

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-13-2009 BY 65179 DMH/lsc

FOGLE, TONI M. (INSD) (FBI)

From: [redacted] (INSD) (FBI)
Sent: Wednesday, September 29, 2004 2:43 PM
To: FOGLE, TONI M. (INSD) (FBI)
Subject: RE: NCIS interview request of SA [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Yes, this is the one we discussed this morning. HRT w/Special Forces in Afghanistan.

UC [redacted]
ext [redacted]

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

From: FOGLE, TONI M. (INSD) (FBI)
Sent: Wednesday, September 29, 2004 2:38 PM
To: GRANT, ROBERT D. (INSD) (FBI); ASHLEY, GRANT D. (DO) (FBI)
Cc: [redacted] (INSD) (FBI); MERSHON, MARK J. (SF)(FBI)
Subject: RE: NCIS interview request of SA [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] -- did you see this -- is this the one we discussed? I'm getting confused.....

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

From: GRANT, ROBERT D. (INSD) (FBI)
Sent: Tuesday, September 28, 2004 11:59 AM
To: ASHLEY, GRANT D. (DO) (FBI)
Cc: FOGLE, TONI M. (INSD) (FBI); [redacted] (INSD) (FBI); MERSHON, MARK J. (SF) (FBI)
Subject: RE: NCIS interview request of SA [redacted]

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SENSITIVE BUT UNCLASSIFIED
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Grant - The issue regarding SA [redacted] if this is the same situation Toni Fogle reported, is one where the Agent should be advised that his cooperation is "voluntary" on his part. This is complicated by his potential risk for having witnessed something that should have been reported, but was not. In addition to whatever potential exposure he has regarding the investigation being conducted by NCIS, he could face other exposure from the FBI regarding "failure to report". As you may know, we recently completed an inspection of the GITMO activities. FBI personnel with knowledge of the activities in the prison there were queried and those that had relevant information were given a degree of immunity to release them of their "failure to report". They were subsequently interviewed under those protections. However, with the emergence of the Afghanistan matter we now have very similar situations and no institutional decision yet on how to proceed to ensure we approach our personnel systematically and carefully to: a) get the information the Director needs; and, b) not put at risk unnecessarily any pending prosecution or subject the FBI to serious criticism. Valerie Caproni has surfaced this matter to the DD to work on a systemic solution. Complicating this matter has been the OIGs knowledge of this and unhappiness with not being consulted. In a nut shell, the Agent has to proceed at his own risk for the time being until this is sorted out.

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Sorry
Rob

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

From: ASHLEY, GRANT D. (DO) (FBI)
Sent: Tuesday, September 28, 2004 8:06 AM
To: Caproni, Valerie E. (OGC) (FBI); GRANT, ROBERT D. (INSD) (FBI)
Cc: TIDWELL, J STEPHEN (IR) (FBI)
Subject: FW: NCIS interview request of SA [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Val/Rob - Can we provide the SA some more concrete guidance or obtain some position as to his status? I remember vividly FBI personnel taking this position when they didnt need to and it was personally and institutionally damaging. GDA

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

From: TIDWELL, J STEPHEN (IR) (FBI)
Sent: Monday, September 27, 2004 6:39 PM
To: ASHLEY, GRANT D. (DO) (FBI)
Cc: REINHOLD, TRACY A. (DO) (FBI)
Subject: FW: NCIS interview request of SA [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Gentlemen:
Latest we have on our plate.
L

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

From: TIDWELL, J STEPHEN (IR) (FBI)
Sent: Monday, September 27, 2004 5:14 PM
To: MERSHON, MARK J. (SF)(FBI); Caproni, Valerie E. (OGC) (FBI); KELLEY, PATRICK W. (OGC) (FBI); [redacted] (ASD) (FBI); [redacted] (CTD) (FBI); [redacted] (INSD) (FBI)
Cc: [redacted] (HRT) (FBI); [redacted] (HRT) (FBI); [redacted] (HRT) (FBI)
Subject: NCIS interview request of SA [redacted]

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SENSITIVE BUT UNCLASSIFIED
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SA [redacted] in Afghanistan, has been advised by IJU UC [redacted] that NCIS is seeking to interview him regarding the capture in Afghanistan of a subject who was later killed reportedly while in custody of SOF. SA [redacted] contacted the NCIS investigator [redacted] and asked if he was a target of the investigation and [redacted] would not give an answer to the question other than to say it is a criminal matter. SA [redacted] was present during the capture and detention, but was not involved beyond that initial contact or knowledgable at the time of what happened to the detainee. Absent some indication regarding the question of whether he is a witness or a target, SA [redacted] prefers not to be interviewed or, if interviewed, then with counsel present. Can someone in OGC or INSD provide some more info re this request and any protocols that we are operating regarding these?
Thx, Steve Tidwell

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