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Guantanamo Officer Maintains Silence on Abu Ghraib.

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Major General Geoffrey Miller, the former Guantanamo Bay commander instrumental in developing interrogation policies at Abu Ghraib, raised eyebrows recently when he declined to testify in the investigation of two soldiers accused of using dogs to terrorise prisoners at the Baghdad prison.

Lawyers for the dog handlers - who, like low-ranking military police convicted over Abu Ghraib, say they were following orders - wanted to question Gen Miller about his controversial visit to Abu Ghraib in 2003.

Colonel Thomas Pappas says that during the visit, Gen Miller recommended using dogs - including unmuzzled dogs - in interrogations. Col Pappas, who was responsible for military intelligence at Abu Ghraib, says Gen Miller also said he was using dogs at Guantanamo. Gen Miller denies the allegations.

Gen Miller invoked Article 31 of the military justice code - the equivalent of the constitutional right not to testify to prevent possible self-incrimination - the same day Col Pappas was granted immunity in exchange for agreeing to testify. Gen Miller's lawyer says he was unaware that Col Pappas had taken that course.

Former senior military lawyers say Gen Miller could be key to understanding whether the Abu Ghraib abuses were the result of a few rogue soldiers, as President George W. Bush has argued, or whether responsibility lies higher up the chain of command. "For a general officer to invoke [Article 31] is unparalleled," said John Hutson, who served as the navy judge advocate-general from 1997 to 2000.

"Where there are other people being court-martialled whose fate may rest in his testimony, for him not to testify and let them take the rap is not something that a general officer would do lightly."

Walter Huffman, dean of the Texas Tech School of Law and a former army judge advocate-general, says Gen Miller's decision not to testify could prevent the military justice system from determining accountability for Abu Ghraib.

"I thought that through the [military justice] system, accountability would develop because those lower-ranking personnel who asserted essentially 'I was just following orders' would bring in then those people as witnesses," he said.

"[So] when Gen Miller is asked to testify and then asserts his rights under Article 31, it certainly causes a lot of people, including me, to say, 'Hmm, that does not allow the system to continue to ferret out what I believe the system is fully capable of doing'."

Gen Miller first came under scrutiny in 2004 when an investigation criticised him for blurring the roles of military police and interrogators in his recommendations for improving intelligence-gathering at Abu Ghraib. Then there were revelations last year that FBI agents at Guantanamo had raised concerns that interrogators were abusing prisoners under his watch. A subsequent army investigation concluded that Gen Miller should be reprimanded for inadequate supervision, but his commanding officer rejected this as he had not violated any US law.

Larry Di Rita, a senior adviser to Donald Rumsfeld, US defence secretary, said Gen Miller had done a "very solid job getting that facility [Guantanamo] into shape"

"None of the investigations, including a very focused Guantanamo investigation raised and sustained any allegations against him," he added.

The lawyer for one of the accused dog-handlers recently withdrew her request to interview Gen Miller. By that time, however, Gen Miller was the focus of renewed attention.

"There are two stories out there that cannot be reconciled," Lindsey Graham, a Republican on the Senate armed services committee, said recently, referring to the conflicting statements from Gen Miller and Col Pappas.

"We've got two enlisted people facing court martial and how [those stories are] resolved matters? Shame on us if we'll allow a story to go forward that is not true, and the two dog-handlers are paying the price."

William Eckhardt, the military prosecutor in the investigation of the My Lai massacre - where US soldiers killed more than 300 unarmed Vietnamese civilians - says Gen Miller faces a clash between his right not to testify and the "higher calling of the officer profession". "It may be right to remain silent, but when it happens it speaks volumes," said Mr Eckhardt.

Gen Miller's lawyer - who could not be reached for comment - has said he invoked Article 31 because he had already answered questions about Abu Ghraib.

Fred Lederer, a military law expert at the College of William & Mary, says people should not jump to conclusions. "The classic language is not to incriminate yourself," says Mr Lederer. "The public tends to forget that innocent people can and often should take the right against self-incrimination when to answer questions [would] put themselves in harm's way."

References to Gen Miller's involvement in crafting interrogation policies at Guantanamo also surfaced in a New Yorker article in which Alberto Mora, former navy general counsel, described his battle to dissuade officials in the Justice Department and Pentagon, and the office of Dick Cheney, vice-president, from approving aggressive interrogation techniques. Mr Mora said Pentagon officials had secretly bypassed his objections and that interrogation methods were approved for use by Gen Miller's team without his knowledge.

Mr Huffman says the US "failed Geoff Miller" - whom he calls "a very solid guy" who was put in a difficult position - when it classified prisoners at Guantanamo as enemy combatants and decided Geneva conventions would not apply. "[That] created a situation where the opportunity for the kinds of things that happened would happen," he said.

"The strong signal that was coming out of both the justice and defence departments to guys like Geoff Miller was 'Hey, we have fought off these attempts to water down our charter to you to gain the information you need, and so go get em'."