

R. A

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

07

b2

Precedence: ROUTINE

Date: 02/23/2007

To: Inspection
General Counsel

Attn: Internal Investigations
Section, Room 11861
Attn: National Security Law Branch
(NSLB), Room 7975

From:
Legal Section
Contact: ADC

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b7C

Approved:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

DATE: 06-04-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-04-2032

(U) **Case ID #:** (S) 278-HO-C1229736-VIO - 2302
b1

(S) **Title:** (U) REPORT OF A POTENTIAL
IOB MATTER

1073946

(U) **Synopsis:** (S) Response to telephonic and e-mail mandate by NSLB of 02/20/2007 to report as a potential IOB matter, a National Security Letter (NSL) believed by the Office of the Inspector General (OIG), Department of Justice, to be an IOB matter.

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

Details:

(S) 1.

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The case Special Agent (SA) at the time of the issuance of the questioned NSL was . The case SA at the time of receipt of the response to the NSL was SA and the Supervisory Special Agent (SSA) for the investigation was SSA

(S) b1
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b7C The subject, is a non-United States Person.

3. No IOB error occurred. This report is purely perfunctory:

sciliter
CRS 4/24/07
KW 04/25/07

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NSL VIO-1848

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(U)

b2 To: Inspection From: [redacted]
b7E Re: (S) 278-HQ-C1229736-VIO, 02/23/2007
(S)

(S)

4. [redacted] was advised 02/20/2007 that OIG had brought to the attention of NSLB a NSL, found at [redacted] which OIG believed was an IOB matter. Serial [redacted] Exhibit A, attached, is a copy of a NSL addressed [redacted]

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[redacted] In accordance with 18 U.S.C. § 2709(b) (2001) the NSL contained the required relevancy certification, [redacted] and was duly executed by the Special Agent in Charge at the time, [redacted]

(S)

[redacted]

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[redacted] A NSL [redacted] was served [redacted] (EC at 2.) A NSL [redacted] was furnished [redacted] (EC at 2.) [redacted] (EC at 2.) The questioned NSL [redacted] NSL at 2.)

(S) In response to the questioned [redacted] NSL, [redacted]

[redacted]

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(S)

[redacted]

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(U) General Counsel EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 11/16/2006 observes that:

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(U)

b2 To: Inspection From: [REDACTED]
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components ... 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.¹

(GC EC at 2.) The instant case involves no violation of any Executive Order, Presidential Directive, guideline, ethics rules or any other rule, regulation, order, or policy.

¹ (U) This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

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NSL VIO-1850

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(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

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-1851

~~SECRET~~

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to
File No.

[Redacted]

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[Redacted]

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Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (as amended October 26, 2001), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, and length of service of a person or entity to whom the following telephone numbers are registered:

(S)

[Redacted]

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In accordance with Title 18, U.S.C., Section 2709(b), I certify that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, and that such an investigation of a United States person is not conducted solely on the basis of activities protected by the first amendment of the Constitution of the United States.

You are further advised that Title 18, U.S.C., Section 2709(c), prohibits any officer, employee or agent of yours from disclosing to any person that the FBI has sought or obtained access to information or records under these provisions.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

(S)

[Redacted]

SEARCHED INDEXED
SERIALIZED FILED
SEP 17 2004
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[Redacted]

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NSL VIO-1852

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9/22/04

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You are requested to provide records responsive to this request personally to an employee from the FBI [redacted] Office. Any questions you have pertaining to this request should be directed only to SA [redacted] at telephone number [redacted]. Due to security considerations, you should neither send the records through the mail or disclose the substance of this request in any telephone conversation.

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Your cooperation in this matter is greatly appreciated.

Sincerely yours, [redacted]

[redacted]
Special Agent in Charge

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 09/01/2004

To: General Counsel

Attn: UC [redacted]

[redacted]

CTLU1

Attn: Counterintelligence

From: [redacted]

Contact: SA [redacted]

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Approved By: SAC [redacted]
CDC [redacted]
PM [redacted]
SSA [redacted]

Drafted By: [redacted]

Case ID #: (S) [redacted]

66F-HQ-C1303375 (Pending) - 40693

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Title: (S) [redacted]

(U)

~~(S)~~ Synopsis: Approves the issuance of an ECPA National Security Letter (NSL); provides reporting data; and transmits the NSL for delivery to the telephone company.

Classification: This document is classified "~~SECRET~~" in its entirety unless otherwise marked.

(U) ~~(S)~~ Derived From: G-3
~~Declassify on: "~~

[redacted]

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(S) ~~(S)~~ Enclosure(s): ~~(S)~~ Enclosed for [redacted] Field Office is the original and one copy of a signed NSL [redacted]

[redacted]

~~SECRET~~

(S)

UNCLASSIFIED
WITHOUT TEXT
DATE 9/2/04

INDEXED
FILED
SEP 17 2004

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY: 60322 DMH/RSR/DW
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-05-2032

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~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted] 09/01/2004

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(S)

[redacted]

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Details: (S) [redacted]

[redacted]

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(U) ~~(S)~~ This electronic communication documents the SAC's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks subscriber information on a telephone number.

(U) ~~(S)~~ Arrangements should be made with the institution receiving the enclosed letter to produce the records personally to an employee of the FBI [redacted] Field Office. The institution should neither send the records through the mail nor utilize the name of the subject in any telephone calls to your office. The institution should not contact FBIHQ directly in any manner.

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(S) ~~(S)~~ You should remind the [redacted] representative that it is prohibited from disclosing that the FBI has made this request.

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(U) On November 9, 2001, the Director designated the official signing the enclosed letter as authorized to make the required certification. Any questions regarding the above can be directed to [redacted] Attention: SA [redacted] at [redacted]

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~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted] 09/01/2004

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Counterintelligence Law Unit is requested to record the appropriate information needed to fulfill the Congressional reporting requirements for NSL's.

Set Lead 2: (Action)

[redacted]

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(S) [redacted] (U) [redacted] Field Office is requested to present by hand [redacted] the enclosed original of the signed NSL [redacted] and report the results to [redacted] SA [redacted]

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/02/2005

To:

[Redacted]

From:

Contact: SA

[Redacted]

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Approved By:

[Redacted]

Drafted By:

b1

Case ID #: (S)

[Redacted]

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192

b1 Title: (S)

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[Redacted]

b4 ~~opsis:~~ (S) Results of an NSL

[Redacted]

b7D

(U) ~~(S)~~

~~Derived From:~~ G-3
~~Declassify On:~~ X1

Reference: (S)

(S) b1

[Redacted]

~~(U)~~

[Redacted]

Details: (S)

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[Redacted]

(S)

[Redacted]

[Redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

(S)

[Redacted]

SERIALIZED [initials] INDEXED [initials]
FILED [initials]
MAR 2 2005
FBI - [Redacted]

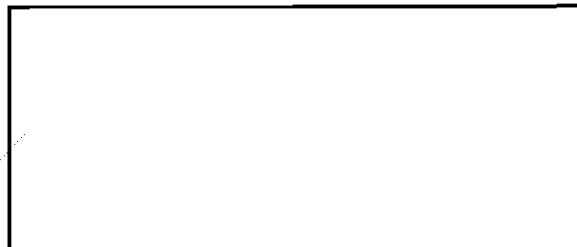
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NSb VIO-1857
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3/5/05

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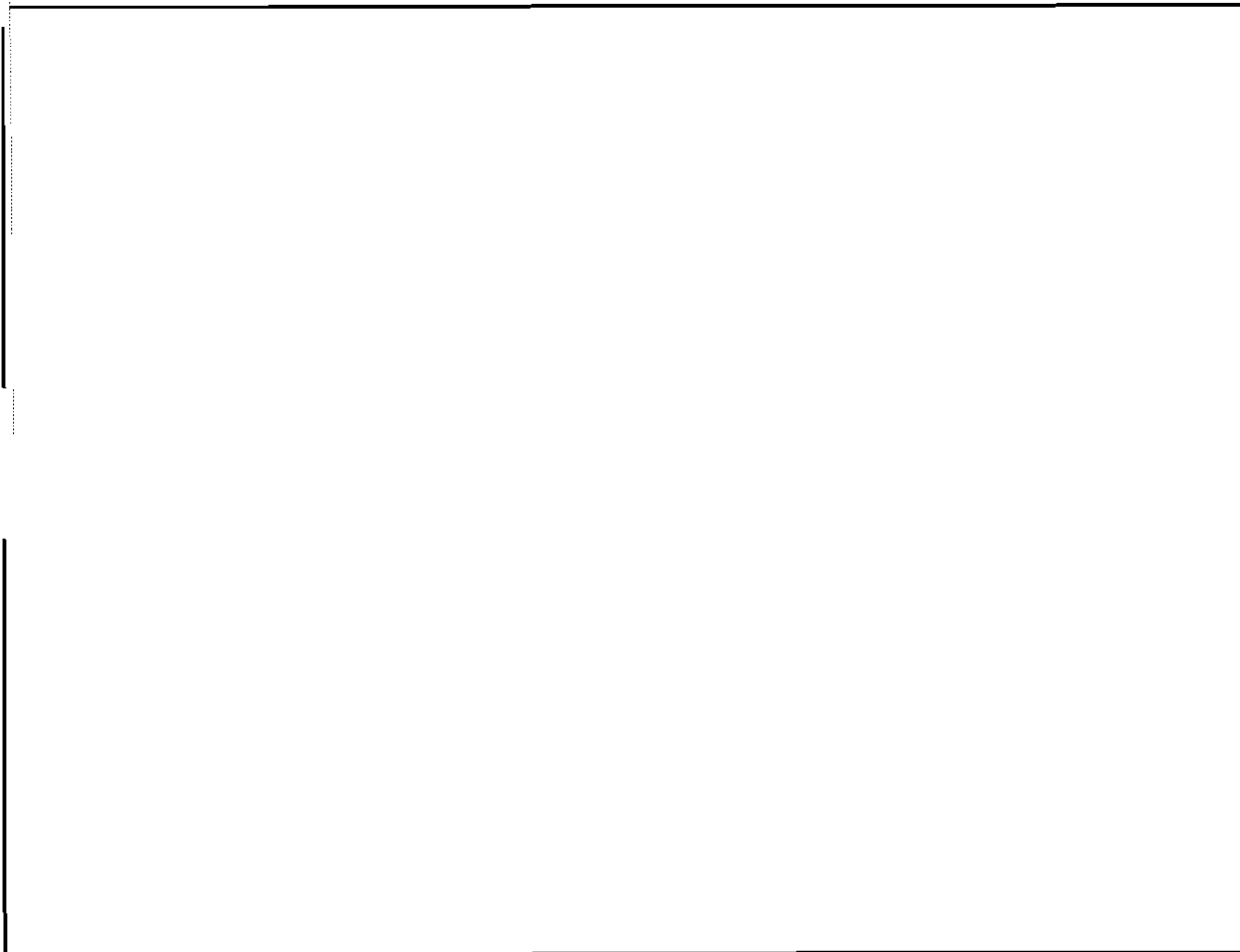
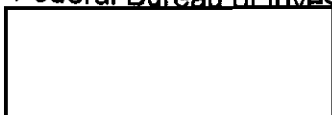


February 15, 2005

VIA HAND DELIVERY

[Redacted] Special Agent in Charge
Federal Bureau of Investigation

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(S)



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DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

NSL VIO-1858

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 3/7/07

To: [Redacted]

Attn: AD
SAC
CDC
SSA
SA

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Counterintelligence
Inspection

Attn: AD

Attn: IIS, CRS

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

Approved By: Thomas Julie F. [Signature]

Drafted By: [Redacted]

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 2733
b1 (S) [Redacted]

(U)

Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER
2007-731

(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.

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

Reference: ~~(S)~~ 278-HQ-C1229736-VIO - Serial 2300
b1 (S) [Redacted]

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OIG/DOJ REVIEW:
FBI INVESTIGATION
OIG/DOJ INVESTIGATION:

DATE: 4-19-07

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DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSE/JW
REASON: 1.4 (C,D)
DECLASSIFY ON: 06-05-2032

NSL VIO-1859

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 3/07/07

(U) Details: (S) After OIG reported on a potential IOB as part of its NSL audit, [redacted] was advised to report this matter as a potential IOB. b2 b7E

(S) [redacted]

[redacted]

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(S) (S) [redacted] sent an NSL [redacted] pursuant to 18 U.S.C. § 2709(b) (2001), requesting subscriber information [redacted]

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(S) [redacted]

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(S) In response to the NSL [redacted]

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[redacted]

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(S) (S) The fact that this [redacted] came back as [redacted], rather than [redacted]

[redacted] does not make it an "unauthorized collection by a third party provider." This was not an error by [redacted] or any kind of over collection by [redacted]. [redacted] or [redacted]

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[redacted] was disclosed pursuant to a duly authorized NSL, in a counterintelligence investigation [redacted] and as such does not

constitute an error reportable to the IOB, (or any error at all). OGC notes that no report of a potential IOB would have been

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required absent its extraordinary mandate. OGC commends for its assistance in this matter. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

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Set Lead 1: (Info)



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(U) Read and clear.

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



1-IOB Library

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FEDERAL BUREAU OF INVESTIGATION

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07

Precedence: ROUTINE

Date: 02/23/2007

To: Inspection
General Counsel

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

From:

Contact: SSA

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Approved By:
Drafted By:

(U) ~~Case ID #:~~ ~~(S)~~ 278-HQ-C1229736-VIO - 2181

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:

b1 (S) 1.
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b7C (S) 2.

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

b1 (S)

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

b2 1) ~~(S)~~ On 02/21/2007, CDC advised SSA of a potential IOB violation identified during an audit by the Office of Inspector General (OIG).

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b7C (S) a National Security Letter (NSL) s-issued requesting financial records pertaining to

b6 *Miller Jan 4/24/07*
b7C *KW CA/25/07*

~~SECRET~~

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

NSL WFO-1863 INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

(S) [redacted] b1
[redacted] Although financial records were requested, the NSL was issued under authority of Executive Order 12333, dated 12/04/1981, and pursuant to Title 18, U.S.C. Section 2709 (as amended, 10/26/2001). The NSL certified that the FBI complied with all applicable provisions of the Right to Financial Privacy Act (RFPA) in accordance with Title 12, U.S.C. Section 3403(b).

(S) ~~(S)~~ Further, a review of the initiating EC dated [redacted] showed a request for an Electronic Communications Privacy Act (ECPA) NSL be approved and authorized [redacted] b1
[redacted] The b7D
EC stated for mandatory reporting purposes that the accompanying NSL b4
sought financial documentation records [redacted]

(U) At the time of the above, SA [redacted] was the case agent and SSA [redacted] was the supervisor. This investigation was closed [redacted] b6
b7C

(U) ~~(S)~~ It should be noted that a previous potential IOB violation reported on this investigation, 278-HQ-C1229736-VIO, Serial 584, was determined by the Office of General Counsel (OGC) as non-reportable, 278-HQ-C1229736-VIO, Serial 780.

9/30/04

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/23/2007

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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-1865

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/14/2007

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS1, CONUS 2, [Redacted]

Inspection

Attn: IIS

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From: Office of General Counsel /
NSLB/CTLU I
Contact: [Redacted]

Approved By: Thomas Julie F[Redacted]

Drafted By: [Redacted]

Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 7.55
(S) [Redacted]

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

b1

Title: (S) INTELLIGENCE OVERSIGHT BOARD
IOB MATTER 2007-[Redacted] b2

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Synopsis: (S) It is the opinion of the Office of General
Counsel (OGC) that the above-referenced matter must be
reported to the IOB and to the FBI's Office of Professional
Responsibility (OPR). OGC will prepare and deliver the
required correspondence to the IOB. Our analysis follows.

(U) (S) Derived From: G-3
Declassify On: 03/14/2032

Reference: (S) 278-HQ-C1229736-VIO Serial 2181

Details: (S) By electronic communication (EC) dated
02/23/2007 and referenced above, the [Redacted] Division [Redacted]
reported to the OGC's National Security Law Branch (NSLB) and
the Inspection Division this potential IOB matter.

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(S) [Redacted]

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OIG/DOJ REVIEW [Redacted] DATE: 4-17-07
FBI INVESTIGATION [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

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NSL VIO-1866

(U)

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To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

(S)

~~(S)~~ An EC dated [redacted] approved issuance of "an ECPA National Security Letter (NSL)" [redacted]. The acronym ECPA was in reference to the Electronic Communications Privacy Act. The EC enclosed an National Security Letter (NSL) [redacted]

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(S)

~~(S)~~ On [redacted] the NSL directed [redacted] to provide "all financial records" pertaining to the subject. The first paragraph of the letter cited for authority Executive Order 12333 and, incorrectly, Title 18, U.S.C. Section 2709 (the ECPA). The second paragraph of the letter correctly referenced the Right to Financial Privacy Act, 12 U.S.C. Section 3414(a)(5)(A) and certified that the records were relevant to an authorized investigation. Further, the third paragraph certified that the FBI had complied with Title 12, Section 3403(b) of the RFPA.

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(S)

~~(S)~~ On 08/29/2004, the results from the NSL were received [redacted]

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[redacted]

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~~(S)~~ On 02/21/2007, the [redacted] CDC advised SSA [redacted] of the potential violation, which had first been identified in the course of an audit by the Office of Inspector General (OIG).

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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

~~SECRET~~

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b2 (U) To: [redacted] From: Office of General Counsel
b7E (U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

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 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)~~ In this instance, the EC did not cite proper legal authority for issuing the NSL. The EC referenced the Electronic Communications Privacy Act, 18 U.S.C. § 2709, which would provide the authority for a request for telephone and email communication records from telephone companies and internet service providers, rather than the Right to Financial Privacy Act, 12 U.S.C. § 3414(a)(5)(A) which would provide the

~~SECRET~~

~~SECRET~~

b2
b7E

(U) To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

(S)

authority to request financial information [redacted]
In addition to citing the incorrect authority in the EC, the EC did not explain why the investigation justified obtaining the financial records. We note that the facts disclosed in the investigation file would have supported issuance of the NSL under RFPA [redacted]. However, these facts were not articulated in the EC.

b7D
b4

(S)

~~(S)~~ In addition, the NSL [redacted] signed by the SAC did not fully and correctly reference the authority to obtain financial records [redacted].

b4
b7D
b2
b1

(S)

[redacted] Again, the facts of the investigation would have supported issuing the NSL under the legal authority to obtain financial records under RFPA [redacted] however, the NSL did not correctly articulate the authority.

(U)

~~(S)~~ In conclusion, the EC and NSL were not issued in full compliance with the requirements of the Right to Financial Privacy Act. Accordingly, these errors must be reported to the IOB.

(U) In accordance with reporting requirements of Section 2.4 of EO 12863, OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

b2 U) To: [redacted] From: Office of General Counsel
b7E Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/14/2007

LEAD(s):

Set Lead 1: (Action)

b2
b7E

[redacted]

(U) Provide training and review procedures for requesting and issuing National Security Letters.

Set Lead 2: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

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

◆◆

~~SECRET~~

~~SECRET~~//20320307

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/07/2007 7

To: Inspection
General Counsel

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

b2

From:

Contact:

b2
b7E
b6
b7C

Approved By:

Drafted By:

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-2232

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

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

(U) ~~(S)~~ Derived From: ~~FBI G3 SCG, Jan. 1997~~
Declassify On: ~~20320307~~

Details:

(S) 1
b1
b6
(S) b7C

(U) ~~(S)~~ b7A

Possible IOB Error:

b1 (S)

(U) ~~(S)~~ 4.

Description of IOB Error (including any reporting delays).

(S) Improper NSL collection due to an error of the recipient,

(S) who had never dealt with an

b1 NSL before. The NSL results information for

b7D included

(S) expressly prohibited in the NSL provided

SC Miller *Call 4/24/07*
CR8 *Raw 4/25/07*

~~SECRET~~//20320307

b6
b7C

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
NSL VIO-1871 SHOWN OTHERWISE

(U) To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 03/07/2007

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~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/18/2007

To: [Redacted]

Attn: SSA [Redacted]
SA [Redacted]

b2
b7E Inspection

Attn: IIS, Room 11861

b6
b7C Counterterrorism

(S) Attn: ITOS II, [Redacted]

b1

From: Office of the General Counsel
NSLB/CILU/Room 7947
Contact: AGC [Redacted]

Approved By: Thomas Julie [Signature]

Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO [Redacted] 3196

b1
b7A

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

b2

(U) Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that this matter does not merit reporting to the Intelligence Oversight Board (IOB). A copy of this opinion should be retained in the control file for review by Counsel to the IOB.

(U) Derived From : G-1
Declassify On: X1

101
b1 Reference: (U) [Redacted]
b7A (U) 278-HQ-C1229736-VIO Serial 2232

b2
b7E Details: (U) The referenced electronic communication ("EC") from [Redacted] in file 278-HQ-C1229736, dated 03/07/2007, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does not. Our analysis follows.

b1
b7A (S) [Redacted]
b6
b7C [Redacted]

~~SECRET~~

b6
b7C
OIG/DOJ REVIEW: [Redacted]
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]
DATE: 4-20-07

NSL VIO-1873

b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 03/18/2007

(S) [redacted]
b1
b7A

(S) ACS also reflects that, on 01/31/07, a National Security Letter ("NSL") seeking electronic communication transactional records [redacted]

(S) b1 [redacted]
b7D [redacted] In its text, the letter
b7A requested electronic communication transactional records but expressly stated that such records did not include [redacted]

(S) [redacted] (S)
(S) [redacted] Shortly thereafter, [redacted] provided the records but included [redacted]

(S) b1 [redacted]. Immediately upon discovering the error, the
b7D case agent sequestered the material and notified [redacted] which
b7A subsequently provided a "clean" copy of the records. The agent never uploaded any information from the first set of documents to ACS or any of the Bureau's computer systems. The only record remaining [redacted] overproduction of documents is the initial CD-ROM, which is now sequestered within a safe.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels 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 E.O. 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 E.O. 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.

(S) [redacted] (S)
b1 Here, an error on the part [redacted] resulted in the
b7D unintentional acquisition of information outside the scope of the NSL. This matter thus constitutes a third-party error in

~~SECRET~~

b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 03/18/2007

responding to the NSL and is therefore not reportable to the IOB.¹

(S) Further, for the sake of completeness, it should be noted that, immediately upon learning that [redacted] had provided an overbroad response, the [redacted] Field Office took steps to ensure that the information was not disseminated and requested legal guidance. Examination of the record reveals no evidence of unlawful actions by the FBI or actions contrary to Executive Order or Presidential Directive. Accordingly, we opine that this incident is not reportable to the IOB.

(U) By this EC, we request that the [redacted] Field Office sequester and destroy any remaining record of [redacted] giving rise to this inquiry. Inspection is hereby requested to maintain a copy of this record in the event that it is requested by the Counsel to the IOB.

¹ On 03/28/2006, NSLB sent a letter to the Counsel for the IOB requesting their concurrence to treat these third party errors as non-reportable, though we will require the field to continue to report any improper collection under an NSL as a potential IOB matter. By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

~~SECRET~~

~~SECRET~~

b2
b7E

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/18/2007

LEAD(s) :

Set Lead 1: (Action)

[redacted]

b2
b7E

(U) [redacted] is requested to destroy the sequestered information erroneously provided by ASU.

Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

CC: Ms. Thomas
[redacted]
IOB Library

b6
b7C

◆◆

~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

331-1
7-

Precedence: ROUTINE

Date: 02/22/2007

To: Inspection
General Counsel

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

From:

Contact:

b2
b7E
b6
b7C

Approved By: SAC
ASAC
CDC
SSA

Drafted By:

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO - (Pending) ²²¹¹
b2 (S) 278--136372 (Pending)
b7E

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

Synopsis: (U) To report possible IOB error.

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

Details:

b1
b6 (S)
b7C
b2
b7E (S)
b6
b7C (U)

- 2. Case Agent: SFO
Supervisor: SSA
- 3. Possible IOB Error: Receiving telephone records outside the dates requested in the National Security Letter.

(S) ~~(S)~~
b1

Miller 2/21 4/24/07
CRS *kw 04/05/07*

~~SECRET~~

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JN
REASON: 1.4 (C) NSL VIO-1877
DECLASSIFY ON: 06-05-2032

*never rec'd
download for ACS 04/19/07 hrs*

(U) To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 02/22/2007

b2
b7E

(U) (S) 5. Description of possible IOB Error (including any reporting delays).

(S) (X) [redacted] upon opening the above noted investigation, issued a National Security Letter (NSL) requesting [redacted] records associated [redacted]

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[redacted] for periods [redacted] and [redacted]. Pursuant to the NSL [redacted] sent [redacted] As noted above, [redacted] requested telephone records for two sets of date ranges. [redacted] upon receipt of the telephone records checked to make sure the telephone number and the name of the subscriber matched the name and telephone number requested. Additionally, [redacted] checked to make sure the telephone date ranges requested were "included".

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(U) During a 2006 review of NSL's by NSLB [redacted] was notified that information not requested by the NSL noted above had been received. A review of the NSL related to this matter revealed records requested for the first set of dates [redacted]. Records actually received addressing that date range were [redacted]. [The possible IOB violation would be the records received "prior to and after" the requested date range. These dates were identified as [redacted] through and including [redacted] through and including [redacted].

b7D

(U) Telephone records requested for the second set of dates were [redacted] (date of NSL). Records actually received addressing this date range were [redacted]. [The possible IOB violation would be the telephone records received "prior to" the requested date range. These dates were identified as [redacted].

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(X) [redacted] was interviewed during the NSL review by NSLB regarding the excess information received [redacted]. There was no notification at that time that this was a possible IOB violation. [redacted] was notified by CDC on November 21, 2007 that this was a possible IOB violation.

~~SECRET~~

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b7E

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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b7E

(U) Upon notification by CDC of the possible violation, [redacted] retrieved the above noted file from closed files and manually removed the telephone records suspected of being possible IOB violations. The removed records were subsequently sequestered with the [redacted] Division CDC pending results of the IOB inquiry. Additionally, [redacted] [redacted] was notified and initiated the process of removing the noted records from ACS.

~~SECRET~~

~~SECRET~~

b2
b7E

(U) To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 3/12/2007

To: [Redacted]

Attn: SAC [Redacted]
ASAC [Redacted]
CDC [Redacted]
SSA [Redacted]
SA [Redacted]

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b7C

Counterterrorism
Inspection

Attn: ITOS I, CONUS IV
Attn: [Redacted] IIS,
[Redacted]

From: General Counsel
National Security Law Branch/CTLM II/LX-1 [Redacted]
Contact: [Redacted]

Approved By: Thomas Julie *[Signature]*

Drafted By: [Redacted]

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (pending) *2546*

Title: (U) Intelligence Oversight Board
b2 (IOB) Matter 2007 [Redacted]

(U)

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

(U)

~~(S)~~ Derived From: G-3
Declassify On: 03/07/2032

(U)

Reference: ~~(S)~~ 278-HQ-C1229736-VIO serial 2211
b2 278-[Redacted]-136372 [Redacted]

(S)

b7E [Redacted]

b1 Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in Corel WordPerfect.

b2
b7E Details: ~~(S)~~ By electronic communication (EC) dated 02/22/2007 (278-HQ-C1229736 Serial 2211), [Redacted] Field Office [Redacted]

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

OIG/DOJ REVIEW [Redacted] DATE: *4-20-07*
FBI INVESTIGATION [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

NSL VIO-1881

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b7C

~~SECRET~~

(U) To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/12/2007

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b7E

[redacted], reported to the Office of the General Counsel (OGC) this potential IOB matter.

(S)

[redacted] a National Security Letter (NSL) was issued which requested [redacted]

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records [redacted] periods [redacted] and [redacted]. In response to the NSL, [redacted] provided [redacted]

The records [redacted]

[redacted] provided [redacted] exceeded the scope of the NSL. The agent did not realize at the time that the information was received that the additional information constituted a potential IOB violation. However, when the case agent was informed by the CDC on November 21, 2006 that there was a problem with the additional information, the case agent immediately retrieved the excess information from the closed case file and sequestered the information with the CDC. In addition, the excess records were removed from the Automated Case Support system.

(S) ~~(S)~~ In this case, an error on the part [redacted] resulted in the unintentional acquisition of information. Upon learning that there was information received [redacted] that exceeded the scope of the NSL, the case agent responded

b4
b7D(S)

immediately by removing and sequestering the information with the CDC pending disposition of the matter.

(U) ~~(S)~~ Based upon our analysis, the carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive. Pursuant to the Revised Procedures for the Submission of Reports of Potential Intelligence Oversight Board (IOB) Matters, Reports of potential IOB matters determined by OGC not to require notification to the IOB will be retained by INSD for three years 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.¹ Accordingly, OGC will

¹ By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

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~~SECRET~~

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(U) To: [redacted] From: General Counsel
Re: (S) 278-HQ-C1229736-VIO, 03/12/2007

request that the Inspection Division retain a record of the report of a potential IOB matter for three years, together with a copy of this opinion for possible review by the Counsel to the IOB.

~~SECRET~~

3

NSL VIO-1883

(U)

~~SECRET~~

To: [REDACTED] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 03/12/2007

LEAD(s) :

b2 **Set Lead 1: (Action)**

b7E

[REDACTED]

(U) The field 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: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

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.

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~~SECRET~~

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NSL VIO-1884

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

07

b2

Precedence: ROUTINE

Date: 02/28/2007

To: Inspection
General Counsel

Attn: IIS, Room 11861
Attn: NSLB, Room 7975
Attn: CDC/Legal Unit

From:

Contact: SA

b2
b7E
b6
b7C

Approved By:

Drafted By:

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) - 2235

(U)

Title: ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD (IOB) ERROR

Synopsis: ~~(S)~~ To report a potential IOB matter.

(U)

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

(S)
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b7A

Details: ~~(S)~~ 1.
 as set forth above, with appropriate extensions and approvals obtained by FBIHQ, Counterterrorism Division.

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b7C
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b7E
b7A

(U) ~~(S)~~ 2. Case Agent: SA
b6 Supervisor: SSA

(S) 3.

b1
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b7C
b7A
b6
b7C

SA Miller *DOB* 4/24/07
CRS *kw* 04/25/07

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

(U)

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b7E

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

(U) ~~(S)~~ 4. No Foreign Intelligence Surveillance Act (FISA) request has been submitted to the Office of Intelligence Policy and Review, Department of Justice (OIPR).

(U) ~~(S)~~ 5. Description of IOB Error (including any reporting delays):

(S)

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b7C

[redacted]

(S)

b1
b7A
b6
b7C

[redacted]

(S)

b1
b7A
b7D
b6
b7C

[redacted]

(S)

b1
b7A
b6
b7C

[redacted]

~~SECRET~~

~~SECRET~~

b2
b7E

(U) To: Inspection From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 02/28/2007

(S)

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b7E
b7A
b4

[redacted]
[redacted] a National Security Letter (NSL) was prepared
[redacted] requesting [redacted]
[redacted] records [redacted]
[redacted] provided [redacted]
Division with records for their response to this NSL.

(S) [redacted] SA [redacted] reviewed [redacted]
[redacted] response to [redacted] NSL and discovered that
[redacted] provided records that were over-inclusive to the
request of the NSL. [redacted]

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b7D
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b7C
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b7E
b7A
b4

[redacted]
[redacted] provided [redacted]
[redacted] that were not requested by
SA [redacted].

b1
b7D
b6
b7C
b2
b7E
b7A
b4

(S) [redacted] SA [redacted] informed Associate
Division Counsel [redacted] of this matter. SA [redacted] then
contacted [redacted] liaison to [redacted] to report the
over-inclusive response [redacted] so that contact could
be made to appropriate [redacted] to inform them of these
issues. All documents included in the response [redacted]
[redacted] will be locked in a safe maintained by SSA [redacted]
until appropriate resolution of the matter is determined.

~~SECRET~~

~~SECRET~~

b2
b7E

(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For whatever action is deemed appropriate.

Set Lead 2: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For whatever action is deemed appropriate.

◆◆

~~SECRET~~

~~SECRET~~

b2

FEDERAL BUREAU OF INVESTIGATION

7

Precedence: ROUTINE

Date: 02/28/2007

To: Inspection

Attn: Internal Investigations
Section, Room 11861

General Counsel

Attn: National Security Law Branch
(NSLB), Room 7975

From:

Legal Section

Contact:

b2
b7E
b6
b7C

Approved By: *[Signature]*

DATE: 06-05-2007
CLASSIFIED BY 65179 DMH/ESR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

Drafted By:

(U)

Case ID #: (S) 278-HQ-C1229726 VIO - 22-23

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b1

Title: (U) REPORT OF A POTENTIAL
IOB MATTER (PIOB)

(S)

Synopsis: (S) Response to telephonic and e-mail mandate by NSLB of 02/20/2007 to report as a potential IOB matter, a National Security Letter (NSL) believed by the Office of the Inspector General (OIG), Department of Justice, to be an IOB matter.

(U)

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

Details:

(S) b1 1.

b6

b7C

The case Special Agent (SA) at the time of the issuance of the questioned NSL and receipt of the response to the NSL was SA The Supervisory Special Agent (SSA) for the investigation was former SSA

(S)

b1

2.

b6

b7C

3. No IOB error occurred. This report is purely perfunctory:

SC Miller
[Signature] 4/24/07
KW 04/25/07

~~SECRET~~

b6
b7C

NSL VIO-1889

(U)

~~SECRET~~

b2
b7E

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

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4. (S) [redacted] was advised 02/20/2007 that OIG had brought to the attention of NSLB a NSL, found [redacted] which OIG believed was an IOB matter. [redacted] attached. is a copy of a NSL [redacted]
[redacted]
[redacted] In accordance with 15 U.S.C. § 1681u(a)(2001), the NSL contained the required relevancy certification, (NSL at 1), and was duly executed by a Special Agent in Charge at the time, [redacted], (NSL at 2).

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b7C

(S) [redacted]
[redacted]

b1
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b7C

(S) [redacted]
[redacted]

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(S) The aforementioned questioned NSL [redacted] requested [redacted] (NSL at 1.) The response to the NSL supplied information beyond that requested [redacted]

~~SECRET~~
2

(U)

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

(S)

[redacted]

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(S) No use appears to have been made of any of the information [redacted]

[redacted]

Review of the file disclosed no requests for information submitted under the Right to Financial Privacy Act to any [redacted]

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[redacted]

(U)

~~(S)~~ No policy prior to the General Counsel EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 11/16/2006, characterized as a PIOB matter, a provision of information beyond the scope of an NSL resulting in the unintentional acquisition of data. (See Inspection EC to All Divisions, captioned, "INTELLIGENCE OVERSIGHT BOARD," dated 12/24/2002; Director's EC to All Divisions captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 03/08/2004; Inspection EC to All Divisions, captioned, "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTERS," dated 02/10/2005. Inasmuch as the EC of 11/16/2006 was not the controlling authority at the time the results of the questioned were received and as no use was made of those results, no PIOB violation occurred.

(S)

[redacted]

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b7C
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Clearly, the information sought in the questioned request [redacted] was for the conduct of an authorized investigation to protect against international terrorism or clandestine intelligence activities. Further, the investigation was not conducted solely on the basis of activities protected by the first amendment to the Constitution of the United States.

~~SECRET~~

(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

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b7E

(U) General Counsel EC captioned "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD MATTERS," dated 11/16/2006 observes that:

Section 2.4 of Executive Order 12863 mandates that Inspectors General and General Counsel of the Intelligence Community components ... 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.¹

(GC EC at 2.) The instant case involves no violation of any Executive Order, Presidential Directive, guideline, ethics rules or any other rule, regulation, order, or policy.

¹ (U) This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

~~SECRET~~

4

NSL VIO-1892

~~SECRET~~

(U)

To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/28/2007

b2
b7E

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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~~SECRET~~

5

NSL VIO-1893

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

2007
b2

Precedence: ROUTINE

Date: 02/21/2007

07 []

To: Inspection

Attn: Internal Investigations
Section, Room 3041

General Counsel

Attn: National Security Law Branch
Room 7947

From: []

Contact: SSA []

Approved By: []

Drafted By: []

b2
b7E
b6
b7C

(U) Case ID # (S) 278-HQ-C1229736-VIO (Pending) 2014
b2 (S) 278-[]-C136372 (Pending) 178
b7E (S) []
b1 []

Title: (U) IOB MATTER

Synopsis: (U) Report of a previously addressed IOB matter.

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

(S) []
b1
b2
b7E

Reference: (U) 278-HQ-C1229736 Serial 2570

Administrative: (U) This IOB matter was addressed during an FBI [] 2006 OIG audit. Per 04/05/2006 6:31 AM email from OGC's [] regarding NSL overcollection, in cases where the FBI overcollects because of the provider, if the information that the provider gave the FBI beyond what was asked for (e.g., more telephone accounts of the same subscriber) is relevant to an authorized investigation, it will not have to be reported as an IOB.

b2
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JM
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

ap070531.wpd

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b6
b7C

sc Miller OCT 11 4/27/09
CRS [] 05/04/07

~~SECRET~~

b2
b7E

(U) To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

Enclosure(s): (U) For all recipients: 278-HQ-C1229736 Serial 2570, dated 11/16/2006; and 04/05/2006 6:31 AM email from OGC's [redacted] regarding overcollection. b6
b7C

Details: (U) The purpose of this EC is to report a previously-cleared potential IOB matter involving an NSL for telephone toll records requested by SA [redacted] as well as to satisfy the new requirements set forth by referenced serial 2570, dated 11/16/2006, regarding the revised procedures for submission of potential IOB matters. b6
b7C
b2
b7E

(U) ~~(S)~~ 1. Identification of the substantive investigation in which the activity occurred, including the names of relevant personnel including the case agent and his supervisor [redacted]

(S) CaseID#: [redacted]

Case Agent: SA [redacted] (retired) b1
Supervisor at time of activity: [redacted] b6
Supervisor during [redacted] 2006 OIG audit: [redacted] b7C

(U) 2. Identification of subject's status as USPer or non-USPer: Non-USPer

(U) 3. Complete and thorough explanation of matter, including all relevant facts:

(U) 3(a). Statement regarding when matter occurred (including, in instances of delayed reporting, explanation for delayed reporting): Referenced serial [redacted] and referenced serial [redacted] advised of results of initial NSL (referenced [redacted]). Per OGC guidance at the time (referenced email dated 04/05/2006 at 6:31 AM), [redacted] determined the NSL results, which contained a second associated telephone number, did not constitute an IOB violation, thus a potential IOB was not reported. b2
b7E

(U) 3(b). Statement concerning controlling law, regulation or NSIG provision pertaining to the matter: Under authority of EO 12333, dated December 4, 1981, and pursuant to Title 18, U.S.C., §2709 (Section 201 of ECPA of 1986) (as amended), a communications carrier was directed to provide to the FBI the name, address, length of service, and local and long distance toll billing records associated with a telephone number.

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~~SECRET~~

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(U) To: Inspection From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007

(U) 3(c). Complete statement of status of matter, including when it was initiated and whether it currently is opened or closed: During an OIG audit of FBI [REDACTED] NSLs from [REDACTED] [REDACTED] 2006, the results of the subject NSL were called into question by the IG as a potential IOB violation, since a second telephone number was identified by the communications carrier in their reply. The Case Agent was interviewed by the IG, during which it was agreed that the second telephone number was associated with the subject telephone number. At the time, this was allowed (per referenced OGC email dated 04/05/2006 at 6:31 AM), as it was a situation where the information provided by the communications carrier beyond what was asked for was relevant to an authorized investigation, and did not have to be reported as an IOB. [REDACTED] considers this matter closed. b2 b7E

~~SECRET~~

~~SECRET~~

(U) To: Inspection From: [redacted] b2
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/21/2007 b7E

LEAD(s):

Set Lead 1: (Info)

INSPECTION

AT IIS, DC

(U) For information.

Set Lead 2: (Info)

GENERAL COUNSEL

AT NSLB, DC

(U) For information.

CC: 1 - CDC [redacted]
1 - SA [redacted]
1 - SSA [redacted]

b6
b7C

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~~SECRET~~

NON-RECORD

Concerning your ten day overrun, [] and I just talked to Julie Thomas on this issue. She wants these, as well as all annual LHM overruns, USP and non USP, reported as potential IOBs, and we will then decide whether to report them as IOBs. The non-USPs overruns will probably not be reported to the IOB but she wants them reported as potential IOBs so OGC can keep track of problems generally in following procedures, even though not reported to the IOB. USP overruns may or may not be reported as IOBs, depending in part upon how long the delay was in reporting.

b6
b7C

I know this is new, particularly with respect to annual LHMs, so we will be sending something out on this.

[]

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/17/2004

To: General Counsel

Attn: [Redacted]

Chief, NSLU

[Redacted]

From: [Redacted]

SAC [Redacted]

Contact: SA [Redacted]

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b7E
b6
b7C

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: (S) [Redacted]

(U) (X) 66F-HQ-C1303375

b1
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b7C

Title: (S) [Redacted]

Synopsis: (U) Approves the issuance of an ECPA National Security Letter (NSL); provides reporting data; and, if necessary, transmits the NSL for delivery to the telephone company or electronic communications service provider.

(U) (S) [Redacted]

~~Derived From : G-3
Declassify On: X1~~

b1 (S) [Redacted]

Enclosure(s): (X) [Redacted]

(S)
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b7D
b6
b7C
b2
b7E

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted]

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b1

(S) [redacted]

b1
b4
b7D

Details: (S) [redacted]

[redacted]

b1
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b7C

(S) ~~(S)~~ This electronic communication documents the SAC's approval and certification of the enclosed NSL. For mandatory reporting purposes, the enclosed NSL seeks [redacted] records on cellular phone number [redacted].

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(U) Arrangements should be made with the institution receiving the enclosed letter to produce the records personally to an employee of your office. The institution should neither send the records through the mail nor utilize the name of the subject in any telephone calls to your office. The institution should not contact FBIHQ directly in any manner.

(U) You should remind the telephone company that it is prohibited from disclosing that the FBI has made this request.

(U) On 11/09/2001, the Director designated the official signing the enclosed letter as authorized to make the required certification.

(U) The Squad Supervisor affirms that SA [redacted] [redacted] has checked all appropriate databases for a prior request by any field office for the material sought. Additionally, the requested material does not appear to be available from public sources.

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b7C

~~SECRET~~

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted]

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b1

(U) Any questions regarding the above can be directed
to the [redacted] Attention: SA [redacted]
[redacted]

b6
b7C
b2
b7E

~~SECRET~~

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted]

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b7E
b1

LEAD(s) :

Set Lead 1:

[redacted] (ACTION)
[redacted]

b2
b7E

(U) Deliver the attached letter as indicated above.
Upon receipt of information from the carrier, [redacted] is
requested to submit results to [redacted]

Set Lead 2:

GENERAL COUNSEL (ACTION)

AT WASHINGTON, DC

(U) NSLU is requested to record the appropriate
information needed to fulfill the Congressional reporting
requirements for NSLs.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/26/2004

To: [Redacted]

b2
b7E
b6
b7C

From: [Redacted]

Contact: SA [Redacted]

Approved By: [Redacted]

Drafted By: [Redacted]

Case ID #: (S) [Redacted]
(S) [Redacted]

b1
b6
b7C

Title: (S) [Redacted]

Synopsis: (S) Results [Redacted]

NSL [Redacted]

b1
b7D

(U) ~~(S)~~

Derived From : G-3
Declassify On: X1

Enclosure(s): (S) [Redacted]

NSL [Redacted]

b1
b7D
b6
b7C

Details: ~~(S)~~

On 07/13/2004, results from NSL [Redacted] was received by [Redacted] from [Redacted] with the following results:

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b7E

(S)

currently used [Redacted]

(S)

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b7D
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(S)

(S)

~~SECRET~~

DATE: 06-05-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-05-2032

NSL VIO-1904

*never rec'd
downloaded from ACS
04/19/07 kas*

~~SECRET~~

To: [redacted]
Re: (S) [redacted]

From: [redacted]

07/26/2004

b2
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b1

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

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b7D
b6
b7C
b4

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

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~~SECRET~~

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To: [redacted] From: [redacted]
Re: (S) [redacted] 07/26/2004

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

[redacted]

[redacted]

b1
b7D
b6
b7C
b4

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

~~SECRET~~

~~SECRET~~

To: [redacted] From: [redacted]
Re: (S) [redacted] 07/26/2004

b2
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Accomplishment Information:

Number: 1
Type: NSL TO FINANCIAL INSTITUTION PREPARED & APPROVED
ITU: NATIONAL SECURITY LETTER
Claimed By: [redacted]
SSN: [redacted]
Name: [redacted]
Squad [redacted]

Number: 1
Type: NSL SERVED TO FINANCIAL INSTITUTION
ITU: NATIONAL SECURITY LETTER
Claimed By: [redacted]
SSN: [redacted]
Name: [redacted]
Squad [redacted]

b6
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b2
b7E

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/16/2006

To: All Divisions

Attn: ADIC/SAC
CDC

From: Office of the General Counsel
National Security Law Branch

Contact: National Security Law Branch, (202) 324-



b2

Approved By: Pistole John S
Hulon Willie T
Caproni Valerie E
Thomas Julie F

b6
b7C



Case ID #: (U) 278-HQ-C1229736 Serial 2570

Title: (U) REVISED PROCEDURES FOR THE SUBMISSION
OF REPORTS OF POTENTIAL INTELLIGENCE
OVERSIGHT BOARD MATTERS

Synopsis: (U) To provide legal guidance to all divisions regarding changes to the requirements and procedures to report conduct that may be unlawful or contrary to Executive Order or Presidential Directive (potential IOB matters). This electronic communication (EC) supersedes all previous oral and written guidance relating to reporting potential IOB matters.

(U) ~~Derived From: G-3~~
~~Declassify On: X25-1~~

Details: (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.

~~SECRET~~

DATE: 06-06-2007
CLASSIFIED BY: 65179 DMH/KSE/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-06-2032

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE
NSA/CSS 1908

~~SECRET~~

To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

(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.¹ 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.² 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

¹ (U) The Attorney General's Guidelines on General Crimes, Racketeering Enterprise and Terrorism Enterprise Investigations (AG Guidelines on General Crimes), effective 05/30/2002, are not considered guidelines or regulations approved by the Attorney General in accordance with EO 12333. Accordingly, any potential violation of the AG Guidelines on General Crimes should not be reported to OGC as a potential IOB matter.

² (U) This interpretation of the reporting requirements was furnished to the FBI by the PIOB during a meeting on 06/18/1982. William H. Webster, then Director of the FBI, concurred with this interpretation and confirmed the immediate implementation of reporting procedures in adherence to this interpretation in a letter, dated 07/14/1982, to Dr. W. Glenn Campbell, Chairman of the PIOB. This interpretation was confirmed by Mary C. Lawton, Counsel for Intelligence Policy, Office of Intelligence Policy and Review, Department of Justice, by letter dated 04/08/1983.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

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.

PROCEDURES

1. (U) **Obligation to Report Potential IOB Matters.** All FBI employees have an obligation to report conduct that may be unlawful or contrary to Executive Order or Presidential Directive, as described in the previous paragraph, within 14 days of the discovery of the possible error or violation. The failure to report such matters, for whatever reason, may result in severe disciplinary action, up to and including dismissal from the FBI.

2. (U) **Reporting Procedures.** FBI Headquarters (FBIHQ) divisions and field offices are responsible for monitoring intelligence activities and reporting possible IOB matters to Internal Investigations Section (IIS), INSD, and National Security Law Branch (NSLB), Office of the General Counsel, as discussed in this section.

3. (U) **Contents of IOB Reporting EC.** Reports of potential IOB matters are to be reported to INSD (Attn: IIS) and OGC (Attn: NSLB) by electronic communication (EC), uploaded into Case ID Number 278-HQ-C1229736-VIO, and should include the following information:

- A. The caption of the reporting EC should state: REPORT OF A POTENTIAL IOB MATTER;
- B. Identification of the substantive investigation in which the questionable activity occurred, including the names of relevant personnel including the case agent and his/her supervisor;³

³ (U) It is no longer necessary to put the names of the case agent and supervisor in the caption, but the names should be included in the text of the reporting EC.

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~~SECRET~~

To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

- C. Identification of the subject's (or asset's) status as a United States (U.S.) person or non-U.S. person;
- D. A complete and thorough explanation of the error believed to have been committed and all relevant facts. The explanation should include:
- (1) A statement regarding when the error occurred (including, in instances of delayed reporting, an explanation for the delayed reporting);
 - (2) A statement concerning the controlling law, regulation or NSIG provision that pertains to the violation [for example: "The Foreign Intelligence Surveillance Court authorized an electronic surveillance to begin at (time) on (date)," or "A full investigation was initiated on (date) and expired on (date)"];
 - (3) A complete statement of the status of the investigation or matter including, if applicable, when it was initiated, when it expired, when it was renewed, and whether it currently is opened or closed; and
 - (4) A statement if and when a Foreign Intelligence Surveillance Act (FISA)

~~SECRET~~

~~SECRET~~

To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

request has been submitted
to
Office of Intelligence
Policy
and Review, Department of
Justice (OIPR), if relevant.

4. (U) **Approval Level of Reportable IOB Matters.**
EC reports of potential IOB matters must be approved by the ADIC/SAC or Assistant Director, as appropriate. FBI personnel are encouraged to call NSLB with any questions as to what is required or should be included in initial reports of IOB matters.

5. (U) **Quarterly Reports.** In addition to the foregoing, on a quarterly basis, each field office and FBIHQ division is required to submit to OGC (Attn: NSLB) an EC certifying that all employees of the office or division were contacted concerning the requirement to report possible IOB matters. (See MAOP, Part 1, 1-22.) The canvassing of employees may be accomplished by e-mail within field offices and HQ divisions. EC certifications to OGC/NSLB may be approved by an ASAC or Deputy Assistant Director, as appropriate. If a field office or FBIHQ division has already reported the matter to OGC, such matter does not need to be included in the quarterly report.

6. (U) **Action by OGC/NSLB.**⁴ Following receipt of the information required by paragraph 3 above, OGC/NSLB will review the conduct described to determine if the reported error or violation requires notification to the IOB. OGC/NSLB will prepare a written opinion as to whether the matter is reportable to the IOB. If the reported matter is determined to require IOB notification, OGC/NSLB will prepare the necessary correspondence to the IOB setting forth the basis for the notification (see paragraph 8 below). That correspondence will be signed by the General Counsel or the General Counsel's designee. A copy of the correspondence will also be sent to INSD/IIS and to the SAC or Assistant Director who initially reported the matter for action deemed

⁴ (U) Once INSD has been notified that a potential IOB error has occurred, it will take any action which it deems appropriate.

~~SECRET~~

~~SECRET~~

To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

appropriate. Copies of that correspondence will also be delivered to the Office of the Attorney General, Department of Justice (DOJ), and OIPR.

7. (U) **Retention of reports of potential IOB matters that are not reported.** Reports of potential IOB matters determined by OGC/NSLB not to require notification to the IOB will be retained by INSD for three years 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.

8. (U) **Conduct that must be reported as potential IOB violations.** The following incidents **must be reported** to OGC/NSLB as potential IOB violations. OGC/NSLB will then evaluate the potential IOB violation and determine whether the violation is reportable to the IOB. **This list is not exhaustive.** If there are any concerns regarding whether an incident is reportable to OGC/NSLB, please contact NSLB to discuss the matter.

A. (U) Engaging in activities believed to be unlawful or contrary to Executive Orders or Presidential Directives.

B. (U) Engaging in activities believed to violate the United States Constitution.

C. (U) Initiating electronic surveillance or physical search without authorization from the Foreign Intelligence Surveillance Court (FISC) or other legal authorization.

D. (U) Failing to terminate an authorized surveillance at the time prescribed by the FISC or other relevant legal authority.

E. (U) Engaging in investigative activity beyond the scope of the FISC order or other relevant legal authority.

F. (U) A carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data.

~~SECRET~~

To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

G. (U) Failing to adhere to the minimization or dissemination requirements specified in a FISC order or other relevant legal authority.

H. (S) [redacted]

I. (S) [redacted]

b1
b2

J. (U) Failing to submit the annual LHM within 90 days of the date that it was due.⁵

K. (S) [redacted]

(U) L. ~~(S)~~ Serving a National Security Letter (NSL) that contains a substantive typographical error that results in the acquisition of data that is not relevant to an authorized investigation (i.e., numbers on telephone number transposed).

(U) M. ~~(S)~~ Serving an NSL that requests information that is beyond the scope permissible by statute (i.e. content information).

⁵ (S) [redacted]

b1
b2

~~SECRET~~

To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

(U) N. ~~(S)~~ A carrier providing information beyond the scope of an NSL resulting in the unintentional acquisition of data.

O. (S)

P. (S)

Q. (S)

R. (S)

S. (S)

9. (S)

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(U) If the potential IOB violation involves the unintentional acquisition of information under the Foreign Intelligence Surveillance Act, the field should ensure that all inadvertently captured information is collected, sequestered, sealed, and delivered to the FBIHQ substantive unit to be submitted to the FISC, via OIPR, for appropriate disposition.

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

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10. (U) This EC supersedes all previous oral and written guidance relating to IOB matters. Questions concerning the IOB process or reporting procedures should be directed to OGC/NSLB.

~~SECRET~~

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To: All Division From: Office of the General Counsel
Re: (U) 278-HQ-C1229736, 11/16/2006

LEAD(s):

Set Lead 1: (Action)

ALL RECEIVING OFFICES

(U) Disseminate to all division personnel.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: IMMEDIATE

Date: 03/22/2007

To: [Redacted]

Attn: SAC
ASAC
SSA [Redacted]
SA [Redacted]
SA [Redacted]
CDC

b2 Counterintelligence
b7E Inspection

Attn: CD-1
Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947
Contact: AGC [Redacted]

Approved By: Thomas Julie F [Redacted]

Drafted By: [Redacted]

Case ID #: (U) 278-HQ-C1229736-VIO-2499 (Pending)

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

(U) **Synopsis:** - (S) The [Redacted] Field Office [Redacted] requested that the Office of the General Counsel (OGC) review an incident and determine whether it warrants reporting to the Intelligence Oversight Board (IOB). It is the opinion of OGC that the incident does not need to be reported to the IOB. Rather, this electronic communication (EC) should be maintained in the control file for periodic review by Counsel to the IOB.

(U) ~~Derived From : G-3~~
~~Declassify On: 03/21/2032~~

Administrative: (S) This EC contains information from the EC dated 2/21/2007 from [Redacted] to OGC reporting a potential IOB matter, a phone conversation between author and SSA [Redacted] on 3/13/2007 and an email dated 3/15/2007 from SA [Redacted]

Reference: (S) [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-06-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: [Redacted]

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OIG/DOJ REVIEW: [Redacted] DATE: 4-24-07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

NSL VIO-1918

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

Details: (S) By EC dated 2/21/2007, [redacted] requested that OGC review an incident and determine whether it warrants reporting to the IOB.¹ [redacted]

b1 [redacted] As part of its investigation, [redacted]
b7D [redacted] sought transactional information pursuant to 18 U.S.C.
b6 §2709 [redacted]

b6 [redacted] A National Security
b7C Letter (NSL) [redacted] served [redacted]

b2 [redacted]
b7E [redacted]

b4 (U) ~~(S)~~ Upon review of the documents provided to [redacted]
(U) [redacted] it was learned that the information
[redacted] provided, pursuant to the NSL, included information

b4 [redacted] reported that they did not upload nor analyze the results for the
b7D [redacted]

b2 [redacted]
b7E [redacted]

(U) ~~(S)~~ [redacted]
[redacted]
[redacted]

b2 [redacted] was placed in the file. [redacted]
b7E [redacted] determination at the time was [redacted]

b7D [redacted] was entirely lawful
and therefore no further action was necessary (i.e. reporting or
sequestering).²

(U) ~~(S)~~ Thereafter, the Department of Justice, Office of
the Inspector General (OIG) conducted an NSL audit [redacted]
[redacted] 2006. The audit called into question the acquisition of

b2 [redacted] At that time, [redacted] discussed
b7E [redacted]
b7D [redacted]

¹It should be noted that this submission was at the request of OGC in
response to the OIG report on the FBI's use of national security letters
wherein they reference 22 instances where they thought a potential IOB
b2 submission was in order. As discussed infra, [redacted] was not otherwise
b7E required to submit a potential IOB EC to OGC. [redacted]

²Since that time, on 3/13/2007, author advised [redacted] to
sequester the records, out of an abundance of caution.

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

(U) this with the OIG "during which it was agreed [redacted]"

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[redacted]

(U) The plain language and legislative history of §2709 supports the position that the FBI is permitted to acquire information on associated numbers attributable to the same account. The plain language of §2709 allows the FBI to "request . . . toll billing records of a person." (emphasis added) Thereby allowing the FBI to acquire the records for all numbers subscribed to by the "person." Additionally, the legislative history of §2709 defines "toll billing records" and states:

As used in this section, toll billing records consist of information maintained by a wire or electronic communication service provider identifying the telephone numbers called from a particular phone or attributable to a particular account for which a communication service provider might charge a service fee. H.R. REP. 103-46, 1993 U.S.C.C.A.N. 1913. (emphasis added)

(U) Read together, §2709 and its legislative history clearly contemplate the acquisition of "associated" numbers. The use of the word "person" by Congress in section 2709 indicates that it did not seek to limit the acquisition of records to a particular number. The legislative history itself supports this interpretation by defining "toll billing records" as numbers called "from a particular phone" or "attributable to a particular account." Thus, Congress seemingly contemplated that a single subscriber ("person") might have multiply numbers in his/her name.

(S) [redacted] Here [redacted]

b4 (S) required by statute. As a result, [redacted] as

b7D (S) [redacted]

b2 (S) (emphasis added) In response, [redacted] provided [redacted]

b7E (S) [redacted]

(S) 'EC from [redacted] to General Counsel dated 2/21/2007 [redacted]

b1 [redacted]
b2 [redacted]
b7E [redacted]

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

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[redacted] as well as the toll records for the other number subscribed to by the subscriber (i.e. the "associated" number).

(U) To prohibit the acquisition of this information would not only contravene the plain language and legislative history of §2709, but would also impede investigations by limiting the information that can be lawfully obtained.

(U) Although the attachment was not provided in this case it is nonetheless instructive on the point of whether [redacted] should have reported this as a potential IOB. The attachment lists several items that can be considered "toll billing records" to include:

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[redacted]

(U) This attachment language mirrors the types of records contemplated by Congress and otherwise comports with the mandates of §2709.

(U) ~~(S)~~ Moreover, although released after the acquisition of information in this case, the official OGC IOB guidance released on 11/16/2006 is instructive. This guidance does not require reporting in the situation at hand and states in relevant part ". . . conduct that must be reported as potential IOB violations" include situations where, "[A] carrier providing information beyond the scope of the FISC order or other relevant legal authority resulting in the unintentional acquisition of data." This, however, is inapposite to the situation at hand. Here, as discussed above, the associated number was not "beyond the scope of the . . . relevant legal authority," nor did it result in the "unintentional acquisition of data," because the NSL expressly requested "associated" records. Therefore, there was neither a carrier error nor an unlawful request.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsels 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 E.O. 12334, dated 12/04/1981,

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

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 Attorney General Guidelines for National Security Investigations and Foreign Intelligence Collection (NSIG), 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 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)~~ In the instant case, the collection of information in July 2004 by the FBI was lawful. The plain language of §2709 and the accompanying legislative history allow for the acquisition of records for multiple numbers attributable to the same account. [redacted]

In fact, [redacted]

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(U) ~~(S)~~ Therefore, the acquisition of toll records for the associated number was entirely lawful and did not require reporting to OGC and subsequently does not need to be reported to the IOB.

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: (U) 278-HQ-C1229736-VIO, 03/22/2007

LEAD(s):

Set Lead 1: (Info)

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[redacted]

(S) (X) The records received pursuant to [redacted] NSL
request pertaining [redacted] do
not require further sequestration and can be analyzed and
uploaded as appropriate per logical investigation.

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(U) In addition, [redacted] is advised to include
the attachment (found on the OGC/NSLB website) along with every
NSL sent to each carrier.

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Set Lead 2: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

cc: 1- Ms. Thomas

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1- [redacted]
1- IOB Library

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/22/2007

To: General Counsel

Attn: SSA [redacted]

National Security Law Branch
Counterintelligence Law Unit

From: [redacted]

Chief Division Counsel

Contact: [redacted]

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Approved By: [redacted]

Drafted By: [redacted]

(U) **Case ID #:** (S) 278-HQ-C1229736-VIO - 2218
(U) 62F [redacted] 97317

See P.3 for violation # 8

Title: (U) Potential IOBs

(U) **Synopsis:** (S) Response to NSLB review/document request made by OGC on 02/20/2007.

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

(U) **Enclosure(s):** (S) Documents responsive to NSLB request.

b2 (U) **Details:** (S) The enclosed documentation is provided to the NSLB as
b7E requested in the 02/20/2007 e-mail to the [redacted] Division.

(S) A. [redacted]

(S) 1. [redacted]

b1 (S) (S) 2. Potential IOB error: The National Security Letter was issued without approval to extend the [redacted]

b2 (S) (S) 3. Description of potential IOB error: [redacted] Division submitted an EC [redacted] to Counterterrorism, ITOS I, on [redacted] requesting Headquarters approval for [redacted] extension

SC Miller (only 570) ~~SECRET~~

CRS [redacted] Raw 05/08/07

DATE: 06-06-2007
CLASSIFIED BY: 65179 DMH/KSR/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-06-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE
NSL VIO-1924

~~SECRET~~

(U) To: General Counsel From: [redacted]
b2 Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007
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(S) of captioned [redacted] Per the NFIP manual,
(S) [redacted] Division needed such approval for an extension. [redacted]
[redacted] and therefore, [redacted] Division's
EC of [redacted] was well in advance [redacted]
(S) Counterterrorism responded via an EC on [redacted]

b1 [redacted]
b2 [redacted] Since the EC and the National Security
b7E (S) Letter in question [redacted] was well
within the authorization period. [redacted] Division does note that
an EC [redacted] was written on [redacted] which noted the
(S) author of [redacted] used the date of the EC [redacted] Division believes the

[redacted]
(S) B. [redacted]

b1 (S) 1. [redacted]
b6 [redacted]
b7C [redacted]

(U) ~~(S)~~ 2. Potential IOB error: A National Security Letter requesting
FCRA consumer full credit report data was issued in a
counterintelligence case.

(U) ~~(S)~~ 3. Description of potential IOB error: In this case, two
National Security Letters were issued for financial data, [redacted]
[redacted] and the other to [redacted]. The National Security Letter sites
b4 Title 15, USC, section 1681v. This is the legal provision allowing
b7D for full credit reports in terrorism matters. In counterintelligence
matters, under Title 15, USC 1681u(a), agents are entitled to credit
listings (information pertaining to financial institutions, addresses
of those institutions, places of employments, etc.), but not to a full
credit report.

(S) C. [redacted]

b1 (S) 1. [redacted] was
b6 initiated by the [redacted] Division [redacted]
b7C [redacted]

b2 ~~(S)~~ 2. Potential IOB error: The National Security Letter contained a
b7E typographical error.

(U) ~~(S)~~ 3. Description of potential IOB error: An electronic
communication dated 04/11/2005 requested the issuance of three FCRA
National Security Letters pursuant to Title 15, USC, section 1681u(a)

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(U) To: General Counsel From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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(U) and 1681u(b). The National Security Letters, also dated 04/11/2005, contained the language that, pursuant to Executive Order 12333, dated 12/04/1981, and Title 15, USC, section 1681v. There was a typographical error on the part of the drafter of the National Security Letter who, instead of properly drafting 1681u(a) and 1681u(b), drafted 1681v on all three National Security Letters.

(U) ~~(S)~~ 4. The Office of General Counsel guidance per EC dated 11/16/2006 provides that a typographical error of this type must be reported as a potential IOB violation.

(S) D. [redacted]

(S) 1. [redacted]

b1 (U) ~~(S)~~ 2. Potential IOB error: The information obtained was not relevant to an authorized National Security investigation as it was a third party error.

(S) ~~(S)~~ 3. Description of potential IOB error: The specific request was to [redacted] for [redacted]. A review of the response [redacted] revealed (U) there [redacted] mixed in with [redacted] package of [redacted] results provided to the [redacted] Division of the FBI. The amount of material received [redacted] was voluminous. As such, the case agent did not catch this as it appears to be an over-collection. None of this information was indexed and no follow up investigation was conducted on the toll record information.

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8 (S) E. [redacted]

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b7E (S) 1. [redacted]

(U) ~~(S)~~ 2. Potential IOB error: Carrier error in providing agent with information not authorized by National Security Letter.

(S) ~~(S)~~ 3. Description of potential IOB error: In accordance with an approved ECPA National Security Letter [redacted] returned to the [redacted] Division records [redacted] records were also provided to the [redacted] Division from [redacted]. This error was on the part [redacted] and not [redacted].

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(S) ~~SECRET~~

~~SECRET~~

(U)

To: General Counsel From: [REDACTED]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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b4 the case agent. The National Security Letter specifically requested
b7D(U) records for the e-mail account from [REDACTED]

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~~SECRET~~

(U) To: General Counsel From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/22/2007

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LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

DATE: 06-06-2007
CLASSIFIED BY 65179 DMH/KSP/JW
REASON: 1.4 (C)
DECLASSIFY ON: 06-06-2032

FEDERAL BUREAU OF INVESTIGATION 1073946

Precedence: ROUTINE

Date: 03/08/2007

To: [Redacted]

Attn: SAC [Redacted]
ASAC [Redacted]
CDC [Redacted]

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Inspection

Attn: IIS, CRS [Redacted]

From: Office of the General Counsel
NSLB/CILU/Room 7947

Contact: SSA [Redacted]

Approved By: Thomas Julie F. [Signature]

(U) Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending) 2742

b2 Title: (S) INTELLIGENCE OVERSIGHT BOARD [SEE P. 5 FOR OGC OPINION]
MATTER 2007 [Redacted] [SEE P. 6 OF FRIEDMAN LETTER FOR LHM]

(U) Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that the matters in sections A and B (designated below) 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: ~~28X1~~

(U) Administrative: (S) This electronic communication (EC) contains information from the following documents: (1) a copy of the EC dated 02/22/2007 from the [Redacted] Field Office [Redacted] to OGC reporting eight potential IOB matters, and (2) the FBI's Automated Case Support system (ACS).

(U) (S) [Redacted] opted to submit all eight potential IOB issues in one EC. The EC was divided into five separate sections, A-E, and our response will be drafted in a similar manner for continuity purposes. These reported IOB matters are all derived from the audit conducted by the Office of Inspector General (OIG) which took place over the summer of 2006 at four FBI field offices.

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OIG/DOJ REVIEW: [Redacted]
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

DATE: 4-24-07
(14)

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NSL VIO-1929

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

b2 (U)
b7E

Reference: (S) 278-HQ-C1229736-VIO, serial 2218
(U) 62F [redacted]-97317, serial [redacted]

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Details: (S) By EC dated 02/22/2007, [redacted] provided OGC written documentation of eight issues that require a review of the facts in order to determine whether they warrant reporting to the IOB. In our opinion, as to three issues (the one in section A and the two in section B), it does. Our analysis follows.

(S)

(S) A. [redacted]

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(S) [redacted]
[redacted] During the investigation the case agent obtained several extensions. [redacted] Extensions were granted [redacted] or [redacted] and OGC, by the OIG, was that [redacted] allegedly issued a National Security Letter (NSL) without obtaining required approval [redacted]. A detailed review of ACS and the [redacted] EC indicate that [redacted] s actions may have resulted in an unintentional error.

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(S) [redacted] drafted and submitted an EC to FBIHQ requesting [redacted]
[redacted]
[redacted] FBIHQ did not respond to his request until [redacted] response, FBIHQ granted [redacted] as opposed to the requested [redacted] in its response.
[redacted] because of this failure, to all now reading this document, a presumption is made that [redacted] granted by FBIHQ should be [redacted]. However, [redacted] date was never formally approved by FBIHQ. Therefore, [redacted] given by FBIHQ should have been [redacted] date which would have made [redacted] Since [redacted] the NSL written [redacted]

(S)

(S) To make the matter above more complicated, FBIHQ, after already having granted [redacted] extension [redacted] requested [redacted] that [redacted] submit an annual Letterhead Memorandum (LHM) because FBIHQ advised that [redacted]

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[redacted] without an annual LHM. [redacted] after receiving an

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007

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LHM [redacted] FBIHQ submitted the LHM to OIPR and advised that [redacted] had been granted. However, the [redacted] still had to revert back to the last officially known [redacted] date which was [redacted] not [redacted]

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(X) It is apparent, that the error was compounded by the fact that a new set of Attorney General Guidelines came into effect on 10/31/2003, further confusing [redacted] Any error made by [redacted] in the described case was not malicious in nature, and was made in good faith. Had the case agent been aware that the case actually [redacted] and not the mistakenly believed date [redacted], this error would have never occurred. Unfortunately for [redacted] the errors reflected on the previous communications in the case file caused an NSL to be issued [redacted]

[redacted] never received any information from the carrier concerning this request, the issuing of the NSL still constitutes a violation which is reportable to the IOB.

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(S) B. [redacted]

(S)

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(X) [redacted] investigation, [redacted] submitted two NSL requests, [redacted] Both of the NSLs and the cover [redacted] quoted the statutory authority to be Title 15, USC 1681v. This authority, however, deals solely with terrorism investigations and allows the FBI to obtain full credit reports. The authority that should have been quoted by [redacted] in a counterintelligence investigation was Title 15, USC 1681u(a), which enables the FBI to obtain [redacted] reports, but not full credit reports.

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(X) [redacted] advised that all information received by this unintentional oversight was sequestered in the safe of their Chief Division Counsel. [redacted] advised that the improperly obtained information has not been used in their investigation. [redacted] recognizes the error and that the improperly collected information, although unintentional, constitutes a violation which is reportable to the IOB.

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(S) C. [redacted]

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To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

(S) (X) [redacted] pursuant to a terrorism investigation, [redacted] issued three NSLs. [redacted] pursuant to Title 15, USC 1681v, the terrorism statute, requesting full credit reports on the subject of the investigation. The cover EC [redacted] used to request the issuance of the three NSLs used the language stating the authority was being granted pursuant to Title 15, USC 1681u(a), the counterintelligence statute. In the cover EC [redacted] only asked for [redacted] as opposed to the full credit reports requested in the NSLs.

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(U) (S) (X) A review of the 02/22/2007 EC from [redacted] reporting the potential IOB infractions caused some confusion for the writer, so on 03/08/2007 the writer had a phone conversation with the drafter of the [redacted] EC. [redacted] explained that since it was a terrorism case, the verbiage in the NSLs was correct, and each of the NSLs were reviewed and signed. [redacted] informed that the EC that was used was a mistake on the part of the agent that drafted the cover document. [redacted] added that the investigation warranted the requested NSLs and [redacted] companies never would have been confused by the EC because they do not receive a copy of that document. The EC is merely used as a means of submitting the NSLs (that were attached) to the case file. The mistake in the EC, although sloppy, did not alter the investigation in anyway, and this scrivener's error, citing to 1681u rather than 1681v, did not violate any law. [redacted] had the ability under a terrorism investigation to request credit reports, and they made that request. Therefore, OGC believes that the mistake made by [redacted] was administrative in nature, and does not warrant reporting to the IOB.

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b1 (S) D. [redacted]

(S) (X) [redacted] On 10/03/2005, [redacted] issued a NSL which requested that [redacted] records [redacted] sent records to [redacted] for information from [redacted] learned of the third-party mistake and took the appropriate steps to sequester the additional [redacted] records that were sent to them. [redacted] advised that they did not do any indexing or follow-up analysis on the over-collected information.

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b7E To: [redacted] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007

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(S) Despite the mistake [redacted] the FBI had a legal right to the over-collected information they received. However, since the records were not requested, [redacted] sequestered the documents. Therefore, no improper action on the part of [redacted] occurred, and OGC believes that this matter does not warrant reporting to the IOB.

b1 (S) E. [redacted]

(S)

[redacted] requesting information [redacted]

[redacted] issued a NSL

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[redacted] In response to that request, the provider produced information [redacted]. This additional [redacted] data [redacted]

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[redacted] would have been obtainable by the field office had they requested it. The over-collected information has been sequestered by [redacted]

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(S) A review of all the facts in this section demonstrates that [redacted] was not at fault in receiving [redacted] records outside the scope of the properly issued NSL. OGC believes this matter does not warrant reporting to the IOB.

SUMMARY

(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

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To: [REDACTED] From: Office of the General Counsel
Re: 278-HQ-C1229736-VIO, 03/08/2007.

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.

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~~(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 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]

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~~(S)~~ In these eight potential IOB matters, OGC believes that only three, these in sections A and B, warrant reporting to the IOB. The other five matters are a result of administrative or third-party errors. In regard to the relevant, but unintentionally collected information, [REDACTED] is instructed to keep all information sequestered until a discussion is had with the issuing entity. As to the reportable matters in sections A and B, OGC will prepare a cover letter and a memorandum to report these matters to the IOB.

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b2 To: [redacted] From: Office of the General Counsel
b7E Re: 278-HQ-C1229736-VIO, 03/08/2007.

LEAD(s) :

Set Lead 1: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

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[redacted]

(U) In matters involving over-collected materials, the [redacted] Field Office should contact the parties in which NSLs were served and allow the entities to determine whether the information should be improperly or unintentionally acquired information returned or destroyed with appropriate documentation to the file. If the information is relevant, a new NSL requesting the previously unrequested information may be submitted to the entity.

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(U) [redacted] is reminded of its responsibility, pursuant to Deputy Director Pistole's directive of 03/06/2007, to review all counterintelligence cases utilizing NSLs to determine if other full credit reports under 15 U.S.C. § 1681v were improperly obtained.

cc: Ms. Thomas

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[redacted]
IOB Library

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NSL VIO-1935