

~~SECRET~~

DATE: 03-10-2011
CLASSIFIED BY 65179 DMH/mjs
REASON: 1.4 (C)
DECLASSIFY ON: 03-10-2036

Subject: RE: outline

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted] Neither [redacted] or I received the outline "attachement." SMW

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 12, 2004 10:18 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: outline

b6
b7C

~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

First overview of issues outline produced by [redacted] and I. Your thoughts?

Ch

[redacted] Counterterrorism Law Unit I LX1, Rm 5S212 [redacted]

b6
b7C

FYI

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Thursday, October 21, 2004 1:36 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: Battlefield Advice

b6
b7C

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

Thanks. I think there is also an issue of what does it mean to "not participate" in aggressive interrogation (outside our guidelines) when you are in forward positions. what happens if the Army beats the stuffing out of a detainee, gives him to FBI, he starts talking to FBI and then the Army wants him back. Have we just "participated" in good cop-bad cop with the Army? How long after Army does its thing do we need to wait to not be viewed as a "participant" in the harsh interrogation.

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

From: [redacted] (OGC) (FBI)
Sent: Thursday, October 21, 2004 1:27 PM
To: Caproni, Valerie E. (OGC) (FBI)

b6
b7C

~~SECRET~~

FBI010390OGC

OGC-CTLU#2#9

FBI0000750

ACLU-RDI 6382 p.1

DOJOIG012745

~~SECRET~~

Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: Battlefield Advice

b6
b7C

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

Valerie: I wanted to give you a quick update on the status of the advice you requested pertaining to our agents in Afghanistan and Iraq. I know you really wanted this last week and I apologize for the delay. As you know, [redacted] (CTLU I - Afghanistan) is working jointly on the advice with [redacted] (CTLU II - Iraq). [redacted] just returned yesterday from the London training for the Iraqi judges [redacted] and [redacted] are far along in the research and drafting. They are meeting this morning with the military unit and military officials, and have spoken with agents who have been on the ground to get a sense of prior agent experience in these environments. From talking to [redacted] the complexities come not with the targets who the USG may have a viable prosecution interest in (the advice is much easier to provide), but rather with those targets in whom we have a pure intelligence interest. If a draft of the advice is not completed by tomorrow [redacted] will give you a full update right after the Iraqi Special Tribunal briefing to ensure that the advice comports with what you have in mind. Thank you.

b6
b7C

b6
b7C

~~SENSITIVE BUT UNCLASSIFIED~~

(U)

~~SECRET~~
RECORD 315E

Just keeping you in the loop. As anticipated, we are treating him differently and as such are having him removed from the Balad facility to Abu G prison, a more established, long term facility.

[redacted]

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

From: FOWLER, GREGORY A. (SE) (FBI)
Sent: Monday, November 01, 2004 1:56 PM
To: MAXWELL, RICKY L. (CTD) (FBI)
Cc: [redacted] (CTD) (FBI); [redacted] (SD) (FBI); [redacted] (CTD) (FBI); BRIESE, M C. (CTD) (FBI); [redacted] (OGC) (FBI); [redacted] (HO) (FBI); [redacted] (CTD)(FBI)

b6
b7C

Subject: RE: Record checks

(S)

(S)

As anticipated [redacted] asked us to remove [redacted] from the [redacted] in Balad as soon as possible. They are concerned about legal liability since he is an AMCIT. Since Cropper is also apparently off the list as well (US Military-run prison), I've asked them to arrange for his transfer to Abu G. That's about the only remaining option in country. He can still be interviewed there. He has only been interviewed by FBI SAs.

(S)

Building a case for US prosecution must start after he is transferred to Abu G. The nature of the [redacted]

b6
b7C

(S)

[redacted] Any information obtained by interview while a detainee is at the [redacted] cannot be used as evidence. The [redacted] by its nature, is inherently coercive and no statement or confession would ever be considered voluntary in a US Court.

b1

(S)

Witness interviews taken at the [redacted] have the same issues. However, if they are cooperating and provide voluntary statements away from [redacted] that may be usable, even if it is the same statement. I also believe

FBI010391OGC

FBI0000751

~~SECRET~~

DOJOIG012746

OGC-CTLU#2#9
ACLU-RDI 6382 p.2

~~SECRET~~

(S) (personal opinion) that [redacted] would see us expelled from their compound if we attempted to put any of their personnel on a witness stand. This doesn't necessarily preclude prosecution in the US. It means you can't use anything from [redacted] the same probably goes for SSE seized during the raid, however, we may be able to use it for lead value. I'm attempting to obtain the SSE now.

b1

[redacted] approached the Jordanians in Amman. They provided fingerprints and a copy of an indictment. I'm having the documents associated with the prints translated and will forward to CJIS. [redacted] also sent a copy (not translated) to CJIS. He will forward the indictment as well. He did this at my request and let me review the information he was releasing to the Jordanians before his meeting. He can provide more detailed information but it appears the Jordanians are cooperating.

b6
b7C

A lack of an existing US case and the limitations of using evidence obtained in Iraq certainly make a US prosecution problematic. If the Jordanian charge is substantial and it looks like a good case, then that may be the preferred route. The Jordanians taken with him could also be provided as witnesses/additional subjects.

You can coordinate this matter with me or [redacted] of course. The BOC case agent is SA [redacted] The BOC Reports Officer is RO [redacted] We can pass anything to Balad.

b6
b7C

SSA [redacted]

Deputy On-Scene Commander

Baghdad Operations Center

Baghdad, Iraq

[redacted]

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

From: MAXWELL, RICKY L. (CTD) (FBI)
Sent: Monday, November 01, 2004 8:49 AM
To: [redacted] (SE) (FBI)
Cc: [redacted] (CTD) (FBI); [redacted] (SD) (FBI); [redacted] (CTD) (FBI); BRIESE, M C. (CTD) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Record checks

b6
b7C

(U) ~~SECRET~~
RECORD 315E

Greg,

b6
b7C

No problem, they have been done already. I thought they had already sent them out to you:

What's our status in Iraq with [redacted] Is he being held in Balad and has he been interviewed by anyone other than FBI personnel since his initial capture. I am going to speak with CTS on this issue later today and wanted to see if I could give them some feel for what we have so far. We are trying desperately to get a decision on what we should do with this guy quickly. Our discussion here have produced a couple of scenarios.

1. Provide him to the Jordanians
2. Designate him an enemy combatant
3. Let him be prosecuted by the Iraqi court system

~~SECRET~~

FBI010392OGC

FBI0000752

4. Prosecute him here in the U.S.

I have [redacted] doing a full review of all information/evidence that we have so far on him to see what we have that could be used in an open court. I suspect that it is pretty limited. In your opinion, could we use any of the info developed in Iraq so far in to support a U.S. prosecution? In particular, the statements of the individuals apprehended with him or are these tainted as intelligence interviews only by virtue of being conducted in Balad in conjunction with [redacted]

b6
b7C

(S)

b1

I would like to see this prosecuted in a U.S. court if we have enough usable evidence to support it.

Also, who should we be coordinating this one with on your side? [redacted] has some info he is trying to get out to Balad that may be helpful to the interviewers and he is not sure who we should be directing the info to.

It's been a busy few days. I was out with the Flu on Friday, but I am back in the game. If you guys need anything, just let me know. Also, let me know when you can get the SVTC and I will coordinate on this end. I will coordinate with SD and CTS, but I think we should do one SVTC and include everyone.

I'll be glad when we get your comm's fixed so we can call you. Stay safe.

Rich

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

b6
b7C

From: [redacted] (SE) (FBI)
Sent: Sunday, October 31, 2004 12:49 PM
To: MAXWELL, RICKY L. (CTD) (FBI)
Cc: [redacted] (CTD)(FBI)
Subject: Record checks

Rich: RO [redacted] sent in the names of the four "tourists" (tall buildings videos) to ISLU for full record checks at my request. Could you please prod the analysts to complete those checks as soon as possible? A decision on their future is imminent and I don't want them to leave our control if they are of interest to us or anyone else. Thanks. gaf

b6
b7C

SSA [redacted]
Deputy On-Scene Commander
Baghdad Operations Center
Baghdad, Iraq

b6
b7C

[redacted]

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20291101
SECRET~~

FBI010393OGC

FBI0000753