

DECLASSIFIED BY 65179 DMH/MJS
ON 07-28-2009

BOWMAN, MARION E. (OGC) (FBI)

b6
b7C

From: [REDACTED] (OGC) (FBI)

Sent: Friday, May 28, 2004 9:06 AM

To: [REDACTED] Caproni, Valerie E. (OGC) (FBI); BOWMAN, MARION E. (OGC)

Subject: RE:

(U)

~~CONFIDENTIAL~~

RECORD 66F-HQ-A-1258990

For what it's worth, I think [REDACTED] analytical outline is right on. But, I think the decision that it is in the Nation's best interests to have FBI interviewers on-scene has in fact been made, sub silentio, at the executive levels in the FBI and the DOJ at least (albeit w/o this lawyer-like analysis of risk versus benefit) by the mere act of sending our guys there in company with the other agency personnel. And from what those agents told us the other day, it sounds like there is value added by our presence. Perhaps, it should be made in writing by FBI and sent to the Department to be blessed--albeit after the fact.

If we get hung up too much on what we view as words of art (but which agents and others will view as semantics), i.e., "participating" "condoning" "reaping the benefits of," we will get accused of either trying to draw a line that can't be drawn; being disingenuous by putting a pretty caption under a dirty picture; and mainly we will risk giving agents over there unworkable guidance.

b6
b7C

Suggest we just limit our distinctions to allowing our agents to be present, to interview these people whenever the agents deem it appropriate and productive but to avoid actually engaging in interview techniques that violate FBI standards--and have that policy blessed at the highest levels like [REDACTED] suggested--understanding full well the probability that the FBI will get tarred by any taint that comes out of the conduct of others but that our leadership recognizes that and will support our agents when that happens.

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

From: [REDACTED]
Sent: Thursday, May 27, 2004 7:08 PM

To: Caproni, Valerie E. (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [REDACTED]

Subject: RE:

b6
b7C

(U)

~~CONFIDENTIAL~~

RECORD 66F-HQ-A-1258990

For what it's worth these are my opinions:

- 1-So long as the DOD interrogation techniques are lawful, I do not believe it is unlawful for FBI agents, consistent with FBI guidelines, to question detainees after DOD techniques are used.
- 2- FBI is participating (or certainly will be viewed as participating) in aggressive but lawful DOD techniques where FBI agents are embedded with the military interrogators and merely as a policy absent themselves from the rough stuff and then come back in (minutes, hours or days later) to question the detainee;
- 3-If there is a decision that the FBI's continued involvement in the interrogation of detainees is in the best interests of the Nation, that decision must be confirmed at the highest levels of the Department in order to give the men and women of the FBI the comfort that down the road they will be hung out to dry.
- 4-Without clear statement of benefits versus the risks, I believe that extreme forward deployment of FBI must be reconsidered.

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Thursday, May 27, 2004 6:43 PM

FBI023604CBT