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Probe leaves out ex-commander at Guantanamo

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WASHINGTON -- The high-profile investigation into FBI agents' allegations of detainee abuses at the US naval base at Guantanamo Bay, Cuba, is not examining the conduct of the man who oversaw the interrogation operation at the time that prisoners were allegedly shackled in painful positions and exposed to extreme temperatures to break their silence.

Army Major General Geoffrey Miller commanded Camp Delta, the intelligence-gathering prison, from fall 2002 until spring 2004, when the Pentagon sent him to Iraq to take over detention operations amid the Abu Ghraib scandal. According to several internal FBI memos made public in a lawsuit, agents assigned to help in the interrogations say they alerted Miller about the abusive techniques they witnessed at Guantanamo, but Miller rebuffed them.

Despite Miller's key role at Guantanamo, the US Southern Command assigned a one-star officer, Brigadier General John Furlow, to conduct its investigation into the alleged abuses. Under Army regulations, an investigating officer must outrank anyone he or she investigates, and Miller's two stars place him beyond Furlow's reach.

The assignment of a junior officer to investigate the allegations raises questions about whether the probe, which the Bush administration announced in January and has repeatedly touted in response to questions about the FBI memos, can reveal the full scope of responsibility. Furlow's report is due to the Southern Command commander, Lieutenant General Bantz Craddock, in five days.

"It's difficult to see how it can be anything but a whitewash if the investigator doesn't have the authority to look at high-level responsibility," said Jameel Jaffer, a senior attorney at the American Civil Liberties Union, one of the groups that sued to make the FBI memos public.

Lieutenant Colonel Jim Marshall, a Southern Command spokesman, said that Furlow has a mandate to "determine the facts of the allegations" and that Craddock has the option to appoint a ranking general to examine Miller's conduct, although he has not chosen to at this point. Furlow and his team are interviewing former Guantanamo guards and interrogators as well as the FBI agents who wrote the internal memos.

"At this point, a more senior investigating officer is not required; however, this possibility has not been ruled out," Marshall said. "If that point is reached, an officer of the grade commensurate to the new requirement will be assigned."

The heavily redacted FBI memos, sent to top bureau officials after the abuses at the Abu Ghraib prison became public last spring, described detainees being shackled and left in painful positions without food and water for as long as 24 hours in stifling or freezing rooms with blaring music. One FBI agent described seeing a detainee who had pulled out his own hair and another who had defecated on himself.

According to the memos, several experienced FBI interrogators assigned to help obtain information from suspected Al Qaeda or Taliban militants wrote that they told Miller the harsh techniques were ineffective, counterproductive, and unlikely to produce reliable information. One agent says Miller told him that his "marching orders" came from Defense Secretary Donald H. Rumsfeld, according to the memos.

Miller has been a central figure as allegations of detainee abuses grabbed headlines. Critics have linked the allegations to the Bush administration's decision to withhold Geneva Convention protections from prisoners captured in Afghanistan. The Geneva treaty forbids coercive interrogation practices against prisoners of war, but specialists say information is vital for defense against terrorism.

Miller's supporters say he brought order to a chaotic situation at Guantanamo Bay when he took control of Camp Delta in late 2002. Although Miller often spoke with pride about the medical care detainees received and how those who provided information received extra privileges, human rights advocates said detention without trial violated international laws and they questioned what occurred in parts of the camp that were off-limits to nonmilitary personnel.

In September 2003, Miller spent 10 days in Iraq offering commanders there suggestions for using Guantanamo interrogation techniques on suspected insurgents held at Abu Ghraib.

Beatings and sexual humiliation of prisoners there, which became public in May 2004, began shortly after his visit.

The military has attributed the Abu Ghraib abuses to a handful of sadistic night-shift guards and insists that Miller's suggestions could not have been interpreted as permission for abuse. The Bush administration has repeatedly denied that it authorized the torture of prisoners captured in Iraq and Afghanistan.

Still, the timing of Miller's visit raised questions about what was happening to prisoners in Guantanamo who did not cooperate with their interrogators. The questions intensified when the FBI memos became public in December.

Seeking an investigation that would finally make clear what had happened on Miller's watch, Senator Edward M. Kennedy wrote to Craddock, who took over Southern Command last year after working as Rumsfeld's personal aide. The Massachusetts Democrat asked Craddock to replace Furlow with a higher-ranking officer.

The Guantanamo investigation "should be conducted by an officer of sufficient rank to investigate the conduct of Major General Geoffrey Miller, the previous commander of the facility," Kennedy wrote on Jan. 21. "I hope you can assure me that the charter and scope of the Guantanamo investigation is sufficient to address my concerns."

On Jan. 26, Craddock wrote Kennedy saying that Furlow's interviews with demobilized reservists and FBI agents assigned around the country were not yet complete, but there was no sign yet that Miller's conduct would need to be examined.

"At this time there is no indication that the scope of the investigation involves conduct or performance of duty of an officer senior in rank to BG Furlow," Craddock wrote. "If the evidence necessitates the appointment of a higher-ranking investigating officer, rest assured that . . . I will do so."

On Feb. 15, Kennedy wrote Craddock again, noting that several of the FBI documents specifically mention Miller. He attached copies of the FBI memos mentioning "heated" conversations between FBI agents and Miller, saying Craddock must appoint someone who outranks Miller.

"These documents, even heavily redacted, clearly show that the FBI tried to address its concerns to General Miller, who was aware of at least some of the allegations," Kennedy wrote. "As the commanding officer of the facility, he bears the ultimate responsibility for abuses that happened at . . . Guantanamo, and his involvement and management of the facility should be thoroughly investigated."

Craddock has not replied to Kennedy's second letter.