

## CaseMap Facts Report

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Case: FBI in Military Zones

Created: 2/24/2009 11:57:18 AM

Date & Time	Fact Text	Source(s)
To Be Determined	Any recollection of Federal Bureau of Investigation's desire to participate in interrogations of Zayn Abidin Muhammed Hussein abu Zubaida? DNR as it relates to Zayn Abidin Muhammed Hussein abu Zubaida. There was discussion of Federal Bureau of Investigation's participation in Central Intelligence Agency led interrogations. Michael Chertoff has vague recollection that Federal Bureau of Investigation had question as to whether a problem with the admissibility of statements obtained from a detainee interrogated by the Central Intelligence Agency could be avoided if the Federal Bureau of Investigation interviewed the detainee afterwards, separately. Michael Chertoff DNR the meeting as described by Pasquale D'Amuro. Michael Chertoff said he knew the Federal Bureau of Investigation believed it could add value in interrogating. Someone raised taint question and asked if it could be avoided by coming in afterwards. Michael Chertoff said his opinion was that coming in "afterwards" would not solve the admissibility problem. 6:00.	Michael Chertoff Interview 1 at 1:30 - 6:00
To Be Determined	Michael Chertoff was aware of Central Intelligence Agency's request to use certain techniques. At some point, he said, there was a question as to whether they could get some advance authority or advance declination from the Criminal Division in connection with the use of the techniques. As part of that, Michael Chertoff was aware that Central Intelligence Agency had gotten a general opinion from Office of Legal Counsel that the techniques were legal. He said the Criminal Division could not give an advance declination or advance immunity. Chertoff said he knew Central Intelligence Agency got a general opinion regarding these techniques, but he does not know when that occurred in relation to the Federal Bureau of Investigation's question about interviewing Central Intelligence Agency detainees. 9:30.	Michael Chertoff Interview 1 at 7:00 - 9:30
To Be	Michael Chertoff said he attended National Security Council meetings infrequently and he DNR	Michael Chertoff

Determined	the issue of Federal Bureau of Investigation participation in the Zayn Abidin Muhammed Hussein abu Zubaida interview coming up at any National Security Council meeting he attended. It could have come up in passing. It was not part of Michael Chertoff's agenda or portfolio.	Interview I 9:30 - 10:30
To Be Determined	Michael Chertoff does recall that Robert S. Mueller, III decided Federal Bureau of Investigation would not participate in the things that would affect admissibility. DNR when these discussions happened. He thinks he may have discussed it with the Federal Bureau of Investigation General Counsel, in the admissibility context described above. 12:30.	Michael Chertoff Interview I at 10:30 - 12:30
To Be Determined	Michael Chertoff recalls learning of connection between (b)(1) and 9/11 conspiracy. 13:30. Michael Chertoff believes there would have been discussion of whether (b)(1) would be tried in an Article III court. There was a general effort by Criminal Division and Federal Bureau of Investigation to present Article III as an option. He is sure it was discussed. Michael Chertoff DNR whether AG John Ashcroft made a decision that (b)(1) would not go to Article III court, but he said John Ashcroft would not have made that decision alone. It would have been decided at a higher level. Michael Chertoff assumes Department of Defense would have weighed in and other cabinet departments may have and usually, those issues would be resolved at the National Security Council. 15:50.	Michael Chertoff Interview I at 13:00 - 15:50.
To Be Determined	In general, Michael Chertoff understood that the Federal Bureau of Investigation did not have a high opinion of the skills of Department of Defense interrogators and there were concerns about the efficacy of what Department of Defense was doing and whether they were getting information of value. There was also a concern about over-reporting of information by the Federal Bureau of Investigation. He does not have a specific recollection about the Federal Bureau of Investigation's view of Department of Defense's (b)(1) interrogations. Michael Chertoff would have learned this through his staff. Criminal Division did not have formal authority in this matter, but Criminal Division had an interest in any actionable information they could use in pursuing their work in the US so they had a concern about whether Department of Defense was best suited to these interrogations. We had a higher opinion of the Federal Bureau of Investigation's abilities than Department of Defense's. Were these types of concerns about Department of Defense's ability and Department of Defense's success or lack thereof were brought to the attention of Larry Thompson and John Ashcroft? They were. There was discussion because the DAG and the AG shared a certain amount questioning about whether Department of Defense was doing the best possible job in	Michael Chertoff Interview I at 16:00 - 22:30

	<p>questioning. 19:00. What, if any, action did DAG or AG take to voice those concerns outside Department of Justice? Michael Chertoff can't be specific. Michael Chertoff thinks AG and DAG, over time, had discussions with Department of Defense. With respect to a couple of other detainees, Chertoff said, we told them that if they could get a military commission process up and running, they would be able to plea bargain and get information. 20:00. We were getting information because we had a process through which we could plea bargain. (b)(5)</p> <p>(b)(5),(b)(6),(b)(7)(C)</p>	
To Be Determined	<p>Is Michael Chertoff aware whether there was a specific discussion in which Department of Justice put forth its arguments that it should be given the responsibility to manage these interrogations and Department of Defense said essentially, no thanks. Michael Chertoff said he would not be surprised if that was the case. Michael Chertoff said Department of Defense's approach was generally, it is our base and we are going to do this. 24:30</p>	Michael Chertoff Interview 1 at 22:30 - 24:30
To Be Determined	<p>Re: AGLetter.doc, Michael Chertoff said he did recall the document itself, though he recalled some of the content — the facts that connected (b)(1) to the 9/11 hijackers. He can't say he didn't see it. With respect to last sentence on second page and paragraphs on third page: do you recall discussing a strategy whereby Department of Justice advocated that the alternative debriefing model used on Zayn Abidin Muhammed Hussein abu Zubaida and (b)(6),(b)(7)(C) should be used on (b)(1) Michael Chertoff DNR specific discussion, but that is not to say that I couldn't have been involved in a discussion about using different techniques. Michael Chertoff DNR whether he had specific knowledge at that point of the specific techniques used on Zayn Abidin Muhammed Hussein abu Zubaida and (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) He said he knew, at the time he was approached about the advance declination, that the agency was considering a range of techniques and he knew what some of those were, and he knew it would be covered by the opinion that Jay S. Bybee signed. He was aware they were using some "advanced" techniques, but he does not recall whether or not he knew what was used</p>	Michael Chertoff Interview 1 at 24:30 - 31:50

	with when and where and with Zayn Abidin Muhammed Hussein abu Zubaida or (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) Did Michael Chertoff have an opinion that the alternate techniques were working? Michael Chertoff said the agency was, through its interrogation program, producing some very good information. 30:50. Does Michael Chertoff recall any efforts by people in his office to urge John Ashcroft to shift (b)(1) from Department of Defense custody to Central Intelligence Agency custody? Michael Chertoff DNR specific conversation, but he said he knew (b)(1) was believed to have specific actionable threat intelligence, that it was important to get that information, and it "would not surprise me" that there was some discussion as to whether Central Intelligence Agency would do a better job than Department of Defense. 31:50	
To Be Determined	Was Michael Chertoff aware of the techniques Department of Defense planned or did use on (b)(1)? No. Does Michael Chertoff recall anyone suggesting Department of Defense was doing something illegal? No. If someone were going to raise something like that, he would have expected to see something in writing on that. Does Michael Chertoff recall seeing any interrogation plans or memos from Department of Defense containing concerns about legality of (b)(1) tactics? No. 33:30.	Michael Chertoff Interview I at 31:50 - 33:30
To Be Determined	Was it that the Department of Defense interrogators were not skilled, or was it that the Federal Bureau of Investigation's methods were the better methods? Michael Chertoff said some of this reflects cultural differences between agencies, and pride in one's own methods. Michael Chertoff knew a lot of Federal Bureau of Investigation agents who had gotten some very bad people who were resistant to giving information, and the agents were able to get them to talk. He did not get the sense that Department of Defense had people with the same skill level. They seemed to have elaborate theories about how to do things that were kind of "academic" -- i.e. theories about getting people to have psychological dependency on you. I did not get the sense that these Department of Defense people had actually done a lot of real interrogations in real life. 36:00.	Michael Chertoff Interview I at 33:30 - 36:00
To Be Determined	Michael Chertoff said there was a general sense in Department of Justice that Federal Bureau of Investigation was more effective because they used a wider range of skills and were more subtle and they were better attuned. Department of Defense tends to have a limited playbook, according to Michael Chertoff. 37:30	Michael Chertoff Interview I at 36:00 - 37:30
To Be	Over time, Michael Chertoff said he had a sense that Department of Defense had a limited	Michael Chertoff

Determined	<p>playbook. The information we got out of Department of Defense we not very good. There were a couple of times when we got a summary that overstated the information they got. This left Michael Chertoff without a high confidence level in Department of Defense's interrogations. Chertoff said he knew the Federal Bureau of Investigation did a good job. Michael Chertoff also said he had respect for the Central Intelligence Agency's professionalism and seriousness, and he said he had seen product they were producing and it appeared to be quite valuable. Chertoff said, he would have agreed with the general assessment that, if I was looking to try to produce useful and accurate information from someone, I would probably want to use the Federal Bureau of Investigation or the Central Intelligence Agency. Michael Chertoff said this was not battlefield information -- this was much more wide-ranging, amorphous and strategic information that would have to be put together. 39:50.</p>	Interview 1 at 37:50 - 39:50
To Be Determined	<p>Michael Chertoff does not know if AGLetter.doc was drafted at a point when the idea of giving the Federal Bureau of Investigation control of the (b)(1) interrogations had been "taken off the table." Michael Chertoff's understanding was, with interrogations at U.S. Naval Base Guantanamo Bay, Cuba, Department of Defense controlled things. The Federal Bureau of Investigation might be allowed to be a guest, but their participation would be strictly at the sufferance of Department of Defense. He assumes that if the Federal Bureau of Investigation was going to take over, you would have to take the person out of U.S. Naval Base Guantanamo Bay, Cuba. It was Department of Defense's domain and their control. 41:20.</p>	Michael Chertoff Interview 1 at 39:50 - 41:20
To Be Determined	<p>Michael Chertoff thinks the proposal to move (b)(1) overseas was never put into action. (b)(1) remains at U.S. Naval Base Guantanamo Bay, Cuba. Does Michael Chertoff recall John Ashcroft ever discussing this at the National Security Council? Michael Chertoff knew as a general matter that if there was an issue that couldn't be resolved between two agencies, it would have to go to an inter-agency process, whether "Deputies" or "Principals." He doesn't remember discussions at "Deputies" or "Principals" about this. Michael Chertoff is aware of many issues that got addressed over time in an inter-agency process (i.e. whether people should be charged in a civilian system or Department of Defense system, whether the Federal Bureau of Investigation should do things or whether Department of Defense should do things). Over time, Michael Chertoff's assumption is that Department of Defense prevailed more often than not. Based on that, you have an assumption about the likelihood. I don't know if the DAG and the AG would have said they would raise it and push it.</p>	Michael Chertoff Interview 1 at 41:30 - 44:20

	or raise it and not push it, or not raise it at all if Department of Defense wouldn't agree to it. 44:20.	
To Be Determined	Michael Chertoff DNR hearing that AG had raised this issue with Condoleezza Rice. 44:30.	Michael Chertoff Interview 1 at 44:20 - 44:30
To Be Determined	Michael Chertoff DNR anyone on his staff telling him they were going to contact John Bellinger re: allegations such as pig's oil, Israeli flag, etc. 44:25	Michael Chertoff Interview 1 at 44:30 - 45:20
To Be Determined	Michael Chertoff DNR allegation about helicopter. 45:50.	Michael Chertoff Interview 1 at 45:20 - 45:50
To Be Determined	<p>Michael Chertoff not recall anyone arguing that the Federal Bureau of Investigation ought to engage in techniques that were outside of their normal practice. Someone may have raised it, but he DNR any lengthy or serious discussion about that. 47:48. (b)(5)</p> <p>(b)(5)</p> <p>Michael Chertoff does not recall any discussion of Federal Bureau of Investigation engaging in anything that would be abusive. 48:50. He does not recall a discussion re: more "alternative" techniques. (b)(5)</p> <p>There was no serious suggestion that the Federal Bureau of Investigation get involved in techniques that involved physical mistreatment or mishandling. 51:12. Michael Chertoff does not recall anybody talking about the Federal Bureau of Investigation getting into the kind of techniques that had been specially approved for the Central Intelligence Agency. He does not think the Federal Bureau of Investigation had any desire to get involved in something far outside their regular practice. 52:30.</p>	Michael Chertoff Interview 1 at 46:40 - 52:30
To Be Determined	(b)(5)	Michael Chertoff Interview 1 at 52:30 - 54:40

	the Federal Bureau of Investigation did not want to that, it doesn't mean the Federal Bureau of Investigation would be less effective? Michael Chertoff said where we lost out a little bit was in not using some of the Article III techniques, such as using plea bargaining and "benefits" to generate cooperation. 54:40	
To Be Determined	Michael Chertoff said the official role of Criminal Division was that in criminal cases, defendants wanted access to detainees, so Criminal Division litigated those issues. Criminal Division also wanted to get actionable information, so they had an interest in the efficacy of the interrogations. Department of Defense made it clear that U.S. Naval Base Guantanamo Bay, Cuba was their base and they had their own legal system. They did not want us to tell them what to do. Michael Chertoff said if there was ever a serious concern about illegal conduct by someone in interrogations and the military was not taking action, he would have expected to see a memorandum or referral that would have gone through the normal evaluation process. He does not recall getting anything like that from U.S. Naval Base Guantanamo Bay, Cuba. 57:30	Michael Chertoff Interview 1 at 54:40 - 57:30