

## CIA CONTRACTOR IS CHARGED IN BEATING OF AFGHAN DETAINEE

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By Farah Stockman

WASHINGTON - A civilian contractor working for the CIA was arrested yesterday and charged with assaulting a detainee in Afghanistan who later died. They were the first criminal charges filed against a contractor since the scandal of abuse in US prisons overseas broke in April.

David A. Passaro, a 37-year-old former Army Ranger who works at Fort Bragg, N.C., was arrested in Fayetteville, N.C., yesterday. He is accused of assaulting Abdul Wali with his hands, feet, and a large flashlight during a two-day interrogation in June 2003, Attorney General John Ashcroft announced yesterday.

Wali, who is believed to have been a local mujahideen commander suspected of launching rocket attacks on a US Army base in the northeastern Afghan town of Asadabad, died in US custody just days after he turned himself in to American forces.

"The American people are by now familiar with the images of prisoner abuse committed in detention facilities overseas," Ashcroft told reporters at a news conference. "Today a wholly different and, frankly, more accurate picture of our nation emerges. Today we see a nation dedicated to its ideals of freedom, its respect for human dignity, to its insistence on justice and the rule of law."

Ashcroft said the instances of prisoner abuse, which sparked an international outcry when photos of sexual humiliation and abuse at Iraq's Abu Ghraib prison became public in April, represented "a betrayal of our most basic values by a very small group of individuals."

But Ashcroft acknowledged yesterday that the Department of Justice is investigating an

undisclosed number of additional prisoner abuse cases referred by the CIA's inspector general, and another case referred by the Department of Defense. He did not specify if the cases involved military or civilian personnel.

Ashcroft said those cases, and any new cases, would be assigned to prosecutors at the United States Attorney's Office in the Eastern District of Virginia, "whose jurisdictional boundaries encompass both the Pentagon and the CIA."

At least two other detainees have died in US custody in Afghanistan. One identified by the military only as Dilawar, age 22, died at Bagram Air Base of "blunt force injuries to lower extremities complicating coronary artery disease," and another, identified as Mullah Habibullah died of "pulmonary embolism due to blunt force injuries to the legs." Both men died in 2002.

Pentagon officials have said the Army has investigated the deaths of 37 prisoners held by US forces in Iraq and Afghanistan since August 2002, nine of which are still being probed as homicides.

Passaro joined the Army on Jan. 7, 1992 and served as special operations medical sergeant until November 1998, according to an Army spokeswoman.

He went to basic training in Oklahoma and individual training at Fort Benning, Ga., before being assigned to serve at Fort Lewis, Wash.; Fort Sam Houston, Texas; and Fort Bragg.

He was decorated with the Army Achievement medal, two good-conduct medals, and half a dozen other ribbons and badges before he left active duty and became a "green badger" an independent contractor with the CIA known for their green ID cards. Regular employees wear blue badges.

Ashcroft declined to reveal whether Passaro worked for a company, or was contracted directly. Passaro was involved "in paramilitary activities in support of the US military base in Kunar province" at the time of the alleged assault, according to a Justice Department statement.

Passaro, who lives in Lillington, N.C., was charged by a federal grand jury in that state with two counts of assault with a dangerous weapon with intent to do bodily harm and two counts of assault resulting in serious bodily injury. He faces up to 40 years in prison and \$1 million in fines.

Civilian contractors have so far avoided the punishments meted out by military justice. In Iraq, seven military police officers face criminal court martial and seven of their supervisors received administrative reprimands for abuse committed against a group of detainees in the highest-security wing of Abu Ghraib prison. The first court martial in the Iraqi abuse scandal is expected to begin next week.

But two contractors identified as participants in the Iraq abuse by an internal Army report written by Army Major General Antonio M. Taguba have not been punished because the military has no

jurisdiction.

Since the abuse scandal broke, legal specialists and congressmen have wrangled over how to charge civilians who commit crimes on foreign soil.

Yesterday's indictment charged Passaro under the USA Patriot Act of 2001, a controversial antiterrorism law that expanded jurisdiction "over crimes committed by or against" US nationals on lands or facilities designated for use by the United States government, Ashcroft said.

Ashcroft noted that "this case would have been more difficult to investigate and prosecute were it not for the Patriot Act."

But some congressmen and human rights groups said yesterday that not enough was being done to hold civilian contractors accountable.

Representative Martin Meehan, a Massachusetts Democrat who is pushing two bills to close legal loopholes that shield contractors from punishment, said Passaro should have faced more serious charges.

"The truth of the matter is that David Passaro is being charged solely with assault even though he appears to have killed a prisoner during an interrogation," Meehan said in a statement, adding that a loophole in the Patriot Act may have prevented Passaro from being charged with a more serious crime, such as torture.

A Justice Department memo informed White House Counsel Alberto Gonzalez in 2002 that inflicting fleeting or low-level pain may not constitute torture, and that torturing a suspect in custody "may be justified" if doing so would prevent further attacks, The Washington Post reported last week.

Representative Jan **Schakowsky**, an Illinois Democrat, called on the Bush administration to suspend all contracts with private firms conducting interrogations of prisoners overseas.

"There is no room for US-hired paramilitaries and mercenaries in an interrogation cell," she said in a statement.

Amnesty International USA said contractors need to be trained and held accountable by the law.

"Governments cannot hide behind private contractors to escape their obligations under international law," said a statement by Vienna Colucci, Amnesty's international justice specialist. "The US government must also ensure that private contractors are provided with the training and oversight to ensure that they understand and act within the bounds of the human rights protections enshrined in US and international law."