

## 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	February 2001 to February 2005 David Ayres served as Chief of Staff to John Ashcroft. 1:30. Part of duties was to vet issues that would go to John Ashcroft that might have interagency ramifications or be subject to interagency discussions. 2:20.	David Ayres Interview 1 at 00:01:20
To Be Determined	David Ayres said "we were trying to transform Federal Bureau of Investigation into an organization that would prevent attacks as opposed to reacting to attacks." 4:00. David Ayres was aware that the Federal Bureau of Investigation sent agents to U.S. Naval Base Guantanamo Bay, Cuba, but does not recall the time period when agents were there. He does not recall the mechanics of how that was put together. 4:45.	David Ayres Interview 1 at 00:03:00 - 00:04:45
To Be Determined	Federal Bureau of Investigation wanted to be at U.S. Naval Base Guantanamo Bay, Cuba, in Iraq and Afghanistan and the Department of Justice wanted them their too because they believe that the Federal Bureau of Investigation would be good at collecting intelligence. "Our" view from a "policy standpoint" was that the Federal Bureau of Investigation is "better" is at collecting "strategic information – long term information – which is usually done by cultivating relationships, as opposed to short-term tactical intelligence which might be achieved using military techniques or other aggressive practices." 6:30. We took the view that the Federal Bureau of Investigation was skilled at developing relationships with subjects because of their training, and that those relationships (and the criminal justice system generally, which operates with a system of rewards and sanctions which channels individuals towards cooperating over the long term) is a better way to gather intelligence than the more tactical techniques that might be used by other agencies." We felt that was a good approach for us to take this situation. Our view as that long term cooperation leads to better cooperation and leads us to better protect the country. 7:30.	David Ayres Interview 1 at 00:05:30 - 00:07:30.

To Be Determined	David Ayres said there were substantial policy discussions within the administration regarding which approach is better. The approach "we" advocated is more nuanced and requires some buy-in from people over time. There was a "lure" to the other approach, that "if we just get the lawyers out of the way" and we have no system in place, then we will get better intelligence. David Ayres said experience demonstrated the value of the approach "we" wanted to take and that we thought would lead to better intelligence. David Ayres said that, over time, it became clear that our approach was better. 10:00. The Federal Bureau of Investigation is used to operating within U.S. Constitutional protections. When it was more neutral environment (i.e. overseas) where U.S. Constitutional restraints do not apply, then it is more of a "intelligence." Over time, we eventually moved more towards a system of Federal Bureau of Investigation interviews with long-term relationships because the results were proven out and were beneficial. 00:11:00. The discussions were generally more abstract, policy level discussions, as opposed to discussions on particular individuals. 00:11:40.	David Ayres Interview 1 at 00:07:30 - 00:11:00
To Be Determined	Discussions of which "approach" to take occurred at the Principles committee, Deputies committee, line-level interagency interactions and within Department of Justice. 00:12:20. If internal Department of Justice discussion reached the level John Ashcroft, he would be the decision maker. 00:13:00. David Ayres does not recall that one part of Department of Justice was advocating one position and another part of Department of Justice was advocating another position. There was a fair amount of agreement. 00:14:00. On the other hand, not all detainees were similarly situated. 00:15:15. The driving consideration was to get the intelligence, within the parameters of the law and the Constitution. 00:15:40. The Federal Bureau of Investigation and the Criminal Division were the biggest stake holders, and occasionally Office of Legal Counsel (if abstract) or Office of Intelligence Policy Review (if there was a surveillance element). 00:16:20. Once you figured out "who they were" or "where they were" then the options narrowed. For those overseas, others had "larger equities" than Department of Justice. 00:17:30. We did not usually discuss specific interrogation techniques for individual detainees. 00:18:00	David Ayres Interview 1 00:11:00 - 00:18:00
To Be Determined	What can David Ayres recall about (b)(1) At that time, Department of Justice was trying to understand the immigration authorities and how they fit into the counter-terrorism context. In the course of that, (b)(6)(b)(7)(C) came across an unusual circumstance with the INS, in which they came across a person who had been to an airport in Florida and was	David Ayres Interview 1 at 00:18:00 - 00:24:15.

	<p>turned back. He fit the pattern of some 9/11 hijackers. 00:21:00. (b)(6)(b)(7)(C) provided information to David Ayres and David Ayres provided it to the Federal Bureau of Investigation as a lead. 00:21:30. David Ayres got a report back from the Federal Bureau of Investigation that they thought they had the guy. He had led a riot in an Afghanistan detainee facility or on a bus transporting detainees, and he was a hard case who was at U.S. Naval Base Guantanamo Bay, Cuba. The 9/11 task force began pursuing this as an active lead, but they were not getting any information from him because he was a "hard case." 00:23:20. David Ayres does not recall discussions of what interrogation approach to take (not at his level, anyway). David Ayres kept inquiring about what information they were getting, but David Ayres understood he was "not talking." 00:24:15.</p>	
To Be Determined	<p>Does David Ayres recall a decision from the Attorney General's office (b)(1) (b)(1) would not see the inside of an Article III courtroom? No. However, David Ayres added that it was "unlikely" that people picked up on the battlefield would be cycled through an Article III courtroom. David Ayres said he was operating under the assumption that such individuals would be taken through the tribunal process. David Ayres said "we" had lots of discussions with Department of Defense about getting the tribunal process up and going -- which was a criminal justice process, which has the kind of penalties and sanctions and which lends a detainee to see a light at the end of the tunnel if they cooperate. They can work off their time if they provide intelligence. It was a frustration that the military didn't have that process up and running because we wanted to benefit from intelligence gathered as a result. 00:27:00. Was it the mindset right from the get go that the battlefield detainees would not go to an Article III court? Ayres said, "Yes." We were "clawing" back into the discussion the notion that, if our objective is good intelligence, then you can get better intelligence by putting them through the criminal justice system -- either Article III or a military version. There was an operating view from the beginning that this was a military situation and the military and their approach need to drive our consideration. That was a philosophical approach that was dictated at a very high level. We were trying to bring that back to a place where we felt for national security purposes that you could get better intelligence by taking a different approach. 00:29:30. What efforts were made to advocate for the criminal justice approach? It was an ongoing, long-standing, trench warfare in the inter-agency discussions starting from the beginning running all the way through the end. Sometimes it was "why aren't the military commissions going?" Sometimes it was "what do we</p>	David Ayres Interview I at 00:24:15 - 00:30:50

	do with non-US citizens captured in the US?" (we prevailed on that). It was an ongoing high-level dialogue. 00:30:50.	
To Be Determined	Were you aware of what techniques the military was using? David Ayres was not read into the program under which Department of Justice approved interrogation practices for the Central Intelligence Agency or Department of Defense until much later (i.e. 2004 after the knowledge became more public). 00:31:50. David Ayres was not aware, in 2002 and 2003, of discussions between Office of Legal Counsel and the Central Intelligence Agency about what they could do. David Ayres believes that there were discussions between Office of Legal Counsel and Department of Defense but David Ayres was not read into that. 00:32:50	David Ayres Interview 1 at 00:30:50 - 00:32:50
To Be Determined	David Ayres believe John Ashcroft was briefed on the "discovery" that (b)(1) was at U.S. Naval Base Guantanamo Bay, Cuba, and "we" would try to periodically ask back "what have we learned" since it was a particularly fruitful lead. 00:33:50.	David Ayres Interview 1 at 00:33:00 - 00:33:50
To Be Determined	David Ayres knows David Nahmias. He believes he knows (b)(6)(b)(7)(C) but is not sure who he is. Is David Ayres aware whether issue of (b)(1) interrogation techniques was taken to Principals Committee? David Ayres does not recall that happening. He does not think there would be briefing materials on it, unless there was something that came out of a Deputies Committee meeting. He does not recall such documents. 00:36:30.	David Ayres Interview 1 at 00:33:50 - 00:36:30
To Be Determined	David Ayres does not recall learning about specific concerns the Federal Bureau of Investigation had regarding Department of Defense's actions in the (b)(1) interrogations. 00:37:30. Without specific reference to David Ayres recalls that the understanding was that Department of Defense would run the show, and the Federal Bureau of Investigation was there by Department of Defense "leave." 00:39:20. Ayres recalls that there was a certain amount of frustration with the failure to get the military commission process up and running and with the "lack of intelligence" coming out of U.S. Naval Base Guantanamo Bay, Cuba. The military had a nice "song and dance" about what they were getting, but we didn't really feel like the quality of the product was worth much. 00:40:00. These assessments of the quality of the intelligence were coming from the Federal Bureau of Investigation and Criminal Division, counter-terrorism officials at all levels. 00:41:00. We are in the business of stopping people and we need to have information in order to do it. If it is not collected or not shared, it does not do us any good.	David Ayres Interview 1 at 00:36:30 - 00:42:00

	00:41:30. It may have gotten better over time. At least initially, the consensus was that it was not good intelligence, even though it was being touted as such. 00:42:00.	
To Be Determined	Re (b)(6)(b)(7)(C)	David Ayres Interview 1 at 00:42:00
To Be Determined	Re: 03069, David Ayres said re doesn't recall a specific Department of Justice's view on "how and by whom" initial interrogation screening of prisoners will be conducted. David Ayres does not recall discussions at that specific point of whether detained persons will be turned over to Federal Bureau of Investigation. This is an example of those types of issues being raised early on. 00:45:45.	David Ayres Interview 1 at 00:43:00 - 00:45:00
To Be Determined	Re: 12/11 email from (b)(6)(b)(7)(C) to David Nahmias, with attached memo from U.S. Naval Base Guantanamo Bay, Cuba legal advisor. Were those types of issues raised to David Ayres in the fall 2002 time frame? David Ayres does not recall. David Ayres also does not recall issue of concerns about military techniques being raised to him or the AG during that time frame. 00:49:00	David Ayres Interview 1 at 00:46:00 - 00:49:00
To Be Determined	Re: AGLetter.doc, David Ayres does not recall the document. David Ayres does not recall, in the fall of 2002, that Department of Justice agreed sending (b)(1) overseas for interrogation. There was discussions of that nature, but David Ayres does not recall which detainees it related to. It was usually not Department of Justice's equities. It was usually a Central Intelligence Agency issue. David Ayres said "we" wanted to make sure they operated within the legal authorities they had. 00:55:00 The discussion was "usually" about sending someone back to where they came from -- a disposition issue as opposed to sending someone overseas for interrogation. 00:56:30. David Ayres said there were probably pretty clear guidelines for a non-disposition situation where the US would retain custody overseas. 00:58:00.	David Ayres Interview 1 at 00:49:00 - 00:58:00
To Be Determined	David Ayres does not recall disputes over which agency (Federal Bureau of Investigation, Department of Defense, Central Intelligence Agency) would take the "lead" except for Padilla. 01:00:00	David Ayres Interview 1 at 00:58:00 - 01:00:00
To Be Determined	David Ayres does not recall any discussion of Mohamedou Ould Slahi. 01:01:25. David Ayres does not recall concerns about a plan involving a helicopter ride or boat ride where the person	David Ayres Interview 1 at

	would be led to believe that he might be pushed or out might be taken to another country for harsher interrogation. 01:02:00.	01:00:00 - 01:02:00
To Be Determined	Does David Ayres recall the 5/30/03 EC with cover sheet that came to Department of Justice in 5/04? David Ayres recalls that after Abu Ghraib Prison, there was concerns about what had been known by the Federal Bureau of Investigation and what had been done (including, the Office of Legal Counsel opinion and whether it was good legal analysis). 01:05:50. David Ayres said he understood the bullets on 024701PR to be the case – he may have been orally briefed on that. It is consistent with David Ayres's understanding during that time period (post-Abu Ghraib Prison) – what did the Federal Bureau of Investigation know and what were they involved with. 01:08:40.	David Ayres Interview 1 at 01:03:00 - 01:08:40
To Be Determined	Overall, what interrogation tactics did Department of Justice advocate for and what were the reasons for those recommendations? David Ayres said that, with respect to U.S. Naval Base Guantanamo Bay, Cuba, we were consumers of intelligence products. We were subordinate with respect to how the interrogations were conducted. We would have provided legal advice. At the policy level, we played a role in pushing for a system that would take detainees and move them through an Article II or Article III criminal justice process. We strongly advocated – and burned a lot of senior level principle level clock -- on moving detainees through a tribunal process. It never seemed to happen. It was very frustrating. At one point, we had individuals we thought would plead in a civilian criminal justice context. We lost the inter-agency discussion. We waited for months and months before they went through the process. These were Moazzem Begg and another UK detainee who we felt would plead out in a way that could be under seal and then get cooperation. 01:14:00. We pushed that very hard and lost. It was argued at the Deputies and Principles committee repeatedly. 01:14:51. There was a disagreement about the Lakawanna six, but Department of Justice prevailed on that and they were taken to an Article III court. 01:15:20.	David Ayres Interview 1 at 01:09:40 - 01:15:20
To Be Determined	David Ayres can recall numerous conversations with the senior leadership at Department of Justice about how much better off we would be if we were taking these people through the criminal justice system. It was argued top to bottom by Department of Justice's representatives. 01:16:30.	David Ayres Interview 1 at 01:15:30 - 01:16:30.