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A Future Investigation

Editorial
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IT'S NOT YET clear whether senators will succeed in their effort to force the Bush administration to give up the use of "cruel, inhuman and degrading" treatment of foreign detainees, despite a 90-9 vote by the Senate. Resistance by House Republicans and the White House threat of a veto means this badly needed restoration of the American commitment to human rights faces an uphill battle in the coming weeks. Meanwhile, the outcome of another legislative initiative stemming from the hundreds of documented cases of prisoner abuse is even cloudier. Sen. Carl M. Levin (D-Michigan) so far has won no Republican support for a proposal to create an independent commission to investigate the treatment of detainees since 2001. Given what is known -- and still unknown -- about this shocking and shameful record, the rejection of accountability by the administration and Congress is a scandal in its own right.

Administration officials frequently assert that prisoner treatment has been investigated by a number of military or Pentagon-appointed panels since the photos of abuse at the Abu Ghraib prison surfaced last year. What they don't acknowledge is the lack of independence of those probes or the very wide areas they have overlooked. There has been no investigation of Defense Secretary Donald H. Rumsfeld, his senior staff, and White House and Justice Department lawyers who drafted or approved policies for detainee interrogations. There has been no investigation of CIA personnel, ranging from former director George J. Tenet to serving personnel in Iraq, who are known to have been involved in the illegal hiding of "ghost detainees" from the International Red Cross and the "rendition" of suspects to countries that practice torture, as well as in cases of torture and homicide. Even a promised investigation by the CIA's own inspector general has never been delivered to Congress.

The lack of investigation means that many key questions about the prisoner abuse scandal remain unanswered. We know, for example, that abusive techniques first used on prisoners at Guantanamo Bay, Cuba with the approval of Mr. Rumsfeld, such as nudity, sexual humiliation and using dogs to threaten them, later spread to Afghanistan and Iraq. But it is not known how this "migration," as one official report described it, occurred. The contents of two crucial policy memos prepared by the Justice Department in 2002 and 2003 remain undisclosed, despite repeated requests for their release by Mr. Levin. It is likely that they authorized some of the specific torture techniques that were practiced by CIA and military personnel. Little or nothing is known about CIA practices: where prisoners are held, how many there are, what access they have to medical treatment, and how many may have suffered injury or death while in the agency's custody.

A number of senior Army officers, most notably former Iraq commander Lt. Gen. Ricardo S. Sanchez and former Guantanamo commander Maj. Gen. Geoffrey D. Miller, have been implicated in serious offenses, including ordering or approving prisoner mistreatment. Yet the only direct investigation of these still-active generals, by the Army inspector general, resulted in no sanctions or charges. The head of the U.S. Southern Command, Gen. Bantz J. Craddock, refused to follow a recommendation by the Army's own investigators that Gen. Miller be held accountable for the "degrading and abusive treatment" of one Guantanamo prisoner.

We're willing to make a prediction: Some day there will be an exhaustive investigation of how and why prisoners were abused after 2001, and accountability will be assigned to the senior officers and officials who now hide behind their subordinates and inspector generals. Like the internment of ethnic Japanese during World War II or the CIA's involvement in Cold War-era coup plots and

assassinations, government acts so at odds with fundamental American standards will eventually be exposed and disowned by our democracy. Yet it would be much better for the legacy of President Bush, and this Republican Congress, if that honest accounting were to begin now, rather than after they have left office. The opportunity exists: Mr. Levin and his amendment are waiting.