

CaseMap Facts Report

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Case: FBI in Military Zones
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Date & Time	Fact Text	Source(s)
To Be Determined	David Nahmias states that when he got to Department of Justice in late 2001 (he started part time in Nov 2001 and full time on Jan 1), Alice Fisher was the Deputy Assistant Attorney General (DAAG). David Nahmias came is a Counsel to Michael Chertoff, the Assistant Attorney General (AAG) for the Criminal Division. When Alice Fisher left, Christopher Wray became AAG, David Nahmias became the DAAG (on Aug 1, 2003) and (b)(6) (b)(7)(C) came over to be Counsel to the AAG. David Nahmias states that once (b)(6) (b)(7)(C) come over, (b)(6) (b)(7)(C) handled a fair amount of in detainee issues. When David Nahmias left, Bianco took over as DAAG. (U)	David Nahmias Interview 1
To Be Determined	David Nahmias stated that as Counsel to the AAG for the Criminal Division, he supervised and coordinated terrorism investigations - all international terrorism. When he became the DAAG, he oversaw the CT Section. David Nahmias stated that until he became the DAAG, he didn't have formal oversight responsibilities. He worked with Alice Fisher and Chertoff. His role was largely information sharing. He was a "human information sharer." He collected info from Federal Bureau of Investigation and US Attorneys office and shared it between them and the Department of Defense, Central Intelligence Agency and White House. (U)	David Nahmias Interview 1
To Be Determined	David Nahmias stated that "in the post 9/11 era, the first goal at the top of the list was prevention and coordination and information sharing, and then way down the list was prosecution." He added, "The goal, as we often said, was to collect and share as much information a possible and then evaluate all of the executives tools for responding to whatever the threat was - one of which was criminal prosecution, but there were other tools as well." David Nahmias stated that this was a dramatic shift for all prosecutors from the pre-9/11 era. (U)	David Nahmias Interview 1
To Be Determined	David Nahmias stated that when he arrived at Department of Justice, there was a weekly detainee video conference that was chaired by White House Counsel John Bellinger (Policy Coordinating	David Nahmias

	<p>Committee meetings for detainees - Policy Coordinating Committee). It included, Central Intelligence Agency, Department of Defense -- General Counsels Office who would sometimes bring others from the Joint Chiefs, etc.; Department of Justice (Bruce Swartz was official POC though Alice Fisher and David Nahmias and Col. Mcatamy - Counsel for National Security Affairs went also); Federal Bureau of Investigation [redacted] from General Counsels Office) as the core agencies. (b)(5)</p>	<p>Interview 1</p>
<p>To Be Determined</p>	<p>David Nahmias stated that the transfer review board was a piece of the Policy Coordinating Committee. Under the pressure of the Supreme Court cases, it got formalized into the Administrative Review Board and Combatant Status Review Board. (U)</p>	<p>David Nahmias. Interview 1</p>
<p>To Be Determined</p>	<p>Separate from the Policy Coordinating Committee meetings, there was a group of individuals who looked at those being held as enemy combatants, or potential enemy combatants, to evaluate all of the options. This was a separate group that Alice Alice Fisher, David Nahmias, Pat Philbin (Office of Legal Counsel and later DAGs office) and later (b)(6) (b)(7)(E) had with Central Intelligence Agency and Department of Defense General Counsel. This was an informal working group, formed after the Jose Padilla case, to make sure we were meeting regularly and coordinating and flagging issues. David Nahmias stated that ParakeyL was, at the beginning, Bruce Swartz counsel and would sometime attend. Laura Parsky is now "back" at the Department. The role of Department of Justice was to share information about people domestically who in theory could be enemy combatants, and to attend the meetings with Federal Bureau of Investigation, Department of Defense and Central</p>	<p>David Nahmias Interview 1</p>

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	Intelligence Agency to see who they had being held as enemy combatants who potentially might be prosecuted. David Nahmias stated that Central Intelligence Agency would consider intelligence issues with those people and Department of Defense would consider military aspects. (U)	
To Be Determined	David Nahmias stated that "our" interaction was primarily with the MLDU which [redacted] headed. MLDU was overseeing Federal Bureau of Investigation agents at U.S. Naval Base Guantanamo Bay, Cuba and Baghran. At the beginning, there were rotating people on short TDYs. David Nahmias was the primary liaison to the MLDU and later (b)(6) (b)(7)(C) David Nahmias stated he has personal no knowledge of any Federal Bureau of Investigation agents complaining about Abu Ghraib Prison. Iraq was a separate issue. (U)	David Nahmias Interview 1
To Be Determined	21:35 -- With respect to how people were being treated at U.S. Naval Base Guantanamo Bay, Cuba, "it was the view of the Federal Bureau of Investigation at lots of different levels, which was shared strongly by those of us in the Criminal Division and, I think, in the Department generally, that the FBI's approach to detainees, similar to their approach to lots of other people, that had been very successful with terrorism subjects in criminal cases, is to establish a rapport, treat the people with respect and try to make them into long term strategic sources of information in the way we flip bad guys all the time. And that the Department of Defense general approach which came from, as I understood it, their military police training or their military intelligence training which is to develop tactical information and involves a lot of things like yelling at people, as I always expressed it, might be an effective technique to find out if a tank is about to come over a hill and shoot you but doesn't work in the long run. And there was as I remember from the very beginning, in the first part of 2002, an ongoing dispute between Federal Bureau of Investigation and Department of Defense about how best to gather intelligence. [redacted] generally took the Federal Bureau of Investigation, or favored the Federal Bureau of Investigation over Department of Defense in that. And everyone thought DOD's approach didn't work and didn't make any sense. That was coupled with the problem that the Department of Defense people tended to be not particularly well trained, new people who hadn't done a lot of interrogations who frankly didn't know much of anything about Al-Qaeda." David Nahmias further stated that "they didn't know what questions to ask or how to develop a long term relationship." David Nahmias stated that, "That was an ongoing fight. Department of Defense always won the fight because they controlled the locations and they had ultimate control, which we acknowledged, of the people." 23:46 David Nahmias stated that although he never had specifics, he understood that, generally, Department of Defense had an approach of	David Nahmias Interview 1

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	"yelling" at people and telling them they "better" talk to us (an approach which he did not understand to include "physical violence or anything like that"). David Nahmias stated that the Federal Bureau of Investigation approach was to "go in and talk to them about being a good muslim" and ask them to explain why they do this, and convince them that their "brothers" had given up information about them, and confront them with facts. David Nahmias stated that the Federal Bureau of Investigation approach was a "very effective" approach, traditionally. David Nahmias stated that there was this "ongoing dispute." 24:46 (U)	
To Be Determined	David Nahmias stated that, initially, U.S. Naval Base Guantanamo Bay, Cuba was incredibly badly organized (though he also stated that the "flip side" of that was not nobody else could have built the place to hold a lot bad guys quickly). David Nahmias stated that people were held in "mixed groups." The people who cooperated, that became known because "everyone could see them go into the interrogation places and they would be there for a long time, and they would get insulted and there no where else to put them." As a result, "people who had been cooperating before they got to U.S. Naval Base Guantanamo Bay, Cuba stopped cooperating." Logistically, David Nahmias stated it was a "nightmare." 25:26 (U)	David Nahmias Interview 1
To Be Determined	David Nahmias stated that he went to U.S. Naval Base Guantanamo Bay, Cuba with [redacted] in the fall of 2002 for two nights and almost three days. This trip was during this period of disorganization. There were behavioral science guys and agents down there at the time whom they spoke to. Criminal Investigative Task Force people were also there on the military side, which was largely investigator types who come from traditional military law enforcement or reservists in law enforcement. They had the same view as the Federal Bureau of Investigation about how to develop relationships, so they were on that side of it. David Nahmias stated that the military intelligence people had a different view. 26:58 David Nahmias stated that when he was there, #63 was being held in isolation and they were getting no information whatsoever about him, and there was a "heated debate" about what to do with him. David Nahmias stated that 63 is a "very bad guy" who was directly involved in 9/11, he would have been a hijacker had he not been turned around when he tried to enter the U.S. He was later captured. 27:34 David Nahmias stated that there was a lot of debate about what to do with 63. The Federal Bureau of Investigation wanted to talk to him, but Department of Defense said, "no, well do it." David Nahmias stated that Department of Defense was using "aggressive" techniques. David Nahmias stated that he was not familiar with all the techniques Department of Defense was using. He understood that they had him in isolation and they would yell	David Nahmias Interview 1

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To Be Determined	<p>at him and tell him he had to cooperate and tell us everything. 28:03 (U)</p> <p>David Nahmias stated that at some point "later in the game" (he was not sure if it was before or after his trip to U.S. Naval Base Guantanamo Bay, Cuba with [redacted] he saw interrogation plans for 63 [redacted] David Nahmias stated that these plans were discussed at some meetings with the Federal Bureau of Investigation and military at U.S. Naval Base Guantanamo Bay, Cuba and in Washington, at the Pentagon, with people from the various organizations. They would go over their plan and "it was our general view that it was not going to work." David Nahmias stated that he did not recall there being a "specific concerns" about this being illegal. David Nahmias stated that he does recall concerns about "this is not the way we would treat people." David Nahmias stated that was "not that it is necessarily illegal - you can yell at a guy who is sitting in an interrogation room - just that it was very unlikely to be effective." They had a graduated plan that got more "severe," but you would only "get there" if everything else failed, and I don't think they ever "got there," as far as David Nahmias recalls. It was "typical Department of Defense stuff that never got anywhere." 29:51 Ultimately, at some point prior to David Nahmias trip to U.S. Naval Base Guantanamo Bay, Cuba, Department of Defense claimed to have "broken" 63 and got him to cooperate. David Nahmias stated that they were trying to "sort out" what he had "actually said." David Nahmias stated that "we were told that he had blurted out the name that that he know Mohammed Atta." David Nahmias stated that the behavioral science people there said that he had basically been interrogated for hours and hours and blurted it out. The Department of Defense said they made a breakthrough. The behavioral science reaction was just that he was giving them what they wanted so that they would let him do whatever - eat, or go to the bathroom, or just stop. 30:40 (U)</p>	David Nahmias Interview 1
To Be Determined.	<p>David Nahmias stated that he made another trip to U.S. Naval Base Guantanamo Bay, Cuba later with the Policy Coordinating Committee when General General Geoffrey D. Miller had taken over. David Nahmias stated that U.S. Naval Base Guantanamo Bay, Cuba was much more logically organized with different camps for people at different stages of cooperation. You got some rewards for being well behaved or cooperative. If you did "bad stuff" you were punished, not in a physical sense, but you didn't more-up. (b)(5)</p> <p>(b)(5)</p>	David Nahmias Interview 1

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To Be Determined	David Nahmias stated that there were "two separate issues." One issue was the "general philosophy" (putting aside whether people were being "mistreated"). We would "waigh in on the FBI's behalf" not usually in the big Policy Coordinating Committee meetings, but on the "margins" of those, or in talking to Dellinger [Bellinger?]/or in talking to Central Intelligence Agency OGC, or Department of Defense OGC people. David Nahmias stated that "It was our understanding that there was an ongoing debate about that at the senior levels of the Federal Bureau of Investigation with senior people at Department of Defense." David Nahmias stated that it may have been Defense Intelligence Agency people on the Department of Defense side, and on the Federal Bureau of Investigation side it was John S. Pistole. 34:06 (U)	David Nahmias Interview 1
To Be Determined	During the summer of 2003, [redacted] raised issues. Then there was a set of concerns about mistreatment which David Nahmias recalls coming up in the summer of 2003. David Nahmias stated that [redacted] was concerned about what he called "anecdotal" stuff they were hearing, which included Defense Intelligence Agency women either rubbing themselves against or flashing their breasts. There was a story about dropping the Koran on the floor. They were concerned about it because it was "stupid" it wouldn't work and was demeaning to people. David Nahmias stated that we shared that information with John Bellinger - not in writing. We went over to brief him. Someone from the DAGs office went with David Nahmias, maybe Stuart Levey. John Bellinger was concerned generally about the . We were getting "huge heat" from the international community. Everyone agreed that these were dangerous people and we needed to have a place to hold them. The theory was they had a lot of intelligence, and we weren't seeing much of anything. These examples were part of the FBI's frustration. David Nahmias stated that he cant recall what examples we gave to John Bellinger. We were careful to say we haven't investigated them. I never heard about "physical mistreatment, striking or pushing or anything like that." John Bellinger had the same reaction we did - I hope that stuff didn't happen. He is in the General Counsels office. His role was not to set interrogation policy. David Nahmias stated that he did not know if John Bellinger followed up on it. David Nahmias stated that he did not hear from the Federal Bureau of Investigation whether there was any change as a result of the meeting with John Bellinger. David Nahmias stated that he did not hear more about these kinds of concerns until the FOIA stuff came out and it got in the press.	David Nahmias Interview 1

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To Be Determined	David Nahmias stated that it was clear we would never get any of this evidence admitted in an article III court, both because a decision was made that they wouldn't be Mirandized, and they had been held for weeks. That was not the purpose. We weren't looking at them for criminal prosecution. (b)(5)	David Nahmias Interview 1
To Be Determined	(b)(5) On 63, they were unhappy enough that they didn't want to be associated with it. David Nahmias stated that a big part of the dispute was "who would take the lead." Is Defense Intelligence Agency going to go in and yell and people and basically "ruin" them and then have Federal Bureau of Investigation come in and try to develop a relationship. 63 was a case in point on the Department of Justice side about his potential value as a witness in the Zacarias Moussaoui prosecution. The Federal Bureau of Investigation wanted to be in the lead. When Defense Intelligence Agency realized who he was, they wanted the lead.	David Nahmias Interview 1
To Be Determined	Almost all the time, the decision as to who would be lead was done on the ground at U.S. Naval Base Guantanamo Bay, Cuba. There were a few times when we would go to Department of Defense	David Nahmias

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	<p>General Counsel. They talked to their people. AAG Criminal Division call GC at Department of Defense. Then go up to DAG and then ultimately AG. In the case of 63, there were discussions at "higher levels" about who should be in the lead in trying to elicit intelligence (not from an abuse standpoint). (b)(5)</p> <p>(b)(5)</p>	Interview 1
To Be Determined	<p>55:47 There were all kinds of discussions in terms of the operations of U.S. Naval Base Guantanamo Bay, Cuba and how that affected our litigation position in habeas corpus and Supreme Court cases, or how that affected intelligence gathering. The abuse stuff was not the focus until after Abu Ghraib Prison.</p>	David Nahmias Interview 1
To Be Determined	<p>Paul Zimmerman asked was there a request from the Federal Bureau of Investigation for guidance on how should agents proceed? David Nahmias stated that he does not remember that being done in a formal way. David Nahmias noted that the Federal Bureau of Investigation doesn't report to the Criminal Division. There could have been discussions in the DAGs office. David Nahmias dimly recalls that Federal Bureau of Investigation was doing that. "I'm sure our reaction was, that's fine with us because we don't like what they're doing, we don't think its effective, and so we don't see why you would need to be involved." After the Abu Ghraib Prison stuff came in, David Nahmias stated that he heard that the Director indicated to agents that they should have nothing to do with anything other than typical law enforcement techniques (other than not giving Miranda).</p>	David Nahmias Interview 1
To Be Determined	<p>(b)(5)</p>	David Nahmias Interview 1
To Be Determined	<p>Did concerns about 63 lead to Federal Bureau of Investigation being cordoned off? David Nahmias stated that there was tension about it. David Nahmias does not think they were kept away from anyone in any official sense. In practice, it may have happened. David Nahmias does not have a recollection of that.</p>	David Nahmias Interview 1
To Be Determined	<p>David Nahmias stated that, with respect to 63, word got up to __ through Department of Defense channels that Department of Defense said stop - they would investigate. There was a big debate</p>	David Nahmias

	about how to approach. "Strange way to run a railroad." David Nahmias said this was very "hush, hush" about what had been done that was not supposed to have been done. David Nahmias did not get any other details beyond that	Interview 1
To Be Determined	David Nahmias stated that there were no allegations of deaths at U.S. Naval Base Guantanamo Bay, Cuba. There were some suicide attempts and some discussions of those. There were some allegations of deaths elsewhere. FBI's role was to gather intelligence to protect against domestic terrorist threats. They were "forward deployed" to gather information. These were not people in Federal Bureau of Investigation custody or control. Federal Bureau of Investigation was basically there because they were allowed to be. David Nahmias stated that he did not know the details of how the Federal Bureau of Investigation began its participation of U.S. Naval Base Guantanamo Bay, Cuba. David Nahmias stated that it was normal for Federal Bureau of Investigation to be involved, as they had been in AFG, etc. [redacted] unit, or whoever preceded him, would have set up something. Criminal Division role was to share information and evaluate whether there could U.S. Criminal Prosecution would be an option to neutralize the threat. 1:08:10.	David Nahmias Interview 1
To Be Determined	(b)(5)	David Nahmias Interview 1

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