

The following text may be printed, copy/pasted, or downloaded and emailed.

## **C.I.A. Is Seen as Seeking New Role on Detainees**

DOUGLAS JEHL  
New York Times  
February 16, 2005

WASHINGTON - The Central Intelligence Agency is seeking to scale back its role as interrogator and custodian of terrorist leaders who are being held without charges in secret sites around the world, current and former intelligence officials said.

The internal discussions, they said, reflect the agency's growing discomfort with what is increasingly seen as an untenable position. The C.I.A.'s current leadership is concerned, the officials said, that the legal authority for interrogations and detentions is eroding, and that there is no clear plan for how the agency can extricate itself from what could be a lengthy task of holding and caring for a small population of aging terrorists whose intelligence value is steadily evaporating and who are unlikely ever to be released or brought to trial.

The C.I.A. assumed the mission of detaining the leaders in the months after the Sept. 11 attacks. But the officials said the effort required to indefinitely maintain what amounts to a secret prison system overseas is increasingly regarded within the agency as conflicting with its core mission of collecting and analyzing intelligence.

As it rethinks its role, the C.I.A. is facing renewed scrutiny in Congress and in the courts over practices like detentions without trial, harsh interrogations and the handing over of captives to third countries where they might be abused.

The C.I.A. never expected to play a long-term role in the detention and interrogation of terror suspects, the officials said. At the same time, they added, the Bush administration's repudiation of an August 2002 legal opinion regarding the use of torture, sought by the C.I.A. to protect its employees from liability, is seen within the agency as undercutting its authority to use coercive methods in interrogations.

C.I.A. lawyers, who have said nothing in public about the decision in June 2004 to invalidate the opinion, were furious about the decision, former Justice Department officials said. From the start, senior C.I.A. officials had agreed to play a part in detention and interrogation as part of an immediate sense after the Sept. 11 attacks that all agencies must adopt a new approach to counterterrorism. But current and former intelligence officials say there was concern that the C.I.A. might be left to bear sole responsibility and the brunt of criticism for the use of harsh techniques.

That concern was recently heightened when high-level administration officials seemed in public testimony to sidestep responsibility for shaping interrogation policies. The officials included Alberto R. Gonzales, the attorney general, and Michael Chertoff, the new homeland security secretary. Both suggested in their confirmation hearings that others might have played a greater role in deciding how interrogations would be conducted.

Porter J. Goss, the new intelligence chief, is scheduled to make his first public appearance in that role on Wednesday, in testimony before the Senate Intelligence Committee. Congressional officials have said that the panel would conduct a review this year of the C.I.A.'s role in the detention and interrogation of the terrorist leaders, but the facts surrounding their detention remain among the government's most closely guarded secrets, and it is not clear whether senators will question Mr. Goss about the issue in a public forum.

The estimated three dozen people being held by the C.I.A. include Abu Zubaydah, the personnel coordinator for Al Qaeda, and Khalid Sheikh Mohammed, the chief operational planner of the Sept. 11 plot. Under Bush administration directives, they are being detained indefinitely as unlawful combatants, without trial, and without access to lawyers or human rights groups.

Among the options being discussed within the government is the possibility of enlisting another agency, most likely the Federal Bureau of Investigation, to assume a role in their interrogation. Bureau officials said they knew of no such discussions and would oppose any move to involve the F.B.I.

Other possibilities include more active efforts to hand over some of the detainees to third countries. Neither the C.I.A. nor the F.B.I. would comment for this article, and the current and former intelligence officials who agreed to discuss the issue would speak only on condition of anonymity. None would say where the detainees were being held, or describe the interrogation methods used on them.

But all of the officials described deep frustration within the C.I.A. about its role as custodian of the detainees. While some of those in American detention, particularly Mr. Zubaydah, are said to have provided useful intelligence during their first months in captivity, no more than a handful of those still in C.I.A. custody are seen as possessing much intelligence value.

"No one has a plan for what to do with these guys," a former senior intelligence official said, "and the C.I.A. has been left holding the bag."

Any change would be a significant one for the C.I.A. The agency's authorization to use coercive interrogation methods has been spelled out in a series of documents, most still highly classified, the former officials said, including a narrow definition of torture in a Justice Department legal opinion issued in August 2002.

But some former intelligence officials said the C.I.A.'s latitude in conducting interrogations had been reduced significantly and might have been scaled back by the agency itself in response to the White House's repudiation last summer of the 2002 opinion and its decision in December to issue an opinion that broadened the definition of torture, putting a wider range of interrogation methods off limits.

Abuses at the Abu Ghraib prison in Iraq have focused Congressional and public scrutiny on the possibility that the agency engaged in excessive force in interrogations.

It has long been known that F.B.I. agents and behavioral science experts took part in interrogations of detainees at Guantánamo Bay, Cuba. F.B.I. agents have also taken part in interviews of high-level detainees in Iraq and spent months questioning Saddam Hussein at an undisclosed site near Baghdad.

But until now, the F.B.I. has been unwilling to assign agents to routinely interview high-value detainees in C.I.A. custody. After the Sept. 11 attacks, senior F.B.I. officials urged the bureau's director, Robert S. Mueller III, to keep agents out of those high-level interviews out of concern that it would damage the bureau's reputation and compromise agents as potential witnesses in future criminal cases if it became known that they had engaged in interviews in which highly coercive techniques were used.

Since then, Mr. Mueller has assigned agents to work with the military and the C.I.A. in places like Afghanistan and Iraq, current and former associates said.

At Guantánamo, where hundreds of captives from the war in Afghanistan are held by the military, the F.B.I. has complained about excessive force being used against some detainees. Those

complaints have been disclosed in recent weeks in internal bureau documents obtained by the American Civil Liberties Union, which obtained them in a Freedom of Information Act request.

The C.I.A.'s agreement to hold and question high-level Qaeda figures rather than turn them over to other governments or agencies, was a departure from the agency's past practices. But legal opinions and other documents disclosed recently show that the agency struggled to protect its employees by repeatedly asking the Justice Department how far they could go without violating the federal law prohibiting the use of extreme force on anyone under custody.

Justice Department lawyers addressed the issue in the August 2002 legal memorandum, which defined torture as "equivalent in intensity to the pain accompanying serious physical injury such as organ failure, impairment of bodily function or even death."

A companion memorandum, which remains classified, outlined specific methods that the agency could use.