

‘The CIA has the right to break any law’

Does the US intelligence service have the right to kidnap suspected terrorists? Michael Scheuer, one of the main agents responsible, gives some answers for the first time

DIE ZEIT: While at the CIA, you helped to develop the system of ‘rendition’, where suspected terrorists were apprehended outside the US and turned over to third countries. Did the CIA view these ‘extraordinary renditions’ as a success?

Michael Scheuer: Absolutely. For a decade this was the United States’ most successful counter-terrorism programme.

ZEIT: Why?

Scheuer: Because its objectives were so clearly defined. The first was to identify and imprison members and contacts of the terrorist organisation Al Qaeda – those either involved in an attack on the United States or its allies or under suspicion of planning one. The second was to confiscate papers and electronic media. There have been allegations in the press that we apprehended people on the grounds of any old suspicion and abducted them for interrogation, but it was not like that.

ZEIT: You were not intending to interrogate them?

Scheuer: If it was possible to interrogate them, we considered that the icing on the cake. We only wanted the man and his documents.

ZEIT: Why?

Scheuer: We had learned from experience that aggressive questioning bordering on torture is ineffective. People just tell the interrogator whatever he wants to hear. They either lied or gave us accurate but outdated information.

ZEIT: Who invented the extraordinary renditions system?

Scheuer: In the autumn of 1995 President Clinton, his security adviser Sandy Berger and his counter-terrorism adviser Richard Clarke instructed the CIA to destroy Al Qaeda. We asked the President what we should do with the detainees. He replied that it was up to us. We at the CIA objected that we were not jailers, but again we were told that we should find a way to solve the problem. So we developed a procedure, and I was a member of the task force. We concentrated on those members of Al Qaeda who were wanted by the police in their home countries or who had already been convicted *in absentia*.

ZEIT: How did you decide who to apprehend?

Scheuer: We had to present a group of lawyers with an enormous amount of incriminating evidence.

ZEIT: Lawyers? In the intelligence service?

Scheuer: Yes, there were lawyers everywhere – at the CIA, in the Department of Justice, in the National Security Council. Under their supervision, we developed a list of targets. We then had to catch the person, and we had to do it in a country that was prepared to cooperate with us. Finally, the person also had to come from a country that was prepared to take him back. It was a terribly painstaking process for a very limited group of targets.

ZEIT: Why did countries want to cooperate with you on their own territory? Surely they could have dealt with it themselves?

Scheuer: They believed that only America was under threat, and that they themselves would become targets of terrorism only if they started arresting suspects. If we hadn't got the ball rolling, no one else would have.

ZEIT: Your partner countries wanted the CIA to do their work for them?

Scheuer: Yes, but they had no interest in holding these people in their own countries. Of course, the CIA itself did not arrest or imprison anyone.

ZEIT: I beg your pardon?

Scheuer: It was the local police or local intelligence service that did that – but we were always in the background. The US Government is full of cowards – it does not allow the CIA to work independently at all.

ZEIT: Were the interrogations held in the target countries?

Scheuer: Our questions were always submitted in writing.

ZEIT: So the CIA was never present at interrogations?

Scheuer: I have never heard of that happening. Our lawyers forbade it.

ZEIT: Didn't you have any concerns about torture in these countries?

Scheuer: No, my job was to protect American citizens by taking Al Qaeda people off the streets. It is up to the Executive Branch of the US Government to decide whether it considers that hypocritical or not. This operation was 90% resounding success and only 10% disaster.

ZEIT: In what way was it a disaster?

Scheuer: Everything was made public. The Europeans will be much less inclined to help us now, for fear that the details will end up in the *Washington Post*. Then we have Senator John McCain – full of hot air – practically admitting that the CIA practises torture, which is completely untrue, but that is how to ruin the whole programme.

ZEIT: Why did you transfer people to their home countries instead of to the US? Wouldn't you have held them more securely under lock and key there?

Scheuer: The crimes concerned always involved violence. We were confident that these countries would not release anyone, and the reason we did not bring them to the United States was that President Clinton did not want us to.

ZEIT: Why not?

Scheuer: The US administration preferred to treat them as criminals rather than as prisoners of war. It also feared that we would not be able to gather enough evidence to stand up in our courts.

ZEIT: Is that so difficult?

Scheuer: To secure a conviction in the US, the suspect must be advised of his rights by an American judicial officer at the time of his arrest, which is impossible abroad. Secondly, the investigators must certify before the court that none of the confiscated documents has been altered. If no one can swear to this, the court automatically assumes that they have been tampered with, and this makes it virtually impossible to obtain a verdict.

ZEIT: On the other hand, how is it possible to have insufficient evidence to stand up in court but still be sufficiently convinced to apprehend a person abroad? Doesn't that very fact make the operation unlawful and illegitimate?

Scheuer: No, because there was already a warrant out for the arrest of most of these people in their home countries. We may not like the Egyptian or Jordanian legal systems, but they are legal systems all the same. We simply helped return people to their home countries to face punishment for crimes committed abroad.

ZEIT: So the CIA saw itself as a global police force?

Scheuer: No, we are a US governmental authority whose job is to protect Americans. We would have preferred to bring these people to the US as prisoners of war – after all, Osama bin Laden had twice declared war on us, in 1996 and 1998 – but President Clinton simply did not want us to. Nor did President Bush. Both of them believed that treating Al Qaeda members as prisoners of war would somehow legitimise them – but that is nonsense. Bin Laden and his associates are heroes in the Islamic world, and nothing we do can give them greater legitimacy than they already have. Besides, it is simpler to let the Jordanians or Egyptians do the dirty work.

ZEIT: Didn't human rights matter to the Clinton administration?

Scheuer: The CIA raised this issue, because people are not treated the same way in Cairo as in Milwaukee. The Clinton administration asked us if we believed that the prisoners would be treated according to the local legal requirements, and we replied that we were fairly sure of it.

ZEIT: So the Clinton administration was not interested in knowing exactly what went on there?

Scheuer: Exactly. The CIA staff responsible were sure from the outset that we would end up taking the blame. As you yourself have noticed, there is not a word to be heard from Bill Clinton, Sandy Berger or Richard Clarke in this debate.

ZEIT: Which laws were broken?

Scheuer: I really do not know; no American laws, at least. Like any intelligence service, the CIA has the right to break any law provided it is not the law of its own country, and all our actions abroad have had the approval of the local authorities.

ZEIT: CIA counter-terrorism chief Cofer Black said 'after 9/11 the gloves came off'. What did that mean within the CIA?

Scheuer: There was much more pressure to succeed. We also started housing people in our own institutions – in Afghanistan, Iraq and Guantanamo. The Bush administration wanted the US to hold these people itself, but made the same mistake as the Clinton administration by not treating them as prisoners of war.

ZEIT: How many people did you catch?

Scheuer: I don't know exactly. Shortly after the September 2001 attacks, CIA Director George Tenet told Congress that it had been about 100 up until then. The operations that I personally led had brought in scarcely 40 people by then – 100 strikes me as a great overestimate.

ZEIT: And since then?

Scheuer: There are fewer and fewer countries still taking these people back – that is why most of them are in American hands – and of course the number has increased. We are now talking about hundreds – certainly not thousands.

ZEIT: One of your former colleagues is quoted as describing extraordinary renditions as an 'abomination'.

Scheuer: If defending America is an abomination, that critic would feel at home on the left of the Democratic Party. In my view it is more a case of lacking the courage to do one's own dirty work.

ZEIT: Internal critics claim that the programme went out of control after 2001.

Scheuer: Obtaining the lawyers' consent to carry out an operation remains a tortuous process. Europe should not underestimate how crippling the American administrative system can be.

ZEIT: How has the legal situation changed since 2001?

Scheuer: Well, we are no longer so hypocritical now that we are detaining people ourselves. All the same, the Bush administration deserves credit for having a little more courage and doing its own dirty work. I have also read in the newspapers about some 'enhanced interrogation techniques' – that sounds as though it is now possible to be a little rougher than before.

ZEIT: How do you explain the deaths in CIA custody?

Scheuer: I don't know anything about that – I have only read about it in the newspapers.

ZEIT: There are reports of serious abuse, even pictures...

Scheuer: My understanding of the new interrogation methods is that none of them should result in death. If there have been deaths, I would assume that there have been excesses – and, of course, that is not right.

ZEIT: Apparently, there have been hundreds of CIA flights across Europe. Why was that necessary?

Scheuer (laughs): This is all a bit surreal. The CIA operates throughout the world. We transport people, equipment and funds around the globe. If we want to take supplies to the CIA in Iraq, we need to fly over Europe to refuel. That does not mean that there is a 'bad guy' in all of these aeroplanes.

ZEIT: If I understand you correctly, you are amused by the outcry in Europe?

Scheuer: Yes, it's really very amusing.

ZEIT: Why do you need prisons in Eastern Europe?

Scheuer: I am not sure there really are any – I would be surprised.

ZEIT: I had hoped you would reveal their locations.

Scheuer (laughs): In the spirit of Franklin D. Roosevelt, I would say they are in Shangri-la. All I can say is: I cannot see why we would need such prisons – we have sufficient capacity elsewhere, particularly in Iraq and Cuba. I knew nothing about these prisons in Eastern Europe when I was in service. Not that that necessarily means anything – perhaps I just did not need to know. And if they did exist, I can only assume that our European allies believed they were supporting an operation that was as much for their protection as for ours.

ZEIT: How was the cooperation with your European allies, particularly Germany?

Scheuer: Before 2001 it was patchy, at best. I do not believe that Germany ranked among our best allies. Italy was always good, and Britain reasonable. Europe's main problem is a fundamental one: its immigration and asylum legislation has enabled the establishment of a hard core of terrorists who have been convicted elsewhere but are now citizens of European countries. Besides, no one can be deported to a country that has the death penalty.

ZEIT: So attitudes to the death penalty hindered cooperation?

Scheuer: Not just hindered – they were more like a roadblock. In principle, we did not work in Europe. As a result of agreements made during the Cold War, we do not carry out our own operations in Europe. The CIA is bound by these agreements to this day. We simply went where we were able to. There is no point in banging our heads against a brick wall.

ZEIT: Apart from the issue of the death penalty, why else was cooperation patchy?

Scheuer: As Churchill said in the late 1930s, the Europeans always hope the crocodile will eat them last. As long as the terrorists' target was the United States, many in Europe wondered why they should put themselves in danger along with America.

ZEIT: How did it work when you wanted information for one of your cases – let's say, from your German colleagues?

Scheuer: Sometimes there was simply no reply; sometimes only some of the questions were answered; sometimes we were told: we do not have much, but here is what little we do have. There was a good deal of wavering.

ZEIT: Have things changed following the 2001 attacks?

Scheuer: Yes, absolutely, although there is still this feeling in Europe, even after the attacks on New York, Madrid and London, that they should not become too involved – the feeling that supporting America would only put them in danger.

ZEIT: The invasion of Iraq drove many to support that view.

Scheuer: There is no doubt that the invasion of Iraq was the downfall of our whole counter-terrorism operation, and in the long term the war will undoubtedly mean a second generation of well-trained fighters, European Muslims and European converts, returning to Europe. The first generation came in the 1990s from the Balkans and Chechnya.

ZEIT: Then there is the case of Mohammed Haydar Zammar, the Syrian-born German citizen who had connections to the so-called 'Hamburg cell', which planned the attack on the World Trade Center. The German judicial authorities were unable to furnish any proof of a crime. The CIA apprehended him in Morocco and took him to Syria. How am I to interpret cooperation with Germany in a case like this?

Scheuer: I would be surprised if someone in the German intelligence services had not been informed, although maybe not until afterwards. Washington is very afraid of criticism from Europe. That may sound strange in view of the current president, but it is still true.

ZEIT: Couldn't it perhaps be the other way round – that the German intelligence services informed you where the man was going when he left Germany?

Scheuer: Nothing is impossible, but I have no reason to believe that is the case.

ZEIT: Wolfgang Schäuble, the new German Minister of the Interior, indicated that the questioning of Zammar in Syria had produced useful results. Is that true?

Scheuer: It is true of the extraordinary renditions programme as a whole. From my point of view, it is dishonest of the Europeans to criticise this operation so harshly, because all the information gathered from the interrogations and documents – everything that involved Spain, Italy, Germany, France or the UK – was passed on. Also, whenever we asked their intelligence services, they replied that they found the information they received from the CIA's extraordinary renditions programme helpful.

ZEIT: So the Germans benefited from your methods?

Scheuer: Of course.

ZEIT: In the German Parliament, the Minister of the Interior spoke of three cases where German officials visited the German citizens in prisons abroad. Would it be an exaggeration to say that the CIA was doing Germany's dirty work?

Scheuer: As I say, much of the criticism strikes me as hypocritical.

ZEIT: Can you guarantee that no mistakes have been made and the wrong people apprehended?

Scheuer: I am sure that mistakes have been made. Clausewitz spoke about the 'fog of war' – well, we are in the midst of that now. If a mistake has been made, compensation should be paid.

ZEIT: One of these cases would seem to concern a German citizen, Khaled El-Masri, who was apprehended in the Balkans, taken to Afghanistan and then, months later, returned to the Balkans and released.

Scheuer: That very instance symbolises the confusion of war. I am sure that he would not have been apprehended if there had not been suspicious information on him.

ZEIT: That instance seems rather to symbolise that it is better to entrust the police, public prosecutors and courts with such matters than the CIA.

Scheuer: That is true – if you wish to view Al Qaeda as a matter of criminal prosecution and wait until we have lost. We are in a war situation, and the sooner we stop treating these things as a matter of criminal prosecution and bring them under the rules of the Geneva Convention, the better it will be for America and Europe, including Germany. If these people are prisoners of war, there is no recourse to legal action.

ZEIT: Mr El-Masri says that he was tortured. He was held in a CIA prison in Afghanistan.

Scheuer: If he was in a CIA prison, he was not tortured – it is as simple as that.

ZEIT: He claims that he was.

Scheuer: That does not surprise me. Maybe he wants money. Everyone wants money.

ZEIT: Not only that, but he claims to have been interrogated by a German in Afghanistan. How is that possible?

Scheuer: I do not know if that is true. It is possible – our Government and intelligence services do try to help our NATO allies. If the Germans interrogated him, that suggests that they, too, believed they could learn something from him.

ZEIT: How many such cases involving European Muslims are there?

Scheuer: Not very many, because in most cases the Europeans do not cooperate, so we have tried to catch people when they are not on European soil.

ZEIT: Mr El-Masri was surprised that his American interrogators knew details of his daily life. This knowledge can only have come from the German intelligence services. Or has the CIA been spying in Germany?

Scheuer: I am sure that we were not the source of that information. If we had information on Mr El-Masri's activities in Germany, it would have originated from one of the German services. That, too, suggests that it was rather more than a rumour or conjecture that led to his arrest.

ZEIT: What does the future hold for extraordinary renditions?

Scheuer: The programme is probably dead – because of the leaks, revelations and criticism. The effect on the intelligence officials who bear responsibility for it is sobering: none of those who ordered us to act as we did is now admitting to it.

Interview by Thomas Kleine-Brockhoff

Background:

Michael Scheuer left the CIA in November 2004 after 22 years of service. From 1995 to 1999 he was the head of the unit hunting Osama bin Laden. From 2000 he was one of the CIA's leading counter-terrorism officials. While he was still in service he criticised US counter-terrorism policy in his work 'Imperial Hubris'. The CIA now considers Michael Scheuer a disloyal detractor. He lives with his family in Virginia.

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