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(Rev 01-28-2000)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/30/2003

To: Counterterrorism

Attn: A/SC Raymond S. Mey,
CTORS
A/UC [redacted]
MLDU

b6 -1
b7C -1

General Counsel

Attn: Marion E. Bowman,
Senior Counsel for National
Security Affairs

Miami

Attn: SAC Hector M. Pesquera;
ASAC C. Frank Figliuzzi;
SSA [redacted]

b6 -1

From: CIRG

Behavioral Analysis Unit (BAU)

Contact: SSA [redacted]

b2 -1

Approved By: Wiley Stephen R. [signature]
Battle Frankie [signature]

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Drafted By: [redacted]

Case ID #: (U) 265A-MM-C99102; (Pending) 1201

Title: (U) GTMO-INTEL
GUANTANAMO BAY, CUBA
OO:MIAMI
MAJOR CASE 188

~~CLASSIFIED BY: [redacted] ON: [redacted]~~
~~EXEMPT FROM AUTOMATIC DOWNGRADING AND DECLASSIFICATION~~

Synopsis: (U) To document BAU assistance and challenges encountered during TDY assignment in Guantanamo Bay (GTMO).

~~(U)~~ Derived From: G-3
Declassify On: X1

Enclosure(s): (U) Enclosed documents provide additional details regarding issues encountered by SSAs [redacted] and [redacted] in GTMO:

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[redacted]

(U)

Referral/Consult DOD

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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DETAINees-1261

1264

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To: Counterterrorism From: CIRG
Re: (U) 265A-MM-C99102, 05/30/2003

Referral/Consult DOD

3. (LES) FBI(BAU) Letter forwarded to, Major General (MGEN) G.R. Miller, Commander, Joint Task Force-170 on 11/22/2002.

(U) [Redacted]

5. (LES) Legal Analysis of Interrogation Techniques by SSA [Redacted] b6 -1
[Redacted] FBI (BAU). b7C -1

(U) [Redacted]

7. (LES) FBI(BAU)/CITF Interrogation Plan for Detainee [Redacted] b6 -4
11/22/2002. b7C -4

(U) [Redacted]

9. (LES) Letter from FBI GTMO Supervisor/BAU to MGEN Miller re: Video Teleconference on 11/21/2002.

[Redacted]

12. (LES) FBI(BAU) Interview notes re: Detainee [Redacted] 11/22/2002. b6 -4

b7C -4

b6 -1 Details: (X) During the TDY assignments of SSA [Redacted]
b7C -1 (10/27/2002-12/06/2002) and SSA [Redacted] (11/07-2002-12/18/2002),
to Guantanamo Bay (GTMO), several discussions were held to determine
the most effective means of conducting interviews of detainees. These
discussions were prompted by the recognition that members of the
Defense Intelligence Agency's (DIA) Defense Humint Services (DHS)
were being encouraged at times to use aggressive interrogation tactics
in GTMO which are of questionable effectiveness and subject to
uncertain interpretation based on law and regulation. Not only are
these tactics at odds with legally permissible interviewing techniques
used by U.S. law enforcement agencies in the United States, but they
are being employed by personnel in GTMO who appear to have little, if
any, experience eliciting information for judicial purposes. The
continued use of these techniques has the potential of negatively
impacting future interviews by FBI agents as they attempt to gather
intelligence and prepare cases for prosecution.

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(U) ~~X~~

Referral/Direct

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(X) SSAs [redacted] and [redacted] with the concurrence of BAU

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b7C (S)

[redacted] Unfortunately, these arguments were met with considerable skepticism and resistance by senior DHS officials in GTMO, despite several attempts to convince them otherwise. Nonetheless, the DHS have falsely claimed that the BAU has helped to develop and support DHS's interrogation plans.

b6 -1

b7C -1

(U) During their TDY assignment, SSAs [redacted] and [redacted] kept the BAU apprized of details of the above controversy. Additionally, they offered interviewing assistance and provided training on interrogation methods to FBI/CITF personnel.

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(U) ~~X~~ On 12/02/2002, SSA [redacted] sent several documents via e-mail to Unit Chief [redacted] BAU, Quantico, who advised he would forward them to Marlon Bowman, Legal Counsel, FBIHQ. These documents included a letter to the JTF-170 Commanding General, Major General (MGEN), J.G. Miller (Encl 3), a U.S. Army Legal Brief on Proposed Counter-Resistance Strategies supporting the use of aggressive interrogation techniques (Encl 4), and a Legal Analysis of Interrogation Techniques (Encl 5) by SSA [redacted]

b6 -1

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(S) It is noteworthy that the case agent in GTMO, SA [redacted] and senior officials from the Criminal Investigative Task Force (CITF), who have been involved in GTMO since the beginning,

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To: Counterterrorism From: CIPG
Re: (U) 265A-MM-C99102, 05/30/2003

(S) The differences between DHS and FBI interrogation techniques and the potential legal problems which could arise were discussed with DHS officials. However, they are adamant that their interrogation strategies are the best ones to use despite a lack of evidence of their success. The issue regarding the effectiveness of DHS's techniques was amplified during an awkward teleconference between GTMO and Pentagon officials. During this teleconference, the GTMO officer overseeing military interrogations, LCOL [redacted] USA, blatantly misled the Pentagon into believing that the BAU endorsed DHS's aggressive and controversial Interrogation Plan (Encl 6) for [redacted] a detainee commonly referred to as [redacted]. Prior to this video teleconference, SSAs [redacted] and [redacted] had discussed with DHS the advantages and rationale regarding the FBI's interrogation strategy for [redacted] (Encl 7), and had made available to them a written draft of this plan.

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(U) [redacted]
Referral/Consult DOD [redacted]

(U) [redacted] The military and DHS's inaccurate portrayal to the Pentagon that the BAU had endorsed and, in fact, helped to create DHS's interrogation plan for [redacted] prompted SSA [redacted] SSA [redacted] and the FBI on-scene TDY operations supervisor, SSA [redacted] to send a letter (Encl 9) to MGEN Miller correcting these misstatements and requesting an opportunity to address the matter with MGEN Miller in person. During a subsequent meeting between MGEN Miller and SSAs [redacted] and SA [redacted] details and rationale for the BAU's interviewing approach were presented. Although MGEN Miller acknowledged positive aspects of this approach, it was apparent that he favored DHS's interrogation methods, despite FBI assertions that such methods could easily result in the elicitation of unreliable and legally inadmissible information.

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(U) [redacted] Subsequent contact with FBI personnel in GTMO has revealed that MGEN Miller remains biased in favor of DHS's interrogation methods, although there is some indication that his attitude may be shifting slightly following a recent visit by Pentagon officials.
Referral/Consult DOD [redacted]

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DETAINees-1264

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To: Counterterrorism From: CIRG
Re: (U) 265A-MM-C99102, 05/30/2003

Referral/Consult DOD

b6 -1 ~~(S)~~ SSAs [] and [] observed that DHS personnel
b7C -1 have an advantage over the FBI as a result of their longer periods of
deployment. Currently, DHS personnel are deployed for six months,
whereas the FBI on-scene supervisor and interviewing agents are
assigned for periods of only 30-45 days. About the time an FBI
supervisor or interviewing agent begins to feel comfortable with
his/her surroundings and is able to establish meaningful rapport with
detainees, he/she must prepare to depart GTMO. There are several
examples in which DHS personnel have awaited the departure of an FBI
supervisor before embarking on aggressive, unilateral interrogation
plans which they knew would not have been endorsed by the FBI. For
b6 -1 this reason, SSA [] and [] suggested to Acting Unit Chief
(A/UC) [] that the GTMO Task Force consider extending periods
b7C -1 of deployment for the on-site FBI supervisor and for some agents
assigned to conduct interviews.

(U) ~~(S)~~ SSAs [] and [] discussed the above issues not
only with BAU management, but also with A/UC [] who traveled to
GTMO in early December. As part of his visit, A/UC [] participated
b6 -1,2 in a second teleconference between MGEN Miller, his staff and the
b7C -1,2 Pentagon. During this teleconference, A/UC [] challenged DHS's
assertion that the FBI had endorsed DHS's interrogation techniques.
This disclosure surprised Pentagon officials who had been led to
believe that the FBI and DHS were working as a team. [] who
was present at the Pentagon during this teleconference, advised that
he would follow up on this issue by meeting with senior members of the
Department of Defense (DOD) Legal Counsel to provide further
background on this issue.

(U) Upon their return from GTMO, SSAs [] and []
briefed the BAU and provided unit members with copies of relevant
documents. During this brief, both explained that although they were
compelled by timing and circumstances to devote a considerable amount
of time to the above policy issues, they were able, nevertheless, to
b6 -1,4 assist agents conducting interviews and provide training to FBI/CITF
b7C -1,4 personnel. Of particular importance were a series of successful
interviews which SSA [] conducted with []
[] (known as detainee [] who had stopped talking to
interrogators. Utilizing interviewing techniques taught by the BAU,
SSA [] was gradually able to re-establish a dialogue (Encl 12)
which ultimately led to the detainee's renewed cooperation.

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~~(S)~~ USSAs [] and [] recognize that issues regarding differences in interrogation techniques may not be encountered by all BAU agents who travel to GTMO. However, considering the constant placement and turnover of personnel there, it is an issue which is likely to surface again. At present, FBI agents and DOD investigators conduct interviews on a daily basis in response to a steady number of criminal and intelligence-related leads. Some of the information gathered from these interviews is likely to be used in military tribunals and, possibly, in federal court. Therefore, it is essential that FBIHQ, DOJ and DOD provide specific guidance to protect agents and to avoid tainting cases which may be referred for prosecution.

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LEAD(s):

Set Lead 1: (Discretionary)

COUNTERTERRORISM

AT WASHINGTON, D C

[Redacted]

b5 -1

Set Lead 2: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

[Redacted]

b5 -1

Set Lead 3: (Info)

MIAMI

AT MIAMI, FLORIDA

(U) For information only.

cc: SSA [Redacted] BAU-East
GIMO Coordinator

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DETAINees-1267

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