

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/22/2005

To: Counterterrorism

Attn: ITOS II\GOU

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General Counsel

Attn: NSLB

AGC

Attn: SSA

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS

x4

Approved By:

DATE: 05-30-2007
CLASSIFIED BY 65172 dmh/kai/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Drafted By:

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Case ID #: (U) 263-HQ-0-U - 351 (Pending)

(U) 278-HQ-C1229736-VIO - 1044 (Pending)

(S) ~~(S)~~

Title: (U) INTELLIGENCE OVERSIGHT BOARD;

SSA

SA

DIVISION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Synopsis: (U) Forwarding material to Counterterrorism Division for appropriate handling.

(U) ~~(S)~~

~~Derived From: G-3~~

~~Declassify On: X1~~

Reference: (U) 278-HQ-C1229736-VIO serial 1044

(S) ~~(S)~~

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Enclosure(s) (U) ~~(S)~~ Enclosed for Counterterrorism Division (CTD), International Terrorism Operations Section (ITOS) II, Global Operations Unit (GOU) is the following:

(U) ~~(S)~~ A copy of 278-HQ-C1229736-VIO, serial 1044 enclosing:

One envelope containing three CD-ROM's and

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To: Counterterrorism From: Inspection
Re: (U) 263-HQ-0-U, 11/22/2005

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(S) ----- paper copies of [redacted]
containing unauthorized material furnished by
(S) [redacted] pursuant to a National Security Letter
(NSL).

Details: (S) [redacted]

[redacted]

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(U) Accordingly, INSD, IIS is forwarding the enclosed material to CTD\ITOS I\GOU for appropriate handling.

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To: Counterterrorism From: Inspection
Re: (U) 263-HQ-0-U, 11/22/2005

WORKING COPY

(1) INSD



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FEDERAL BUREAU OF INVESTIGATION

#1490
(2005) []

Precedence: ROUTINE

Date: 09/12/2005

To: General Counsel

Attn: National Security Law Branch
Room 7975

Counterintelligence

Attn: CD-2C Unit
SSA []

From: []

Squad 4

Contact: SA []

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Approved By: []

DATE: 05-30-2007
CLASSIFIED BY: 65179dmh/kar/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Drafted By: []

Case ID #: (U) (S) 278-HQ-C1229736-VIO-1115

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

Synopsis: (U) (S) Possible IOB error for non-compliance with a requirement of the Attorney General.

(U) (S)

~~Derived From: G-3
Declassify On: 25 X1~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Details:

(S) 1. []

(S) 2. []

(S) 3. Possible IOB Error:

~~(S)~~ The Attorney General's Guidelines Provision: Unauthorized Investigation

(S) []

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

Handwritten: [] No Action 12/14/05 []

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To: General Counsel From: [redacted]
Re: (S) 278-HQ-C1229736-VIO, 09/12/2005

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

[redacted] 03/29/2005, Special Agent (SA) [redacted] captioned case agent, drafted [redacted] extension request and forwarded it to FBIHQ. The EC stated, "Electronic Communication uploaded into ACS only. No hard copy to follow."

Due to a pending TDY assignment to FBIHQ, on 05/18/2005, SA [redacted] requested captioned investigation be reassigned. On 05/26/2005, captioned matter was reassigned to writer. In July 2005, writer received results of a National Security Letter (NSL).

(S) [redacted] NSL was drafted 12/30/2004 and forwarded to [redacted] did not provide NSL results to FBI until 05/05/2005. The NSL results contained no toll records, only billing information.

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(S) [redacted] informed writer that captioned subject maintained a basic service plan and as such, carrier was not responsible for maintaining toll records for telephone line. Other than the receipt of the billing information from [redacted] took no other action in

(S) this matter after the expiration of [redacted] as noted above. On 08/08/2005, while attempting to verify [redacted] date for a communication for the file, writer determined FBIHQ had never responded to the lead set by [redacted] in [redacted] extension request dated [redacted]. Writer contacted FBIHQ and was granted a verbal extension. On 08/31/2005, FBIHQ informed writer of potential Intelligence Oversight Board (IOB) violation due to an "investigation action conducted while the case was not open."

(U) (S) While [redacted] is reporting this as a possible IOB, [redacted] questions whether the receipt of such records after the PI's expiration, based on a lawful, authorized request, constitutes investigation. Moreover [redacted] again calls attention to its earlier attempt to secure a more timely extension.

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To: General Counsel From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 09/12/2005
(U)

LEAD(s):

Set Lead 1: (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information only.

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(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/09/2005

To: [Redacted]

Attn: SA [Redacted]
CDC

Counterintelligence
Inspection

Attn: SSA [Redacted] CD-2C
Attn: IIS

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

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Contact: [Redacted]

Approved By: Thomas Julie F

DATE: 05-30-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

[Redacted]

Drafted By: [Redacted]

Case ID #: (U) 278-HQ-C1229736-VIO-1045 (Pending)

Title: (U) ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
2005 [Redacted]

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

(U) ~~(S)~~

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

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

Reference: (U) 278-HQ-C1229736-VIO Serial 973

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

Details: ~~(U)~~ ~~(S)~~ The referenced electronic communication (EC) from the [Redacted] Division [Redacted] dated 09/12/2005, 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.

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(S) [Redacted]

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OGC/DCJ Review: [Redacted] DATE: 12/12/05
FBI INVEST: [Redacted] OIG/DCJ INVEST: [Redacted]
OPR INITIALS: [Redacted]

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 11/09/2005

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(S) [redacted] a United States person.¹ [redacted]
(S) [redacted] Pursuant to Section II.C.4 of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), [redacted] needed approval from FBI Headquarters (FBIHQ) to extend [redacted]. On [redacted] the case agent drafted an EC requesting [redacted] extension. The EC explicitly stated "Electronic communication uploaded into ACS only. No hard copy to follow."

(S) [redacted] (S) The EC was actually uploaded into ACS on [redacted]. However, CD-2C, the substantive unit at FBIHQ responsible for the case, did not receive a hard copy of the request, and it, therefore, went unaddressed. On 08/08/2005, the case agent assigned to the case after [redacted] extension was requested determined that FBIHQ had failed to respond to the lead set by [redacted] regarding [redacted] extension request. This case agent, therefore, contacted FBIHQ and was granted a verbal extension, followed by written authorization, set to expire [redacted]. Another [redacted] extension was granted on [redacted].

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(S) [redacted] (U) [redacted] (S) On 12/30/2004, months before [redacted] expired [redacted] sent an National Security Letter (NSL) to [redacted] requesting toll records. [redacted] did not provide [redacted] with the NSL results until [redacted]/2005, approximately one month after [redacted] expired. The NSL results contained no toll records only billing information, because of the target's specific service plan. Because there was no reportable information, there was no analysis and nothing further was done with the NSL results.

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(U) [redacted] (S) Other than the receipt of the billing information from [redacted] took no other action on this case from the time [redacted] until the extension was granted from Headquarters [redacted].

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¹ A "United States person" is defined in Section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801, *et seq.*, as "a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Naturalization Act). . . ." See also Section I.C of the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) (2003).

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To: [REDACTED] From: Office of the General Counsel
 Re: (U) 278-HQ-C1229736-VIO, 11/09/2005

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(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." 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 this instance, as a consequence of a delayed response on the part of a communications carrier, [REDACTED] received the results of an NSL after [REDACTED] had expired. However, [REDACTED] took no affirmative steps to analyze the information or use it to further the investigation in any way. Therefore, no investigative activity took place subsequent to the expiration [REDACTED]. As soon as [REDACTED] realized that its request for [REDACTED] extension was not addressed by Headquarters, [REDACTED] took all necessary steps to get the appropriate extension before conducting any investigative activity. Thus, we perceive no error reportable to the IOB.

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 11/09/2005

LEAD(s) :

Set Lead 1: (Info)

[redacted]

AT

[redacted]

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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.

CC: Ms. Thomas

[redacted]

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IOB Library

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(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION**Precedence:** ROUTINE**Date:** 12/15/2005**To:** General Counsel**Attn:** NSLB**From:** Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [REDACTED] Ext [REDACTED]**Approved By:** [REDACTED]**Drafted By:** [REDACTED]**Case ID #:** (U) 278-HQ-C1229736-VIO (Pending)b6
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b2**Title:** (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1490
OGC/IOB# 2005-[REDACTED]**Synopsis:** (U) To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).**Reference:** (S) 278-HQ-C1229736-VIO Serial 973
278-HQ-C1229736-VIO Serial 1045**Details:** (U) The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 9/12/2005, reporting a possible IOB error. Based upon a review of the referenced EC, it is the IIS's opinion the incidents described therein are administrative in nature. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.b2
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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179 dmh/ksr/qcl

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION**Precedence:** ROUTINE**Date:** 12/15/2005**To:** [REDACTED]**Attn:** SAC (Personal Attention)**From:** Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [REDACTED] Ext [REDACTED]**Approved By:** [REDACTED]

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-30-2007 BY 65179 dmh/kat.gcl

Drafted By: [REDACTED]**Case ID #:** (U) 263-HQ-0-U (Pending)**Title:** (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1490
OGC/IOB# 2005 [REDACTED]

Synopsis: (U) To advise the captioned reporting of potential Intelligence Oversight Board (IOB) violation has been reviewed by the Internal Investigations Section (IIS), and is not considered willful misconduct. This incident is remanded back to the field for whatever action deemed necessary and appropriate. Case closed at IIS.

Enclosure(s): (U) EC from [REDACTED] dated 09/12/2005**Reference:** (U) 278-HQ-C1229736-VIO Serial 973
278-HQ-C1229736-VIO Serial 1045

Details: (U) Upon review of [REDACTED] Division's captioned report of a potential IOB violation, it is IIS's opinion the incident is not indicative of willful misconduct. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

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U.S. Department of Justice

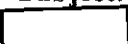
Office of the Inspector General

DATE: September 22, 2006

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-30-2007 BY 65179 dmh/kse/gcl

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

SUBJECT: OIG Complaint No. 2006007975
Subject: Unidentified
 Division
FBI No. 263-0-U-356

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

IMPORTANT NOTICE

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

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

Attachment

OIG - INVESTIGATIONS DIVISION - Complaint Form OIG NO. [redacted] 689-2006-007975-M

Received By: [redacted] Date Received: 12/15/2005 How Received: A

SUBJECT: Unidentified, FBI SSNO:
 Title: UNID Pay Plan: D.O.B.: b6
 Component: FBI EOD Date: Alien No.: b7C
 Misc: F.B.I.No.: b2
 Home: B.O.P.No.:
 Phone: ZIP: D/L No.:
 Work: Charges: 689
 Phone: ZIP:

COMPLAINANT [redacted] SSNO:
 Title: ATTY Pay Plan: D.O.B.:
 Component: FBI EOD Date: Alien No.:
 Misc: F.B.I.No.:
 Home: B.O.P.No.:
 Phone: ZIP: D/L No.:
 Work: Office of the General Counsel
 National Security Law Branch/CILU, Washington, DC
 Phone: ZIP:
 Confidential: Revealed: Authority: none

Details:
 The FBI provided information reporting a possible IOB matter. As a consequence of a delayed response on the part of a communications carrier, the FBI [redacted] Division received the results of an National Security Letter after [redacted] expired. Subsequently, the FBI [redacted] Division received approval from FBI/HQ to extend the PI.

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

DISPOSITION DATA: Disposition: M Date: 12/12/2005 Approval: POWELL, GLENN G
 Referred to Agency: FBI Date Sent: 09/12/2006 Component: FBI
 Patriot Act: N Civil Rights: N Component Number: 263-0-U-356
 Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
 09/12/06- Sent to AD Thornton/FBI/INSD. Predicating material will be maintained within
 OIG/INV in a secure container.

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 06-27-2007 BY 65179 dmh/ksr/gcl

(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

#1292

Precedence: ROUTINE

Date: 09/18/2005

To: INSD

Attn: IIS

General Counsel

Attn: [Redacted]

NSLB

From: [Redacted]

Squad 17

Contact: SA [Redacted]

DATE: 05-30-2007
CLASSIFIED BY: 65179 dmt/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-30-2032

Approved By: [Redacted]

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

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Drafted By: [Redacted]

Case ID (U) (S) 278-HQ-C1229736-VIO-1014 (Pending)

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Title: (S) [Redacted]

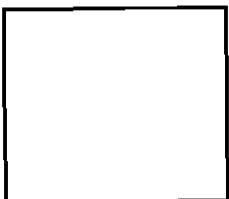
Synopsis: (S) To advise FBIHQ of facts that could conceivably be reportable to the IOB. The [Redacted] Division sent a NSL requesting telephone toll records for two telephone numbers that had an association with the subject [Redacted], specifically, that one number was obtained from a [Redacted] database search of subject and that the other number was listed as the subject's residence in a criminal history of the subject. Because the case agent only wanted to request subscriber information for the two numbers, but the person actually preparing the NSL drafted it to request both subscriber information and toll records for the two numbers, FBIHQ has requested [Redacted] to provide the facts surrounding this incident to FBIHQ to determine whether there is a reportable IOB violation.

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(U) (S)

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

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Handwritten signature and notes

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~~SECRET/OC/CON/NOFORN~~

To: [redacted] From: [redacted]
Re: (U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) (S) [redacted]
08/18/2005

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

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Administrative: (S/NE/OC) [redacted]

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(S/NE/OC) [redacted]

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Enclosure(s): (S) [redacted]

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Details: (S/NE/OC) [redacted]

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~~SECRET/OC/CON/NOFORN~~

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~~SECRET/OSCON/NOFORN~~

(U) [redacted]
To: [redacted] From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) (S) [redacted]
08/18/2005

(S) [redacted]

(S) [redacted]

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(U) ~~(S)~~ Database checks on 05/24/2004, by the [redacted] Division at [redacted] Resident Agency (RA) found that

(S) [redacted]

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(U) ~~(S)~~ In the [redacted] Division, Special Agents are given the option to request that an NSL needed for their investigation be drafted by a [redacted] Headquarters City employee who has a high degree of expertise in drafting them. On 07/20/2004, a Special Agent in the [redacted] RA, submitted a National Security Letter (NSL) request to [redacted] Headquarters City (HQ), which included the following:

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~~SECRET/OSCON/NOFORN~~

~~SECRET/ORCON/NOFORN~~

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To: [redacted] From: [redacted]
Re (U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) (S) [redacted]
08/18/2005

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• [redacted]
(S)

• [redacted]
(S)

(U)

(S) ~~(S)~~ The NSL was drafted by the employee at [redacted] Headquarters City. On 11/05/2004, the NSL to [redacted] was issued out of [redacted] HQ with the following verbiage: "provide to the Federal Bureau of Investigation the names, addresses, lengths of service, and local and long distance toll billing records for the telephone numbers listed: [redacted]"

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

(S) The NSL was presented to [redacted] by [redacted] on 01/18/2005, and results were obtained on 02/23/2005. Due to the verbiage of the NSL as it was drafted by [redacted] Headquarters City, subscriber and toll records for the telephone numbers [redacted] were returned to the FBI, even though these records were not specifically requested by the case agent. The subscriber to these records was not [redacted]

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

(S) The original records received from [redacted] were originally placed into the case file as 1A-1, and one copy was made of the records and sent to the [redacted] Field Intelligence Group. These originals and copies are now enclosed with this communication.

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(S) [redacted]

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~~SECRET/ORCON/NOFORN~~

~~SECRET/ORCON/NOFORN~~

To: [redacted] From: [redacted]
Re: (U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) (S) [redacted]
08/18/2005

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(U) ~~(S)~~ Attached and made a part hereto are copies of the original NSL request, the NSL, and the EC documenting the collection of records from [redacted]. In addition, the original and all copies of toll records provided by [redacted] for telephone numbers [redacted] have been segregated from the file and forwarded to FBIHQ as an enclosure to this communication.

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(S) ~~(S)~~ CDC [redacted] is of the opinion that there was no conduct that was unlawful or contrary to Departmental guidelines in this matter. Pursuant to 18 USC 2709, toll record information can be requested in an NSL if it is relevant to an authorized international terrorism investigation. There was an authorized [redacted] at the time of the [redacted] request, continuously through the time of the division's receipt of the toll record information.

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(U) ~~(S)~~ The relevance standard is very low and has been articulated as logically connected to and tending to prove or disprove a matter at issue. The requested information, toll records for a phone number listed as the subject's residence phone number in his criminal history, and a telephone number listed as the subject's phone number in a [redacted] data base search, are clearly logically connected to determining whether the subject is communicating with other numbers associated with terrorists or terrorist organizations. While the case agent may have been prudent in only requesting subscriber information for the listed numbers, and the subscriber to the numbers in question was not actually the subject, that does not change the fact that based on the facts known to the Division at the time of the request, the toll records for those numbers were relevant to the PI. Therefore it was not unlawful for the division to send an NSL requesting toll records for [redacted] and this matter is not one that is required to be referred to the IOB.

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Additionally, there could be a negative practical effect if NSL requests such as those made in this case were generally prohibited. Often it takes months to obtain records from a service provider pursuant to a NSL request. In this mater

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~~SECRET/ORCON/NOFORN~~

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To: [redacted] From: [redacted]
Re: (U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) (S) [redacted]
08/18/2005

(S) the case agent made a decision to verify the subscriber information before requesting toll records, however, in any given situation in a terrorism investigation there could be a need for immediate action. The field office should have the discretion to request toll records as well as subscriber information under circumstances such as this, where the numbers are listed in a criminal history of the subject and a [redacted] database search of the subject, to avoid an extra delay of as much as six months or more to await the results of a second NSL request.

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(S) Finally, in this matter the field office took a prudent approach in that as soon as it appeared the subscriber to the numbers at issue was not the subject [redacted] the records were segregated and not reviewed any further. It is possible that there could be information in the toll records that relate to the [redacted] if they were closely examined. It is not inconceivable that [redacted] may have somehow listed the numbers at issue as contact numbers even though he did not subscribe to them.

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LEAD(s):

Set Lead 1: (Info)

INSD

IIS

(U) Read and clear.

~~SECRET/ORCON/NOFORN~~

~~SECRET/ORCON/NOFORN~~

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To: [redacted] From: [redacted]
Re: (U) ~~(S)~~ 278-HQ-C1229736-VIO (Pending) (S) [redacted]
08/18/2005

Set Lead 2: (Info)

GENERAL COUNSEL

AT NSLB

(U) Read and clear.

◆◆

~~SECRET/ORCON/NOFORN~~

(Rev. 01-31-2003)

~~SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/25/2005

To: [Redacted]

Attn: SAC
CDC

Counterterrorism

Attn: ITOS1/CONUS1/Team 3

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From: Office of General Counsel
National Security Law Branch/LX-1, 5S200

Contact: [Redacted]

Approved By: Thomas Julia F

DATE: 05-31-2007
CLASSIFIED BY kst/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [Redacted]

Case ID #: (U) ~~(S)~~ 278-HQ-C1229735-VIO (Pending)

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

Synopsis: (U) It is the opinion of the Office of General Counsel (OGC) that the above referenced matter is not a violation and need not be reported to either the Intelligence Oversight Board (IOB) or the FBI's Inspection Division.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(U) ~~(S)~~

~~Derived From : G-3~~
~~Declassify On: 11/25/2030~~

Reference: (U) ~~(S)~~ 278-HQ-C1229735-VIO Serial 1014

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

Details: (S) [Redacted]

a United States

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OGC Review
EAGLE
C-800-1111

~~SECRET/NOFORN~~

b2
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To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229735-VIO, 11/25/2005

Person, as that term is used in the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG or "the Guidelines").

(S)

[redacted]

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(S)

(U) ~~(S)~~ On 7/20/2004 the case agent requested an employee at [redacted] HQ, who apparently has a particular expertise, to draft a National Security Letter (NSL) to [redacted]. The agent requested only subscriber information for the two numbers, and, only if the subscriber was [redacted] toll records for the requested time period. However, the actual NSL drafted and presented to [redacted] on 11/05/2004 requested both subscriber and toll records for the above-mentioned telephone numbers. On 02/23/2005 [redacted] provided the FBI subscriber and toll records for the two telephone numbers. The telephone numbers did not belong to [redacted].

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¹ ~~(S)~~ A "United States person" is defined in section II.W of the Guidelines as "an individual who is . . . [a] United States citizen . . . or . . . a permanent resident alien" This regulatory definition is based on the definition of a "United States person" as that term is used section 101(i) of the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. § 1801 et seq. The latter states, in pertinent part, that a "United States person" means a citizen of the United States [or] an alien lawfully admitted for permanent residence (as defined in section 101(a)(2)(C) of the Immigration and Naturalization Act)"

(S)

[redacted]

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~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

To: [redacted] From: Office of General Counsel
 Re: ~~(S)~~ 278-HQ-C1229735-VIO, 11/25/2005

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~~(U)~~ ~~(S)~~ FBI HQ requested that [redacted] provide the facts surrounding this incident to determine whether there is a reportable IOB violation. [redacted] forwarded all original and copies of the toll records in question to OGC. Those records will be delivered to ITOS1/CONUS1/TEAM 3 for proper disposal.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, 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 FCIG, 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 a U.S. person. 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 present case, there is no violation. A valid [redacted] investigation was authorized and extended pursuant to NSIG Part II.C. The initial database checks on the subject's telephone number revealed two possible additional telephone numbers subscribed to [redacted]. The NSL is an authorized technique [redacted]. See NSIG Part II.C.3. The legal standard in issuing a NSL is that the information sought need only be "relevant to an authorized investigation to protect against international terrorism. . ." 18 U.S.C. Section 2709(b)(1). The NSL in this case was properly issued to [redacted]. That the received toll records revealed that the telephone numbers did not belong to the subject does not make the request a violation, but rather an elimination of an investigatory lead. Likewise, it is of little or no consequence that the case agent only requested subscriber information instead of the toll records which were eventually received. Pursuant to the statute the FBI is entitled to both types of information. As such, it is our opinion that this matter need not be reported to

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~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

To: From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229735-VIO, 11/25/2005

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(U)

the IOB. Consistent with our prior opinions, a record of this decision should be maintained in the control file for future review by Counsel to the IOB.

~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

To: [redacted] From: Office of General Counsel
Re: ~~(S)~~ 278-HQ-C1229735-VIO, 11/25/2005

(U)

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LEAD(s) :

Set Lead 1: (Action)

[redacted]

AT

[redacted]

(U) ~~(S)~~ For appropriate action

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Ensure all toll records, original and copies, are properly disposed.

1 - Ms. Thomas

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1 - IOB File

b6

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~~SECRET/NOFORN~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/23/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted] Ext [redacted]

Approved By: [redacted]

Drafted By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

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

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b2

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1292
OGC/IOB# 2006 [redacted]

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

(U) ~~(S)~~

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Reference: (U) 278-HQ-C1229736-VIO Serial 1014
(S) [redacted]

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 9/18/2005, reporting a possible IOB error. Based upon a review of the referenced EC, it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/23/2005

To: [redacted]

Attn: SAC (Personal Attention)

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b7C

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [redacted] Ext. [redacted]

Approved By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/kar/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

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

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1292
OGC/IOB# 2006-[redacted]

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

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Enclosure(s): (U) EC from [redacted] to Inspection, General Counsel and [redacted] dated 09/18/2005.

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Reference: (U) 278-HQ-C1229736-VIO Serial 1014
(S) [redacted]

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Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion that the incident is not indicative of willful misconduct. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

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(U) IIS does, however, suggest this incident be potentially considered a possible performance related issue with respect to the employee and respective supervisor, and relegates any future action relative to this incident to the discretion of the [redacted] Division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions

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To: From: Inspection
Re: 263-0-U - 359, 12/23/2005

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mandated by National Security Law Branch/OGC EC, dated 03/18/2005
(319X-HQ-A1487720 serial 6).

◆◆

~~SECRET~~



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: September 12, 2006

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 68172 dmh/kst/gcl

SUBJECT: OIG Complaint No. 2006007962
Subject: Unidentified
[Redacted] Division
FBI No. 263-0-U-359

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

IMPORTANT NOTICE

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

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

Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-25-2007 BY 65179 dmh/ksj/gcl

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. [] 689-2006-007962-M

Received By: [] Date Received: 12/23/2005 How Received: A

SUBJECT: Unidentified, FBI

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work:
Phone:

Pay Plan:
EOD Date:

ZIP:

ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:
Charges: 689

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COMPLAINANT: []

Title: UNID
Component: FBI
Misc:
Home:
Phone:
Work: General Counsel

Pay Plan:
EOD Date:

ZIP:

SSNO:
D.O.B.:
Alien No.:
F.B.I.No.:
B.O.P.No.:
D/L No.:

National Security Law Branch/LX Crossing, Tysons Corner, VA

Phone: []
Confidential: []

ZIP:
Revealed:

Authority: none

Details:

The FBI provided information reporting a possible IOB matter. Subsequent to the initiation of [] investigation [] and database checks, subscriber information for two telephone numbers, possibly registered to the target of an FBI investigation, were requested by the FBI. However, the National Security Letter (NSL) presented to the communications carrier requested both subscriber and toll records for the two telephone numbers. An examination of the subscriber and toll records revealed that neither telephone number belonged to the target. The FBI/OGC advised that because [] was authorized, the NSL was properly issued and the received toll records makes this an elimination of an investigatory lead. Additionally, the FBI/OGC advised that it is of little or no consequence that both the subscriber and toll information were received as the FBI is entitled to both types of information.

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ALLEGATIONS: 689 IOB Violation

Occurrence Date: []

TIME: []

CITY: []

State: []

Zip: []

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DISPOSITION DATA: Disposition: M Date: 12/21/2005 Approval: POWELL, GLENN G

Referred to Agency: FBI Date Sent: 09/12/2006 Component: FBI

Patriot Act: N Civil Rights: N Component Number: 263-0-U-359

Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:

09/12/06- Sent to AD Thornton/FBI/INSD. Predicating material will be maintained within
OIG/INV in a secure container.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179 dmh/ksr/gcl

1073946

U.S. Department of Justice

Classified Document Receipt

When filling out this form, please press firmly
with ballpoint pen.

ACCOUNTABILITY

FROM: (Name) (Organization and Address) DOJ/OIG/HQ/INV

TO: (Name) Charlene B. Thornton b6 (Organization and Address) FBI/INSD

SIGNATURE: (of Recipient) & DATE: b7C

If sent outside DOJ, Return this copy to: _____

DOCUMENT IDENTITY

SUBJECT & DESCRIPTION: OIG Complaint No: 2006007976, 2006007987, 2006007926,
2006007940, 2006007941, 2006007944, 2006007944, 2006007942, 2006007962,
2006007978, 2006007952.

Date of Document: 9/12/06 No. of pages: 23

Copy _____ of _____ Copies.

Classification of Document (Check Appropriate Box(es) Below):

TS S CONF SCI Q OTHER

INTERNAL DOJ ROUTING

NAME OF RECIPIENT (Print)	SIGNATURE	ORGANIZATION & DATE REC'D
1. 		<u>FBI/INSA/IFS 9/14/06</u>
2. _____	_____	_____
3. _____	<u>b6</u>	_____
4. _____	<u>b7C</u>	_____
5. _____	_____	_____

INSTRUCTIONS ON BACK OF LAST PAGE

(Rev. 01-31-2003)

~~SECRET~~//NO FORN

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/11/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

From: [Redacted]
Squad 14
Contact: SA [Redacted]

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Approved By: [Redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/kst/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [Redacted]

Case ID #: (U) ~~(S)~~ 278-HO-C1229736-VIO (Pending) -1037
(S) [Redacted]

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Title: (S) [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

OO: BA

Synopsis: (U) ~~(S)~~ Information received via National Security Letter not related to this matter.

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

(S) [Redacted]

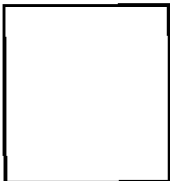
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Administrative: (U) ~~(S//NF)~~ This report contains information that is Foreign Intelligence Surveillance Act (FISA) derived. Per 50 U.S.C. section 1806(B) of the Foreign Intelligence Surveillance Act, recipients are reminded that this information, or any information derived from it, may only be used in a criminal proceeding with the advance authorization of the Attorney General. This information may not be disseminated to a foreign government without the authorization of the Attorney General.

GR
12-22-05

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~~SECRET~~

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To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/11/2005

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Enclosure(s): (S) [redacted]

Details: (S//NF) [redacted]

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(S) [redacted]

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(S) [redacted]

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(S) [redacted]

~~SECRET~~

~~SECRET~~

b2
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To: Inspection From: [Redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/11/2005

(U)

(S) [Redacted]

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(S) [Redacted]

(S) [Redacted]

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(S) [Redacted]

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(S) [Redacted]

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(S) [Redacted]

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~~SECRET~~

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To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/11/2005
~~(U)~~

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(S) [redacted]

~~(U)~~ ~~(S)~~ The above information is being provided to FBIHQ, NSLB and IIS, in order to document toll records that were requested and received that are not pertinent to an investigation.

(S) [redacted]

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To: Inspection From:
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/11/2005
(U)

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) IIS read and clear.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) NSLB read and clear.

◆◆

~~SECRET~~

(Rev. 01-31-2003)

~~SECRET/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/14/2005

To: Inspection
Counterterrorism

Attn: Internal Inspection Service
Attn: ITOS1/CONUS1/Team 3

SSA [redacted]
IA [redacted]
Attn: CDC [redacted]
SSA [redacted]
SA [redacted]

[redacted]

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From: General Counsel
National Security Law Branch/CTLU1/LX-1
Contact: SSA [redacted]

Approved By: Thomas Julie F

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

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

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

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Synopsis: (U) It is the opinion of the Office of General Counsel (OGC) that the above referenced matter is not a violation and need not be reported to the Intelligence Oversight Board (IOB).

(U) ~~(S)~~

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Reference: (U) ~~(S)~~ 278-HQ-C1229736-VIO Serial 1037
(S) [redacted]

Details: (S/NF) [redacted]

[redacted]

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~~SECRET/NOFORN~~

[redacted]

SEARCHED
SERIALIZED
INDEXED

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~~SECRET/NOFORN~~

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 11/14/2005

(U)

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(S) [Redacted]

(S) [Redacted] (S) During the course of its investigation of [Redacted] issued National Security Letters (NSL) for toll records on two telephone numbers relevant to the instant matter. These two telephone numbers were originally provided to [Redacted] and based on telephonic analysis conducted by FBIHQ. Once the NSL results were received from the service provider [Redacted] determined that the two telephone numbers were no longer subscribed to by the [Redacted] [Redacted] consequently, segregated the toll records from these two numbers.

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(S) (U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, 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." By longstanding agreement between the FBI and the IOB, this language has been interpreted to mandate the reporting of any violation of a provision of the FCIG, 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 a U.S. person. 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 present case, there is no violation. A valid preliminary investigation was authorized pursuant to Attorney General's Guidelines. See NSIG Part II.C. Telephonic analysis conducted by FBIHQ revealed two telephone numbers associated with the target. Based on this information, [Redacted] issued two NSLs for toll records. The NSL is an authorized technique [Redacted] Id. at Part II.C.3. The legal standard in issuing an NSL is that the information sought need only be "relevant to an authorized investigation to protect against international terrorism. . ." 18 U.S.C. § 2709(b)(1). The NSLs in this case were properly issued. Simply because the toll record results revealed that the telephone numbers did not belong to the target does not make the

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~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 11/14/2005

~~(U)~~

request a violation. Rather, it marks the elimination of an investigatory lead. It is our opinion that this matter need not be reported to the IOB. Consistent with our prior opinions, a record of this decision should be maintained in the control file for future review by Counsel to the IOB.

~~SECRET/NOFORN~~

~~SECRET/NOFORN~~

To: Inspection From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 11/14/2005
(U)

LEAD(s):

Set Lead 1: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT ITOS1/CONUS1/TEAM 3

(U) ~~(S)~~ Ensure all toll records, originals and copies, are properly disposed.

Set Lead 3: (Info)

[Redacted]

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AT [Redacted]

(U) Read and clear.

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~~SECRET/NOFORN~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/23/2005

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

Approved By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

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

b6
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b2

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1413
OGC/IOB# 2006-[redacted]

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

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Reference: (U) 278-HQ-C1229736-VIO Serial 1037
(S) [redacted]
(U) 278-HQ-C1229736-VIO Serial 1060

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Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] division dated 10/11/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is an administrative issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/23/2005

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 11102

Contact: CRS [redacted] Ext. [redacted]

Approved By: [redacted]

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/kaw/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 363 (Pending)

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1413
OGC/IOB# 2006 [redacted]

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

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Enclosure(s): (U) EC from [redacted] to Inspection, General Counsel and [redacted] dated 10/11/2005.

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Reference: (U) 278-HQ-C1229736-VIO Serial 1037
(S) [redacted]
(U) 278-HQ-C1229736-VIO Serial 1060

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Details: (U) Upon review of [redacted] Division's captioned report of a potential IOB violation, it is IIS's opinion that the incident is not indicative of willful misconduct. IIS only actively pursues investigations where deliberate and/or aggravated misconduct is evident, and accordingly, this case is closed at IIS.

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(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

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~~SECRET~~



U.S. Department of Justice

Office of the Inspector General

Washington, D.C. 20530

DATE: September 12, 2006

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 05-31-2007 BY 65179 dmh/ksr/gcl

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2006007944
Subject: Unidentified
[Redacted] Division
FBI No. 263-0-U-363

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

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

This complaint will be investigated by the OIG.

IMPORTANT NOTICE

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

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

Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-21-2007 BY 68179 dmh/ksr/gcl

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. [] 689-2006-007944-M

Received By: [] Date Received: 12/23/2005 How Received: A

SUBJECT: Unidentified, FBI
Title: UNID Pay Plan: SSNO:
Component: FBI EOD Date: D.O.B.:
Misc: Alien No.: b6
Home: F.B.I.No.: b7C
Phone: ZIP: B.O.P.No.: b2
Work: D/L No.:
Phone: ZIP: Charges: 689

COMPLAINANT: [] SSNO:
Title: SSA Pay Plan: D.O.B.:
Component: FBI EOD Date: Alien No.:
Misc: F.B.I.No.:
Home: B.O.P.No.:
Phone: ZIP: D/L No.:
Work: General Counsel
National Security Law Branch/CTLU1/1LX-1, Tysons Corner, VA
Phone: ZIP:
Confidential: Revealed: Authority: none

Details:
The FBI provided information reporting a potential IOB matter. Subsequent to the initiation of [] investigation and the issuance of National Security Letters, the FBI [] Division determined that the telephone numbers were no longer subscribed to by the targets of the investigation or associated with their residential address.

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

DISPOSITION DATA: Disposition: M Date: 12/21/2005 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 09/12/2006 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-363
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
09/12/06- Sent to AD Thornton/FBI/INSD. Predicating material will be maintained within
OIG/INV in a secure container.

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Precedence: ROUTINE

Date: 10/06/2005

To: Inspection
Office of General Counsel

Attn: IIS
Attn: NSLB

#1325

From: [Redacted]
Resident Agency

Contact: SA [Redacted]

Approved By: [Redacted]

DATE: 05-31-2007
CLASSIFIED BY: 65179 dmh/kst/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

Drafted By: [Redacted]

Case ID #: ~~(U)~~ ~~(S)~~ 278-HQ-C1229736-VIO (Pending) -1010

Title: ~~(U)~~ ~~(S)~~ CASE AGENT - SA [Redacted]
SUPERVISOR - SSRA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER

Synopsis: ~~(U)~~ ~~(S)~~ To report inadvertent acquisition and receipt of telephone toll billing records through NSL.

~~(U)~~ ~~(S)~~ Derived From: G-3
Declassify On: 10/06/2030

Reference: (S) [Redacted]

Administrative: (S) [Redacted]

(S) [Redacted] No further investigation will be conducted until HQ authorizes further investigation.

Details: (U) Pursuant to guidelines set forth in FBIHQ Electronic Communication (EC) dated 02/10/2005 entitled "REVISED PROCEDURES FOR THE SUBMISSION OF REPORTS OF POTENTIAL INTELLIGENCE OVERSIGHT BOARD (IOB) MATTERS", the [Redacted] Division makes the following report:

(S) [Redacted]

~~SECRET~~

[Redacted]

01/31/06

Notified
1/31/06

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Seal covered 10/19/2005

[Redacted]

Kaw 10/21/05

~~SECRET~~

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To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/06/2005

(U)

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(S)

[redacted]

(S)

[redacted]

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[redacted]

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(S)

[redacted]

(S) [redacted] contained the incorrect area code, citing the [redacted] area code, instead of the [redacted] area code, both of which are valid in the state of [redacted]. As a result, toll records were inadvertently obtained [redacted] for an individual other than the captioned subject. The error was discovered upon receipt by the case agent and the records were set aside temporarily. The toll records were not reviewed, nor used for any investigative purpose.

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(U) ~~(S)~~ Due to other investigative responsibilities and preparation of reports related to the [redacted] Division's scheduled November, 2005 Inspection, [redacted] Case Agent did not revisit the error until the week of October 3, 2005 whereupon he notified captioned SSRA and appropriate notifications were immediately made to [redacted] Management.

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(S)

[redacted]

(S) [redacted] have been forwarded [redacted] to ITOS II [redacted] Attn: SSA [redacted] [redacted] with a lead set to ITOS II [redacted] for review and referral to OIPR for action deemed appropriate.

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(S)

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~~SECRET~~

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To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/06/2005

~~(U)~~

LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

~~(U)~~ ~~(S)~~ For action deemed appropriate.

Set Lead 2: (Info)

OFFICE OF GENERAL COUNSEL

AT WASHINGTON, DC

~~(U)~~ ~~(S)~~ For action deemed appropriate.

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~~SECRET~~

(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/17/05

To: [Redacted]
Counterterrorism
Inspection

Attn: SAC, CDC
Attn: AD
Attn: IIS

From: General Counsel
Counterterrorism Law Unit II/LX-1 5S200

Contact: [Redacted]

Approved By: Thomas, Julie F

[Redacted]

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Drafted By: [Redacted]

Case ID # (U) ~~(S)~~ 278-HQ-C1229736-VIO -1086

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

Synopsis: (U) ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB). OGC will prepare a cover letter and a letterhead memorandum for the General Counsel and the Assistant Director, Inspection Division (INSD), for submission to the IOB. Submission of this matter to the OPR is a matter within the cognizance of the IIS.

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

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Reference: (S) [Redacted]

Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in WordPerfect 6.1.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/ksr/gsl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

~~SECRET~~

OIG/COLR [Redacted] DATE 1/20/06
FBI/ST [Redacted]
OPR UC INIT [Redacted]

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~~SECRET~~

To: [redacted] From: General Counsel
Re: (U) ~~(S)~~ 278-HQ-1398087, 11/17/2005

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Details: (U) Referenced communication from the [redacted] Resident Agency [redacted] RA) to OGC, dated 10/06/2005, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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(U) ~~(S)~~ As discussed in the electronic communication (EC) from the [redacted] RA cited below,¹ on 10/08/2004, the

(S) [redacted] RA opened a [redacted] that is, a "United States person" as that term is used in Section 101(i) of the Foreign Intelligence Surveillance Act of 1978 (FISA),² in order to investigate information or allegation of ties to [redacted]. The investigation

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

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(S) [redacted]
(S) [redacted] However, the incorrect area code was put into the number,

(U) ~~(S)~~ EC from [redacted] Resident Agency to Inspection and OGC dated 10/06/2005 and titled "Case Agent - SA [redacted] Supervisor - SSRA [redacted] Intelligence Oversight Board Matter."

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

~~SECRET~~

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~~SECRET~~

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-1398087, 11/17/2005

so that the NSL was issued for the wrong telephone number.³ Records for that telephone number were provided by the telephone company. Upon receipt of the records, the error was discovered by the case agent and the records were set aside and not reviewed or used for any other investigative purpose. The records were forwarded to headquarters via an EC dated 10/06/2005.⁴

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

(U) ~~(S)~~ Section V.11., Investigative Techniques, of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) provides that National Security Letters may be issued in conformity with statutory requirements, including 18 U.S.C. § 2709. Title 18, U.S.C. § 2709 provides that the FBI may seek toll billing information from telephone carriers that is relevant to an authorized national security investigation. Clearly, the information obtained by the FBI was not relevant to an authorized

³ (U) In order to avoid any dissemination of this incorrect telephone number, the number is not being listed in this document.

⁴ (S) See, [redacted] addressed to ITOS II, [redacted] SSA [redacted] enclosing the toll billing records.

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~~SECRET~~

(S)

~~SECRET~~b2
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To: [REDACTED] From: General Counsel
Re: ~~(S)~~ 278-HQ-1398087, 11/17/2005

(U)

national security investigation because there was an error in the NSL in transmitting the appropriate telephone number. Thus, the FBI received telephone toll billing records concerning a telephone number that was not under investigation nor related to an investigation. Therefore, the information was improperly collected, although unintentionally so, in violation of the NSIG and ECPA.

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

LEAD(s) :~~SECRET~~

~~SECRET~~

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To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-1398087, 11/17/2005
(U)

Set Lead 1: (ACTION)

[redacted]

AT [redacted] RESIDENT AGENCY

(U) Seal and provide NSL return information and any documents based upon such information to headquarters for purposes of sequestering with Deputy General Counsel Thomas.

Set Lead 2: (ACTION)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Provide sealed NSL return information and documents based upon such information to Deputy General Counsel Thomas for sequestration.

Set Lead 3: (ACTION)

INSPECTION

AT WASHINGTON, DC

(U) For review and action deemed appropriate.

1

[redacted]

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~~SECRET~~

DECLASSIFIED BY 65179 dmh/ksr/qcl
ON 05-31-2007

BY COURIER

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

Dear Mr. Langdon:

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Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, at [redacted] Resident Agency, IOB Matter 2006-[redacted] (U)

This memorandum sets forth details of investigative activity which the FBI has determined was conducted contrary to The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. (U)

Enclosure

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- 1 - Mr. Hulon
- 1 - Inspection (IOB 2006-[redacted])
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO 1087

**UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE**

~~Derived from . G-3~~
~~Declassify on: X-1~~

~~SECRET~~

~~SECRET~~

Mr. James Langdon

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

~~SECRET~~

~~SECRET~~

Mr. James Langdon

DATE: 05-31-2007
CLASSIFIED BY 65179 dmh/kst/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 05-31-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[redacted] DIVISION, AT [redacted] RESIDENT AGENCY
IOB MATTER 2006 [redacted] (U)

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(S)

The Federal Bureau of Investigation ("FBI") has

determined that in conducting a [redacted]

[redacted] the FBI improperly used a
National Security Letter (NSL) to obtain telephone toll billing
records on a telephone number which was not related to the
investigation. The overcollection was due to a mistake in the
NSL in identifying the telephone number of [redacted] whose
number was intended to be the subject of the request. The
overcollection was a violation of Section V.11. of The Attorney
General's Guidelines for FBI National Security Investigations and
Foreign Intelligence Collection (NSIG).¹ In this regard, on [redacted]

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(S)

(S)

(S)

On or about March 31, 2005, a National Security Letter was issued
to a telephone carrier for the telephone toll billing records of
a phone number intended to be identified as that of the target.
Instead, the area code was incorrectly identified; thus, the
information returned from the carrier was the telephone toll
billing records of a wholly unrelated telephone number. The
error was discovered upon receipt of the information, and the
records were not reviewed nor used for any investigative purpose.

Despite the inadvertent nature of the mistake, the fact remains
that information was improperly collected on a telephone number
unrelated to an investigation. Thus, the matter is being
reported to the IOB. ~~(S)~~

~~Derived from: G-3
Declassify on: X-1~~

(U) ~~(S)~~ Section V.11. authorizes use of National Security Letters in
conformity with 18 U.S.C. § 2709 (relating to subscriber information, toll
billing records, and electronic communication transactional records). The
statute requires that information sought is relevant to an authorized national
security investigation.

~~SECRET~~

~~SECRET~~

Mr. James Langdon

~~SECRET~~

~~SECRET~~

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION**Precedence:** ROUTINE**Date:** 02/01/2006**To:** General Counsel**Attn:** NSLB**From:** Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [REDACTED] Ext. [REDACTED]**Approved By:** Miller David Ian

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 05-31-2007 BY 65179 dmh/kst/gcl

Drafted By: [REDACTED]**Case ID #:** 278-HQ-C1229736-VIO (Pending)

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b7C

Title: INTELLIGENCE OVERSIGHT BOARD MATTER

INSD/IIS TRACKING# 1325

OGC/IOB# 2006 [REDACTED]

b2

Synopsis: To report a potential Intelligence Oversight Board (IOB) matter to the Office of General Counsel, National Security Law Branch (NSLB).**Reference:** 278-HQ-C1229736-VIO Serial 1016

278-HQ-c1229736-VIO Serial 1086

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Details: The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 10/6/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

~~SECRET~~**FEDERAL BUREAU OF INVESTIGATION****Precedence:** ROUTINE**Date:** 02/13/2006**To:** [REDACTED]**Attn:** SAC (Personal Attention)**From:** Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [REDACTED] Ext. [REDACTED]**Approved By:** Miller David IanDECLASSIFIED BY 85179 dmh/ksr/gcl
ON 05-31-2007**Drafted By:** [REDACTED]**Case ID #:** (U) 263-HQ-0-U - 376 (Pending)b2
b7E**Title:** (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1325
OGC/IOB# 2006 [REDACTED]b6
b7C

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

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

Enclosure(s): (U) EC from [REDACTED] to Inspection and Office of General Counsel, dated 10/06/2005.

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b7E

Reference: (U) 278-HQ-C1229736-VIO Serial 1016
278-HQ-c1229736-VIO Serial 1086

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

(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the [REDACTED] Division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

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DOCUMENT IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED
ENCLOSURE.

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~~SECRET~~



U.S. Department of Justice

Office of the Inspector General

DATE: September 22, 2006

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08-31-2007 BY 65179 dmh/kst/gcl

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

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SUBJECT: OIG Complaint No. 2006008122
Subject: [redacted] et al.
[redacted] Resident Agency
FBI No. 263-0-U-376

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

IMPORTANT NOTICE

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

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

Attachment

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: [redacted] 689-2006-008122-M

Received By: [redacted] Date Received: 02/01/2006 How Received: A

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

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

COMPLAINANT: [redacted] SSNO: [redacted]
Title: ATTY Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.:
Misc: F.B.I.No.:
Home: [redacted] B.O.P.No.:
Phone: () - ZIP: [redacted] D/L No.:
Work: , Authority: none
Phone: [redacted] ZIP:
Confidential: Revealed:

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Details:
The FBI provided information reporting a possible IOB matter. The FBI, [redacted] RA requested a National Security Letter (NSL) seeking information about a telephone number belonging to the target of an FBI, National Security investigation. As a result of typographical error the FBI obtained unauthorized information.

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

DISPOSITION DATA: Disposition: M Date: 01/20/2006 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 09/12/2006 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-376
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
09/12/06- Sent to AD Thornton/FBI/INSD. Predicating material will be maintained within OIG/INV in a secure container.

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/ksr/gcl

U.S. Department of Justice

Classified Document Receipt

When filling out this form, please press firmly
with ballpoint pen.

ACCOUNTABILITY

FROM: (Name) (Organization and Address) DOJ/OIG/HQ/INV
TO: (Name) Charles B. Thornton (Organization and Address) FBI/INSD
SIGNATURE: (of Recipient) & DATE: _____
If sent outside DOJ, Return this copy to: _____

DOCUMENT IDENTITY

SUBJECT & DESCRIPTION: OIG Complaint No.: 2006008122, 2006008124, 2006008131,
2006008132, 2006007975
Date of Document: 9/22/06 No. of pages: 10
Copy _____ of _____ Copies.
Classification of Document (Check Appropriate Box(es) Below):
 TS S CONF SCI Q OTHER

INTERNAL DOJ ROUTING

NAME OF RECIPIENT (Print)	ORGANIZATION & DATE REC'D.
1. 	<u>INSD/FBI 09/21/06</u>
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____

INSTRUCTIONS ON BACK OF LAST PAGE

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/05/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

From: [Redacted]

Chief Division Counsel

Contact: [Redacted]

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Approved By: [Redacted]

Drafted By: (S) [Redacted]

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Case ID #: (S) [Redacted]
(U) (S) 278-HQ-C1229736, (Pending)

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

Synopsis (U) (S) NSL directed at incorrect e-mail header.

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

(S) [Redacted]

Details: (S) [Redacted]

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(U) (S) During the week of 08/07/2005, case agent asked the Investigative Support Specialist (IIS) to create two National Security Letters (NSLs) for separate e-mail header information and electronic communication transactional records that belonged to the subject of the above referenced matter.

(S) ~~X~~ The case agent provided the IIS with notes on the case including the two e-mail addresses. One e-mail address was correct and there is no issues regarding that e-mail address. The second e-mail address was transcribed incorrectly. The case agent provided the IIS with e-mail address [Redacted] and [Redacted] the NSL was drafted with an e-mail address of [Redacted]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

[Redacted] 01/31/06

No action.
[Signature]
1/31/06

DATE: 06-01-2007
CLASSIFIED BY: 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

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~~SECRET~~

To: Inspection From: [redacted]
Re: (S) [redacted] 10/05/2005

(U) ~~(S)~~ During the week of September 02, 2005, the case agent received the NSL response and noticed the error associated with the e-mail address. The case agent immediately notified his supervisor and put the original in a 1A envelope and submitted it to the file. At that point the case agent contacted the Associate Division Counsel. Nothing from the original NSL was uploaded.

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(U) ~~(S)~~ No personal or identifying information on the incorrect e-mail was uploaded into ACS from the NSL return.

[redacted]

(U) ~~(S)~~ The original NSL as well as the resultant information was turned over to the Associate Division Counsel and is currently in the Chief Division Counsel's safe.

(U) ~~(S)~~ As nothing from the NSL has been reviewed, SAC [redacted] recommends no administrative action be taken in this matter,

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~~SECRET~~

~~SECRET~~

To: Inspection From: [redacted]
Re: (S) [redacted] 10/05/2005

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LEAD(s) :

Set Lead 1: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 2: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Read and clear.

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~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/2/2005

To: [Redacted]

Attn: CDC [Redacted]

Counterintelligence

Attn: CD-4B

Inspection

Attn: Inspection

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From: General Counsel

National Security Law Branch/CILW/ HO room 7975

Contact: UC [Redacted]

Approved By: Thomas Julie F

DATE: 06-01-2007

CLASSIFIED BY 65179 dmh/kst/gcl

REASON: 1.4 (c)

DECLASSIFY ON: 06-01-2032

Drafted By: [Redacted]

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

(S) [Redacted]

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

Synopsis: (U) (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 Inspection Division. OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

(U) (S)

~~Derived From: G-3
Declassify On: X-1~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

Details: (U) (S) By electronic communication (EC) dated October 5, 2005 (cited below),¹ the [Redacted] Division [Redacted]

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¹ (U) See EC from the [Redacted] Division to the Inspection Division and General Counsel, dated May 5, 2005, Case ID# 278-HQ-C1229736-VIO Serial 2514, titled "POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER (IOB)" hereinafter

~~SECRET~~

SEARCHED [Redacted]
SERIALIZED [Redacted]
INDEXED [Redacted]
FILED [Redacted]
OFR UC INITIALS: [Redacted]

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~~SECRET~~

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/2/2005

(U)

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reported a potential IOB involving a National Security Letter (NSL) requested by [redacted] which, through a transcription error, sought information about a e-mail address belonging to a person who was not the subject of an FBI national security investigation.

(S)

(U)

~~(S)~~ The US person who is the subject of the [redacted]

[redacted] had an e-mail address of [redacted]. The case agent sent his Investigative Support Specialist (IIA) the above mentioned correct e-mail address with which to draft an NSL. The IIA then drafted the NSL with the incorrect address of [redacted]

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(S)

[redacted]

(U) ~~(S)~~ During the week of September 2, 2005, the case agent received the NSL response from the communications provider and noticed the error associated with the e-mail address. The case agent immediately notified his supervisor and put the original in the 1A envelope. The case agent then contacted the Associate Division Counsel who took possession of the unauthorized information and is presently holding the information in his safe.

(U) ~~(S)~~ The case agent reports that nothing from the response to this NSL has been reviewed. The agent also reports that no personal or identifying information from the NSL return has been uploaded into ACS. [redacted]

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[redacted]

(U) ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the errors described here are matters which must be reported to the IOB. They must.

(U) Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This has been interpreted to include violations of

cited as [redacted] EC."

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To: From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/2/2005

(U)

(U) Read and clear.

◆◆

~~SECRET~~

DECLASSIFIED BY 65179 dwh/rsf/gcl
ON 06-01-2007

December 2, 2005

BY COURIER

Mr. James Langdon
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, NW
Washington, D.C. 20503

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure, entitled "Possible Intelligence Oversight Board Matter."

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

Enclosure

- 1 - Ms. Thomas
- 1 - SSA [redacted] 1082
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

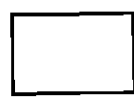
**UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE**

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

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~~SECRET~~



~~SECRET~~

Mr. James Langdon

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

- 1 - Mr. James Baker
Counsel for Intelligence Policy, OIPR
U.S. Department of Justice

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-01-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] DIVISION
IOB MATTER 2006 [redacted] (U)

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(U) ~~(S)~~ By electronic communication (EC) dated October 5, 2005 the [redacted] Division [redacted] reported a potential IOB involving a National Security Letter (NSL) requested by [redacted] which, through a transcription error, sought information about a e-mail address belonging to a person who was not the subject of an FBI national security investigation.

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(S) The US person who is the subject of the [redacted]

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(S) [redacted] had an e-mail address of [redacted]. The case agent sent his Investigative Support Specialist (IIA) the correct e-mail address with which to draft an NSL. The IIA then drafted the NSL with the incorrect address of [redacted].

(S) (U) ~~(S)~~ During the week of September 2, 2005, the case agent received the NSL response from the communications provider and noticed the error associated with the e-mail address. The case agent immediately notified his supervisor and put the original in the 1A envelope. The case agent then contacted the Associate Division Counsel who took possession of the unauthorized information and is presently holding the information in his safe.

(U) ~~(S)~~ The case agent reports that nothing from the response to this NSL has been reviewed. The agent also reports that no personal or identifying information from the NSL return has been uploaded into ACS. [redacted]

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(U) The error is a reportable matter under Section 2.4 of Executive Order 12863.

~~Derived from: G-3
Declassify on: X1~~

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/01/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [redacted] Ext. [redacted]

Approved By: Miller David Ian

DATE: 06-01-2007

CLASSIFIED BY 65179 dmh/ksr/gcl

REASON: 1.4 (c)

DECLASSIFY ON: 06-01-2032 b6

Drafted By: [redacted]

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

b7C
b2

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1417
OGC/IOB# 2006-[redacted]

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

(U) ~~(S)~~

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Reference: (S) [redacted]
(U) 278-HQ-C1229736-VIO Serial 2514
(U) 278-HQ-C1229736-VIO Serial 1081

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 10/5/2005, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/13/2006

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [redacted] Ext. [redacted]

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Approved By: Miller David Ian

DATE: 06-01-2007
CLASSIFIED BY 65179 dmh/kst/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

Drafted By: [redacted]

Case ID #: (U) 263-HQ-0-U - 377 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1417
OGC/IOB# 2006-[redacted]

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

(U) ~~(S)~~

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Enclosure(s): (U) EC from [redacted] Division dated 10/05/2005.

Reference: (S) [redacted]
(U) 278-HQ-C1229736-VIO Serial 2514
(U) 278-HQ-C1229736-VIO Serial 1081

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

(U) IIS views this matter as a possible performance related issue with respect to the employee and respective supervisor. Therefore, appropriate action relative to this matter is left to the discretion of the [redacted] Division. IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

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To: From: Inspection
Re: 263-0-U - 377, 02/13/2006

DOCUMENT IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED
ENCLOSURE.

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~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

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FEDERAL BUREAU OF INVESTIGATION

#1712

2006

Precedence: ROUTINE

Date: 10/05/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

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From:
Chief Division Counsel
Contact:

Approved By:

DATE: 06-01-2007
CLASSIFIED BY 65179 dmh/kar/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-01-2032

Drafted By:

Case ID #: (S)
(U) ~~(S)~~

278-HQ-C1229736 (Pending)

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

Synopsis: (U) ~~(S)~~ NSL directed at incorrect e-mail header.

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(S)

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Details: (S)

(U) ~~(S)~~ During the week of 08/07/2005, case agent asked the Investigative Support Specialist (IIS) to create two National Security Letters (NSLs) for separate e-mail header information and electronic communication transactional records that belonged to the subject of the above referenced matter.

~~(S)~~ The case agent provided the IIS with notes on the case including the two e-mail addresses. One e-mail address was correct and there is no issues regarding that e-mail address. The second e-mail address was transcribed incorrectly. The case agent provided the IIS with e-mail address and the NSL was drafted with an e-mail address of

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(S)

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CRS
SC Miller *[Signature]* 2/28/06

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[Handwritten notes]

SSA

sj.13

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/2/2005

To: [Redacted]

Attn: CDC [Redacted]

Counterintelligence

Attn: CD-4B

Inspection

Attn: Inspection

From: General Counsel

National Security Law Branch/CILU/ HO room 7975

Contact: UC [Redacted]

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Approved By: Thomas Julie F

[Redacted]

DATE: 06-01-2007

CLASSIFIED BY: 65179 dmh/kel/gcl

REASON: 1.4 (c)

DECLASSIFY ON: 06-01-2032

Drafted By: [Redacted]

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

(S) [Redacted]

2006- [Redacted]

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

Synopsis: (U) ~~(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 Inspection Division. OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.

(U) ~~(S)~~

~~Derived From : G-3
Declassify On: X-1~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

Details: (U) ~~(S)~~ By electronic communication (EC) dated October 5, 2005 (cited below),¹ the [Redacted] Division [Redacted]

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¹ (U) See EC from the [Redacted] Division to the Inspection Division and General Counsel, dated May 5, 2005, Case ID# 278-HQ-C1229736-VIO Serial 2514, titled "POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER (IOB)" hereinafter

~~SECRET~~

b6 OGC/NSA
b7C REQUEST: [Redacted]

[Redacted]



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

Washington, D.C. 20530

10/17

DATE: November 15, 2006

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

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/kse/gcl

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

SUBJECT: OIG Complaint No. 2006008119
Subject: Unidentified
[Redacted] Division
FBI No. 263 -0-U-377

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

IMPORTANT NOTICE

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Attachment

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 amh/kse/gcl

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO.: [redacted] 689-2006-008119-M

Received By: [redacted] Date Received: 02/01/2006 How Received: A

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

COMPLAINANT: [redacted] SSNO: [redacted]
Title: UNITC Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: F.B.I.No.:
Home: B.O.P.No.:
Phone: ZIP: D/L No.:
Work: GENERAL COUNSEL
NATIONAL SECURITY LAW UNIT/CILU, WASHINGTON, DC
Phone: [redacted] ZIP:
Confidential: Revealed: Authority: none

Details:
The FBI provided information reporting a possible IOB matter.
The FBI [redacted] Division requested a National Security Letter (NSL) seeking information about an E-mail address belonging to the target of the FBI. As a result of typographical error in the NSL, the FBI obtained unauthorized information.

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

DISPOSITION DATA: Disposition: M Date: 01/20/2006 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 11/20/2006 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-0-U-377
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
Predicating material contains classified information and will be maintained in a secure container within OIG/INV/HQ.
11/20/06- Sent to AD Kaiser/FBI INSD (tap)

(Rev 01-01-2003)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/kax/gcl
REASON: 1.4 (c)(6)
DECLASSIFY ON: 06-04-2032

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

#1735

Precedence: ROUTINE

Date: 06/28/2004

To: General Counsel

Attn: National Security Law Branch

SSA [redacted]

Room 7975

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From: [redacted]

Squad CI-2

Contact: [redacted]

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: (S) [redacted]

Title: (U) Intelligence Oversight Board (IOB)

[redacted]
Special Agent

[redacted]
Intelligence Oversight

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03 [redacted]
#1710
278-HQ-C1229736-10
90
NSL

Synopsis: (U) To notify the Office of General Counsel of a possible IOB violation regarding the reviewing of bank account information without obtaining a National Security Letter (NSL).

(U) ~~(S)~~

~~Derived From: G-3~~

~~Declassify On: XI~~

(U)

Details: (S) On June 22, 2004, SSA [redacted] conducted SA [redacted] file review. SA [redacted] is a probationary agent with an EOD of [redacted]. During the file review, SSA [redacted] determined that SA [redacted] had telephonically accessed the [redacted]

(S)

Upon further questioning, SA [redacted] advised that she [redacted]

(S)

The information SA [redacted] obtained was never memorialized on any type of FBI document except on the files case [redacted]

(S)

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~~SECRET~~

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(S)

195 EC, 01

[redacted]

[redacted]

~~SECRET~~

To: General Counsel From: [redacted]
Re: (S) [redacted], 06/28/2004

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(S) review sheet of June 22 file review. SSA [redacted] verbally advised SA [redacted] that she should have acquired a National Security Letter (NSL) to obtain [redacted]

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(S) [redacted] Due to SA [redacted] being a probationary agent, SSA [redacted] verbally counseled SA [redacted] on this matter and advised her that the incident would be reported to the General Counsel due to a possible IOB violation. SA [redacted] apologized for her improper action and guaranteed that in the future, she will refer to FBI regulations and guidelines.

Set Lead 1: (Info)

General Counsel
At Washington D.C.

(U) ~~(S)~~ Read and Clear.

NSL

~~SECRET~~

Lead assigned to SSA [redacted] in [redacted] clear lead.

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

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Precedence: ROUTINE

Date: 10/21/2004

To: Director's Office
Counterintelligence

Attn: OPR
Attn: AD
Attn: SAC
CDC

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/kxz/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

From: General Counsel
NSLB/CILU/Room 7975

Contact: [redacted] ext. [redacted]

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Approved By: Thomas Julie

[redacted]

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By:

[redacted]

Case ID #: (U) ~~(S)~~ 278-HO-C1229736-VIO (Pending) - 600

(S) [redacted]

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b7E

Title: (U) ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD MATTER
IOB 2004 [redacted]

Synopsis: (U) ~~(S)~~ The Office of the General Counsel (OGC) considers that this matter must be reported to the Intelligence Oversight Board (IOB) and to the Office of Professional Responsibility (OPR). OGC will prepare an appropriate cover letter and a memorandum to the IOB. Our analysis follows.

(U) ~~(S)~~ Derived From: G-3
~~Dealt to OGC~~

Details: (S)

[redacted]

(S) [redacted] court-authorized electronic surveillance under the terms of the Foreign Intelligence Surveillance Act (FISA). SA [redacted] is a probationary agent, EOD [redacted] assigned to [redacted] where she has responsibility for [redacted] case. SA [redacted] supervisor is SSA [redacted]

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(U) ~~(S)~~ On 6/22/2004, SSA [redacted] determined during the course of a file review that SA [redacted] had used information derived from the electronic surveillance to access [redacted] bank

(S) [redacted]

~~SECRET~~

A.SAC [redacted]

*IT WAS MY UNDERSTANDING HAVING
' FISA ORDERED SURVEILLANCE
' ALLOWED USE OF INFORMATION
' OBTAINED IN SUCH IN A DISCRETE
' MANNER; NO WILFUL INTENT OCCURRED.*

SSA [redacted]
SA [redacted]

DCB
11/3/04

DE
SSA [redacted]

JOB MATRZ

263-0-

b6
b7C

[redacted] DATE: 12/22/04
[redacted] INVEST:
[redacted] INITIALS:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/kst/gcl

~~SECRET~~

To: Director's Office From: General Counsel
 Re: ~~(S)~~ 278-HQ-C1229737-VIO, 10/21/2004

(U)

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(S)

[redacted] Specifically, SA [redacted] obtained information about [redacted] electronic

(S)

surveillance. She used that information on one occasion to access data by telephone about [redacted] account balance and bank transactions. The information that SA [redacted] obtained was never memorialized in any FBI document other than the file's case review sheet as of the 6/22/2004 file review. SSA [redacted] informed SA [redacted] who was not previously aware of the fact, that a National Security Letter (NSL) was the appropriate method for obtaining banking information in a foreign counterintelligence investigation. SSA [redacted] promptly reported the matter to the Office of the General Counsel (OGC). An NSL was subsequently issued in this case to obtain the subject's bank information, which is clearly relevant to a foreign counterintelligence investigation.

(U) The Right to Financial Privacy Act (RFPA), Title 12, United States Code, Section 3401 et seq. (12 USC § 3401 et seq.) states in §3402 that "[e]xcept as provided by section 3403(c) or (d), 3413, or 3414 of this title, no Government authority may have access to or obtain copies of, or the information contained in the financial records of any customer from a financial institution"

(U) 12 USC §3414 provides in part:

(a)(1) Nothing in this chapter (except sections 3415, 3417, 3418, and 3421 of this title) shall apply to the production and disclosure of financial records pursuant to requests from--

- (A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities; or
- (B)

(2) In the instances specified in paragraph (1), the Government authority shall submit to the financial institution the certificate required in section 3403(b) of this title signed by a supervisory official of a rank designated by the head of the Government authority.

(U) Section 2-17 of the National Foreign Intelligence Program Manual (NFIPM) lists the FBI officials who can request

~~SECRET~~

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To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229737-VIO, 10/21/2004

~~(U)~~

financial records under the foregoing section of RFPA. According to section 2-17 of the NFIPM, such requests must be made by an Assistant Special Agent in Charge or a more senior official.

(U) 12 USC §3417 provides for civil liability of an agency or department of the United States that obtains financial records or information in violation of the RFPA. The same section deals with "disciplinary action for wilful or intentional violation" of these RFPA provisions by agents or employees of the government.

~~(U)~~ ~~(S)~~ In this instance, the conduct of SA [redacted] was wilful and intentional, even though she did not realize that she had acted in contravention of the RFPA and Bureau policy. It should also be noted that SA [redacted] was at the time a probationary agent. Inasmuch as her actions nevertheless amount to "intelligence activities that . . . may be unlawful or contrary to Executive order or Presidential directive" they are reportable to the Intelligence Oversight Board (IOB) under the terms of section 2.4 of Executive Order 12863. OGC will therefore prepare a cover letter and a memorandum to report this matter to the IOB and to advise that it has been referred to the Office of Professional Responsibility.

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~~SECRET~~

To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229737-VIO, 10/21/2004

(U)

LEAD(s):

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Please read and clear.

Set Lead 3: (Action)

[Redacted]

AT

[Redacted]

(U) For action deemed appropriate.

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WHERE SHOWN OTHERWISE

BY COURIER

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

General Brent Scowcroft (USAF Retired)
Chairman
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, N.W.
Washington, D.C. 20503

Dear General Scowcroft:

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This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2004-" (U)

The enclosure sets forth details of investigative activity which the FBI has determined may have been contrary to the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. (U)

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

- 1 - Ms. Thomas
- 1 -
- 1 - IOB Library
- 1 - 278-HQ-C1229736-VIO -601

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~~Derived from: G-3
Declassify on: X25-1~~

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SECRET
-2-

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Page 2

General Brent Scowcroft (USAF Retired)

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

Sincerely,

Julie Thomas
Deputy General Counsel

Enclosure

- 1 - The Honorable John D. Ashcroft
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
IOB 2004- (U)

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Page

3

(U)

(S) Investigation of this IOB matter has determined that a new Special Agent in the

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(S) [redacted] of the Federal Bureau of Investigation used information derived from [redacted] authorized electronic surveillance of a [redacted] to obtain access by telephone to the subject's bank records. Specifically, the Agent obtained information about the [redacted]

(S)

[redacted] The Agent then used the information on one occasion to access data by telephone about the subject's account balance and bank transactions.

(U) ~~(S)~~ Such information is relevant in national security investigations of this type. However, the proper method for obtaining bank records is through a National Security Letter under Title 12, United States Code, Section 3414(a)(1)(A). Access to financial records by government authorities through means not provided by law is prohibited under Title 12, United States Code, Section 3402.

(U) ~~(S)~~ The Agent recorded her action on a case review sheet associated with the subject's file. However, no other record of the incident was made or retained by the FBI. The matter came to light during the course of a file review, when it was noted by the Agent's supervisor. The Agent has since been counseled concerning the Right to Financial Privacy Act (RFPA) and the correct method for obtaining financial records under the RFPA.

(U) This matter has been referred to the FBI's Office of Professional Responsibility for such action as may be appropriate.

~~Derived from: G-3~~
~~Declassify on: X25-1~~

~~SECRET~~~~SECRET~~

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b7CALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/ksk/gsl

[REDACTED]

This one was already
processed, but the
OIG Rept. disagreed with
AG's opinion - Mr. Thomas
revisited it and felt
it was correct, so he

submitted it to IOB. -

The new opinion should
change course. See
the new opinion (tabbed
with post-it note).

[REDACTED]

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b7C

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

b2

#1710

Precedence: ROUTINE

Date: 04/25/2003

2003 []

To: Inspection
Office of General Counsel

Attn: Inspection Management Unit
Room 7837
Attn: National Security Law Unit

From: []

Squad 16A

Contact: []

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Approved By: []

DATE: 06-04-2007
CLASSIFIED BY 65179 dab/kar/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

Drafted By: []

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Case ID #: (U) 278-HQ-C1229736-VIO (90) (Pending)
(S) []

Title: (U) SSA []
SA []
[] DIVISION
IOB

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Synopsis: (S) This communication reports an Intelligence Oversight Board and possible OPR matter with regard to the investigation of the []

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Details: (S) []

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(S) []

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[]

EM 2/26/06

SA []

[]

He, and he alone, was the accountable employee.

NOTE

This serial was referenced
on 278-HQ-1425173-2
(which is referenced on
OGC opinion) ^{no fact in}
This serial (90) is the ~~ACS~~
F.O. reporting.
Ser. 2 - was INSD > OGC.
Cannot get text for ser 2
so using this one.

See 02/13/06

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/ksk/gcl

Back of Page 1

~~SECRET~~

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To: Inspection From: [redacted]
Re: (U) 278-HQ-C1229736-VIO, 04/25/2003

probationary SA at the time this matter commenced, who was under the direct Supervision of SSA [redacted]

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(U) The controlling legal authority in this matter is 18 U.S.C. Section 2709, Counterintelligence access to Telephone Toll and Transactional Records. Simply stated, requires that the FBI obtain Billing and Subscriber information through the issuance of a National Security Letter (NSL).

(S)

[Large redacted block]

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SSA [redacted] began to have doubts as to this matter and instructed SA [redacted] to consult with [redacted] Associate Division Counsel, SA [redacted] SA [redacted] contacted SSA [redacted] on 04/24/2003, advising of the legal insufficiency, the IOB reporting requirement and possible OPR matter. SSA [redacted] subsequently advised SAC [redacted] and this communication was drafted on 04/25/2003.

(U)

~~(S)~~ In a discussion with CDC [redacted] and ADC [redacted] on 04/25/2003, SSA [redacted] agreed that the preparation of a NSL for the period 01/10/2002, through 04/30/2003, would obtain the subscriber and billing information as set forth in 18 U.S.C. 2709, and the information would not have to be removed from investigative files. CDC discussion with [redacted]

(S)

[Redacted block]

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To: Inspection From:
Re: (U) 278-HQ-C1229736-VIO, 04/25/2003

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(01/26/1998)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/22/2004

To: Counterintelligence

Attn: Section Chief

Director's Office

Attn: Office of Professional Responsibility

[Redacted]

Attn: SAC

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/kar/921
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

From: General Counsel

National Security Affairs/Room 7975

Contact: [Redacted]

Approved By: Thomas Julie F

[Redacted]

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WHERE SHOWN OTHERWISE

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Drafted By: [Redacted]

Case ID #: ~~(U)~~ ~~(S)~~ 278-HQ-1425173

Title: ~~(U)~~ ~~(S)~~ INTELLIGENCE OVERSIGHT BOARD (IOB)
IOB MATTER 2003 [Redacted]

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

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

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Reference: ~~(U)~~ ~~(S)~~ 278-HQ-1425173

[Redacted]

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

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~~SECRET~~

OIG/DOJ REVIEW: [Redacted] DATE: 11/13/04
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

~~SECRET~~

To: Counterintelligence Division From: General Counsel
Re: ~~(S)~~ 278-HQ-C1425173-VIO, 10/22/2004

(U)

Details: (U) Referenced electronic communications from the Inspection Division (ID) to OGC, National Security Law Branch (NSLB), dated May 28, 2003, advised OGC of a possible IOB violation involving actions exceeding the authorized scope of otherwise permitted activity OGC has reviewed the facts of the captioned matter and has determined that reporting to the IOB is not warranted. Our analysis follows.

(S) [Redacted]

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(U) ~~(U)~~ Also following discovery of this mistake additional training and advice was provided to [Redacted]
(S) investigative personnel regarding the proper use of NSL and the restrictions pertaining to obtaining [Redacted]

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(S) (U) ~~(S)~~ Section 2-56 of the National Foreign Intelligence Program Manual requires OGC to determine whether the facts related above must be reported to the IOB. Based on the analysis

~~SECRET~~

~~SECRET~~

To: Counterintelligence Division From: General Counsel
Re: ~~(S)~~ 278-HQ-C1425173-VIO, 10/22/2004

(U)

set forth below, it is OGC's determination that they need not be in this instance.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 13, 1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive."

~~(S)~~ (U) **itle 18, United States Code**, Section 2709, Counterintelligence access to Telephone Toll and Transactional Records states that:

(b) Required certification. --The Director of the Federal Bureau of Investigation, or his designee . . . may-

(1) request the name, address, length of service, and local and long distance toll billing records of a person or entity if the Director . . . certifies in writing to the wire or electronic communication service provider to which the request is made that the name, address, length of service, and toll billing records sought are relevant to an authorized investigation ...

~~(S)~~ ~~(S)~~ [Redacted]

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(S) [Redacted]

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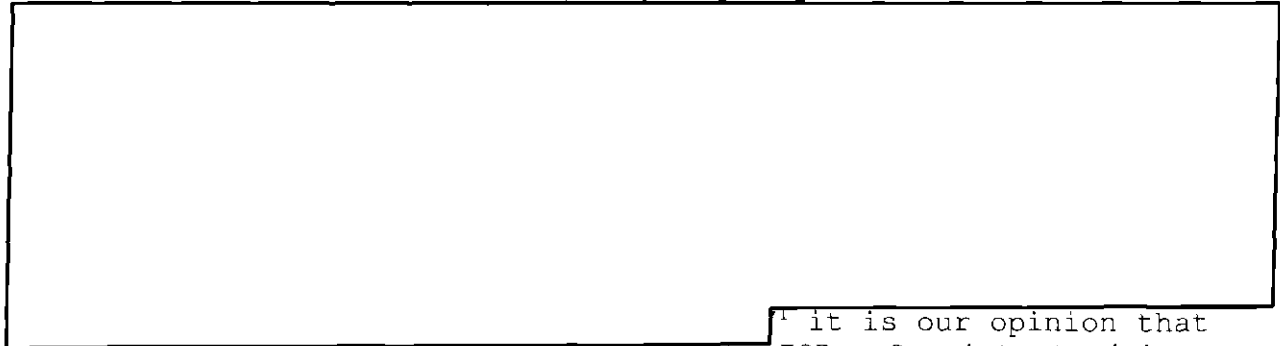
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~~SECRET~~

To: Counterintelligence Division From: General Counsel
Re: ~~(S)~~ 278-HQ-C1425173-VIO, 10/22/2004

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(S)



it is our opinion that this matter need not be reported to the IOB. Consistent with our prior opinions, a record of this decision should be maintained in the control file for future review by Counsel to the IOB.

Lead(s) :

Set Lead 1: (Action)

COUNTERINTELLIGENCE DIVISION

AT WASHINGTON, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For action deemed appropriate.

Set Lead 3: (Action)

(U) ~~(S)~~ OGC EC to INSD, dated May 28, 1999 and titled "SSA
SA [redacted]
IOB Matter 97- [redacted]

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~~SECRET~~

To: Counterintelligence Division From: General Counsel
Re: (S) 278-HQ-C1425173-VIO, 10/22/2004

(U)

[Redacted]

AT

[Redacted]

(U) For action deemed appropriate.

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~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/20/2007

To: [Redacted]

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

Counterintelligence

Attn: AD Timothy D. Berezney
DAD Daniel L. Cloyd
SC James Casey, CD-1

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Inspection

Attn: IIS [Redacted]
CRS [Redacted]

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

Contact: [Redacted]

Approved By: Thomas Julie F. [Redacted]

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/kar/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

Drafted By: [Redacted]

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) 2236
(U) 278-HQ-1425173 (Pending) 4
(S) [Redacted]

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Title: (U) INTELLIGENCE OVERSIGHT BOARD
MATTER 2003 [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~(S)~~ ^(U) ~~(S)~~ **Synopsis:** In A Review of the Federal Bureau of Investigation's Use of National Security Letters, draft dated 01/22/2007, the Department of Justice (DOJ), Office of Inspector General (OIG) noted on page 77-78 that it disagreed with the FBI's analysis of IOB Matter 2003 [Redacted]. Upon further review of this particular matter, the Deputy General Counsel has determined that her earlier decision was erroneous and this matter should be reported to the Intelligence Oversight Board (IOB). OGC will prepare and deliver the necessary correspondence to the IOB.

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~~(U)~~ ~~(S)~~

~~Derived From: Multiple Sources~~
~~Declassify On: 02/20/2032~~

Reference: (U) 278-HQ-C1229736-VIO Serial 90
(U) 278-HQ-1425173 Serial 3

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OIG/DOJ REVIEW: [Redacted] DATE: 3/2/07
FBI INVESTIGATION: [Redacted]
OIG/DOJ INVESTIGATION: [Redacted]

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 02/20/2007

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Administrative: (U) This electronic communication (EC) supersedes the previous opinion on this matter, dated 10/22/2004, referenced above as 278-HQ-1425173, Serial 3.

Details: (U) ~~(S)~~ The EC from the [redacted] Division [redacted] [redacted] dated 04/25/2003 and referenced above as 278-HQ-C1229736-VIO, Serial 90, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. Initially, OGC determined that this issue was not reportable to the IOB because [redacted] actions did not impact any U.S. persons. However, in it's report, the OIG noted that it disagreed with the FBI's decision not to report this incident. Upon further analysis, we must agree with the OIG. It is now our opinion that this matter is reportable to the IOB. Our analysis follows.

(S) [redacted]

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(S) The FBI did not issue a national security letter (NSL) for this information because the case agent and his supervisor were under the erroneous belief that [redacted]

(S)

[redacted]

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(S) Upon discovery of the mistake, an appropriate NSL was prepared and issued [redacted]

(S)

[redacted] Also following discovery of this mistake, additional training and advice was provided to [redacted] regarding the proper use of an NSL and the restrictions pertaining to obtaining [redacted]

(S)

[redacted]

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(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 (in the FBI, the Assistant

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To: [REDACTED] From: Office of the General Counsel
 Re: (U) 278-HQ-C1229736-VIO, 02/20/2007

Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language has been interpreted to mandate the reporting of any 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. Violations of provisions that are merely 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) The Electronic Communications Privacy Act (ECPA) prohibits wire or electronic communications service providers from "knowingly divulg[ing] a record or other information pertaining to a subscriber to or customer of such service...to any governmental entity." 18 U.S.C. § 2702(a)(3). However, there is an exception to this general prohibition. Upon proper certification by the Director or his designee, the FBI may seek telephone and email communication records from wire or electronic communications service providers when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. § 2709. Moreover, under the NSIG, NSLs are an authorized technique and may be issued in conformity with statutory requirements during a preliminary or full investigation. NSIG, V.12.

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(U) ~~(S)~~ Upon realizing the error, [REDACTED] issued an NSL to cover the period in question. However, due to the fact that there was an unlawful collection, we must report this to the IOB.

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 02/20/2007

LEAD(s):

Set Lead 1: (Info)

[redacted]

AT

[redacted]

(U) For information.

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Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

CC: Ms. Thomas

[redacted]

IOB Library

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DECLASSIFIED BY 65179 dmh/kxr/gcl
ON 06-04-2007

February 20, 2007

BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2003 [] (U)

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

Enclosure

1 - 278-HQ-C1229736-VIO - 2237

UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived From: Multiple Sources
Declassify On: 02/20/2032~~

~~SECRET~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

- 1 - Mr. Matt Olsen
Deputy Assistant Attorney General
National Security Division
U.S. Department of Justice
Room 2200 C

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] DIVISION
IOB MATTER 2003 [REDACTED] (U)

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(U)

~~(S)~~ In A Review of the Federal Bureau of Investigation's Use of National Security Letters, draft dated 01/22/2007, the Department of Justice (DOJ), Office of Inspector General (OIG) noted that it disagreed with the FBI's analysis of IOB Matter 2003 [REDACTED]. Upon further review of this particular matter, the Office of the General Counsel (OGC) has determined that this matter does need to be reported to the Intelligence Oversight Board (IOB).

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[REDACTED]

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(U) The Electronic Communications Privacy Act (ECPA) prohibits wire or electronic communications service providers from "knowingly divulg[ing] a record or other information pertaining to a subscriber to or customer of such service...to any governmental entity." 18 U.S.C. § 2702(a)(3). However, upon proper certification by the Director or his designee, the FBI may seek telephone and email communication records from wire or electronic communications service providers when those records "are relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities." 18 U.S.C. § 2709.

(S)
[REDACTED]

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~~Derived from: Multiple Sources
Declassify on: 02/20/2032~~

~~SECRET~~

(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/03/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: UC [redacted] Ext. [redacted]

Approved By: Miller David Ian

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/ksr/gpl

Drafted By: [redacted]

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

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1710
OGC/IOB# 2003 [redacted]

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

Reference: (U) 278-HQ-C1229736-VIO Serial 90
278-HQ-1425173 Serial 3

Details: (U) The Internal Investigations Section (IIS) received an EC from [redacted] Division dated 4/25/2003, reporting a possible IOB error. Based upon a review of the referenced EC it is the IIS's opinion the incident described therein is indicative of a performance issue. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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(Rev. 01-31-2003)

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/03/2006

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [redacted]

Ext. [redacted]

Approved By: Miller David Ian

DECLASSIFIED BY 65179 dmh/ksz/gcl
ON 06-04-2007

Drafted By: [redacted]

✓ **Case ID #:** (U) 263-HQ-0-U - 391 (Pending)

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Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1737
OGC/IOB# 2006-[redacted]

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

(U) ~~(S)~~

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

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Enclosure(s): (U) EC from [redacted] to General Counsel, dated 12/09/2005.

Reference: (U) 278-HQ-C1229736-VIO Serial 1092
278-HQ-C1229736-VIO Serial 1135

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

(U) IIS recognizes and appreciates that this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

DOCUMENT IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE.

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U.S. Department of Justice

Office of the Inspector General

DATE: September 22, 2006

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-04-2007 BY 65179 dmh/kax/gcl

TO: Charlene B. Thornton
Assistant Director
Inspection Division
Federal Bureau of Investigation

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

SUBJECT: OIG Complaint No. 2006008132
Subject: [redacted] et al.
[redacted] Division
FBI No. 263-0-U-384

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

IMPORTANT NOTICE

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

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

Attachment

DATE: 06-04-2007
FBI INFO.
CLASSIFIED BY 65179 dmh/kar/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

OIG - INVESTIGATIONS DIVISION - Complaint Form

OIG NO. [redacted] 689-2006-008132-M

Received By: [redacted] Date Received: 02/21/2006 How Received: A

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

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

COMPLAINANT: [redacted] SSNO: [redacted]
Title: UNID Pay Plan: [redacted] D.O.B.: [redacted]
Component: FBI EOD Date: [redacted] Alien No.: [redacted]
Misc: F.B.I.No.: [redacted]
Home: B.O.P.No.: [redacted]
Phone: [redacted] ZIP: [redacted] D/L No.: b1
Work: General Counsel National Security Affairs, Washington, DC b6
Phone: [redacted] ZIP: [redacted] b7C
Confidential: Revealed: Authority: none b7A

(S) Details: [redacted]

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

DISPOSITION DATA: Disposition: M Date: 02/21/2006 Approval: POWELL, GLENN G
Referred to Agency: FBI Date Sent: 09/12/2006 Component: FBI
Patriot Act: N Civil Rights: N Component Number: 263-HQ-0-U-384
Sensitive: N Whistleblower: N Consolidated Case Number:

Remarks:
09/12/06- Sent to AD Thornton/FBI/INSD. Predicating material will be maintained within
OIG/INV in a secure container.

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FEDERAL BUREAU OF INVESTIGATION

#1658

Precedence: ROUTINE

Date: 10/05/2005 2006-

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB

DATE: 06-04-2007
CLASSIFIED BY: 65179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

From:

Chief Division Counsel

Contact:

Approved By:

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Drafted By:

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Case ID #: (U) ~~(S)~~ 278-HO-C1229736-VIO - 1/2
(S)

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

Synopsis (U) ~~(S)~~ NSL directed at incorrect telephone number.

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(U) ~~Derived from: G-3~~
~~Declassify on: X-1~~

(S)

Details: (S)

(S)

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(U) ~~(S)~~ The case agent provided the IIS with two telephone numbers. One telephone number was correct and there were no issues regarding that telephone number. The second telephone number was

~~SECRET~~

CRS *has 01/20/06*
SC Miller *2/21/06*

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[Handwritten notes]

~~SECRET~~

To: Inspection From: [redacted]
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 10/05/2005

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(S)

[redacted] incorrect. The case agent provided the IIS with telephone number [redacted] when the correct number was [redacted].

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(S)

~~(U)~~ ~~(S)~~ In September 2005, the case agent received the NSL response. The case agent made an immediate working copy of the information and put the original in a 1a envelope and submitted it to the file. Nothing from the original NSL was uploaded.

~~(U)~~ ~~(S)~~ On 10/03/2005, the case agent started working on the working copy and discovered that the name for the subscriber was not the name of the subject of the above referenced matter. The case agent checked in ACS to see what telephone number was listed on the NSL and noticed it was the incorrect number. At that point, the case agent contacted his supervisor and he and the supervisor then contacted the Chief Division Counsel.

~~(U)~~ ~~(S)~~ No personal or identifying information on the incorrect number was uploaded into ACS from the NSL return.

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[redacted]

~~(U)~~ ~~(S)~~ The original NSL as well as the resultant information was turned over to the Chief Division Counsel and is currently secured in the Chief Division Counsel's safe.

~~(U)~~ ~~(S)~~ As nothing from the NSL has been reviewed, SAC [redacted] recommends no administrative action be taken in this matter.

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(01/26/1998)

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 01/18/06

To: Director's Office

Attn: OPR

[Redacted]

Attn: CDC

From: General Counsel

National Security Law Branch/Rm. 7975

Contact:

[Redacted]

Ext.

[Redacted]

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Approved By: Thomas Julie F

[Redacted]

DATE: 06-04-2007

CLASSIFIED BY 65179 dmh/hst/qcl

REASON: 1.4 (c)

DECLASSIFY ON: 06-04-2032

Drafted By:

[Redacted]

Case ID # ~~(U)~~ ~~(S)~~ 278-HQ-C1229736-VIO - 1141

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

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Synopsis: ~~(U)~~ ~~(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: 25X-1~~

Reference: ~~(U)~~ ~~(S)~~ 278-HQ-C1229736-VIO Serial 794

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

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~~SECRET~~

OGC/DOJ
RECEIVED

[Redacted]

Handwritten marks and signatures

~~SECRET~~

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To: [redacted] From: General Counsel
Re (U) ~~(S)~~ 278-HQ-C1229736-VIO, 01/18/06

(U) ~~(S)~~ **Details:** ~~(S)~~ By electronic communication (EC) October 5, 2005, (cited below)¹, [redacted] reported a possible IOB error in conjunction with a [redacted]

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(S) [redacted]
(S) [redacted] The subject of this investigation involved a United States person.

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(S) (S) [redacted] the case agent asked the Investigative Support Specialist (IIS) to create National Security Letters (NSLs) for two telephone numbers that belonged to the subject of the above-referenced matter.

(U) ~~(S)~~ The case agent provided the IIS with two telephone numbers: one number was correct and no problems arose with respect to that telephone number. The second number was incorrect--the telephone number provided by the case agent was [redacted] when in fact, the correct number was [redacted]

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In September 2005, the case agent received the results of the NSL and made an immediate working copy of the information and placed the original in a 1A envelope and submitted it to the file. No information from the original NSL was uploaded.

On 10/03/05, the case agent started working with the working copy and discovered that the name of the subscriber was not the name of the subject of the above-referenced matter. The case agent checked in ACS to ascertain what telephone number was listed on the NSL and realized it was an incorrect number. The case agent then contacted his supervisor and he and the supervisor then contacted the Chief Division Counsel.

No personal or identifying information on the incorrect number was uploaded into ACS from the NSL return.

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[redacted]

¹ (U) See EC from [redacted] to the General Counsel, dated 10/05/05 Case ID# 278-HQ-C1229736-VIO Serial 1050, titled "Possible Intelligence Oversight Board Matter."

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~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/18/06
(U)

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either. The original NSL, as well as the responsive information which consisted of subscriber information and toll records, was turned over to the Chief Division Counsel and is secured in his safe.

~~(U)~~ ~~(S)~~ As required by Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the collection error described here is a matter which must be reported to the IOB. It is.

~~(S)~~ Section 2.4 of E.O. 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB all information "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." In this instance, the collection on telephone number [redacted] pursuant to the NSL was done without the authorization required by law. Consequently, in accordance with E.O. 12863 and Section 2-56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

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Lead(s) :

Set Lead 1: (Action)

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[redacted]

(U) Coordinate with FBIHQ, the Counterintelligence Division, to ensure that all information collected pursuant to the NSL is sequestered, sealed and delivered to the Counterintelligence Division for submission to the Office of Intelligence Policy and Review, Department of Justice, for destruction.

~~SECRET~~

~~SECRET~~

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To: [redacted] From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/18/06
(U)

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, DC

(U) For appropriate action.

Set Lead 3: (Info)

Counterintelligence

AT WASHINGTON, D.C.

(U) For information only.

◆◆

- 1 - Ms. Thomas
- 1 - [redacted] (Acting UC)
- 1 - [redacted]
- 1 - NSLB IOB Library

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~~SECRET~~

DECLASSIFIED BY 65179 dmh/ksr/gcl
ON 06-04-2007

January 18, 2006

BY COURIER

Mr. Stephen Friedman
Chairman
Intelligence Oversight Board
Room 5020
New Executive Office Building
725 17th Street, N.W.
Washington, D.C. 20503

Dear Mr. Friedman:

b2

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2006 [redacted] (U)

The enclosure sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations and/or laws, Executive Orders, or Presidential Directives which govern FBI foreign counterintelligence and international terrorism investigations. (U)

Enclosure

- 1 - Ms. Thomas
- 1 - [redacted] (Action UC)
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO - 1142

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UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE

~~Derived from: Multiple Sources~~
~~Declassify on: January 18, 2031~~

~~SECRET~~

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

- 1 - The Honorable Alberto R. Gonzalez
Attorney General
U.S. Department of Justice
Room 5111
- 1 - Mr. James A. Baker III
Counsel for Intelligence Policy and Review
U.S. Department of Justice
Room 6000

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

~~SECRET~~

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/ker/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[redacted] FIELD OFFICE
IOB MATTER 2006 [redacted] (S)

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(U)

~~(S)~~ The [redacted] Field Office [redacted] of
the Federal Bureau of Investigation ("FBI") has reported an error
(S) in conjunction with that division's [redacted] investigation of a
United States person. In this regard, two National Security
(S) Letters (NSL) were created for two telephone numbers. One
telephone number [redacted] was incorrect; the correct number
was, in fact, [redacted]. Subscriber information and toll
(S) records were collected for the incorrect number pursuant to the
NSL. When [redacted] realized its error, it secured the records
produced for the incorrect number in the safe of [redacted]
Chief Division Counsel. [redacted] will provide these records
to the Office of Intelligence Policy and Review ("OIPR"),
Department of Justice.

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(U) This matter has been reported to the FBI's Office
of Professional Responsibility for appropriate action.

~~Derived from : G-3
Declassify on: 25X1~~

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~~SECRET~~

~~SECRET/ORCON/NOFORN~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/02/2005

To: Inspection
General Counsel

Attn: IIS
Attn: NSLB
Attn: Squad 16
SA [redacted]

From: [redacted]
Squad 16
Contact: SA [redacted]

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Approved By: [redacted]

DATE: 06-04-2007
CLASSIFIED BY: 63179 dmh/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

Drafted By: [redacted]

Case ID #. (S) ~~(U)~~ [redacted]
(U) 278HQ-C-1229736-VIO (Pending)

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Title. (U) ~~(S)~~ SSA [redacted]
SA [redacted]
IOB MATTER

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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Synopsis (U) ~~(S)~~ Reporting potential IOB.

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

(S) Enclosure(s). (U) ~~(S)~~ Enclosed for Inspection Division are three CD-Rom's of data one package [redacted]

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Details: (S) [redacted]

[redacted]

(S) [redacted]

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Trained SA [redacted] of [redacted] subsequently contacted the Digital Evidence Section and spoke to BAE Contract [redacted]

~~SECRET/ORCON/NOFORN~~

CRS [redacted] kas 01/30/06
SC Miller DM 2/28/06

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~~SECRET/QRCON/NOFORN~~

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To: Operational Technology From: [redacted]
Re: (S) [redacted] 11/02/2005

(S) [redacted] reported back to [redacted] that she had spoken to [redacted] and been assured [redacted]

(S) [redacted] (S) SA [redacted] prepared an NSL to [redacted]

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(U) SA [redacted] and SA [redacted] subsequently met with SA [redacted] to again review the intercepted digital information. Upon review of the header information, it was discovered that all the intercepts on [redacted]

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(S) [redacted] SA [redacted] re- contacted BAE Contractor [redacted] and provided the results of [redacted] investigation. [redacted] contacted [redacted] and asked them to revisit this issue. [redacted] later advised [redacted] the following: [redacted]

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

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(U) (S) Upon learning this information, the [redacted] Division, with the help of the technology unit subsequently purged the unrelated digital intercepts from the [redacted] case file. The physical (paper) copies that were logged into the ELSUR unit have also been obtained and are being forwarded with this EC.

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

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~~SECRET/QRCON/NOFORN~~

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~~SECRET~~/ORCON/NOFORN

To: Operational Technology From: [redacted]
Re: (S) [redacted] 11/02/2005

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LEAD(s) :

Set Lead 1 (Action)

INSPECTION

AT WASHINGTON, DC

(U) Advise OGC of above information. Advise [redacted] of any required additional information.

b2
b7E

Set Lead 2 (Action)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Review above information and determine if IOB notification is required.

◆◆

~~SECRET~~/ORCON/NOFORN

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 11/22/2005

To: Counterterrorism

Attn: ITOS II\GOU

General Counsel

Attn: NSLP

[Redacted]

Attn: SSA

[Redacted]
[Redacted]
[Redacted]
[Redacted]

b2
b7E
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b7C

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [Redacted] x4 [Redacted]

Approved By: [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Drafted By: [Redacted]

Case ID #: (U) 263-HQ-0-U (Pending)-351

(U) 278-HQ-C1229736-VIO (Pending) 1051

(S) ~~(S)~~ [Redacted]

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Title: (U) INTELLIGENCE OVERSIGHT BOARD;

SSA [Redacted]
SA [Redacted]

[Redacted] DIVISION

DATE: 08-04-2007
CLASSIFIED BY 65179 dmh/ker/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

b6
b7C
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Synopsis: (U) Forwarding material to Counterterrorism Division for appropriate handling.

(U) ~~(S)~~

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

b1
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b7A

Reference: (U) 278-HQ-C1229736-VIO serial 1044

(S) ~~(S)~~ [Redacted]

Enclosure(s): (U) ~~(S)~~ Enclosed for Counterterrorism Division (CTD), International Terrorism Operations Section (ITOS) II, Global Operations Unit (GOU) is the following:

(U) ~~(S)~~ A copy of 278-HQ-C1229736-VIO, serial 1044 enclosing:
One envelope containing three CD-ROM's and

~~SECRET~~

~~SECRET~~

To: Counterterrorism From: Inspection
Re: (U) 263-HQ-0-U, 11/22/2005

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(S) paper copies of [redacted]
containing unauthorized material furnished by
(S) [redacted] pursuant to a National Security Letter
(NSL).

Details: (S) [redacted]

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(U) Accordingly, INSD, IIS is forwarding the enclosed material to CTD\ITOS I\GOU for appropriate handling.

~~SECRET~~

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 1/05/2006

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b7E
b6
b7C

To: [Redacted]

Inspection
Counterterrorism

Attn: Squad 16

SA [Redacted]
IIS
ITOSII/GOU
SSA [Redacted]
SSA [Redacted]

From: Office of the General Counsel
National Security Law Branch/CILU/Room 7947

Contact: AGC [Redacted]

Approved By: Thomas Julie F

[Redacted]

DATE: 06-04-2007
CLASSIFIED BY: 65179 dmh/wer/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-04-2032

Drafted By:

[Redacted]

Case ID #: (C) ~~(S)~~ 278-HQ-C1229736-VIO-1036 (Pending)
(S) [Redacted]

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Title: (U) ~~(S)~~

SSA [Redacted]
SA [Redacted]
INTELLIGENCE OVERSIGHT BOARD MATTER
2006 [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

b6
b7C
b2

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

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

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

Details: (U) ~~(S)~~ The FBI Office of the General Counsel (OGC) reviewed the facts of the captioned matter to determine whether it warrants reporting to the IOB. In our opinion, it does. Our analysis follows.

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OGC/DOJ Review [Redacted]
FBI INVEST: (U)

DATE 2/1/06
BY [Redacted]

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 11/02/2005

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(S) [redacted] aforementioned FBI DES contract employee contacted [redacted] again with this new information, and [redacted] advised that the IP

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(S)

[redacted]

(S)

[redacted] did not notice their error the first time they were notified by the FBI DES employee, but discovered their error when they were recontacted in October 2005; [redacted] ceased receiving information on the other USPER's account in October 2005, after

(S)

[redacted] realized the error.

(S)

(S) Upon learning of the error from [redacted] purged the unrelated [redacted]

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[redacted] The physical (paper) copies that were logged into the Electronic Surveillance (ELSUR) Unit were also obtained and forwarded to FBI HQ along with the EC from 11/02/05.

(S) [redacted] advised that some information from the erroneous collection on [redacted]

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(S)

[redacted] advised [redacted]

(S) [redacted] self-reported what they believed could be a potential IOB violation, and brought this matter to the attention of the FBI OGC, National Security Law Branch (OGC/NSLB). OGC received the matter for review and handling.

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(U)

(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 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,

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To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 11/02/2005

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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.

(S) [redacted]

In addition, during the electronic surveillance the FBI detected what it believed was erroneous over-collection

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(S)

[redacted]

The FBI confronted [redacted] with these facts, and only then did [redacted] realize and admit it's error in providing content from another USPER's internet account. The FBI then took corrective action to remedy the situation.

(S)

(U) ~~(S)~~ Based upon our analysis, in accordance with the reporting requirements of Section 2.4 of E.O. 12863, the carrier's mistake must be reported to the IOB because the surveillance was not authorized under the Foreign Intelligence Surveillance Act or Executive Order 12333. OGC will prepare an appropriate cover letter and an enclosure for the Deputy General Counsel to report this matter to the IOB.

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel
Re: (U) 278-HQ-C1229736-VIO, 11/02/2005

LEAD(s) :

Set Lead 1: (Info)

[redacted]

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AT

[redacted]

(U) Read and clear.

Set Lead 2: (Info)

CTD-ITOS II

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) For action deemed appropriate.

CC: Ms. Thomas

[redacted]

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IOB Library

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~~SECRET~~

DECLASSIFIED BY 65179 dmh/kst/gcl
ON 06-04-2007

BY COURIER

Mr. Stephen Friedman, Chairman
Intelligence Oversight Board
New Executive Office Building - Room 5020
725 17th Street, NW
Washington, D.C. 20503

Dear Mr. Friedman:

This letter forwards for your information a self-explanatory enclosure, entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, 2006 [redacted] (U)

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

Enclosure

b6
b7C

- 1 - Ms. Thomas
- 1 - [redacted]
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO-1037

**UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE**

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

~~SECRET~~

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas
Deputy General Counsel

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

- 1 - Mr. James Baker
Counsel for Intelligence Policy, OIPR
U.S. Department of Justice
Room 6150

~~SECRET~~

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

~~SECRET~~

DATE: 06-04-2007
CLASSIFIED BY 65179 dmh/ksr/gcl
REASON: 1.4 (F)
DECLASSIFY ON: 06-04-2032

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] DIVISION
IOB MATTER 2006 [redacted] (U)

b2
b7E

(S) The [redacted] Division [redacted] of
the Federal Bureau of Investigation (FBI) has reported that,
owing to an error on the part of a communications carrier,
[redacted] conducted electronic surveillance of internet
communications beyond those authorized by [redacted]

(S)

[Large redacted block]

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From observing the dowloads it became apparent to
[redacted] personnel that there were [redacted] being
forwarded to [redacted] electronic access system.

(S)

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(S) Around the time of the discovery that there might

(S)

be [redacted]

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[redacted] an FBI contract
employee from the Digital Evidence section (DES) contacted

(S)

[redacted] and [redacted] in turn responded that it [redacted] was only
providing material associated with [redacted]

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(S)

(S) [Large redacted block]

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(S) [Redacted block]

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b7A

~~SECRET~~

~~SECRET~~

(S)

[Redacted]

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(S) Upon learning of the error from [Redacted] purged the [Redacted]

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(S) [Redacted] the physical (paper) copies that were logged into the Electronic Surveillance (ELSUR) Unit were also obtained and forwarded to FBI HQ along with the EC from November 2, 2005.

(S) [Redacted] advised that some information from the erroneous collection [Redacted]

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(S) [Redacted] advised the [Redacted]

(S) [Redacted]

(S) (U) Although this error is not directly attributable to conduct on the part of FBI personnel, the unauthorized surveillance is nevertheless a reportable matter under Section 2.4 of Executive Order 12863.

~~Derived from: G-3
Declassify on: X1~~

~~SECRET~~

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(Rev. 01-31-2003)

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/03/2006

To: General Counsel

Attn: NSLB

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [REDACTED] Ext. [REDACTED]

Approved By: Miller David Ian

Drafted By: [REDACTED]

b6
b7C
b2

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

Title: INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1425
OGC/IOB# 2006-[REDACTED]

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

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Reference: 278-HQ-C1229736-VIO Serial 1044

(S) [REDACTED]

Details: The Internal Investigations Section (IIS) received an EC from [REDACTED] Division dated 11/2/2005, reporting a possible IOB error. Based upon a review of the referenced EC, it is the IIS's opinion the incident described therein was an error attributed to the Internet provider in submitting collection on the improper IP e-mail address, and not the FBI or its personnel. Therefore, no internal investigation will be conducted by the IIS and this matter is being relegated to the NSLB for whatever action they deem appropriate.

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~~SECRET~~ \ORCON\ \NOFORN

FEDERAL BUREAU OF INVESTIGATION

DATE: 06-26-2007
CLASSIFIED BY 65179 dah/ksr/gcl
REASON: 1.4 (c)
DECLASSIFY ON: 06-26-2032

Precedence: ROUTINE

Date: 03/03/2006

To: [redacted]

Attn: SAC (Personal Attention)

From: Inspection

Internal Investigations Section, IPU, Room 11865

Contact: CRS [redacted] Ext. [redacted]

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b6
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Approved By: Miller David Ian

Drafted By: [redacted]

1073946

Case ID #: (U) 263-HQ-0-U - 390 (Pending)

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER
INSD/IIS TRACKING# 1425
OGC/IOB# 2006 [redacted]

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

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(C) ~~(S)~~

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

Enclosure(s): (U) EC from [redacted] to Inspection, General Counsel and [redacted] dated 11/02/2005.

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Reference: (U) 278-HQ-C1229736-VIO Serial 1044
(S) ~~(S)~~ [redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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

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(U) IIS considers the matter described herein an error attributed to the Internet provider and not the FBI or its personnel. IIS recognizes and appreciates this matter was brought to our attention as required by the revisions mandated by National Security Law Branch/OGC EC, dated 03/18/2005 (319X-HQ-A1487720 serial 6).

DOCUMENT IS UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE

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~~SECRET~~ \ORCON\ \NOFORN

NSL VIO-352

FEDERAL BUREAU OF INVESTIGATION
FOIPA
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