

# A Review of the FBI's Involvement in and Observations of Detainee Interrogations in Guantanamo Bay, Afghanistan, and Iraq



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## EXECUTIVE SUMMARY<sup>1</sup>

### I. Introduction

This Executive Summary summarizes the results of the review conducted by the Department of Justice (DOJ) Office of the Inspector General (OIG) regarding the Federal Bureau of Investigation's (FBI) involvement in and observations of detainee interrogations in Guantanamo Bay (GTMO), Afghanistan, and Iraq. The focus of our review was whether FBI agents witnessed incidents of detainee abuse in the military zones, whether FBI employees reported any such abuse to their superiors or others, and how those reports were handled. The OIG also examined whether FBI employees participated in any detainee abuse. In addition, we examined the development and adequacy of the policies, guidance, and training that the FBI provided to the agents it deployed to the military zones.

As part of our review, the OIG developed and distributed a detailed survey to over 1,000 FBI employees who had deployed to one or more of the military zones. Among other things, the OIG survey sought information regarding observations or knowledge of specifically listed interview or interrogation techniques and other types of detainee treatment, and whether the FBI employees reported such incidents to their FBI supervisors or others.<sup>2</sup>

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<sup>1</sup> The OIG has redacted (blacked out) from the public version of this report information that the FBI, the Central Intelligence Agency (CIA), or the Department of Defense (DOD) considered classified. We have provided full versions of the classified reports to the Department of Justice, the CIA, the DOD, and Congressional committees. The effort to identify classified information in this report has been a significant factor delaying release of this report. To obtain the agencies' classification comments, we provided a draft report to the FBI, the CIA, and the DOD for classification review on October 25, 2007. The FBI and the CIA provided timely responses. The DOD's response was not timely. Eventually, the DOD provided initial classification comments to us on March 28, 2008. However, we believed those classification markings were over-inclusive. After several additional weeks of discussion with the DOD about these issues, the DOD provided revised classification comments. The DOD's delay in providing comments, and its over-inclusive initial comments, delayed release of this report.

<sup>2</sup> Although a major focus of our investigation was to collect information about the observations by FBI agents of DOD interrogation practices in the military zones, the OIG did not attempt to make an ultimate factual determination regarding the alleged misconduct by non-FBI personnel. Such a determination would have exceeded the DOJ OIG's jurisdiction. Moreover, the OIG did not have access to all of the witnesses, such  
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The OIG also interviewed more than 230 witnesses and reviewed over 500,000 pages of documents provided by the FBI, other components of the Department of Justice (DOJ), and the Department of Defense (DOD). OIG employees made two trips to GTMO to tour the detention facilities, review documents, and interview witnesses, including five detainees held there. We also interviewed one released detainee by telephone.<sup>3</sup>

Our review focused primarily on the activities and observations of FBI agents deployed to military facilities under the control of the Department of Defense between 2001 and 2004. With limited exceptions, we were unable to and did not investigate the conduct or observations of FBI agents regarding detainees held at CIA facilities for several reasons. First, we were unable to obtain highly classified information about CIA-controlled facilities, what occurred there, and what legal authorities governed their operations. Second, during the course of our review we learned that in January 2003 the CIA Inspector General had initiated a review of the CIA terrorist detention and interrogation program. Therefore, our review focused mainly on the conduct and observations of the approximately 1,000 FBI employees related to detainee interviews in military zones.

#### A. Organization of Report

The OIG's complete report, which contains the full results of our review, has been classified by the relevant government agencies at the Top Secret/SCI level. The full report contains 12 chapters. The first three chapters provide introductory and background information, including a description of the role of the FBI in the military zones and the various FBI interrogation policies in place at the time of the September 11 attacks. Chapter Four discusses the FBI's involvement in the joint interrogation of a "high value detainee," Zayn Abidin Muhammed Hussein Abu Zubaydah, shortly after his capture, and the subsequent deliberations within the FBI regarding the participation of its agents in joint interrogations with agencies that did not follow FBI interview policies.<sup>4</sup> Chapter Five examines the dispute between the FBI and the

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as DOD or CIA personnel, who would have been necessary to make such a determination.

<sup>3</sup> In addition, the OIG examined prior reports addressing the issue of detainee treatment in the military zones. Among the most significant of those reports were the *Church Report*, a review of DOD interrogation operations conducted in 2004 and 2005 by the DOD, and the *Schmidt-Furlow Report*, a DOD investigation in 2005 into allegations of detainee abuse at GTMO.

<sup>4</sup> When the OIG investigative team was preparing for its trip to GTMO in early 2007, we asked the DOD for permission to interview several detainees, including

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DOD regarding the treatment of another detainee held at GTMO, Muhammad Al-Qahtani. The dispute regarding Al-Qahtani arose from the tension between the differing interrogation techniques employed by the FBI and the military. This dispute was elevated to higher-level officials and eventually resolved in favor of the DOD's approach.

Chapter Six examines the FBI's response to the public disclosure of detainee mistreatment at Abu Ghraib prison in Iraq and related concerns expressed by FBI agents in the military zones. These responses included issuance of the FBI's May 2004 Detainee Policy, which reminded FBI agents not to use force, threats, or abuse in detainee interviews and instructed FBI agents not to participate in joint interviews in which other agencies were using techniques that were not in compliance with FBI rules. The FBI also conducted an internal review to determine the extent of the FBI's knowledge regarding detainee mistreatment. The seventh chapter discusses the communication of FBI policies to FBI employees who were deployed in military zones, including the FBI's efforts to provide training and guidance to its agents on appropriate interrogation techniques.

Chapters Eight, Nine, and Ten detail the results of the OIG's survey and investigation into what FBI agents saw, heard about, and reported with respect to detainee interrogations in GTMO, Afghanistan, and Iraq.

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Zubaydah. The DOD agreed, stating that our interviews would not interfere with their attempts to obtain any intelligence from the detainees, including Zubaydah. However, the CIA Acting General Counsel objected to our interviewing Zubaydah. [REDACTED]

[REDACTED] In addition, the CIA Acting General Counsel asserted that the OIG had not persuaded him that the OIG had a "demonstrable and immediate need to interview Zubaydah at that time" given what the Acting General Counsel understood to be the OIG's "investigative mandate." In addition, the CIA Acting General Counsel asserted that Zubaydah could make false allegations against CIA employees. We believe that none of these reasons were persuasive or warranted denying us access to Zubaydah. First, neither the FBI nor the DOD objected to our access to Zubaydah at that time. In addition, neither the FBI nor the DOD stated that an OIG interview would interfere with their interviews of him. Second, at GTMO we were given access to other high value detainees. Third, we did have a demonstrable and immediate need to interview Zubaydah at that time, as well as the other detainees who we were given access to, notwithstanding the CIA Acting General Counsel's position that we had not persuaded him. Finally, the fact that Zubaydah could make false allegations against CIA employees - as could other detainees - was not in our view a legitimate reason to object to our access to him. In sum, we believe that the CIA's reasons for objecting to OIG access to Zubaydah were unwarranted, and its lack of cooperation hampered our investigation.

Chapter Eleven discusses our investigation of eight separate allegations that FBI agents in the military zones were involved in detainee abuse or mistreatment.

Chapter Twelve presents the OIG's conclusions and recommendations.

## **B. Summary of OIG Conclusions**

Our report found that after FBI agents in GTMO and other military zones were confronted with interrogators from other agencies who used more aggressive interrogation techniques than the techniques that the FBI had successfully employed for many years, the FBI decided that it would not participate in joint interrogations of detainees with other agencies in which techniques not allowed by the FBI were used.

Our review determined that the vast majority of FBI agents complied with FBI interview policies and separated themselves from interrogators who used non-FBI techniques. In a few instances, FBI agents used or participated in interrogations during which techniques were used that would not normally be permitted in the United States. These incidents were infrequent and were sometimes related to the unfamiliar circumstances agents encountered in the military zones. They in no way resembled the incidents of detainee mistreatment that occurred at Abu Ghraib.

However, FBI agents continued to witness interrogation techniques by other agencies that caused them concern. Some of these concerns were reported to their supervisors, which sometimes resulted in friction between FBI and the military over the use of these interrogation techniques on detainees. Some FBI agents' concerns were resolved directly by the agents working with their military counterparts, while other concerns were never reported. Ultimately, however, the DOD made the decisions regarding which interrogation techniques could be used on the detainees in military zones. In our report, we describe the types of techniques that FBI employees reported to their supervisors.

We also concluded that the FBI had not provided sufficient guidance to its agents on how to respond when confronted with military interrogators who used interrogation techniques that were not permitted by FBI policies.

In sum, while our report concluded that the FBI could have provided clearer guidance earlier, and while the FBI and DOJ could have pressed harder for resolution of FBI concerns about detainee treatment, we believe the FBI should be credited for its conduct and professionalism

in detainee interrogations in the military zones and in generally avoiding participation in detainee abuse.

The remainder of this unclassified Executive Summary summarizes in more detail the factual background and findings contained in our full report.

## **II. Factual Background**

As a result of the September 11 attacks, the FBI changed its top priority to counterterrorism and preventing terrorist attacks in the United States. As a consequence of this shift in its priorities, and in recognition of the FBI's investigative expertise and familiarity with al-Qaeda, the FBI became more involved in collecting intelligence and evidence overseas, particularly in military zones in Afghanistan, at GTMO, and in Iraq.

Beginning in December 2001, the FBI sent a small number of agents and other employees to Afghanistan to obtain actionable intelligence for its counterterrorism efforts, primarily by interviewing detainees at various facilities. In January 2002, the military began transferring "illegal enemy combatants" from Afghanistan to GTMO, and the FBI began deploying personnel to GTMO to obtain further intelligence and evidence from detainees in cooperation with military interrogators. Following the invasion of Iraq in March 2003, the FBI also sent agents and other employees to Iraq for the primary objective of collecting and analyzing information to prevent terrorist attacks in the United States and to protect U.S. personnel or interests overseas.

FBI deployments in the military zones peaked at approximately 25 employees in Afghanistan, 30 at GTMO, and 60 in Iraq at any one time between 2001 and the end of 2004, the period covered by our review. In total, more than 200 FBI employees served in Afghanistan between late 2001 and the end of 2004, more than 500 employees served at GTMO during this period, and more than 260 served in Iraq. In each military zone, FBI agents were supervised by an FBI On-Scene Commander.

## **III. FBI and DOD Interrogation Policies**

### **A. FBI Policies Prior to the September 11 Attacks**

Most of the FBI's written policies regarding permissible interrogation techniques for its agents and for its agents' conduct in collaborative or foreign interviews were developed prior to the September 11 attacks. When these policies were drafted, they reflected



the FBI's primary focus on domestic law enforcement, which emphasized obtaining information for use in investigating and prosecuting crimes. These policies are designed to ensure that witness statements met legal and constitutional requirements of voluntariness so that they would be admissible in U.S. courts. In addition, the FBI has consistently stated its belief that the most effective way to obtain accurate information is to use rapport-building techniques in interviews.

**Conducting Interviews** The FBI's Legal Handbook for Special Agents states, among other things, that "[i]t is the policy of the FBI that no attempt be made to obtain a statement by force, threats, or promises." The FBI's Manual of Administrative and Operational Procedures (MAOP) describes the importance of FBI agents not engaging in certain activities when conducting investigative activities, including foreign counterintelligence, and specifically states that "[n]o brutality, physical violence, duress or intimidation of individuals by our employees will be countenanced . . . ."

**Joint Interviews** Prior to the September 11 attacks, the FBI had policies for working with other government agencies, both domestic and foreign, in joint or cooperative investigations. However, the FBI's work with the military in GTMO, Afghanistan, and Iraq raised new issues regarding which agency's interrogation policies would apply and how the FBI would work with personnel from other agencies who operated under different interrogation rules. FBI agents told us that they have always been trained to adhere to FBI protocols, not to other agencies' rules with respect to interview policies or evidence collection.

However, the FBI's expanded mission after the September 11 attacks gave rise to circumstances in which (1) entities other than the FBI were the lead agencies and had custody of the witnesses, (2) prosecution of crimes was not necessarily the primary goal of the interrogations, and (3) the evidentiary rules of U.S. Article III courts did not necessarily apply. As a consequence and as detailed below, existing FBI policies were not always sufficient to address these circumstances.

**Reporting Misconduct** FBI policies prior to the September 11 attacks required FBI agents to report to FBI Headquarters any incidents of misconduct or improper performance by other FBI employees. However, the duty of an FBI employee to report on the activities of non-FBI government personnel was limited to criminal behavior by other personnel. We did not find any FBI policy prior to May 2004 imposing an obligation on FBI employees to report abuse or mistreatment of detainees by non-FBI government employees falling short of a crime.

## **B. DOD Interrogation Policies**

In our report, we summarize the detainee interrogation policies adopted by the DOD after the September 11 attacks for prisoners and detainees. These policies were generally developed for use in war zones rather than in the law-enforcement context. The range of permissible DOD techniques was expanded after the September 11 attacks and was modified over time. These military policies permitted techniques that were inconsistent with the FBI's longstanding approach towards witness interrogations.

Although DOD policies were not applicable to FBI agents, they were relevant to our report for several reasons. First, as detailed below, the tensions between DOD policies and the FBI's interview policies created concerns for some FBI agents in the military zones which sometimes led to conflicts between FBI and DOD employees.

Second, FBI agents in the military zones had a unique opportunity to observe the conduct of other agencies' interrogators, including conduct related to alleged detainee abuse in GTMO, Iraq, and other detention facilities. A significant portion of our review involved the FBI's observations regarding the treatment of detainees by military interrogators. Because military interrogators were governed by the DOD's interrogation policies, these policies are relevant to the OIG's report.

Third, in May 2004 the FBI instructed its agents to report to their superiors any incidents of known or suspected abuse or mistreatment of detainees by other agencies' interrogators. Some FBI agents were told that they should report any abusive interrogation technique that the agent believed was outside the legal authority of the interrogator. This instruction required FBI agents to have some familiarity with other agencies' policies, which we briefly summarize below.

**DOD Policies for GTMO** When interrogations began at GTMO in January 2002, military interrogators relied on Army Field Manual 34-52, *Intelligence Interrogation*, for guidance as to permissible interrogation techniques. In addition to conventional direct questioning techniques, Field Manual 34-52 permitted military interrogators to utilize methods that, depending on the manner of their use, might not be permitted under FBI policies, such as "Fear Up (Harsh)," defined as exploiting a detainee's pre-existing fears including behaving in an overpowering manner with a loud and threatening voice. On December 2, 2002, the Secretary of Defense approved additional techniques for use on detainees at GTMO, including stress positions for a maximum of 4 hours, isolation, deprivation of light and auditory stimuli, hooding, 20-hour

interrogations, removal of clothing, and exploiting a detainee's individual phobias (such as fear of dogs).

On January 15, 2003, the Secretary of Defense rescinded his approval of these techniques. On April 16, 2003, the Secretary of Defense promulgated revised guidance approving 24 techniques for use at GTMO, most of which were taken from or closely resembled those in Field Manual 34-52. The April 2003 GTMO Policy also approved the use of dietary manipulation, environmental manipulation, sleep adjustment, and isolation. This policy continued in effect for GTMO until September 2006 when the U.S. Army issued Field Manual 2-22.3, discussed below.

**DOD Policies for Afghanistan** Prior to 2003, the only official guidance regarding military detainee interrogation techniques in effect in Afghanistan was that contained in Field Manual 34-52. In early 2003, the military followed a policy that permitted techniques similar to those approved under the December 2002 GTMO Policy, including isolation, sleep adjustment, hooding, stress positions, sensory deprivation, and mild physical contact. In February 2003, after a military investigation into two detainee deaths at the Bagram Collection Point in December 2002, the military revised its approved interrogation tactics and prohibited handcuffing as a means to enforce sleep deprivation and physical contact for interrogation purposes.

In March 2004 the military issued a new policy for Afghanistan interrogations that was based on the prior Afghanistan policies and the April 2003 GTMO Policy. This policy added dietary manipulation and environmental manipulation to the list of approved techniques and relaxed the prior prohibitions on using stress positions as an incentive for cooperation. In June 2004, in the aftermath of the Abu Ghraib disclosures, the military in Afghanistan adopted the same policy that was issued for Iraq on May 13, 2004 (discussed below).

**DOD Policies for Iraq** For the first few months of the war in Iraq, military interrogators were governed by Field Manual 34-52. In September 2003, the DOD adopted a policy describing 29 permissible interrogation techniques. Most were adopted nearly verbatim from the April 2003 GTMO Policy approved by the Secretary of Defense, but additional approved techniques included muzzled military working dogs, sleep management, yelling, loud music, light control, and stress positions for up to 1 hour per use.

On October 12, 2003, the Commander in Iraq rescinded approval for several of these techniques. On May 13, 2004, in the wake of the Abu Ghraib abuse revelations, the military further revised its policies to specify that "under no circumstances" would requests for certain

techniques be approved, including "sleep management, stress positions, change of scenery, diet manipulation, environment manipulation, or sensory deprivation." In January 2005, the military adopted an interrogation policy for Iraq that approved only those techniques listed in Field Manual 34-52, with additional safeguards, prohibitions, and clarifications, including explicit prohibitions against the removal of clothing and the use or presence of military working dogs during interrogations.

**Field Manual 2-22.3** In September 2006, the U.S. Army issued Field Manual 2-22.3 in fulfillment of a mandate of the Detainee Treatment Act, enacted in December 2005, requiring a uniform standard for treatment of detainees under DOD custody. Field Manual 2-22.3 reiterated and elaborated on many of the techniques listed in its predecessor, Field Manual 34-52, but placed much greater emphasis on rapport-based interrogation techniques similar to those endorsed by the FBI. It also identified several prohibited actions, including nudity, sexual acts or poses, beatings, waterboarding, use of military dogs, and deprivation of food or water. Field Manual 2-22.3 also placed specific controls on the use of the technique of isolating detainees from other detainees. However, Field Manual 2-22.3 was not in effect during any part of the period that was the focus of the OIG's review.

#### **IV. The Interrogation of Zubaydah and the Development of Early FBI Policies Regarding Detainee Interviews in the Military Zones**

In the spring of 2002, the FBI began addressing the need for specific policies governing the conduct of its agents during detainee interrogations overseas. This need came to light in connection with the interrogation of Abu Zubaydah, a "high value detainee" then being held by the CIA. Zubaydah had been severely wounded when he was captured, and two FBI agents were assigned to assist the CIA in obtaining intelligence from him while he was recovering from his injuries. The FBI agents conducted the initial interviews of Zubaydah, assisting in his care and developing rapport with him. However, when the CIA interrogators arrived at the site they assumed control of the interrogation. After observing the CIA use interrogation techniques that undoubtedly would not be permitted under FBI interview policies, one of the FBI agents expressed strong concerns about these techniques to senior officials in the Counterterrorism Division at FBI Headquarters.

This agent's reports led to discussions at FBI Headquarters and with the DOJ and the CIA about the FBI's role in joint interrogations with other agencies. Ultimately, these discussions resulted in a determination

by FBI Director Robert Mueller in approximately August 2002 that the FBI would not participate in joint interrogations of detainees with other agencies in which harsh or extreme techniques not allowed by the FBI would be employed.

However, the issue arose again in late 2002 and early 2003 in connection with the FBI's efforts to gain access to another high value detainee held in a foreign location. FBI agents assisted another agency in developing questions for this detainee during a period when he was being subjected to interrogation techniques that FBI agents would not be allowed to use in the United States.<sup>5</sup>

#### **V. FBI Concerns about Military Interrogations at GTMO**

Late in 2002, FBI agents assigned to GTMO also began raising questions to FBI Headquarters regarding harsh interrogation techniques being used by the military. These concerns were focused particularly on the treatment of Muhammad Al-Qahtani, who had unsuccessfully attempted to enter the United States in August 2001 shortly before the September 11 attacks, allegedly for the purpose of being an additional hijacker. After his capture and transfer to GTMO, Al-Qahtani resisted initial FBI attempts to interview him. In September 2002, the military assumed control over his interrogation, although behavioral specialists from the FBI continued to observe and provide advice.

The FBI agents became concerned when the military announced a plan to keep Al-Qahtani awake during continuous 20-hour interviews every day for an indefinite period and when the FBI agents observed military interrogators use increasingly harsh and demeaning techniques, such as menacing Al-Qahtani with a snarling dog during his interrogation.

The friction between FBI officials and the military over the interrogation plans for Al-Qahtani increased during October and November 2002. The FBI continued to advocate a long-term rapport-based strategy, while the military insisted on a different, more aggressive approach. Between late November 2002 and mid-January 2003, the military used numerous aggressive techniques on Al-Qahtani, including attaching a leash to him and making him perform dog tricks, placing him

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<sup>5</sup> The FBI agents' accounts of the techniques they witnessed during the interrogations of Zubaydah and the other high value detainee are described in our classified full report. Although the CIA has publicly acknowledged using waterboarding with three detainees, none of the FBI agents we interviewed reported witnessing this technique.

in stress positions, forcing him to be nude in front of a female, accusing him of homosexuality, placing women's underwear on his head and over his clothing, and instructing him to pray to an idol shrine. FBI and DOJ officials did not learn about the techniques used between late November 2002 and mid-January 2003 until much later. However, in early December 2002, an agent learned that Al-Qahtani was hospitalized briefly for what the military told the FBI was low blood pressure and low core body temperature.

As a result of the interrogations of Al-Qahtani and other detainees at GTMO, several FBI agents raised concerns with the DOD and FBI Headquarters about: (1) the legality and effectiveness of DOD techniques; (2) the impact of these techniques on the future prosecution of detainees in court or before military commissions; and (3) the potential problems that public exposure of these techniques would create for the FBI as an agency and FBI agents individually. Some of these concerns were expressed to FBI Headquarters in e-mails from agents at GTMO. The informal response that some of these agents received from FBI Headquarters was that agents could continue to witness DOD interrogations involving non-FBI authorized techniques so long as they did not participate.

During this period, however, FBI agents continued to raise objections directly with DOD officials at GTMO and to seek guidance from senior officials in the FBI's Counterterrorism Division. No formal responses were ever received by the agents who wrote these communications.

We determined, however, that some of the FBI agents' concerns regarding the DOD's interrogation approach at GTMO were communicated by officials in the FBI's Counterterrorism Division to senior officials in the Criminal Division of DOJ and ultimately to the Attorney General. FBI Headquarters officials said they discussed the issue in meetings with senior officials in the DOJ Criminal Division. Two witnesses told us that they recalled conversations with Alice Fisher (at the time the Deputy Assistant Attorney General for the Criminal Division) regarding the ineffectiveness of military interrogations at GTMO, but they did not recall discussing specific techniques with Fisher. Fisher told us that she could not recall discussing detainee treatment or particular interrogation techniques with the FBI, but that she was aware that the FBI did not consider DOD interrogations at GTMO to be effective.

Concerns about the efficacy of DOD interrogation techniques also reached then Assistant Attorney General for the Criminal Division

Michael Chertoff, Deputy Attorney General Larry Thompson, and Attorney General John Ashcroft.<sup>6</sup> The senior-level witnesses we interviewed generally said they recalled that the primary concern expressed about the GTMO interrogations was that DOD techniques and interrogators were ineffective at developing actionable intelligence. These senior DOJ officials did not identify FBI agents' concerns about the legality of the techniques or their impact on future prosecutions as a focus of these discussions.

In addition, we were unable to determine definitively whether the concerns of the FBI and DOJ about DOD interrogation techniques were ever addressed by any of the federal government's inter-agency structures created for resolving disputes about anti-terrorism issues. These structures included the Policy Coordinating Committee, the "Principals" Committee, and the "Deputies" Committee, all chaired by the National Security Council (NSC).

Several senior DOJ Criminal Division officials told us that they raised concerns about particular DOD detainee practices in 2003 with the National Security Council, but they did not recall that any changes were made at GTMO as a result. Several witnesses also told us that they believed that Attorney General Ashcroft spoke with the NSC or the DOD about these concerns, but we could not confirm this because former Attorney General Ashcroft declined to be interviewed for this review.

We found no evidence that the FBI's concerns influenced DOD interrogation policies. Ultimately, the DOD made the decisions regarding what interrogation techniques would be used by military interrogators at GTMO, because GTMO was a DOD facility and the FBI was there in a support capacity. Similarly, the DOD controlled what techniques were used in Afghanistan and Iraq. As a result, once it was clearly established within each zone that military interrogators were permitted to use interrogation techniques that were not available to FBI agents, the FBI On-Scene Commanders said they often did not elevate additional reports of harsh detainee interrogations to their superiors at FBI Headquarters.

Eventually, the DOD modified its own policies as a result of its internal deliberations. As noted above, on January 15, 2003, Defense Secretary Rumsfeld rescinded his prior authorization of some of the more aggressive DOD interrogation techniques. In April 2003, Al-Qahtani became cooperative with military interrogators. Based on the information we obtained in the OIG survey and our follow-up interviews, we believe that around this time the military also reduced the frequency

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<sup>6</sup> Former Attorney General Ashcroft declined to be interviewed for this review.

and severity of its use of many of the techniques that concerned the FBI agents deployed at GTMO.

FBI witnesses almost uniformly told us that they strongly favored non-coercive rapport-based interview techniques to the harsher techniques used on Al-Qahtani and others due to the FBI's extensive history of success with such techniques in the law enforcement context. However, we also learned about a proposal advanced by certain officials from the FBI and DOJ in late 2002 to change the circumstances of Al-Qahtani's interrogation. A draft letter prepared for the purpose of presenting this proposal to the National Security Council indicated that this proposal involved subjecting Al-Qahtani to interrogation techniques of the sort that had previously been used by the CIA on Zubaydah and another detainee. DOJ and FBI officials involved with this proposal stated to us that the rationale for this proposal was to bring more effective interrogation techniques to bear on Al-Qahtani than the ineffective interrogation techniques that the military had been using on him up to that time. The techniques that had been previously used by the CIA on Zubaydah included methods that did not remotely resemble the rapport-based techniques that are permitted under FBI policy. However, the DOJ and FBI officials involved in the proposal stated to the OIG that they did not learn what specific techniques had been used by the CIA until much later, and that they based their recommendation on the fact that the CIA had been effective at obtaining useful information from Zubaydah. Senior officials in DOJ and the FBI such as FBI Director Mueller, former Assistant Attorney General Chertoff, current Assistant Attorney General Fisher, and others, told us the draft letter never reached them, that they were not aware of a proposal to subject Al-Qahtani to methods of the sort that had been used on Zubaydah, and did not take part in any specific discussion of such a proposal.

We also determined that the DOD opposed the proposal for Al-Qahtani, and the proposal was never adopted. Moreover, Al-Qahtani began cooperating with military interrogators in April 2003, obviating the underlying rationale for the proposal.

We concluded that the proposal to subject Al-Qahtani to the type of techniques that the CIA had used on Zubaydah was inconsistent with Director Mueller's directive that the FBI should not be involved with interrogations in which non-FBI techniques would be utilized, and with the frequently stated position of DOJ and FBI officials that the FBI's rapport-based techniques were superior to other techniques. We were also troubled that FBI and DOJ officials would suggest this proposal without knowing what interrogation techniques the proposal entailed.



## **VI. The FBI's Response to the Disclosure of Detainee Mistreatment at Abu Ghraib**

In January 2004, senior managers in the FBI learned about allegations of prisoner mistreatment at Abu Ghraib prison in Iraq. Managers in the FBI's Counterterrorism Division agreed with the recommendation of the FBI's On-Scene Commander that the military should conduct the investigation into the alleged abuses at Abu Ghraib without the assistance of the FBI, because the matter was outside of the FBI's mission and the FBI's participation might harm its relationship with the military.

However, as described below, public disclosure of explicit photographs and accounts of detainee mistreatment at the Abu Ghraib prison in late April 2004 triggered a significant effort within the FBI to assess the adequacy of its own policies regarding detainee treatment in the military zones and to determine what, if anything, its agents knew about detainee mistreatment at Abu Ghraib, GTMO, and Afghanistan.

### **A. The FBI's May 2004 Detainee Policy**

Following the Abu Ghraib disclosures, the FBI quickly determined that although existing FBI policies prohibited FBI agents from utilizing coercive interview techniques, no policy had ever been issued to address the question of what FBI agents should do if they saw non-FBI interrogators using coercive or abusive techniques. On May 19, 2004, the FBI General Counsel issued an official FBI policy regarding "Treatment of Prisoners and Detainees."<sup>7</sup> This policy included the following instructions for FBI agents in dealing with detainees:

- Agents were reminded that existing FBI policy prohibited agents from obtaining statements during interrogations by the use of force, threats, physical abuse, threats of such abuse, or severe physical conditions.
- Agents were told that FBI personnel may not participate in any treatment or use any interrogation technique that is in violation of these guidelines, regardless of whether the co-interrogator is in compliance with his or her own guidelines. If a co-interrogator is complying with the rules of his or her agency, but is not in compliance with FBI rules, FBI personnel may not participate in the interrogation and must remove themselves from the situation.

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<sup>7</sup> We refer to the policy as the "FBI's May 2004 Detainee Policy."