

ROUTING SLIP

TO: Valerie Caproni
[Redacted] [Signature]
FROM: [Redacted] [Signature]
DATE: November 17, 2004

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SUBJECT: GUIDANCE ON EXTRATERRITORIAL MIRANDA WARNINGS

Attached please find the guidance which I have found:

1. The latest guidance I have found is a document prepared by the Counterterrorism Section of the Criminal Division entitled Fundamental Principles Governing Extraterritorial Prosecutions--Jurisdiction, Venue and Procedural Rights (March 2004)(See pages 15-17).

2. An undated Advice of Rights Form, which was in my files and which I may have sent to agents abroad in the past in stressed environments with the blessing of the General Counsel and DOJ. It is my recollection that the issue of extraterritorial Miranda warnings only arose in stressed environments, in particular after the bombings of the American Embassies in Kenya and Tanzania.

3. A signed Miranda warning which we used in Kenya after the bombing of the American Embassy in Nairobi. This warning was approved and used by the Criminal Division and the FBI General Counsel [Redacted]

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4. A January 27, 2004 E.C. from OGC to CTD.

5. A Memorandum dated January 27, 2004 from [Redacted] to Valerie Caproni regarding Attorney Client Privileged Material

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I have also checked with ILU, but they have informed me that they don't have anything in their files.

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APPENDIX A

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APPENDIX B

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APPENDIX C

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APPENDIX E

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Rapport-based interviewing is the process of communication between individuals in which a bond, a degree of trust and/or mutual understanding is developed.

During law enforcement and intelligence-related interviews, a rapport-based approach has been found to be most successful in obtaining incriminating information, corroborating existing information and developing new leads. Rapport-building allows an interviewer the opportunity to develop a detailed understanding of a subject, determine his/her motivations and identify specific areas of vulnerability.

A rapport-based approach is considered to be more effective and reliable than an aggressive approach. Although rapport-based approach is considered by some to be soft and overly polite, this is not necessarily the case. For example, there may be times during interviews in which there is pronounced tension, suspicion, hostility and intense disagreement. Depending on circumstances, these reactions may not be negative and, if exploited correctly, they may actually serve to enhance the building of rapport/trust between the interviewer and subject.

Developing rapport takes time. Some agents are more patient than others, and some are more able. The best interviewers are ones with experience, sensitivity and insight. Proscriptive approaches are not the answer and should be avoided. To the extent possible, agents should be encouraged to develop as much background information as possible on a case and subject and on the cultural milieu in which it occurred before beginning an interview. If detailed information is unavailable, agents should use the initial stages of an interview as an opportunity to obtain additional information which can then be used to create a specific interview plan.

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**OFFICE of INSPECTOR GENERAL'S
REVIEW of
DETAINEE ISSUES**

***FBI RESPONSE MATERIAL
DOJ'S OIG REQUEST of FEBRUARY 18, 2005***

ALL DOCUMENTS RELATED TO ANY REGULATION, POLICY, PROCEDURE, MANUAL, GUIDELINE, MEMORANDUM, DECISION, ADVICE, OR SIMILAR ITEM REGARDING CONDUCT OF OPERATIONS BY FBI EMPLOYEES IN OVERSEAS VENUES SINCE SEPTEMBER 12, 2001, INCLUDING: A DEPARTMENT OF JUSTICE DRAFT OF SUCH A DOCUMENT, WHICH MAY HAVE AUTHORIZED FBI AGENTS TO MAKE ARRESTS IN SUCH VENUES AND WHICH FBI ATTORNEY [REDACTED] [REDACTED] MAY HAVE BEEN AWARE OF; A DOCUMENT FBI [REDACTED] MAY HAVE BEEN INVOLVED IN PREPARING; AND ALL DRAFTS OF SUCH DOCUMENTS, COMMENTS RELATED TO SUCH DRAFTS, OR RELATED DOCUMENTS.

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FBI TRACKING # OIG-REQ 02-18-05 -PART 10
[PACKET #5- FBI BATE STAMP 0000202-0000260]
{ADDITIONALLY MATERIAL}

"DESIGNATED SENSITIVE MATERIAL"

**DOJ'S OFFICE OF INSPECTOR GENERAL'S
COPY**

OIG'S REVIEW of FBI DETAINEE ISSUES PROJECT

DOJ'S OIG REQUEST of FEBRUARY 18, 2005

SUBJECT: ALL DOCUMENTS RELATED TO ANY REGULATION, POLICY, PROCEDURE, MANUAL, GUIDELINE, MEMORANDUM, DECISION, ADVICE, OR SIMILAR ITEM REGARDING CONDUCT OF OPERATIONS BY FBI EMPLOYEES IN OVERSEAS VENUES SINCE SEPTEMBER 12, 2001, INCLUDING: A DEPARTMENT OF JUSTICE DRAFT OF SUCH A DOCUMENT, WHICH MAY HAVE AUTHORIZED FBI AGENTS TO MAKE ARRESTS IN SUCH VENUES AND WHICH FBI ATTORNEY [REDACTED] MAY HAVE BEEN AWARE OF; A DOCUMENT FBI [REDACTED] MAY HAVE BEEN INVOLVED IN PREPARING; AND ALL DRAFTS OF SUCH DOCUMENTS, COMMENTS RELATED TO SUCH DRAFTS, OR RELATED DOCUMENTS.

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FBI TRACKING # : OIG -REQ 02/18/05 -PART 10

PACKET: #5

{ADDITIONAL MATERIAL}

{JUNE 1, 2005}

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATE STAMP #s
NO DATE	MANUAL SECTION {MIOG}	INVESTIGATIVE AUTHORITY AND RESPONSIBILITY {SECTION 1-1 thru 1-4}	31	202-232
NO DATE.	MANUAL SECTION {MIOG}	MISCONDUCT INVESTIGATIONS OF FBI EMPLOYEES, OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE AND FEDERAL JUDICIARY {SECTION 62.1 thru 62.2}	3	233-235
NO DATE	MANUAL SECTION {MIOG}	TERRORISM ENTERPRISE INVESTIGATIONS {SECTION 100 thru 110.4}	17	236-252
NO DATE	MANUAL SECTION {NFIP}	INTERNATIONAL TERRORISM INVESTIGATIONS {SECTION 19-1 thru 19-13}	8	253-260
TOTAL PAGES			59	

Full Text HighLighted Hit Results Page

Query *interview* on document /miog/miog_intro_section1.htm

*You can navigate between the hits using the "<<" and ">>" tags around a hit.
Clicking "<<" takes you to the previous hit, clicking ">>" takes you to the next hit.*

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New Query

MIOG INTRODUCTION SECTION 1. INVESTIGATIVE AUTHORITY AND RESPONSIBILITY
MIOG INTRODUCTION SECTION 1. INVESTIGATIVE AUTHORITY AND RESPONSIBILITY
SENSITIVE

**EffDte: MCRT#: 0 Div: D9D6 Cav: SecCls:

1-1 AUTHORITY OF A SPECIAL AGENT

(1) Investigate violations of the laws, including the criminal drug laws, of the United States (Title 21, USC, Section 871; Title 28, USC; Sections 533, 534, and 535; Title 28, CFR, Section 0.85).

(2) Collect evidence in cases in which the United States is or may be a party in interest (28, CFR, Section 0.85 (a) as redelegated through exercise of the authority contained in 28, CFR, Section 0.138 to direct personnel in the FBI).

(3) Make arrests (Title 18, USC, Sections 3052 and 3062).

(4) Serve and execute arrest warrants; serve and execute search warrants and seize property under warrant; issue and/or serve administrative subpoenas; serve subpoenas issued by other proper authority; and make civil investigative demands (Title 18, USC, Sections 3052, 3107; Title 21, USC, Section 876; Title 15, USC, Section 1312).

(5) Carry firearms (Title 18, USC, Section 3052).

(6) Administer oaths to witnesses attending to testify or depose in the course of investigations of frauds on or attempts to defraud the United States or irregularities or misconduct of employees or agents of the United States (Title 5, USC, Section 303).

(7) Seize property subject to seizure under the criminal and civil forfeiture laws of the United States (e.g., Title 18, USC, Sections 981 and 982).

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(8) Perform other duties imposed by law.

**EffDte: 05/13/2003 MCRT#: 1272 Div: D9D6 Cav: SecCls:

1-2 INVESTIGATIVE RESPONSIBILITY

(1) The FBI is charged with the duty of investigating violations of the laws of the United States and collecting evidence in cases in which the United States is or may be a party in interest, except in cases in which such responsibility is by statute or otherwise specifically assigned to another investigative agency. (Title 28, CFR, Section 0.85 (a))

(2) In addition to the FBI discharging those responsibilities with which it is charged by statutes, the FBI expeditiously carries out directives of the President and the Attorney General.

(3) Unless otherwise prohibited by law, the FBI may initiate a general criminal investigation whenever facts and circumstances reasonably indicate that a federal crime has been or is being committed. When the factual predicate does not justify a full general crimes investigation, but does indicate criminal activity that warrants further inquiry, a preliminary inquiry may be opened to determine whether there is a sufficient factual basis to support a full investigation. Apart from the authority to open a general crimes investigation, the FBI may initiate a criminal intelligence investigation of enterprises whose members seek either to obtain monetary or commercial gains through racketeering or terrorist activities or to further political or social goals through violent activities. The conduct of general crimes and criminal intelligence investigations will be in strict compliance with, and conformity to, the United States Constitution, the laws of the United States and their implementing regulations, and the Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (effective May 30, 2002). (See MIOG, Introduction, 1-3.) Results of investigations are furnished to United States Attorneys and/or the Department of Justice.

(4) Requests for FBI investigations in selected civil matters in which the United States is or may be a party in interest may be received from the United States Attorneys and/or the Department of Justice. These are handled in strict conformity with guidelines furnished by the Department of Justice, as are also investigations of violations of the civil rights, antiriot, election laws, and antitrust laws.

(5) Under no circumstances may a Special Agent of the FBI acting within the scope of his/her employment seek to obtain the commitment of any individual for psychiatric evaluation or otherwise become involved in commitment proceedings. Special Agents subpoenaed to give testimony at commitment proceedings must first comply with

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the provisions of Part 2, Section 6 of this manual. Questions should be referred to Office of the General Counsel, FBIHQ.

**EffDte: 05/13/2003 MCRT#: 1272 Div: D9D6 Cav: SecCls:

| 1-3 THE ATTORNEY GENERAL'S GUIDELINES ON GENERAL CRIMES, RACKETEERING ENTERPRISE AND|TERRORISM ENTERPRISE| INVESTIGATIONS (See MIOG, Part 1, Section 92 , 100-1.1 , and 266-1 .)

| [PREAMBLE]

"As the primary criminal investigative agency in the federal government, the|Federal Bureau of Investigation (FBI)| has the authority and responsibility to investigate all criminal violations of federal law|that are|not exclusively assigned to another federal agency. The FBI thus plays a central role in|the enforcement of federal laws|and in the proper administration of justice in the United States. |In discharging this function, the highest priority is to protect the security of the nation and the safety of the American people against the depredations of terrorists and foreign aggressors.|

"Investigations by the FBI are premised upon the |fundamental|duty of government to protect the public against general crimes, against organized criminal activity and against those who would|threaten the fabric of our society through terrorism or mass destruction. That|duty must be performed with care to protect individual rights and to insure that investigations are confined to matters of legitimate law enforcement interest. The purpose of these Guidelines, therefore, is to establish a consistent policy in such matters. The Guidelines|will enable|Agents of the FBI to perform their duties with greater certainty, confidence and |effectiveness, and will provide the American people with|a firm assurance that the FBI is acting properly under the law.

"These Guidelines provide guidance for|general crimes and criminal intelligence investigations by the FBI. The standards and requirements set forth herein govern the circumstances under which |such investigations|may be begun, and the permissible scope, duration, subject matters, and objectives of|these investigations. They do not limit activities carried out under other Attorney General guidelines addressing such matters as investigations and information collection relating to international terrorism, foreign counterintelligence, or foreign intelligence.|

"The Introduction that follows explains the background of the reissuance of these Guidelines, their general approach and structure, and their specific application in furtherance of the FBI's central mission to protect the United States and its people from acts of terrorism. Part I sets forth general principles that apply to all investigations conducted under these Guidelines. Part II governs

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investigations undertaken to prevent, solve or prosecute specific violations of federal law. Subpart A of Part III governs criminal intelligence investigations undertaken to obtain information concerning enterprises which are engaged in racketeering activities. Subpart B of Part III governs criminal intelligence investigations undertaken to obtain information concerning enterprises which seek to further political or social goals through violence or which otherwise aim to engage in terrorism or the commission of terrorism-related crimes. Parts IV through VII discuss authorized investigative techniques, dissemination and maintenance of information, counterterrorism activities and other authorized law enforcement activities, and miscellaneous matters.

These Guidelines are issued under the authority of the Attorney General, as provided in sections 509, 510, 533, and 534 of title 28, United States Code.

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" INTRODUCTION

"Following the September 11, 2001, terrorist attack on the United States, the Department of Justice carried out a general review of existing guidelines and procedures relating to national security and criminal matters. The reissuance of these Guidelines reflects the result of that review.

"These Guidelines follow previous guidelines in their classification of levels of investigative activity, in their classification of types of investigations, in their standards for initiating investigative activity, and in their identification of permitted investigative techniques. There are, however, a number of changes designed to enhance the general effectiveness of criminal investigation, to bring the Guidelines into conformity with recent changes in the law, and to facilitate the FBI's central mission of preventing the commission of terrorist acts against the United States and its people.

"In their general structure, these Guidelines provide graduated levels of investigative activity, allowing the FBI the necessary flexibility to act well in advance of the commission of planned terrorist acts or other federal crimes. The three levels of investigative activity are: (1) the prompt and extremely limited checking of initial leads, (2) preliminary inquiries, and (3) full

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investigations. Subject to these Guidelines and other guidelines and policies noted in Part IV below, any lawful investigative technique may be used in full investigations, and with some exceptions, in preliminary inquiries.

"A. CHECKING OF LEADS AND PRELIMINARY INQUIRIES

"The lowest level of investigative activity is the 'prompt and extremely limited checking out of initial leads,' which should be undertaken whenever information is received of such a nature that some follow-up as to the possibility of criminal activity is warranted. This limited activity should be conducted with an eye toward promptly determining whether further investigation (either a preliminary inquiry or a full investigation) should be conducted.

"The next level of investigative activity, a preliminary inquiry, should be undertaken when there is information or an allegation which indicates the possibility of criminal activity and whose responsible handling requires some further scrutiny beyond checking initial leads. This authority allows FBI agents to respond to information that is ambiguous or incomplete. Even where the available information meets only this threshold, the range of available investigative techniques is broad. These Guidelines categorically prohibit only mail opening and nonconsensual electronic surveillance at this stage. Other methods, including the development of sources and informants and undercover activities and operations, are permitted in preliminary inquiries. The tools available to develop information sufficient for the commencement of a full investigation, or determining that one is not merited - the purpose of a preliminary inquiry - should be fully employed, consistent with these Guidelines, with a view toward preventing terrorist activities.

"Whether it is appropriate to open a preliminary inquiry immediately, or instead to engage first in a limited checking out of leads, depends on the circumstances presented. If, for example, an agent receives an allegation that an individual or group has advocated the commission of criminal violence, and no other facts are available, an appropriate first step would be checking out of leads to determine whether the individual, group, or members of the audience have the apparent ability or intent to carry out the advocated crime. A similar response would be appropriate on the basis of non-verbal conduct of an ambiguous character - for example, where a report is received that an individual has accumulated explosives that could be used either in a legitimate business or to commit a terrorist act. Where the limited checking out of leads discloses a possibility or reasonable indication of criminal activity, a preliminary inquiry or full investigation may then be initiated. However, if the available information shows at the outset that the threshold standard for a preliminary inquiry or full investigation is satisfied, then the appropriate investigative activity may be initiated immediately, without progressing through

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more limited investigative stages.

"The application of these Guidelines' standards for inquiries merits special attention in cases that involve efforts by individuals or groups to obtain, for no apparent reason, biological, chemical, radiological, or nuclear materials whose use or possession is constrained by such statutes as 18 U.S.C. 175, 229, or 831. For example, FBI agents are not required to possess information relating to an individual's intended criminal use of dangerous biological agents or toxins prior to initiating investigative activity. On the contrary, if an individual or group has attempted to obtain such materials, or has indicated a desire to acquire them, and the reason is not apparent, investigative action, such as conducting a checking out of leads or initiating a preliminary inquiry, may be appropriate to determine whether there is a legitimate purpose for the possession of the materials by the individual or group. Likewise, where individuals or groups engage in efforts to acquire or show an interest in acquiring, without apparent reason, toxic chemicals or their precursors or radiological or nuclear materials, investigative action to determine whether there is a legitimate purpose may be justified.

"B. FULL INVESTIGATIONS

"These Guidelines provide for two types of full investigations: general crimes investigations (Part II below) and criminal intelligence investigations (Part III below). The choice of the type of investigation depends on the information and the investigative focus. A general crimes investigation may be initiated where facts or circumstances reasonably indicate that a federal crime has been, is being, or will be committed. Preventing future criminal activity, as well as solving and prosecuting crimes that have already occurred, is an explicitly authorized objective of general crimes investigations. The 'reasonable indication' threshold for undertaking such an investigation is substantially lower than probable cause. In addition, preparation to commit a criminal act can itself be a current criminal violation under the conspiracy or attempt provisions of federal criminal law or other provisions defining preparatory crimes, such as 18 U.S.C. 373 (solicitation of a crime of violence) or 18 U.S.C. 2339A (including provision of material support in preparation for a terrorist crime). Under these Guidelines, a general crimes investigation is warranted where there is not yet a current substantive or preparatory crime, but where facts or circumstances reasonably indicate that such a crime will occur in the future.

"The second type of full investigation authorized under these Guidelines is the criminal intelligence investigation. The focus of criminal intelligence investigations is the group or enterprise, rather than just individual participants and specific acts. The immediate purpose of such an investigation is to obtain

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information concerning the nature and structure of the enterprise - including information relating to the group's membership, finances, geographical dimensions, past and future activities, and goals - with a view toward detecting, preventing, and prosecuting the enterprise's criminal activities. Criminal intelligence investigations, usually of a long-term nature, may provide vital intelligence to help prevent terrorist acts.

"Authorized criminal intelligence investigations are of two types: racketeering enterprise investigations (Part III. A) and terrorism enterprise investigations (Part III. B). A racketeering enterprise investigation may be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in a pattern of racketeering activity as defined in the Racketeer Influenced and Corrupt Organizations Act (RICO). However, the USA PATRIOT ACT (Public Law 107-56) expanded the predicate acts for RICO to include the crimes most likely to be committed by terrorists and their supporters, as described in 18 U.S.C. 2332b(g)(5)(B). To maintain uniformity in the standards and procedures for criminal intelligence investigations relating to terrorism, investigations premised on racketeering activity involving offenses described in 18 U.S.C. 2332b(g)(5)(B) are subject to the provisions for terrorism enterprise investigations rather than those for racketeering enterprise investigations.

"A terrorism enterprise investigation may be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of: (1) furthering political or social goals wholly or in part through activities that involve force or violence and a federal crime, (2) engaging in terrorism as defined in 18 U.S.C. 2331(1) or (5) that involves a federal crime, or (3) committing any offense described in 18 U.S.C. 2332b(g)(5)(B). As noted above, criminal intelligence investigations premised on a pattern of racketeering activity involving an 18 U.S.C. 2332b(g)(5)(B) offense are also treated as terrorism enterprise investigations.

"As with the other types of full investigations authorized by these Guidelines, any lawful investigative technique may be used in terrorism enterprise investigations, including the development of sources and informants and undercover activities and operations. The 'reasonable indication' standard for commencing a terrorism enterprise investigation is the same as that for general crimes and racketeering enterprise investigations. As noted above, it is substantially lower than probable cause.

"In practical terms, the 'reasonable indication' standard for opening a criminal intelligence investigation of an enterprise in the terrorism context could be satisfied in a number of ways. In some cases satisfaction of the standard will be apparent on the basis of direct evidence of an enterprise's involvement in or planning for

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the commission of a federal offense involving the use of force or violence to further political or social goals, terrorism as defined in 18 U.S.C. 2331(1) or (5), or a crime described in 18 U.S.C. 2332b(g)(5)(B). For example, direct information may be available about statements made in furtherance of an enterprise's objectives which show a purpose of committing such crimes or securing their commission by others.

"In other cases, the nature of the conduct engaged in by an enterprise will justify an inference that the standard is satisfied, even if there are no known statements by participants that advocate or indicate planning for violence or other prohibited acts. For example, such activities as attempting to obtain dangerous biological agents, toxic chemicals, or nuclear materials, or stockpiling explosives or weapons, with no discernible lawful purpose, may be sufficient to reasonably indicate that an enterprise aims to engage in terrorism.

"Moreover, a group's activities and the statements of its members may properly be considered in conjunction with each other. A combination of statements and activities may justify a determination that the threshold standard for a terrorism enterprise investigation is satisfied, even if the statements alone or the activities alone would not warrant such a determination.

"While no particular factor or combination of factors is required, considerations that will generally be relevant to the determination whether the threshold standard for a terrorism enterprise investigation is satisfied include, as noted, a group's statements, its activities, and the nature of potential federal criminal law violations suggested by its statements or activities. Thus, where there are grounds for inquiry concerning a group, it may be helpful to gather information about these matters, and then to consider whether these factors, either individually or in combination, reasonably indicate that the group is pursuing terrorist activities or objectives as defined in the threshold standard. Findings that would weigh in favor of such a conclusion include, for example, the following:

"(1) THREATS OR ADVOCACY OF VIOLENCE OR OTHER COVERED CRIMINAL ACTS:

Statements are made in relation to or in furtherance of an enterprise's political or social objectives that threaten or advocate the use of force or violence, or statements are made in furtherance of an enterprise that otherwise threaten or advocate criminal conduct within the scope of 18 U.S.C. 2331(1) or (5) or 2332b(g)(5)(B), which may concern such matters as (e.g.):

"(i) engaging in attacks involving or threatening massive loss of

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life or injury, mass destruction, or endangerment of the national security;

"(ii) killing or injuring federal personnel, destroying federal facilities, or defying lawful federal authority;

"(iii) killing, injuring or intimidating individuals because of their status as United States nationals or persons, or because of their national origin, race, color, religion, or sex; or

"(iv) depriving individuals of any rights secured by the Constitution or laws of the United States.

"(2) APPARENT ABILITY OR INTENT TO CARRY OUT VIOLENCE OR OTHER COVERED ACTIVITIES:

The enterprise manifests an apparent ability or intent to carry out violence or other activities within the scope of 18 U.S.C. 2331(1) or (5) or 2332b(g)(5)(B), e.g.

"(i) by acquiring, or taking steps towards acquiring, biological agents or toxins, toxic chemicals or their precursors, radiological or nuclear materials, explosives, or other destructive or dangerous materials (or plans or formulas for such materials), or weapons, under circumstances where, by reason of the quantity or character of the items, the lawful purpose of the acquisition is not apparent;

"(ii) by the creation, maintenance, or support of an armed paramilitary organization;

"(iii) by paramilitary training; or

"(iv) by other conduct demonstrating an apparent ability or intent to injure or intimidate individuals, or to interfere with the exercise of their constitutional or statutory rights.

"(3) POTENTIAL FEDERAL CRIME:

The group's statements or activities suggest potential federal criminal violations that may be relevant in applying the standard for initiating a terrorism enterprise investigation - such as crimes under the provisions of the U.S. Code that set forth specially defined terrorism or support-of-terrorism offenses, or that relate to such matters as aircraft hijacking or destruction, attacks on transportation, communications, or energy facilities or systems, biological or chemical weapons, nuclear or radiological materials, civil rights violations,

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assassinations or other violence against federal officials or facilities, or explosives (e.g., the offenses listed in 18 U.S.C. 2332b(g)(5)(B) or appearing in such provisions as 18 U.S.C. 111, 115, 231, 241, 245, or 247).

"C. AUTHORIZED INVESTIGATIVE TECHNIQUES

"All lawful investigative techniques may be used in general crimes, racketeering enterprise, and terrorism enterprise investigations. In preliminary inquiries, these Guidelines bar the use of mail openings and nonconsensual electronic surveillance (including all techniques covered by chapter 119 of title 18, United States Code), but do not categorically prohibit the use of any other lawful investigative technique at that stage. As set forth in Part IV below, authorized methods in investigations include, among others, use of confidential informants, undercover activities and operations, nonconsensual electronic surveillance, pen registers and trap and trace devices, accessing stored wire and electronic communications and transactional records, consensual electronic monitoring, and searches and seizures. All requirements for the use of such methods under the Constitution, applicable statutes, and Department regulations or policies must, of course, be observed.

"D. OTHER AUTHORIZED ACTIVITIES

"Current counterterrorism priorities and the advent of the Internet have raised a number of issues which did not exist in any comparable form when the last general revision of these Guidelines was carried out in 1989 - a time long preceding the September 11 attack's disclosure of the full magnitude of the terrorist threat to the United States, and a time in which the Internet was not available in any developed form as a source of information for counterterrorism and other anti-crime purposes. Part VI of these Guidelines is designed to provide clear authorizations and statements of governing principles for a number of important activities that affect these areas. Among other things, Part VI makes it clear that the authorized law enforcement activities of the FBI include: (i) operating and participating in counterterrorism information systems, such as the Foreign Terrorist Tracking Task Force (VI. A(1)); (ii) visiting places and events which are open to the public for the purpose or detecting or preventing terrorist activities (VI. A(2)); (iii) carrying out general topical research, such as searching online under terms like 'anthrax' or 'smallpox' to obtain publicly available information about agents that may be used in bioterrorism attacks (VI. B(1)); (iv) surfing the Internet as any member of the public might do to identify, e.g., public websites, bulletin boards, and chat rooms in which bomb making instructions, child pornography, or stolen credit card information is openly traded or disseminated, and observing information open to public view in such forums to detect terrorist activities and other criminal activities (VI. B(2)); (v) preparing general reports and assessments relating to terrorism or

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| other criminal activities in support of strategic planning and
| investigative operations (VI. B(3)); and (vi) providing investigative
| assistance to the Secret Service in support of its protective
| responsibilities (VI. B (4)).

" I. GENERAL PRINCIPLES (See MIOG, Part 1, 100-1.2.3 .)

"Preliminary inquiries and investigations governed by
these Guidelines are conducted for the purpose of preventing,
| detecting, or prosecuting violations of federal law. |The FBI shall
| fully utilize the methods authorized by these Guidelines to maximize
| the realization of these objectives. |

"The conduct of preliminary inquiries and
| investigations may present choices between the use of investigative
| methods which are more or less intrusive, considering such factors
| as the effect on the privacy of individuals and potential damage
| to reputation. Inquiries and investigations shall be conducted with
| as little intrusion as the needs of the situation permit. It is
| recognized, however, that the choice of techniques is a matter of
| judgment. The FBI shall not hesitate to use any lawful techniques
| consistent with these Guidelines, even if intrusive, where the
| intrusiveness is warranted in light of the seriousness of a crime
| or the strength of the information indicating its commission or
| potential future commission. This point is to be particularly
| observed in the investigation of terrorist crimes and in the
| investigation of enterprises that engage in terrorism. | All
| preliminary inquiries shall be conducted pursuant to the General
| Crimes Guidelines |(i.e., Part II of these Guidelines). | There is no
| separate provision for|preliminary inquiries|under the Criminal
| Intelligence Guidelines|(i.e., Part III of these Guidelines) because
| preliminary inquiries under Part II may be carried out not only to
| determine whether the grounds exist to commence a general crimes
| investigation under Part II, but alternatively or in addition to
| determine whether the grounds exist to commence a racketeering
| enterprise investigation or terrorism enterprise investigation under
| Part III. | A preliminary inquiry shall be promptly terminated when it
| becomes apparent that a full investigation is not warranted. If, on
| the basis of information discovered in the course of a preliminary
| inquiry, an investigation is warranted, it may be conducted as a
| general crimes investigation, or a criminal intelligence
| investigation, or both. All such investigations, however, shall be
| based on a reasonable factual predicate and shall have a valid law
| enforcement purpose.

"In its efforts to anticipate or prevent crime, the FBI
must at times initiate investigations in advance of criminal conduct.
It is important that such investigations not be based solely on
activities protected by the First Amendment or on the lawful exercise
of any other rights secured by the Constitution or laws of the United
States. When, however, statements advocate criminal activity or

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indicate an apparent intent to engage in crime, particularly crimes of violence, an investigation under these Guidelines may be warranted unless it is apparent, from the circumstances or the context in which the statements are made, that there is no prospect of harm.

"General crimes investigations and criminal intelligence investigations shall be terminated when all logical leads have been exhausted and no legitimate law enforcement interest justifies their continuance.

"Nothing in these Guidelines prohibits the FBI from ascertaining the general scope and nature of criminal activity in a particular location or sector of the economy, or from collecting and maintaining publicly available information consistent with the Privacy Act.

" II. GENERAL CRIMES INVESTIGATIONS

"A. DEFINITIONS

"(1) 'Exigent circumstances' are circumstances requiring action before authorization otherwise necessary under these guidelines can reasonably be obtained, in order to protect life or substantial property interests; to apprehend or identify a fleeing offender; to prevent the hiding, destruction or alteration of evidence; or to avoid other serious impairment or hindrance of an investigation.

"(2) 'Sensitive criminal matter' is any alleged criminal conduct involving corrupt action by a public official or political candidate, the activities of a foreign government, the activities of a religious organization or a primarily political organization or the related activities of any individual prominent in such an organization, or the activities of the news media; and any other matter which in the judgment of a Special Agent in Charge (SAC) should be brought to the attention of the United States Attorney or other appropriate official in the Department of Justice, as well as FBI Headquarters (FBIHQ).

"B. PRELIMINARY INQUIRIES

"(1) On some occasions the FBI may receive information or an allegation not warranting a full investigation -- because there is not yet a 'reasonable indication' of criminal activities -- but whose responsible handling requires some further scrutiny beyond the prompt and extremely limited checking out of initial leads. In such circumstances, though the factual predicate for an investigation has not been met, the FBI may initiate an 'inquiry' in response to the allegation or information indicating the possibility of criminal activity.

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"This authority to conduct inquiries short of a full investigation allows the government to respond in a measured way to ambiguous or incomplete information with as little intrusion as the needs of the situation permit. This is especially important in such areas as white-collar crime where no complainant is involved or when an allegation or information is received from a source of unknown reliability. Such inquiries are subject to the limitations on duration under paragraph (3) below and are carried out to obtain the information necessary to make an informed judgement as to whether a full investigation is warranted:

"A preliminary inquiry is not a required step when facts or circumstances reasonably indicating criminal activity are already available; in such cases, a full investigation can be immediately opened.

"(2) The FBI supervisor authorizing an inquiry shall assure that the allegation or other information which warranted the inquiry has been recorded in writing. In sensitive criminal matters the United States Attorney or an appropriate Department of Justice official shall be notified of the basis for an inquiry as soon as practicable after the opening of the inquiry, and the fact of notification shall be recorded in writing.

"(3) Inquiries shall be completed within 180 days after initiation of the first investigative step. The date of the first investigative step is not necessarily the same date on which the first incoming information or allegation was received. An extension of time in an inquiry for succeeding 90-day periods may be granted. A SAC may grant up to two extensions based on a statement of the reasons why further investigative steps are warranted when there is no 'reasonable indication' of criminal activity. All extensions following the second extension may only be granted by FBI Headquarters upon receipt of a written request and such a statement of reasons.

"(4) The choice of investigative techniques in an inquiry is a matter of judgment, which should take account of: (i) the objectives of the inquiry and available investigative resources, (ii) the intrusiveness of a technique, considering such factors as the effect on the privacy of individuals and potential damage to reputation, (iii) the seriousness of the possible crime, and (iv) the strength of the information indicating its existence or future commission. Where the conduct of an inquiry presents a choice between the use of more or less intrusive methods, the FBI should consider whether the information could be obtained in a timely and effective way by the less intrusive means. The FBI should not hesitate to use any lawful techniques consistent with these Guidelines in an inquiry, even if intrusive, where the intrusiveness is warranted in light of the seriousness of the possible crime or the strength of the information indicating its existence or future commission. This point is to be particularly observed in inquiries relating to possible terrorist

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| activities.|

| "(5) |All lawful investigative techniques may be used in an
| inquiry except:|

| "(a) | Mail openings;|and|

| "(b) | Nonconsensual electronic surveillance or any
| other investigative technique covered by|chapter 119 of title 18,
| United States Code (18 U.S.C. 2510-2522).|

"(6) The following investigative techniques may be used in an inquiry without any prior authorization from a supervisory agent:

"(a) Examination of FBI indices and files;

"(b) Examination of records available to the public and other public sources of information;

"(c) Examination of available federal, state and local government records;

"(d) << Interview >> of the complainant, previously established informants, and other sources of information;|

"(e) << Interview >> of the potential subject;

"(f) << Interview >> of persons who should readily be able to corroborate or deny the truth of the allegation, except this does not include pretext interviews or interviews of a potential subject's employer or coworkers unless the interviewee was the complainant; |and|

"(g) Physical or photographic surveillance of any person.

"The use of any other lawful investigative technique that is permitted in an inquiry shall meet the requirements and | limitations of Part IV and, except in exigent circumstances,|requires| prior approval by a supervisory agent.

"(7) Where a preliminary inquiry fails to disclose sufficient information to justify an investigation, the FBI shall terminate the inquiry and make a record of the closing. In a sensitive criminal matter, the FBI shall notify the United States Attorney of the closing and record the fact of notification in writing. Information on an inquiry which has been closed shall be | available on request to a United States Attorney or|his or her| designee or an appropriate Department of Justice official.

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"(8) All requirements regarding inquiries shall apply to reopened inquiries. In sensitive criminal matters, the United States Attorney or the appropriate Department of Justice official shall be notified as soon as practicable after the reopening of an inquiry.

"C. INVESTIGATIONS

"(1) A general crimes investigation may be initiated by the FBI when facts or circumstances reasonably indicate that a federal crime has been, is being, or will be committed. The investigation may be conducted to prevent, solve or prosecute such criminal activity.

"The standard of 'reasonable indication' is substantially lower than probable cause. In determining whether there is reasonable indication of a federal criminal violation, a Special Agent may take into account any facts or circumstances that a prudent investigator would consider. However, the standard does require specific facts or circumstances indicating a past, current or future violation. There must be an objective, factual basis for initiating the investigation; a mere hunch is insufficient.

"(2) Where a criminal act may be committed in the future, preparation for that act can be a current criminal violation under the conspiracy or attempt provisions of federal criminal law or other provisions defining preparatory crimes, such as 18 U.S.C. 373 (solicitation of a crime of violence) or 18 U.S.C. 2339A (including provision of material support in preparation for a terrorist crime). The standard for opening an investigation is satisfied where there is not yet a current substantive or preparatory crime, but facts or circumstances reasonably indicate that such a crime will occur in the future.

"(3) The FBI supervisor authorizing an investigation shall assure that the facts or circumstances meeting the standard of reasonable indication have been recorded in writing.

"In sensitive criminal matters, as defined in paragraph A(2), the United States Attorney or an appropriate Department of Justice official, as well as FBIHQ, shall be notified in writing of the basis for an investigation as soon as practicable after commencement of the investigation.

"(4) The Special Agent conducting an investigation shall maintain periodic written or oral contact with the appropriate federal prosecutor, as circumstances require and as requested by the prosecutor.

"When, during an investigation, a matter appears to arguably warrant prosecution, the Special Agent shall present the

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relevant facts to the appropriate federal prosecutor. In every sensitive criminal matter, the FBI shall notify the appropriate federal prosecutor of the termination of an investigation within 30 days of such termination. Information on investigations which have been closed shall be available on request to a United States Attorney or his or her designee or an appropriate Department of Justice official.

"(5) When a serious matter investigated by the FBI is referred to state or local authorities for prosecution, the FBI, insofar as resources permit, shall promptly advise the federal prosecutor in writing if the state or local authorities decline prosecution or fail to commence prosecutive action within 120 days. Where an FBI field office cannot provide this follow-up, the SAC shall so advise the federal prosecutor.

"(6) When credible information is received concerning serious criminal activity not within the FBI investigative jurisdiction, the FBI field office shall promptly transmit the information or refer the complainant to the law enforcement agencies having jurisdiction, except where disclosure would jeopardize an ongoing investigation, endanger the safety of an individual, disclose the identity of an informant, interfere with an informant's cooperation, or reveal legally privileged information. If full disclosure is not made for the reasons indicated, then whenever feasible the FBI field office shall make at least limited disclosure to the law enforcement agency having jurisdiction, and full disclosure shall be made as soon as the need for restricting dissemination is no longer present. Where full disclosure is not made to the appropriate law enforcement agencies within 180 days, the FBI field office shall promptly notify FBI Headquarters in writing of the facts and circumstances concerning the criminal activity. The FBI shall make a periodic report to the Deputy Attorney General on such nondisclosure and incomplete disclosures, in a form suitable to protect the identity of informants.

"Whenever information is received concerning unauthorized criminal activity by a confidential informant, it shall be handled in accordance with the Attorney General's Guidelines Regarding the Use of Confidential Informants.

"(7) All requirements regarding investigations shall apply to reopened investigations. In sensitive criminal matters, the United States Attorney or the appropriate Department of Justice official shall be notified in writing as soon as practicable after the reopening of an investigation.

" III. CRIMINAL INTELLIGENCE INVESTIGATIONS

"This section authorizes the FBI to conduct criminal intelligence investigations of certain enterprises. These investigations differ from general crimes investigations, authorized

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by Section II, in several important respects. As a general rule, an investigation of a completed criminal act is normally confined to determining who committed that act and with securing evidence to establish the elements of the particular offense. It is, in this respect, self-defining. An intelligence investigation of an ongoing criminal enterprise must determine the size and composition of the group involved, its geographic dimensions, its past acts and intended criminal goals, and its capacity for harm. While a standard criminal investigation terminates with the decision to prosecute or not to prosecute, the investigation of a criminal enterprise does not necessarily end, even though one or more of the participants may have been prosecuted.

"In addition, the organization provides a life and continuity of operation that are not normally found in a regular criminal activity. As a consequence, these investigations may continue for several years. Furthermore, the focus of such investigations may be less precise than that directed against more conventional types of crime. United States v. United States District Court, 407 U.S. 297, 322 (1972). Unlike the usual criminal case, there may be no completed offense to provide a framework for the investigation. It often requires the fitting together of bits and pieces of information, many meaningless by themselves, to determine whether a pattern of criminal activity exists. For this reason, the investigation is broader and less discriminate than usual, involving the interrelation of various sources and types of information." Id.

"Members of groups or organizations acting in concert to violate the law present a grave threat to society. An investigation of organizational activity, however, may present special problems, particularly where it deals with politically motivated acts. There is 'often ... a convergence of First and Fourth Amendment values,' in such matters that is 'not present in cases of 'ordinary' crime.' Id. at 313. Thus, special care must be exercised in sorting out protected activities from those which may lead to violence or serious disruption of society. As a consequence, the guidelines establish safeguards for group investigations of special sensitivity, including tighter management controls and higher levels of review.

" A . RACKETEERING ENTERPRISE INVESTIGATIONS (See MIOG, Part 1, 92-8, 194-3.7 .)

"This section focuses on investigations of organized crime. It is concerned with the investigation of entire enterprises, rather than just individual participants and specific criminal acts, and authorizes investigations to determine the structure and scope of the enterprise, as well as the relationship of the members."

"1. Definition

Racketeering activity is any offense, including

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| a | violation of state law, encompassed by the Racketeer Influenced
| and Corrupt Organizations Act (RICO), 18 U.S.C. 1961(1).

"2. General Authority

"a. | A racketeering enterprise investigation
| may be initiated when facts or circumstances reasonably indicate that
| two or more persons are engaged in a pattern of racketeering activity
| as defined in the RICO statute, 18 U.S.C. 1961(5). However, if the
| pattern of racketeering activity involves an offense or offenses
| described in 18 U.S.C. 2332b(g)(5)(B), the investigation shall be
| deemed a terrorism enterprise investigation and shall be subject to
| the standards and procedures of Subpart B of this Part in lieu of
| those set forth in this Subpart. The standard of 'reasonable
| indication' is identical to that governing the initiation of a general
| crimes investigation under Part II.

"b. | Authority to conduct racketeering
| enterprise investigations is in addition to general crimes
| investigative authority under Part II, terrorism enterprise
| investigative authority under Subpart B of this Part, and activities
| under other Attorney General guidelines addressing such matters as
| investigations and information collection relating to international
| terrorism, foreign counterintelligence, or foreign intelligence.
| Information warranting initiation of a racketeering enterprise
| investigation may be obtained during the course of a general crimes
| inquiry or investigation, a terrorism enterprise investigation, or an
| investigation under other Attorney General guidelines. Conversely, a
| racketeering enterprise investigation may yield information warranting
| a general crimes inquiry or investigation, a terrorism enterprise
| investigation, or an investigation under other Attorney General
| guidelines.

"3. Purpose

The immediate purpose of a racketeering
enterprise investigation is to obtain information concerning the
nature and structure of the enterprise, as specifically delineated in
| paragraph 4. below, with a view to the longer range objective of
| detection, prevention, and prosecution of the criminal activities of
| the enterprise.

"4. Scope

"a. A racketeering enterprise investigation
properly initiated under these guidelines may collect such information
as:

"(i) the members of the enterprise and
other persons likely to be knowingly acting in the furtherance of

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racketeering activity, provided that the information concerns such persons' activities on behalf of or in furtherance of the enterprise;

"(ii) the finances of the enterprise;

"(iii) the geographical dimensions of the enterprise; and

"(iv) the past and future activities and goals of the enterprise.

"b. In obtaining the foregoing information, any lawful investigative technique may be used, in accordance with the requirements of Part IV.

"5. Authorization and Renewal

"a. A racketeering enterprise investigation may be authorized by the Special Agent in Charge, with notification to FBIHQ, upon a written recommendation setting forth the facts and circumstances reasonably indicating that the standard of paragraph 2.a. is satisfied.

"b. The FBI shall notify the Organized Crime and Racketeering Section of the Criminal Division and any affected United States Attorney's office of the opening of a racketeering enterprise investigation. On receipt of such notice, the Organized Crime and Racketeering Section shall immediately notify the Attorney General and the Deputy Attorney General. In all racketeering enterprise investigations, the Chief of the Organized Crime and Racketeering Section may, as he or she deems necessary, request the FBI to provide a report on the status of the investigation.

"c. A racketeering enterprise investigation may be initially authorized for a period of up to a year. An investigation may be continued upon renewed authorization for additional periods each not to exceed a year. Renewal authorization shall be obtained from the SAC with notification to FBIHQ. The FBI shall notify the Organized Crime and Racketeering Section of any renewal, and the Organized Crime and Racketeering Section shall immediately notify the Attorney General and the Deputy Attorney General.

"d. Investigations shall be reviewed by the SAC on or before the expiration of the period for which the investigation and each renewal thereof is authorized.

"e. An investigation which has been terminated may be reopened upon a showing of the same standard and pursuant to the same procedures as required for initiation of an investigation.

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"f. In addition to the authority of Special Agents in Charge under this paragraph, the Director of the FBI, and any Assistant Director or senior Headquarters official designated by the Director, may authorize, renew, review, and reopen racketeering enterprise investigations in conformity with the standards of this paragraph.

"B. [TERRORISM ENTERPRISE]INVESTIGATIONS (See MIOG, Part 1, 100-1.2.)

"This section focuses on investigations of enterprises that seek to further political or social goals through activities that involve force or violence, or that otherwise aim to engage in terrorism or terrorism-related crimes. Like the section addressing racketeering enterprise investigations, it is concerned with the investigation of entire enterprises, rather than just individual participants and specific criminal acts, and authorizes investigations to determine the structure and scope of the enterprise as well as the relationship of the members.

"1. General Authority (See MIOG, Part 1, 100-1.2.2.)

"a. A terrorism enterprise investigation may be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of: (i) furthering political or social goals wholly or in part through activities that involve force or violence and a violation of federal criminal law, (ii) engaging in terrorism as defined in 18 U.S.C. 2331(1) or (5) that involves a violation of federal criminal law, or (iii) committing any offense described in 18 U.S.C. 2332b(g)(5)(B). A terrorism enterprise investigation may also be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in a pattern of racketeering activity as defined in the RICO statute, 18 U.S.C. 1961(5), that involves an offense or offenses described in 18 U.S.C. 2332b(g)(5)(B). The standard of 'reasonable indication' is identical to that governing the initiation of a general crimes investigation under Part II. In determining whether an investigation should be conducted, the FBI shall consider all of the circumstances including: (i) the magnitude of the threatened harm; (ii) the likelihood it will occur; (iii) the immediacy of the threat; and (iv) any danger to privacy or free expression posed by an investigation.

"b. Authority to conduct terrorism enterprise investigations is in addition to general crimes investigative authority under Part II, racketeering enterprise investigative authority under Subpart A of this Part and activities under other Attorney General guidelines addressing such matters as investigations and information collection relating to international terrorism, foreign counterintelligence, or foreign intelligence. Information warranting initiation of a terrorism enterprise investigation may be obtained during the course of a general crimes inquiry or

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| investigation, a racketeering enterprise investigation, or an
| investigation|under other Attorney General guidelines.| Conversely, a
| |terrorism enterprise|investigation may yield information warranting a
| general crimes inquiry or investigation, a racketeering enterprise
| investigation, or an investigation|under other Attorney General
| guidelines.|

| "c. |Mere speculation|that force or violence
| might occur during the course of an otherwise peaceable demonstration
| is not sufficient grounds for initiation of an investigation under
| this|Subpart, but where facts or circumstances reasonably indicate
| that a group or enterprise has engaged or aims to engage in
| activities involving force or violence or other criminal conduct
| described in paragraph 1.a. in a demonstration, an investigation
| may be initiated in conformity with the standards of that paragraph.|
| For alternative authorities see Part II relating to General Crimes
| Investigations and the Attorney General's Guidelines on 'Reporting on
| Civil Disorders and Demonstrations Involving a Federal Interest.'
| This does not|limit|the collection of information about public
| demonstrations by enterprises that are under active investigation
| pursuant to paragraph|1.a.|above.

"2. Purpose (See MIOG, Part 1, 100-2.1 .)

| "The immediate purpose of a|terrorism enterprise|
| investigation is to obtain information concerning the
| nature and structure of the enterprise, as specifically delineated
| in paragraph 3. below, with a view to the longer range objectives of
| detection, prevention, and prosecution of the criminal activities of
| the enterprise.

"3. Scope (See MIOG, Part 1, 100-2.2 .)

| "a. A|terrorism enterprise|investigation
| initiated under these guidelines may collect such information as:

| "(i) the members of the enterprise and
| other persons likely to be knowingly acting in furtherance of its
| criminal objectives, provided that the information concerns such
| persons' activities on behalf|of|or in furtherance of the enterprise;

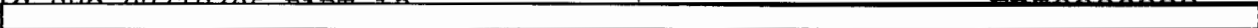
| "(ii) the finances of the enterprise;

| "(iii) the geographical dimensions of the enterprise;
| and

| "(iv) past and future activities and goals of the
| enterprise.

| "b. In obtaining the foregoing information, any
| lawful investigative technique may be used in accordance with|the|

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requirements of Part IV.

"4. Authorization and Renewal (See MIOG, Part 1, 100-2.3.)

"a. A terrorism enterprise investigation may be authorized by the Special Agent in Charge, with notification to FBIHQ, upon a written recommendation setting forth the facts or circumstances reasonably indicating the existence of an enterprise, as described in paragraph 1.a. The FBI shall notify the Terrorism and Violent Crime Section of the Criminal Division, the Office of the Intelligence Policy and Review, and affected United States Attorney's Office of the opening of a terrorism enterprise investigation. On receipt of such notice, the Terrorism and Violent Crime Section shall immediately notify the Attorney General and the Deputy Attorney General. In all such investigations, the Chief of the Terrorism and Violent Crime Section may, as he or she deems necessary, request the FBI to provide a report on the status of the investigation.

"b. A terrorism enterprise investigation may be initially authorized for a period of up to a year. An investigation may be continued upon renewed authorization for additional periods each not to exceed a year. Renewal authorization shall be obtained from the SAC with notification to FBIHQ. The FBI shall notify the Terrorism and Violent Crime Section and the Office of Intelligence Policy and Review of any renewal, and the Terrorism and Violent Crime Section shall immediately notify the Attorney General and the Deputy Attorney General.

"c. Investigations shall be reviewed by the SAC on or before the expiration of the period for which the investigation and each renewal thereof is authorized.

[In some cases, the enterprise may meet the threshold standard but be temporarily inactive in the sense that it has not engaged in recent acts of violence or other criminal activities as described in paragraph 1.a., nor is there any immediate threat of harm - yet the composition, goals and prior history of the group suggest the need for continuing federal interest. The investigation may be continued in such cases with whatever scope is warranted in light of these considerations.]

"d. An investigation which has been terminated may be reopened upon a showing of the same standard and pursuant to the same procedures as required for initiation of an investigation.

"e. In addition to the authority of Special Agents in Charge under this paragraph, the Director of the FBI, and any Assistant Director or senior Headquarters official designated by the Director, may authorize, renew, review, and reopen terrorism enterprise investigations in conformity with the standards of this paragraph.

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"f. The FBI shall report to the Terrorism and Violent Crime Section of the Criminal Division and the Office of Intelligence Policy and Review the progress of a terrorism enterprise investigation not later than 180 days after its initiation, and the results at the end of each year the investigation continues. The Terrorism and Violent Crime Section shall immediately transmit copies of these reports to the Attorney General and the Deputy Attorney General.

" IV. INVESTIGATIVE TECHNIQUES (See MIOG, Part 1, 100-2.2.)

"A. When conducting investigations under these guidelines the FBI may use any lawful investigative technique. The choice of investigative techniques is a matter of judgment, which should take account of: (i) the objectives of the investigation and available investigative resources, (ii) the intrusiveness of a technique, considering such factors as the effect on the privacy of individuals and potential damage to reputation, (iii) the seriousness of the crime, and (iv) the strength of the information indicating its existence or future commission. Where the conduct of an investigation presents a choice between the use of more or less intrusive methods, the FBI should consider whether the information could be obtained in a timely and effective way by the less intrusive means. The FBI should not hesitate to use any lawful techniques consistent with these Guidelines in an investigation, even if intrusive, where the intrusiveness is warranted in light of the seriousness of the crime or the strength of the information indicating its existence or future commission. This point is to be particularly observed in investigations relating to terrorist activities.

"B. All requirements for use of a technique set by statute, Department regulations and policies, and Attorney General Guidelines must be complied with. The investigative techniques listed below are subject to the noted restrictions:

"1. Confidential informants must be used in compliance with the Attorney General's Guidelines regarding the Use of Confidential Informants;

"2. Undercover activities and operations must be conducted in compliance with the Attorney General's Guidelines on FBI Undercover Operations;

"3. In situations involving undisclosed participation in the activities of an organization by an undercover employee or cooperating private individual any potential constitutional concerns relating to activities of the organization protected by the First Amendment must be addressed through full compliance with all applicable provisions of the Attorney General's Guidelines on FBI Undercover Operations and the Attorney General's Guidelines Regarding the Use of Confidential

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| Informants;|

"4. Nonconsensual electronic surveillance must be conducted pursuant to the warrant procedures and requirements of |chapter 119 of title 18, United States Code (18 U.S.C. 2510, 2522);|

"5. Pen registers and trap and trace devices must be installed and used pursuant to the procedures and requirements of |chapter 206 of title 18, United States Code (18 U.S.C. 3121-3127);|

"6. Access to stored wire and electronic communications and transactional records must be obtained pursuant to the procedures and requirements of |chapter 121 of title 18, United States Code (18 U.S.C. 2701-2712);|

"7. Consensual electronic monitoring must be authorized pursuant to Department policy. For consensual monitoring of conversations other than telephone conversations, advance authorization must be obtained in accordance with established guidelines. This applies both to devices carried by the cooperating participant and to devices installed on premises under the control of |the participant. See|U.S. Attorneys' Manual 9-7.301 and 9-7.302.| For consensual monitoring of telephone conversations, advance authorization must be obtained from the SAC|or Assistant Special Agent in Charge|and the appropriate|U.S. Attorney, Assistant Attorney General, or Deputy Assistant Attorney General,|except in exigent |circumstances. An Assistant Attorney General or Deputy Assistant Attorney General who provides such authorization shall notify the appropriate U.S. Attorney;|

"8. Searches and seizures must be conducted under the authority of a valid warrant unless the search or seizure comes within a judicially recognized exception to the warrant requirement. See also, Attorney General's Guidelines on Methods of Obtaining Documentary Materials Held by Third|Parties, 28 CFR Part 59;"| (See MIOG, Part 2, Section 28 .)

"9. |Classified investigative technologies must be used in compliance with the Procedures for the Use of Classified Investigative Technologies in Criminal Cases; and|

"10. |Whenever an individual is known to be represented by counsel in a particular matter, the FBI shall follow applicable law and Department procedure concerning contact with represented individuals in the absence of prior notice to their counsel. The SAC or his designee and the United States Attorney shall consult periodically on applicable law and Department procedure. |Where issues arise concerning the consistency of contacts with represented persons with applicable attorney conduct rules, the United States Attorney should consult with the Professional Responsibility Advisory Office.|

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" V. DISSEMINATION AND MAINTENANCE OF INFORMATION

"A. The FBI may disseminate information during the checking of leads, preliminary inquiries, and investigations conducted pursuant to these Guidelines to United States Attorneys, the Criminal Division, and other components, officials, and officers of the Department of Justice. The FBI may disseminate information during the checking of leads, preliminary inquiries, and investigations conducted pursuant to these Guidelines to another Federal agency, or to a State or local criminal justice agency when such information:

"1. falls within the investigative or protective jurisdiction or mitigative responsibility of the agency;

"2. may assist in preventing a crime or the use of violence or any other conduct dangerous to human life;

"3. is required to be furnished to another Federal agency by Executive Order 10450, as amended, dated April 27, 1953, or

"4. is required to be disseminated by statute, interagency agreement approved by the Attorney General, or Presidential Directive; and to other persons and agencies as required by 5 U.S.C. 552 or as otherwise permitted by 5 U.S.C. 552a.

"B. The FBI shall maintain a database that identifies all preliminary inquiries and investigations conducted pursuant to these Guidelines and that permits the prompt retrieval of information concerning the status (open or closed) and subjects of all such inquiries and investigations.

" VI. COUNTERTERRORISM ACTIVITIES AND OTHER AUTHORIZATIONS

"In order to carry out its central mission of preventing the commission of terrorist acts against the United States and its people, the FBI must proactively draw on available sources of information to identify terrorist threats and activities. It cannot be content to wait for leads to come in through the actions of others, but rather must be vigilant in detecting terrorist activities to the full extent permitted by law, with an eye towards early intervention and prevention of acts of terrorism before they occur. This Part accordingly identifies a number of authorized activities which further this end, and which can be carried out even in the absence of a checking of leads, preliminary inquiry, or full investigation as described in Parts I-III of these Guidelines. The authorizations include both activities that are specifically focused on terrorism (Subpart A) and activities that are useful for law enforcement purposes in both terrorism and non-terrorism contexts (Subpart B).

"A. COUNTERTERRORISM ACTIVITIES

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"1. Information Systems

"The FBI is authorized to operate and participate in identification, tracking, and information systems for the purpose of identifying and locating terrorists, excluding or removing from the United States alien terrorists and alien supporters of terrorist activity as authorized by law, assessing and responding to terrorist risks and threats, or otherwise detecting, prosecuting, or preventing terrorist activities. Systems within the scope of this paragraph may draw on and retain pertinent information from any source permitted by law, including information derived from past or ongoing investigative activities; other information collected or provided by governmental entities, such as foreign intelligence information and lookout list information; publicly available information, whether obtained directly or through services or resources (whether nonprofit or commercial) that compile or analyze such information; and information voluntarily provided by private entities. Any such system operated by the FBI shall be reviewed periodically for compliance with all applicable statutory provisions, Department regulations and policies, and Attorney General Guidelines.

"2. Visiting Public Places and Events

"For the purpose of detecting or preventing terrorist activities, the FBI is authorized to visit any place and attend any event that is open to the public, on the same terms and conditions as members of the public generally. No information obtained from such visits shall be retained unless it relates to potential criminal or terrorist activity.

"B. OTHER AUTHORIZATIONS

"In addition to the checking of leads, preliminary inquiries, and investigations as described in Parts I-III of these Guidelines, and counterterrorism activities as described in Part A above, the authorized law enforcement activities of the FBI include carrying out and retaining information resulting from the following activities:

"1. General Topical Research

"The FBI is authorized to carry out general topical research, including conducting online searches and accessing online sites and forums as part of such research on the same terms and conditions as members of the public generally. 'General topical research' under this paragraph means research concerning subject areas that are relevant for the purpose of facilitating or supporting the discharge of investigative responsibilities. It does not include online searches for information by individuals' names or other individual identifiers, except where such searches are incidental to topical research, such as searching to locate writings on a topic.

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by searching under the names of authors who write on the topic, or searching by the name of a party to a case in conducting legal research.

"2. Use of Online Resources Generally

"For the purpose of detecting or preventing terrorism or other criminal activities, the FBI is authorized to conduct online search activity and to access online sites and forums on the same terms and conditions as members of the public generally.

"3. Reports and Assessments

"The FBI is authorized to prepare general reports and assessments concerning terrorism or other criminal activities for purposes of strategic planning or in support of investigative activities.

"4. Cooperation with Secret Service

"The FBI is authorized to provide investigative assistance in support of the protective responsibilities of the Secret Service, provided that all preliminary inquiries or investigations are conducted in accordance with the provisions of these Guidelines.

"C. PROTECTION OF PRIVACY AND OTHER LIMITATIONS

"1. General Limitations

"The law enforcement activities authorized by this Part do not include maintaining files on individuals solely for the purpose of monitoring activities protected by the First Amendment or the lawful exercise of any other rights secured by the Constitution or laws of the United States. Rather, all such law enforcement activities must have a valid law enforcement purpose as described in this Part, and must be carried out in conformity with all applicable statutes, Department regulations and policies, and Attorney General Guidelines. In particular, the provisions of this Part do not supersede any otherwise applicable provision or requirement of the Attorney General's Guidelines on FBI Undercover Operations or the Attorney General's Guidelines Regarding the Use of Confidential Informants.

"2. Maintenance of Records Under the Privacy Act

"Under the Privacy Act, the permissibility of maintaining records relating to certain activities of individuals depends in part on whether the collection of such information is 'pertinent to and within the scope of an authorized law enforcement activity.' 5 U.S.C. 552a(e)(7). By its terms, the limitation of 5 U.S.C. 552a(e)(7) is inapplicable to activities that do not involve the 'maintain[ing]' of

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a 'record' within the meaning of the Privacy Act, or that occur pertinent to and within the scope of an authorized law enforcement activity. 'Authorized law enforcement activities' for purposes of the Privacy Act include carrying out and retaining information resulting from the checking of leads, preliminary inquiries, or investigations as described in Parts I-III of these Guidelines, or from activities described in Subpart A or B of this Part. As noted in paragraph 3. below, however, this is not an exhaustive enumeration of 'authorized law enforcement activities.' Questions about the application of the Privacy Act to other activities should be addressed to the FBI Office of the General Counselor the Office of Information and Privacy.

"3. Construction of Part

"This Part does not limit any activities authorized by or carried out under other Parts of these Guidelines. The specification of authorized law enforcement activities under this Part is not exhaustive, and does not limit other authorized law enforcement activities, such as those relating to foreign counterintelligence or foreign intelligence."

" VII. RESERVATION

"A. Nothing in these Guidelines shall limit the general reviews or audits of papers, files, contracts or other records in the government's possession, or the performance of similar services at the specific request of a Department or agency of the United States. Such reviews, audits or similar services must be for the purpose of detecting or preventing violations of federal law which are within the investigative responsibility of the FBI.

"B. Nothing in these Guidelines is intended to limit the FBI's responsibilities to investigate certain applicants and employees under the federal personnel security program.

"C. These Guidelines are set forth solely for the purpose of internal Department of Justice guidance. They are not intended to, do not, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any manner, civil or criminal, nor do they place any limitation on otherwise lawful investigative and [mitigative] prerogatives of the Department of Justice.

"Effective: 5/30/02 John Ashcroft
Attorney General"

**EffDte: 07/23/2002 MCRT#: 1216 Div: D6CT Cav: SecCl:

1-4 | INVESTIGATIVE AUTHORITY AND THE FIRST AMENDMENT |
| (1) | The First Amendment to the United States

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Constitution guarantees the rights of free speech and peaceful assembly. Because of the importance of these rights in American society, acts by law enforcement agencies that could possibly chill the exercise of these rights have historically been reviewed by the legislative and judicial branches of government with careful scrutiny. Experience has shown that investigations by law enforcement into individuals, or the members of assembled groups, who advocate political or social goals through violent means, as well as investigations into the causes of civil or social disorder, have the greatest potential of exposure to such scrutiny. Therefore, it is important that these investigations be conducted according to strict guidelines and in a manner that respects the First Amendment rights of all persons, including those under investigation.

(2) In particular, investigations that have this potential may only be initiated in strict compliance with the Attorney General's Guidelines and other applicable Department and FBIHQ directives. Information from private or public sources of possible violations of federal laws, which give rise to such investigations, must be carefully documented and particularized as to those persons suspected of such violations. Furthermore, the scope of each investigation must be carefully tailored to fit the circumstances giving rise to the investigation; although expansion in the scope of an investigation may be undertaken if justified by a change in these circumstances. Finally, the duration of the investigation must not be permitted to extend beyond the point at which its underlying justification no longer exists.

(3) Generally, an FBI investigation may employ any authorized investigative technique. In the case of those investigations with the potential to infringe upon First Amendment rights, consideration must be given to using those techniques that are less intrusive and less likely to adversely affect the exercise of those rights. For example, infiltrating private meetings of targeted groups should only be undertaken if attendance at public meetings is likely to produce critical investigative information.

(4) Furthermore, the collection of information concerning groups and individuals must be justified as reasonable and necessary for investigative purposes. Information concerning the exercise of First Amendment rights should be made a matter of record only if it is pertinent to and within the scope of the authorized law enforcement activity. When public-source printed material concerning the exercise of First Amendment rights is obtained and a decision made to retain such material, a notation must be placed on the material describing the reason(s) it was collected and retained. The notation must clearly indicate the specific investigative interest(s) which led to the decision to retain the item.

(5) Finally, if an individual, group, or activity has been characterized in a certain manner by the originators of

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information collected in the course of an investigation, FBI records, including transmitting documentation, should reflect that the characterization was made by another party, not the FBI. However, if the characterization comports in whole or in part with the results of independent FBI investigation, the transmitting communication may so state.

**EffDte: 04/05/2000 MCRT#: 986 Div: D9D6D5 Cav: SecCls:

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MIOG PART 1 SECTION 62. ADMINISTRATIVE INQUIRIES, ET AL

SENSITIVE

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**EffDte: MCRT#: 0 Div: D6OP Cav: SecCls:

62-1 MISCONDUCT INVESTIGATIONS OF FBI EMPLOYEES, OFFICERS AND
EMPLOYEES OF THE DEPARTMENT OF JUSTICE AND FEDERAL JUDICIARY

**EffDte: 05/08/1980 MCRT#: 0 Div: OPD6 Cav: SecCls:

62-1.1 Policy

(1) Allegations concerning misconduct on the part of officers or employees of the Department of Justice or of the Federal judiciary which do not involve violations of any statute within the Bureau's investigative jurisdiction should be forwarded to FBIHQ immediately by letterhead memorandum (LHM) or by more expeditious means if the circumstances warrant. (If teletype or telephone is used, follow with LHM.)

(2) No investigation is to be conducted without FBIHQ authority.

(3) When authority is granted, the office to which the matter is referred by FBIHQ will be the office of origin and, upon completion of investigation, that office should submit a closing report.

(4) Reports are not to be furnished to USAs unless FBIHQ so directs.

(5) Investigations are to be handled in an expeditious manner.

(6) Allegations concerning misconduct on the part of an FBI employee will be handled as set forth in the MAOP, Part I, Section 13, entitled "Disciplinary Matters."

**EffDte: 05/08/1980 MCRT#: 0 Div: OPD6 Cav: SecCls:

62-1.2 Other Investigations of Government Employees

**EffDte: 05/08/1980 MCRT#: 0 Div: D6 Cav: SecCls:

62-1.2.1 Policy

(1) Administrative investigations involving Government officials or employees shall not be conducted without prior FBIHQ authority.

(2) Prior FBIHQ authorization is not necessary in the investigation of alleged criminal violations by Government officials or employees when the alleged activities are unrelated to their official duties, except when such officials or employees are highly placed.

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(3) FBIHQ authorization is not necessary in investigations of criminal violations within our primary jurisdiction by any official or employee of the Department of Justice even though the activities are related to their official duties.

(4) In any event, FBIHQ should be immediately advised by LHM transmitted by airtel, or by teletype, as the exigencies of the case dictate, of the full facts of the complaint and the action being taken. (If teletype is used, also submit LHM by airtel immediately.)

(5) Investigation of violations of statutes within the Bureau's investigative jurisdiction by Treasury Department employees and other persons in matters within the administrative control of the Treasury Department are conducted by the Bureau under a Justice Department agreement with that Department dated 2-5-55. This agreement supplements Public Law 725, 83rd Congress (approved 8-31-54), which confers upon the Attorney General and FBI the authority to investigate violations of Title 18, USC, on the part of Government employees unless such authority is otherwise assigned by another provision of law.

(6) Because of certain provisions of the Internal Revenue Code relative to corruption violations involving employees of the Treasury Department, an agreement was necessary to bestow exclusive jurisdiction upon the FBI in these matters. Prior to this agreement, the Bureau was stopped from conducting investigations of allegations of bribery and fraudulent practices on the part of employees of the Treasury Department by the provisions of Public Law 79, 82nd Congress, approved by the President on 7-16-51. The Bureau is to be informed immediately of the receipt of complaints of violations within the Bureau's jurisdiction on the part of the Treasury Department personnel or in Treasury Department matters. A brief statement of the facts of the complaint and the action being taken is to be forwarded to FBIHQ by Air Mail Special Delivery letters, airtel, teletype, or telephone depending upon the urgency of the circumstances. (If teletype or telephone is used, follow with LHM.) In a complaint involving a Treasury Department employee, the initial communication to the Bureau should identify the employee, his/her position, and the Treasury branch where he/she is employed. Any instances of delay on the part of the Treasury Department in referring complaints, encroachment by the Treasury Department of the Bureau's investigative jurisdiction, or lack of cooperation by Treasury Department officials or employees should be immediately referred to FBIHQ. Submit four copies of an LHM in all cases in which investigation is instituted. Dissemination of the LHM will be made in Washington, D.C., and no copies of LHMs are to be furnished on a local level other than to USAs.

**EffDte: 02/22/1988 MCRT#: 0 Div: D6 Cav: SecClis:

62-1.3 Misconduct Investigations of FBI Employees

**EffDte: 02/22/1988 MCRT#: 0 Div: OP Cav: SecClis:

62-1.3.1 Policy

(1) Allegations of criminality or serious misconduct on the part of FBI employees.

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(2) Inquiries will be conducted and reported as described in MAOP, Part I, Section 13, entitled "Disciplinary Matters."

(3) Inquiries will be placed in a separate [263] classification file, both in the field division and FBIHQ, and stored in the SAC's safe in the field and in the secure personnel file section at FBIHQ.

**EffDte: 02/22/1988 MCRT#: 0 Div: OP Cav: SecCls:

62-1.4 Privacy Act - Requirements

(1) When interviewing anyone in the above classification, in order to solicit information about himself/herself or his/her own activities, the interviewing Agent must follow the procedures described in Part I, 190-5, subparagraphs (2) and (3), of this manual.

(2) When interviewing an individual to solicit information concerning someone other than the interviewee (thereby classifying that individual as a source of information), the interviewing Agent must follow the procedure relating to promises of confidentiality as described in Part I, 190-7, of this manual.

**EffDte: 02/22/1988 MCRT#: 0 Div: PA Cav: SecCls:

62-1.5 Character - Administrative Inquiries

The character "Administrative Inquiry," which is applicable to investigations of personnel of the Department of Justice and the Federal judiciary only, should be used until such time as FBIHQ instructs that it be changed to some substantive violation. In the event the allegation is against an FBI employee, the character will be "Office of Professional Responsibility Matter (OPRM)" and should be dealt with in accordance with Part I, Section 263, of this manual.

**EffDte: 02/22/1988 MCRT#: 0 Div: OPD6 Cav: SecCls:

62-2 STATUTES

Title 13, USC, Sections 211-214, 221-224, 304, 305

(1) Section 211 - Receiving or securing compensation for appointment of employees.

(2) Section 212 - Refusal or neglect of employees to perform duties.

(3) Section 213 - False statements, certificates, and information.

(4) Section 214 - Wrongful disclosure of information.

(5) Section 221 - Refusal or neglect to answer questions; false answers.

(6) Section 222 - Giving suggestions or information with intent to cause inaccurate enumeration of population.

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MIOG PART 1 SECTION 100. MIOG PART 1 SECTION 100. TERRORISM ENTERPRISE INVESTIGATIONS

SENSITIVE

| (ALSO SEE MIOG, PART 1, 137-4 |AND 270-4(8) .)|

**EffDte: 02/02/2004 MCRT#: 1308 Div: CT Cav: SecCls:

100-1 GENERAL PROVISIONS

**EffDte: 12/10/1991 MCRT#: 0 Div: CT Cav: SecCls:

100-1.1 Investigative Jurisdiction

Investigations by the FBI under this section are based on the Attorney General's Guidelines on General Crimes, Racketeering Enterprise, and Terrorism Enterprise Investigations (AGG). These Guidelines, which became effective May 30, 2002, rescind all previous versions of the General Crimes Guidelines. The full text of the Guidelines is set forth in the Introduction, 1-3, of this manual. Some sections of the Guidelines, such as the "General Principles," "Preliminary Inquiries," the rules governing the "Investigative Techniques," and "Dissemination and Maintenance of Information" have general applicability to all investigations and should be consulted when appropriate. Section III, Part B, governing Terrorism Enterprise investigations, together with a commentary on key provisions relating to them, is set forth below in 100-1.2 and 100-1.2.1 :

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-1.2 Terrorism Enterprise Investigations (See MIOG, Introduction, 1-3, and Part 1, 100-1.1.)

"This section focuses on investigations of enterprises that seek to further political or social goals through activities that involve force or violence, or that otherwise aim to engage in

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| domestic terrorism (as defined in Title 18, USC, Section 2331 (5))
| or domestic terrorism-related crimes. Like the section addressing
| racketeering enterprise investigations, it is concerned with the
| investigation of entire enterprises, rather than just individual
| participants and specific criminal acts, and authorizes investigations
| to determine the structure and scope of the enterprise, as well as the
| relationship of the members." (AGG III.B.)

| Commentary: However, all international terrorism investigations--to
| include investigations of groups and organizations--shall be conducted
| pursuant to the Attorney General's Guidelines for FBI National
| Security Investigations and Foreign Intelligence Collection (NSIG),
| effective October 31, 2003, and within the 315 classification. See
| Section 19 of the National Foreign Intelligence Program Manual
| (NFIPM).

**EffDte: 04/30/2004 MCRT#: 1338 Div: CT Cav: SecCls:

100-1.2.1 Commentary (See MIOG, Part 1, 100-1.1 .)

(1) These Guidelines provide guidance for general crimes and criminal intelligence investigations. The standards and requirements set forth herein govern the circumstances under which such investigations may begin and the permissible scope, duration, subject matters, and objectives of these investigations. They do not limit activities carried out under the Attorney General Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective October 31, 2003, which address such matters as investigations and information collection relating to international terrorism, foreign counterintelligence, or foreign intelligence.

(2) The rules governing Terrorism Enterprise investigations allow the FBI to cross organizational lines without regard to what a particular group or element of an organization might call itself. Thus, persons who provide safehouses, money, weapons, or otherwise knowingly support the criminal activities of the terrorist enterprise can be investigated as part of the same enterprise.

(3) Preliminary inquiries and investigations governed by the Guidelines applicable to all criminal violations are conducted for the purpose of preventing, detecting, or prosecuting violations of federal law. The FBI shall fully utilize the methods authorized by these Guidelines to maximize the realization of these objectives.

(a) The conduct of preliminary inquiries and investigations may present choices between the use of investigative methods which are more or less intrusive, considering such factors as the effect on the privacy of individuals and potential damage to reputation. Inquiries and investigations shall be conducted with as little intrusion as the needs of the situation permit. It is

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recognized, however, that the choice of techniques is a matter of judgment. The FBI shall not hesitate to use any lawful techniques consistent with the Guidelines, even if intrusive, where the intrusiveness is warranted in light of the seriousness of a crime or the strength of the information indicating its commission or potential future commission. This point is to be particularly observed in the investigation of terrorist crimes and in the investigation of enterprises that engage in terrorism. All preliminary inquiries shall be conducted pursuant to the General Crimes Guidelines. There is no separate provision for preliminary inquiries under the Criminal Intelligence Guidelines because preliminary inquiries may be carried out not only to determine whether the grounds exist to commence a general crimes investigation, but alternatively or in addition to determine whether the grounds exist to commence terrorism enterprise investigation. A preliminary << inquiry >> shall be promptly terminated when it becomes apparent that a full investigation is not warranted. If, on the basis of information discovered in the course of a preliminary << inquiry >>, an investigation is warranted, it may be conducted as a general crimes investigation, or a criminal intelligence investigation, or both. All such investigations, however, shall be based on a reasonable factual predicate and shall have a valid law enforcement purpose.

(b) In its efforts to anticipate or prevent crime, the FBI must at times initiate investigations in advance of criminal conduct. It is important that such investigations not be based solely on activities protected by the First Amendment or on the lawful exercise of any other rights secured by the Constitution or laws of the United States. When, however, statements advocate criminal activity or indicate an apparent intent to engage in crime, particularly crimes of violence, an investigation may be warranted unless it is apparent, from the circumstances or the context in which the statements are made, that there is no prospect of harm.

(c) Nothing prohibits the FBI from ascertaining the general scope and nature of criminal activity in a particular location or sector of the economy, or from collecting and maintaining publicly available information consistent with the Privacy Act. Criminal intelligence investigations shall be terminated when all logical leads have been exhausted and no legitimate law enforcement interest justifies continuance.

**EffDte: 04/30/2004 MCRT#: 1338 Div: CT Cav: SecCls:

100-1.2.2 General Authority (See MIOG, Introduction, 1-3 .)

"a. A terrorism enterprise investigation may be initiated when the facts or circumstances reasonably indicate that two or more persons are engaged in an enterprise for the purpose of:

(i) furthering political or social goals, wholly or in part, through activities that involve force or violence and a violation of

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federal criminal law, (ii) engaging in terrorism as defined in 18 U.S.C. 2331(1) or (5) that involves a violation of federal criminal law, or (iii) committing any offense described in 18 U.S.C. 2332b(g)(5)(B). A terrorism enterprise investigation may also be initiated when facts or circumstances reasonably indicate that two or more persons are engaged in a pattern of racketeering activity as defined in the RICO statute, 18 U.S.C. 1961(5), that involves an offense or offenses described in 18 U.S.C. 2332b(g)(5)(B). The standard of 'reasonable indication' is identical to that governing the initiation of a general crimes investigation under Part II. In determining whether an investigation should be conducted, the FBI shall consider all of the circumstances including: (i) the magnitude of the threatened harm, (ii) the likelihood it will occur, (iii) the immediacy of the threat, and (iv) any danger to privacy or free expression posed by an investigation." (AGG III.B.1.a) (See MIOG, Part 1, 100-2.3 .)

"b. Authority to conduct terrorism enterprise investigations is in addition to general crimes investigative authority under Part II, racketeering enterprise investigative authority under Subpart A of the AGG Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations, and activities under other Attorney General guidelines addressing such matters as investigations and information collection relating to international terrorism, foreign counterintelligence, or foreign intelligence. Information warranting initiation of a terrorism enterprise investigation may be obtained during the course of a general crimes << inquiry >> or investigation, a racketeering enterprise investigation, or an investigation under other Attorney General guidelines. Conversely, a terrorism enterprise investigation may yield information warranting a general crimes << inquiry >> or investigation, a racketeering enterprise investigation, or an investigation under other Attorney General guidelines." (AGG III.B.1.b)

| Commentary: However, all international terrorism investigations--to include investigations of groups and organizations--shall be conducted pursuant to the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective October 31, 2003, and within the 315 classification. See Section 19 of the National Foreign Intelligence Program Manual (NFIPM).|

"c. Mere speculation that force or violence might occur during the course of an otherwise peaceable demonstration is not sufficient grounds for initiation of an investigation under the terrorism enterprise investigation subpart of the AG Guidelines, but where facts or circumstances reasonably indicate that a group or enterprise has engaged or aims to engage in activities involving force or violence or other criminal conduct described in paragraph a. above in a demonstration, an investigation may be initiated in conformity

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with the standards of that paragraph. For alternative authorities see Part II of the AG Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations relating to General Crimes Investigations and the Attorney General's Guidelines on 'Reporting on Civil Disorders and Demonstrations Involving a Federal Interest.' This does not limit the collection of information about public demonstrations by enterprises that are under active investigation pursuant to paragraph a. above." (AGG III.B.1.c)

**EffDte: 04/30/2004 MCRT#: 1338 Div: CT Cav: SecCls:

| 100-1.2.3 |Checking of Leads and Preliminary Inquiries (See MIOG, Introduction, 1-3 .)

| (1) The lowest level of investigative activity is the
| "prompt and extremely limited checking out of initial leads," which
| should be undertaken whenever information is received of such a nature
| that some follow-up as to the possibility of criminal activity is
| warranted. This limited activity should be conducted with an eye
| toward promptly determining whether further investigation (either a
| preliminary << inquiry >> or a full investigation) should be conducted.

(2) Preliminary Inquiries

(a) All preliminary inquiries will be conducted pursuant to the General Crimes Guidelines. There is no separate provision for a preliminary << inquiry >> in the Racketeering Enterprise or | |Terrorism Enterprise|Sections of the Guidelines|because preliminary inquiries under Part II may be carried out not only to determine whether grounds exist to commence a general crimes investigation under Part II of the General Crimes Guidelines, but alternatively or in addition to determine whether the grounds exist to commence a racketeering enterprise investigation or terrorism enterprise investigation under Part III of the General Crimes Guidelines. You must rely on the authority in the General Crimes Preliminary Inquiries Section to follow up on information or allegations that do not warrant a full Terrorism Enterprise investigation. A preliminary << inquiry >> shall be promptly terminated when it becomes apparent that a full investigation is not warranted. If, on the basis of information discovered in the course of a preliminary << inquiry >> , an investigation is warranted, it may be conducted as a general crimes investigation, or a criminal intelligence investigation, or both. All such investigations, however, shall be based on a reasonable factual predicate and shall have a valid law enforcement purpose. (See AGG Introduction, Part A, and AGG, Part II, B contained in MIOG, Introduction 1-3 .)|

| (b) |A preliminary << inquiry >> should be undertaken when
| there is information or an allegation which indicates the possibility
| of criminal activity and whose responsible handling requires some
| further scrutiny beyond checking initial leads. This authority allows
| FBI Agents to respond to information that is ambiguous or incomplete.

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| Even where the available information meets only this threshold, the
| range of available investigative techniques is broad. Only mail
| openings and nonconsensual electronic surveillance are prohibited at
| the preliminary << inquiry >> stage. Other methods, including the
| development of sources and informants and undercover activities and
| operations, are permitted. The tools lawfully available to develop
| information sufficient for the commencement of a full investigation,
| or determining that one is not merited--the purpose of a preliminary
| << inquiry >> --should be fully employed in preliminary investigations with a
| view towards preventing terrorist activities.

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

| 100-2 |FULL-FIELD TERRORISM ENTERPRISE|INVESTIGATIONS

| Per Title 18, USC, Section 2331, Domestic Terrorism means
| activities occurring primarily within the territorial jurisdiction of
| the United States that involve acts dangerous to human life that are a
| violation of the criminal laws of the United States or any state and
| appear to be intended to intimidate or coerce a civilian population,
| influence the policy of a government by intimidation or coercion, or
| affect the conduct of a government by mass destruction, assassination,
| or kidnapping.

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-2.1 Purpose (See MIOG, Introduction, 1-3 .)

| "The immediate purpose of a|terrorism enterprise|
| investigation is to obtain information concerning the nature and
| structure of the enterprise, as specifically delineated in paragraph
| |b.|below, with a view to the longer range objectives of detection,
| prevention, and prosecution of the criminal activities of the
| enterprise." (AGG III.B.2) (Also see 100-2.2 .)

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-2.2 Scope (See MIOG, Part 1, 100-2.1 .)

"a. A terrorism enterprise investigation may collect such
information as:

"(i) the members of the enterprise and other persons...
likely to be knowingly acting in furtherance of its criminal
objectives provided that the information concerns such persons'
activities on behalf or in furtherance of the enterprise;

"(ii) the finances of the enterprise;

"(iii) the geographical dimensions of the enterprise; and

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"(iv) past and future activities and goals of the enterprise.

"b. In obtaining the foregoing information, any lawful investigative technique may be used in accordance with requirements of Part IV." (AGG III.B.3)

(1) Factors that may support the initiation of a terrorism enterprise investigation (TEI), include:

(a) Direct Evidence of an enterprise's involvement in or planning for the commission of a federal offense involving the use of force or violence to further political or social goals;

(b) Terrorism as defined in Title 18, USC, Section 2331 (1) or (5); or

(c) A crime described in Title 18, USC, Section 2332b(g)(5)(B).

Such as direct information about statements made in furtherance of the enterprise's objectives which show a purpose of committing such crimes or securing their commission by others.

(d) The nature of the conduct engaged in by an enterprise will justify an inference that the standard is satisfied, even if there are no known statements by participants that advocate or indicate planning for violence or other prohibited acts.

Such activities as attempting to obtain dangerous biological agents, toxic chemicals, or nuclear materials, or stockpiling explosives or weapons, with no discernible lawful purpose, may be sufficient to reasonably indicate that an enterprise aims to engage in terrorism.

(e) A group's activities and the statements of its members may properly be considered in conjunction with each other. A combination of statements and activities may justify a determination that the threshold standard for a TEI is satisfied, even if the statements alone or the activities alone would not warrant such a determination.

**EffDte: 07/09/2003 MCRT#: 1286 Div: CT Cav: SecCls:

100-2.3 Authorization and Renewal (See MIOG, Introduction, 1-3 .)

(1) Under the revisions approved by the Attorney General, terrorism enterprise investigations may be authorized by an SAC, with notification to FBIHQ, and a written recommendation setting forth the facts and circumstances reasonably indicating the existence of an enterprise.

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| However, all international terrorism investigations--to include
| investigations of groups and organizations--shall be conducted
| pursuant to the Attorney General's Guidelines for FBI National
| Security Investigations and Foreign Intelligence Collection (NSIG),
| effective October 31, 2003, and within the 315 classification. See
| Section 19 of the National Foreign Intelligence Program Manual
| (NFIPM).|

| (2) |With regard|to terrorism enterprise investigation
| preliminary inquiries (PI), it is hereby the policy of the
| Counterterrorism Division (CTD) that, consistent with the revised AGG,
| a terrorism enterprise investigation preliminary << inquiry >> may be
| authorized by an SAC for a period not to exceed 180 days, with the
| ability to renew or extend the term of the terrorism enterprise
| investigation preliminary << inquiry >> an additional 180 days, for a total
| of 360 days. If the field division intends to operate the terrorism
| enterprise investigation preliminary << inquiry >> longer than 360 days
| without converting the preliminary << inquiry >> to a full-field
| investigation, the SAC must articulate to CTD the justification for
| continued operation of the investigation as a preliminary << inquiry >>.
| Ultimately, FBIHQ will approve or disapprove the continued operation
| of the terrorism enterprise investigation preliminary << inquiry >> .

| (3) |With regard|to full-field terrorism enterprise
| investigations|of domestic terrorism,|it is hereby the policy of the
| CTD that, consistent with|the AGG on General Crimes, Racketeering
| Enterprise and Terrorism Enterprise Investigations,|a full-field
| terrorism enterprise investigation may be authorized by an SAC only
| with concurrence of|the Section Chief of the Domestic Terrorism
| Operations Section in CTD, FBIHQ. FBIHQ concurrence shall be obtained
| by routing a preapproved copy of the LHM and opening electronic
| communication (EC) to FBIHQ. The EC will contain the name of|the
| Section Chief of the Domestic Terrorism Operations Section, CTD,|in
| the approval field.

(4) All written submissions to FBIHQ providing notice of
the initiation of a terrorism enterprise investigation preliminary
<< inquiry >> or notice and request for concurrence for the initiation of a
full-field terrorism enterprise investigation shall be
submitted by an LHM 14 days prior to conducting any significant
investigation and include a written recommendation setting forth the
facts and circumstances reasonably indicating the existence of an
enterprise.

(5) Full-field terrorism enterprise investigations shall be
| concurrently authorized by the SAC and|the Section Chief of the
| Domestic Terrorism Operations Section, CTD,|at FBIHQ for a period of
| up to one year, with renewal periods each not to exceed one year.
| There are no restrictions on the number of renewals for full-field
| terrorism enterprise investigations. In addition to the SAC, the

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Director, and any Assistant Director or senior headquarters official designated by the Director, may authorize, renew, review, and reopen terrorism enterprise investigations.

(6) Once the terrorism enterprise investigation has been initiated and notice provided to FBIHQ, then FBIHQ shall notify the Office of Counterterrorism of the Criminal Division, Department of Justice (DOJ), and the Office of Intelligence, Policy and Review and any affected United States Attorney's Office. Further notice to be immediately provided by TVCS to the AG and Deputy AG.

(7) To facilitate coordination of terrorism enterprise investigations, CTD requests field division cooperation by first coordinating the initiation of any terrorism enterprise investigation preliminary << inquiry >> or full-field investigation with the appropriate CTD personnel. Further, field divisions should provide notification of the initiation of all full-field terrorism enterprise investigations via LHM/EC within 14 days of conducting any significant investigation so that the DOJ can be promptly notified. Field divisions are requested to conduct logical queries of ACS to ensure that a full-field terrorism enterprise investigation has not already been initiated on the enterprise of interest. If a full-field terrorism enterprise investigation does already exist, the field division should contribute intelligence information to the existing terrorism enterprise investigation's universal file. CTD will not provide concurrence for the initiation of multiple full-field terrorism enterprise investigations on the same group unless the supporting field division can distinguish the proposed full-field terrorism enterprise investigation from an existing full-field terrorism enterprise investigation.

**EffDte: 04/30/2004 MCRT#: 1338 Div: CT Cav: SecCls:

100-2.3.1 Commentary

There has been a tendency in the past to close investigations and terminate informant coverage when the violent activity of the group has been dormant for a period of time. The AGG (Part III.B.4.c) permits the FBI to monitor organizations that may be temporarily inactive, but whose prior record or stated objectives indicate a need for continuing federal interest, so long as the threshold standard for investigation is satisfied. Under those circumstances, the investigation may remain in a pending status, and informant coverage can be maintained to the extent necessary to determine whether there is any change in the criminal objectives of the enterprise. The ability to continue an investigation, despite temporary inactivity of acts of violence or lack of immediate threat, is often referred to as the "dormancy provision" of the AGG and is a significant advantage that Terrorism Enterprise (100) investigations afford over AOT (266) cases.

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**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-3 RESULTS OF INVESTIGATION

**EffDte: 12/10/1991 MCRT#: 0 Div: CT Cav: SecCls:

100-3.1 Reporting

(1) The contents of communications which report the results of Terrorism Enterprise investigations should be limited to information about the criminal enterprise under investigation. Recommendations, opinions, and conclusions of the FBI should be included in the administrative portion of the communication, or in the case of letterhead memoranda (LHM), in the cover electronic communication (EC). In preparing LHMs which are disseminated to the Terrorism and Violent Crime Section, Office of Intelligence Policy and Review, Department of Justice, and to other agencies on a need-to-know basis, emphasis should be placed on factual accuracy.

(2) In all communications submitted under a Terrorism Enterprise caption, a statement indicating the authorized period of investigation should be set forth. This statement should be placed after the case caption and after referencing previous communications. For example:

"XYZ ORGANIZATION;
TERRORISM ENTERPRISE;
OO: NEW YORK";

"Reference New York EC to Director, DATE.

"Terrorism Enterprise investigation authorized DATE to expire DATE."

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-3.1.1 Deadlines (See MAOP, Part 2, 10-9(23) .)

(1) When a terrorism enterprise investigation preliminary << inquiry >> and/or a full-field terrorism enterprise investigation is completed or nearing expiration, the results of the investigation are to be furnished to FBIHQ in an LHM with a cover EC recommending an extension or closing of the matter. This report is due no later than 180 days after the initiation of a preliminary << inquiry >> and 365 days for a full-field investigation. These reports should be presented in a summary, narrative form, containing specific and articulable facts adequate to meet the "reasonable indication" standard of the Attorney General's Guidelines for renewal, or sufficient information which warrants the investigation being placed in a closed status. Any recommendations, opinions or conclusions of the FBI should be included in the cover EC, but not in the LHM. The

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cover EC should also include a paragraph which sets forth future investigative and prosecutive goals and a paragraph which sets forth the investigative strategy to be implemented in order to attain these goals. The investigative goals paragraph may include objectives which relate to the improvement of the intelligence base, use of technical or undercover techniques, or any other vulnerability which can be exploited. The investigative strategy paragraph(s) should describe how these goals and objectives will be reached during the next year. The LHM and cover EC (hard copy) should be submitted to arrive at FBIHQ at least ten workdays prior to the expiration of the current authorization period and should be organized as follows:

(a) Predication - This should include a paragraph(s) relating the circumstances which caused a full investigation of the captioned group or individuals to be initiated.

(b) Background Information on Group - In addition to a description of the group under investigation, this section should include, but not be limited to, the following:

1. Specific criminal acts the group has committed, or is advocating, to achieve its political or social goals.
2. Key leaders and members of the group.
3. Finances of the group.
4. Geographical dimensions of the group.
5. Planned activities and goals of the group.
6. Association with other organizations/groups which are subjects of an FBI terrorism enterprise investigation.

(c) Activities during the last year - This section should include a summary of investigative results of the office of origin and all lead offices.

(d) Justification for Continuation of Investigation - This segment should set forth in succinct detail how the facts of this investigation conform with the Attorney General's Guidelines for terrorism enterprise investigations. It should contain a paragraph(s) which reasonably indicates that two or more persons are continuing to engage in an enterprise for the purpose of 1) furthering political or social goals, wholly or in part, through activities which involve force or violence and a violation of federal criminal law; 2) engaging in terrorism as defined in Title 18, USC, Section 2331(1) or (5) that involves a violation of federal criminal law, or 3) committing any offense described in Title 18, USC, Section 2332b(g)(5)(B). A terrorism enterprise investigation may also be initiated when facts or circumstances reasonably indicate that two or more persons are engaged

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in a pattern of racketeering activity as defined in the RICO statute (Title 18, USC, Section 1961(5)), that involves an offense(s) described in Title 18, USC, Section 2332b(g)(5)(B).

(2) The due date of this report is calculated from the date the terrorism enterprise investigation was approved by the SAC for a preliminary << inquiry >> and FBIHQ for a full-field investigation. After 180 days (for a preliminary << inquiry >>) and the first year (for a full-field investigation), the office of origin should continue to submit reports in ongoing investigations. These reporting deadlines allow for compliance with the requirements of the Attorney General Guidelines and do not preclude, nor should they discourage, the reporting of results of investigation by EC, telephone, or other form of communication to FBIHQ and pertinent field offices during the course of the investigation. Significant data developed during the year which requires notification to FBIHQ or dissemination to other agencies, should be submitted by EC, LHM, or telephone, depending on the exigencies of the situation. Communications containing information of interest for other agencies should be prepared in a form suitable for dissemination. Significant information furnished on an interim basis should also be included in the next regularly scheduled report.

(3) Communications (hard copies) approving an extension of Terrorism Enterprise investigations should be received at FBIHQ no later than ten workdays prior to the expiration of such matters.

(4) Deleted

**EffDte: 07/09/2003 MCRT#: 1286 Div: CT Cav: SecCls:

100-3.1.2 Predications

In Terrorism Enterprise investigations, the basis for the investigation shall be set forth as the first paragraph in the details of the initial LHM. Formal predications are not required. A statement including pertinent portions of the Attorney General Guidelines is sufficient.

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100-3.1.3 Documentation of Information

All communications should be limited to documented information relevant to the scope of the investigation. No information should be reported concerning an individual's social or personal habits or other background data which is not relevant to an assessment of his/her activities or affiliation with the enterprise under investigation.

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100-3.1.4 Undisclosed Sources

(1) Where the identity of the source of information is not disclosed in a Terrorism Enterprise report, an assessment of the reliability of the source shall be provided.

(2) In all communications, the source of the information should be identified by symbol number or name in either the cover pages or administrative section of the communication.

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100-3.1.5 Characterizations

(1) A characterization of the group should be included as part of the initial LHM submitted. Characterizations should be outlined as the first paragraph of the LHM or as an appendix to the LHM.

(2) This instruction eliminates the previous reporting requirement of providing characterizations of subversive organizations. All characterizations should include a statement regarding the political or social goals which the group hopes to achieve through violence, its geographic area of operation, and a summary of the violence or criminal activity it either has been involved in or is advocating in the future. In instances where only advocacy of violence is present, a statement should also be included regarding the ability of group members to carry it out and the likelihood of the harm intended. (For further instructions on the preparation of characterizations, see Part II, 10-17.13, of the Manual of Administrative Operations and Procedures.)

**EffDte: 12/10/1991 MCRT#: 0 Div: CT Cav: SecCls:

100-3.1.6 Character

The designation "Terrorism Enterprise" should be used in all cases, e.g., "(Name of Organization); Terrorism Enterprise." If a subsidiary or front group is involved, include the name or abbreviation of the parent organization, e.g., "(Name of Organization); Terrorism Enterprise- (Name of Subsidiary Organization)."

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100-3.1.7 Copies - Annual and Renewal Reports

Five copies of reports should be submitted to Domestic Terrorism Section, FBIHQ, unless instructed otherwise in specific

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cases. The office of origin should also provide information copies of these reports to involved field offices.

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-3.1.8 Informant Coverage

Cover|electronic communications|should include a brief summary of informant coverage available with respect to a group or enterprise, identifying informants who report on the group's activities by symbol number, and showing specifically which informants are members of the group.

**EffDte: 06/23/1997 MCRT#: 692 Div: CT Cav: SecCls:

100-3.1.9 Office of Origin

The field office wherein the criminal enterprise is |headquartered, or|where terrorism|activities largely|occur,|or impact upon, should be designated as origin. In unusual circumstances where there is doubt which office should be origin, a request should be made to FBIHQ to designate an office of origin. In cases where the office of origin receives information that a criminal enterprise has changed its area of operation to the territory of another division, and justification to investigate exists based on the criminal enterprise's current activities, the office of origin should request verification of this information to be completed within 30 days. If the new area of operation is confirmed, the office of origin will be transferred. The level of investigation being conducted by the previous office of origin should be continued by the new office of origin unless facts, in addition to the criminal enterprise's relocation, indicate that another form of investigation is more appropriate. Reporting deadlines applicable to the former office of origin are to be followed by the new office of origin.

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

100-3.2 Additional Reporting Requirements

The following reporting requirements are separate from, |and in addition to, the|biannual/yearly|reports requesting renewal authorization or recommending the closing of an investigation outlined above:

(1) BASIS FOR ADDITIONAL REPORTING - Past investigation of domestic terrorist organizations has demonstrated that in order to achieve success in these cases the primary thrust must be prosecutive; however, experience has also shown that a successful prosecution against a terrorist enterprise does not necessarily mean its demise.

(a) During the course of a criminal intelligence

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investigation, specific articulable criminal violations may be identified which would reasonably indicate enforcement activity or court proceedings (e.g., arrest, discovery hearings, etc.) will occur. At that time, a general criminal investigation (266 case) should be opened to focus upon the specific criminal activity. The criminal intelligence investigation (100 case) would continue to focus on the entire enterprise, as the scope of the AOT case may be limited to a relatively small portion of the total activity of that enterprise.

(b) While it may be appropriate for all investigative results generated from an AOT (266) case to be placed in the corresponding 100 file, the converse is not true. Only those details in the 100 case which specifically pertain to the subjects of the AOT case should be placed in the 266 file.

(2) ADDITIONAL REPORTING PROCEDURES - In order to mandate the essential analysis of these groups and to provide for a more adequate and efficient intelligence base in terrorism enterprise investigations, the following reporting procedures shall be followed.

(a) In addition to the submission of a [biannual/annual] report requesting renewal authorization or closing of an investigation, the office of origin will also submit separate investigative inserts on individual members of the enterprise, and other persons likely to be knowingly acting in furtherance of its criminal objectives, using the following format:

1. Name and known aliases of subject;
2. Biographical data to include: date of birth, place of birth, height, weight, eye and hair color, social security account number, distinguishing marks or characteristics, build, past and current addresses, past and current phone numbers, educational background, employment (past and present), and criminal record to include dates, offense, location, disposition, and FBI, state and local agency identifying numbers. Also include Henry and NCIC fingerprint classifications.
3. Short narrative explaining the role or position of the subject in the group or enterprise, including any known or suspected criminal activity in which the subject is or has been involved.
4. Summary of subject's travel, domestic and foreign, including dates and points of travel. Also, detail nature of contacts that subject has had with other groups or enterprises under investigation.
5. Statement of subject's source of finances, if known.

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6. Glossy 3- by 5-inch photograph of member, if available. If not available, efforts should be made to obtain one.

(b) In cases where a subject(s) resides within a lead office territory, the lead office will prepare inserts as above, and forward them to the office of origin 30 days prior to the expiration of the current authorization. This will be incorporated into the office of origin's submission to FBIHQ.

(c) Following the initial submission of these inserts, follow-up inserts should contain only information which has changed since the last reporting. Photographs of subjects should be updated at least annually.

(d) To facilitate the preparation of these inserts, subfiles for each subject should be created which will provide appropriate documentation and retrieval capability.

**EffDte: 07/09/2003 MCRT#: 1286 Div: CT Cav: SecCls:

| 100-4 PUBLICATIONS OF|TERRORISM ENTERPRISE|ORGANIZATIONS; COLLECTION OF
PUBLICLY AVAILABLE INFORMATION

(1) The Attorney General Guidelines on General Crimes, Racketeering Enterprise, and|Terrorism Enterprise|Investigation^s allow the FBI to collect publicly available information subject to the constraints of the federal Privacy Act of 1974. This Act prohibits the collection, maintenance and dissemination of any record describing how an individual exercises First Amendment Rights, except when authorized by statute, or when pertinent to and within the scope of an authorized law enforcement activity.

(2) The FBI, in this regard, is authorized to collect general information which is available to every citizen even though there is no active investigation. Examples of information we may collect is that which is obtainable through the printed news media data banks, e.g., The NEW YORK TIMES Data Bank, public libraries, |newspapers, magazines, and publicly available databases.| This type of material is collected as library material, and should not be indexed as to particular individuals or placed in FBI files.

(3) Publications issued by a group which is the subject |of|an investigation|can be collected. This type of material can be indexed as to particular individuals and can be made a part of the investigative file.

(4) All information received or made available to the FBI during the course of an investigation should be evaluated for its pertinence to the investigation. This is particularly true when the information concerns the exercise of an individual's or group's First

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Amendment rights. In such cases, the information concerning the exercise of First Amendment rights should be made a matter of record only if it is pertinent to and within the scope of an authorized law enforcement activity. (See MIOG, Introduction, 1-4 ; Part 1, 190-5.1 ; MAOP, Part 2, 9-4.4.2(2) .)

(5) When public-source printed material concerning the exercise of First Amendment rights is obtained and a decision made to retain such material, a notation must be placed on the material describing the reason(s) it was collected and retained. The notation must clearly indicate the specific investigative interest(s) which led to the decision to retain the item.

(6) Certain printed public source material may contain a characterization of a group, individual or activity. When such information is disseminated to FBIHQ, FBI field offices or outside the FBI, the transmitting communication should state that the characterization has not been made by the FBI, but by a third party. However, if the characterization comports in whole or in part with the results of independent FBI investigation, the transmitting communication may so state.

**EffDte: 04/04/2003 MCRT#: 1281 Div: CT Cav: SecCls:

| 100-5 |DELETED (SEE MIOG, PART 1, SECTION 294 .)|

**EffDte: 06/15/2000 MCRT#: 992 Div: CT Cav: SecCls:

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 12-04-2009
FBI INFO.
CLASSIFIED BY: 65179 DMH/mjs
REASON: 1.4 (c)
DECLASSIFY ON: 12-04-2034

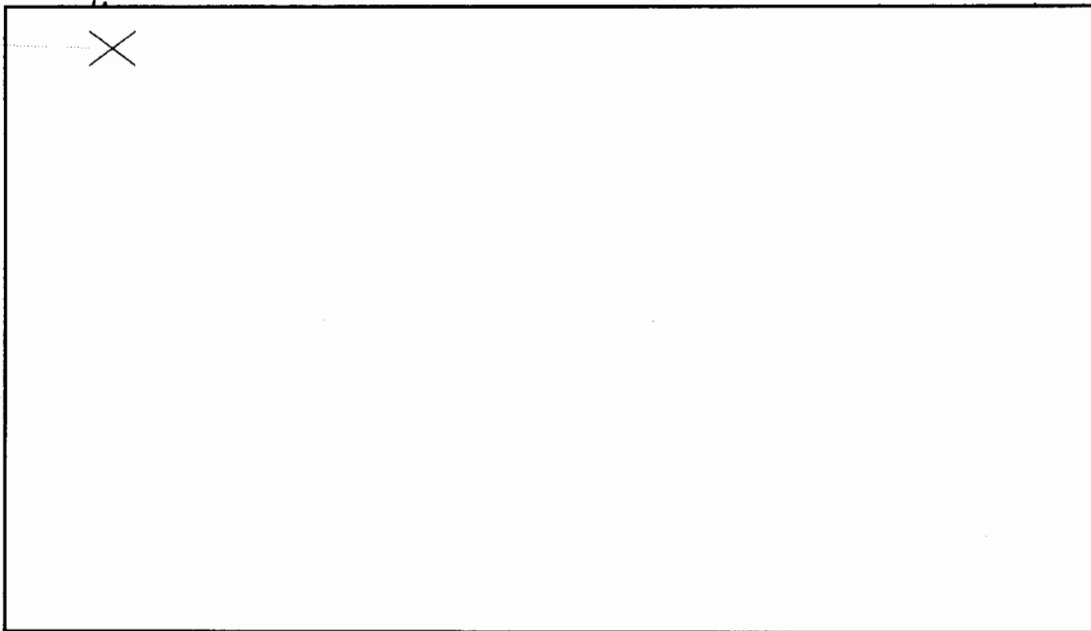
Section 19-1 (U) International Terrorism Investigations

- A. (U) International Terrorism investigations should also comply with general investigative requirements, *see: Sections 2 through 4, supra.*; general and specific Country Threat investigative requirements, *see: Sections 5 through 17, supra.*; and general Issue Threat investigative requirements, *see: Section 18, supra.*; as appropriate.

Section 19-2 (U) U.S. Policies on Counterterrorism

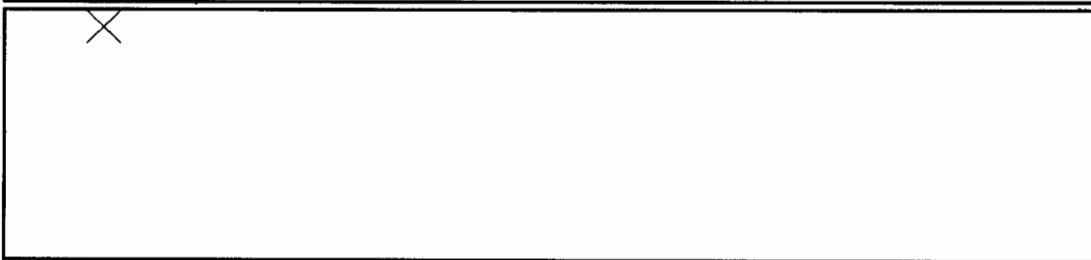
- A. (U) The United States shall reduce its vulnerabilities to terrorism at home and abroad. In this regard, the FBI has been charged with expanding its Counterterrorism program. *See: Presidential Decision Directive/NSC-39, Section 1.*

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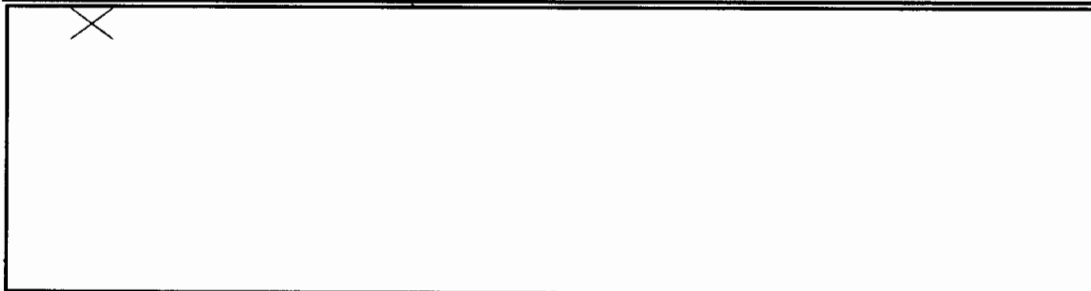
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Section 19-3 (U) Lead Agencies

A. (U) The coordination of Federal responses to terrorist incidents is normally the responsibility of Lead Agencies, as follows:

1. DOS is the Lead Agency for International Terrorism incidents that take place outside of U.S. territory.
2. DOJ (specifically the FBI, unless the Attorney General decides otherwise) is the Lead Agency for International Terrorism incidents that take place within U.S. territory, or in international waters and that do not involve the flag vessels of foreign countries.
3. The FAA is the Lead Agency for aircraft hijackings within the special jurisdiction of the United States. *See: National Security Decision Directive Number 207, p. 2, and Presidential Decision Directive/NSC-39, Section 3(D).*

Section 19-4 (U) The National Coordinator for Security, Infrastructure Protection and Counterterrorism

A. (U) The National Coordinator serves to integrate the Government's policies and programs on unconventional threats to the homeland and Americans abroad. He/she chairs the Counterterrorism Security Group, the Critical Infrastructure Coordination Group and the Weapons of Mass Destruction Preparedness Consequence Management and Protection Group. *See: Presidential Decision Directive/NSC-62, p. 13.*

Section 19-5 (U) Interagency Groups

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G. (U) The Critical Infrastructure Coordination Group is a forum for the convening of critical infrastructure Function Coordinators and Sector Coordinators. See: *Section 4F-2, infra.* Where appropriate, the Group is assisted by, (a) the Security Policy board, (b) the Security Policy forum and (c) the National Security and Telecommunications and Information System Security Committee. See: *Presidential Decision Directive(NSC-63, Section VII(3))*

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Section 19-6 (U) International Terrorism Responsibilities

A. (U) The FBI's International Terrorism responsibilities include:

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1. Investigating, preventing and responding to International Terrorism and terrorist group activities within the United States.;
2. Investigating extraterritorial terrorist incidents which violate U.S. law with the concurrence of the host country and the support of DOS;
3. Conducting investigations within the United States, based upon requests from foreign law enforcement, intelligence and/or security agencies, when consistent with the Attorney General Guidelines for FBI Foreign Intelligence Collection and FCI Investigations;
4. Coordinating interagency activities, consistent with EO 12333;
5. Conducting investigations in support of other U.S. Government agencies' intelligence collection requirements, when requested, and when consistent with the Attorney General Guidelines for FBI Foreign Intelligence Collection and FCI Investigations, and approved by FBI Headquarters; and
6. Disseminating counterterrorism information, reports and intelligence estimates to appropriate Federal agencies and foreign governments, when consistent with the Attorney General Guidelines for FBI Foreign Intelligence Collection and FCI Investigations.

Section 19-7 (U) International Terrorism Case Characters

- A. (U) Characters utilized in International Terrorism investigations generally contain three parts: the IT designation; a country or entity designator; and a specific group designation. Examples are as follows:

IT-PLO-GUPS;
IT-Armenia-ASALA;
IT-El Salvador-FMLN;
IT-Peru-Sendero Luminoso;
IT-Italy-Red Brigades.

Section 19-8. (U) The CTAWU (Counterterrorism Threat Assessment and Warning Unit)

- A. (U) The CTAWU was established in December 1996, to replace the Terrorist Research and Analytical Center (TRAC). The CTAWU is the program manager for the FBI's National Threat Warning System, which provides terrorism warnings to U.S. Government agencies and nationwide law enforcement. Terrorism warnings are disseminated to State and local law enforcement agencies through NLETS (the National Law Enforcement Telecommunications System). The CTAWU produces counterterrorism threat assessments for major special events in the United States and also publishes the FBI's annual report on terrorism, entitled "Terrorism in the United States."

Section 19-9 (U) International Terrorism and Acts of Terrorism Investigations

- A. (U) International Terrorism investigations usually result in the collection of CI and foreign intelligence information, as well as International Terrorism

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information. Just as is true of International Terrorism information, such information may be of value to other U.S. Government entities and to foreign law enforcement and intelligence services; and consideration should be given to submitting it to FBI Headquarters by means of communications suitable for dissemination.

- B. (U) All International Terrorism information which may have an immediate impact on U.S. National Security; identify imminent threats to a national interest of the United States; receive wide media coverage; or require prompt dissemination to other Federal agencies, Legats or foreign services; must be reported to FBI Headquarters by means of communications suitable for dissemination.

C. (S) 


- D. (U) When foreign law enforcement or intelligence services are requested to furnish information which will not derive from extraordinary or highly sensitive techniques, and can reasonably be expected to be necessary to future judicial proceedings; the following statement should be made part of the requests:

1. "The information requested may be necessary in future judicial proceedings. Therefore, it is asked that it be obtained in a fashion, and that it be provided in a form, which can be utilized for that purpose."

- E. (U) Within 30 days of initiating an International Terrorism Preliminary Inquiry, an opening communication must be submitted to FBI Headquarters.

- F. (U) Copies of all field office International Terrorism communications must be directed to the appropriate FBI Headquarters operational desk.

- G. (U) Copies of all communications concerning terrorist group chapters, cells and other subgroups, as well as their formal or informal leaders and principal members should be furnished to the Offices of Origin for their parent organizations.

1. The Offices of Origin must ensure that all such information is included in their summary LHMs on the parent organizations.

- H. (U) Generally, joint International Terrorism investigations with other Federal, State and/or local law enforcement agencies require FBI Headquarters authority. In exigent circumstances this authority may be obtained telephonically, followed by a confirming communication. Normally, however, a communication articulating the need for a joint enterprise must first be submitted.

1. Such authority is not required as respects joint investigations with the U.S. Secret Service involving threats to the President and/or other persons under Secret Service protection.

2. Further, such authority is not required as respects formal joint terrorism task forces, inasmuch as appropriate security clearances concerning other agency

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participants will already have been obtained.

I. (U) Acts of Terrorism investigations are criminal investigations. They are opened and investigated in accordance with procedures which specifically pertain to their background predicate offenses. They are to be used only for gathering evidence which will be needed to support successful criminal prosecutions. Therefore, if a pending 199 case discloses information indicating that a foreign power, or an Agent of a foreign power is actively planning, or presently engaged in an Act of Terrorism, a separate 265 case should be opened. And if a 265 case is opened against a target who is not already the subject of a 199 case, at the same time the 265 case is opened, a 199 case should also be opened in order to address all intelligence aspects of the case which may arise. Whenever a 265 case is opened, a communication must be forwarded to CTD, setting forth the targeted activities which may involve violation of Federal criminal statutes.

1. The existence of parallel criminal and intelligence cases will require close coordination between the field office, FBI Headquarters and DOJ, in order to minimize administrative and/or investigative errors which might damage the criminal case. Criminal procedures require the Government to disclose to criminal defendants the bases of cases, as well as all exculpatory information, making possible the disclosure of classified sources and techniques. The impact of this can be minimized, however, by virtue of the CIPA statute. *See: Title 18, USC, Appendix 3, Sections 1-16.*

2. Electronic communications intercepted under FISA procedures, are acquired for the purpose of collecting foreign intelligence information, in order to reduce threats to National Security. And, of course, all information deriving from FISA intercepts is classified. Therefore, as soon as a 199 case gives rise to a 265 case; or as soon as a 199 case FISA penetration begins to predominantly produce information pertaining to criminal activities, efforts must immediately be taken to terminate the FISA surveillance. Use of the FISA technique is almost always precluded within the parallel 265 case; and use of both a FISA penetration in a 199 case and a Title III penetration in a parallel 265 case is rare. The appropriate FBI Headquarters operational units should be contacted, and should then confer with OGC and DOJ's OIPR, to resolve legal and administrative issues, and to facilitate the transition.

3. Classified information obtained in the course of a 265 case should be placed in a classified subfile to that investigation.

4. For specific guidance as respects FCI, foreign intelligence and International Terrorism investigations which may lead to criminal prosecutions, *see: the December 24, 2002 Memorandum from the Deputy Attorney General and the Director, FBI, captioned "Field Guidance on Intelligence Sharing Procedures for FI and FCI Investigations."*

Section 19-10 (U) Human Rights Offenses

A. (U) Whoever commits a war crime

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1. Inside or outside the United States;
 2. Either the perpetrator or the victim being a member of the Armed Forces or a U.S. national; shall be imprisoned for any term of years up to life. If death results the penalty includes death.
 3. A war crime is any conduct:
 - a) Defined as a grave breach of the international conventions signed at Geneva in 1949, or any protocol thereto to which the United States is a party;
 - b) Prohibited by the Annex to the Hague Convention IV, Articles 23, 25, 27 or 28;
 - c) Which violates common Article 3 of the international conventions signed at Geneva in 1949, or any protocol thereto to which the United States is a party, and which deals with non-international armed conflict; or
 - d) Of a person who in relation to an armed conflict willfully kills or causes serious injury to civilians, contrary to the provisions of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, as amended at Geneva in 1996. *See: Title 18, U.S. Code, Section 2441 and Executive Order 13107.*
- B. (U) Whoever commits torture
1. Outside the United States;
 2. The offender being either a U.S. national, or present in the United States; irrespective of the nationality of the offender or victim; shall be fined and/or imprisoned for a term of not more than 20 years. If death results the penalty shall be imprisonment for any term of years up to life, or death.
 3. An act of torture is an act committed by a person under color of law; with the specific intent to inflict severe physical or mental pain or suffering upon another person within his/her custody or physical control. *See: Title 18, U.S. Code, Section 2340-2340B and Executive Order 13107.*
- C. (U) Whoever commits genocide
1. The offense being either inside the United States; or
 2. The offender being a U.S. national; shall be fined not more than \$1,000,000 and/or imprisoned for a term of not more than twenty years. If death results the penalty shall be a fine of not more than \$1,000,000 and imprisonment for life.
 3. An act of genocide is an act which is committed with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group. *See: Title 18, U.S. Code, Sections 1091-1093 and Executive Order 13107.*

Section 19-11 (U) The Behavioral Analysis Program

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A. (U) See: Section 2-35, supra.

Section 19-12 (U) Foreign Emergency Support Team (FEST)

- A. (U) To ensure an effective U.S. Government response to international terrorism incidents, the FEST concept was developed by interagency agreement and promulgated by National Security Council memorandum. FEST ensures the provision of specialized interagency assistance to U.S. foreign Missions and friendly governments overseas during terrorist incidents.
- B. (U) The FEST is led by a senior State Department officer, and includes representatives from DOS, CIA, FBI, and other federal government agencies as required. The team is able to deploy within four hours of notification in response to an international terrorist incident. The International Terrorism Operations Section (ITOS), CTD, makes all policy decisions regarding the FBI's participation in FEST. The ITOS is responsible for selecting the FBI personnel assigned to a FEST deployment.
- C. (U) During working hours, contact by the DOS will be made directly to the ITOS Section Chief for initiation of the FBI FEST call-out procedures. During nonworking hours, the DOS will notify the Strategic Intelligence Operations Center (SIOC), which will then immediately contact the ITOS Section Chief for initiation of the FBI FEST call-out procedures. The FEST response is designated to depart from Washington, D.C., within four hours of the time mobilization is ordered.
- D. (U) All personnel assigned to support the FEST and therefore subject to deployment, must obtain proper documentation and immunizations. Diplomatic passports for appropriate FBI personnel are maintained in the Counterterrorism Section, DOS. All personnel are advised that these passports are strictly for use during FEST missions, and are not to be used for any other purpose.

Section 19-13 (U) Alpha Designations

A. (U) See: Section 1-04, supra.

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**OFFICE of INSPECTOR GENERAL'S
REVIEW of
DETAINEE ISSUES**

***FBI RESPONSE MATERIAL
DOJ'S OIG REQUEST of FEBRUARY 18, 2005***

ALL DOCUMENTS RELATED TO ANY REGULATION, POLICY, PROCEDURE, MANUAL, GUIDELINE, MEMORANDUM, DECISION, ADVICE, OR SIMILAR ITEM REGARDING CONDUCT OF OPERATIONS BY FBI EMPLOYEES IN OVERSEAS VENUES SINCE SEPTEMBER 12, 2001, INCLUDING: A DEPARTMENT OF JUSTICE DRAFT OF SUCH A DOCUMENT, WHICH MAY HAVE AUTHORIZED FBI AGENTS TO MAKE ARRESTS IN SUCH VENUES AND WHICH FBI ATTORNEY [REDACTED] [REDACTED] MAY HAVE BEEN AWARE OF; A DOCUMENT FBI [REDACTED] MAY HAVE BEEN INVOLVED IN PREPARING; AND ALL DRAFTS OF SUCH DOCUMENTS, COMMENTS RELATED TO SUCH DRAFTS, OR RELATED DOCUMENTS.

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FBI TRACKING # OIG-REQ 02-18-05 -PART 10
[PACKET #6- FBI BATE STAMP 0000261-0000300]
{PREVIOUSLY PRODUCED under OGC PACKETS}

"DESIGNATED SENSITIVE MATERIAL"

**DOJ'S OFFICE OF INSPECTOR GENERAL'S
COPY**

OIG'S REVIEW of FBI DETAINEE ISSUES PROJECT
DOJ'S OIG REQUEST of FEBRUARY 18, 2005

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SUBJECT: ALL DOCUMENTS RELATED TO ANY REGULATION, POLICY, PROCEDURE, MANUAL, GUIDELINE, MEMORANDUM, DECISION, ADVICE, OR SIMILAR ITEM REGARDING CONDUCT OF OPERATIONS BY FBI EMPLOYEES IN OVERSEAS VENUES SINCE SEPTEMBER 12, 2001, INCLUDING: A DEPARTMENT OF JUSTICE DRAFT OF SUCH A DOCUMENT, WHICH MAY HAVE AUTHORIZED FBI AGENTS TO MAKE ARRESTS IN SUCH VENUES AND WHICH FBI ATTORNEY [REDACTED] MAY HAVE BEEN AWARE OF; A DOCUMENT FB [REDACTED] MAY HAVE BEEN INVOLVED IN PREPARING; AND ALL DRAFTS OF SUCH DOCUMENTS, COMMENTS RELATED TO SUCH DRAFTS, OR RELATED DOCUMENTS.

FBI TRACKING # : OIG -REQ 02/18/05 -PART 10

PACKET: #6

{PREVIOUSLY PRODUCED under OGC PACKETS}

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{JUNE 2, 2005}

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATE STAMP #s
VARIOUS DATES	E-MAILS	[REDACTED] MATERIALS FOR DOJ OIG E-MAILS RE: DETAINEE/TORTURE	40	261-300
TOTAL PAGES			40	

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From: BOWMAN, MARION E.
Sent: Thursday, November 13, 2003 1:30 PM
To: [REDACTED]
Subject: RE: Contacts at DOD and NSC
NSC [REDACTED]
OSD [REDACTED]

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

From: [REDACTED]
Sent: Thursday, November 13, 2003 1:00 PM
To: BOWMAN, MARION E.
Subject: Contacts at DOD and NSC

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When convenient, please send me the phone numbers for the contacts, and I will arrange for the delivery of the Amnesty International report.

Thank you,

[REDACTED]

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OIG-REQ 02/18/05-PART 10

FBI0000262

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[redacted]

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PS [redacted] was going to forward the Presidential Directive to you

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

From: [redacted] (MM) (FBI)
Sent: Tuesday, September 28, 2004 2:22 PM
To: [redacted] (CTD)(FBI); [redacted] (CTD) (FBI); [redacted] (CTD) (FBI)
Subject: HVD release procedure

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Gentlemen,

As you are aware AUSA Lopez attendned a meeting at the Pentagon earlier today regarding the release of BL #'s 28, 32, 33, and 34:

All of the interested parties, except DIA, agreed that BL#'s 28, 32, and 33 should be released conditionally, and that BL # 34 should be released without conditions. DIA indicated that they need more time to conclude their interviews with several of the detainees.

Despite this agreement, several questions were raised which will require resolution prior to the release of BL#'s 28, 32, 33, and 34.

First, the Iraqi role in the release process must be clarified;

Second, release conditions must be determined; and

Third, prior to determining release conditions, legal authority to impose release conditions must be identified. Additionally, authority to enforce release conditions must be determined. (A consensus seemed to emerge that actual enforcement of any release conditions may be unrealistic, even if legally enforceable).

[redacted] indicated that these issues would be addressed at the meeting next week.

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These are the issues.

[redacted]

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~~NON-RECORD~~

As we discussed at the meeting this morning, NCIS has been conducting an investigation into allegations

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of abuse made by detainees against military personnel. The allegations include military personnel in Afghanistan, Pakistan, and Gitmo. As part of this investigation, NCIS investigators have directly contacted FBI personnel regarding interviews they conducted with terrorism detainees. The latest agent contacted was assigned to the Las Vegas Division who then contacted NSLB through his Division Counsel. I spoke with the NCIS investigator about this interview beforehand and she was under the impression that other agents were also being contacted as part of the NCIS investigation. However, this is the only interview about which NSLB has been contacted. (The Las Vegas Agent was not a target, he was contacted because he was present for an NCIS debriefing of a detainee who described abuse being committed by military personnel.) I have also been advised that Army CID is contacting us regarding a similar investigation for incidents in Iraq.

The issues raised by such requests include whether an Agent is a target or witness, whether the questions will touch upon classified information, and releasing documents/reports to the interviewers. No policy currently exists for responding to these requests. But, I have spoken to the Inspection Division and they would like to be advised of and be present for these interviews. NSLB would also like to be contacted to review all the issues triggered by the interview. So, if anyone is contacted about an Agent being interviewed regarding past interviews/contact with detainees, please let me know so that I can advise the appropriate personnel.

[redacted] Assistant General Counsel National Security Law Branch Counter Terrorism Law Unit 1 LX 1
tel#: [redacted] Internal #: [redacted] Pager: [redacted]

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Valerie: Since the move to LX [redacted] has taken over responsibility for these types of Iraq Unit matters. Your e-mail is timely in that [redacted] is giving training to agents next Monday who are being rotated to Iraq. I have passed your message on to [redacted] and have asked him to respond. CTS has put together some "advice" relating to FBI conduct in these extraterritorial situations. FBI operators are not that happy with the advice. We are currently working with the Iraq Unit to modify the recommendations: If you or [redacted] would like to see a copy of the protocol, we can provide it to you. I will find who is covering Afghanistan and get your e-mail to them as well.

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Friday, October 08, 2004 11:17 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: battlefield advice

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~~NON-RECORD~~

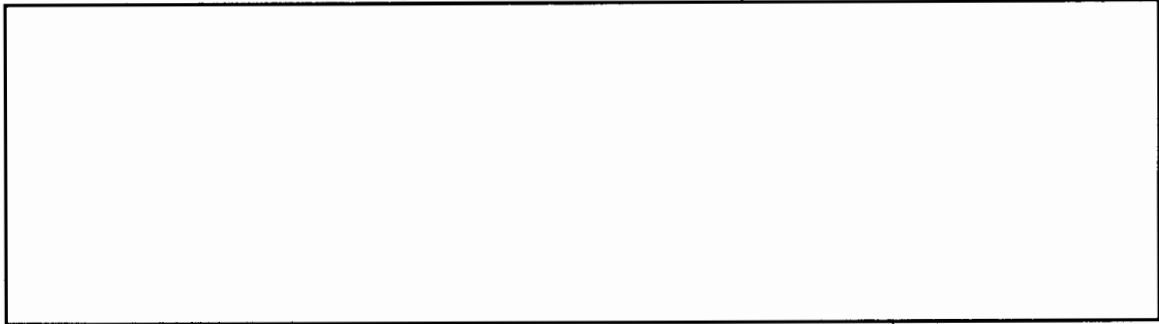
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[redacted]

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See what you can come up with, pls.

VC

~~UNCLASSIFIED~~

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~~NON-RECORD~~

I am not certain who is working with the Military Liaison Unit these days. Can you please pass Valerie's request on to them? I have passed the message to for the Iraq portion.

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Spike: Any thoughts on Valerie's e-mail?

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

From: Caproni, Valerie E. (OGC) (FBI)

Sent: Friday, October 08, 2004 11:17 AM

To: (OGC) (FBI)

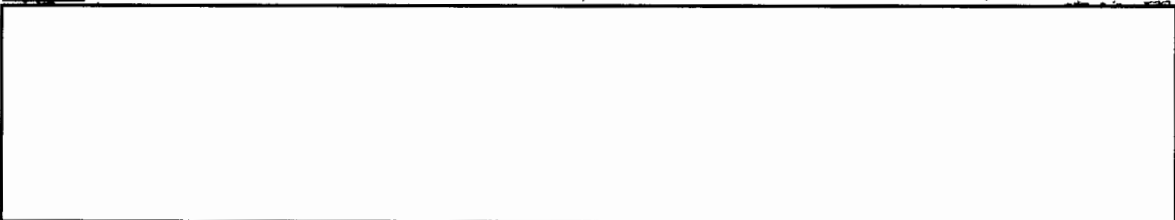
Cc: (OGC) (FBI); (OGC) (FBI)

Subject: battlefield advice

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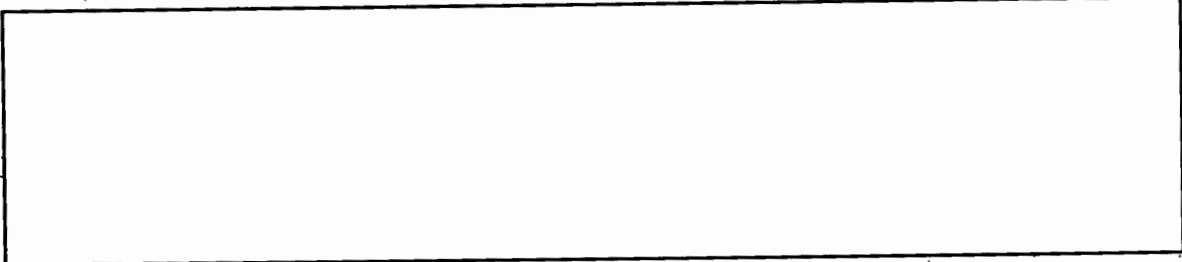
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See what you can come up with, pls.

VC

~~UNCLASSIFIED~~

I'd like to see what "advice" is out there right now and what y'all come up with before it goes final.

Thanks,

VC

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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 08, 2004 12:27 PM
To: Caproni, Valerie E. (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: battlefield advice

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~~NON-RECORD~~

Valerie: Since the move to LX [redacted] has taken over responsibility for these types of Iraq Unit matters. Your e-mail is timely in that [redacted] is giving training to agents next Monday who are being rotated to Iraq. I have passed your message on to [redacted] and have asked him to respond. CTS has put together some "advice" relating to FBI conduct in these extraterritorial situations. FBI operators are not that happy with the advice. We are currently working with the Iraq Unit to modify the recommendations. If you or [redacted] would like to see a copy of the protocol, we can provide it to you. I will find who is covering Afghanistan and get your e-mail to them as well.

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Friday, October 08, 2004 11:17 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: battlefield advice

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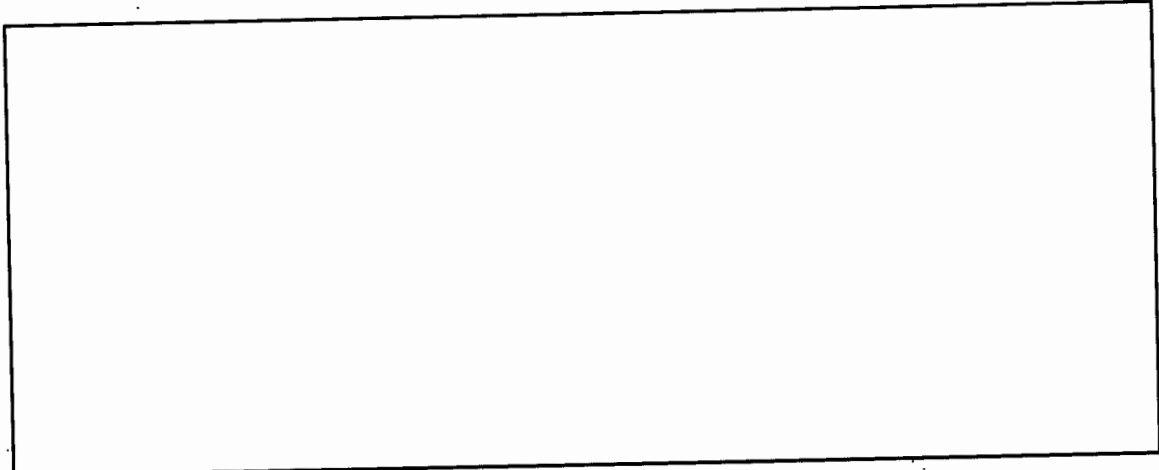
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See what you can come up with, pls.

VC

~~UNCLASSIFIED~~

Will do.

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Friday, October 08, 2004 2:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: battlefield advice

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~~NON-RECORD~~

I'd like to see what "advice" is out there right now and what y'all come up with before it goes final.

Thanks,

VC

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From: [redacted] (OGC) (FBI)
Sent: Friday, October 08, 2004 12:27 PM
To: Caproni, Valerie E. (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: battlefield advice

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Valerie: Since the move to LX, [redacted] has taken over responsibility for these types of Iraq Unit matters. Your e-mail is timely in that [redacted] is giving training to agents next Monday who are being rotated to Iraq. I have passed your message on to [redacted] and have asked him to respond. CTS has put together some "advice" relating to FBI conduct in these extraterritorial situations. FBI operators are not that happy with the advice. We are currently working with the Iraq Unit to modify the recommendations. If you or [redacted] would like to see a copy of the protocol, we can provide it to you. I will find who is covering Afghanistan and get your e-mail to them as well.

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From: Caproni, Valerie E. (OGC) (FBI)

Sent: Friday, October 08, 2004 11:17 AM

To: [redacted] (OGC) (FBI)

Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: battlefield advice

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[redacted]

[redacted]

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See what you can come up with, pls.

VC

[redacted] will handle this from CTLU I.

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

From: [redacted] (OGC) (FBI)

Sent: Friday, October 08, 2004 12:32 PM

To: [redacted] (OGC) (FBI)

Cc: [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: FW: battlefield advice

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FBI023999CBT

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[redacted] I am not certain who is working with the Military Liaison Unit these days. Can you please pass Valerie's request on to them? I have passed the message to Sean for the Iraq portion.

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Spike: Any thoughts on Valerie's e-mail?

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From: Caproni, Valerie E. (OGC) (FBI)

Sent: Friday, October 08, 2004 11:17 AM

To: [redacted] (OGC) (FBI)

Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: battlefield advice

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~~NON-RECORD~~

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[redacted]

[Large redacted area]

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See what you can come up with, pls.

VC

~~UNCLASSIFIED~~

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

From: Caproni, Valerie E. (OGC) (FBI)

Sent: Friday, October 08, 2004 2:22 PM

To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

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Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: battlefield advice

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~~UNCLASSIFIED~~
~~NON-RECORD~~

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To: Caproni, Valerie E. (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: battlefield advice

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~~UNCLASSIFIED~~
~~NON-RECORD~~

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From: Caproni, Valerie E. (OGC) (FBI)
Sent: Friday, October 08, 2004 11:17 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: battlefield advice

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~~NON-RECORD~~

[redacted]

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[redacted]

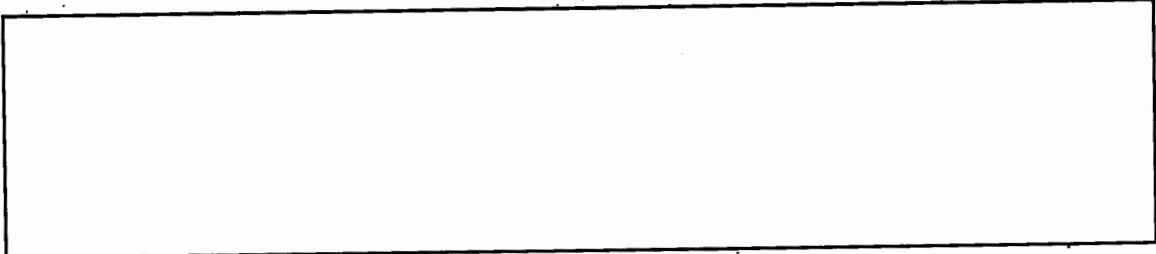
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FBI0000270

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See what you can come up with, pls.

VC

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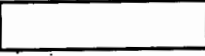
The FBI has not participated in or facilitated monitoring any of the meetings between detainees and their counsel. FBI GTMO has not reviewed or received any transcripts or reports of said monitoring.



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Assitant General Counsel
Counterterrorism Law Unit 1
FBI GTMO

US Naval Base, Guantánamo Bay, Cuba



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—Original Message—

From: Skirtich, Paul F. (OGC) (FBI)

Sent: Thursday, October 21, 2004 9:46 AM

(S)

To: Caproni, Valerie F. (OGC) (FBI); [redacted] (DO) (FBI); [redacted] (CTD) (FBI); [redacted] (BH) (FBI); [redacted] (AO) (FBI); [redacted] (NY) (FBI); [redacted] (MM) (FBI); [redacted] (RH) (FBI); [redacted] (LS) (FBI); [redacted] (LV) (FBI); [redacted] (LA) (FBI); [redacted] (CE) (FBI); [redacted] (ME) (FBI); [redacted] (NY) (FBI); [redacted] (SC) (FBI); [redacted] (NY) (FBI); [redacted] (BA) (FBI); [redacted] (EP) (FBI); [redacted] (SF) (FBI); [redacted] (PX) (FBI); [redacted] (NH) (FBI); [redacted] (MO) (FBI); [redacted] (BS) (FBI); [redacted] (TP) (FBI); [redacted] (BF) (FBI); [redacted] (DE) (FBI); [redacted] (HO) (FBI); [redacted] (LA) (FBI); [redacted] (LR) (FBI); [redacted] (NY) (FBI); [redacted] (DN) (FBI); [redacted] (AN) (FBI); [redacted] (DL) (FBI); [redacted] (ASD) (FBI); [redacted] (AT) (FBI); [redacted] (HO) (FBI); [redacted] (DE) (FBI); [redacted] (WF) (FBI); [redacted] (NO) (FBI); [redacted] (SE) (FBI); [redacted] (NK) (FBI); [redacted] (PH) (FBI); [redacted] (MW) (FBI); [redacted] (BS) (FBI); [redacted] (CV) (FBI); [redacted] (PG) (FBI); [redacted] (LA) (FBI); [redacted] (CG) (FBI); [redacted] (SL) (FBI); [redacted] (HN) (FBI); [redacted] (SD) (FBI); [redacted] (NY) (FBI); [redacted] (OC) (FBI); [redacted] (NF) (FBI); [redacted] (AQ) (FBI); [redacted] (AT) (FBI); [redacted] (SD) (FBI); [redacted] (BF) (FBI); [redacted] (MM) (FBI); [redacted] (ME) (FBI); [redacted] (CO) (FBI); [redacted] (OM) (FBI); [redacted] (CG) (FBI); [redacted] (WF) (FBI);

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[redacted] (JK) (FBI); [redacted] (DI) (FBI); [redacted] (AL) (FBI); [redacted]
 [redacted] (NK) (FBI); [redacted] (CG) (FBI); [redacted] (SA) (FBI); [redacted] (LA) (FBI);
 [redacted] (PH) (FBI); [redacted] (CG) (FBI); [redacted] (SU) (FBI);
 [redacted] (HO) (FBI); [redacted] (KC) (FBI); [redacted] (SI) (FBI);
 (NK) (FBI); [redacted] (PX) (FBI); [redacted] (WF) (FBI); [redacted] (JN) (FBI);
 [redacted] (KX) (FBI); [redacted] (WF) (FBI); [redacted] (NO) (FBI);
 [redacted] (WF) (FBI); [redacted] (SF) (FBI); [redacted] (OGC) (FBI);
 [redacted] (OGC) (FBI); [redacted] (CTD) (FBI); [redacted] (OGC) (FBI);
 [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC)
 (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)
 (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)
 (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)
 (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)
 (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)
 (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);
 Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);

b1 (S)

Subject: Latest decision re GTMO detainees
Importance: High

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~~NON-RECORD~~

Yesterday federal judge Kollar-Kotelly ruled that terror suspects held by US authorities at Guantanamo Bay in Cuba must be allowed to meet with lawyers and that their conversations cannot be monitored.

~~UNCLASSIFIED~~

[redacted]

Attached (for real this time) is the outline. Pursuant to my conversation with [redacted] today, I added an additional category to cover issues concerning requests for our agents to be interviewed or to testify regarding their participation in a detainee interrogation. [redacted] raised some good questions since she's been advised that a detainee she interviewed is now being referred to a military commission.

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[redacted]

This is a first swag at an outline, so we welcome any other issues or concerns you can think of.

[redacted]

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

FBI024003CBT

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FBI0000272

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From: [redacted] (OGC)(FBI)
Sent: Wednesday, October 20, 2004 1:51 PM
To: [redacted] (OGC) (FBI)
Subject: RE: outline

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted] Neither [redacted] or I received the outline "attachement." [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 12, 2004 10:18 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: outline

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~~NON-RECORD~~

[redacted]

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First overview of issues outline produced by Rick and I. Your thoughts?

Ch

[redacted] Counterterrorism Law Unit I LX1, Rm 5S212 [redacted]

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

Attached (for real this time) is the outline. Pursuant to my conversation with [redacted] today, I added an additional category to cover issues concerning requests for our agents to be interviewed or to testify regarding their participation in a detainee interrogation. [redacted] raised some good questions since she's been advised that a detainee she interviewed is now being referred to a military commission.

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[redacted]

This is a first swag at an outline, so we welcome any other issues or concerns you can think of.

[redacted]

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

From: [redacted] (OGC)(FBI)
Sent: Wednesday, October 20, 2004 1:51 PM
To: [redacted] (OGC) (FBI)

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FBI024004CBT

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~~SECRET~~

Subject: RE: outline

~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted] Neither [redacted] or I received the outline "attachement." [redacted]

b6
b7C

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 12, 2004 10:18 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: outline

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b7C

~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

b6
b7C

First overview of issues outline produced by Rick and I. Your thoughts?

Ch

[redacted] Counterterrorism Law Unit | LX1, Rm 5S212 [redacted]

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FYI

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Thursday, October 21, 2004 1:36 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Battlefield Advice

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b7C

~~SENSITIVE BUT UNCLASSIFIED~~
~~NON-RECORD~~

Thanks. I think there is also an issue of what does it mean to "not participate" in aggressive interrogation (outside our guidelines) when you are in forward positions. what happens if the Army beats the stuffing out of a detainee, gives him to FBI, he starts talking to FBI and then the Army wants him back. Have we just "participated" in "good cop-bad cop with the Army? How long after Army does its thing do we need to wait to not be viewed as a "participant" in the harsh interrogation.

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

From: [redacted] (OGC) (FBI)
Sent: Thursday, October 21, 2004 1:27 PM
To: Caproni, Valerie E. (OGC) (FBI)

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~~SECRET~~

FBI024005CBT

~~SECRET~~

Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: Battlefield Advice

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~~SENSITIVE BUT UNCLASSIFIED~~
~~NON-RECORD~~

Valerie: I wanted to give you a quick update on the status of the advice you requested pertaining to our agents in Afghanistan and Iraq. I know you really wanted this last week and I apologize for the delay. As you know, [redacted] (CTLU I - Afghanistan) is working jointly on the advice with [redacted] (CTLU II - Iraq). [redacted] just returned yesterday from the London training for the Iraqi judges. [redacted] and [redacted] are far along in the research and drafting. They are meeting this morning with the military unit and military officials, and have spoken with agents who have been on the ground to get a sense of prior agent experience in these environments. From talking to [redacted] the complexities come not with the targets who the USG may have a viable prosecution interest in (the advice is much easier to provide), but rather with those targets in whom we have a pure intelligence interest. If a draft of the advice is not completed by tomorrow, [redacted] will give you a full update right after the Iraqi Special Tribunal briefing to ensure that the advice comports with what you have in mind. Thank you.

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~~SENSITIVE BUT UNCLASSIFIED~~

~~SECRET~~

RECORD 315E

(U)

Just keeping you in the loop. As anticipated, we are treating him differently and as such are having him removed from [redacted] to Abu.G prison, a more established, long term facility.

b2
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[redacted]

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

From: [redacted] (SE) (FBI)
Sent: Monday, November 01, 2004 1:56 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (CTD) (FBI); [redacted] (SD) (FBI); [redacted] (CTD) (FBI); [redacted] M.C. (CTD) (FBI); [redacted] (OGC) (FBI); [redacted] (HO) (FBI); [redacted] (CTD) (FBI)
Subject: RE: Record checks

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As anticipated [redacted]

[redacted]

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b5

[Redacted]

[Redacted] approached the Jordanians in Amman. They provided fingerprints and a copy of an indictment. I'm having the documents associated with the prints translated and will forward to CJIS. [Redacted] also sent a copy (not translated) to CJIS. He will forward the indictment as well. He did this at my request and let me review the information he was releasing to the Jordanians before his meeting. He can provide more detailed information but it appears the Jordanians are cooperating.

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A lack of an existing US case and the limitations of using evidence obtained in Iraq certainly make a US prosecution problematic. If the Jordanian charge is substantial and it looks like a good case, then that may be the preferred route. The Jordanians taken with him could also be provided as witnesses/additional subjects.

You can coordinate this matter with me or John K., of course. The BOC case agent is SA [Redacted] The BOC Reports Officer is RO [Redacted] We can pass anything to Balad.

b6
b7C

SSA [Redacted]

Deputy On-Scene Commander

Baghdad Operations Center

Baghdad, Iraq

[Redacted]

b2

Original Message

From [Redacted] (CTD) (FBI)
Sent: Monday, November 01, 2004 8:49 AM
To [Redacted] (SE) (FBI)
Cc: [Redacted] (CTD) (FBI); [Redacted] (SD) (FBI); [Redacted] (CTD) (FBI); BRIESE, M.C. (CTD) (FBI); [Redacted] (OGC) (FBI)
Subject: RE: Record checks

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(U)

~~SECRET~~
RECORD 315E

[Redacted]

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No problem, they have been done already. I thought they had already sent them out to you.

What's our status in Iraq with [Redacted] Is he being held [Redacted] and has he been interviewed by anyone other than FBI personnel since his initial capture. I am going to speak with CTS on this issue later today and wanted to see if I could give them some feel for what we have so far. We are trying desperately to get a decision on what we should do with this guy quickly. Our discussion here have produced a couple of scenarios:

1. Provide him to the Jordanians
2. Designate him an enemy combatant
3. Let him be prosecuted by the Iraqi court system

FBI024007CBT

FBI0000276

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4. Prosecute him here in the U.S.

I have [redacted] doing a full review of all information/evidence that we have so far on him to see what we have that could be used in an open court. I suspect that it is pretty limited. In your opinion, could we use any of the info developed in Iraq so far in to support a U.S. prosecution? In particular, the statements of the individuals apprehended with him or are these tainted as intelligence interviews only by virtue of being conducted [redacted]

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I would like to see this prosecuted in a U.S. court if we have enough usable evidence to support it.

Also, who should we be coordinating this one with on your side? [redacted] has some info he is trying to get out to Balad that may be helpful to the interviewers and he is not sure who we should be directing the info to.

It's been a busy few days. I was out with the Flu on Friday, but I am back in the game. If you guys need anything, just let me know. Also, let me know when you can get the SVTC and I will coordinate on this end. I will coordinate with SD and CTS, but I think we should do one SVTC and include everyone.

I'll be glad when we get your comm's fixed so we can call you. Stay safe.

[redacted]

b6
b7C

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

From: [redacted] (SE) (FBI)
Sent: Sunday, October 31, 2004 12:49 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (CTD)(FBI)
Subject: Record checks

[redacted] sent in the names of [redacted] to ISLU for full record checks at my request. Could you please prod the analysts to complete those checks as soon as possible? A decision on their future is imminent and I don't want them to leave our control if they are of interest to us or anyone else. Thanks. gaf

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SSA [redacted]

Deputy On-Scene Commander

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Baghdad Operations Center

Baghdad, Iraq

[redacted]

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20291101~~

(U)

~~SECRET~~

~~SECRET~~

FBI024008CBT

[redacted]

I know that [redacted] were working on something regarding this issue.

[redacted] is there something that else that [redacted] should be aware of?

b6
b7c

Steve

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, November 02, 2004 3:32 PM
To: SIEGEL STEVEN N (OGC) (FBI)
Subject: quick question

~~UNCLASSIFIED~~
~~NON-RECORD~~

I am attending a detainee policy meeting at CENTCOM next week. One of the anticipated topics is interrogation policies for different agencies. I want to make sure I have the latest FBI policy. I know [redacted] did an EC dated 5/19/04 (66F-HQ-A1258990) regarding FBI policy of treatment of detainees during OCONUS interrogations. Is this the latest EC? Thanks

b6
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b2

SSA [redacted] CTD/ORS/MLDU LX-1, Room 35-200 [redacted]

There isn't a newer one, we're working on creating a newer one.

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

From: SIEGEL STEVEN N (OGC) (FBI)
Sent: Tuesday, November 02, 2004 3:50 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); MCNALLY, RICHARD (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

I know that Rick McNally and [redacted] were working on something regarding this issue.

Rick [redacted] is there something that else that [redacted] should be aware of?

b6
b7c

Steve

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, November 02, 2004 3:32 PM
To: SIEGEL STEVEN N (OGC) (FBI)
Subject: quick question

FBI024009CBT

FBI0000278

~~SECRET~~

~~UNCLASSIFIED~~
~~NON-RECORD~~

I am attending a detainee policy meeting at CENTCOM next week. One of the anticipated topics is interrogation policies for different agencies. I want to make sure I have the latest FBI policy. I know [redacted] did an EC dated 5/19/04 (66F-HQ-A1258990) regarding FBI policy of treatment of detainees during OCONUS interrogations. Is this the latest EC? Thanks

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SSA [redacted] CTD/ORS/MLDU LX-1, Room 3S-200 [redacted]

~~UNCLASSIFIED~~

There isn't a newer one, we're working on creating a newer one.

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

From: SIEGEL STEVEN N (OGC) (FBI)
Sent: Tuesday, November 02, 2004 3:50 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

I know that [redacted] were working on something regarding this issue.

[redacted] is there something that else that [redacted] should be aware of?

Steve

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b7C

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, November 02, 2004 3:32 PM
To: SIEGEL STEVEN N (OGC) (FBI)
Subject: quick question

~~UNCLASSIFIED~~
~~NON-RECORD~~

~~SECRET~~

FBI024010CBT

FBI0000279

~~SECRET~~

I am attending a detainee policy meeting at CENTCOM next week. One of the anticipated topics is interrogation policies for different agencies. I want to make sure I have the latest FBI policy. I know [redacted] did an EC dated 5/19/04 (66F-HQ-A1258990) regarding FBI policy of treatment of detainees during OCONUS interrogations. Is this the latest EC? Thanks

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SSA [redacted] CTD/ORS/MLDU LX-1, Room 3S-200 [redacted]

~~UNCLASSIFIED~~

[redacted]

It may be helpful for you to sit down with Rick [redacted] when you get a chance so that you can pick their brains, seeing as it is taking them an awful long time to get this EC out.

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[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 02, 2004 4:03 PM
To: SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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b7C

~~UNCLASSIFIED~~
~~NON-RECORD~~

There isn't a newer one, we're working on creating a newer one.

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

From: SIEGEL STEVEN N (OGC) (FBI)
Sent: Tuesday, November 02, 2004 3:50 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

I know that [redacted] were working on something regarding this issue.

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~~SECRET~~

FBI024011CBT

FBI0000280

~~SECRET~~

[redacted] is there something that else that [redacted] should be aware of?

Steve

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b7C

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, November 02, 2004 3:32 PM
To: SIEGEL STEVEN N (OGC) (FBI)
Subject: quick question

~~UNCLASSIFIED~~
~~NON-RECORD~~

I am attending a detainee policy meeting at CENTCOM next week. One of the anticipated topics is interrogation policies for different agencies. I want to make sure I have the latest FBI policy. I know [redacted] did an EC dated 5/19/04 (66F-HQ-A1258990) regarding FBI policy of treatment of detainees during OCONUS interrogations. Is this the latest EC? Thanks

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SSA [redacted] CTD/ORS/MLDU LX-1, Room 3S-200 [redacted]

~~UNCLASSIFIED~~

~~UNCLASSIFIED~~
~~NON-RECORD~~

Everyone pick a time and we will meet in 5S200

- 1. 9:15
- 2. 12:30
- 3. Some other time (_____)

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

From: [redacted] (OGC)(FBI)
Sent: Tuesday, November 02, 2004 4:48 PM
To: [redacted] (OGC) (FBI); SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

~~SECRET~~

FBI024012CBT

FBI0000281

~~SECRET~~

The current EC is still in effect. What we are developing is to reach beyond the issues covered in that EC and give more detailed advise. I would like to know more on what CENTCOM is doing because that is a mater of concern for me. [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 02, 2004 4:03 PM
To: SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

There isn't a newer one, we're working on creating a newer one.

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

From: SIEGEL STEVEN N (OGC) (FBI)
Sent: Tuesday, November 02, 2004 3:50 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); MCNALLY, RICHARD (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted]

I know that [redacted] were working on something regarding this issue.

[redacted] is there something that else that [redacted] should be aware of?

b6
b7C

Steve

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, November 02, 2004 3:32 PM
To: SIEGEL STEVEN N (OGC) (FBI)
Subject: quick question

~~UNCLASSIFIED~~
~~NON-RECORD~~

I am attending a detainee policy meeting at CENTCOM next week. One of the anticipated topics is interrogation policies for different agencies. I want to make sure I have the latest FBI policy. I know [redacted] did an EC dated 5/19/04 (66F-HQ-A1258990) regarding FBI policy of treatment of detainees during OCONUS interrogations. Is this the latest EC? Thanks

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FBI024013CBT

FBI0000282

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~~SECRET~~

SSA [redacted] CTD/ORS/MLDU LX-1, Room 3S-200 [redacted]

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~~UNCLASSIFIED~~

I have a 9 already so 12:30 works for me. I'll bring the CENTCOM itinerary with me.

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

From: SIEGEL STEVEN N (OGC) (FBI)

Sent: Tuesday, November 02, 2004 5:01 PM

To: [redacted] (OGC)(FBI); MCNALLY, RICHARD (OGC) (FBI); [redacted] (CTD) (FBI)

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Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: RE: quick question

~~UNCLASSIFIED~~

~~NON-RECORD~~

Everyone pick a time and we will meet in 5S200

1. 9:15

2. 12:30

3. Some other time ()

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

From: [redacted] (OGC)(FBI)

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b7C

Sent: Tuesday, November 02, 2004 4:48 PM

To: MCNALLY, RICHARD (OGC) (FBI); SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)

Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: RE: quick question

~~UNCLASSIFIED~~

~~NON-RECORD~~

The current EC is still in effect. What we are developing is to reach beyond the issues covered in that EC and give more detailed advise. I would like to know more on what CENTCOM is doing because that is a mater of concern for me [redacted]

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

From: [redacted] (OGC) (FBI)

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b7C

Sent: Tuesday, November 02, 2004 4:03 PM

To: SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)

Cc: [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)

Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

There isn't a newer one, we're working on creating a newer one.

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

From: SIEGEL STEVEN N (OGC) (FBI)
Sent: Tuesday, November 02, 2004 3:50 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); MCNALLY, RICHARD (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE: quick question

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[redacted]

I know that [redacted] were working on something regarding this issue.

[redacted] is there something that else that [redacted] should be aware of?

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b7C

Steve

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, November 02, 2004 3:32 PM
To: SIEGEL STEVEN N (OGC) (FBI)
Subject: quick question

~~UNCLASSIFIED~~
~~NON-RECORD~~

I am attending a detainee policy meeting at CENTCOM next week. One of the anticipated topics is interrogation policies for different agencies. I want to make sure I have the latest FBI policy. I know [redacted] did an EC dated 5/19/04 (66F-HQ-A1258990) regarding FBI policy of treatment of detainees during OCONUS interrogations. Is this the latest EC? Thanks

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SSA [redacted] CTD/ORS/MLDU LX-1, Room 3S-200 [redacted]

~~UNCLASSIFIED~~

~~UNCLASSIFIED~~
~~NON-RECORD~~

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FBI024015CBT

FBI0000284

~~SECRET~~

Hey guys, sorry I have to push the time back until later in the afternoon if possible. Anytime 1:30 on-works for me. Let me know....

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

From: SIEGEL STEVEN N (OGC) (FBI)
Sent: Tuesday, November 02, 2004 5:01 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

Everyone pick a time and we will meet in 5S200

- 1. 9:15
- 2. 12:30
- 3. Some other time (_____)

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 02, 2004 4:48 PM
To: [redacted] (OGC) (FBI); SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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~~UNCLASSIFIED~~
~~NON-RECORD~~

The current EC is still in effect. What we are developing is to reach beyond the issues covered in that EC and give more detailed advise. I would like to know more on what CENTCOM is doing because that is a mater of concern for me. [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 02, 2004 4:03 PM
To: SIEGEL STEVEN N (OGC) (FBI); [redacted] (CTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: quick question

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~~NON-RECORD~~

There isn't a newer one, we're working on creating a newer one.

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FBI024016CBT

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~~SENSITIVE BUT UNCLASSIFIED~~
~~NON-RECORD~~

FYI

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 09, 2004 2:34 PM
To: [redacted] (OGC) (FBI)
Subject: FW: The Latest on GTMO Legal processes

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b7C

[redacted] - Here is the opinion.

[redacted]
[redacted]

b6
b7C

We can continue interviews under Art 17 of the Geneva Convention of the Treatment of Prisoners of War

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 09, 2004 7:55 AM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (CTD) (FBI); [redacted] (EP) (FBI)
Subject: FW: The Latest on GTMO Legal processes

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[redacted]

Assitant General Counsel
Counterterrorism Law Unit 1
FBI GTMO

b6
b7C
b2

US Naval Base, Guantanamo Bay, Cuba

[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, November 09, 2004 7:53 AM
To: [redacted] (OGC) (FBI); BATTLE, FRANKIE (CTD) (FBI); [redacted] (CTD) (FBI);
THOMAS, JULIE F. (OGC) (FBI)
Cc: [redacted] (CTD) (FBI); [redacted] (CTD) (FBI); [redacted]
(CTD) (FBI)
Subject: FW: The Latest on GTMO Legal processes

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Based on a closer reading - focusing on the Geneva Conventions section - I have advised [redacted] and he has ordered that interviews should cease until a determination of the true status of the detainees has been

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reached. Additional interpretation/debate is welcome.

As I expect this would apply to Afghanistan as well.

[Redacted]

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[Redacted]

Assistant General Counsel

Counterterrorism Law Unit 1

FBI GTMO

US Naval Base, Guantanamo Bay, Cuba

[Redacted]

b2

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

From: [Redacted] (OGC) (FBI)

b6
b7C

Sent: Monday, November 08, 2004 5:32 PM

To: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); BATTLE, FRANKIE (CTD) (FBI);

[Redacted] (CTD) (FBI); [Redacted] (CTD) (FBI)

Cc: [Redacted] (OGC) (FBI); [Redacted] (CTD) (FBI); [Redacted] (CTD) (FBI);

[Redacted] (CTD) (FBI)

Subject: The Latest on GTMO Legal processes

Attached is the decision from Judge Robertson - it is pretty bad. DOJ has characterized it as a "disaster"

It contains inter-alia

[Redacted]

[Redacted]

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[Redacted]

Assistant General Counsel

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FBI0000291

X

NON-RECORD

I will be on Vacation in St. Lucia (Caribbean) from Sunday November 7, 2004 through Saturday November 13, 2004. While I am away, questions regarding Birmingham's FISA application can be directed to my Unit Chief [redacted]

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I am here today (Thursday 11/04/04) and tomorrow (Friday 11/05/04), however, my work phone [redacted] [redacted] is not operational. Please contact me via email or my pager [redacted]

Thanks.

[redacted] International Terrorism Operations Section (ITOS II) Iraq, Syria, Libya Unit
(ISLU [redacted] work [redacted] cell [redacted] pager

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UNCLASSIFIED

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFICATION EXEMPTION 1~~

~~SECRET~~

~~UNCLASSIFIED~~

NON-RECORD

FYI

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

From: [redacted] (OGC) (FBI)
Sent: Thursday, November 18, 2004 4:03 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: FW: Overseas Application of 4th and 5th Amendment

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NON-RECORD

The attached are documents created by FBI New York's legal team, ADC [redacted] [redacted] regarding constitutional issues overseas. [redacted] and I discussed these matters in detail, so I thought this should be passed on also. [redacted]

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

From: [redacted]
Sent: Tuesday, December 30, 2003 3:40 PM
To: [redacted]
Subject: Overseas Application of 4th and 5th Amendment

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[redacted]

Following up on our conversation, I think it is also important to note that for the most part [redacted]

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[redacted]

[redacted] Those in custody are military detainees.

[redacted]

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[redacted]

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[redacted] In this regard, your question [redacted] question) probably involves NSLB more than it does ILU.

Attached are the documents we discussed. My memo and the charts discuss/describe 2d Circuit case law and the 4th/5th Amendment issues implicated when prosecution is contemplated and/or occurring.

[redacted]

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***This Document Contains Attorney Work Product ***

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~~UNCLASSIFIED~~

UNCLASSIFIED

NON-RECORD

[redacted] Just wanted you to know that [redacted] delivered your detainee treatment EC and related documents to Valerie today.

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FBI024027CBT

FBI0000296

~~SECRET~~

An assignment from Let me know if you have any questions.

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b7C

Please stand by to assist as may need help.

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

From: (OGC) (FBI)
Sent: Wednesday, December 22, 2004 2:37 PM
To: (OGC) (FBI)
Cc: Caproni, Valerie E. (OGC) (FBI)
Subject: FW: Chronology

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One of the things I wanted to speak with you about today was assigning to create, with the assistance of a chronology of events with respect to FBI involvement as to detainee treatment/mistreatment. Is this a good fit for him.

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

From: Caproni, Valerie E. (OGC) (FBI)
Sent: Wednesday, December 22, 2004 11:41 AM
To: (OGC) (FBI)
Cc: (OGC) (FBI)
Subject: Chronology

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~~UNCLASSIFIED~~
~~NON-RECORD~~

I need you to assign one of your attorneys to supervise a para (or do it him or herself) to prepare a chronology of events relative to FBI involvement with the issue of treatment/mistreatment of detainees. The goal is to have a document that will be of use for briefing the Hill when/if they ask for it. is cc'd b/c he has the universe of documents they will need. Some judgment needs to be used in terms of what should go in the chron.

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I've attached documents that do some of this already.

VC

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted] We need to pull together any and all CTD documents (EC's, FD-302s, e-mail messages, etc.) since May 2004 related to detainees in GTMO, Iraq, and Afghanistan, particularly documentation of any abuse of detainees – either through first hand knowledge or rumor – and any reports of such abuse from the Bureau to DoD or any other non-Bureau entity (such as DOJ, etc.).

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Copies of all the above should go to both [redacted] and me. [redacted] number at LX-1 is [redacted]

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[redacted] Did you write a document that mentions a helicopter at GTMO? If yes, I don't know if that document has been previously produced, but please provide, if such exists.

[redacted]

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

From: [redacted] (CTD) (FBI)
Sent: Tuesday, December 28, 2004 10:59 AM
To: [redacted] (CTD) (FBI)
Subject: GTMO Tasking

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~~NON-RECORD~~

Hello [redacted]

I understand you have been tasked with putting together a timeline for the GTMO operations. I will be your point of contact for any questions you have regarding GTMO. Let me know if you need anything.

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SSA [redacted] Counterterrorism Division Military Liaison
and Detainee Unit LX-1, Room 3S208 [redacted]

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~~UNCLASSIFIED~~
~~NON-RECORD~~

I just wanted to confirm that you are speaking with the Iraq Unit, ITOS II regarding any Iraq issues right?

SSA [redacted] Counterterrorism Division Military Liaison and
Detainee Unit LX-1, Room 3S208 [redacted]

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

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From: [redacted] (CTD) (FBI)
Sent: Tuesday, December 28, 2004 2:03 PM
To: [redacted] (CTD) (FBI)
Cc: [redacted] (CTD) (FBI); [redacted] (OGC)(FBI)
Subject: RE: GTMO Tasking

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~~UNCLASSIFIED~~
~~NON-RECORD~~

[redacted] We need to pull together any and all CTD documents (EC's, FD-302s, e-mail messages, etc.) since May 2004 related to detainees in GTMO, Iraq, and Afghanistan, particularly documentation of any abuse of detainees -- either through first hand knowledge or rumor -- and any reports of such abuse from the Bureau to DoD or any other non-Bureau entity (such as DOJ, etc.).

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Copies of all the above should go to both [redacted] and me [redacted] number at LX-1 is [redacted]

[redacted] Did you write a document that mentions a helicopter at GTMO? If yes, I don't know if that document has been previously produced, but please provide, if such exists.

[redacted]

----- Original Message -----
From: [redacted] (CTD) (FBI)
Sent: Tuesday, December 28, 2004 10:59 AM
To: [redacted] (CTD) (FBI)
Subject: GTMO Tasking

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~~UNCLASSIFIED~~
~~NON-RECORD~~

Hello [redacted]

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I understand you have been tasked with putting together a timeline for the GTMO operations. I will be your point of contact for any questions you have regarding GTMO. Let me know if you need anything.

SSA [redacted] Counterterrorism Division Military Liaison
and Detainee Unit LX-1, Room 3S208 [redacted]

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~~SENSITIVE BUT UNCLASSIFIED~~
~~NON-RECORD~~

All,

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Attached is a schedule for the Iraq Predeployment Training for January 8-12. This training has been very well received in the past, and I hope that you all will be able to participate again. This rotation will primarily consist of agents from the New York Office, additionally, we have been tasked to train the Regimes Crimes Liaison Office. This training iteration will consist of approximately 30-35 agents and support from the FBI, ATF, DEA and Marshals.

I have attached a tentative schedule. Some of this will likely change, but it would be a great assistance if you all could check your availability for me and confirm, if possible. If you are unavailable, please help me locate an alternate with your same base of knowledge.

If you have a classified presentation please bring your own classified laptop.

Thanks

SSA [redacted] Military Liaison and Detainee Unit LX-1 3S200 [redacted] office telephone [redacted]

[redacted] pager

Reminder

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FBI024031CBT



**OFFICE of INSPECTOR GENERAL'S
REVIEW of
DETAINEE ISSUES**

***FBI RESPONSE MATERIAL
DOJ'S OIG REQUEST of FEBRUARY 18, 2005***

ALL DOCUMENTS RELATED TO ANY REGULATION, POLICY, PROCEDURE, MANUAL, GUIDELINE, MEMORANDUM, DECISION, ADVICE, OR SIMILAR ITEM REGARDING CONDUCT OF OPERATIONS BY FBI EMPLOYEES IN OVERSEAS VENUES SINCE SEPTEMBER 12, 2001, INCLUDING: A DEPARTMENT OF JUSTICE DRAFT OF SUCH A DOCUMENT, WHICH MAY HAVE AUTHORIZED FBI AGENTS TO MAKE ARRESTS IN SUCH VENUES AND WHICH FBI ATTORNEY [REDACTED] [REDACTED] MAY HAVE BEEN AWARE OF; A DOCUMENT FBI [REDACTED] MAY HAVE BEEN INVOLVED IN PREPARING; AND ALL DRAFTS OF SUCH DOCUMENTS, COMMENTS RELATED TO SUCH DRAFTS, OR RELATED DOCUMENTS.

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**FBI TRACKING # OIG-REQ 02-18-05 -PART 10
[PACKET #7 FBI BATE STAMP 0000301-0000401]
{MATERIAL from GC V. CAPRONI}**

"DESIGNATED SENSITIVE MATERIAL"

**DOJ'S OFFICE OF INSPECTOR GENERAL'S
COPY**

OIG'S REVIEW of FBI DETAINEE ISSUES PROJECT

DOJ'S OIG REQUEST of FEBRUARY 18, 2005

SUBJECT: ALL DOCUMENTS RELATED TO ANY REGULATION, POLICY, PROCEDURE, MANUAL, GUIDELINE, MEMORANDUM, DECISION, ADVICE, OR SIMILAR ITEM REGARDING CONDUCT OF OPERATIONS BY FBI EMPLOYEES IN OVERSEAS VENUES SINCE SEPTEMBER 12, 2001, INCLUDING: A DEPARTMENT OF JUSTICE DRAFT OF SUCH A DOCUMENT, WHICH MAY HAVE AUTHORIZED FBI AGENTS TO MAKE ARRESTS IN SUCH VENUES AND WHICH FBI ATTORNEY [REDACTED] MAY HAVE BEEN AWARE OF; A DOCUMENT FBI [REDACTED] MAY HAVE BEEN INVOLVED IN PREPARING; AND ALL DRAFTS OF SUCH DOCUMENTS, COMMENTS RELATED TO SUCH DRAFTS, OR RELATED DOCUMENTS.

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FBI TRACKING # : OIG -REQ 02/18/05 -PART 10

PACKET: #7

{MATERIAL from GC VALERIE CAPRONI}

{JUNE 2, 2005}

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATE STAMP #s
NO DATE	INFO SHEET	MILITARY COMMISSIONS	4	301-304
NO DATE	POWERPOINT	CSRT PROCESS REVIEW	10	305-314
NO DATE	TALKING POINTS	HARRINGTON - DETAINEE INTERVIEWS (ABUSE INTERROGATION ISSUES)	1	315
NO DATE	TALKING POINTS	STATUS OF MEJA IMPLEMENTATION REGULATIONS	1	316
NO DATE	TALKING POINTS	STATUS OF ABU GHRAIB-RELATED INVESTIGATIVE ACTIVITIES	1	317
NO DATE	TALKING POINTS	HOW DOES MEJA APPORTION JURISDICTION BETWEEN DOJ AND DOD?	2	318-319
NO DATE	TALKING POINTS	ENEMY COMBATANTS	5	320-324
NO DATE	TALKING POINTS	DOJ'S SELECTION OF CORRECTIONAL EXPERTS FOR IRAQ	8	325-332

DATE	TYPE of DOCUMENT	SUBJECT	TOTAL PAGES	BATE STAMP #s
NO DATE	TALKING POINTS	LEGAL RESTRICTIONS ON INTERROGATION ABROAD	13	333-345
NO DATE	TALKING POINTS	DOJ'S ACTIVITIES IN IRAQ	3	346-348
NO DATE	TALKING POINTS	DOJ'S SELECTION OF [REDACTED] AND [REDACTED] FOR IRAQ CORRECTIONS TEAMS	5	349-353
NO DATE	TALKING POINTS	OLC ADVICE TO AGENCIES	1	354
NO DATE	TALKING POINTS	DOJ'S ACTIVITIES IN AFGHANISTAN	2	355-356
05/10/04	T. HARRINGTON to V. CAPRONI E-MAIL	FW: INSTRUCTIONS TO GTMO INTERROGATORS	4	357-360
10/04/04	V. CAPRONI to [REDACTED] E-MAIL	RE: REVIEW OF QFR RESPONSE re: TREATMENT OF DETAINEES	2	361-362
10/06/04	V. CAPRONI to [REDACTED] E-MAIL	RE: REVIEW OF QFR RESPONSE re: TREATMENT OF DETAINEES	3	363-365
10/06/04	V. CAPRONI to [REDACTED] E-MAIL	RE: REVIEW OF QFR RESPONSE re: TREATMENT OF DETAINEES	6	366-371
10/06/04	V. CAPRONI to [REDACTED] E-MAIL	RE: REVIEW OF QFR RESPONSE re: TREATMENT OF DETAINEES	5	372-376
10/07/04	V. CAPRONI to [REDACTED] E-MAIL	RE: REVIEW OF QFR RESPONSE re: TREATMENT OF DETAINEES	8	377-384
10/08/04	[REDACTED] to V. CAPRONI E-MAIL	RE: BATTLEFIELD ADVICE	2	385-386
10/12/04	V. CAPRONI to [REDACTED] E-MAIL	RE: BATTLEFIELD ADVICE	2	387-388
10/18/04	V. CAPRONI to [REDACTED] E-MAIL	RE: REVIEW OF QFR RESPONSE re: TREATMENT OF DETAINEES	13	389-401
TOTAL PAGES			101	

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DATE: 02-17-2010
CLASSIFIED BY 65179 DMH/mjs
REASON: 1.4 (c Source)
DECLASSIFY ON: 02-17-2035

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Military Commissions

www.defenselink.mil/news/commissions.html contains the following information:

- Military Commission Procedures, Orders & Instructions
- GTMO Detainee Process
- Appointing Authority Regulations
- Biographies of Key Military Commissions Personnel
- Links to Court Motions (46 total)
- Trial Guide
- Briefing Transcripts from Hearings
- Photographs

Four GTMO detainees have been charged with conspiracy to commit terrorism among other offenses. All four defendants have been appointed counsel:

1. Salim Hamdan (ISN US9YM-0049) Trial scheduled: December 7-21, 2004. Twenty-two (22) outstanding motions. Defense Motions: 18 Prosecution: 4.
2. David Hicks (ISN US9AS-0002) Trial scheduled January 10, 2005 until completion. Eleven (11) outstanding motions. Defense Motions: 5 Prosecution Motions: 6.
3. Al Qosi (ISN US9SU-0054) Trial Scheduled February 8, 2005 until completion. Nine (9) outstanding motions. Defense Motions: 5 Prosecution Motions: 4.
4. Al Bahlul (ISN US9YM-00039) Trial not scheduled. Five (5) outstanding motions. One Defense Motion (pro se motion) Prosecution Motions: 4.

The Presiding Officer, COL Brownbeck, has not ruled on most outstanding motions, therefore the prosecution has not provided witness or exhibit lists. The Prosecution has preliminarily requested in excess of eighty (80) FBI witnesses for trial. Protective orders have been filed to protect the identities of the agents. Witness preparation has been minimal to this point.

The Military Commission Panel consists of 4-5 Field Grade (O-5 or O-6), Non-JAG Officers and 1 JAG who acts as Presiding Officer, 1-2 alternates.

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OMC consists of a Chief Prosecutor, Robert Swann - COL USA, JAG 26 yrs, 20+ yrs experience gov't trial atty, defense counsel, appellate atty and military judge.

USMC Deputy Chief Prosecutor Carol Joyce - COL USMC 23 yrs, JAG 15 yrs, Special Asst. U.S. Atty to Eastern District North Carolina, 300+ cases as Prosecutor and Defense counsel.

[REDACTED] - COL USA 20 yrs Senior Litigation Partner Private Law Firm in CA, CA State Senator, Legal Advisor to [REDACTED] b6 b7C

OMC Team Chiefs

[REDACTED] CMDR USN 20 yrs, JAG 14 yrs, 100+ contested trials. Four in US District Court b6 b7C

[REDACTED] LTC USMC 17 yrs, JAG 9 yrs, 400+ criminal cases -Chief Trial Counsel [REDACTED] MCAS b6 b7C

[REDACTED] LTC USMC 17 yrs, JAG 9 yrs, 400+ criminal cases -Chief Trial Counsel Camp Lejeune USMCB -2nd Chair Prosecution- Avranov Case b6 b7C

[REDACTED] LTC USA 20 yrs, JAG 12 yrs, served as lead trial counsel on several high profile cases including a capital murder case. b6 b7C

[REDACTED] MAJ USA 8 yrs, 8yrs JAG, 86 criminal cases, 19 contested. b6 b7C

OMC Team members:

[REDACTED] CAPT USAF 2 yrs JAG OMC 1st assignment

[REDACTED] LT USN 3yrs JAG - OMC 2nd assignment b6 b7C

[REDACTED] CAPT USA 3yrs OMC 2nd assignment

[REDACTED] MAJ USA 10yrs- arrived OMC August 2004.

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FBI's Cooperation

The FBI has supported the Military Commission process extensively. OMC makes requests for FBI documents and FBI personnel through the Office of General Counsel (OGC) and the Military Liaison and Detainee Unit (MLDU). All requests are addressed immediately and currently over 200 FBI documents have been provided for use at trial.

Records Management Division coordinated a bureau-wide effort to respond to OMC's discovery requests. The FBI received the requests on July 23, 2004 and documents are available for OMC review starting October 1, 2004. FBI continues to support evidence, document and witness assistance requests through RMD/OGS/MLDU.

OGC has dispatched an AGC to GTMO who will brief FBI witnesses on Commission rules and procedures and be available in the courtroom to address FBI issues. MLDU will continue to provide a SSA to coordinate all requests related to the military commissions.

Unresolved Issues

Transportation/Lodging: FBI transportation consists of one flight to/from GTMO every other week. Military transportation consists of military flights on a first come, first serve basis out of Andrew's Air Force Base (very limited availability). Therefore, FBI personnel testifying in trial, transporting evidence and observing proceedings will spend considerable time at GTMO waiting for transportation to/from GTMO. [Solution: Increase number of FBI flights to transport FBI agents on/off GTMO to the current level of 1 flight per week.

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FBI does not have available resources for lodging or transportation while at GTMO for the number of FBI witnesses OMC has identified. FBI has not been advised whether OMC has secured lodging/transportation for FBI witnesses. The limited transportation available off GTMO will also affect the lodging issue.

Witness Preparation: OMC has not provided any comprehensive witness preparation for FBI agents. OMC has not provided the FBI with the required release approvals from other agencies

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Without these releases, FBI agents face uncertainty on the stand with regards to the scope of their testimony.

[Solution: OGC is providing AGC to assist FBI witnesses]

MISC: The Prosecutor's lack of Counterterrorism experience has led them to utilize an overbroad approach to document requests from the FBI. [Solution: Rulings in the 1st four cases will limit this approach]

Some case prosecutive theories promulgated by OMC prosecutors are not consistent with FBI analytical conclusions (not true with the 1st 4 cases). [Solution: OMC prosecutors should meet with ITOS1 personnel to ensure their theories are consistent with FBI analysis]

The charging scheme (Conspiracy to commit war crimes) requires heavy reliance on FBI investigations (PENTTBOM COLEBOM TANBOM) [Solution: OGC/MLDU/SDNY should monitor disseminations and proceedings to limit impact on FBI investigations]

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