

Prisoner Abuse Foreshadowed

(Lindh, from Page A1)

Times by two sources critical of how the government handled the Lindh case, show that after an Army intelligence officer began to question Lindh, a Navy admiral told the intelligence officer that "the secretary of Defense's counsel has authorized him to take the gloves off and ask whatever he wanted."

Lindh was being questioned while he was propped up naked and tied to a stretcher in interrogation sessions that went on for days, according to court papers.

In the early stages, his responses were called to Washington hourly, the new documents show.

A Defense Department spokesperson said Tuesday evening that the Pentagon "refused to speculate on the exact intent of the statement" from Rumsfeld's office to the military authorities interrogating Lindh.

"Department officials stress that all interrogation policies and procedures demand humane treatment of personnel in their custody," the spokesperson said. "The department is committed to searching farther to ascertain the original source of the comment brought to their attention by The Times."

Lindh, who pleaded guilty in return for a 20-year federal prison sentence for aiding the Taliban, was a young Northern California Islamic convert who joined the Taliban army before Sept. 11, attended a terrorist training camp in Afghanistan and was captured soon after U.S. troops invaded the country.

While Lindh was being interrogated in Afghanistan and later aboard a ship, senior Bush administration officials were strategizing on how to handle other prisoners being rounded up in Afghanistan, with an eye toward flexibility in interrogating them.

In a series of memos from late 2001 to early 2002, top legal officials in the administration identified the U.S. naval base at Guantanamo Bay, Cuba, as a safe haven offshore that would shield the secret interrogation process from intervention by the U.S. judicial system.

The memos show that top government lawyers believed the administration was not bound by the Geneva Convention governing treatment of prisoners because "Al Qaeda is merely a violent political movement or organization and not a nation-state" that had signed the international treaty.

However, the memos also show that Secretary of State Colin L. Powell warned the White House that a tougher approach toward interrogation "will reverse over a century of U.S. policy and practices in supporting Geneva Conventions and undermine the protections of the law of war for our troops, both in this specific conflict and in general."

The tenor of these administration memos on the handling of prisoners in the earliest stages of the U.S.-declared war on terrorism was similar to a legal "working paper" by administration lawyers in March 2003. It concluded that the president had the authority to allow any interrogation tactics that he thought would protect the American public, including torture, according to government documents. The Pentagon this week said that the paper was part of an internal administration debate and was not a policy that was carried out.

In the Iraq war that began in March 2003, administration officials said that the military would abide by the Geneva Convention. But in January of this year, a disgraced U.S. military guard turned over photographs depicting physical abuse and humiliation of inmates at Abu Ghraib.

Six Army prison guards are awaiting courts-martial in the Abu Ghraib scandal. A seventh has pleaded guilty.

The Pentagon, although condemning the behavior, has blamed it on a handful of low-level soldiers violating Army regulations. But the Department of Defense and the Senate Armed Services Committee are investigating how high up in the chain of command responsibilities lie for the abuses.

In the case of Lindh, U.S. in-



Associated Press

DEFENSE SECRETARY: Donald Rumsfeld's office told interrogators to get tough.

elligence officers first tried to interrogate him on Nov. 25, 2001, after he and other Taliban soldiers were captured by U.S. allies known as the Northern Alliance and taken to the town of Mazar-i-Sharif. There, CIA agent Johnny "Mike" Spann used an interrogation tactic of warning Lindh that he might die.

According to a video aired days after Lindh's capture, Spann asked him, "You believe in what you're doing here that much, you're willing to be killed here?"

Another CIA officer, identified as Dave Tyson, told Spann within Lindh's hearing that "he's got to decide if he wants to live or die, and die here. We're just going to... sit in prison the rest of his... short life. It's his decision."

Lindh, then, 20, did not respond. Shortly after, an uprising broke out. Spann was killed — the first U.S. casualty of the war — and Lindh was shot in the leg.

Lindh was recaptured, and over a series of interrogations — at a school at Mazar-i-Sharif, at Camp Rhino in Afghanistan and aboard a Navy ship — he was kept in harsh conditions, stripped and tied to a stretcher, and often held for long periods in a large metal container, the government and defense agreed during his legal battle.

In court hearings and legal papers, his attorneys complained that he was deprived of sleep and food, that his leg wound was not treated, and that for 54 days he was neither allowed legal assistance nor told that his father had retained lawyers on his behalf in San Francisco.

Lindh's lawyers declined to comment on the matter this week, noting that a provision of his 2002 plea agreement stated he would not bring up the conditions under which he was held overseas.

The military, in contrast, has maintained in previous court documents that Lindh was treated well and that he was read his rights under the Miranda law against self-incrimination.

But the new records raise new questions.

According to the government documents, when Lindh was first under interrogation at the schoolhouse, authorities realized that as an American he was drawing the attention of the Defense and Justice departments. There was some initial discussion of whether Lindh, as an American, should be advised of his right against self-incrimination before military intelligence officers talked to him.

One Army intelligence officer said in the documents that he had been advised that "instructions had come from higher headquarters" for interrogators to coordinate with military lawyers about Lindh.

"After the first hour of interrogation, [the interrogator] gave the admiral in charge of Mazar-i-Sharif a summary of what the interrogators had collected up to that point," the documents say. "The admiral told him at that point that the secretary of Defense's counsel has authorized him to take the gloves off and ask whatever he wanted."

The Army intelligence officer responded that if a "criminal investigator" wanted to later question Lindh, "that was fine."

But in the meantime, the officer said, he was "interested in



Associated Press

PRISONER OF WAR: John Walker Lindh was stripped and humiliated by his captors.

tactical information. He was in the business of collecting [intelligence] information, not in the business of Miranda[ing]."

The officer did ask to be faxed a Miranda form, according to the documents, "but he never got it. He never gave Lindh a Miranda warning."

Rumsfeld's legal counsel is not named in the documents. The office was headed by William J. Haynes II.

On Dec. 14, 2001, Haynes' deputy, Paul W. Cobb Jr., told Lindh's San Francisco lawyers that "our forces have provided him with appropriate medical attention and will continue to treat him humanely, consistent with the Geneva Convention protections for prisoners of war."

But court documents suggest that Lindh was treated much as the prisoners later were at Abu Ghraib. Along with nudity and the sleep and food deprivation, Lindh was allegedly threatened with death. One soldier said he "was going to hang." Another "Special Forces soldier offered to shoot him."

At other times, soldiers took photos and videos of themselves smiling next to the naked Lindh, another image eerily similar to the Abu Ghraib photos.

Such actions appear to be in violation of the Geneva Convention, which requires that prisoners have adequate clothing, food and sleep and not be threatened or subjected to degrading treatment.

As the interrogation of Lindh was going on, officials in Washington were privately working out details for handling other prisoners from Afghanistan.

On Dec. 28, 2001, John Yoo, then deputy assistant attorney general, told Haynes at the Pentagon that Guantanamo Bay was a perfect place for detainees because it was not a part of the sovereign United States and therefore not subject to the federal courts. But, Yoo cautioned, "there remains some litigation risk that a district court might reach the opposite result."

The holding of prisoners at Guantanamo Bay without charge or a court hearing has been challenged by several defense lawyers, and the U.S. Supreme Court is expected to rule this month on whether the government went too far.

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