



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

March 18, 2005

The Honorable Carl Levin
Committee on Homeland Security and
Governmental Affairs
Washington, DC 20510

Dear Senator Levin:

This responds to your letter, dated February 10, 2005, which requested reconsideration of the decision to withhold information contained in a three-page FBI document, dated May 10, 2004, regarding interrogation practices at Guantanamo Bay. This document was produced in response to your earlier request in the same form that it was released in pending litigation under the Freedom of Information Act (FOIA), prior to Mr. Chertoff's nomination to be Secretary of Department of Homeland Security.

In response to your recent request, we asked the Department's Office of Information and Privacy to review the document as if it were the subject of a FOIA administrative appeal, which is a step in the established FOIA process that was obviated by the litigation in this matter. Enclosed is the revised document, which retains redactions pertaining to classified and law enforcement sensitive information, FBI file numbers, phone numbers and the identities of some FBI and DOD employees. Also redacted is some text in which the Department of Defense (DOD) has interests and, in accordance with established FOIA practice, the document has been referred to DOD with the request to advise us of whether the text can be disclosed in response to your request. We will supplement this response when we are advised of DOD's position on this matter.

I hope that this information is helpful. We are sending an identical response to Senator Lieberman, who joined in your letter to us. Please do not hesitate to contact this Office if you would like additional assistance regarding any other matter.

Sincerely,

William E. Moschella
Assistant Attorney General

cc: The Honorable Susan Collins
Chairman

Message

Page 1 of 3

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[redacted] (IR) (FBI) b6 -1

From: [redacted] (Div13) (FBI) b7c -1

Sent: Monday, May 10, 2004 12:26 PM

To: HARRINGTON, T J. (Div13) (FBI)

Cc: BATTLE, FRANKIE (Div13) (FBI); [redacted] (IR) (FBI); [redacted] (Div13) (FBI); [redacted] (Div13) (FBI); [redacted] (Div13) (FBI); CUMMINGS, ARTHUR M. (Div13) (FBI) b6 -1 b7c -1

Subject: Instructions to GTMO interrogators.

~~SECRET//ORCON,NOFORN~~
RECORD 315N-MM-C99102

TJ,

I will have to do some digging into old files (to see if we specifically told our personnel, in writing, to not deviate from Bureau policy). We did advise each supervisor that went to GTMO to stay in line with Bureau policy and not deviate from that (as well as made them aware of some of the issues regarding DoD techniques). I went to GTMO with Andy Arena early on and we discussed the effectiveness (or lack thereof) of the DoD techniques with the SSA. We (BAU and ITOS1) had also met with General's Dunlevey & Miller explaining our position (Law Enforcement techniques) vs. DoD. Both agreed the Bureau has their way of doing business and DoD has their marching orders from the Sec Def. Although the two techniques differed drastically, both Generals believed they had a job to accomplish. It was our mission to gather critical intelligence and evidence (that could be use in a DoD court of law) in furtherance of FBI cases. In my weekly meetings with DOJ we often discussed DoD techniques and how they were not effective or producing Intel that was reliable. Bruce Swartz (SES), Dave Nahmias (SES), Laura Parsky (now SES, GS15 at the time) and Alice Fisher (SES Appointee) all from DOJ Criminal Division attended meetings with FBI. We all agreed DoD tactics were going to be an issue in the military commission cases. I know Mr. Swartz brought this to the attention of DoD OGC.

One specific example was [redacted] Once the Bureau provide DoD with the findings [redacted] and other connections to [redacted] (et al) they wanted to pursue expeditiously their methods to get "more out of him" [redacted] We were given a so called deadline to use our traditional methods. Once our timeline (that DoD put into place) was up, DoD took the reigns. We stepped out of the picture and DoD ran the operation against [redacted] FBI did not participate at the direction of myself, Andy Arena, and BAU UC [redacted] We would receive IIRs on the results of the process. (S)

I went to GTMO on one occasion to specifically address the information coming from the IIRs produced by DoD re [redacted] We (DoD 3 Star Geoff Miller, FBI, CITF [redacted] etc) had a VTC with the Pentagon Detainee Policy Committee. During this VTC I voiced concerns that the intel produced was nothing more than what FBI got using simple investigative techniques (following the trail of the detainee in and out of the US compared to the trail of [redacted] based on classified info from the Pent(bomb investigation). Lt. Col [redacted] was providing the DoD portion of the briefing. [redacted] was present at the Pentagon side of the VTC. After allowing DoD (Lt. Col [redacted] to produce nothing, I finally voiced my opinion concerning the information. The conversations were somewhat heated. [redacted] agreed with me. DoD finally admitted the information was the same info the Bureau obtained. It still did not prevent them from continuing the "DoD methods". DOJ was with me at GTMO (Dave Nahmias) during that time.

Bottom line is FBI personnel have not been involved in any methods of interrogation that deviate from our policy. The specific guidance we have given has always been no Miranda, otherwise, follow FBI/DOJ policy just as you would in your field office. Use common sense. Utilize our methods that are proven (Reed school, etc).

If you would like to call me to discuss this on the telephone I can be reached at [redacted] b2 -1

-----Original Message-----

DETAINEES-2709

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9/26/2004

[redacted]

[redacted]

Message

Page 2 of 3

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From: HARRINGTON, T J. (Div13) (FBI)
Sent: Monday, May 10, 2004 9:21 AM
To: [redacted] (Div13) (FBI)
Subject: RE: pls confirm

b6 -1
b7c -1

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

We have this information, now we are trying to go beyond did we ever put into writing in an EC, memo, note or briefing paper to our personnel our position [redacted] that we were pursuing our traditional methods of building trust and a relationship with subjects. Tom

Referral/Direct

-----Original Message-----

b6 -1
b7c -1

From: [redacted] (Div13) (FBI)
Sent: Monday, May 10, 2004 10:52 AM
To: HARRINGTON, T J. (Div13) (FBI)
Cc: [redacted] (Div13) (FBI); BATTLE, FRANKIE (Div13) (FBI); BOWMAN, MARION E. (Div09) (FBI)
Subject: RE: pls confirm

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Referral/Direct

BAU at the request of the then (GTMO Task Force, ITOS1) wrote an EC (quite long) explaining the Bureau way of interrogation vs. DoDs methodology. Our formal guidance has always been that all personnel conduct themselves in interviews in the manner that they would in the field. [redacted] along with FBI advised that the LEA (Law Enforcement Agencies) at GTMO were not in the practice of the using [redacted] and were of the opinion results obtained from these interrogations were suspect at best. BAU explained to DoD, FBI has been successful for many years obtaining confessions via non-confrontational interviewing techniques.

b6 -2
b7c -2

We spoke to FBI OGC with our concerns. I also brought these matters to the attention of DOJ during detainee meetings with Laura Parsky and Dave Nahmlas. DOJ express their concerns to DoD OGC.

b6 -1
b7c -1

[redacted] has a copy of all the information regarding the BAU LHM. I believe she has provided that to TJ Harrington.

I may have more specific information in my desk at HQ. I will search what I have when I return (5/17).

-----Original Message-----

From: HARRINGTON, T J. (Div13) (FBI)
Sent: Monday, May 10, 2004 4:33 AM
To: BATTLE, FRANKIE (Div13) (FBI); [redacted] (Div13) (FBI); [redacted] (Div13) (FBI)
Subject: FW: pls confirm

b6 -1
b7c -1

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Please review our control files, did we produce anything on paper???

-----Original Message-----

From: Caproni, Valerie E. (Div09) (FBI)
Sent: Sunday, May 09, 2004 2:31 PM
To: [redacted] (Div09) (FBI); HARRINGTON, T J. (Div13) (FBI); [redacted]

b6 -1
b7c -1

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9/26/2004

DETAINEES-2710

Message

Page 3 of 3

~~SECRET~~

b6 -1 (Dm13) (FBI) [redacted] (Dm13) (FBI)
b7c -1 Subject: pls confirm

~~SENSITIVE BUT UNCLASSIFIED~~
~~NON-RECORD~~

I think I've heard this several times, but let me ask one more time:

Has there been any written guidance given to FBI agents in either GTMO or Iraq about when they should "stand clear" b/c of the interrogation techniques being used by DOD or DHS [redacted] (S)

b1

[redacted]

b1

b5 -1

[redacted] (S)

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DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET//ORCON,NOFORN

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DETAINEES-2711

9/26/2004