

EXHIBIT 51

Red Cross Finds Detainee Abuse in Guantánamo

By Neil A. Lewis

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Correction Appended

WASHINGTON, Nov. 29 - The International Committee of the Red Cross has charged in confidential reports to the United States government that the American military has intentionally used psychological and sometimes physical coercion "tantamount to torture" on prisoners at Guantánamo Bay, Cuba.

The finding that the handling of prisoners detained and interrogated at Guantánamo amounted to torture came after a visit by a Red Cross inspection team that spent most of last June in Guantánamo.

The team of humanitarian workers, which included experienced medical personnel, also asserted that some doctors and other medical workers at Guantánamo were participating in planning for interrogations, in what the report called "a flagrant violation of medical ethics."

Doctors and medical personnel conveyed information about prisoners' mental health and vulnerabilities to interrogators, the report said, sometimes directly, but usually through a group called the Behavioral Science Consultation Team, or B.S.C.T. The team, known informally as Biscuit, is composed of psychologists and psychological workers who advise the interrogators, the report said.

The United States government, which received the report in July, sharply rejected its charges, administration and military officials said.

The report was distributed to lawyers at the White House, Pentagon and State Department and to the commander of the detention facility at Guantánamo, Gen. Jay W. Hood. The New York Times recently obtained a memorandum, based on the report, that quotes from it in detail and lists its major findings.

It was the first time that the Red Cross, which has been conducting visits to Guantánamo since January 2002, asserted in such strong terms that the treatment of detainees, both physical and psychological, amounted to torture. The report said that another confidential report in January 2003, which has never been disclosed, raised questions of whether "psychological torture" was taking place.

The Red Cross said publicly 13 months ago that the system of keeping detainees indefinitely without allowing them to know their fates was unacceptable and would lead to mental health problems.

The report of the June visit said investigators had found a system devised to break the will of the prisoners at Guantánamo, who now number about 550, and make them wholly dependent on their interrogators through "humiliating acts, solitary confinement, temperature extremes, use of forced positions." Investigators said that the methods used were increasingly "more refined and repressive" than learned about on previous visits.

"The construction of such a system, whose stated purpose is the production of intelligence, cannot be considered other than an intentional system of cruel, unusual and degrading treatment and a form of torture," the report said. It said that in addition to the exposure to loud and persistent noise and music and to prolonged cold, detainees were subjected to "some beatings." The report did not say how many of the detainees were subjected to such treatment.

Asked about the accusations in the report, a Pentagon spokesman provided a statement saying, "The United States operates a safe, humane and professional detention operation at Guantánamo that is providing valuable information in the war on terrorism."

It continued that personnel assigned to Guantánamo "go through extensive professional and sensitivity training to ensure they understand the procedures for protecting the rights and dignity of detainees."

The conclusions by the inspection team, especially the findings involving alleged complicity in mistreatment by medical professionals, have provoked a stormy debate within the Red Cross committee. Some officials have argued that it should make its concerns public or at least aggressively confront the Bush administration.

The International Committee of the Red Cross, which is based in Geneva and is separate from the American Red Cross, was founded in 1863 as an independent, neutral organization intended to provide humanitarian protection and assistance for victims of war.

Its officials are able to visit prisoners at Guantánamo under the kind of arrangement the committee has made with governments for decades. In exchange for exclusive access to the prison camp and meetings with detainees, the committee has agreed to keep its findings confidential. The findings are shared only with the government that is detaining people.

Beatrice Mégevand-Roggo, a senior Red Cross official, said in an interview that she could not say anything about information relayed to the United States government because "we do not comment in any way on the substance of the reports we submit to the authorities."

Ms. Mégevand-Roggo, the committee's delegate-general for Europe and the Americas, acknowledged that the issue of confidentiality was a chronic and vexing one for the organization. "Many people do not understand why we have these bilateral agreements about confidentiality," she said. "People are led to believe that we are a fig leaf or worse, that we are complicit with the detaining authorities."

She added, "It's a daily dilemma for us to put in the balance the positive effects our visits have for detainees against the confidentiality."

Antonella Notari, a veteran Red Cross official and spokeswoman, said that the organization frequently complained to the Pentagon and other arms of the American government when government officials cite the Red Cross visits to suggest that there is no abuse at Guantánamo. Most statements from the Pentagon in response to queries about mistreatment at Guantánamo do, in fact, include mention of the visits.

In a recent interview with reporters, General Hood, the commander of the detention and interrogation facility at Guantánamo, also cited the committee's visits in response to questions about treatment of detainees. "We take everything the Red Cross gives us and study it very carefully to look for ways to do our job better," he said in his Guantánamo headquarters, adding that he agrees "with some things and not others."

"I'm satisfied that the detainees here have not been abused, they've not been mistreated, they've not been tortured in any way," he said.

Scott Horton, a New York lawyer, who is familiar with some of the Red Cross's views, said the issue of medical ethics at Guantánamo had produced "a tremendous controversy in the committee." He said that some Red Cross officials believed it was important to maintain confidentiality while others believed the United States government was misrepresenting the inspections and using them to counter criticisms.

Mr. Horton, who heads the human rights committee of the Bar Association of the City of New York, said the Red Cross committee was considering whether to bring more senior officials to Washington and whether to make public its criticisms.

The report from the June visit said the Red Cross team found a far greater incidence of mental illness produced by stress than did American medical authorities, much of it caused by prolonged solitary confinement. It said the medical files of detainees were "literally open" to interrogators.

The report said the Biscuit team met regularly with the medical staff to discuss the medical situations of detainees. At other times, interrogators sometimes went directly to members of the medical staff to learn about detainees' conditions, it said.

The report said that such "apparent integration of access to medical care within the system of coercion" meant that inmates were not cooperating with doctors. Inmates learn from their interrogators that they have knowledge of their medical histories and the result is that the prisoners no longer trust the doctors.

Asked for a response, the Pentagon issued a statement saying, "The allegation that detainee medical files were used to harm detainees is false." The statement said that the detainees were "enemy combatants who were fighting against U.S. and coalition forces."

"It's important to understand that when enemy combatants were first detained on the battlefield, they did not have any medical records in their possession," the statement continued. "The detainees had a wide range of pre-existing health issues including battlefield injuries."

The Pentagon also said the medical care given detainees was first-rate. Although the Red Cross criticized the lack of confidentiality, it agreed in the report that the medical care was of high quality.

Leonard S. Rubenstein, the executive director of Physicians for Human Rights, was asked to comment on the account of the Red Cross report, and said, "The use of medical personnel to facilitate abusive interrogations places them in an untenable position and violates international ethical standards."

Mr. Rubenstein added, "We need to know more about these practices, including whether health professionals engaged in calibrating levels of pain inflicted on detainees."

The issue of whether torture at Guantánamo was condoned or encouraged has been a problem before for the Bush administration.

In February 2002, President Bush ordered that the prisoners at Guantánamo be treated "humanely and, to the extent appropriate with military necessity, in a manner consistent with" the Geneva Conventions. That statement masked a roiling legal discussion within the administration as government lawyers wrote a series of memorandums, many of which seemed to justify harsh and coercive treatment.

A month after Mr. Bush's public statement, a team of administration lawyers accepted a view first advocated by the Justice Department that the president had wide powers in authorizing coercive treatment of detainees. The legal team in a memorandum concluded that Mr. Bush was not bound by either the international Convention Against Torture or a federal antitorture statute because he had the authority to protect the nation from terrorism.

That document provides tightly constructed definitions of torture. For example, if an interrogator "knows that severe pain will result from his actions, if causing such harm is not his objective, he lacks the requisite specific intent even though the defendant did not act in good faith," it said. "Instead, a defendant is guilty of torture only if he acts with the express purpose of inflicting severe pain or suffering on a person within his control."

When some administration memorandums about coercive treatment or torture were disclosed, the White House said they were only advisory.

Last month, military guards, intelligence agents and others described in interviews with The Times a range of procedures that they said were highly abusive occurring over a long period, as well as rewards for prisoners who cooperated with interrogators. The people who worked at Camp Delta, the main prison facility, said that one regular procedure was making uncooperative prisoners strip to their underwear, having them sit in a chair while shackled hand and foot to a bolt in the floor, and forcing them to endure strobe lights and loud rock and rap music played through two close loudspeakers, while the air-conditioning was turned up to maximum levels.

Some accounts of techniques at Guantánamo have been easy to dismiss because they seemed so implausible. The most striking of the accusations, which have come mainly from a group of detainees released to their native Britain, has been that the military used prostitutes who made coarse comments and come-ons to taunt some prisoners who are Muslims.

But the Red Cross report hints strongly at an explanation of some of those accusations by stating that there were frequent complaints by prisoners in 2003 that some of the female interrogators baited their subjects with sexual overtures.

Gen. Geoffrey Miller, who commanded the detention and intelligence operation at Guantánamo until April, when he took over prison operations in Iraq, said in an interview early this year about general interrogation procedures that the female interrogators had proved to be among the most effective. General Miller's observation matches common wisdom among experienced intelligence officers that women may be effective as interrogators when seen by their subjects as mothers or sisters. Sexual taunting does not, however, comport with what is often referred to as the "mother-sister syndrome."

But the Red Cross report said that complaints about the practice of sexual taunting stopped in the last year. Guantánamo officials have acknowledged that they have improved their techniques and that some earlier methods they tried proved to be ineffective, raising the possibility that the sexual taunting was an experiment that was abandoned.

Correction: December 1, 2004, Wednesday A front-page article yesterday citing a confidential report in which the International Committee of the Red Cross accused the American military of using psychological and sometimes physical coercion on prisoners at Guantánamo Bay, Cuba, misstated the rank of Jay W. Hood, commander of the detention facility there. He is a brigadier general, not a general.

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