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## **A lingering prison scandal**

Alleged abusers at Abu Ghraib are facing justice, but the problems may go deeper

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In hindsight, it might have been the first sign of trouble. In January 2004, Capt. Donald J. Reese, commander for the 372nd Military Police Company that would soon become embroiled in the Abu Ghraib prison scandal, had a problem with one of his charges. Spc. Lynndie England, a 21-year-old clerk, was carrying on a sexual relationship with one of her fellow soldiers, Cpl. Charles A. Graner. "We gave her a direct order. If she's not working, she's to be back in her room at night," Reese later told investigators, according to a classified annex of a Pentagon report, obtained by U.S. News. "We had attempted to contact her a few nights, couldn't find her. We didn't know where she was." After later catching her in Graner's bunk, Reese reprimanded England for failing to obey orders and reduced her rank from specialist to private first class.

A few months later, England and Graner were in trouble again. Photographs of the pair standing behind a pile of hooded, naked detainees and an image of England holding a naked prisoner by a leash became synonymous with the cascading scandal of detainee abuse in Iraq. Lawyers for Graner and England say their clients were merely following the directives of military intelligence officers who desperately needed the MP s to soften up detainees so interrogators could discover the secrets of the insurgency swelling beyond the prison walls.

Graner's court-martial kicks off this week, the first in a series of four expected courts-martial that will once again bring the events of Abu Ghraib into the spotlight. But since those April days when Graner and England became household names, concerns about the treatment of prisoners have multiplied--not just at Abu Ghraib but at the U.S. Navy base at Guantanamo Bay, Cuba, and in Afghanistan as well. A parade of leaks and revelations have also raised questions about just who knew of the alleged abuses, just what the Bush administration's policies were, and just who formulated them. A host of official probes continue, and the controversy now seems certain to dominate upcoming confirmation hearings on President Bush's choice for attorney general.

Graner will face a general court-martial; three of the 372nd's "seven rogue soldiers," as they have become known, have already pleaded guilty to some charges as part of plea-bargain arrangements. Among the charges Graner faces are cruelty and maltreatment, assault, and obstruction of justice. But his attorney, Guy Womack, argues that Graner was "given orders by his superiors, he followed those orders, and he was praised by those who knew exactly what he was doing." Womack will try to bolster his case by calling witnesses further up the chain of command, including Staff Sgt. Ivan Frederick, the highest-ranking soldier accused. Frederick pleaded guilty to a host of charges, including dereliction of duty and assault, and was sentenced to eight years. As for England, she was slated to go on trial January 18, but her case is now on hold because of a change of venue from Fort Bragg, N.C., to Fort Hood, Texas. No new trial date has been set.

Given all that's happened, though, critics of the government now contend that Graner and England may be mere footnotes in a wider scandal. Early last year, two internal Justice Department memos leaked to the press indicated that the government was at least exploring ways to justify denying America's al Qaeda and Taliban prisoners protections afforded by the Geneva Conventions, which guarantee humane treatment to prisoners of war. And last month, government documents released to the American Civil Liberties Union as part of a Freedom of Information Act lawsuit highlighted more than 100 instances of alleged prisoner abuse affecting

detainees in Guantanamo Bay, Afghanistan, and Iraq. "Abuse is happening. There's no other way to describe it," says Anthony Romero, executive director of the ACLU.

Documentation. The documents released to the ACLU indicate that some marines in Iraq have physically abused detainees: one by holding a gun to a detainee's head, another by setting fire to a detainee after covering the detainee's hands in an alcohol-based sanitizer, and a third by searing the skin of a detainee with electric shocks. Meanwhile, internal FBI E-mails revealed that questions over the legality of harsh interrogation techniques used at Guantanamo Bay were raised by agents who visited the base as early as 2002. The FBI declined comment on the E-mails.

Government officials contend that all the allegations require a hefty dose of context. Lt. Col. John Skinner, a Pentagon spokesman, says that credible allegations of detainee mistreatment are always investigated and that misconduct is never tolerated. He notes that more than 100 military personnel have been disciplined in regard to mistreatment either through administrative actions, nonjudicial punishment, or courts-martial. There have been eight military inquiries that have analyzed what went wrong and resulted in reforms, he says, and three more are pending. Additionally, both defense and law enforcement officials argue that leaks have been selective, obscuring the other side of debates over the appropriateness of certain tactics. Mark Jacobson, who formerly worked on Pentagon detainee policy, calls the selective leaking "cherry picking."

Skeptics argue that despite the many inquiries, few high-level officials have been held accountable. That may change this week as the Senate Judiciary Committee begins confirmation hearings for Alberto Gonzales, the president's nominee for attorney general. Gonzales drafted one of those controversial legal memos, in which he called certain provisions of the Geneva Conventions "quaint" in the context of the president's war on terrorism. The other memo, addressed to Gonzales, argued that for an offense to constitute torture, the pain must be as intense as "physical injury, such as organ failure, impairment of bodily function, or even death." The second memo was quickly rescinded by the Justice Department, and late last week Justice issued a new memo reaffirming the government's opposition to torture and expanding the definition of tactics that might constitute torture.

Some Judiciary Committee Democrats can't wait to grill Gonzales. In a statement last month, Sen. Patrick Leahy of Vermont said Gonzales would have to explain "the role he has played in formulating the administration's policies." Leahy added that "somewhere in the upper reaches of the executive branch a process was set in motion that rolled forward until it produced this [prisoner abuse] scandal." White House spokesman Trent Duffy said last week that the president wholeheartedly supports Gonzales. When Bush nominated him in November, the president said Gonzales's "sharp intellect and sound judgment have helped shape our policies in the war on terror." That sounded good then. But this week may be another story.