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Official Attacks Top Law Firms Over Detainees

Lawyers Say Defending Suspects Is a Duty

By NEIL A. LEWIS

WASHINGTON, Jan. 12 — The senior Pentagon official in charge of military detainees suspected of terrorism said in an interview this week that he was dismayed that lawyers at many of the nation's top firms were representing prisoners at Guantánamo Bay, Cuba, and that the firms' corporate clients should consider ending their business ties.

The comments by Charles D. Stimson, the deputy assistant secretary of defense for detainee affairs, produced an instant torrent of anger from lawyers, legal ethics specialists and bar association officials, who said Friday that his comments were repellent and displayed an ignorance of the duties of lawyers to represent people in legal trouble.

"This is prejudicial to the administration of justice," said Stephen Gillers, a law professor at New York University and an authority on legal ethics. "It's possible that lawyers willing to undertake what has been long viewed as an admirable chore will decline to do so for fear of antagonizing important clients.

"We have a senior government official suggesting that representing these people somehow compromises American interests, and he even names the firms, giving a target to corporate America."

Mr. Stimson made his remarks in an interview on Thursday with Federal News Radio, a local Washington-based station that is aimed at an audience of government employees.

The same point appeared Friday on the editorial page of The Wall Street Journal, where Robert L. Pollock, a member of the newspaper's editorial board, cited the list of law firms and quoted an unnamed "senior U.S. official" as saying, "Corporate C.E.O.'s seeing this should ask firms to choose between lucrative retainers and representing terrorists."

In his radio interview, Mr. Stimson said: "I think the news story that you're really going to start seeing in the next couple of weeks is this: As a result of a FOIA request through a major news organization, somebody asked, 'Who are the lawyers around this country representing detainees down there?' and you know what, it's shocking." The F.O.I.A. reference was to a Freedom of Information Act request submitted by Monica Crowley, a conservative syndicated talk show host, asking for the names of all the lawyers and law firms representing Guantánamo detainees in federal court cases.

Mr. Stimson, who is himself a lawyer, then went on to name more than a dozen of the firms listed on the 14-page report provided to Ms. Crowley, describing them as "the major law firms in this country." He said, "I think, quite honestly, when corporate C.E.O.'s see that those firms are representing the very terrorists who hit

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their bottom line back in 2001, those C.E.O.'s are going to make those law firms choose between representing terrorists or representing reputable firms, and I think that is going to have major play in the next few weeks. And we want to watch that play out."

Karen J. Mathis, a Denver lawyer who is president of the American Bar Association, said: "Lawyers represent people in criminal cases to fulfill a core American value: the treatment of all people equally before the law. To impugn those who are doing this critical work — and doing it on a volunteer basis — is deeply offensive to members of the legal profession, and we hope to all Americans."

In an interview on Friday, Attorney General Alberto R. Gonzales said he had no problem with the current system of representation. "Good lawyers representing the detainees is the best way to ensure that justice is done in these cases," he said.

Neither the White House nor the Pentagon had any official comment, but officials sought to distance themselves from Mr. Stimson's view. His comments "do not represent the views of the Defense Department or the thinking of its leadership," a senior Pentagon official said. He would not allow his name to be used, seemingly to lessen the force of his rebuke. Mr. Stimson did not return a call on Friday seeking comment.

The role of major law firms agreeing to take on the cases of Guantánamo prisoners challenging their detentions in federal courts has hardly been a secret and has been the subject of many news articles that have generally cast their efforts in a favorable light. Michael Ratner, who heads the Center for Constitutional Rights, a New York-based human rights group that is coordinating the legal representation for the Guantánamo detainees, said about 500 lawyers from about 120 law firms had volunteered their services to represent Guantánamo prisoners.

When asked in the radio interview

who was paying for the legal representation, Mr. Stimson replied: "It's not clear, is it? Some will maintain that they are doing it out of the goodness of their heart, that they're doing it pro bono, and I suspect they are; others are receiving moneys from who knows where, and I'd be curious to have them explain that."

Lawyers expressed outrage at that, asserting that they are not being paid and that Mr. Stimson had tried to suggest they were by innuendo. Of the approximately 500 lawyers coordinated by the Center for Constitutional Rights, no one is being paid, Mr. Ratner said. One Washington law firm, Shearman & Sterling, which has represented Kuwaiti detainees, has received money from the families of the prisoners, but Thomas Wilner, a lawyer there, said they had donated all of it to charities related to the September 2001 terrorist attacks. Mr. Ratner said that there were two other defense lawyers not under his group's umbrella and that he did not know whether they were paid.

Christopher Moore, a lawyer at the New York firm Cleary, Gottlieb, Steen & Hamilton who represented an Uzbeki detainee who has since been released, said: "We believe in the concept of justice and that every person is entitled to counsel. Any suggestion that our representation was anything other than a pro bono basis is untrue and unprofessional." Mr. Moore said he had made four trips to Guantánamo and one to Albania at the firm's expense, to see his client freed.

Senator Patrick J. Leahy, the Vermont Democrat who is chairman of the Judiciary Committee, wrote to President Bush on Friday asking him to disavow Mr. Stimson's remarks.

Mr. Stimson, who was a Navy lawyer, graduated from George Mason University Law School. In a 2006 interview with the magazine of Kenyon College, his alma mater, Mr. Stimson said that he was learning "to choose my words carefully because I am a public figure on a very, very controversial topic."