atmosphere of dehumanization was encouraged. Sanchez once reportedly said that the prisoners were “dogs,” and prison guards were encouraged to treat them as such.

It was this policy that led to the torture captured on film at Abu Ghraib, including the notorious photos of prisoners being assaulted by dogs. This torture took place only weeks after Miller’s trip to Iraq, only weeks after the introduction of “Tiger Teams” sent by Miller from Guantánamo Bay to train US prison guards in Iraq. The photographs that came to light in April 2004 were only a selection of the evidence of torture at that one prison; since that time there has been a mountain of further revelations of abuse throughout Iraq.

It is now over two years since the torture at Abu Ghraib took place, and four years since the first prisoners were transferred to Guantánamo Bay, and still not a single high-level military official has been punished. The only individuals to be actually convicted of offenses related to the systematic abuse perpetrated by US forces have been a handful of low-ranking soldiers.

All the various investigations that were launched by the military and other agencies into the abuse have been only so many exercises in whitewash and damage control. One of these investigations—following from the release of emails written by FBI officials describing the “torture techniques” used at Guantánamo Bay—recommended that Miller be officially

reprimanded for inadequate supervision leading to the abuse of one prisoner, but even this extremely mild rebuke was rejected by the military brass.

While Miller's decision to avoid testifying is no doubt related to concerns about his own future, it is also bound up with the determination of the Bush administration to prevent prosecutions from moving up the "chain of command" to their ultimate source—President Bush, Vice President Cheney, Rumsfeld, current Attorney General Alberto Gonzales and other top administration officials.

The use of torture is the outcome of deliberate policies pursued by the Bush administration beginning in 2001, using the attacks of September 11 as a pretext. From the decision to ignore the Geneva Conventions in the handling of prisoners captured in the so-called "war on terrorism," to the secret memos drawn up by White House and Pentagon lawyers justifying torture, to the establishment of secret CIA detention facilities around the world and the vast increase in the practice of "extraordinary rendition"—the US government has expanded its use of torture as part of a general policy of military aggression and its flouting of international law.

Not only has the policy of torture gone unpunished, it continues. Much has been made of the recent provision passed as part of a defense appropriations bill containing language prohibiting torture by all US personnel. However, far from halting torture, it merely serves to provide a cover for the continuation of the same policy.

Bush, moreover, sought to undermine even this formal prohibition of torture. When signing the bill, he issued a statement declaring that the executive branch would follow the law "in a manner consistent with the constitutional authority of the president to supervise the unitary executive branch and as commander in chief." These words are intended to convey a particular message that is in line with the general position of the administration—that the president has virtually unlimited powers to authorize torture, spy on the American people and arrest and detain anyone indefinitely without charge—invoking his position as "commander in chief." No matter what legislation Congress may pass, the White House says it will be followed only insofar as it does not constrain these powers.

The Bush administration is only able to pursue this course because of the spinelessness and complicity of the nominal opposition in Congress, the Democratic Party. The Democrats have never sought to make torture a major political issue, and presidential candidate John Kerry deliberately avoided attacking Bush on the question during the 2004 elections. The scandal of Abu Ghraib has been all but dropped by the Democrats and the media establishment following the series of investigations and trials of low-ranking personnel.

The fact that Miller and his accomplices have gone unpunished is a reflection of the general support within the entire political establishment for the Bush administration's policies, including the war in Iraq and—whether implicitly or explicitly—the torture of prisoners.

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