1.

	Prec	edence:	ROUTINE			Date: (03/09/2004		
	To:	Cyber			Attn: SS	A		7	
			Counsel			IU/Room 9	5931		
			Counser		ACCII: NS	DB	•		
b2	From		_			r			
b7E b6		Co	ntact: SA				i e e		
b7C	Appr	oved By:				DATE:	11-15-2007	•	
						CLASSI PEASON	fieb by 65179 : : 1.4 (C)	DMH/KSR/DK	
							SIFY ON: 11-15	-2032	
	Draf	ted By:							
b	Case		288B 132 78-HQ-C1229		nding) (Pending)		•		
þ	2		/8-HQ-C1229	7/36-410	(Penaing)	—	•		
ď	7E :1	e: (S)	UNSUB(S);						
			CI/CT - T	NII	•				
		(U)	President	's Intell	igence Ove	rsight Bo	pard	,	
	viola prova data	ation by ided data as prov) To report an Electro a exceeding ided by the o OIPR for	nic Commu the scop provider	nications/ e of the a is sealed	Service I uthorized and enc	Provider wh I request. Nosed for C	o The	
	(S)	· v		· · · · · · · · · · · · · · · · · · ·					
.b1 .b2								N CONTAINED ASSIFIED EXCE HERWISE	PT
.b2							ŀ		
	7.0	<u>.</u> .						•	
	(2)						•	
		+	•	******					
	(U) 🔀) Der	ived From		_			
		×		lassify (M. X1				
								•	
	Case	ID : 28				Serial			
	b2 b7E	27: 27:		36-VIO 2			419 43	·	

b7E

SECRET

Working Copy	Page ?
Administrative: (U) Ref 3/8/2004 e-mail with SSA	b70
Enclosure(s): (S) Enclosed for C3IU is one sealed CDROM containing data	ng b
Details:(S//OC,NF) Intelligence provided in this communication is been acquired by techniques authorized in the Foreign Intelligence Surveillance Act (FISA). Therefore, the intelligence provided has been obtained through methods of intelligence gathering which are considered sensitive and singular in nature. No overt investigate steps should be taken without first receiving advice and consent FBIHQ and	ce As E Live
(II) Per 50 U.S.C. 1806(b) of FISA, recipients are also reminded that there are to be no further disseminations or of FISA-derived material in any criminal proceeding without prior approval from the Attorney General. Information may not be disseminated to any foreign government without prior Attorney General.	•
. (S)	
	b1 b6 b7C
(S//OC,NF)	1 b2
	b7E b7D b4
(S//OC,NF)	
	b1 b2
(S//NF)	b 7E b7D
October 3, 2003,	b 4
issued a National Security Letter (NSL), pursuant to requesting the following:	35 1
Name, address, length of service, and electronic communication transactional records, to include existing transaction/activity logs and all e-mail header information (not to include message content and/or subjection),	pl
SECRET	
NSL VIO-34878	

 $\left(U\right) _{\frac{1}{2}}$

---- Working Copy ----

In addition, the letter contained the following

Page

3.

caveat:

This National Security Letter does not request, and you should not provide, information pursuant to this request that would disclose the content of any electronic communication as defined in Title 18,

United States Code, Section 2510(8).

(S//NF) The letter was sent to the Division and delivered to On 2/11/2004, IA Sent a CDROM which contained the data provided by response to the NSL.	.n b2 .b7E .b4 .b7E
(S//NF) On Sunday 3/7/2004, SA reviewed the data on the CDROM and found that, in addition to the requested logs, it appeared to contain content.	
terminated analysis of the data and contacted ADC Per ADC instruction, the website logs, which were contained in the folder LOGS and which were authorized by the NSL, were extracted and saved to a separate CDROM. The original CDROM from	
was then sealed and was not accessed again. (U) On 3/8/2004, SSA Cyber/C3IU, was notified and requested that the CDROM be sent to him for forwarding to OIPR. The CDROM is enclosed for forwarding to OIPR for an appropriate judicial disposition.	b6 b7C
(II) Per a 3/8/2004 communication from the Mational	

(U) Per a 3/8/2004 communication from the National Security Law Branch (NSLB) regarding revised procedures for handling possible IOB violations, this information is being provided to NSLB for reporting to the IOB if deemed appropriate.

LEAD(s):

Set Lead 1: (Action)

CYBER

AT CTCI, DC

(U) Deliver sealed CDROM to OIPR for appropriate judicial disposition.

Set Lead 2: (Discretionary)

SECRET

Page

4

GENERAL COUNSEL

AT WASHINGTON, DC

(U) Based upon the foregoing, generate a report to IOB if deemed appropriate.

	Precedence: ROUTINE	Date:	02/10/2004	÷
	To: Office of the Director Attn	: OGC/NSLB		
. •	Cyber	SSA CIS/C3IU		
b2 b7E	From:			
b6 b7C	Contact: SA			
		ALL INFORMATION COM TEREIN IS UNCLASSIF WHERE SHOWN OTHERWI	TED EXCEPT	
÷	Drafted By:			
	Case ID #: \SY 278-HQ-C1229736-VIO	(Pending) (Pending)	DATE: 11-08-2007 CLASSIFIED BY 6517	b2 b7E
	Title() (S) INTELLIGENCE OVERSIGHT I (IOB) MATTER	BOARD .	REASON: 1.4 (C) DECLASSIFY ON: 11-	
	Synopsis: (3) To report possible Id	OB violation.	·	
	Derived From G. Declassify On: X:	-3		
S) _/	/ Declassify on: A.	<u>.</u>		b1
				b2 b7E
	Reference: (U)		-	
S) ;	Details: (%) During the investigat:	ion of case # email account		
- '	The email addre	ess.		b1 b2
S)				b7E
Ĺ		/2003. Due co		b4 b7D
	processing the NSL, the results were January. While reviewing res	sponse to the :	NSL, SA	b6 b7c
•	discovered that, in addition to the some e-mail content was included. Up	oon discovering	g	
	error, SA returned the NSL receased his analysis of the material.		hen reported	·
,	Case ID : 278-HO-C1229736-VIO	Seria	1 : 370	
	INSPECTION SEC	RET		b2 b7E
•		NSL VIO-34	18 81	•

	SECI Working			Page	2
the matter to FBIHQ/C prepared.	SSA who so OGC/NSLB. As per NSLB.	ought guidance this communica	from tion has been]	b6 b7C b2
LEAD(s):					
Set Lead 1: (I	info)	•			
ogc (n	IŠLB)				
(U) >	T WASHINGTON, DC				
Set Lead 2: (A	ction)				
CYBER					
	T WASHINGTON, DC As per guidance pro re LHM and hand carry t	ovided by			b6 b7С

03/04/2004 Precedence: ROUTINE Date: To: Counterterrorism **T**eam 12, Attn: SSA b2 b7E Attn: NSLB. Office of General Council <u>Room 7975,</u> b6 b7C Attn: CDC Fro Contact: SAApproved By: DATE: 11-08-2007 CLASSIFIED BY 65179 DMH/KSR/DK PEASON: 1.4 (C) DECLASSIFY ON: 11-08-2032 **b**6 $_{
m b7C}$ ifted By b2 'se ID # 278-HQ-1229736-VIO (Pending) b7E ALL INFORMATION CONTAINED Title: HEREIN IS UNCLASSIFIED EXCEPT DIVISION: WHERE SHOWN OTHERWISE Synopsis: (X) Reporting of possible violation of the Attorney General Guidelines (AGGs) for FBI National Security Investigations and Foreign Intelligence Collection, which may be a reportable violation to the Intelligence Oversight Board (IOB). <u>Details:</u> b1 renewed authorization of b2 b7E **b**6 was administratively case agent, via Electronic Communication (EC) dated .b7C administrative backlog and the subsequent three day holiday weekend, captioned matter was not administratively closed in the Division, IMA responsible for closing in ACS discovered investigation had one outstanding lead to Division for service of a National Security Letter (NSL) for subscriber information and telephone toll records. **b**2 Due to administrative oversight, b7E failed to discontinue this outstanding lead to the Case ID : 278-HQ-C1229736-VIO Serial: 401



	SECRET Working Copy	Page	2
	Division prior to drafting the closing EC. the outstanding lead to Division was discontinued in ACS by Division, but no further direct notification to Division was made. At that time, Division incorrectly assumed the lead habeen discontinued and no further investigation was being conducted.	ıd	b2 b7E
s) İ	On 03/03/2004, Division contacted Division, and notified that they had served an NSL in support captioned were in receipt of telephone toll records, but a check of ACS had revealed that the matter had been administratively closed by Division.	ρĘ	b2 b7E b1
(S)	(S) Subsequent checks of ACS revealed that a routine lead was set by Division to Division to serve the NSL on 11/07/2003 (set in ACS), and assigned at Division on 11/10/2003 (routine lead coverage within 60 days). Division served the NSL to the telephone provider on 11/14/2003, but did not provide the requested telephone records until 02/27/2004. The date that Division obtained the records was after administrative closure of this investigation. Division is forwarding the		b1 b2 b7E b4
	collected telephone records to Division. Upon receipt of information from no personnel will open and/oreview the enclosed material. The material will remain in a sealed envelope and be archived within the closed investigative file.	or	b7D
	LEAD(s):	•	
	Set Lead 1: (Info)		
	COUNTERTERRORISM	·	
	AT WASHINGTON, DC (U) For ITOS 1, Conus 3, Team 12: Read and clear.		
	Set Lead 2:		
	COUNTERTERRORISM		
	(U) AT WASHINGTON, DC		
	For Office of General Council (OGC), NSLB: Referred as possible IOB violation, for appropriate action.		
	Set Lead 3: (Info)		
	b2 b7E		
•	(U) AT		,
	Read and clear.		
	·		



Page

1

	Precedence:	PRIORITY		Date: 04/	16/2004	
•	To: General	Counsel	Attn:	,	NSLB	
b2		r 3IU/CIS/room <u>5931</u> ontact: SSA			٦	
b7E b6	Approved By	•				
b7C	Drafted By:			H	LL INFORMATION C CREIN IS UNCLASS MERE SHOWN UTHER	IFIED EXCEPT
b1 b2)6) 278-HO-C1229736-	VIO (Pendi (Pending)	DAT	E: 11-14-2007 SSIFIED BY 65179	∋ DMH/KSR/DK
b7E	Title: (S)	ET AL		REA	SON: 1.4 (C) LASSIFY ON: 11-	
	Synopsis: (IOB)					
	(U)	1				•
	Enclosure: James Baker	(U) One (1) copy o , OIPR/DOJ, regarding	of an LHM add g reported IO	ressed to B matter.	Mr.	
	Detaile. /	S/NR/OD)				
						b1 b2
,						b7Е b6
						b7с b7D
Г	(Ś,	/NF/OR)				b4
- -	. (S.	/NF/OR)	07 Og	tober 3, 2	003	. 1d b2
L	is	ssued a National Secu				.b7E
	Case ID · 2	 78-нQ-C1229736-VIO		Serial :	434	
	b2		SECRET		279	· •
	b7E			L`VIO-34886	• " .	,

	SECRET		
	(S) NF/OR	Ď	^
	Working Copy	Page	b1 2
	18 USC 2709, td The NSL requested name, address and		b4
	header information and advised not to include the content or		b7D
700	subject line information of electronic communications.	•	
15,	consistent with 18 USC 2510(8) a		
	(8/NF/OR) The NSL was sent to the Division and	J	1- 0
		nt	b2
Г	a CDROM which contained the data provided by	lin	b7E
	response to the NSL.		b6
	· · · · · · · · · · · · · · · · · · ·		b70
	(S/NF/OR) On Sunday 3/7/2004, SA	_	b4
	reviewed the data on the CDROM and found that, in addition to the requested logs, it appeared to contain content.		b7I 1
S)¦			J
_ [SA		
1	immediately terminated analysis of the data and contacted ADC		
	Per ADC instruction, the website logs,		b1
	which were contained in the folder "LOGS" and which were authorize by the NSL, were extracted and saved to a separate CDROM. The	z e a	b6
	original CDROM from was then sealed and was not accessed		b7C
	again. The sealed envelope was sent to FBI Headquarters.		b4
			b7D
(S)	Consistent with Bureau policy, attached is a		33 7 33
161	copy of the LHM to OIPR regarding this matter. The sealed manilla envelope with the CDROM was enclosed and sequester of	-	
	its contents was requested of OIPR.		
•			1.
	LEAD(s):		
	Set Lead 1: (Info)		
	GENERAL COUNSEL		
	AT NSLB		

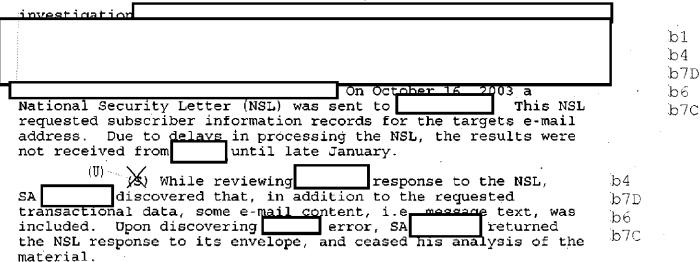
(S) Read and clear.

Page

1

	Precedence: ROUTINE		Date: 03/23/2004				
	To:	Attn:	ASAC				
b2 b7E		1	ACDC				
b6 b7c	Cyber Division	Attn:	C3IU				
,,,,,	Director's Office	Attn:	Office of Professional Responsibility				
	From: General Counsel National Security Law Contact:	Branch/	Rm. 7974				
٠.	Approved By: Curran John F	7	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE				
	Drafted By:		•				
b2	Case ID (#1) (\$) 278-HO-C1229736		ending)				
b7E	Title: INTELLIGENCE OVERS (IOB) MATTER 2004	SIGHT BC	ARD				
	Synopsis: (N) It is the opinion Counsel (OGC) that the above rest to the IOB and to the FBI's Office (OPR). OGC will prepare and delete to the IOB. Our analysis follow	ferenced ice of P liver th	rofessional Responsibility				
	(U) Derived from Declassity of	: G-3 X-1	DATE: 11-08-2007 CLASSIFIED BY 65179 DMH/KSR/DK REASON: 1.4 (c) DECLASSIFY ON: 11-08-2032				
	(U) Reference: (9) 278-HO-C1229736	S-VIO Se	<u>ri</u> al 370				
`	Administrative: (U) This communication contains one or more footnotes. To read the footnotes, download and print the document in Corel WordPerfect.						
b2 b7E	Details: By electronic con (cited below) il', possible IOB error in conjunction	Field	Office <u>re</u> ported a				
	Case ID : 278-HO-C1229736-VIO	SECRE	Serial: 445				
		•	NSL VIO-34888				

2



On February 25, 2004, a letterhead memorandum was sent to the Office of Intelligence Policy and Review (OIPR), Department of Justice (DOJ), with the sealed e-mail message content for submission to the FISC for eventual destruction. Consistent with the requirements of Executive Order (E.O.) 12863 and Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM), OGC was tasked to determine whether the surveillance error described here is a matter which must be reported to the IOB. It 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 or Bresidential directive. In this instance, as the Field Office has reported, the content of the e-mail account collected in response to an FBI NSL was obtained 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.

b2 b7E

SECRET

Lead(s):

Set Lead 1: (Adm)

Read and clear.

Set Lead 2: (Action)

CYBER DIVISION

(U)

AT WASHINGTON, DC

(U) Acknowledge that the unauthorized "take" described in the Field EC 278-HQ-C1229736-VIO Serial 370 was submitted to the FISC for destruction, via the Office of Intelligence Policy and Review, Department of Justice.

---- Working Copy -

b2 b7E

Set Lead 3: (Action)

DIRECTORS OFFICE

AT OPR, FO, DC

(U) For review and action deemed appropriate.

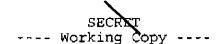
1 - Mrb6 1 UC b7C NSLB IOB Library

Page -

FOOTNOTES

<pre>il: (U) See EC General Counsel,</pre>	from t	ne	Field Office	to the	.h2
dated 02/10/04, Case "Intelligence	ID# 278-	4Q-C1229736-V	IO Serial 370,	titled	b7E
Oversight Board Matte	r, mere:	inafter cited	as EC."		

1



BY COURIER

General Brent Scowcroft (USAF Retired) Chairman Intelligence Oversight Board New Executive Office Building Washington, D.C.

DATE: 11-08-2007 CLASSIFIED BY 65179 DMH/KSR/DK

PEASON: 1.4 (C)

DECLASSIFY ON: 11-08-2032

Dear General Scowcroft:

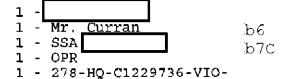
b2 b7E

This letter forwards for your information a selfexplanatory enclosure entitled Intelligence Oversight Board (IOB) Matter, Division, IOB Matter 2004

The enclosure sets forth details of investigative activity which the FBI has determined was conducted contrary to the Attorney General 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

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE



UNCLASSIFIED WHEN DETACHED FROM

CLASSIFIED ENCLOSURE

Case ID : 278-HQ-C1229736-VIO

*S*erial : 446

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. (U)

Sincerely,

John F. Curran Deputy General Counsel

- 1 The Honorable John D. Ashcroft
 Attorney General
 U.S. Department of Justice
 Room 5111
- 1 Mr. H. Marshall Jarrett
 Counsel, Office of Professional Responsibility
 U.S. Department of Justice
 Room 4304
- 1 Mr. James Baker
 Counsel, Office of Intelligence Policy and Review
 U.S. Department of Justice
 Room 6150

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER b7E

FIELD DIVISION

TOB MATTER 2004 (U)

Field Office

of the Federal Bureau of Investigation (FBI)

b1 b2 b7E b6

b7C

On October 16,

2003, a

b1 b2 b7E

b4

b7D

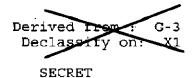
National Security Letter (NSL) was sent to requesting transactional information for the listed account. Upon review of the material provided by in response to the NSL, the case agent noted that, along with

transactional information, had sent e-mail message content.

Upon discovering error, the case agent immediately ceased

review of the material, placed it into a sealed envelope, and reported the matter to his supervisor. The sealed envelope was sent to the Office of Intelligence Policy and Review for sequestration with the Foreign Intelligence Surveillance Court.

(U) As required by FBI policy, the error has also been reported to the FBI's Office of Professional Responsibility.



SECRET ---- Working Copy ----

Date: 05/12/2004 Precedence: ROUTINE To: Inspection Attn: Inspection Management Unit Room 7837 National Security Law Unit General Counsel Attn: ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE **b**2 Contact: b7E **b**6 Approved By: b7C DATE: 11-14-2007 CLASSIFIED BY 65179 DMH/KSR/DK PEASON: 1.4 (C) DECLASSIFY: ON: :11-14-2032 Drafted By: b1 <u> 278-но-С1229736-VI</u>О (Pending) Case ID #: (U) h2Pending) b7E **b**6 Title: (U) b7C Synopsis: (U) This communication reports a potential Intelligence Oversight Board matter. b6 b7C Deriver From : G-3 .b4 Declassify on: X1 b7D Enclosure(s): > Original electronic communication from .b2 dated 4/30/2004 with information from b7E attached. Details: The purpose of this electronic communication is to b6 report a potential IOB matter involving a National Security Letter requested by SA FBI-as to satisfy the requirements set forth by the 3/8/2004]as well electronic communication regarding the revised procedures for the $^{\mathrm{b}7\mathrm{E}}$ submission of potential intelligence oversight board reports. (a) 1. Identification of the substantive investigation in which the questionable activity occurred: b1 -b2 b7E NSL VIO-34895

Precedence: ROUTINE Date: 06/30/2004 Director's Office Attn: OPR UC, CONUS III <u>Counterterrorism</u> SAC; ÇDÇ **b**2 SAC; CDC b7E .b6 From: General Counsel National Security Law Branch b7C Counterterrorism Law Unit I/Room 7975 Contact: ALL INFORMATION CONTAINED Approved By: Curran John F HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE Drafted By: DATE: 11-08-2007 Case ID #: 278-HQ-C1229736-VIO (Pending) CLASSIFIED BY 65179 DMH/KSR/DK REASON: 1.4 (C) b2 INTELLIGENCE OVERSIGHT BOARD Title: DECLASSIFY ON: 11-08-2032 MATTER 2004 Synopsis: XS) It is the opinion of the Office of the General Counsel (OGC) that the above referenced matter does not need to be reported to the Intelligence Oversight Board (IOB). Our analysis follows. Derived From : FBI SCS G-1, October 1, 1997 Declassify On. June 29, 2029 References: 278-HQ-C1229736-VIO Serial 401 Details: As discussed in the referenced electronic b1 b2 as that term is defined in Section 1801(i) b7E of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. b6 Section 1801 et seq. b7C Due to administrative backlog and the subsequent three day holiday weekend, captioned matter was not administratively closed in ACS until On 11/07/2003. set a routine lead to the **b**2 Division <u>se</u>rve a National Security served the NSL to the Letter (NSL) in this case. b7E on 11/14/2003, but telephone provider did not b1 provide the requested telephone records until **b**4 <u>admin</u>istrative 02/27/2004, after the b7D closure this investigation. Case ID: 278-HQ-C1229736-VIO Serial : 502 b1 b2 -C63856-VIO b7E NSL VIO-34897

2

m	,
they had received the telephone toll records requested by NSL, but a check of ACS revealed that had closed the investigation. subsequently forwarded the collected telephone records to Without reviewing the telephone records, sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file. Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. For the reasons discussed below, this matter need not be reported to the IOB.	b2 b7E
(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 13, 1993, mandates that Inspectors General and General Counsels 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 December 4, 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 FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (FCIG), il' or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated December 4, 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:	
Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) anthorize the use of National Security Letters authority, on 11/07/2003, lawfully issued a NSL for that requested telephone records in this case. On 11/14/2003, properly served the NSL on subsequent failure to cancel this lead at the time they closed the case was an administrative error that did not affect the lawfulness of the previously served NSL. properly sealed and archived the telephone records received from the NSL because the case was no longer open at the time of their receipt. (U) The late receipt of the telephone records in this SECRET NSL VIO-34898	b1 b2 b7E b4 b7D

SECRET

case constitutes an administrative error, not a substantive violation of law or regulation designed to protect the individual	
rights of U.S. persons. As discussed above, under longstanding	
agreement between the FBI and the IOB, administrative errors are	
not reportable to the IOB. slow response in this case	
did not affect the lawfulness of the NSL. has already	
sealed and archived the records in question. Additionally, none	.b4
of these records were reviewed or used by in its	b7D
investigation. Under these circumstances, it is OGC's opinion	
that the late receipt of these telephone records by	b2
on behalf is not an error that must be reported to the	b7E
TO	

(U) A copy of our opinion should be retained in the Counterterrorism Division control file for review by Counsel to the IOB, if requested.

FOOTNOTES

il': The FCIG was superseded on October 31, 2003, by the Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG).

LEAD (s)

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR, FO, DC

(U) For action deemed appropriate.

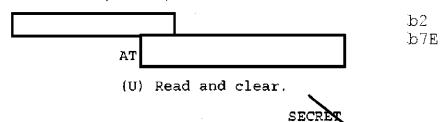
Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

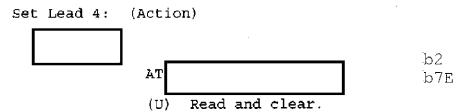
(U) Read and clear.

Set Lead 3: (Action)



Page

4



1 - Mr. Curran 1 - b6 1 - b7C ---- Working Copy ----

	Prec	edence: ROUTINE				Date: 06/	11/04	
	To:	Director's Offic	e Attn:	OPR			·	
		Counterterrorism	Attn:	AD				
b2_			Attn:	SAC CDC	•			
b7E b6 b7C	From: General Counsel National Security Law Branch/Room 7947 Contact:							
	Appro	oved By: Curran	John F	7				
	Draft	ted B <u>y:</u>		,	ALL INFORMATION C	"ስቴኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒኒ		
	Case	ID #: (A) 278	-HQ-C1229736-VIO			0.00		
b2	Title: (V) INTELLIGENCE OVERSIGHT BOARD MATTER 2004							
	Synopsis: (>X It is the opinion of the Office of the General Counsel (OGC) that this matter must be reported to the Intelligence Oversight Board (IOB) and to the Office of Professional Responsibility (OPR). OGC will prepare and deliver the required correspondence to the IOB. Our analysis follows.							
	Refe	References: (1) ₍₀₎ (% 278-HQ-C1229736-VIO Serial 419						
	footi		This communication to the footnotes, down to the state of			:e		
		(U) . >>	Derived From : Declassity On:	3-3 <u>X1-2</u> 5	DATE: 11-09-200 CLASSIFIED BY 6 PEASON: 1.4 (c) DECLASSIFY ON:	5179 DMH/KSR/DI	 K	
Г	<u>Deta:</u>	ils: (S) The	Divis	ion		<u></u>	b2 b7E	
ď		<u> </u>	On 10/03/03,		issued a Nat	ional	b1	
	the r	name, address, le unication transac	to an internet s ngth of service, tional records for lude a request for	and elect: r a websit	ronic te The NSL	ting	ì., 4	
		(S)				\neg	b1	
	 Case	ID : 278-HQ-C122	9736-VIO	 Sei	 rial : 503			
			SECR	NSI VIC				

.b7D

b2 b7E b4 b7D b1

This National Security Letter does not request. and you should not provide, information pursuant to this request that should disclose the content of any electronic communications as defined in Title 18, United States Code, Section 2510(8).

(S) Division delivered the NSL to
and subsequently forwarded <u>response (1 CD</u> ROM) to
on 2/11/04. Upon review, discovered that
response appeared to go beyond the NSL request by
including content. extracted, and saved to a
separate CDROM, the website logs authorized by the NSL.
then sealed the original CDROM and forwarded it to
Cyber, FBI Headquarters for delivery to the Office of
Intelligence Policy and Review.

- (U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB all information 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.
- (U) Title 18, United States Code, Section 2709, provides the mechanism for obtaining counterintelligence access to transactional records. It states in part that a wire or electronic communication service provider shall comply with a request for subscriber information and ... electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation. The production of email content by the service provider is not authorized under the statute.

In this instance, as a result of the errors by the communications carrier, it appears the FBI unintentionally

3

obtained email content. Thus, the information was under Title 18, United States Code, Section 2709. took the appropriate preliminary steps to unauthorized information to prevent its use or furt dissemination, in accordance with the reporting req Section 2.4 of E.O. 12863, the matter must be report IOB. OGC will prepare the correspondence required matter to the IOB.	Although b7. sequester the her uirements of ted to the	
LEAD (s)	•	
Set Lead 1: (Action)		
DIRECTOR'S OFFICE		
AT OPR FO, DC		
(U) For action deemed appropriate.		
Set Lead 2: (Action)		
CYBER DIVISION		
AT WASHINGTON, DC (U) (S) If it has not already accomplished, with the Division, to ensure that all related to the unauthorized production is collected sealed and delivered to FBIHQ for submission to the Intelligence Policy and Review, Department of Justi	information, sequestered, b2 Office of b71	
Set Lead 3: (Action)		
Coordinate with FBIHQ, to ensure tha information related to the unauthorized production sequestered, sealed and delivered to FBIHQ for submoffice of Intelligence Policy and Review, Departmen	is collected, ission to the	
1 - Mr. Curran 1 - 1 - 1 - IOB Library	.b6 .b7	

---- Working Copy ----

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

DATE: 11-14-2007

CLASSIFIED BY 65179 DMH/KSR/DK

PEASON: 1.4 (C)

DECLASSIFY ON: 11-14-2032

BY COURIER

General Brent Scowcroft (USAF Retired) Chairman Intelligence Oversight Board New Executive Office Building Washington, D.C.

Dear General Scowcroft:

Enclosed for your information is a self-explanatory enclosure, entitled "Intelligence Oversight Board (IOB) Matter, CONUS I, International Terrorism Operations Section, Federal Bureau of Investigation Headquarters (FBI HQ), 2004-

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. (U)

Enclosure

1 - Mr. Pistole 1 1 1 - 278-HQ-C1229736-VIO

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

Case ID : 278-HQ-C1229736-VIO

Serial: 504

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,

John F. Curran Deputy General Counsel

1 - The Honorable John D. Ashcroft
 Attorney General
 U.S. Department of Justice
 Room 5111

(S)

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

CONUS I, INTERNATIONAL TERRORISM OPERATIONS SECTION
FEDERAL BUREAU OF INVESTIGATION HEADQUARTERS (FBIHQ)

2004 (U)

Investigation of this IOB matter has determined that, on 10/08/02, the Division

On 10/03/03,

issued a National Security Letter to the internet service provider requesting the name, address, length of service, and electronic communication transactional SECRET

NSL VIO-34905

b1

b2 b7E

b4

b7D

3

records for a website. The National Security Letter did not request email content. ______ inadvertently provided email content information in its response (CDROM), which is not authorized under Title 18, United States Code, Section 2709 or Executive Order 12333. 🗌 discovered the problem, and immediately took steps to sequester the unauthorized data b2 collection to prevent its use or further dissemination. b7E extracted the information which was authorized by the b4 National Security Letter and then sealed the CDROM for delivery b7D to the FISC. In accordance with the reporting requirements of Section 2.4 of Executive Order 12863, the error must be reported b1This matter has been referred to the FBI's Office of Professional Responsibility for action deemed appropriate(S).

> Derived from : G-3 Declassify on: X1

> > SECRET

Date: 07/06/2004

SECRET ---- Working Copy ----

Precedence: DEADLINE 07/15/2004

National Security Law Branch To: General Counsel Attn: Counterintelligence Attn: CD-2C. Room 4066 SSA A/Chief Division Counsel Attn: b2 From b7E **b**6 Contact: b7C Approved By: Drafted By: b1 278-HQ-C1229736-VIO Case ID #: (Pending) b2 (Pending) b7E (U) Title: **b**6 b7C DIVISION IOB Synopsis: To report a possible Intelligence Oversight Board (IOB) matter. Perived From : G-3 (S) b1 b2 Reference: (a) b7E Details: In accordance with the instructions outlined in reference (a), information on the following possible IOB matter is forwarded to FBIHQ. CASE BACKGROUND (U) The substantive case file number in which the b1 - b2 b7E DATE: 11-09-2007 NSL VIO-34907 ALL INFORMATION CONTAINED CLASSIFIED BY 65179 DMH/KSR/DK HEPEIN IS UNCLASSIFIED EXCEPT REASON: 1.4 (C) WHERE SHOWN OTHERWISE · DECLASSIFY ON: 11-09-2032

	SECRET	Page	2
	possible IOB violation occurred is title is:		
	(S)		
	(s)	ユ	
	·(s)		b1 b2 b7I b6 b70
(S)	POSSIBLE IOB VIOLATION BACKGROUND (S) On 07/02/2004, writer was informed by Intelligence Operations Specialist (IOS) that the results of a National Security Letter (NSL) served at included the phone billing records for an	b6	
(S)	See reference (b). Further investigation determined that these records were unintentionally and erroneously requested due to a typographic error in the original NSL. See reference (c). The number that should have been requested was	b7C b1 b2 b7E	
	Assistant Chief Division Counsel (A/CDC). Writer was informed by the A/CDC that the material received constituted an IOB violation and should be reported. Under separate Electronic Communication (EC), writer forwarded said material to CD-2C for sequestration with the FISC.	b2 b7E	
	LEAD (s): Set Lead 1: (Action)		
	SECRET NSL VIO-34908		ı

Page

3

GENERAL COUNSEL

AT WASHINGTON, DC

Division 9, General Counsel, National Security Law Branch, is requested to take whatever action is necessary to record the incident with Intelligence Oversight Board.

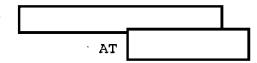
Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For CD-2C, read and clear.

Set Lead 3: (Info)



b2 b7E

(U) For the Assistant Chief Division Counsel, read and clear.

Page .

1

Precedence: F	ROUTINE	Date: 06	5/11/2004	
To: Counterte	errorism	Attn: AD Attn: SAC, CDC		
From: General	Counsel National Securi Contact:	ty Law Branch/Roc	om 7975	b6 b70
Approved By: Drafted By:	Curran John F		DATE: 11-14-2007 CLASSIFIED BY 65179 DMH/KSR/DK REASON: 1.4 (C) DECLASSIFY ON: 11-14-2032	b2 b7E
Case ID #: \S}	/ 278-HQ-C1229736- 278-HQ-1426014	VIO (Pending) (Pending)		
	POSSIBLE INTELLIGE IOB MATTER 2003	NCE OVERSIGHT BOA	ARD MATTER	b2
Counsel (OGC) Intelligence C this decision	It is the opinio that this matter oversight Board (I should be maintain by the Counsel Derived from Declassify	need not be report (OB), but, rather, ned in the invest to the IOB.	ted to the that a record of	
Reference:	(11) 278	C45386 Serial 67	· 	bZ b7E
Derails (S)				b1 b2 b7E b4 b7D b6 b7C
(S)		ffice obtained pursuant to the F	ISC orders on the	
	HQ-C1229736-VIO HQ-1426014	Ser SEC RO T	ial : 536 3	

(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 13, 1993, requires the General Counsel for the Intelligence Community, including the General Counsel for the FBI, to report to the IOB intelligence activities that they have reason to believe are contrary to statute, executive order or presidential directive. By longstanding agreement between the FBI and the IOB, this language has been interpreted to require the reporting of any violation of the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (FCIG), 16° or other guidelines and regulations approved by the Attorney General in accordance with E.O. 12333, dated December 4, 1981, if such guidelines were intended to ensure the protection of the individual rights of a U.S. person.

Applying those principles to this case, we do not believe that there was a violation of the FCIG, or other guidelines or regulations. Section 405(a)(2) of the FISA statute states that:

No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees expect for lawful purposes.

Subsection (b) goes on to state that:

No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is

SECRET ---- Working Copy ----Page 3 accompanied by a statement that such b1information, or any information derived therefrom, may only be used in a criminal proceeding b2 with the advance authorization of b7E the Attorney General. The FCIG authorized the examination of publicly available records and other documentary sources of information Clearly disclosed the telephone numbers (U) ······ obtained to the telephone company for a lawful purpose. Agents and analysts rely b2 upon subscriber information as a valuable investigative tool in foreign counterintelligence investigations. did not the subscriber information from through service of a b7E did not obtain b4 criminal subpoena, since the information was publicly available. b7D Had they done so, the FISA statute would have required the advance authorization of the Attorney General. Additionally, the FCIG enabled _____to examine publicly-available information under the authority of the investigations it had opened on the two aforementioned subjects. For a variety of reasons, was <u>correct</u> instructing the computer specialist to discontinue better method for obtaining subscriber information is to utilize either National Security Letters (NSLs) or criminal subpoenas. The Electronic Communication Privacy Act (ECPA) is the statutory authority utilized in issuing NSLs to telephone companies for subscriber information when the FBI has an authorized investigation to protect against international terrorism or clandestine intelligence activities.i7 Section 2709(c) of Title 18, U.S. b2 Code, prohibits any officer, employee, or agent of the company b7E served from disclosing that the FBI has sought or obtained access to information or records. Additionally, companies are requested in the standard language of the NSL to provide the requested **b**4 b7D information personally to a representative of the FBI. engaged in poor security practices Because NSLs were not used. no statutory authority in requesting that not publicly disclose the fact that the FBI was interested in certain telephone numbers. .b2 Despite the fact that engaged in poor b7E (U) security practices and should in the future utilize either NSLs or criminal subpoenas to obtain subscriber information, OGC does SECRET

not find that there was a violation which needs to be reported to the IOB. Consistent with our prior opinions in such cases, a record of this decision should be maintained in the control file for future review by Counsel to the IOB.

FOOTNOTES	•	
Divisions, dated	from to the Inspection and Security	
Division; I	tled "Computer Specialist	
hereinafter cited		
ï2´:	(U) The FISA is codified at 50 U.S.C. 1801 et	seq. b2
13´:	EC.	b71 b6
ï4´:	EC.	b70
::51:	EC.	·
	•	
17: The provisio U.S.C. 2709. LEAD(S):	on which allows for the issuance of NSLs is codi	ried at 18
Set Lead 1:	(Info)	
COUNTERT	PERRORISM	
,	AT WASHINGTON, DC	•
,	(U) For information.	
Set Lead 2:	(Action)	2
		7E
•	AT	
	(U) For action deemed appropriate.	
		6
CC:	b b	57C
IOB Library	SECRET	
	NSL VIO-34913	

SECRET ---- Working Copy ---- Page 1

Precedence: PRIORITY	<u>'</u>	Date: 09/01/2004		
To: General Counsel		National Security Law Room 7975	Branch	
From:				
Contact:				
<u></u>				b2
Approved By:	ER	INFORMATION CONTAINED EIN IS UNCLASSIFIED EXCEPT RE SHOWN OTHERWISE	,	b7E b6 b7C
Drafted By:				
Case ID #: (U) 278-H	O-C1229736-VIO C63856-VIO	DATE: 11-14-2007 CLASSIFIED BY 651 REASON: 1.4 (C/D) DECLASSIFY ON: 11		b2 b7E
	— NT'S INTELLIGENCE O	OVERSIGHT		
BOARD (I POTENTIA	COB); AL IOB ERROR OR VIC	3d.	~1	
(5)		b70		
Synopsis: (U) Repor	rt from of po	etential IOB violation.	b2 b7E	
1771	erived From : G-3 eclassify On: X1			
Reference: (S)		.b1		
(S) (S)		b2		
(S) (S)		b7E		
(S)				
Enclosure(s): (S) E above-referenced seri		LB are copies of the the the 06/17/2004 Memo f	rom b2	
Details: (8) This EC as instructed per EC	dated 03/08/2004, on discovering this notified Unit	al IOB matter to OGC/N see 66F-HQ-A1247863 Se potential TOB violation	SLB, b6 rial b7C	
1. Substant	$\langle S \rangle$:ive Investigation:		b1 b2 b7E	
			AU / Es	
Case ID : 278-HO-C122 278-C638	9736-VIO 56-VIO SECRE	Serial: 573 5	.b2	. -
	•	NSL VIO-34914	b7E	

	SECRET Working Copy	Page	2
	2. Subject:	2430	-
	2 Subject/e Statue: HS Berson		
	13. Subject s Status: 05 retson]	b1 b6
			b70 b2
			b7I
5	5. Statement of Error Committed: On 08/19/2004 FBI Division, received a Memo dated 06/17/2004 from a Division Investigative Analyst (IA). The Memo indicated that the National Security Letter (NSL) which had requested	-	b2 b7I
	that deliver to required a change in verbiage.		b4 b71
	cover EC and determined that the Paralegal Specialist who drafted the request for Case Agent SA had inadvertently cited to Title 15, United States Code (U.S.C.), Section () 1681v of the Fair Credit Reporting Act		
	(FCRA) instead of 1681u. In accordance with Public Law 107-56 (USA Patriot Act) and FBI policy, the use of 1681v to obtain consumer reports is limited to international terrorism (IT) investigations. However, as indicated previously, the request made by which prompted notification was in an		b2 b7E b4
S)	further processing of the request to In the same EC, also had requested that Division deliver an NSL to and Division deliver an NSL to also based upon 1681v. Therefore, immediately attempted to discontinue these leads which inadvertently cited to 1681v.		b7D b1
	Unfortunately, both already delivered the NSLs and provided the results to see Serial and Serial . The results in their entirety from both and are enclosed.	.64	
	After further discussion with SA the current Case Agent, it was learned that upon her receipt of the results from a conv of the results were disseminated to Task Force member , a member of the FBI Division's Foreign		b2 b7E b4 b7D b6
	Counterintelligence Task Force. Contact was immediately made with on 08/19/2004 and he was instructed to return all resulting documentation provided to him by SA returned this documentation on 08/20/2004, advising that he had not utilized this information. This documentation was immediately sealed on 08/20/2004 and is enclosed.		b7C
	A review of the Legal Unit's entire NSL file and Automated Case Support (ACS) since the enactment of Public Law SECRET	b2 b7E	3

Page

-3

107-56 revealed that 15 U.S.C. 1681v has not been cited in any other FCI investigation.

LEAD(s):

Set Lead 1: (Discretionary)

GENERAL COUNSEL

AT WASHINGTON, DC

(U) For information of OGC/NSLB and for any further action deemed appropriate by OGC/NSLB.

SECRET

Precedence: ROUTINE	Date	: 09/15/2004
To: Director's Office Counterintelligence	Attn: OPR Attn: AD Attn: SAC Attn: SAC CDC	
From: Office of the General NSLB/CILU/Rm 7975 Contact:		
Approved By: Curran John F	ALL INFORMATION HEREIN IS UNCLAS WHERE SHOWN OTHE	SIFIED EXCEPT
Drafted By: Case ID'#: (U) 278-WO-Cl229 (S)	Pending)	DATE: 11-14-2007 CLASSIFIED BY 65179 DMH/KSR, REASON: 1.4 (C) DECLASSIFY ON: 11-14-2032
Title: (U) INTELLIGENCE C	OVERSIGHT BOARD MATTER	
this matter warrants a report and to the Office of Profess follows. (U)(X) Derived		Oversight Board
Details: (S)	iry on: XI	· .
		. j
National Security Letters (National Letters, which cited Title 1 (15 USC 1681v), requested "a other information contained consumer ii.e., the subject"	reporting companies. 5. United States Code copy of a consumer in your files for the	reports about the subject The c. Section 1681v report and all c below listed
Case ID : 278-HQ-C1229736-VI	SECRET NSL VIO-	bl 34917 b2

2

certification by the SAC, purportedly "in accordance with 15 USC 1681v(b)," that "the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities "etc."."

	The letters were duly delivered to two of the three companies, both of which provided the requested credit information. The third letter which had been sent to the office for delivery to was returned unexecuted by a intelligence analyst who noticed that it referred to 15 USC 1681v instead of 15 USC 1681u.	b2 b7E b4 b7D
\ \ !	After learning of the error, the office determined that the two credit reports had already been disseminated to a member of the Counterintelligence Task Force in connection with the investigation. The reports were retrieved, sealed, and forwarded to Headquarters together with a report of the incident. (See	b2 b7E

- (U) The section of law cited in the three NSLs, 15 USC 1681v, was added by the USA Patriot Act, P.L. 107-56. It provides in part that "a consumer reporting agency shall furnish a consumer report of a consumer and all other information in a consumer's file to a government agency authorized to conduct investigations of, or intelligence or counterintelligence activities and analysis related to, international terrorism when presented with a written certification by such government agency that such information is necessary for the agency's conduct of such investigation, activity or analysis." (Emphasis added.)
- (U) By way of contrast, 15 USC 1681u is an older statute that applies to both counterintelligence and counterterrorism investigations. In connection with an authorized investigation of such cases, the FBI may use an NSL to obtain the names and addresses of all financial institutions at which a consumer maintains or has maintained an account. If additional information is needed, such as a consumer report, a designated Bureau official is required to seek an ex parte court order directing the consumer reporting agency to furnish the report to the FBI.
- (U) To obtain the ex parte order, the FBI must show "that the consumer report is sought for the conduct of 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."
- The Office of the General Counsel issued instructions regarding the differences between 15 USC 1681u and 15 USC 1681v, together with sample forms, in an EC dated 10/1/2003. (See 66F-HQ-A1255972, serial 32.)

(U) The office cited the wrong section of the Fair Credit Reporting Act in three NSLs that requested credit reports of a U.S. person in connection with a counterintelligence investigation. Moreover, the letters included a certification that was misleading although not untrue. (The certification stated, correctly, that the information was needed in connection with an authorized investigation to protect against international terrorism or clandestine intelligence activities. Section 1681v, however, refers only to international terrorism.) Two of the three letters resulted in the production of credit information that would not have been available solely through an NSL if the correct section had been cited.	b2 b7F	
(U) In weighing the gravity of this matter, the Office of the General Counsel notes that citation of 15 USC 1681v does not appear to have been a deliberate effort to circumvent the requirements of section 1681u. Once apprised of the error, immediately took appropriate action to recover and seal the information that it obtained based of the error and to report the matter to Headquarters. The question of intent is relevant because 15 USC 1681u(j) suggests that Congress did not consider disciplinary action by an agency to be warranted unless "the circumstances surrounding the violation raise questions of whether or not an employee of the agency or department acted wilfully or intentionally with respect to the violation"	.b7E	
(U) We are also mindful of the fact that the office could have obtained exactly the same result (i.e., the subject's credit report) if it had followed the two step process set forth in 15 USC 1681u, namely, an NSL followed by an exparte application for a court order. The proof required for such an order is minimal and the facts in this case would have justified it.	b2 b7E	
(U) Nevertheless, in preserving a distinct provision for obtaining credit information in counterintelligence cases, Congress apparently intended to apply a different standard to this type of case. By using Section 1681v rather than Section 1681v for a counterintelligence case, the office contravened the intent of Congress, albeit inadvertently. The matter should therefore be referred to the Intelligence Oversight Board and to the Office of Professional Responsibility. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.		
(U) The action of Intelligence Analyst	٠.	b6 b70 b2 b7E

LEAD(s):

4

b2 b7E

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR FO, DC

(U) For action deemed appropriate.

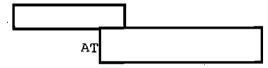
Set Lead 2: (Action)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

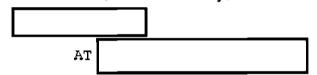
(U) Please read and clear.

Set Lead 3: (Action)



(U) For action deemed appropriate

Set Lead 4: (Discretionary)



(U) For action deemed appropriate.

POPE

SECRET

BY COURIER

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

DECLASSIFIED BY 65179 DNH/KSR/DK ON:11-14-2007

Dear General Scowcroft:

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

b2

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)

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE

1	-	Mr.	Curran	ı	-	IOB Library
1	-			ı	-	278-HQ-C1229736-VIC
1	-					

b6 b7C

Derived from: G-3 Declassify en: X25-1

SECRET SECRET

Case TD : 278-HQ-C1229736-VIO

Serial : 5

NSL VIO-34921



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,

John F. Curran 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

UNCLASSIFIED WHEN DETACHED FROM CLASSIFIED ENCLOSURE



SECRET

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

b2

(U) .

Investigation of this IOB matter has determined that the Field Office obtained consumer credit reports from two credit reporting companies in connection with an authorized counterintelligence investigation using a National Security Letter (NSL) that referred to Title 15, United States Code, Section 1681v, when in fact that section only permits the use of NSLs to request credit reports for authorized counterterrorism cases. Title 15, United States Code, Section 1681u, allows the FBI to use an NSL to obtain certain information from credit reporting agencies in authorized counterintelligence cases, specifically, the names and addresses of financial institutions at which the subject of the investigation maintains an account. In order for the FBI to obtain a credit report in a counterintelligence case, it must apply for an ex parte court order under the terms of Title 18, United States Code, Section 1681u(c).

b2 b7E

(8) The credit reports that were procured from credit reporting companies by citing 15 U.S.C. 1681v were not properly obtained. Although the error in statutory citation appears to have been inadvertent, and the _______ office immediately retrieved and sealed the credit reports once the error was discovered, this matter has been referred to the FBI's Office of Professional Responsibility for such action as may be appropriate.

Derived from: G-2

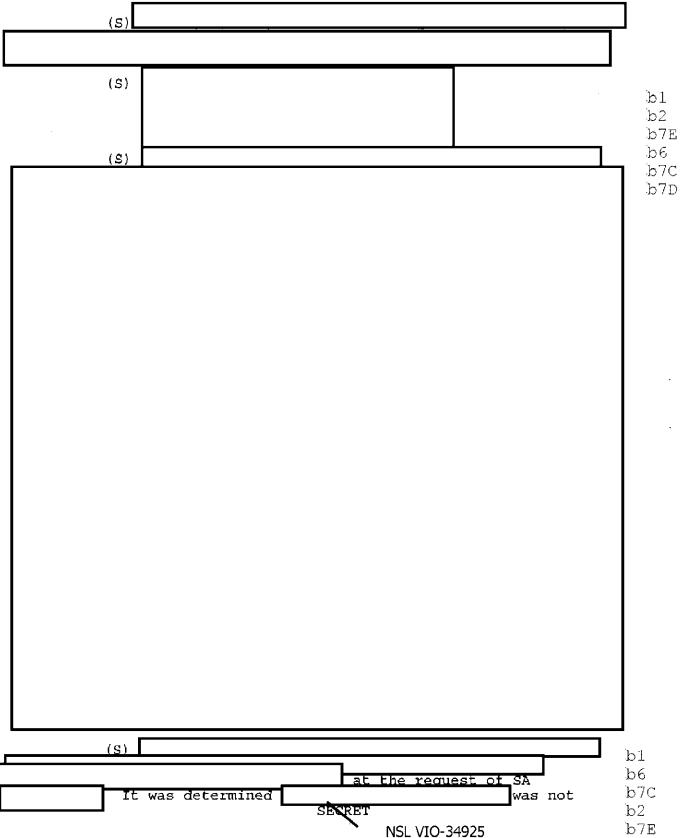
Beclassity on: X25-1

SERET

I	Precedence:	DEADLINE 11,	06/2004	Date:	11/02/2004	
5	To: General	Counsel	Attn	: NSLR SAC ASAC CDC		
b2 b7E	From SSA			ALL INFORMATI HEPEIN IS UND WHERE SHOWN O	LASSIFIED EXCEPT	
.b6 .b7с	Orafted By:			E R	ATE: 11-14-2007 LASSIFIED BY 651 EASON: 1.4 (C,D) ECLASSIFY ON: 11	
b6 b7С			1229736-VIO 71404 (Pendi	(Pending)		,
b2 b7E	fitle: (U)	(IOB) VIOLA	TELLIGENCE O' ATION ISION	VERSIGHT BOA	RD .	·
	Synopsis: (U Division. (U)	- .	possible IO	B violation	for	
F	Reference:	Decla (U) 278-HQ-0	15 Ty On: X 21229736 Seria 21229736 Seria	1 al 355		ðď.
	Details: ﴾≰ Lo SA		2004, the fol the transfer		was reassigne to t	ed b7€
	(\$)	0.				
		eview by SA	ew of this can	and SSA	it	b1 b6 b7c b2
	and th	nat an NSL fo	or telephone :	records had	also been	b7E
Č	Case ID : 278	3-HQ-C1229736 3 - C71404	s-vio	Seri	al : 612 B4924	b2 b7E

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requested for this individual. The following is a summary documenting when a possible IOB violation occurred:



b2

b7E

the individual	
SA documented	╛
to accurately identify case	b1
subject.	b 6
(S) While SA served a sixty day temporary	b7C
duty assignment during early 2004. SA drafted NSLs	
for the <u>investigation</u> . dated 01/12/2004, is drafted by SA <u>and is an NSL</u> requesting subscriber	
and toll hilling records for at telephone numbers	
is the personal telephone for	
not case subject SA	
was not aware that was not the individual	
and the NSL was subsequently served and toll and subscriber records obtained as documented in Serial	
dated 02/29/2004.	
This communication documents finding of	
a possible IOB violation for the service of an NSL for telephone	.b2

records belonging to an individual other than case subject. It should be noted that these records have not been uploaded into

LEAD(s):

Set Lead 1: (Info)

GENERAL COUNSEL

any FBI database or system.

AT WASHINGTON, DC

(U) For your information.

