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b5 -1 [redacted] Can you let me know your thoughts on his concern for the definition of abuse? Thx
Gary

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

From [redacted] (DL) (FBI)

Sent Saturday, May 22, 2004 2:08 PM

To BRIESE, M C (Div13) (FBI)

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b7C -1 Cc BALD, GARY M (Div13) (FBI), [redacted] (Div13) (FBI), [redacted] (Div13) (FBI), HARRINGTON, T J (Div13) (FBI), BATTLE, FRANKIE (Div13) (FBI), [redacted] (Div10) (FBI)

Subject BOC E-Mail, Priority, May 22, 2004, [redacted] Request for Guidance regarding OGC EC, dated 5/19/04

Chris We have questions regarding the attached OGC EC

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b7C -1 Since DOSC [redacted] and my arrival in Iraq, we have been very careful to instruct our personnel to use only standard interview techniques which we would utilize back home in our regular work. We have also instructed our personnel not to participate in interrogations by military personnel which might include techniques authorized by Executive Order but beyond the bounds of standard FBI practice. This instruction has been included in our in-briefs to all three rotations, periodically in staff meetings, and in one-on-one conversations.

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b7C -1 Insofar as DOSC [redacted] and I are aware, no BOC employee during our three rotations witnessed the abuse at Abu Gharayb that is now the subject of the ongoing investigations, nor any conduct anywhere in the theater that went beyond the parameters set by the applicable Executive Order. Although we have no reason to believe any of our personnel disobeyed our instructions and participated in interrogations that utilized techniques beyond the bounds of FBI practice but within the parameters of the Executive Order (e.g., sleep deprivation, stress positions, loud music, etc.), some of our personnel were in the general vicinity of interrogations in which such tactics were being used, and because of their proximity to the sites of these interrogations, heard or saw things which would be indicative of interrogations utilizing the techniques authorized by the Executive Order. Examples are loud music, interrogators yelling at subjects, prisoners with hoods on their heads, etc.

We emphatically do not equate any of these things our personnel witnessed with the clearly unlawful and sickening abuse at Abu G that has come to light. The things our personnel witnessed (but did not participate in) were authorized by the President under his Executive Order. I can safely say that none of the employees during our three rotations witnessed the abuse at Abu G. The investigation into the abuse began before we arrived in Iraq (January 10) and the offending parties had been removed from their positions in the prison by then. Nonetheless, in light of OGC's EC, I wish to make clear our personnel have been present at various facilities when interrogation techniques made lawful by the Executive Order, but outside standard FBI practice, were utilized. While our personnel did not participate in these interrogations, they heard/saw indications that such interrogations were underway.

Our questions relate to the instruction in the EC to report abuse. The EC states that if "an FBI employee knows or suspects non-FBI personnel has abused or is abusing or mistreating a detainee, the FBI employee must report the incident."

This instruction begs the question of what constitutes "abuse." We assume this does not include lawful interrogation techniques authorized by Executive Order. We are aware that prior to a revision in policy last week, an Executive Order signed by President Bush authorized the following interrogation techniques among others: sleep "management," use of MWDs (military working dogs), "stress positions" such as half squats, "environmental manipulation" such as the use of loud music, sensory deprivation through the use of hoods, etc. We assume the OGC instruction does not include the reporting of these authorized interrogation techniques, and that the use of these techniques does not constitute "abuse."

As stated, there was a revision last week in the military's standard operating procedures based on the

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Executive Order I have been told that all interrogation techniques previously authorized by the Executive Order are still on the table but that certain techniques can only be used if very high-level authority is granted According to a Task Force 6-26 e-mail stream I have seen, the following techniques can no longer be used absent the high-level authorization stress positions, MWDs, sleep management, hoods, stripping (except for health inspection), and environmental manipulation (e g , loud music)

UACB, we will still not report the use of these techniques as "abuse" since we will not be in a position to know whether, or not, the authorization for these tactics was received from the aforementioned high-level officials

We will consider as abuse any physical beatings, sexual humiliation or touching, and other conduct clearly constituting abuse Yet, there may be a problem if OGC does not clearly define "abuse" and if OGC does not draw a clear line between conduct that is clearly abusive and conduct that, while seemingly harsh, is permissible under applicable Executive Orders and other laws In other words, we know what's permissible for FBI agents but are less sure what is permissible for military interrogators

These are issues that must be addressed and resolved, with specific guidance being crafted and communicated clearly to our personnel We cannot have our personnel embedded with military units abroad which regularly use these interrogation techniques without more explicit and specific guidance

We would appreciate it if CTD worked with OGC regarding these questions, and if guidance could be issued by the earliest possible date

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[redacted]
On Scene Commander--Baghdad

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[redacted]

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From [redacted] (Div10) (FBI)
Sent Saturday, May 22, 2004 8:53 PM
To [redacted] (DL) (FBI)
Subject FW: EC for dissemination

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

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From [redacted] (Div13) (FBI)
Sent Thu 5/20/2004 6:00 PM
To [redacted] (Div10) (FBI)
Cc
Subject EC for dissemination

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UNCLASSIFIED
NON-RECORD
This EC has been forwarded per [redacted]'s request. Please disseminate as appropriate

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Thanks,
[redacted]
CTD/ITOS II/ISLU

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