

HR 3003 IH

109th CONGRESS  
1st Session  
**H. R. 3003**

To establish an independent Commission to investigate detainee abuses.

**IN THE HOUSE OF REPRESENTATIVES**

**June 21, 2005**

Mr. WAXMAN (for himself, Ms. PELOSI, Mr. SKELTON, Mr. HOYER, Mr. MENENDEZ, Mr. CLYBURN, Mr. SPRATT, Ms. HARMAN, Mr. LANTOS, Mr. MURTHA, Mr. CONYERS, Mr. DINGELL, Mr. OBEY, Mr. RANGEL, Ms. SLAUGHTER, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Mr. BACA, Ms. BALDWIN, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Mr. BOUCHER, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mr. BUTTERFIELD, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Mr. CARDOZA, Mr. CARNAHAN, Mr. CLAY, Mr. CLEAVER, Mr. COOPER, Mr. COSTELLO, Mr. CROWLEY, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DAVIS of Florida, Mrs. DAVIS of California, Mr. DEFAZIO, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DICKS, Mr. DOGGETT, Mr. DOYLE, Mr. EMANUEL, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. GORDON, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. HIGGINS, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Mr. HOLT, Mr. HONDA, Ms. HOOLEY, Mr. INSLEE, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JONES of Ohio, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KIND, Mr. KUCINICH, Mr. LANGEVIN, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of Georgia, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. LYNCH, Mrs. MCCARTHY, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCGOVERN, Ms. MCKINNEY, Mr. MCNULTY, Mrs. MALONEY, Mr. MARKEY, Ms. MATSUI, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Mr. GEORGE MILLER of California, Mr. MOLLOHAN, Mr. MOORE of Kansas, Ms. MOORE of Wisconsin, Mr. MORAN of Kansas, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Mr. PRICE of North Carolina, Mr. RAHALL, Mr. REYES, Mr. ROSS, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RUSH, Mr. SABO, Ms. LINDA T. SANCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. SHERMAN, Mr. SMITH of Washington, Mr. SNYDER, Ms. SOLIS, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mrs. TAUSCHER, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mr. TIERNEY, Mr. TOWNS,

Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. VELAZQUEZ, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Ms. WATSON, Mr. WATT, Mr. WEINER, Mr. WEXLER, Ms. WOOLSEY, Mr. WU, Mr. WYNN, Ms. CARSON, and Mr. CASE) introduced the following bill; which was referred to the Committee on Armed Services

---

## A BILL

To establish an independent Commission to investigate detainee abuses.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Independent Commission on the Investigation of Detainee Abuses (in this title referred to as the "Commission").

### SEC. 2. DUTIES.

(a) Investigation- The Commission shall conduct a full, complete, independent, and impartial investigation of the abuses of detainees in connection with Operation Iraqi Freedom, Operation Enduring Freedom, or any operation within the Global War on Terrorism, including but not limited to the following:

- (1) The extent of the abuses.
- (2) Why the abuses occurred.
- (3) Who is responsible for the abuses.
- (4) Whether any particular Department of Defense, Department of State, Department of Justice, Central Intelligence Agency, National Security Council, or White House policies, procedures, or decisions facilitated the detainee abuses.
- (5) What policies, procedures, or mechanisms failed to prevent the abuses.
- (6) What legislative or executive actions should be taken to prevent such abuses from occurring in the future.
- (7) The extent, if any, to which Guantanamo Detention Center policies influenced policies at the Abu Ghraib prison and other detention centers in and outside Iraq.

(b) Assessment, Analysis, and Evaluation- During the course of its investigation, the Commission shall assess, analyze, and evaluate relevant persons, policies, procedures, reports, and events, including but not limited to the following:

- (1) The Military Chain of Command.
- (2) The National Security Council.
- (3) The Department of Justice.
- (4) The Department of State.
- (5) The Office of the White House Counsel.
- (6) The Defense Intelligence Agency and the Central Intelligence Agency.
- (7) The approval process for interrogation techniques used at detention facilities in Iraq, Cuba, Afghanistan, and elsewhere.

- (8) The integration of military police and military intelligence operations to coordinate detainee interrogation.
- (9) The roles and actions of private civilian contractors in the abuses and whether they violated the Military Extraterritorial Jurisdiction Act or any other United States statutes or international treaties to which the United States is a party.
- (10) The role of nongovernmental organizations' warnings to United States officials about the abuses.
- (11) The role of Congress and whether it was fully informed throughout the process that uncovered these abuses.
- (12) The extent to which the United States complied with the applicable provisions of the Geneva Conventions of 1949, and the extent to which the United States may have violated international law by restricting the access of the International Committee of the Red Cross to detainees.
- (13) The extent to which the United States complied with the applicable provisions of other human rights treaties, including the International Covenant on Civil and Political Rights and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **SEC. 3. COMPOSITION OF COMMISSION.**

- (a) Members- The Commission shall be composed of 10 members, of whom--
  - (1) 1 member shall be appointed by the President;
  - (2) 1 member shall be jointly appointed by the minority leader of the Senate and the minority leader of the House of Representatives;
  - (3) 2 members shall be appointed by the majority leader of the Senate;
  - (4) 2 members shall be appointed by the Speaker of the House of Representatives;
  - (5) 2 members shall be appointed by the minority leader of the Senate; and
  - (6) 2 members shall be appointed by the minority leader of the House of Representatives.
- (b) Qualifications; Initial Meeting-
  - (1) NONGOVERNMENTAL APPOINTEES- An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.
  - (2) OTHER QUALIFICATIONS- Individuals that shall be appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, international human rights and humanitarian law, and foreign affairs.
  - (3) DEADLINE FOR APPOINTMENT- All members of the Commission shall be appointed within 45 days following the enactment of this Act.
  - (4) CHAIRMAN AND VICE CHAIRMAN- The chairman and vice chairman of the Commission shall be elected by a majority vote of the members.
  - (5) MEETINGS- The Commission shall meet and begin the operations of the Commission as soon as practicable. After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members.

(c) Quorum; Vacancies- Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) Conflicts of Interest-

(1) FINANCIAL DISCLOSURE- Each member appointed to the Commission shall submit a financial disclosure report pursuant to the Ethics in Government Act of 1978, notwithstanding the minimum required rate of compensation or time period employed.

(2) INDEPENDENCE FROM SUBJECTS OF INVESTIGATIONS- Each member appointed to the Commission shall be independent of any agency, individual, or institution that may be the subject of investigation by the Commission.

#### **SEC. 4. POWERS OF COMMISSION.**

(a) In General-

(1) HEARINGS AND EVIDENCE- The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title--

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS-

(A) ISSUANCE-

(i) IN GENERAL- A subpoena may be issued under this subsection only--

(I) by the agreement of the chairman and the vice chairman;  
or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE- Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT-

(i) IN GENERAL- In the case of contumacy or failure to obey a subpoena issued under this subsection, the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other

evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) **ADDITIONAL ENFORCEMENT-** In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(3) **SCOPE-** In carrying out its duties under this Act, the Commission may examine the actions and representations of the current Administration as well as prior Administrations.

(b) **Contracting-** The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties of this Act.

(c) **Information From Federal Agencies-**

(1) **IN GENERAL-** The Commission may secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Federal Government, information, suggestions, estimates, and statistics for the purposes of this Act. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION-** Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) **Assistance From Federal Agencies-**

(1) **GENERAL SERVICES ADMINISTRATION-** The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) **OTHER DEPARTMENTS AND AGENCIES-** In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) **Gifts-** The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) **Postal Services-** The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

## **SEC. 5. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

- (a) In General- The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.
- (b) Public Meetings and Release of Public Versions of Reports- The Commission shall--
  - (1) hold public hearings and meetings to the extent appropriate; and
  - (2) release public versions of the reports required under section 9.
- (c) Public Hearings- Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

## **SEC. 6. STAFF OF COMMISSION.**

- (a) In General-
  - (1) APPOINTMENT AND COMPENSATION- The chairman and the vice chairman jointly, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.
  - (2) PERSONNEL AS FEDERAL EMPLOYEES-
    - (A) IN GENERAL- The staff director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.
    - (B) MEMBERS OF COMMISSION- Subparagraph (A) shall not be construed to apply to members of the Commission.
- (b) Detailees- Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.
- (c) Consultant Services- The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

## **SEC. 7. COMPENSATION AND TRAVEL EXPENSES.**

- (a) Compensation- Each member of the Commission may be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each

day during which that member is engaged in the actual performance of the duties of the Commission.

(b) Travel Expenses- While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

## **SEC. 8. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

(a) In General- Subject to subsection (b), the appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements.

(b) Exception- No person shall be provided with access to classified information under this title without the appropriate required security clearance access.

## **SEC. 9. REPORTS OF COMMISSION; TERMINATION.**

(a) Interim Reports- The Commission may submit to Congress and the President interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) Final Report- Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress and the President a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) Form of Report- Each report prepared under this section shall be submitted in unclassified form, but may contain a classified annex.

(d) Recommendation to Make Public Certain Classified Information- If the Commission determines that it is in the public interest that some or all of the information contained in a classified annex of a report under this section be made available to the public, the Commission shall make a recommendation to the congressional intelligence committees to make such information public, and the congressional intelligence committees shall consider the recommendation pursuant to the procedures under subsection (e).

(e) Procedure for Declassifying Information-

(1) The procedures referred to in subsection (d) are the procedures described in--

(A) with respect to the Permanent Select Committee on Intelligence of the House of Representatives, clause 11(g) of rule X of the Rules of the House of Representatives, One Hundred Ninth Congress; and

(B) with respect to the Select Committee on Intelligence of the Senate, section 8 of Senate Resolution 400, Ninety-Fourth Congress.

(2) In this section, the term `congressional intelligence committees' means--

(A) the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Select Committee on Intelligence of the Senate.

## **SEC. 10. TERMINATION.**

(a) In General- The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under section 9(b).

(b) Administrative Activities Before Termination- The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

## **SEC. 11. FUNDING.**

(a) Authorization of Appropriations- There is authorized to be appropriated funds not to exceed \$5,000,000 for purposes of the activities of the Commission under this Act.

(b) Duration of Availability- Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

*END*