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HEREIN IS UNCLASSIFIED
DATE 07-07-2009 BY 65179 DMH/MJS

THOMAS, JULIE F. (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, November 17, 2004 1:25 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: FW: FBI Interviews in the Iraqi Theater

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NON-RECORD

Julie: I know of no "memos" (in the strict sense of the word) that my unit has produced on the Miranda warnings issue overseas. We have provided guidance more informally. I have sent your request to all the attorneys in my unit and also included [REDACTED] because he used to cover the Iraq Unit for CTLU II and I know that he did some research on this issue. Please see below some advice I provided on the topic back in August.

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

From: [REDACTED] (OGC) (FBI)
Sent: Saturday, August 14, 2004 2:03 PM
To: BRIESE, M C. (CTD) (FBI); [REDACTED] (CV) (FBI); MAXWELL, RICKY L. (CTD) (FBI); [REDACTED] (CTD) (FBI)
Cc: [REDACTED] (OGC) (OGA)
Subject: FBI Interviews in the Iraqi Theater

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[REDACTED] This is in response to your request for advice on interviewing [REDACTED]
[REDACTED] The consensus of opinion in OGC is as follows. [REDACTED]

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[REDACTED]

[REDACTED]

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[REDACTED]

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With regard to the question of whether there is currently an extradition treaty in place between the US and Iraq, AGC [REDACTED] spoke with the Iraq Desk at the State Department and was informed that there are currently no treaties in place between the two countries. Absent an extradition treaty, rendition is an option whereby Iraq could simply turn the suspect over to the US, or we could remove him from the country.

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As you know, the investigative jurisdiction of the FBI is worldwide with respect to any federal offense, subject to international law as well as certain statutory and regulatory guidelines.

Since you asked questions about the matter nearly a week ago, I did not want to keep you waiting longer for a response. If you would like a more formal legal opinion on the matter, OGC will be happy to provide one. If you would like further clarification of jurisdiction or any other matters, please do not hesitate to let us know. Feel free to contact me at any time with questions on this or other matters.

UC [REDACTED]
Counterterrorism Law Unit II
[REDACTED]

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THOMAS, JULIE F. (OGC) (FBI)

From: [REDACTED] (OGC) (FBI)
Sent: Wednesday, November 17, 2004 1:26 PM
To: THOMAS, JULIE F. (OGC) (FBI)
Subject: FW: FBI Interviews in the Iraqi Theater

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Julie: Some additional back-and forth on the e-mail I forwarded you on the Miranda advice issue.

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

From: [REDACTED] (OGC) (FBI)
Sent: Monday, August 16, 2004 11:13 AM
To: BRIESE, M C. (CTD) (FBI)
Subject: RE: FBI Interviews in the Iraqi Theater

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Chris: That, of course, is the much harder question. If the "suspect" does not waive the right to counsel, and DOD is unwilling/unable to provide counsel, then there will need to be a balancing test of whether the intelligence to be obtained is worth tainting evidence for possible trial. Clearly, such a determination is within your sphere of decision-making but, I would also urge that you err on the side of caution, and consult with CTS before deciding to continue the interviewing for the intelligence value alone.

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

From: BRIESE, M C. (CTD) (FBI)
Sent: Monday, August 16, 2004 7:43 AM
To: [REDACTED] (OGC) (FBI)
Subject: RE: FBI Interviews in the Iraqi Theater

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What is we give them the rights and they don't waive. Can we still interview knowing we can't use it in court, but we deem the intelligence worth pursuing?

Chris

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

From: [REDACTED] (OGC) (FBI)
Sent: Saturday, August 14, 2004 2:03 PM
To: BRIESE, M C. (CTD) (FBI); [REDACTED] (CV) (FBI); MAXWELL, RICKY L. (CTD) (FBI); [REDACTED] (CTD) (FBI)
Cc: [REDACTED] (OGC) (OGA)
Subject: FBI Interviews in the Iraqi Theater

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Chris and [REDACTED] This is in response to your request for advice on interviewing [REDACTED]
[REDACTED] The consensus of opinion in OGC is as follows. If the interview of the

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With regard to the question of whether there is currently an extradition treaty in place between the US and Iraq, AGC [redacted] spoke with the Iraq Desk at the State Department and was informed that there are currently no treaties in place between the two countries. Absent an extradition treaty, rendition is an option whereby Iraq could simply turn the suspect over to the US, or we could remove him from the country.

As you know, the investigative jurisdiction of the FBI is worldwide with respect to any federal offense, subject to international law as well as certain statutory and regulatory guidelines.

Since you asked questions about the matter nearly a week ago, I did not want to keep you waiting longer for a response. If you would like a more formal legal opinion on the matter, OGC will be happy to provide one. If you would like further clarification of jurisdiction or any other matters, please do not hesitate to let us know. Feel free to contact me at any time with questions on this or other matters.

UC [redacted]
Counterterrorism Law Unit II

[redacted]

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