

108TH CONGRESS }  
2d Session

HOUSE OF REPRESENTATIVES

{ REPORT  
108-547

RESOLUTION OF INQUIRY REGARDING PICTURES, PHOTOGRAPHS,  
VIDEOS, COMMUNICATIONS, AND REPORTS PRODUCED IN CON-  
JUNCTION WITH DEPARTMENT OF DEFENSE INVESTIGATIONS  
RELATING TO ALLEGATIONS OF TORTURE OR ALLEGATIONS OF  
VIOLATIONS OF THE GENEVA CONVENTIONS OF 1949 AT ABU  
GHRAIB PRISON IN IRAQ OR RELATING TO THE ABUSE OR AL-  
LEGED ABUSE OF A PRISONER OF WAR OR DETAINEE BY ANY  
CIVILIAN CONTRACTOR WORKING IN IRAQ WHO IS EMPLOYED  
ON BEHALF OF THE DEPARTMENT OF DEFENSE

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ADVERSE REPORT  
OF THE  
COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES  
ON  
H. RES. 640  
together with  
DISSENTING VIEWS



JUNE 16, 2004.—Referred to the House Calendar and ordered to be  
printed.

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RESOLUTION OF INQUIRY REGARDING PICTURES, PHOTOGRAPHS, VIDEOS, COMMUNICATIONS, AND REPORTS PRODUCED IN CONJUNCTION WITH DEPARTMENT OF DEFENSE INVESTIGATIONS RELATING TO ALLEGATIONS OF TORTURE OR ALLEGATIONS OF VIOLATIONS OF THE GENEVA CONVENTIONS OF 1949 AT ABU GHRAIB PRISON IN IRAQ OR RELATING TO THE ABUSE OR ALLEGED ABUSE OF A PRISONER OF WAR OR DETAINEE BY ANY CIVILIAN CONTRACTOR WORKING IN IRAQ WHO IS EMPLOYED ON BEHALF OF THE DEPARTMENT OF DEFENSE

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Mr. HUNTER, from the Committee on Armed Services,  
submitted the following

### ADVERSE REPORT

together with

### DISSENTING VIEWS

[To accompany H. Res. 640]

The Committee on Armed Services, to whom was referred the resolution (H. Res. 640) of inquiry requesting that the Secretary of Defense transmit to the House of Representatives before the expiration of the 14-day period beginning on the date of the adoption of this resolution any picture, photograph, video, communication, or report produced in conjunction with any completed Department of Defense investigation conducted by Major General Antonio M. Taguba relating to allegations of torture or allegations of violations of the Geneva Conventions of 1949 at Abu Ghraib prison in Iraq or any completed Department of Defense investigation relating to the abuse or alleged abuse of a prisoner of war or detainee by any civilian contractor working in Iraq who is employed on behalf of the Department of Defense, having considered the same, report unfavorably thereon without amendment and recommend that resolution not be agreed to.

#### PURPOSE AND SUMMARY

House Resolution 640, introduced on May 12, 2004, by Congressman Chris Bell, requests the Secretary of Defense to transmit to the House of Representatives within 14 days any picture, photograph, video, communication, or report produced in conjunction

with the investigation conducted by Major General Antonio Taguba relating to allegations of violations of the Geneva Conventions at Abu Ghraib prison in Iraq or any completed investigation relating to the abuse of detainees by civilian contractors working in Iraq on behalf of the Department of Defense.

Clause 7 of rule XIII of the Rules of the House of Representatives provides for a committee to report on a qualifying resolution of inquiry, such as H. Res. 640, within 14 legislative days or a privileged motion to discharge the committee is in order. H. Res. 640 was introduced and referred to the Committee on Armed Services on May 12, 2004.

Under the rules and precedents of the House, a resolution of inquiry is one of the means by which the House may request information from the President of the United States or the head of one of the executive departments. It is a simple resolution making a direct request or demand of the President or head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch. It is not used to request opinions or to require an investigation on a subject.

#### BACKGROUND

House Resolution 640 calls for the transmission of materials produced in conjunction with the development of the "Taguba" report on abuses at Abu Ghraib prison outside of Baghdad, Iraq. The committee concluded that the Department of Defense has provided the requested materials to the committee, and in fact provided additional material of probative value beyond those requested.

Specifically, the committee records indicate that the Department of Defense transmitted the "Taguba" report to the Committee on Armed Services on May 5, 2004, followed by its classified annexes on May 10th. In its entirety, the report, including its annexes, totals some 6,000 pages. Members of the committee were advised on May 11, 2004, that the above documents were available for review in keeping with applicable procedures. Beyond the written report provided to the committee, the Department of Defense arranged two opportunities for members of the House of Representatives, including members of the committee to view additional photographic and video material related to the allegations of abuse at Abu Ghraib prison. On May 12th, all members of the House of Representatives had an opportunity to view photographs associated with Abu Ghraib. The Department arranged a second opportunity on May 13th for members of the Committee on Armed Services to review the photographic evidence, which some members had missed due to a lengthy committee markup of H.R. 4200, the National Defense Authorization Act for Fiscal Year 2005. It should also be noted that some of the photographic material made available to members was not produced in conjunction with the Taguba report and, therefore, would not necessarily be subject to the requirements of the resolution. To that extent, the Department of Defense may have already provided more information to the House of Representatives than the above resolution would require. Third, Major General Taguba appeared in person before the Committee on Armed Services on May 18th in a closed briefing to answer questions about his investigation. The committee concludes that the materials requested in House Resolution 640 relating to the "Taguba" report have been

provided to the committee of jurisdiction, the Committee on Armed Services, and are available to members of the committee for their review.

The resolution also requests transmission of any picture, photograph, video, communication, or report produced in conjunction with any completed Department of Defense investigation into abuse or alleged abuse by any civilian contractor in Iraq. At this time, the Department of Defense has not completed any specific investigations on alleged contractor abuses of detainees and does not expect to in the timeframe covered by the resolution. Thus, the Department does not possess any of the contractor-related information that the resolution covers. The Department's criminal investigations into abuse reports are likewise ongoing. As contractors are subject to criminal prosecution in the United States for acts they commit overseas under the Military Extraterritorial Jurisdiction Act (18 U.S.C. 3261), the committee is concerned that transmitting such investigative information to Congress could have the additional potential of compromising later criminal prosecutions.

Because the materials requested in H. Res. 640 relating to the "Taguba" Report have previously been provided to the committee, and investigations of contractor abuse have not been completed, therefore excluding them from the scope of the resolution, the committee ordered the resolution reported adversely.

#### LEGISLATIVE HISTORY

As noted above, H. Res. 640 was introduced on May 12, 2004, and referred to the Committee on Armed Services. On June 14, 2004, the Committee on Armed Services held a mark-up session to consider H. Res. 640. The committee reported adversely the resolution by a voice vote.

#### COMMITTEE POSITION

On June 14, 2004, the Committee on Armed Services met in open session and reported adversely the resolution H. Res. 640 to the House by a voice vote, a quorum being present.

#### COMMITTEE COST ESTIMATE

Pursuant to clause 3(d) of rule XIII of the Rules of the House of Representatives, the committee estimates the costs of implementing the resolution would be minimal. The Congressional Budget Office did not provide a cost estimate for the resolution.

#### OVERSIGHT FINDINGS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities pursuant to clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

With respect to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a)(1) of the Congressional Budget Act of 1974, this legislation does not include any new spending or credit authority, nor does it provide for any increase or decrease in tax revenues or expenditures.

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, performance goals and objectives can not be explained, because the resolution does not require any new funding.

#### CONSTITUTIONAL AUTHORITY STATEMENT

The committee finds that clause 3(d)(1) of rule XIII of the Rules of the House of Representatives does not apply because H. Res. 640 is not a bill or joint resolution that may be enacted into law.

#### STATEMENT OF FEDERAL MANDATES

Pursuant to section 423 of Public Law 104-4, this legislation contains no federal mandates with respect to state, local, and tribal governments, nor with respect to the private sector. Similarly, the resolution provides no unfunded federal intergovernmental mandates.

#### RECORD VOTES

In accordance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the committee sets forth the following record vote that occurred during the committee's consideration of H. Res. 640.

**COMMITTEE ON ARMED SERVICES**  
**108TH CONGRESS**  
**ROLL CALL**

**Skelton substitute amendment**                      **Date: 06/14/04**  
**H. Res. 640**    **Offered by: Skelton**

Voice Vote         **Ayes**         **Nays**

Rep.	Aye	Nay	Present	Rep.	Aye	Nay	Present
Mr. Hunter		X		Mr. Skelton	X		
Mr. Weldon		X		Mr. Spratt	X		
Mr. Hefley				Mr. Ortiz	X		
Mr. Saxton		X		Mr. Evans	X		
Mr. McHugh		X		Mr. Taylor	X		
Mr. Everett		X		Mr. Abercrombie	X		
Mr. Bartlett			X	Mr. Meehan			
Mr. McKeon		X		Mr. Reyes			
Mr. Thornberry		X		Dr. Snyder	X		
Mr. Hostettler		X		Mr. Turner (TX)			
Mr. Jones				Mr. Smith	X		
Mr. Ryun (KS)		X		Ms. Sanchez	X		
Mr. Gibbons		X		Mr. McIntyre	X		
Mr. Hayes		X		Mr. Rodriguez	X		
Mrs. Wilson (NM)	X			Ms. Tauscher	X		
Mr. Calvert		X		Mr. Brady			
Mr. Simmons		X		Mr. Hill	X		
Mrs. Davis (VA)		X		Mr. Larson (CT)	X		
Mr. Schrock		X		Ms. Davis (CA)	X		
Mr. Akin		X		Mr. Langevin	X		
Mr. Forbes		X		Mr. Israel	X		
Mr. Miller (FL)				Mr. Larsen (WA)	X		
Mr. Wilson (SC)		X		Mr. Cooper	X		
Mr. LoBiondo		X		Mr. Marshall			
Mr. Cole		X		Mr. Meek	X		
Mr. Bradley		X		Ms. Bordallo			
Mr. Bishop		X		Mr. Alexander			
Mr. Turner (OH)		X		Mr. Ryan (OH)	X		
Mr. Kline		X					
Mrs. Miller (MI)		X					
Dr. Gingrey		X					
Mr. Rogers		X					
Mr. Franks		X					

Roll Call Vote Total:

     **22 Aye**         **28 Nay**         **1 Present**

## DISSENTING VIEWS

House Resolution 640 would require the Secretary of Defense to transmit to the House information produced in connection with the investigation conducted by Major General Taguba into allegations of abuse against Iraqi prisoners and detainees at Abu Ghraib prison. During mark up of this legislation in the Armed Services Committee, Representative Tauscher offered an amendment that would have required the submission of reports in the Secretary's possession from nongovernmental organizations such as the International Committee of the Red Cross pertaining to violations of international or federal law concerning the interrogation of detainees. Representatives Skelton and Wilson offered a bipartisan amendment that would have required the production of additional material related to the prisoner abuse scandal at Abu Ghraib prison but not sought by House Resolution 640. Both of these amendments were defeated on largely party-line votes, and the committee ordered the resolution reported to the House with an adverse recommendation.

We believe the committee should have acted favorably upon the amendments and the resolution, not only because of the specific information that the Department would have been required to produce, but also because of other considerations that go beyond the substance of the bill.

In our view, the Armed Services Committee should care about oversight and should send that signal to the Department. We have a constitutional duty under Article 1, section 8 of the Constitution to provide for our military. Overseeing how the Department spends the money we authorize and appropriate and how they execute their programs and activities is part and parcel of that responsibility. In an era of increasing defense budgets and in a time of war, it's easy to just throw money at a problem or to turn away from critical oversight, but our duty to the taxpayers doesn't end just because we're at war or because there's more money to go around. We have a constitutional obligation to look into this matter—to ask questions and to probe for answers, and we should not shrink from that responsibility.

Although the committee has held a hearing with the Secretary of Defense and has held a few closed briefings that have touched upon the topic of prisoner abuse, these actions do not suffice as fulfillment of the committee's oversight or investigative responsibility. Indeed, recent news stories that the Army is considering placing its investigation under a four-star general and that interrogators at Abu Ghraib were reporting allegations of prisoner abuse to senior officers as early as November 2003 make clear that the Taguba report leaves unaddressed important questions of personal accountability and systemic deficiencies that the committee can and should explore.

It is also clear that the eyes of the world are upon the United States and Congress to see how we as a nation handle the prisoner abuse scandal. Unfortunately, the image of the United States has been tarnished by the reprehensible pictures of prisoner abuse we have all seen. America needs to reestablish its credibility. We have to prove to other nations—particularly to our allies and the Arab world whose support we will ultimately need to succeed in Iraq—that the events at Abu Ghraib and elsewhere were an aberration. We must prove that cruelty and maltreatment are not the standard operating procedure for either our military or our country. Only a comprehensive, transparent and public investigation will permit us to show the world that we have higher standards—that we are a nation of laws, not of men, and that we are dedicated to freedom, truth and justice. The Armed Services Committee could have helped demonstrate Congress' commitment to accountability and to ensuring that these abuses cannot recur by insisting that the Secretary of Defense provide us with both the information recited in the resolution and that which would have been added by the amendments the committee rejected.

Our ability to succeed in Iraq over the long term begins with our ability to demonstrate to the satisfaction of those whose support we must have—Iraqis, the American people, allies and the international community—that our intentions are noble. The benchmark by which these constituencies will judge us is how we acquit ourselves in righting the wrongs of detainee and prisoner abuses. Congress, particularly the House and the Armed Services Committee, has a duty to investigate these abuses now. The reputation of our military, the credibility of our country and the trust of the world depend on it. H. Res. 640 presented the Armed Services Committee with the opportunity to take an incremental but important step in publicly showing the world that the horrible pictures of Abu Ghraib do not accurately reflect how our military operates or the values we stand for as a country. The failure of the Armed Services Committee to act favorably on this resolution unfortunately leaves open the questions of whether we on this committee take our oversight responsibility seriously and whether Congress is dedicated to finding the truth and seeing that justice will be done in this case. We can only hope that this failure will not further contribute to a loss of trust of the Iraqi people, goodwill of the Arab world or among our allies in the war against terrorism.

IKE SKELTON.  
JOHN SPRATT.  
SOLOMON P. ORTIZ.  
LANE EVANS.  
GENE TAYLOR.  
NEIL ABERCROMBIE.  
MARTY MEEHAN.  
SILVESTRE REYES.  
VIC SNYDER.  
JIM TURNER.  
ADAM SMITH.  
LORETTA SANCHEZ.  
MIKE MCINTYRE.  
CIRO D. RODRIGUEZ.

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ELLEN O. TAUSCHER.  
ROBERT A. BRADY.  
BARON P. HILL.  
JOHN B. LARSON.  
SUSAN A. DAVIS.  
JAMES R. LANGEVIN.  
STEVE ISRAEL.  
RICK LARSEN.  
JIM COOPER.  
KENDRICK B. MEEK.  
MADELEINE Z. BORDALLO.  
RODNEY ALEXANDER.  
TIM RYAN.

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