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Interrogation Tactics Were Challenged at White House

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Five years ago, as troubling reports emerged about the treatment of detainees at [Guantanamo Bay, Cuba](#), a career lawyer at the [Justice Department](#) began a long and relatively lonely campaign to alert top Bush administration officials to a strategy he considered "wrongheaded."

Bruce C. Swartz, a criminal division deputy in charge of international issues, repeatedly questioned the effectiveness of harsh interrogation tactics at [White House](#) meetings of a special group formed to decide detainee matters, with representatives present from [the Pentagon](#), the [State Department](#) and the CIA.

Swartz warned that the abuse of Guantanamo inmates would do "grave damage" to the country's reputation and to its law enforcement record, according to an investigative audit released earlier this week by the Justice Department's inspector general. Swartz was joined by a handful of other top Justice and [FBI](#) officials who said the abuse would almost certainly taint any legal proceedings against the detainees.

Now their predictions appear to be coming true. A top Pentagon official chose this month to drop charges against a detainee who was roughly interrogated at Guantanamo, and U.S. officials believe it may be difficult to charge him at all. Defense lawyers for a group of alleged Sept. 11 conspirators in U.S. custody have said they plan to raise concerns about harsh techniques used by the [CIA](#) and will seek to keep evidence derived from such tactics out of court.

Concerns among FBI agents about the interrogations first came to light in 2004, when a series of internal memos disclosed to the [American Civil Liberties Union](#) made clear that the bureau withdrew its agents from interrogation rooms in protest. But the degree of dissent over the administration's aggressive tactics within the bureau's top ranks and within the Justice Department was unclear until the release of this week's report, which starkly describes some of these protests and the cool reception the dissenters got among some officials at the White House and elsewhere.

Besides Swartz, the others depicted as raising sustained objections are then-FBI assistant general counsel Marion "Spike" Bowman, who documented his concerns in written reports, and Pasquale D'Amuro, then the bureau's assistant director for counterterrorism. [Michael Chertoff](#), who was then assistant attorney general in charge of the criminal division, raised concerns in November 2002 about the effectiveness of the military's methods, although he said later he did not recall hearing assertions that they were illegal.

One of Chertoff's concerns, according to the report, was that even if FBI agents interviewed detainees after they were harshly interrogated by the CIA, "he did not think this approach would successfully prevent the statement from being 'tainted' by any prior enhanced interview techniques."

At one point, FBI agents went so far as to collect allegations of abuse in what they labeled a "war crimes file," the inspector general's report said, but the file was closed without action shortly afterward.

Two major policy splits are highlighted in the report's account of the long to-and-fro over the tactics. One reflected a clash of cultures between the experienced interrogators at the FBI who were looking to prosecute terrorism crimes, and military and CIA officials who were seeking rapid information about [al-Qaeda](#) and were willing to push legal boundaries to do it. The report shows that FBI agents appeared more concerned about the long view, while others wanted detainees to break immediately in the panicked days after Sept. 11, 2001.

A softer split occurred within the Justice Department itself. On one side was its Office of Legal Counsel, where attorney [John C. Yoo](#) -- acting in direct consultation with [Vice President Cheney](#)'s then-counsel [David S. Addington](#) -- wrote a series of memos that gave legal backing to harsh interrogation techniques. On the other side were career officials such as Swartz and some top Justice political appointees, even including [then-Attorney General John D. Ashcroft](#), who sources say disliked some of Yoo's conclusions and resented his back-channel discussions with the White House.

Officials at the Justice Department and the FBI declined comment on the report or did not return calls yesterday, underscoring the sensitivity of these debates, even five years after they occurred. But the 370-page report says that after Ashcroft and [FBI Director Robert S. Mueller III](#) pressed their concerns, the interrogation tactics did not change.

"Attorney General Ashcroft raised concerns about the difference between FBI interrogation techniques and the [Department of Defense](#) methods

at the highest levels of the interagency group," spokesman Mark Corallo said. "It is well-known that the Department of Justice was confident that the FBI methods would produce more valuable intelligence."

The government's response to the first and most serious flare-up -- in which an FBI agent complained in 2002 that the CIA's treatment of al-Qaeda commander [Abu Zubaida](#) at a secret detention site was "borderline torture" -- was complicated, the report said.

One agent at the site, called "Thomas" in the report, objected strongly to the tactics and was ordered by D'Amuro to depart immediately. But another, called "Gibson" in the report, told investigators that he did not morally object to having FBI agents present, because he had undergone similarly harsh interrogation techniques as part of Army training.

"Gibson" was allowed by the FBI to remain at the CIA facility for several weeks, continuing to work with intelligence operatives, and to take part in the interrogations of Zubaida, about which he briefed FBI supervisors by telephone.

D'Amuro told the investigators that he protested the tactics at a meeting with Mueller at the time, an account confirmed by his colleagues. D'Amuro stated that such aggressive interrogation techniques would not be effective, that they would impede the ability of FBI agents to appear as witnesses at trials, and that the tactics would blacken the country's reputation by helping al-Qaeda spread negative views.

D'Amuro recognized that the bureau would have a "taint problem" if the FBI did the interviews after the CIA had used its aggressive approaches, the report said. Mueller subsequently decided that the FBI agents would not go back to the sessions.

Staff writer Spencer S. Hsu and staff researcher Julie Tate contributed to this report.

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