

**CaseMap Facts Report**  
**Filter: Linked To Source(s): "David Nahmias Interview 3" - 16 of 7916 (0.2%) Filtered**

Case: FBI in Military Zones  
 Created: 2/24/2009 2:54:24 PM

Date & Time	Fact/Text	Source(s)
To Be Determined	David Nahmias started part time at end 2001. He was a human information sharer. He got access to the Federal Bureau of Investigation system so that he could get emails (since at that time the Federal Bureau of Investigation email system was separate). He stopped using that email sometime in 2003. 8:00	David Nahmias Interview 3 at 6:20 - 8:00
To Be Determined	David Nahmias said he got lots of information from (b)(6) [redacted] They were looking at the detainees for domestic intelligence, threats or domestic prosecution. He does not recall the email (b)(6) (b)(7)(C) [redacted] sent to him on Dec. 11. He has no recollection of the excerpt from "The Cell" being sent to him at his Federal Bureau of Investigation email account. He thinks at some point he may have skimmed the book. David Nahmias has no idea if the story about Robert S. Mueller, III in the excerpt from "The Cell" is accurate. When David Nahmias first arrived at Department of Justice, he was dimly aware of a dispute between Federal Bureau of Investigation (b)(1) [redacted] (b)(1) [redacted] 10:00. David Nahmias thinks he learned later that it (b)(1) [redacted] 10:30. He has no ideas about the details. 11:00	David Nahmias Interview 3 8:00 - 11:00
To Be Determined	David Nahmias has no recollection of the McCrary memo. He recalls there was a "big fight" about [redacted] who should be interrogating him and how. 12:00. There was a belief he might have "very actionable intelligence" and there was a dispute about how best to get the information. Department of Justice, Federal Bureau of Investigation and CJTF were arguing one method (rapport building). Others (Department of Defense Defense Intelligence Agency) wanted to do it by "yelling at him and isolating him." 13:00. David Nahmias said he is surprised he doesn't have more of a recollection of the McCrary memo, because it says that all the questioning is about a "historical event" and the questioning should be designed to preserve	David Nahmias Interview 3 at 11:00 - 14:40

OIG-INTV-001053

	statements for a military commission and raises issues of perjury. David Nahmias said that is the kind of prosecution-focused stuff that even the Department of Justice prosecutors would have pushed back on, because the focus should have been gathering intelligence. 14:40.	David Nahmias Interview 3 at 14:40 - 18:45
To Be Determined	David Nahmias said that at some point during [REDACTED] interrogation by the Department of Defense U.S. Naval Base Guantanamo Bay, Cuba people, we heard that someone at U.S. Naval Base Guantanamo Bay, Cuba on the legal side had raised issues about the interrogation, and it had stopped, and the Department of Defense General Counsel was investigating it. David Nahmias was not sure if the McGarry memo was part of that. 15:45. It was frustrating to us because they didn't give him back to the Federal Bureau of Investigation so the Federal Bureau of Investigation could use its approach, he just went "on Interrogation Control Element" for several months. 16:30. David Nahmias said his understanding was that the legal issues were about whether the orders were being followed (not so much the legality of the interrogation tactics). 17:00. David Nahmias recalls meetings about the interrogation plan. He recalls that some of the parts of the plan were "clearly over the top" but David Nahmias was told that they would not get past the less intensive interrogation techniques unless we all "regrouped." Even so, we thought some of the less intensive stuff was not going to be effective. It was more a discussion of tactics. 18:00. David Nahmias does not recall anyone at any of the meetings saying that what the military plan intended to do with [REDACTED] was illegal. 18:45.	
To Be Determined	At some point, Department of Justice took the position that [REDACTED] (b)(1)	David Nahmias Interview 3 at 19:00 - 24:30
	(b)(1) 22:00. Alice Fisher, Michael Chertoff, Christopher Wray and Larry Thompson, John Ashcroft, David Ayres, Counter Terrorism Division - FBI up to, and possibly including, Robert S. Mueller, III were involved in the discussion of this strategy. 23:00. When Department of Defense realized who they had (after the Federal Bureau of	

	<p>Investigation identified him, they said "he's ours," and they were "completely ineffective in getting any kind of intelligence out of him, and nobody thought they would ever be effective, and if anything they were shutting him down." David Nahmias said there were also "significant concerns that they weren't accurately reporting what they were getting." 24:00. David Nahmias said that the thought was if you would let Federal Bureau of Investigation have access, there was</p> <p>(b)(1)</p> <p>(b)(1)</p> <p>24:30.</p>	
<p>To Be Determined</p>	<p>DAVID NAHMIAS said he did not draft the AGLetter wpd document. He said he thinks someone in (b)(6) (b)(7)(C) unit would have done it. He does not know who drafted it. He noted that the phrase "complacency in the detainees" sounds like an Federal Bureau of Investigation or Central Intelligence Agency phrase -- not something that main Department of Justice people would have used. 26:30 Who at Federal Bureau of Investigation was aware at that time of the alternative debriefing models begin used on (b)(1)</p> <p>(b)(1)</p> <p>David Nahmias said they were aware that they had been captured and . David Nahmias said that, in terms of what techniques were being used and what was authorized to be used, he was not read into that program until later. He does not know who on the Department of Justice side was read in at that point. 28:00. That is not an area that David Nahmias had any awareness of, he said, until he became the Deputy [Assistant?] Attorney General in August 2003. 28:23. David Nahmias does not know who on the Federal Bureau of Investigation side was aware of that stuff. 28:30. David Nahmias does not know if (b)(6) (b)(7)(C) was read in at that time. David Nahmias agreed that since the document does not mention Khalid Shaikh Mohammed, it probably predates his capture, which means it was drafted prior to March 2003. 29:00.</p>	<p>David Nahmias Interview 3 at 24:30 - 29:00</p>
<p>To Be Determined</p>	<p>David Nahmias said the general understanding was that (b)(1)</p> <p>(b)(1)</p>	<p>David Nahmias Interview 3 29:00 - 35:00</p>

OIG-INTV-00105

	<p>(b)(1)</p> <p>31:30. The problem with holding people at U.S. Naval Base Guantanamo Bay, Cuba is described in the document where it says that there is nowhere at U.S. Naval Base Guantanamo Bay, Cuba to separate someone -- it is all the same place. You had detainees who were cooperative at Bagram AFB or elsewhere, and then they are put in with radicals at U.S. Naval Base Guantanamo Bay, Cuba. When they were cooperating everyone would know based on how long they were in the interrogation room, and the other inmates would treat them badly and they would "shut down." 32:30. David Nahmias described one example of a person [REDACTED] who had been helpful and who just shut down. 33:00. Everyone at U.S. Naval Base Guantanamo Bay, Cuba was in the same place. There was no reward or protection for someone cooperating and there was no penalty for not cooperating. 33:30. Q: Is David Nahmias really saying that the phrase "alternative debriefing models" in the draft letter was just a reference to the type of rapport-building interrogation the Federal Bureau of Investigation does? A (b)(1)</p> <p>(b)(1)</p> <p>33:00.</p> <p>(b)(1) David Nahmias said some of the people involved in "this" [the draft letter?] may have been more aware of what the (b)(1)</p> <p>(b)(1)</p> <p>(b)(1) David Nahmias</p> <p>said he assumes that most Americans in public service actually try to follow the law. He said he</p>	
To Be Determined		<p>David Nahmias Interview 3 at 35:30 - 38:45</p>

	<p>had no reason to believe that the Central Intelligence Agency was planning to torture anyone. 37:00. David Nahmias is not aware that any Federal Bureau of Investigation agents had any knowledge of what techniques the Central Intelligence Agency used with Zayn Abidin Muhammad Hussain abu Zubaida. 37:50. David Nahmias dimly recalls some debate about (b)(1) (b)(1)</p>	
To Be Determined	<p>David Nahmias noted that during this time frame [of the draft letter] the military commissions were still viewed as a process that would work fairly well and without much problem. 39:15. David Nahmias's experience with Federal Bureau of Investigation was that with attempts to get information from Khalid Shaikh Mohammed, (b)(1) the Federal Bureau of Investigation was required to submit questions to Central Intelligence Agency headquarters. 40:00</p>	David Nahmias Interview 3 at 39:00 - 40:00
To Be Determined	<p>David Nahmias said that he thinks if (b)(6) (b)(7)(C) did not draft the AGLetter, then it would have been someone below (b)(6) (b)(7)(C) maybe someone at U.S. Naval Base Guantanamo Bay, Cuba who was knowledgeable about (b)(1) 41:00. David Nahmias noted that the drafters are not usually the higher-level people. 41:50. David Nahmias said the context of the draft letter is that, when David Nahmias went to U.S. Naval Base Guantanamo Bay, Cuba in October 2002, (b)(1) was "on Interrogation Control Element" in a medical facility somewhat removed from the regular camp. 42:00. They were not even interrogating him at that point. David Nahmias said a lot of the controversy about how Department of Defense would treat him was later in the fall. 43:00. David Nahmias said the "break" when Department of Defense was ordered to stop interrogating was probably in November or December. At that point, Department of Justice was getting very frustrated that the detainee of (probably) the most interest in all of U.S. Naval Base Guantanamo Bay, Cuba and nobody was talking to him. 43:50. Department of Defense wouldn't let go of him so that someone else would interrogate him. They wouldn't give him back to the Federal Bureau of Investigation, and it was not clear that the Federal Bureau of Investigation would be able to interrogate him in the conditions that existed at U.S. Naval Base Guantanamo Bay, Cuba so the idea was, maybe, the (b)(1)</p>	David Nahmias Interview 3 at 40:00 - 44:50

OIG-INTV-00105

To Be Determined	<p>David Nahmias said there was a group that developed after Padilla was caught and made an enemy combatant that consisted of: Criminal Division (usually David Nahmias, or sometimes Alice Fisher), Office of Legal Counsel (usually Pat Philbin), Department of Defense General Counsel (usually Whit Cobb) and (b)(1)</p> <p>to review anyone in a domestic investigation who might be made an enemy combatant -- see if Department of Defense wanted to "stake a claim" on someone or conversely, to see of Department of Justice wanted to stake a claim for an Article III prosecution on someone.</p> <p>Department of Defense picked up. 47:30. David Nahmias believes they discussed (b)(1)</p> <p>(b)(1)</p>	David Nahmias Interview 3 at 45:00 - 50:00
To Be Determined	<p>(b)(1)</p> <p>ask the National Security Council to tell Department of Defense to do this. The idea was that the Federal Bureau of Investigation would advocate this to the AG, who would then take it to the Policy Coordinating Committee and ask the National Security Council to make it happen.</p> <p>50:00.</p>	David Nahmias Interview 3 at 50:00 - 51:30
To Be	<p>David Nahmias is not aware that this letter ever made it formally to the AG, but he believes that the AG was aware that "we" had concerns about (b)(1) and this was being considered. David Nahmias said he has no recollection of the AG actually engaging on this or sending a letter, because at some point the Federal Bureau of Investigation got back in with (b)(1) and he actually began to give up information. David Nahmias said it was a typical bureaucratic process that people were frustrated and were trying to get something done, but before it actually occurred at a cabinet level, it got overtaken by events.</p> <p>51:30.</p>	David Nahmias

64

Determined	<p>would not see the inside of a courtroom. He, Alice Fisher and Michael Chertoff probably briefed the AG on (b)(7) David Nahmias does not actually recall who actually briefed the AG. He does not recall those words, but David Nahmias thinks he probably would have been present when the AG was briefed on this, because it was the kind of matter that he would have been present for. 53:40. The AG would have been told about (b)(7) in detail, and there might have been a short discussion about whether Department of Justice had an interest in prosecuting him. 54:00. David Nahmias said to keep in mind that Department of Justice was in the midst of a lot of difficulties in the (b)(7) prosecution. 55:00. David Nahmias would not necessarily have said that he won't see the inside of a courtroom, it could have been that someone in the room said something to that effect and everyone just agreed. David Nahmias said he does not think he would have advocated for (b)(7) to be brought to the US to be tried. He noted that a decision had been made that we weren't going to Mirandize people at U.S. Naval Base Guantanamo Bay, Cuba, which would have affected admissibility of statements. 56:00. David Nahmias also noted that, at that time, they still thought that the military commissions would be an effective way to handle these people. 56:45. When Department of Justice made arrests in the US, they were having to make sure that Department of Defense did not want them declared enemy combatants. 57:00</p>	Interview 3 at 51:30 - 57:00.
To Be Determined	<p>David Nahmias does not know (b)(7) was actually raised at the Policy Coordinating Committee. 58:00. The AG had spoken with someone at the National Security Council, probably Condoleezza Rice, about Department of Justice's concerns regarding (b)(7) how important he was and that Department of Justice disagreed with Department of Defense's approach. 59:00. David Nahmias does not recall how he learned that the AG raised this at the Policy Coordinating Committee. They discussed having him raise the issue formally, which is what generated the AGLetter.wpd being drafted. 1:00:00. When the AG spoke to Condoleezza Rice, David Nahmias said, the topic was (b)(7) his connections to 9/11 and his actions after he was captured -- and the fact that Department of Defense was not getting good information from him. David Nahmias thinks he would have raised it informally, or at a morning threat briefing. 1:01:30. David Nahmias said the concerns related to (b)(7) were not the lawfulness of the interrogations -- it was</p>	David Nahmias Interview 3 at 57:00 - 1:04:00

OIG-INTV-00105

	assumed they would be lawful. 1:04:00	David Nahmias Interview 3 at 1:06:00 - 1:13:00
To Be Determined	<p>David Nahmias said that the McCrory memo has some concerns about lawfulness "buried" in it. David Nahmias said his was told by Department of Defense that they would never get to Phase III or Phase IV unless there were "lots more" meetings and discussions before going to the next step. David Nahmias does not recall any discussion of the lawfulness of interrogation techniques. 1:07:00. AG John Ashcroft and Condoleezza Rice probably talked about (b)(1) but they probably did not talk about the lawfulness. David Nahmias does not recall reading that part of this memo and does not recall it being discussed at any meeting. 1:08:40. David Nahmias did not learn of the military's concerns about lawfulness of interrogation practices until after Abu Ghraib Prison. 1:09:23. David Nahmias said that what jumped out at him about the McCrory memo was that the Department of Defense lawyer saw (b)(1) as a detainee being interrogated only about historical events. 1:10:20. The fact that it had been a year since he was picked up on the battlefield did not negate David Nahmias's belief that (b)(1) might be able to provide intelligence relevant to ongoing threats. 1:11:00. At one CVTTS at the Pentagon with David Nahmias attended, there was concern expressed by the Department of Defense people about some of the more "physical" techniques being suggested for later phases. 1:13:00.</p>	
To Be Determined	<p>David Nahmias said Andrew G. Arena, Pasquale D'Amuro or (b)(6) (b)(7)(C) were in the chain of command and may have come over if there was a briefing for AG John Ashcroft on the (b)(1) matter. Such a briefing likely would have included Robert S. Mueller, III or John S. Pistole along with one of them. He does not think Andrew G. Arena, Pasquale D'Amuro or (b)(6) (b)(7)(C) wrote the AGLetter.wpd draft. 1:14:00</p>	David Nahmias Interview 3 at 1:14:00

OIG-INTV-00106