

THOMAS, JULIE F. (OGC) (FBI)

From: THOMAS, JULIE F. (OGC) (FBI)
Sent: Friday, November 19, 2004 1:11 PM
To: Caproni, Valerie E. (OGC) (FBI)
Subject: RE: Overseas Application of 4th and 5th Amendment

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NON-RECORD

I do not know to whom the memo or charts were distributed. I will do my best to find out.
Julie

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Friday, November 19, 2004 11:54 AM
To: [REDACTED] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: Overseas Application of 4th and 5th Amendment

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~~UNCLASSIFIED~~
NON-RECORD

Was the memo distributed? Were the charts distributed?

-b6
b7C

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

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, November 18, 2004 4:06 PM
To: THOMAS, JULIE F. (OGC) (FBI); Caproni, Valerie E. (OGC) (FBI)
Subject: FW: Overseas Application of 4th and 5th Amendment

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NON-RECORD

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In addition to what I sent to you in hard copy, [REDACTED] sent me this e-mail today.
This advice was not given by OGC, but by the CDC Office in NYC.
I do not know if NY coordinated the advice with OGC.

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

From: [REDACTED] (OGC) (FBI)
Sent: Thursday, November 18, 2004 4:03 PM
To: [REDACTED] (OGC) (FBI); [REDACTED] (OGC) (FBI)
Subject: FW: Overseas Application of 4th and 5th Amendment

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The attached are documents created by FBI New York's legal team, ADC [REDACTED] regarding constitutional issues overseas. [REDACTED] and I discussed these matters in detail, so I thought this should be passed on also. [REDACTED]

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

From: [REDACTED]
Sent: Tuesday, December 30, 2003 3:40 PM
To: [REDACTED]
Subject: Overseas Application of 4th and 5th Amendment

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[REDACTED]

Following up on our conversation, I think it is also important to note that for the most part, our SAs in Iraq and neighboring countries are assisting the military in gathering intelligence for military operations, targets, vulnerabilities, etc. They are not independently taking people into custody and conducting FBI fci investigations. Those in custody are military detainees.

If the FBI is permitted to have and use all of the info/statements provided by the detainees to military personnel, why can't we ask a couple of questions? If we are not contemplating prosecuting the military detainee, why can't we ask questions under the same rules as the military? What are the military rules?

Finally, how does the current OGC policy (which essentially says providing Miranda warnings hinges on whether prosecution in the U.S. is contemplated) mesh with the new 315 classification? CTD is repeatedly stressing to its agents that 315s are intelligence investigations. In this regard, your question (Dallas' question) probably involves NSLB more than it does ILU.

Attached are the documents we discussed. My memo and the charts discuss/describe 2d Circuit case law and the 4th/5th Amendment issues implicated when prosecution is contemplated and/or occurring.

[REDACTED]

***This Document Contains Attorney Work Product ***

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