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FEDERAL BUREAU OF INVESTIGATION

#2785

Precedence: ROUTINE

Date: 08/24/2006

b2 ¹⁶

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From:

[Redacted]

Contact: SA [Redacted]

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Approved By:

[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

DATE: 05-31-2007
CLASSIFIED BY 65179/DMH/KSP/RM
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

(U) Case ID # (S) 278-HO-C1229736-VIO - 1624
b2 (S) 278 [Redacted] C45386-124

1073946

Tib6 : (u) SA [Redacted]
b7C SSA [Redacted]

INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) Synopsis: (S) To report possible IOB error.

(U) (S) ~~Derived From: G-3~~
~~Declassify On: X1~~

Details:

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[Redacted]

(U) b7E 3. Possible IOB Error:

(U) (S) The Attorney General's Guidelines Provision: Section II, C4.

(S) [Redacted]

(U) (S) b1
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b7E Description of IOB Error (including any reporting delays).

(c) b2 Extensions were inadvertently not submitted prior to
b7E vorkload expiration due to other priority investigations and general

[Redacted]

sc Miller Delm 2/5/07

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CRS [Redacted] b6
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NSL VIO-1421

downloaded 9/11/06 kas

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To: Inspection From: [redacted]
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 08/24/2006

~~(S)~~ ~~(U)~~ No investigation has been conducted on captioned subject

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since [redacted]
[redacted]
(S) [redacted]
[redacted]

(S) Captioned case was authorized in accordance with the Attorney General Guidelines [redacted]

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[redacted]

(S)

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[redacted]
[redacted] However, the case agent had not reviewed all of the financial and telephone documentation obtained via National Security Letters in order to close this investigation.

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(S) An extension [redacted] has been requested of FBIHQ [redacted]. The purpose of this extension is solely to review these financial and telephone records in order to exhaust all reasonable investigative efforts [redacted].
[redacted] If this review yields negative results, the investigation will be closed.

~~SECRET~~

b2 To: Inspection From:
b7E m... Re: ~~(S)~~ 278-HQ-C1229736-VIO, 08/24/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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NSL VIO-1423

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/05/2007

To: Inspection

Attn: Ms. [Redacted]
Internal Investigative
Section (IIS), Room 11865

Counterterrorism

Attn: AD

[Redacted]

Attn: SAC
CDC

DATE: 05-31-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 05-31-2032

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From: Office of the General Counsel
NSLB/CTLU II/LX-1 3S-118/
Contact: AGC [Redacted]

Approved By: Thomas Julie F. [Signature]

Drafted By: [Redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO Serial 2011 (Pending)

(U) Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD (IOB)
MATTER 2006 [Redacted]

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB). OGC will prepare and deliver the necessary correspondence to the IOB.

(U) ~~(S)~~ Derived From : G-3
Declassify On: 20320104

(U) References: ~~(S)~~ 278 [Redacted] C45386 Serial 125
278-HQ-C1229736-VIO Serial 1624

(U) Details: ~~(S)~~ By electronic communication (EC) dated 08/24/2006, the [Redacted] Field Office [Redacted] requested that OGC review the facts of the captioned matter and determine whether warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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OIG b7C REVIEW: [Redacted] DATE: 3/1/07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

NSL VIO-1424

To: Inspection From: General Counsel

(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/05/2007

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(S)

[Redacted]

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[Redacted] the case agent, SA [Redacted] wrote an EC in response to a directive from FBI Headquarters' Counterterrorism Division (CTD) [Redacted] SA [Redacted] states that, due to the demands of her case load, other priorities, and the responsibilities

(U) ~~(S)~~ A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section I.C of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG).

To: Inspection From: General Counsel
(U) - Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/05/2007

(S) inherent in working [redacted] she allowed the case to become inactive. [redacted] she spoke with the substantive unit at CTD and explained the situation. She stated that she received verbal concurrence from CTD that [redacted] would be approved once the paperwork was received at CTD. She was instructed to send CTD an EC [redacted]

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(S) (S) SA [redacted] states that, on or about [redacted] she submitted an EC to CTD to request approval [redacted] However, according to SA [redacted] the EC was lost or misplaced.

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(S) [redacted]

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(S) SA [redacted] submitted a second EC seeking an extension [redacted] The EC requested an extension [redacted] CTD apparently approved the extension [redacted]

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Upon being granted the extension, SA [redacted] sent out National Security Letters (NSLs) to request credit history and financial and telephone records for the subject.

(S) [redacted]

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However, the case agent had not reviewed all of the financial and telephone documentation obtained via NSL in order to close the investigation. SA [redacted] requested a final extension [redacted] The purpose of the extension request was solely to review the financial and [redacted]

² There is no EC in the file documenting CTD's concurrence to the extension. There is, however, evidence that the extension request was received by CTD and that the lead was cleared, indicating concurrence

~~SECRET~~

(U) To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/05/2007

(S) b1 telephone records in order to exhaust all [redacted]
b2 investigative efforts [redacted] If the
b7E [redacted] intends to close the
investigation. [redacted]

(S) (S) This matter was reported as a potential IOB
violation based on [redacted] failure to secure extensions [redacted]
b1 [redacted]
b2 [redacted]
b7E [redacted]

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

~~SECRET~~

To: Inspection From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/05/2007

(S)

[Redacted]

[Redacted]

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(S)

[Redacted]

[Redacted]

(S) In the instant matter, [Redacted] failed to take action to either seek an authorized extension [Redacted] until [Redacted] let the case sit in a dormant state to CTD. Therefore, from [Redacted] until [Redacted] a period of [Redacted] investigation [Redacted] maintained an unauthorized [Redacted]

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[Redacted] while this alone is reportable to the IOB, the [Redacted] period during which the investigation was not properly extended is more than de minimus in time. Accordingly, OGC has determined that [Redacted] has failed to follow the guidelines set forth in Section II.C.4 of the NSIG and an IOB violation has occurred. Therefore, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

~~SECRET~~

To: Inspection From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/05/2007

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Information)

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(U) For information.

cc: Ms. Thomas

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IOB Library

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NSL VIO-1429

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January 5, 2007
BY COURIER

Mr. Stephen Friedman
Chairman
Intelligence Oversight Board
Room 50209
New Executive Office Building
725 17th Street, Northwest
Washington, D.C.

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U)

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The memorandum sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. This matter has also been referred to our Internal Investigations Section, Inspection Division, for a determination of whether any administrative action is warranted. (U)

Enclosure

DECLASSIFIED BY 65179/DTH/KSP/RW
ON 06-01-2007

b6 1 - Ms. Thomas
b7C 1 -
b2 1 - 278-HQ-C1229736-VIO - 2012
1 - Inspection Division (IOB 2006-)
1 - Mr. Billy

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~Derived from: G-3
Declassify on: 20320104~~

~~SECRET~~

NSL VIO-1430

~~SECRET~~

Mr. Stephen Friedman

Should you or any member of your staff require additional information concerning this matter, an oral briefing will be arranged for you at your convenience. (U)

Sincerely,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James A. Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

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NSL VIO-1431

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b2 INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
b7E [redacted] FIELD OFFICE
IOB MATTER 2006-[redacted] (U)

(S) By electronic communication (EC) dated August 24, 2006, the Federal Bureau of Investigation (FBI) [redacted] Field Office [redacted] reported that it failed to secure extensions for [redacted] investigation of a subject. The gap between the expiration of the [redacted] and the FBI Headquarters-approved extension amounted to about [redacted] months [redacted]

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(S) [redacted] failed to take action to either seek an authorized extension [redacted] [redacted] [redacted] [redacted] [redacted] [redacted] Instead, [redacted] let the case sit in a dormant state until [redacted], when it sent an EC requesting the extension to CTD. Therefore, from [redacted] until [redacted] maintained an unauthorized [redacted] investigation [redacted] [redacted]

[redacted] While this alone is reportable to the IOB, the [redacted] month period during which the investigation was not properly extended is more than de minimus in time. Accordingly, OGC has determined that [redacted] has failed to follow the guidelines set forth in Section II.C.4 of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection and an IOB violation has occurred. Thus, the matter is being reported to the IOB.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-01-2007
CLASSIFIED BY: 65179/DMH/KSE/RW
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

~~Derived from: G-3
Declassify on: 20320104~~

~~SECRET~~

NSL VIO-1432

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Miller David Ian

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2785
OGC/IOB# 2006 [redacted]

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Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1624
278-HQ-C1229736-VIO Serial 2011

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 08/24/2006, reporting a possible IOB error. Based upon a review of the referenced EC, it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-25-2007 BY 68179/DMH/BJA/RW

~~SECRET~~//20320312

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

To:

[Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS

[Redacted]

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Approved By: *DM* Miller David Ian

DECLASSIFIED BY 65179/DMH/KSP/RW
ON 06-01-2007

Drafted By:

[Redacted]

Case ID #: (U) 263-HQ-0-U - 708 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 2785

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OGC/IOB# 2006 [Redacted]

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U)

~~(S)~~

~~Derived From: G-3
Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1624

Reference: (U) 278-HQ-C1229736-VIO Serial 1624
278-HQ-C1229736-VIO Serial 2011

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320312

NSL VIO-1434



U.S. Department of Justice
Office of the Inspector General

Washington, D.C. 20530

DATE: March 21, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

FROM: Glenn G. Powell
Special Agent in Charge
Investigations Division

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DMH/KSP/RM

SUBJECT: OIG Complaint No. 2007004110

Subject [redacted]
[redacted] Division
FBI No. 263-0-U-708
CMS No. 2785

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We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

NSL VIO-1435

Received By: [] Date Received: 02/09/2007 How Received: A

SUBJECT: [] Title: SA Component: FBI Misc: [] Home: [] Phone: [] Work: [] Phone: [] Pay Plan: [] EOD Date: [] ZIP: [] SSNO: [] D.O.B.: [] Alien No.: [] F.B.I.No.: [] B.O.P.No.: [] D/L No.: [] Offenses: 689

SUBJECT: [] Title: SSA Component: FBI Misc: [] Home: [] Phone: [] Work: [] Phone: [] Pay Plan: [] EOD Date: [] ZIP: [] SSNO: [] D.O.B.: [] Alien No.: [] F.B.I.No.: [] B.O.P.No.: [] D/L No.: [] Offenses: 689 b6 b7C b2

COMPLAINANT: [] Title: ATTY Component: FBI Misc: [] Home: [] Phone: [] Work: [] Phone: [] Confidential: [] Pay Plan: [] EOD Date: [] ZIP: [] SSNO: [] D.O.B.: [] Alien No.: [] F.B.I.No.: [] B.O.P.No.: [] D/L No.: [] Authority: [] Revealed: []

Details: [] FBI provided information regarding a potential IOB matter (2006 [] b2) [] the case agent submitted an EC in response to a directive from FBIHQ Counterterrorism Division (CTD) [] However, due to other investigative responsibilities, the case agent allowed the case to become inactive. [] the case agent received verbal concurrence from CTD that [] would be approved once the case agent submitted an EC [] the case agent submitted an EC to request approval for an extension [] however, the EC was lost or misplaced. [] the case agent submitted a second EC [] which was approved by CTD on 3/9/06. On 3/23/06, the case agent sent out NSLs to request credit history and financial and telephone records for the subject. [] the case agent was unable to close the case because she had not reviewed all of the information obtained from the NSLs. [] the case agent requested a final extension [] so she could review the information obtained from the NSLs. FBI/OGC determined that this matter must be reported to the IOB.

ALLEGATIONS: 689 IOB Violation Occurrence Date: 12/16/2005 CITY: [] DATE: 06-14-2007 FBI INFO. [] NSL VIO-1436 REASON: 1.4 (c) DECLASSIFY ON: 06-14-2032 TIME: [] Zip: [] b2 b7E Page 1 of 2 Printed 03/20/2007 11:08:15



DISPOSITION DATA: Disposition: M Date: 02/09/2007 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 03/20/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-708

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp)

3/20/07: Sent to Kaiser/FBI. (stp)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

b2 06 []

Precedence: ROUTINE

Date: 07/17/2006

To: Inspection

Attn: IIS
Rm. 11861

General Counsel

Attn: NSLB
Rm. 7975

From: []

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact: []

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Approved By: []

DATE: 06-01-2007
CLASSIFIED BY 65179/DMH/KSR/RG
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

Drafted By: []

Sit/Date

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) -1544
(U) ~~(S)~~ 278-[]-C26391 (Pending) - 265

Title: (U) b7E INTELLIGENCE OVERSIGHT BOARD MATTER

b6 SSA []
b7C IA []

b2 Synopsis: (U) [] Division reports a potential IOB matter
b7E involving inadvertent and unauthorized receipt of telephone
subscriber information.

(U) ~~Derived From: G-3~~
~~Declassify On: X1~~

Details: (U) [] Division reports a potential
intelligence oversight board (IOB) matter involving inadvertent
receipt of unauthorized telephone subscriber information.

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Intelligence Analyst (IA) [] inadvertently added phone
numbers []

[] In this instance, the FBI sought telephone
subscriber records for telephone numbers believed to be used by
the investigative subject due to electronic data errors.

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SC Miller
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NSL VIO-1438

07-24-06

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To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 07/17/2006

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[redacted]
[redacted]

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conducted by IA [redacted] A routine quality control check did not initially catch the errors.

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(U) Subsequently, subscriber information [redacted] inadvertently added [redacted] was requested via an NSL dated October 17, 2005. The subscriber information received for these numbers was associated with presumed U.S. Persons.

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(U) In the course of performing [redacted] analysis on June 23, 2006, the errors were discovered and expediently remedied by the [redacted] Field [redacted]. The [redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers [redacted]. By July 13, all [redacted] Division references [redacted] were removed from FBI records, [redacted] Division remains in ACS, and this will be modified to exclude the unauthorized subscriber information.

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(U) To prevent future errors, additional quality control steps have been added [redacted] process. The process of [redacted] was initiated in [redacted] as opposed to [redacted] Division in [redacted]. The above-referenced telephone records were some of the first [redacted] records. Since that time, [redacted] quality control/quality assurance has improved and is only performed by a dedicated and experienced staff.

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b2 To: Inspection From: [REDACTED]
(U) b7E a: (S) 278-HQ-C1229736-VIO, 07/17/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) Request IIS take appropriate action as necessary, in response to this potential IOB matter reported by the [REDACTED] Division. It is further requested that the resulting IOB matter be counted as one potential violation.

Set Lead 2: (Action)

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GENERAL COUNSEL

AT WASHINGTON, DC

(U) Request NSLB take appropriate action as necessary, in response to this potential IOB matter reported by the [REDACTED] Division. It is further requested that the resulting IOB matter be counted as one potential violation.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/29/2006

To: [Redacted]

Attn: SAC [Redacted]
ASAC [Redacted]
SSA [Redacted]
IA [Redacted]

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Counterterrorism
Inspection

Attn: CTD/ITOS II/ [Redacted]

Attn: Internal Investigative Section
Attn: [Redacted] Room 11865

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Office of General Counsel
NSLB/CTLU-2/LX-1, 3S-100/
Contact: [Redacted]

Approved By: Thomas Julie R. [Redacted]

DATE: 06-01-2007
CLASSIFIED BY 65179/DNH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO Serial (Pending) ²⁰¹³

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2006- [Redacted] b2

(U) Synopsis: (S) It is the opinion of the Office of the General
Counsel (OGC) that the above referenced matter must be reported to
the Intelligence Oversight Board (IOB). Our analysis follows.

~~(S) Derived From: G-3
Declassify On: 12/29/2016~~

(U) Reference: (S) 278-HQ-C1229736-VIO Serial 1549

(U) Details: (S) By electronic communication (EC) dated July 17, 2006
and referenced above, the [Redacted] Division [Redacted] requested
b2 that OGC review the facts of the captioned matter and determine
b7E whether it warrants reporting to the IOB. We believe it does and our
analysis follows.

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[Redacted]
DATE: 2/9/07
[Redacted]

~~SECRET~~

NSL VIO-1441

b2
b7E To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

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(S) [redacted]

(U) (S) During the course of the investigation, [redacted] issued National Security Letters (NSL) pursuant to the Electronic Communications Privacy Act, 18 U.S.C. § 2709. That statute permits the FBI to request subscriber information and telephone toll billing records that are "relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States."

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(S) (S) The error in this instance occurred in July 2005, after the initial toll records were received from [redacted]

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b7E However, when the NSL result letter was [redacted]

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(S) b4 [redacted]

(S) A follow-up NSL dated 10/17/2005 was addressed [redacted] requesting subscriber information for [redacted] inadvertently added [redacted] responded [redacted] for the requested [redacted]

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(U) ¹ (S) 278-HQ-C1229736-VIO Serial 1549.

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States (or) an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

³ (U) In order to avoid any further dissemination of [redacted] referenced in this EC will only list the [redacted]

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⁴ (U) See, id.

To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

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information. The subscriber results were initially uploaded [redacted] by [redacted]

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(S) In the course of performing [redacted] analysis in June 2006, the errors were discovered and remedied by [redacted]. The [redacted] point of contact at FBIHQ was asked to remove the inadvertently uploaded numbers [redacted]. In addition, [redacted] removed all references to the inadvertently uploaded numbers from FBI records. [redacted] In addition, [redacted] coordinated with the [redacted] Division to remove the EC [redacted]

[redacted]

b2

(U) To prevent future errors, additional quality control steps have been added to the [redacted] process. The process of [redacted] records as opposed to [redacted] the information was only initiated in [redacted] earlier in 2005. The above-referenced [redacted] records were some of the first [redacted]. Since that time, [redacted] control/quality assurance has improved and is only performed by trained personnel.

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is

(S)

[redacted] serial [redacted] was permanently charged out in December 2006 removing the last reference to [redacted] in ACS. The charged-out serial is being forwarded [redacted]

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⁶ See, Id.

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To: From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U)

~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, OGC will prepare a cover letter and an memorandum to report this matter to the IOB.

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~~SECRET~~

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To: [redacted] From: General Counsel
Re: 278-HQ-C1229736-VIO, 12/29/2006

LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Information)

COUNTERTERRORISM

AT ITOS II/PRGU

(U) For review and action deemed appropriate.

Set Lead 3: (Discretionary)

[redacted]

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(U) For review and action deemed appropriate.

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b7C

cc: Ms. Thomas
[redacted]
IOB Library

♦♦

~~SECRET~~

December 29, 2006

BY COURIER

Mr. Stephen Friedman
Chairman
Intelligence Oversight Board
Room 50209
New Executive Office Building
725 17th Street, Northwest
Washington, D.C.

DECLASSIFIED BY 65179/DML/KSR/RW
ON 06-01-2007

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U)

b2

The memorandum sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. This matter has also been referred to our Internal Investigations Section, Inspection Division, for a determination of whether any administrative action is warranted. (U)

Enclosure

1 - 278-HQ-C1229736-VIO - 2014

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~Derived From: G-3
Declassify On: 1/02/2017~~

~~SECRET~~

NSL VIO-1446

~~SECRET~~

Mr. Stephen Friedman

Should you or any member of your staff require additional information concerning this matter, an oral briefing will be arranged for you at your convenience. (U)

Sincerely,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111

- 1 - Mr. James Baker
Counsel, Office of Intelligence Policy and Review
National Security Division
U.S. Department of Justice
Room 6150

~~SECRET~~

NSL VIO-1447

~~SECRET~~

b2 INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
b7E [redacted] FIELD OFFICE
IOB MATTER 2006-[redacted] (U)

(S) By Electronic Communication (EC) dated July 17,
2006, [redacted] Division [redacted] notified FBI Headquarters
(FBIHQ) of an inadvertent acquisition of toll record information
associated with unknown individuals in the course of a national
security investigation. [redacted]

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(S) [redacted] issued a National Security Letter (NSL)
pursuant to the Electronic Communications Privacy Act, 18 U.S.C. §
2709² for toll record information associated with the target. The
error occurred after the initial records were received [redacted]

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[redacted] The results [redacted]
[redacted]
[redacted]

(S) [redacted]
[redacted]

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(S)

~~Derived From: G-3~~
~~Declassify On: 12/31/2016~~
[redacted]

¹ (U) A "United States person" (USP) is defined in Section 101(i) of the
Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et
seq.) as "a citizen of the United States [or] an alien lawfully admitted for
permanent residence (as defined in section 101(a)(20) of the Immigration and
Naturalization Act)" See also Section II.W of The Attorney General's
Guidelines for FBI Foreign Intelligence Collection and Foreign
Counterintelligence Investigations.

² The statute permits the FBI to request subscriber information and
telephone toll billing records that are "relevant to an authorized
investigation to protect against international terrorism or clandestine
intelligence activities, provided that such an investigation of a United
States person is not conducted solely on the basis of activities protected by
the first amendment to the Constitution of the United States."

³ (U) In order to avoid any further dissemination [redacted]
[redacted] referenced in this EC will only list the
[redacted]

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(S)

[redacted] A follow-up NSL was then addressed [redacted] requesting toll billing information [redacted] provided the requested information which was initially uploaded into FBI computer systems.

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(U) Immediately upon discovery, the errors were remedied by [redacted]. All references to the errant telephone numbers have been removed from FBI computer systems. To prevent future errors, additional quality control steps and [redacted] training have been added to [redacted] process. The above-referenced telephone records were some of the first [redacted]

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[redacted]

(U)

~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized national security investigation because there was an errant request for unsubstantiated telephone numbers. Thus, the FBI received telephone toll billing records concerning telephone numbers that were not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

(U) Clearly, the rights of the target were not infringed because he was not the subject of the improperly collected information. It is unknown whether this information was gathered about United States Persons or not, inasmuch as there has been no review of the information. Nonetheless, based on the fact that information which may be about United States persons was improperly, although inadvertently, collected, and in accordance with the reporting requirements of Section 2.4 of E.O. 12863, this matter is being to the IOB.

⁴ (U) See, id.

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- 5 -

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NSL VIO-1450

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted]

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Approved By: Miller David Ian

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2575
OGC/IOB# 2006 [redacted]

b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1549
278 [redacted] C26391 Serial 265
278-HQ-C1229736-VIO Serial 2013

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 07/17/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

◆◆

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DHH/KSR/RW

~~SECRET~~//20320312

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

To: [Redacted]

Attn: SAC (Personal Attention)

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From: Inspection
Internal Investigations Section, IPU, Room 3041
Contact: [Redacted]

Approved By: *[Signature]* Miller David Ian

DECLASSIFIED BY: 65179/DMH/ESR/RW
ON: 06-01-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 713 (Pending)

b2

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2575
OGC/IOB# 2006 [Redacted]

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1549

Reference: (U) 278-HQ-C1229736-VIO Serial 1549
278-HQ-C1229736-VIO Serial 2013

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Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320312



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: March 22, 2007
TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DME/KSP/RW

FROM: *Glenn G. Powell*
Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: **OIG Complaint No. 2007004173**

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Subject:
FBI No. 263-0-U-713
FBI CMS No. 2575

- We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

NSL VIO-1453

Received By: [redacted] Date Received: 02/09/2007 How Received: A

SUBJECT: [redacted] SSNO: [redacted]
Title: [redacted] Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Isr: [redacted] F.B.I.No.: [redacted]
Org: [redacted] B.O.P.No.: [redacted]
Home: () - ZIP: [redacted] D/L No.: [redacted]
Work: [redacted] Offenses: 689
Home: (202) [redacted] ZIP: [redacted]

SUBJECT: [redacted] SSNO: [redacted]
Component: FBI Pay Plan: [redacted] D.O.B.: [redacted]
EOD Date: [redacted] Alien No.: [redacted]
Isr: [redacted] F.B.I.No.: [redacted]
Org: [redacted] B.O.P.No.: [redacted]
Home: (202) [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: [redacted] Offenses: 689
Home: (202) [redacted] ZIP: [redacted]

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COMPLAINANT: [redacted] SSNO: [redacted]
Title: [redacted] Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Isr: [redacted] F.B.I.No.: [redacted]
Org: [redacted] B.O.P.No.: [redacted]
Home: [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: [redacted]
Home: [redacted] ZIP: [redacted]
Confidential: N Revealed: Authority:

Details:

(S) FBI provided information regarding a potential IOB matter (2007-[redacted])
[redacted] Field Office issued a National Security Letter (NSL) requesting
records that were relevant to the authorized investigation. In July 2005, after the initial
records were received, the NSL result letter [redacted] added
information that was not within the scope of the initial NSL. To prevent future errors
additional quality control steps have been added [redacted]
It is the opinion of the Office of the General Counsel (OGC) that this matter must be
reported to the IOB. (dz)

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ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted] TIME: [redacted]
Title: [redacted] Zip: [redacted]

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DISPOSITION DATA: Disposition: M Date: 03/21/2007 Approval: POWELL, GLENN G
referred to Agency: FBI Date Sent: 03/21/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-713; 2575
Sensitive: N Whistleblower: N Consolidated Case Number:

DATE: 06-01-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: U5-01-2032
NSL VIO-1454

Remarks:

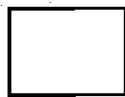
-Predicating material contains classified information that will be maintained in a secure container within OIG/INV/HQ. (dz)
-03/22/07-Sent to Kaiser/FBI/INSD. (dz)

NSL VIO-1455

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

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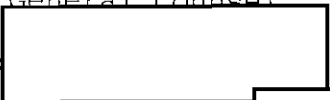
Precedence: ROUTINE

Date: 06/08/2006

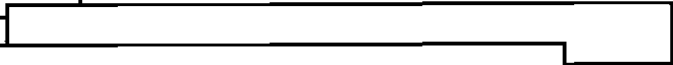
To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From:

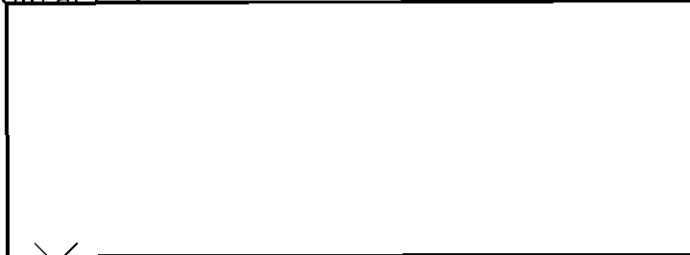


Contact:



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Approved By



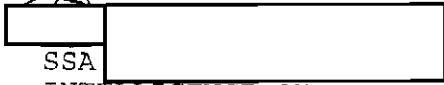
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 1921
~~(S)~~ 278 [redacted] -136372 - 61

DATE: 06-14-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 06-14-2032

Title: (U)



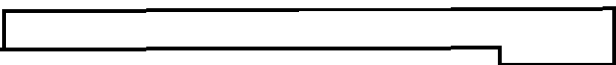
SSA
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: (U) To report possible IOB error.

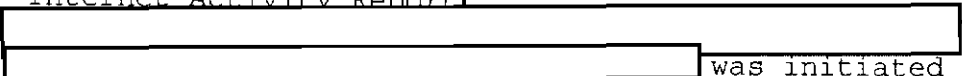
~~(U)~~ ~~(S)~~ Derived From: G-3
Declassify On: X1

Details:

(U) 1. Internet Activity Report



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was initiated by
NTCS/Public Access Center Unit (PACU).

(U) 2. Internet Activity Report-Terrorism.

(U) 3. Possible IOB Error: Issuance of Grand Jury subpoena
without substantive case.

(U) 4. Description of IOB Error (including any reporting
delays).

~~(S)~~ ~~(U)~~ Based on an IMMEDIATE Lead issued by PACU regarding
[redacted] utilized a Grand Jury subpoena to obtain
information [redacted]

SC Miller *EM* 2/13/07
CRS [redacted] *LEAS* 02/15/07

~~SECRET~~

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NSL VIO-1456

~~SECRET~~

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(U)-b7E To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/08/2006

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b7E This information was sought by PACU in Lead 6 (action) of above noted serial. There was no [redacted] opened at the time this subpoena was sought because there were not any articulable facts, based on the information provided, to support the opening of [redacted]

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b7D ~~(U)~~ [redacted] Rapp contacted [redacted] attempting to consentually obtain information requested in the lead. [redacted] advised that a subpoena was required for release of the information requested. [redacted] met with the Assistant United States Attorney (AUSA) and advised the AUSA that a subpoena was being sought because the Lead did not justify [redacted] which was required for the issuance of a National Security Letter.

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(S)b7C
b3 FGJ ~~(U)~~ [redacted] advised the AUSA that there was no file opened on this lead. A copy of the unclassified IMMEDIATE Lead was provided to the AUSA for review. Several days later, the AUSA provided [redacted] with the requested subpoena stating that the AUSA's office opened their own case for the issuance of the subpoena. The subpoena was subsequently served on [redacted]

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b3 ~~(U)~~ Following CDC counsel [redacted] Division has sequestered the information received from [redacted] in the office of the CDC. The information received has not been used or disseminated in any fashion.

~~SECRET~~

~~SECRET~~

(U) b2 To: Inspection From: [REDACTED]
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/08/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

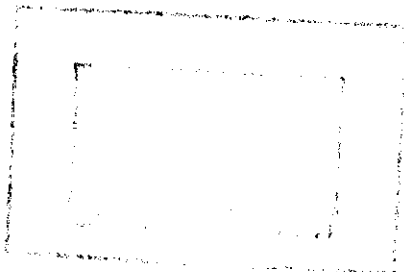
Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

◆◆



~~SECRET~~

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NSL VIO-1458

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/26/2006

To:

[Redacted]

Attn:

[Redacted]

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b6
b7C

Counterterrorism
Inspection

Attn: ITOS II
Attn: IIS, CRS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: Office of the General Counsel
NSLB/CTLU11/LX1 Room 1S110
Contact: AGC [Redacted]

Approved By: Thomas Julie R [Signature]

Drafted By:

[Redacted]

DATE: 06-14-2007
CLASSIFIED BY 65179/DML/KSR/EM
REASON: 1.4 (c)
DECLASSIFY ON: 06-14-2032

(U) Case ID #: (S) 278-HQ-C1229736-VIO-2020

(U)-b2 Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2006- [Redacted]

(U) Synopsis: (S) It is the opinion of the Office of the General
Counsel (OGC) that this matter must be reported to the
Intelligence Oversight Board (IOB). OGC will prepare and deliver
the necessary correspondence to the IOB.

(U) ~~Derived From : G-3~~
~~Declassify On: 20311226~~

(U) Reference: (S) 278- [Redacted] 136372 Serial 61 (Pending)
(U) (S) 278-HQ-C1229736-VIO Serial 1431 (Pending)

(U)-b2
(U)-b7E Details: (S) By electronic communication (EC) dated 06/08/2006,
the [Redacted] Field Office [Redacted] requested that OGC
review the facts of the captioned matter and determine whether it
warrants reporting to the IOB. In our opinion, it does. Our
analysis follows.

~~SECRET~~

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b7C

OGC/DOJ REVIEW
FBI INVESTIGATION
OGC/DOJ INVESTIGATION

[Redacted]

DATE: 2/9/07

NSL VIO-1459

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/26/2006

(S) Based on an IMMEDIATE Lead issued by Public Access Center Unit (PACU) regarding [redacted] [redacted] utilized a Grand Jury subpoena to obtain information [redacted] There was no [redacted] [redacted] opened at the time the subpoena was sought because there were not enough articulable facts, based on the information provided.² The subpoena was subsequently served [redacted]

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bb2 GJ
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(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights.

¹This information was sought by PACU in Lead 6 (action) of Internet Activity Report [redacted]

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[redacted] informed the AUSA that there was no file opened on this Lead. A copy of the unclassified IMMEDIATE Lead was provided to the AUSA for review. Several days later the AUSA provided [redacted] with the requested subpoena and stated that the AUSA's office opened their own case for the issuance of the subpoena.

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-CI229736-VIO, 12/26/2006

(U) Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(S)

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[redacted]
[redacted]
(S) In this situation, a subpoena was served on [redacted] without a PI being opened. As a result [redacted] complied with the subpoena and the information was delivered to the [redacted] field office. Therefore, investigative activity, the subpoena, was improperly issued because [redacted] was not opened, in violation of the NSIG.

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(S) The CDC properly advised the [redacted] field office and following CDC counsel, [redacted] has sequestered the information received from [redacted] in the office of the CDC. The [redacted] field office has advised OGC via the referenced EC, that the information has not been used or disseminated in any fashion.

b7D

(S) OGC NSLB advises the field to contact [redacted] and inquire as to whether they would like the records returned or whether the FBI should destroy the sequestered information. If the [redacted] does not want the information returned, the CDC should write and EC memorializing the destruction.

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 12/26/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

[redacted]

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(U) The [redacted] Field Office should contact [redacted] and ask whether the information should be returned or destroyed with appropriate documentation to the file.

cc: Ms. Thomas

b6 [redacted]
b7C TOB LIBRARY

◆◆

~~SECRET~~

December 26, 2006

BY COURIER

Mr. Stephen Friedman
Chairman
Intelligence Oversight Board
Room 50209
New Executive Office Building
725 17th Street, Northwest
Washington, D.C.

DECLASSIFIED BY 65179/DNH/KSR/RW
ON 06-01-2007

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U)

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The memorandum sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. This matter has also been referred to our Internal Investigations Section, Inspection Division, for a determination of whether any administrative action is warranted. (U)

Enclosure

1 - 278-HQ-C1229736-VIO - 2021

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~Derived From: G-3
Declassify On: 20311226~~

~~SECRET~~

NSL VIO-1463

~~SECRET~~

Mr. Stephen Friedman

Should you or any member of your staff require additional information concerning this matter, an oral briefing will be arranged for you at your convenience. (U)

Sincerely,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzales
Attorney General
U.S. Department of Justice
Room 5111

- 1 - Mr. James Baker
Counsel, Office of Intelligence Policy and Review
National Security Division
U.S. Department of Justice
Room 6150

~~SECRET~~

NSL VIO-1464

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] FIELD OFFICE
IOB MATTER 2006-[redacted] (U)

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(S) By electronic communication dated June 08, 2006, the Federal Bureau of Investigation (FBI) [redacted] Field Office reported that, a subpoena was served on [redacted] without the FBI having a corresponding open investigation.

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b3 FGJ

[redacted] subsequently complied with the subpoena. The Chief Division Counsel's (CDC) office advised the [redacted] field office to sequester the information received from [redacted] in the office of the CDC. According to the [redacted] field office the information has not been used or disseminated in any fashion.

(S) Due to the incorrect issuance of a subpoena without an open investigation, the FBI received records from [redacted]. Even though the information was properly sequestered the subpoena was improperly issued on [redacted] without an open investigation. The issuance of the subpoena was a violation of Section V.16. of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection. Thus, the matter is being reported to the IOB.

b3 FGJ

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-01-2007
CLASSIFIED BY 65179/DMH/KSR/RU
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

~~Derived from: G-3
Declassify on: 20311226~~

~~SECRET~~

~~SECRET~~

NSL VIO-1465

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [REDACTED]

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Approved By: Miller David Ian

Drafted By: [REDACTED]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 2342

OGC/IOB# 2006-0 [REDACTED]

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 06-01-2007 BY 65179/DML/KSR/RJ

b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1431
278-HQ-C1229736-VIO Serial 2020

Details: (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 06/08/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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~~SECRET~~//20320312

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted]

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Approved By: *DM* Miller David Ian

DECLASSIFIED BY 65179/DMH/RSP/RH
ON 06-01-2007

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 714 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2342
OGC/IOB# 2006 [redacted] b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U) ~~Derived From : G-3~~
~~Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1431

Reference: (U) 278-HQ-C1229736-VIO Serial 1431
278-HQ-C1229736-VIO Serial 2020

Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

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(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320312

NSL VIO-1467



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: March 21, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DMH/RSE/RU

FROM: *Glenn G. Powell*
Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: **OIG Complaint No. 2007004151**

Subject: [redacted] et al.

[redacted] Division

FBI No. 263-0-U-714

CMS No. 2342

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We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.

This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.

This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

NSL VIO-1468

Received By: [redacted] Date Received: 02/09/2007 How Received: A

SUBJECT: [redacted] SSNO: [redacted]
Title: SSA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: [redacted] F.B.I.No.: [redacted]
Home: [redacted] B.O.P.No.: [redacted]
Phone: [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: [redacted] Offenses: 689
Phone: (202) [redacted] ZIP: [redacted]

SUBJECT: [redacted] SSNO: [redacted]
Title: [redacted] Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: [redacted] F.B.I.No.: [redacted]
Home: [redacted] B.O.P.No.: [redacted] b6
Phone: [redacted] ZIP: [redacted] D/L No.: [redacted] b7C
Work: [redacted] Offenses: 689
Phone: [redacted] ZIP: [redacted] b2

COMPLAINANT: [redacted] SSNO: [redacted]
Title: [redacted] Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: [redacted] F.B.I.No.: [redacted]
Home: [redacted] B.O.P.No.: [redacted]
Phone: [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: [redacted]
Phone: (202) [redacted] ZIP: [redacted]
Confidential: [redacted] Revealed: [redacted] Authority: [redacted]

Details:
The FBI provided information regarding a potential IOB matter (2006-[redacted])
(S) Based on an immediate lead issued by Public Access Center Unit (PACU), [redacted] Division, utilized a GJ subpoena to obtain information about certain individuals. There was [redacted] opened at the time the subpoena was sought because there were not enough articulable facts based on the information provided. The subpoena was subsequently served on a company.
[redacted] sequestered the information obtained from the subpoena.
FBI/OGC determined that this matter must be reported to the IOB.

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ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted] TIME: [redacted] b2
CITY: [redacted] State: [redacted] b7E Zip: [redacted]

DISPOSITION DATA: Disposition: M Date: 02/09/2007 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 03/20/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-714
Sensitive: N Whistleblower: N Consolidated Case Number: [redacted]

DATE: 06-01-2007
FBI INFO.
CLASSIFIED BY 65179/DMH/KSR/RU
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032
NSL VIO-1469

Remarks:

Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp)

3/21/07: Sent to Kaiser/FBI. (stp)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/15/2006 06-

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact:

Approved By:

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Drafted By:

DATE: 06-01-2007
CLASSIFIED BY 65173/DNH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-01-2032

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-292

Title: (U) SA
SSA
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) Synopsis: ~~(S)~~ To report possible IOB error.

(U) ~~(S)~~ Derived From: G-3
Declassify On: X1

Details:

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(U) ~~(S)~~ 3. Possible IOB Error:

(S)

(U) ~~(S)~~ b7E Description of IOB Error (including any reporting delays).

(S)

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SC *2/15/07*

~~SECRET~~

NSL VIO-1471

(note attached in separate my method file copy)

I IOB: *mpd* b2

(U) b2 To: Inspection From: [redacted]
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/15/2006

b1 [redacted]
b6 [redacted]
b7C [redacted]

(S)

b1 [redacted]
b6 [redacted]
b7C [redacted]
b7D [redacted]
b2 [redacted]
b7E [redacted]

b4 [redacted]

(S)

b1 [redacted]
b6 [redacted]
b7C [redacted]
b7D [redacted]
b2 [redacted]
b7E [redacted]

b4 [redacted]

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b7D [redacted]
b2 [redacted]
b7E [redacted]

b4 [redacted]

(S)

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b7D [redacted]
b2 [redacted]
b7E [redacted]
b4 [redacted]

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~~SECRET~~

(U) b7E

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/15/2006

(S) On 5/12/2006 SA [redacted] received the results from a National Security Letter (NSL) [redacted] on 11/17/2005. The NSL requested subscriber information [redacted]

[redacted]

(S)

[redacted]

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(S)

[redacted]

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/15/2006

(S) [redacted]

(S)

[redacted]

(S)

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b7C (S) [redacted]

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b7D [redacted]

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[redacted]

(U) ~~(S)~~ On 5/12/2006 SA [redacted] summarized the investigation documented above in an email addressed to SSA [redacted] the ITOS II Supervisor for SA [redacted] the OIPR attorney for this case, and SSA [redacted] the [redacted] Supervisor for the case. Subsequently [redacted] from OGC was notified.

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(S) On 5/15/2006 [redacted] instructed SA [redacted] to immediately shut down [redacted]

[redacted] SA [redacted] did immediately contact [redacted] and instructed her to stop [redacted] which she did [redacted]

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[redacted]

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/15/2006

b1 (S) It was not until 5/12/2006, the date that [redacted] NSL
b6 results were received from [redacted] that SA [redacted] had any
b7C knowledge that [redacted]

b7D [redacted]
b2 [redacted]
b7E [redacted]
b4 [redacted]

(S) Update: [redacted]

b1 [redacted]
b6 [redacted]
b7C [redacted]
b7D [redacted]

(S) Conclusion: [redacted]

b1 [redacted]
b6 [redacted]
b7C [redacted]
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b7E [redacted]
b7D [redacted]
b4 [redacted]

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(U) b7E o: Inspection From: [redacted]
re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/15/2006

[redacted]

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[redacted]

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[redacted]

~~(S)~~

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~~SECRET~~

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b7E): Inspection From:
(U) re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/15/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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NSL VIO-1477

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/28/2006

To: Inspection

Attn: [Redacted]

Internal Investigative
Section, Room 1186

Attn: AD

Attn: SAC, CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel
Counterterrorism Law Unit II/LX-1 28 100
Contact: [Redacted]

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Approved By: Thomas, Julie E [Signature]

DATE: 06-01-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-01-2032

Drafted By: [Redacted]

2065

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending)

Title: (U) POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
IOB 2006- [Redacted]

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(U) Synopsis: ~~(S)~~ The [Redacted] Division [Redacted] requested that the Office of the General Counsel (OGC) review a potential Intelligence Oversight Board (IOB) error and determine whether it is reportable to the IOB. It is the opinion of OGC that the collection of information in this matter was lawful. The Office of Intelligence Policy and Review (OIPR) provided a preliminary letter of non-compliance to the Foreign Intelligence Surveillance Court (FISC). Despite this fact, it is the opinion of OGC that no report to the IOB is warranted. Our analysis follows.

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(U) ~~(S)~~ Derived From : G-3
Declassify On: 12/28/2006

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1396

Details: (S) [Redacted]

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[Redacted] REVIEW
FBI INVESTIGATION
DATE: 2/1/07
[Signature]
OIG/DOJ INVESTIGATION:

NSL VIO-1479

(U) To: Inspection From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

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[Redacted]

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(S)

[Redacted]

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(S) On 5/12/2006 SA [Redacted] (case agent),
received the results from a National Security Letter (NSL)
[Redacted] The NSL requested
subscriber information [Redacted] The results
indicated [Redacted]

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[Redacted]

(S)

[Redacted]

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(U) ~~(S)~~ On 5/12/2006 the case agent summarized the
investigation documented above and notified the ITOS II

To: Inspection From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

(U)

Supervisor, the OIPR attorney for this case, and [redacted]
Supervisor for the case. Subsequently NSLB was also notified.
On 5/15/2006 the OIPR attorney instructed the case agent to
immediately shut down [redacted]

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[redacted]
[redacted] The case agent
immediately stopped [redacted]

[redacted] On 5/15/2006,
[redacted] reported this matter as a potential IOB violation.

(S)

[redacted]

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(S)

[redacted]

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ANALYSIS

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863
(Sept. 13, 1993) and Section 2-56 of the National Foreign
Intelligence Program Manual (NFIPM), OGC was tasked to
determine whether the surveillance errors described here are
matters that should be reported to the IOB. We believe that

~~SECRET~~

(U) To: Inspection From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

the reported activity was lawful and not violative of the rights of a U.S. person, but OIPR provided a preliminary notice of an incident of non-compliance related to this matter. OGC respectfully disagrees and has filed memoranda stating the FBI's position on this matter. To date, we have received no response from OIPR to these memoranda despite repeated requests.

(U) Section 2.4 of E.O. 12863 mandates that the heads of Intelligence Community components report all information to the IOB that it deems necessary to carry out its responsibilities. That section requires Inspectors General and General Counsel of the Intelligence Community to report "intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any violation of guidelines or regulations approved by the Attorney General, in accordance with E.O. 12333, if such provision was designed in full or in part to protect the individual rights of a United States person. This includes violations of agency procedures issued under E.O. 12333, unless they involve purely administrative matters.¹ For the FBI, the Office of the General Counsel (OGC) submits reports to the IOB.²

(S)

~~(S)~~ The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (NSIG) provide that [redacted]

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[redacted] NSIG (Introduction) at 4. Section 2-56 of the NFIPM identifies as reportable to the IOB unauthorized investigations, the use of unlawful methods and techniques,

(U) ¹ ~~(S)~~ See EC from Inspection Division to All Divisions; Title: Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Case ID # 66F-HQ-A1247863 Serial 172 at 5-6 (2/10/2005). The Inspection Division is required to maintain for three years records of administrative violations, for possible review by the Counsel to the IOB, together with a copy of the opinion concerning the basis for the determination that IOB notification was not required. Id. at 6.

(U) ² ~~(S)~~ See id. at 4.

~~SECRET~~

(U) To: Inspection From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

exceeding the authorized scope of permitted activities, and failing to adhere to minimization requirements.³

(U) Title 18 U.S.C. § 3123 [redacted]

[redacted]

[redacted]

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(S) [redacted]

[redacted]

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³ (S) See also *id.* at 5, identifying reportable matters as including: (1) activities believed to be unlawful or contrary to Executive Orders or Presidential directives; (2) suspected violations of the Constitution; (3) [redacted] (4) [redacted]

(S)

[redacted]

b1

(5) initiating a form of electronic surveillance or a search without authorization from the FISC, or failing to terminate an authorized surveillance at the time prescribed by the Court; and (6) failing to adhere to the minimization or dissemination requirements specified in a FISC Order.

[redacted]

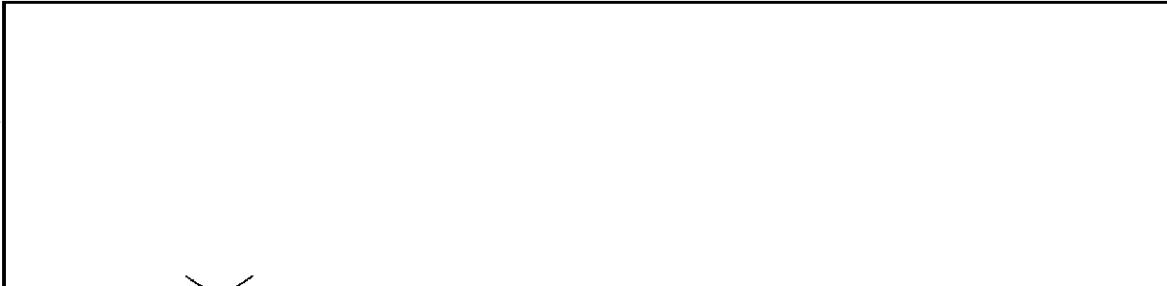
b5

SECRET

To: Inspection From: Office of General Counsel

(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

(S)



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(U) ~~(S)~~ It is our opinion that in this instance there was no violation of the target's rights or of the guidelines or regulations approved by the Attorney General. The Office of General Counsel filed memoranda with the Office of Intelligence and Policy Review on July 21 and August 14, 2006, stating the opinion set forth above.

SECRET

~~SECRET~~

(U) To: Inspection From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/28/2006

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) As provided in the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, retain a record of the report of a potential IOB matter for three years for possible review by the Counsel to the IOB, together with a copy of the OGC opinion concerning the basis for the determination that IOB notification is not required.

Set Lead 2: (Info)

COUNTERTERRORISM

AT ITOS II

(U) Read and clear.

Set Lead 3: (Info)



b2
b7E

(U) Read and clear.

◆◆

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: [REDACTED]

b6

b7C

b2

Approved By: Miller David Ian

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 06-01-2007 BY 65179/DHL/KSR/RW

Drafted By: [REDACTED]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 2274

OGC/IOB# 2006-[REDACTED]

b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1396

278-HQ-C1229736-VIO Serial 2065

Details: (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 05/15/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

b2

b7E

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~~SECRET~~//20320312

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

b2
b7E
b6
b7C

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted]

Approved By: *DM* Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RN
ON 06-01-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 716 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2274
OGC/IOB# 2006 [Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U)

~~(S)~~

~~Derived From : G-3
Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1396

Reference: (U) 278-HQ-C1229736-VIO Serial 1396
278-HQ-C1229736-VIO Serial 2065

b2
b7E

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

◆◆

~~SECRET~~//20320312

NSL VIO-1487



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: March 23, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DML/KSR/RW

FROM: *Glenn G. Powell*
Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: **OIG Complaint No. 2007004221**

b6
b7C
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b7E

Subject: [Redacted]

[Redacted]
FBI No. 263-0-U-716
CMS No. 2274

- We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

Received By: [redacted] Date Received: 02/09/2007 How Received: A

SUBJECT: [redacted] SSNO: [redacted]
Title: SSA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: [redacted] F.B.I.No.: [redacted]
Home: [redacted] B.O.P.No.: [redacted]
Phone: [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: [redacted] Offenses: 689
Phone: (202) [redacted] ZIP: [redacted]

SUBJECT: [redacted] SSNO: [redacted]
Title: SA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted] b2
Misc: [redacted] F.B.I.No.: [redacted] b6
Home: [redacted] B.O.P.No.: [redacted] b7C
Phone: () - [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: [redacted] Offenses: 689 b7E
Phone: (202) [redacted] ZIP: [redacted]

COMPLAINANT: [redacted] SSNO: [redacted]
Title: ATTY Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: [redacted] F.B.I.No.: [redacted]
Home: [redacted] B.O.P.No.: [redacted]
Phone: () - [redacted] ZIP: [redacted] D/L No.: [redacted]
Work: , WASHINGTON, DC DATE: 06-01-2007
Phone: (202) [redacted] ZIP: [redacted] FBI INFO.
Confidential: [redacted] Revealed: Authority: CLASSIFIED BY 65179/DWH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 05-01-2032

Details:
(S) he FBI provided information regarding a potential IOB matter (2006- [redacted] b2

[redacted]

(S) when SA [redacted] received the results from the service provider on 5/12/06, he discovered [redacted] b1
[redacted] provided [redacted] However, at the b6
time the information was provided [redacted] it was believed to be true and correct. b7C
b2
b7E

On 5/16/06, SA [redacted] interviewed [redacted] b6
[redacted] b7C
[redacted] b7D

FBI/OGC determined that this matter does not need to be reported to the IOB.

ALLEGATIONS: 689 IOB Violation
Occurrence Date: 02/16/2005 TIME: [redacted] b2
CITY: [redacted] State: [redacted] Zip: [redacted] b7E

DISPOSITION DATA: Disposition: M Date: 02/09/2007 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 03/22/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-716
Sensitive: N Whistleblower: N Consolidated Case Number: NSL VIO-1489

Remarks:

Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp)

3/23/07: Sent to Kaiser/FBI. (stp)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

b2 36

Precedence: ROUTINE

Date: 04/12/2006

To: Inspection
General Counsel
Counterterrorism

Attn: IIS
Attn: NSLB
Attn: ITOS 1/CONUS2,

From:

Contact: CDC

Approved By:

Drafted By:

Case ID #:

Title: (S)

~~(U)~~ ~~(S)~~ Synopsis: (S) To advise FBIHQ of facts that could conceivably be reportable to the IOB. The Division sent an NSL requesting billing and subscriber records believed to be used by the subject however, later learned that providing the information had transposed numbers

~~(U)~~ ~~(S)~~ Derived From : G-3
Declassify On: 04/11/2031

~~(S)~~ ~~(U)~~ Details: (S) On January 5, 2006, SA requested an ECPA National Security Letter (NSL) in captioned matter for a telephone number

The NSL, which requested subscriber and toll billing information, was properly served on

~~(U)~~ Upon return of the requested information it was discovered that the telephone number provided

~~SECRET~~

SC Miller *EM 2/13/07*
CRS *News 02/15/07*

NSL VIO-1491

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-01-2007
CLASSIFIED BY 65179/DNH/KSR/RU
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-01-2032

~~SECRET~~

(s) b2 To: Inspection From: [redacted]
b7E Re: (U) [redacted] 04/12/2006
b1

b2
b7E (U) contained transposed numbers which resulted in [redacted] Division receiving subscriber and toll billing information on an individual not subject to the investigation.

b2 (U) When SA [redacted] discovered this error he advised his supervisor, SSA [redacted] and the writer, CDC, [redacted] who contacted NSLB for further instructions.

b6
b7C (S) On instruction from NSLB, the communications relating to the issuance of this NSL have been permanently charged out of captioned file and turned over to the CDC [redacted]

b2 [redacted] have not been reviewed other than to ascertain that the information contained therein does not pertain to subject of investigation. Additionally, CDC [redacted] has ensured that none of the information received from or pertaining to this NSL has been indexed [redacted] or is otherwise accessible in FBI data bases.

(U) ~~(S)~~ The documentation and discs have been placed in a sealed enveloped and placed in the CDC's safe pending further instructions from Inspection Division and NSLB.

~~SECRET~~

~~SECRET~~

(S) b2 To: Inspection From: [redacted]
b7E Re: ~~(U)~~ [redacted] 04/12/2006
b1

LEAD(s) :

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) To advise of possible IOB violation.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/28/2006

To: [Redacted]

Attn: SAC [Redacted]
CDC [Redacted]

Counterterrorism

Attn: ITOS I, CONUS II, [Redacted]

Inspection

Attn: IIS, CRS [Redacted]

b2
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From: Office of the General Counsel
NSLB/CTLUIII/LX1/Room 3S-110
Contact: AGC [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F. [Signature]

Drafted By: [Redacted]

DATE: 06-01-2007
CLASSIFIED BY 65179/DHH/KSR/RM
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

(U) Case ID #: (S) 278-HQ-C1229736-VIO - 2004

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2006- [Redacted]

b2

(U) Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that this matter is not reportable to the Intelligence Oversight Board (IOB). Rather, it should be maintained in the control file for periodic review by Counsel to the IOB. Our analysis follows.

(U) ~~Derived From : G-3~~
~~Declassify On: 20311228~~

Reference: b1 (S) [Redacted]

(U) b2 (S) 278-HQ-C1229736-VIO - 1319
b7E

(U) Details: (S) By EC dated 04/12/2006, [Redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB.

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~~SECRET~~

OIG/DOJ REVIEW
FBI INVESTIGATION
OIG/DOJ INVESTIGATION: [Redacted]
DATE: 2/7/07 [Signature]

NSL VIO-1494

~~SECRET~~

b2
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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/28/2006

(U) The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 09/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division (INSD), and the General Counsel, Office of the General Counsel (OGC), respectively) report to the IOB intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive. This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communication records from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709); (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A)); (3) a list of financial

~~SECRET~~

~~SECRET~~

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 12/28/2006

institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b)); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 1681v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted]

b1

(U)

(S) Here, during an authorized investigation, the FBI properly served an NSL on a telephone carrier. At the time that the FBI issued the NSL, the FBI believed it to be the correct number. Upon return of the information, it was discovered by the FBI that the information was not related to the investigation. Unfortunately, further investigation revealed that the number obtained [redacted] was incorrect. [redacted] had transposed the numbers. Since the FBI as part of its investigation relies on others for information and the number provided to the carrier was the number that was communicated to the FBI by [redacted] as being related to the investigation; it should not be reportable to the IOB.

b7D

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

~~SECRET~~

~~SECRET~~

b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 12/28/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) INSD should retain a record of the report of the potential IOB matter, as well as a copy of the OGC opinion concluding that IOB notification is not required, for three years for possible review by the Counsel to the IOB.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

[redacted]

b2
b7E

(U) [redacted] office should contact the carrier and ask whether the information should be returned or destroyed with appropriate documentation to the file.

cc: Ms. Thomas

b6
b7C

[redacted]
IOB Library

◆◆

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [redacted] Ext. [redacted]

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b7C
b2

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DMH/KSR/RM

Drafted By: [redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2084
OGC/IOB# 2006 [redacted]

b2

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1319
278-HQ-C1229736-VIO Serial 2004

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 04/12/2006, reporting a possible IOB error. Based upon a review of the referenced EC it, is the IIS's opinion the incident described therein is an administrative issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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~~SECRET//20320312~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 3041

b2
b7E
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b7C

Contact: CRS [Redacted] Ext. [Redacted]

Approved By: *[Signature]* Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/PW
ON 08-01-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 719 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2084
OGC/IOB# 2006-[Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U)

~~(S)~~

~~Derived From : G-3
Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1319

Reference: (U) 278-HQ-C1229736-VIO Serial 1319
278-HQ-C1229736-VIO Serial 2004

b2
b7E

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET//20320312~~

NSL VIO-1499



U.S. Department of Justice


Office of the Inspector General



Washington, D.C. 20530

DATE: March 23, 2007

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DHL/KSR/RW

FROM: 
Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: OIG Complaint No. 2007004245
Subject 
 Division
FBI No. 263-0-U-719
CMS No. 2084

b6
b7C
b2

- We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

NSL VIO-1500

Received By: [redacted] Date Received: 02/09/2007 How Received: A

SUBJECT: [redacted] Title: SA Component: FBI Misc: Home: Phone: Work: Phone: (202) Pay Plan: EOD Date: ZIP: ZIP: SSNO: D.O.B.: Alien No.: F.B.I.No.: B.O.P.No.: D/L No.: Offenses: 689

SUBJECT: [redacted] Title: SSA Component: FBI Misc: Home: Phone: Work: Phone: (202) Pay Plan: EOD Date: ZIP: ZIP: SSNO: D.O.B.: Alien No.: F.B.I.No.: B.O.P.No.: D/L No.: Offenses: 689

b2
b6
b7C

COMPLAINANT: [redacted] Title: ATTY Component: FBI Misc: Home: Phone: Work: Phone: (202) Confidential: [redacted] Pay Plan: EOD Date: ZIP: ZIP: Revealed: Authority: SSNO: D.O.B.: Alien No.: F.B.I.No.: B.O.P.No.: D/L No.:

Details:
The FBI provided information regarding a potential IOB violation (2006-[redacted])
On 1/5/06 [redacted] sent a NSL to a telecommunications provider requesting billing and subscriber records [redacted] information indicated was used by the subject of an investigation.
When the information was received from the service provider, it was discovered that the telephone number provided [redacted] contained transposed numbers which resulted in [redacted] receiving subscriber and toll billing information on an individual who was not the subject of their investigation.
FBI/OGC determined that this matter is not reportable to the IOB.

b7D
b2
b7E

ALLEGATIONS: 689 IOB Violation Occurrence Date: 01/05/2006 CITY: [redacted] TIME: [redacted] State: [redacted] Zip: [redacted]

DISPOSITION DATA: Disposition: M Date: 02/09/2007 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 03/22/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-719
Sensitive: N Whistleblower: N Consolidated Case Number:

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-06-2007 BY 65179/DMH/KSR/RW

NSL VIO-1501



Remarks:

Predicating material contains classified information which will be maintained in a secure container at OIG/INV. (stp)

3/23/07: Sent to Kaiser/FBI. (stp)

NSL VIO-1502

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

b2
DL

Precedence: ROUTINE

Date: 05/04/2006

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

From:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact: SSA

Approved By:

Drafted By:

DATE: 06-01-2007
CLASSIFIED BY 65179/DWH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-01-2032

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO -1505

Tit: ~~(U)~~ SA SA
SSA SSA
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: ~~(S)~~ To report possible IOB error.

~~(S)~~ Derived From : G-1
~~(S)~~ Declassify On: X1

Details:

(S) 1.

(S) 2.

~~(S)~~ 3. Possible IOB Error:

(S) Information accepted without legal process.

~~(S)~~ 4. Description of IOB Error (including any reporting delays).

~~(S)~~ is reporting this matter in an abundance of caution.

SC Miller *[Signature]* 2/13/07
Ces 02/15/07

~~SECRET~~

b2
b7E

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/04/2006

b1 (S) [redacted]
b2 [redacted]
b7E [redacted]
b6 [redacted]
b7C [redacted]
b7D [redacted]
b7A (S) [redacted]

b1 [redacted]
b2 [redacted]
b7E [redacted]
b7A (S) [redacted]

b1 [redacted]
b2 [redacted]
b7E [redacted]
b7D [redacted]
b7A [redacted]

(S) Cognizant of the fact [redacted] 2 (two) Compact Discs and delivered the same to [redacted] Division. Upon receipt of the 2 CDs, [redacted] placed the CDs in a 1A envelope (FD-340) and forwarded it to [redacted] Division via EC dated 03/09/2006.

b1 (S) [redacted] Division
b7A informed FBIHQ via e-mail on 03/23/2006 [redacted] had,
b2 in fact, provided evidentiary CDs to the FBI on the basis [redacted]
b7E [redacted]

b2 (S) Aware that [redacted] did not have proper legal authority to
b7E view the contents of the CDs [redacted] did not remove the CDs from the
b7A 1A envelope it received from [redacted] Division.

b6 (S) Subsequently, on 04/28/2006 the [redacted] case agent contacted
b7C [redacted] CDC [redacted] and remitted possession of the CDs,
b2 still in the 1A envelope, and further sealed it in a larger envelope.
b7E Both the [redacted] case agent and CDC [redacted] signed the larger sealed
b7A envelope [redacted]

b1 (S) As of this date, [redacted] has not viewed or recorded the CDs
b2 provided [redacted]

b7E (S) [redacted]
b7A [redacted]
b1 [redacted]
b2 [redacted]
b7E [redacted]
b7A (S) [redacted]

[redacted]

~~SECRET~~

b2
(U) b7E To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/04/2006

(S)
b1
b2
b7E
b7A

[redacted]

~~SECRET~~
3

NSL VIO-1505

~~SECRET~~

b2 (U) To: Inspection From:
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/04/2006

LEAD(s):

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

◆◆

~~SECRET~~

4

NSL VIO-1506

~~SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/28/2006

To:

Attn: SAC
CDC

Counterterrorism

Attn: ITOS 1, CONUS 4,

Inspection

Attn: IIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel

NSLB/ Counterterrorism Law Unit #1/LX1-3S119

Contact: UC

CLASSIFIED BY: 06-01-2007

Approved By: Thomas Julie F. *(Signature)*

CLASSIFIED BY: 65179/DMH/KSR/RW

REASON: 1.4 (c)

DECLASSIFY ON: 06-01-2032

(U) Drafted By:

Case ID #: (S) 278-HQ-C1229736-VIO-2005 (Pending)

b1 (S)

b2 (U) b2 (S) POSSIBLE INTELLIGENCE OVERSIGHT BOARD (IOB)
b7E MATTER 2006-

(U) Synopsis: (S) It is the opinion of the Office of General Counsel (OGC) that the above referenced matter need not be reported to the IOB. Our analysis follows.

(U) (S) ~~Derived From : G-3~~
~~Declassify On: 20311228~~

Reference: 278-HQ-C1229736-VIO Serial 1365

Administrative: (S)

b1
b7A

~~SECRET/NOFORN~~

b6
b7C
OIG/DOJ REVIEW
FBI INVESTIGATION
OIG/DOJ INVESTIGATION

DATE: *1/11/07*
(Signature)

NSL VIO-1507

(U) b2 To: [redacted] From: General Counsel
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/27/2006

(U) This communication contains one or more footnotes.
To read the footnotes, download and print the document in Corel
WordPerfect 8.

Details: (S//NF) By electronic communication (EC) dated May 4,
2006 (cited below), the [redacted] Division [redacted] reported a
potential IOB [redacted]

b1
b2
b7E
b7D
b7A

provided [redacted] to [redacted] Although the case agents did not view [redacted]

[redacted]

(S)

b1
b7A
b2
b7E
b7D

[redacted]

(S//NF)

[redacted]

two (2)
CDs and delivered this to the [redacted] Upon receipt of the two
(2) CDs, [redacted] placed the CDs in a 1A envelope and forwarded it
to [redacted] notified FBIHQ on March 23, 2006 by e-mail
that it had received evidence in response to [redacted]
[redacted] has not removed the letters from the [redacted] 1A
envelope and the CDC presently has possession of it

b1
b7A
b2
b7E

[redacted]

(U) See EC from the [redacted] Division to the Inspection Division and
General Counsel, dated May 4, 2006, Case ID# 278-HQ-C1229736-VIO Serial 1365,
titled "INTELLIGENCE OVERSIGHT BOARD ERROR " hereinafter cited as [redacted]

b2
b7E

b2
(U)b7E

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/27/2006

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the error described here is a matter which must be reported to the IOB. We believe that the reported activity does not require IOB notification.

(U) Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This has been interpreted to include violations of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection ("Attorney General's Guidelines"), the implementation of which is mandated by Executive Order 12333.

(S)

b1

[redacted]

(S) In this instance, [redacted]

[redacted]

b1
b7D
b2
b7E
b7A

In response [redacted] the provider erroneously provided [redacted] to [redacted] properly sequestered this inadvertently obtained information. [redacted] did not take any unauthorized actions or any actions outside the scope of the investigation under EO 12333.

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

~~SECRET/NOFORN~~

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/27/2006

(U) — —

b2
b7E

(U) [redacted] should contact the carrier and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

(U) b2 To: [redacted] From: General Counsel
b7E Re: (S) 278-HQ-C1229736-VIO, 12/27/2006

LEAD(s) :

Set Lead 1: (Action)

b2
b7E

[redacted]
(U) [redacted] should contact the carrier and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) INSD should retain a record of the report of the potential IOB matter, as well as a copy of the OGC opinion concluding that IOB notification is not required, for three years for possible review by the Counsel to the IOB.

cc: Ms. Thomas
b6 [redacted]
b7C IOB Library

◆◆

SECRET/NOFORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [REDACTED]

b6
b7C
b2

Approved By: Miller David Ian

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 06-01-2007 BY 65179/DMH/KSR/RW

Drafted By: [REDACTED]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2200

b2 OGC/IOB# 2006 [REDACTED]

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1365
278-HQ-C1229736-VIO Serial 2005

b2
b7E

Details: (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 05/04/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

◆◆

~~SECRET//20320312~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection
Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted]

b2
b7E
b6
b7C

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSR/RO
ON 05-01-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 717 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 2200
OGC/IOB# 2006- [Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U)

~~(S) Derived From : G-3
Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1365

Reference: (U) 278-HQ-C1229736-VIO Serial 1365
278-HQ-C1229736-VIO Serial 2005

b2
b7E

Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

◆◆

~~SECRET//20320312~~

NSL VIO-1513



U.S. Department of Justice


Office of the Inspector General

Washington, D.C. 20530

DATE: March 23, 2007


ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DMH/RSP/RW

TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

FROM: 
Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: OIG Complaint No. 2007004226
Subject: Unidentified

b2
b7E

 Division
FBI No. 263-0-U-717
CMS No. 2200

- We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

NSL VIO-1514

Received By: [redacted] Date Received: 02/09/2007 How Received: A

SUBJECT: Unidentified, FBI

SSNO:

Title: UNID

Pay Plan:

D.O.B.:

Component: FBI

EOD Date:

Alien No.:

Misc:

F.B.I.No.:

b6

Home:

B.O.P.No.:

b7C

Phone:

ZIP:

D/L No.:

b2

Work:

Offenses: 689

Phone:

ZIP:

COMPLAINANT [redacted]

SSNO: [redacted]

Title: ATTY

Pay Plan: [redacted]

D.O.B.:

Component: FBI

EOD Date: [redacted]

Alien No.:

Misc:

F.B.I.No.:

Home:

B.O.P.No.:

Phone: () -

ZIP: [redacted]

D/L No.:

Work: , WASHINGTON, DC

Phone: (202) [redacted]

ZIP:

Confidential: [redacted]

Revealed:

Authority:

Details:

The FBI provided information regarding a potential IOB matter.

(S) [redacted] Division [redacted]

b1 [redacted] Division sent the letter [redacted]

b7D [redacted]

b2 [redacted]

b7E two CDs which it provided to [redacted] forwarded the CDs to [redacted]

b7A aware that it did not have the proper legal authority to view the contents of the CDs, [redacted]

did not remove the CDs from the envelope.

(S) [redacted]

FBI/OGC determined that this matter does not need to be reported to the IOB.

ALLEGATIONS: 689 IOB Violation

Occurrence Date: 02/27/2007

TIME:

CITY: [redacted]

State: [redacted]

b2 zip: [redacted]

DISPOSITION DATA: Disposition: M Date: 02/09/2007 Approval: POWELL, GLENN G ^{b7E}

Referred to Agency: FBI Date Sent: 03/22/2007 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-717

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

Predicating material contains classified information which will be stored in a secure container at OIG/INV. (stp)

3/23/07: Sent to Kaiser/FBI. (stp)

DATE: 06-01-2007
CLASSIFIED BY 65179/DME/KSR/RU
REASON: 1.5
DECLASSIFY ON: 06-01-2032

3160

~~SECRET~~//20311031
FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/31/2006

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975

Attn: ASAC [redacted]
CDC [redacted]

b2
b7E
b6
b7C
Fro [redacted]

Contact: SA [redacted]

Approved By: [redacted]
Drafted By: [redacted]

INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO
~~(S)~~ [redacted]-IOB

DATE: 06-01-2007
CLASSIFIED BY: 65179/DWH/KSR/RW
REASON: 1.4 (c,d)
DECLASSIFY ON: 06-01-2032

b2
b6
b7C
Tib7E (U) SA [redacted]
SSA [redacted]
INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

(U) **Synopsis:** ~~(S)~~ To report possible IOB error.

(U) ~~(S)~~ ~~Derived From : G-3~~
~~Declassify On: 10/31/2031~~

Details:

(S) 1. [redacted]

b1
b6 (S) 2.

(U) b7C
b2 3. Possible IOB Error:

b7E) [redacted]

(U) b1
b2
b7E

(U) 4. Description of IOB Error (including any reporting delays).

b6
b7C

CRS [redacted] *2/20/07*
3/08/07

~~SECRET~~//20311031

NSL VIO-1516

reid 11/15/06

(U) b2 To: Inspection From: [redacted]
b7E Re: (S) 278-HQ-C1229736-VIO, 10/31/2006

(S) On 08/28/2006, a National Security Letter (NSL) requesting the name, address, length of service, and electronic communication transactional records, [redacted]

b1 [redacted] (not to include [redacted])

b7D [redacted]

b2 [redacted] was prepared and approved in

b7E accordance with the Attorney General Guidelines. The NSL was

served by [redacted] Field Office and on 10/17/2006, [redacted]

[redacted] provided the results of the NSL to [redacted] Field

Office via email. As of the date of this electronic communication,

[redacted] is awaiting the physical results of the NSL.

(S) On 10/24/2006, a preliminary review of the results the NSL revealed [redacted] supplied [redacted] that included information [redacted]

b7D [redacted] and was not requested by the FBI. This information was

b4 not utilized by the case agent in any analysis nor was it documented in the case file.

~~SECRET~~//20311031

b2 o: Inspection From:
(U) ~~b7E~~ : (S) 278-HQ-C1229736-VIO, 10/31/2006

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

◆◆

~~SECRET~~//20311031

3

NSL VIO-1518

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 1/18/07

To:
Counterintelligence
Inspection

Attn: SAC, CDC
Attn: AD
Attn: IIS, CRS

b2
b7E
b6
b7C

From: General Counsel
National Security Affairs/Room 7974
Contact: Julie F. Thomas

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F. *[Signature]*

Drafted By: B

DATE: 06-01-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c,
DECLASSIFY ON: 06-01-2032

(U) Case ID #: (U) 278-HQ-C1229736-VIO-2156

b2 (S)

(U) Title: (S) POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER

b2 2007-

(U) Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that no error was committed in this matter, and therefore nothing need be reported to the IOB. A record of this decision should be maintained in the investigation control file for review by the Counsel to the IOB.

(U) ~~Derived from: G-3
Declassify On: X1~~

(U) Reference: (S) 278-HQ-C1229736-VIO-1808

Details: (S)

b1
b2
b7E

~~SECRET~~

b6
b7C
OIG/DOJ REVIEW
FBI INVESTIGATION
OIG/DOJ INVESTIGATION:

DATE: 2/20/07

NSL VIO-1519

b2
b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 1/18/07

(S) ~~(S)~~ [redacted] initially sent a National Security Letter (NSL) to [redacted] requesting the name, address, length of service, and electronic communication transactional records, to include [redacted] (not to include [redacted]) [redacted]
The NSL was served [redacted] 10/17/2006, the [redacted] Field Office provided the results of the NSL to [redacted] Field Office via email.

b6
b7C
b2
b7E
b7D
b4

(S) ~~(S)~~ On 10/24/2006, a preliminary review of the results of this NSL revealed [redacted] had supplied [redacted] email transactions that included information [redacted]

b4
b7D
b2
b7E

(S) [redacted] this information was not utilized by the case agent in any analysis nor was it documented in the case file. As of the date of this EC, the [redacted] Field Office was still awaiting the physical results of the NSL. Subsequently, [redacted] produced a CD-ROM with the all of the information. This CD-ROM has been stored in a 1-A envelope, and sequestered with the CDC.

(U) ~~(S)~~ The President, by Executive Order 12334, dated 12/04/1981, established the President's Intelligence Oversight Board (PIOB). On 9/13/1993, by Executive Order 12863, the President renamed it the Intelligence Oversight Board (IOB) and established the Board as a standing committee of the President's Foreign Intelligence Advisory Board. Among its responsibilities, the IOB has been given authority to review the FBI's practices and procedures relating to foreign intelligence and foreign counterintelligence collection.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential Directive." This language has been interpreted to mandate the reporting of any

~~SECRET~~

b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 1/18/07

violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

(U) ~~(S)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information without court intervention: (1) telephone and email communications record from telephone companies and internet service providers (Electronic Communications Privacy Act, 18 U.S.C. § 2709; (2) records of financial institutions (which is very broadly defined) (Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A); (3) a list of financial institutions and consumer identifying information from a credit reporting company (Fair Credit Reporting Act, 15 U.S.C. §§ 1681u(a) and (b); and (4) full credit report in an international terrorism case (Fair Credit Reporting Act, 15 U.S.C. § 168v). NSLs may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. [redacted]

(S) ~~(S)~~ Here, during an authorized investigation, the FBI properly served an NSL [redacted]. In response to the properly served NSL, the FBI obtained [redacted] transaction information beyond what it is legally authorized to receive, i.e. [redacted]. It should be noted that the FBI's response in receiving the unsolicited material was commendable. Upon reviewing the information in email that had been provided [redacted] quickly concluded that some of it was not information that had been requested. [redacted] has maintained the CD-ROM with all of the information in a 1A envelope with the CDC, and no results of this NSL have been uploaded and no record exists in ACS.

~~SECRET~~

~~SECRET~~

(U)

~~(S)~~ By agreement with the Counsel to the IOB, it is our opinion that this error is not reportable to the IOB. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

~~SECRET~~

~~SECRET~~

Set Lead 1: (Action)

b2
b7E

[REDACTED]

b4 (S) Return original [REDACTED] and request a
b7D replacement which contains only the
information responsive to the NSL.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas

b6 1
b7C

[REDACTED]

1-IOB Library

◆◆

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/09/2007

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [REDACTED]

b6

b7C

b2

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DMH/KSR/RW

Drafted By: [REDACTED]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER

b2

INSD/IIS TRACKING# 3160

OGC/IOB# 2007-[REDACTED]

Synopsis: (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).

Reference: (U) 278-HQ-C1229736-VIO Serial 1808
278-HQ-C1229736-VIO Serial 2156

Details: (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 10/31/2006, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

b2

b7E

◆◆

~~SECRET~~//20320312

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/12/2007

To: [Redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 3041

Contact: CRS [Redacted]

b2
b7E
b6
b7C

Approved By: Miller David Ian

DECLASSIFIED BY 65179/DMH/KSE/RM
ON 06-01-2007

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U - 720 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 3160
OGC/IOB# 2007- [Redacted]

b2

Synopsis: (U) To advise that captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This matter is returned to the field for corrective action as appropriate. Case closed at IIS.

(U)

~~(S)~~

~~Derived From : G-3
Declassify On: 20320312~~

Enclosure(s): (U) 278-HQ-C1229736-VIO Serial 1808

Reference: (U) 278-HQ-C1229736-VIO Serial 1808
278-HQ-C1229736-VIO Serial 2156

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Details: (U) Upon review of [Redacted] Division's captioned report of a potential IOB violation, IIS did not find the matter indicative of willful misconduct. IIS only addresses allegations where deliberate and/or aggravated misconduct is evident.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 11/16/2006 (278-HQ-C1229736, serial 2570).

THIS EC IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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~~SECRET~~//20320312

NSL VIO-1525

(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/11/2007

To: Counterterrorism

Attn: AD

Inspection

Attn: Internal Inspection Section,

[Redacted] Room
11865

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[Redacted]

Attn: SAC, CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: General Counsel

National Security Law Branch

Contact: [Redacted]

Approved By: Thomas Julie R. [Signature]

[Redacted]

DATE: 06-01-2007
CLASSIFIED BY: 65179/DML/KSE/RN
REASON: 1.4 (e,d)
DECLASSIFY ON: 06-01-2032

Drafted By: [Redacted]

(U)

Case ID # b2 (S) 278-HQ-C1229736-VIO - 2227

(U)

b7E (S) [Redacted]-A89455-IOB

b1 (S) [Redacted]

(U)

Title: (S) INTELLIGENCE OVERSIGHT BOARD MATTER
IOB MATTER 2007- [Redacted]

b2

(U)

~~(S) Derived From : G-3
Declassify On: 10/31/2031~~

(U)

Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that this matter need not be reported to the Intelligence Oversight Board (IOB), but, rather, that a record of this decision should be maintained in the investigation control file for review by the Counsel to the IOB. Our analysis follows.

~~SECRET~~

DOJ REVIEW: _____ DATE: _____
FBI INVESTIGATION: _____
DOJ INVESTIGATION: _____

NSL VIO-1526

To: CTD From: General Counsel
b1 Re: (S) [redacted] 02/11/2007

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO Serial 1808

Details: ~~(S)~~ As discussed in the Electronic Communication (EC) referenced above¹, [redacted] reported that on 11/15/2004,

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[redacted]

(S) On 08/28/2006, a National Security Letter (NSL) requesting [redacted]

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[redacted] records, [redacted]
[redacted]

from [redacted] was prepared and approved in accordance with Title 18, United States Code (U.S.C.), Section 2709 [redacted]

[redacted] The NSL was served on 10/17/2006, [redacted] provided the results of the NSL to [redacted] via email. As of the date of [redacted] EC, [redacted] was awaiting the physical results of the NSL.

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(S) A preliminary review of the results of the NSL revealed that [redacted] supplied [redacted]. This [redacted]

(U) ¹ ~~(S)~~ See 278-HQ-C1229736-VIO, Serial 1808, dated 10/31/2006 and b6 titled "SA [redacted] SSA [redacted] Intelligence Oversight b7C oard (IOB) Error".

² (U) A "United States person" (USP) is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA) (codified at 50 U.S.C. § 1801 et seq.) as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act)" See also Section II.W of The Attorney General's Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations.

~~SECRET~~

b1 To: CTD From: General Counsel
Re: (S) [redacted] 02/11/2007

(S) information [redacted]
[redacted]
[redacted]
which were explicitly excluded in the NSL request. [redacted]
b1 stated that the information [redacted]
b7D [redacted] and noted that the
information was not utilized by the case agent in any analysis
nor was it documented in the case file.

(U) Section 2.4 of Executive Order (EO) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive. This language was adopted verbatim from EO 12334, dated 12/04/1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the NSIG, or other guidelines or regulations approved by the Attorney General in accordance with EO 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U) (S) The issue is whether the apparent inclusion of information which may be considered content of communications violated the NSL statute. Section 2709, U.S.C. Title 18, provides that a national security letter may be used to obtain electronic transaction communication records from electronic communications service providers. That provision has been interpreted generally to preclude obtaining any information that may be considered "content" of communications. The information that was obtained by [redacted] was observed to

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To: CTD From: General Counsel
b1 Re: (S) [redacted] 02/11/2007

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b7E include information that [redacted] believed may have been beyond the transactional records that it requested and arguably was content information. Assuming, without concluding, that the information was content, and that such information was not subject to being produced via a national security letter, the error was by the NSL recipient. Therefore, pursuant to an agreement with the IOB, the collection is not reportable.³

CONCLUSION

(U) OGC concludes that this matter does not warrant being reported to the IOB. Consistent with our prior opinions on this matter, a record of this decision should be maintained in the control file for future review by Counsel to the IOB.

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b7E Should [redacted] receive a physical copy of the records described above, the records should be sequestered with the Chief Division Counsel until such time as the NSL recipient can be contacted to ascertain its preference as to whether the records should be returned or destroyed.

[redacted] should assure that no such records are made available in any FBI file or database, or in any other way, available for review.

³ By letter dated 11/13/2006, counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL are not reportable to the IOB.

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b1 To: CTD From: General Counsel
Re: (S) [redacted] 02/11/2007

LEAD (s):

Set Lead 1: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Action)

INSPECTION

AT IIS, WASHINGTON, DC

(U) For action deemed appropriate, including the maintenance of this report for three years in order to permit its review by the IOB.

Set Lead 3: (Action)

[redacted]

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(U) For action consistent with this report.

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1 - Ms. Thomas
1 - [redacted]
1 - IOB Library

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~~SECRET~~



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: March 21, 2007
TO: Kenneth W. Kaiser
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-01-2007 BY 65179/DMS/KSP/EM

FROM: *Glenn G. Powell*
Glenn G. Powell
Special Agent in Charge
Investigations Division

SUBJECT: OIG Complaint No. 2007003955

b6 Subject: [redacted] et al., [redacted]
b7C FBI No. 263-0-U-720
b2 FBI CMS No. 3160
b7E

- We consider this a management matter. The information is being provided to you for whatever action you deem appropriate in accordance with your agency's policy and regulations. A copy of your findings and/or final action is not required by the OIG.
- This matter is referred to your agency for investigation. Please provide the OIG with a copy of your final report on this matter.
- This complaint will be investigated by the OIG.

IMPORTANT NOTICE

Identifying information may have been redacted from the attached OIG Report/Referral pursuant to § 7 of the IG Act or because an individual has (a) requested confidentiality or (b) expressed a fear of reprisal. If you believe that it is necessary that redacted information be made available to your Agency, you may contact the Assistant Inspector General for Investigations.

Please be advised that, where adverse action is not contemplated, the subject of an investigation does not have a right to have access to an OIG Report/Referral or to the identities of complainants or witnesses, and that, in all cases, complainants and witnesses are entitled to protection from reprisal pursuant to the Inspector General Act and the Whistleblower Protection Act.

Attachment

NSL VIO-1531

Received By: [redacted] Date Received: 02/20/2007 How Received: A

OBJECT: [redacted] SSNO: [redacted]
Title: SA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Race: [redacted] F.B.I.No.: [redacted]
Home: [redacted] ZIP: [redacted] B.O.P.No.: [redacted]
Work: [redacted] ZIP: [redacted] D/I No.: [redacted]
Phone: (202) [redacted] ZIP: [redacted] Offenses: 689

OBJECT: [redacted] SSNO: [redacted]
Title: SSA Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Race: [redacted] F.B.I.No.: [redacted]
Home: [redacted] ZIP: [redacted] B.O.P.No.: [redacted]
Work: [redacted] ZIP: [redacted] D/I No.: [redacted]
Phone: (202) [redacted] ZIP: [redacted] Offenses: 689

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COMPLAINANT: [redacted] SSNO: [redacted]
Title: ATTY Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Race: [redacted] F.B.I.No.: [redacted]
Home: [redacted] ZIP: [redacted] B.O.P.No.: [redacted]
Work: [redacted] ZIP: [redacted] D/I No.: [redacted]
Phone: (202) [redacted] ZIP: [redacted]
Confidential: [redacted] Revealed: Authority:

Details:

The FBI provided information regarding a potential IOB matter (2007-[redacted])
On August 28, 2006, a National Security Letter (NSL) was served by [redacted] Field Office; on October 17, 2006, [redacted] Field Office provided the results to the [redacted] Field Office. On October 24, 2006, a preliminary review of the results revealed that [redacted] transactions provided were not requested by the FBI. The information was not utilized in any analysis nor documented in the case file. (dz)

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ALLEGATIONS: 689 IOB Violation
Occurrence Date: [redacted] TIME: [redacted]
IPY: [redacted] State: [redacted] Zip: [redacted]

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DISPOSITION DATA: Disposition: M Date: 03/13/2007 Approval: POWELL, GLENN G
referred to Agency: FBI Date Sent: 03/13/2007 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-9-U-720; 3160
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

-Predicating material contains classified information that will be maintained in a secure container within OIG/INV/RQ.
-03/21/07-Sent to Kaiser/FBI/INSD (dz)

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-06-2007 BY 65179/DMH/KSR/RW

NSL VIO-1532