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Newly Released Reports Show Early Concern on Prison Abuse

By KATE ZERNIKE

In late 2002, more than a year before a whistle-blower slipped military investigators the graphic photographs that would set off the Abu Ghraib prison abuse scandal, an F.B.I. agent at the American detention center in Guantánamo Bay, Cuba, sent a colleague an e-mail message complaining about the military's "coercive tactics" with detainees, documents released yesterday show.

"You won't believe it!" the agent wrote.

Two years later, the frustration among F.B.I. agents had grown. Another agent sent a colleague an e-mail message saying he had seen reports that a general from Guantánamo had gone to Abu Ghraib to "Gitmo-ize" it. "If this refers to intell gathering as I suspect," he wrote, according to the documents, "it suggests he has continued to support interrogation strategies we not only advised against, but questioned in terms of effectiveness."

When the Abu Ghraib scandal broke last spring, officials characterized the abuse as the aberrant acts of a small group of low-ranking reservists, limited to a few weeks in late 2003. But thousands of pages in military reports and documents released under the Freedom of Information Act to the American Civil Liberties Union in the past few months have demonstrated that the abuse involved multiple service branches in Afghanistan, Iraq and Cuba, beginning in 2002 and continuing after Congress and the military had begun investigating Abu Ghraib.

Yesterday, in response to some of the documents, the Pentagon said it would investigate F.B.I. reports that military interrogators in Guantánamo abused prisoners by beating them, grabbing their genitals and chaining them to the cold ground.

Questions on the handling of detainees will be central to Senate hearings today on the nomination of the White House counsel, Alberto R. Gonzales, as attorney general and to the court-martial of the accused leader of the Abu Ghraib abuse, which begins Friday in Texas.

An article in today's issue of The New England Journal of Medicine says that military medical personnel violated the Geneva Conventions by helping design coercive interrogation techniques based on detainee medical information. Some doctors told the journal that the military had instructed them not to discuss the deaths that occurred in detention.

No one predicted the acts that showed up in snapshots from Abu Ghraib - naked detainees piled in a pyramid or leashed and crawling - but the documents showed many warnings of mistreatment, most explicitly from the F.B.I.

"Basically, it appears that the lawyer worked hard to write a legal justification for the type of interviews they (the Army) want to conduct here," one agent said in an e-mail message from Guantánamo in

December 2002.

The Pentagon now says 137 military members have been disciplined or face courts-martial for abusing detainees. A separate federal investigation in Virginia is looking into possible abuses by civilians hired as interrogators. Several military investigations are still pending, including ones into the deaths of about a dozen detainees.

The charges against the 137 service members, officials say, reflect a zero-tolerance attitude toward abuse - and a small percentage of the 167,000 troops in Afghanistan and Iraq.

"Our policy is clear," said Lt. Col. John A. Skinner, a Pentagon spokesman. "It has always been the humane treatment of detainees."

Civil liberties groups complain that no high-level officers have been held accountable for abuse.

"When you see the same thing happening in three different places, you see abuses being committed with impunity, then it ceases to be the sole responsibility of the individual soldiers," Reed Brody, special counsel to Human Rights Watch, said. "At a certain point, it becomes so widespread that it makes it look like a policy."

Colonel Skinner said that while Defense Secretary Donald H. Rumsfeld has said he believes the abuse was limited, "the secretary has also been clear that we're going to have multiple lines of inquiry to really fully understand what took place, and to have the appropriate investigations to find out any wrongdoing that's occurred." Three of eight military reports on the abuse, he said, have yet to be concluded.

An Army officer, Brig. Gen. John T. Furlow, will lead the new investigation at Guantánamo.

Officials have defended some cases of harsh treatment by saying it was simply the cost of the so-called global war on terror. The Special Operations task force was assigned to track down terrorists in Iraq and Afghanistan. But many of the detainees were not terrorists. In Iraq, 70 percent to 90 percent of those detained, according to military intelligence estimates reported by the International Committee of the Red Cross, "had been arrested by mistake." A military report on Iraqi prisons said that many detainees were held for several months for things like expressing "displeasure or ill will" toward the American occupying forces.

The Bush administration decided in February 2002 that the Geneva Conventions did not apply to members of Al Qaeda and that while they did apply to the Taliban, prisoners taken in Afghanistan were not entitled to the protections of the conventions. Many detainees were taken to Guantánamo, held indefinitely and interrogated with harsh techniques approved for by Mr. Rumsfeld in April 2003. The administration said detainees in Iraq were covered by the conventions, which should have protected them from threats or harassment in interrogations, or from physical or mental torture.

But a military report by a former defense secretary, James R. Schlesinger, which was released in August, concluded that harsh tactics intended for use only at Guantánamo - threatening detainees with dogs, leaving them naked in extreme heat or cold, shackling them upright to keep them awake - "migrated" improperly to Afghanistan and then to Iraq.

"The AC had been turned off, making the temperature in the unventilated room probably well over 100 degrees," one F.B.I. agent reported from Guantánamo in August. "The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his own hair out

throughout the night."

The earliest abuses on record in Iraq apparently came in May 2003. On May 15, two marines in Karbala held a 9-millimeter pistol to the head of a bound detainee while a third took a picture. One marine, according to military records, then poured a glass of water on the detainee's head. In June 2003, according to records, a marine ordered four Iraqi children who had been detained for looting to stand next to a shallow ditch, then fired a pistol in a mock execution.

In August, a marine put a match to a puddle of hand sanitizer that had spilled in front of an Iraqi detainee, igniting a flame that severely burned the detainee's hands.

In April of 2004, marines shocked detainees with wires from an electric transformer - "the detainee 'danced' as he was shocked," an investigative report said. And in June, Defense Intelligence agents reported members of a military Special Operations task force repeatedly punching a detainee in the face. The agents also reported finding prisoners with burn marks on their backs and complaining of kidney pain.

C.I.A. agents reported concerns that the Special Operations task force had abused detainees a year before the Defense Intelligence agents had, leading the C.I.A. to order its agents not to participate in task force interrogations. A military investigation found no evidence of abuse. The F.B.I. also warned its agents at Guantánamo and in Iraq not to participate in military interrogations that used tactics like harsh light, excessively loud music and extreme temperatures, which were not accepted F.B.I. practices.

The Red Cross reported concerns about mistreatment in all three places and raised concerns about medical personnel at Guantánamo sharing health information with military units that planned interrogations. The New England Journal report went further, saying the doctors helped design interrogation strategies using private medical records.

The Pentagon denied that any doctors had taken part in any mistreatment of prisoners but said yesterday that it was reviewing its medical policies regarding detainees.

The F.B.I. complaints began in December 2002, according to the documents. A year later, an agent complained that "these tactics have produced no intelligence of a threat neutralization nature to date."

But agents struggled with what they could complain about, believing that, in some cases, tactics they considered harsh or abusive had high-level approval.

"This technique and all of those used in the scenarios was approved by the dep sec def," or deputy secretary of defense, one agent wrote from Guantánamo in January 2004.

An agent in Iraq reported seeing military interrogators yelling at detainees, covering them with hoods and subjecting them to loud music. That went beyond acceptable F.B.I. practice, the agent wrote, but had been "authorized by the president under his executive order." An e-mail message from the agent made several references to President Bush's signing of an order allowing such techniques.

"We know what's permissible for F.B.I. agents but are less sure what is permissible for military interrogators," the agent wrote.

After Abu Ghraib, when the F.B.I. asked agents to report any abuse they had seen, agents reported 26 incidents they believed to be mistreatment. But the bureau's general counsel said 17 of those were

allowed under Pentagon policy.

The Pentagon and the White House say that no executive order existed.

But earlier memorandums from the White House and the Pentagon on interrogation techniques could have created confusion.

The A.C.L.U. argues that whether or not an executive order existed, the fact that an F.B.I. agent believed so demonstrates the uncertainty over what was permissible.

"It's this climate of confusion and the creation of a legal framework that allowed detainee rights to be violated that has to be parked on the doorstep of leading government officials," said Anthony Romero, the executive director of the A.C.L.U.

Most of the 137 people who have been charged or disciplined, were members of the Army. Of those, 46 resulted in nonjudicial or administrative punishments, which generally mean fines or reductions in rank.

Fourteen marines have been convicted by courts-martial, including one who shocked a detainee with electrical wires. That marine was sentenced to one year's confinement. The marine who conducted the mock execution received a reduction in rank, 30 days' hard labor and 6 months' forfeiture of pay.

One Special Operations member, the Pentagon said, admitted using a stun gun on detainees.

The Pentagon said the punishments reflected different levels of involvement, but the A.C.L.U. and human rights groups said that many serious cases were not given appropriate punishments. After an Army specialist shot a detainee in Tikrit in September 2003, an investigation found probable cause to charge him with murder, records showed. Instead, the specialist was demoted to private and discharged.

Another report on Abu Ghraib cited 34 military intelligence soldiers, including the top two officers at the prison. But only one soldier has been punished, and the two officers have not been charged. A military investigation implicated 28 soldiers in the deaths of two men at the Bagram detention center in Afghanistan; but only one has been charged.