

CaseMap Facts Report

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Case: FBI in Military Zones

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Date & Time	Fact Text	Source(s)
To Be Determined	Gary M. Bald said he was aware of prior concerns from employees in Iraq, Afghanistan and U.S. Naval Base Guantanamo Bay, Cuba about interview techniques used by Department of Defense. He said he learned about these concerns in October or November 2003; prior to that time, he had no knowledge of detainee issues. He does not recall any transgressions when he was there. He thought all of these problems occurred before he arrived. Only thing that came up was promulgation of policy re: what Federal Bureau of Investigation agents should do if they came in contact with things outside Federal Bureau of Investigation way of doing things. He doesn't think he read anything official; he thinks it was all anecdotal.	Gary Bald Interview Notes 10/25/05 at 1-2; Gary Bald Interview 1 at 6:00 - 10:00
To Be Determined	Gary M. Bald EOD 9/11/77 with Federal Bureau of Investigation. Now, EAD for National Security for Federal Bureau of Investigation. Responsible for overseeing national security operations for counter-intelligence, counter-terrorism intelligence, and variety of related matters including training. His present position was created on 9/12/05; before that he was EAD for counter-intelligence. Masters in forensics, no legal background. He reports to the Deputy Director. His new position is a combination of three positions into one person.	Gary Bald Interview 1 at 3:00; Gary Bald Interview Notes 10/25/05 at 1
To Be Determined	Gary M. Bald said he recalled hearing about an incident in which a detainee was taken up in a helicopter and was threatened to be dropped out if he didn't talk to them. He thought the matter was referred to the military. Discussion as to whether there was anything in Department of Justice jurisdiction.	Gary Bald Interview Notes 10/25/05 at 2; Gary Bald Interview 1 at 11 - 12
To Be	Gary M. Bald asked about an OPORD 1012 written 2/10/03 re: conduct operations	Gary Bald Interview 1 at 13;

Determined	within the Iraqi theater of operations (ITO). He did not recall seeing the document. He knew about darkening clouds from time he spent in the field.	Gary Bald Interview Notes 10/25/05 at 3.
To Be Determined	<p>Gary M. Bald was shown an e-mail dated 1/19/04 from M. Chris Briese; Gary M. Bald did not recall the specific e-mail, but recalled the issues discussed relating to interviewing (b)(1)</p> <p>(b)(1) Federal Bureau of Investigation played a role to the extent (b)(1)</p> <p>(b)(1)</p> <p>(b)(1) Generally, a misunderstanding about the Federal Bureau of Investigation within the intelligence community. Federal Bureau of Investigation had a desire to "get in the box" with (b)(1) Federal Bureau of Investigation takes a rapport approach, get the detainees to tell us what we want to know. Bald explained the Federal Bureau of Investigation's success in getting people to talk even when they did not want to do so. The Federal Bureau of Investigation wanted to bring this skill to help the war effort. Federal Bureau of Investigation said, let us try our hand at doing an intelligence interview. If we're successful, then we all win. The Federal Bureau of Investigation had to convince (b)(1) that they were not going to try to prosecute every detainee. This was around the time they were trying to work out the ground rules. They were making progress. *</p>	Gary Bald Interview I at 16:00 - 20:00 ; Gary Bald Interview Notes 10/25/05 at 3; bates 23540
To Be Determined	Gary M. Bald said there are now a lot of Federal Bureau of Investigation employees in Iraq playing a part of the intelligence community. The Federal Bureau of Investigation is interviewing individuals who have not necessarily broken the law, but may have information helpful to the US.	Gary Bald Interview I at 21 - 22; Gary Bald Interview Notes 10/25/05 at 4.
To Be Determined	<p>Gary M. Bald was asked to review an e-mail dated 2/5/04 from (b)(6),(b)(7)(C) to himself (b)(6),(b)(7)(C) and M. Chris Briese, cc: Valerie E. Caproni, (b)(6)</p> <p>(b)(7)(C) re: (b)(1) meet with DAG's office and Criminal Division and an e-mail from (b)(6),(b)(7)(C) to Valerie E. Caproni 2/15/04</p>	Gary Bald Interview I at 25:00 ; Gary Bald Interview Notes 10/25/05 at 4-5; Bates - 23550
To Be Determined	Gary M. Bald explained they were working on details of dissemination of information that might be derived from (b)(1) Attorney General said Federal Bureau of Investigation could do interviews, but could not tell anyone about information they learned. According to Gary M. Bald, Federal Bureau of Investigation was doing this	Gary Bald Interview I at 26 - 31; Gary Bald Interview Notes 10/25/05 at 4-5.

	<p>interview for intelligence, but also for prosecution. There were a number of areas where targets might be identified. Part of the process was getting the rapport. He still wanted to find out what can we (Federal Bureau of Investigation) find out. He said it was resolved by (b)(1) not at Federal Bureau of Investigation HQ. He thought that the idea of putting a wall around the information that was gleaned by Federal Bureau of Investigation, was not going to be accepted by (b)(1) that is what he meant by being a "show stopper." (E-mail missing - go search!) The concern about "taint" led to ideas such as having one group isolated from the people doing the questioning, etc. Other concerns were that the (b)(1) government could institute its own definition of "taint." Gary M. Bald said they just didn't know and did not want to get in the situation where they had made it impossible for (b)(1) to be prosecuted. Gary M. Bald said the question of how (b)(1) (b)(1) was treated was never an issue.</p>	
To Be Determined	<p>Gary M. Bald explained that the Federal Bureau of Investigation wanted to bring its skills in interviewing people to obtain information to help the war effort, in Afghanistan and Iraq. Initially, the intelligence community would not allow the Federal Bureau of Investigation to be involved, unless it was clearly a criminal matter. Increasingly, the Federal Bureau of Investigation has been brought in. Gary M. Bald said he had been (b)(1) to observe interviews with (b)(1)</p>	Gary Bald Interview I at 19; Gary Bald Interview Notes 10/25/05 at 3
To Be Determined	<p>Gary M. Bald said that in addition to the (b)(1) Department of Defense in Iraq has asked for more Federal Bureau of Investigation personnel. They are doing a number of critical interviews of people captured in the battlefield. These are not individuals who are alleged to have broken the law, but they may have helpful information</p>	Gary Bald Interview I at 21-22; Gary Bald Interview Notes 10/25/05 at 3
To Be Determined	<p>Gary M. Bald explained that the "showstopper" alluded to in the e-mail from (b)(6),(b)(7) (b)(7)(C) related to the dissemination of information obtained from the Federal Bureau of Investigation's interview of (b)(1) The DAG's office did not want to share any of the information that was learned during the Federal Bureau of Investigation's interview of (b)(1) could not receive that information, then it would not be at all useful to have the Federal Bureau of Investigation involved in the interview.</p>	Gary Bald Interview I at 27

To Be Determined	Bald said they were interviewing (b)(1) for intelligence, but also did not know where it would lead. It might lead to him being prosecuted (b)(1). There were a number of areas that were potential targets for the interviews. We never knew which areas he would talk about, and whether he would be talking about something that could be used in a prosecution against him. The Agency agreed not to disseminate the information so it would be closely held, probably by people in HQ, so they could be sure that they could find people who were "untainted" in future when they went to prosecute (b)(1). They did not know what standard was going to be applied by the Iraq court -- it was not just an issue of using Miranda warnings. They didn't want to cause a situation where (b)(1) wouldn't be able to be prosecuted so they tried to quarantine the information. There were no concerns about how (b)(1) was treated.	Gary Bald Interview I at 28 - 32; Gary Bald Interview Notes 10/25/05 at 4,
To Be Determined	Gary M. Bald recalled working with David Nahmias, Stuart Levey (b)(6), (b)(7)(C) (b)(6), (b)(7)(C) possibly an attorney in the DAG's office.) He had no specific recollections of working with Department of Justice attorneys.	Gary Bald Interview I at 32 - 33; Gary Bald Interview Notes 10/25/05 at 4
To Be Determined	Gary M. Bald did not recall whether he spoke with (b)(1), (b)(3):10 U.S.C. 130(b) in March or April 2004. He said he knew (b)(1), (b)(3):10 U.S.C. 130(h) and dealt with him on various matters. He could not recall whether he spoke with him about this particular issue. He said if he talked about how the Federal Bureau of Investigation uses rapport, it would have been in the context of a general discussion of the Federal Bureau of Investigation's mission. He was not sure which part of Department of Defense was involved (which service.) He noted that Marion E. "Spike" Bowman has a "Department of Defense pipe a mile wide," meaning he has a lot of contacts.	Gary Bald Interview I at 38
To Be Determined	When asked whether he had discussions with anyone in the military about techniques that might be used during interviews, i.e. techniques that might cause concern, Gary M. Bald stated that he never spoke about that topic with anyone in the military. To the extent he had any conversations about that topic, they were internal conversations. Gary M. Bald said he never talked to anyone at Department of Defense as to what the Federal Bureau of Investigation would do if they saw Department of Defense folks doing something in an interview that the Federal Bureau of Investigation didn't agree with. His discussions revolved around things such as safety, add value to mission in US as opposed to interviews for purely force protection purposes. Gary M. Bald said	Gary Bald Interview I at 39 - 42; Gary Bald Interview Notes 10/25/05 at 5-6

	he may have talked about how Federal Bureau of Investigation does interviews, but it would have focused on Federal Bureau of Investigation missions, but he does not recall any such discussions. He was not trying to get into the nuts and bolts of our mission.	
To Be Determined	Gary M. Bald asked if he had any conversations with (b)(1), (b)(3):10 U.S.C. 130(b) about Federal Bureau of Investigation agents supporting (b)(1) Gary M. Bald said that Federal Bureau of Investigation employees are (b)(1) for days. He would have had discussions, possibly with (b)(1), (b)(3):10 U.S.C. 130(b) about Hostage Rescue Team working with (b)(1). He did not have any specific recollection of a general agreement of a program. *	Gary Bald Interview I at 44 - 47
To Be Determined	Gary M. Bald said he would be shocked if he had a conversation with (b)(1), (b)(3):10 U.S.C. 130(b) about being involved in (b)(1) about specific techniques that Federal Bureau of Investigation could and could not do. He would have talked about when they would go out and what they would do, but in general ways. *	Gary Bald Interview I at 52 ;
To Be Determined	Gary M. Bald said his first recollection is that Edward H. Lueckenhoff asked for a policy and that he asked Valerie E. Caproni to develop one. After he reviewed an e-mail dated [] about the genesis of the policy, he was not sure if his recollection was accurate. (<i>Which e-mail?</i>) He was concerned that because the policy was going to bind his folks, he wanted a chance to review it before someone said it was "good to go." Gary M. Bald said that as of May 18, 2004, he had not seen the policy. Gary M. Bald was shown a draft of the policy dated 5/12/04 and compared with the 5/19/04 policy. He said he could not tell if one was a draft or not. When told that the 5/19/04 was the final one, he said he may or may not have seen it before it became policy. <i>He thinks that he probably had read it on 5/18/04, and he may have asked, "why haven't I seen this before?"</i> Other than the Federal Bureau of Investigation policy on interviews, there was no other policy before this was issued. *	Gary Bald Interview Notes 10/25/05 at 7; Gary Bald Interview I at 58 - 1:02
To Be Determined	Gary M. Bald said he knows the Federal Bureau of Investigation made the policy part of the training before Federal Bureau of Investigation left for Iraq or Afghanistan. Done at his request. He does not think he told Federal Bureau of Investigation that we should learn rules of other agencies. "We have enough rules of our own." When questioned about how agents in the field are supposed to make determinations about whether what the Department of Defense interrogator is doing is okay, or possibly	Gary Bald Interview I at 1:10 - 1:15

	illegal, he said that it would be okay to tell Federal Bureau of Investigation agents that Department of Defense could use loud music and and mess with temperature. The agents should also be told that if they see anything that is physically harmful, risky, etc, they should report that. He said it would be reasonable to tell agents that they can only be involved if it is doing what Federal Bureau of Investigation agents are trained to do, but the abusive things are in another category, then there's a middle category that we can't do, but Department of Defense can. He said he does not know if Department of Defense has lines that are clean enough. If we can't define it clear enough then we're not going down the right road, we're just putting them in a murky position. *	
To Be Determined	Gary M. Bald said his first step would to find out if the military has made clear policy. Gary M. Bald reviewed e-mail chain responding to Edward H. Lueckenhoff's e-mail, between himself and Valerie E. Caproni. When asked if things change depending on where the action occurs, he responded that the military's rules depend on where they are - battlefield v. other places. He thinks that for a place like U.S. Naval Base Guantanamo Bay, Cuba, if there are rules, then the Federal Bureau of Investigation should tell its agents. *	Gary Bald Interview 1 at 1:17- 1:1 ; bates 4671 -4674
To Be Determined	Gary M. Bald was asked about "mutt and jeff" with military. He recalled a situation when another agency was doing an interview, then the Federal Bureau of Investigation was allowed in, the detainee was beginning to cooperate, then the other agency removed the Federal Bureau of Investigation and sent their people back in. Gary M. Bald recalled having a discussion with someone about the switching off between agencies, and that he did not want to be put in that position because the Federal Bureau of Investigation wouldn't know what techniques were being used by the other agency. He recalled the situation occurring at least once, maybe more than once. Federal Bureau of Investigation agents were frustrated, but Gary M. Bald said, "fine, if they want to do this, then they're going to be stuck." We're not going to save them. (See e-mail dated 5/27/04 re: 5/27/04 SITREP from Iraq. Valerie E. Caproni raised "mutt and jeff" routine with Federal Bureau of Investigation as Jeff. "When does that amount to Federal Bureau of Investigation participating in techniques that are not authorized?" <i>(Follow-up - do not think we asked about the meeting that was being arranged to discuss the matter with Valerie E. Caproni, Gary M. Bald, John S. Pistole and</i>	Gary Bald Interview 1 at 1:22 - 1:26; Bates 4804 - 4805

	(b)(6),(b)(7)(C) (DO), Federal Bureau of Investigation. *	
To Be Determined	Gary M. Bald was asked about whether the Federal Bureau of Investigation would participate in a situation where they were the ones conducting the interview, and they would say to the detainees, "we're here for 10 more minutes and then other people are coming and we don't know how they're going to treat you." He replied that "in this room" he agreed with John McCain's position that torture should be outlawed, but that "out there" he wants "the bad guys to be scared to death that we're going to torture them to make them talk." He does not believe the US should adopt a hard and fast policy. He is proud that we have a rule in the United States that the police cannot torture suspects, that if someone says, "I want a lawyer," then we walk away. But that's different than being on the battlefield and someone who may potentially have knowledge that could result in immediate death of a bunch of people. If John McCain wants the rule, Gary M. Bald thinks it should be passed in a classified form so the others would not know. According to Gary M. Bald, we would be the only government in the world who would act like that.	Gary Bald Interview I at 1:27- 1:130
To Be Determined	Gary M. Bald said he recalled a situation after 9/11 when there were two detainees who would not cooperate, who were stonewalling Edward H. Lueckenhoff. Gary M. Bald told Edward H. Lueckenhoff to tell them that if they did not cooperate that we would deport them to their home country. After that, according to Gary M. Bald, the people cooperated. He said they were illegal and we could have deported them anyway.	Gary Bald Interview I at 1:30 -1:32
To Be Determined	Gary M. Bald said the agent does not have the time to do a background on a detainee to see where he was with an eye towards the possibility that he was tortured. Gary M. Bald said the agent should keep their eyes open to see if there's something amiss, like burn marks on his back. "It would grind us to a halt" if they had to track down every person the detainee talked to, that kind of vetting. We have to trust that people follow their rules. "We hire people who are smart..."	Gary Bald Interview I at 1:33 -1:35
To Be Determined	Gary M. Bald said he would have thought that Edward H. Lueckenhoff's concerns were responded to in a timely fashion. When told that a new policy still had not been issued to clarify and address Edward H. Lueckenhoff's concerns, Gary M. Bald said: "I would hope that I would have responded earlier." He thinks that the existing policy does need to be changed to address some of Edward H. Lueckenhoff's concerns. *	Gary Bald Interview Notes 10/25/05 at 10

To Be Determined	<p>Gary M. Bald explained that the lead agency has the deciding factor as to who will have access to a detainee and under what circumstances. He stressed that with most of these detainees, the Federal Bureau of Investigation is not the lead agency. During war, Department of Defense is the lead agency. (b)(1)</p> <p>(b)(1) Gary M. Bald noted that the briefing provided to the Director, 12/13/04, describes the same situation. ("Department of Justice is considering drafting a letter permitting (b)(1)</p> <p>(b)(1) According to Department of Justice, due to the change in the power structure in Iraq as of June 2004 (US no longer being the occupying force), Geneva Convention rules no longer apply. (b)(1)</p> <p>(b)(1) The objective would be to have "detainees of interest" released and interviewed re: safe houses, communications, and other detainees in Iraq." bates 30629-30630.) Essentially, if it is not officially a war zone, (b)(1) may have responsibility. *</p>	Gary Bald Interview Notes 10/25/05 at 11. bates 30629 - 30630).
To Be Determined	<p>Gary M. Bald said that there were Federal Bureau of Investigation agents officially (b)(1) *</p>	Gary Bald Interview Notes 10/25/05 at 10.
To Be Determined	<p>Gary M. Bald identified the topic as being classified TS. His opinion of the (b)(1) program was that there was no torture and that the methods being used are not like the types of abuse that they had heard about. He stressed this was just his opinion.</p>	Gary Bald Interview Notes 10/25/05 at 13
Tue 03/16/2004	<p>Gary M. Bald reviewed an e-mail dated 3/16/04 that he wrote to Marion E. "Spike" Bowman in response to an e-mail Marion E. "Spike" Bowman wrote to Gary M. Bald and John S. Pistole, re "Department of Defense Request." Gary M. Bald said they were getting conflicting reports - military liked Federal Bureau of Investigation. Not always a happy marriage between (b)(1) and Department of Defense. Gary M. Bald kept hearing that Department of Defense wanted more and more Federal Bureau of Investigation personnel, but it was not clear what they were supposed to do. Gary M. Bald was concerned about safety. <i>Gary M. Bald said he went over several times. ??</i> Finally, he sent Arthur M. Cummings to meet with the commanders to find out the mission that Department of Defense wanted the Federal Bureau of Investigation to perform and to clarify the Federal Bureau of Investigation's mission. A narrowly</p>	Gary Bald Interview 1 at 33 -38; Gary Bald Interview Notes 10/25/05 at 5

	focused mission, not going to be traveling around the countryside, we wanted a zero risk of casualty. He did not want his agents flown in an helicopter and dropped in the middle of a battle field to do an interview. *	
Thu 05/13/2004	<p>Gary M. Bald was asked to review an e-mail dated 5/13/04 sent by (b)(6),(b)(7)(C) to him, cc: many other individuals including T.J. Harrington and (b)(6),(b)(7)(C) Subject: Requests immediate clarification to Bagram Mission. (b)(6),(b)(7)(C) realized he had stepped outside the chain of command by e-mailing Gary M. Bald directly.) After he reviewed the e-mail, Gary M. Bald said he did not recall the e-mail, but said that he could have read it. The e-mail includes (b)(6),(b)(7)(C) description of two meetings that Gary M. Bald allegedly had with (b)(1),(b)(3):10 U.S.C. Attached to the e-mail is a memorandum that (b)(6),(b)(7)(C) wrote, including statements about an agreement with (b)(1),(b)(3):10 U.S.C. 130(b). Gary M. Bald said that as to the discussions with (b)(1),(b)(3):10 U.S.C. 130(b) described in the e-mail, he is sure that they would have been about the Federal Bureau of Investigation's mission, where we would allow our people to go. Gary M. Bald said that without reading the entire document, he speculated that the agent (b)(6),(b)(7)(C) may have felt it was possible that he was going to be sent somewhere where he would see something and be present when things that he had heard about might happen. (Presumably, things outside the Federal Bureau of Investigation's way of doing things.) Gary M. Bald said he hoped that (b)(6),(b)(7)(C) was told that what he did was fine and that here is our policy. *</p>	Gary Bald Interview I at 49 ; Gary Bald Interview Notes 10/25/05 at 6.
Sat 05/22/2004	Gary M. Bald reviewed an e-mail from Edward H. Lueckenhoff requesting guidance re: OGC EC dated 5/19/04. He said he remembered Edward H. Lueckenhoff said we needed to be "precise" as to what our folks needed to report and under what circumstances. [Zimmerman described for BaldG what the 5/19/04 policy said.] Gary M. Bald thought Edward H. Lueckenhoff was concerned that Department of Defense was not going to want to work with the Federal Bureau of Investigation if every time Department of Defense used their techniques that were legal, the Federal Bureau of Investigation went and reported as if there was wrongdoing. He wanted it to be very clear what should be reported. Gary M. Bald said that he did not recall if another policy was issued. He would like to think he went back to Edward H. Lueckenhoff to give him the answer. Thought it would be difficult for Federal Bureau of Investigation to	Gary Bald Interview I at 1:04 - 1:06; 1:07 -1:10

	apply a rule that said, if you see something outside Federal Bureau of Investigation policy then you should report it. He said he hoped he didn't do that. *	
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