

DATE: 08-21-2007  
CLASSIFIED BY: 65179dmh/rsr/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-21-2032

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

(01/26/1998)

~~SECRET~~

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/11/05

To: Director's Office

Attn: OPR

Counterintelligence

Attn: AD

From: General Counsel

National Security Law Branch/Rm. 7975

Contact: [redacted] Ext. [redacted]

Approved By: Thomas Julie F. [redacted]

*5/23/05*  
*5/20/05*  
*TLB*

b2  
b6  
b7C

Drafted By: [redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 863

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

b2

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

(U) ~~(S)~~ ~~Derived from: G-3~~  
~~Declassify on: 25X-1~~

(U) Reference: ~~(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.

~~SECRET~~

NSL VIO-23964

~~SECRET~~

To: Counterintelligence From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

(U)

Details: (S) By electronic communication (EC) April 4, 2005, (cited below)<sup>1</sup>, the Counterintelligence Division ("CD") reported a possible IOB error in conjunction with its ongoing counter-intelligence investigation [redacted]

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[redacted] In this regard, [redacted] reported that, on June 10, 2004, the United States Foreign Intelligence Surveillance Court (FISC) authorized electronic surveillance on several telephone numbers, including [redacted]

The original authorization was based, in part, on the results of a National Security Letter to [redacted]

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(S)

[redacted]

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[redacted]

b1

[redacted]

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<sup>1</sup> (U) See EC from the Counterintelligence Division to the General Counsel, dated 04/04/05 Case ID# 278-HQ-C1229736-VIO Serial 794, titled "Intelligence Oversight Board Matter."

~~SECRET~~

~~SECRET~~

(U)

To: Counterintelligence From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

(S)

[REDACTED]

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(S)

CD is providing OIPR [REDACTED]

[REDACTED]

includes all calls intercepted during the authorized electronic surveillance referenced above and all other calls intercepted pursuant to other authorized surveillance of this target.

(S)

[REDACTED]

b1

(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 surveillance error described here is a matter which must be reported to the IOB. It is.

~~(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." [REDACTED]

(S)

[REDACTED] 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)

DIRECTOR'S OFFICE

~~SECRET~~

~~SECRET~~

To: Counterintelligence From: General Counsel  
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 05/11/05

AT OPR, FO, DC

(U) For review and action deemed appropriate.

Set Lead 2: (Action)

COUNTERINTELLIGENCE DIVISION

AT WASHINGTON, DC

(U) CD-3A is requested to ensure that the original MOD described in CD's EC 278-HQ-C12229736-VIO, Serial 794, has been submitted to the Office of Intelligence Policy and Review, Department of Justice.

1 - Ms. Thomas



b6  
b7C

1 - NSLB IOB Library

♦♦

~~SECRET~~

DECLASSIFIED BY 65179dmh/Est/maj  
ON 08-21-2007

June 9, 2005

BY COURIER

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

Dear Mr. Langdon:

This letter forwards for your information a self-explanatory enclosure entitled, "Intelligence Oversight Board (IOB) Matter, IOB 2005 [redacted] (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)

Enclosure

b6  
b7C

1 - [redacted]  
1 - 278-HQ-CI229736-VIO-864

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

~~Derived from: Multiple Sources  
Declassify on: May 13, 2030~~

~~SECRET~~

Dep. Dir. \_\_\_\_\_  
Chief of Staff \_\_\_\_\_  
Off. of Gen. \_\_\_\_\_  
Counsel \_\_\_\_\_  
Asst. Dir.: \_\_\_\_\_  
Admin. Ser. \_\_\_\_\_  
Crim. Inv. \_\_\_\_\_  
C/IS \_\_\_\_\_  
Finance \_\_\_\_\_  
Info. Res. \_\_\_\_\_  
Lab. \_\_\_\_\_  
National Sec. \_\_\_\_\_  
OPR \_\_\_\_\_  
Off. of Public \_\_\_\_\_

NSL VIO-23968

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

**APPROVED:** Crim Inv. \_\_\_\_\_ Inspection \_\_\_\_\_ Training \_\_\_\_\_  
                  CJIS \_\_\_\_\_ Laboratory \_\_\_\_\_ Off. of EEO \_\_\_\_\_  
                  Finance \_\_\_\_\_ National Sec. \_\_\_\_\_ Affairs \_\_\_\_\_  
Director \_\_\_\_\_ Gen. Counsel JFT OPR \_\_\_\_\_ Off. of Public & \_\_\_\_\_  
Deputy Director \_\_\_\_\_ Info. Res. \_\_\_\_\_ Personnel \_\_\_\_\_ Cong. Affs. \_\_\_\_\_

~~SECRET~~

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 2/10/2006

To: Director's Office

Attn: OPR

DATE: 08-28-2007

CLASSIFIED BY 65179dmh/ksr/maj



Attn: CDC

REASON: 1.4 (s)

DECLASSIFY ON: 08-29-2032

From: General Counsel

National Security Affairs/Room 7947

Contact: Julie F. Thomas

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Approved By: Thomas Julie F.



Drafted By:

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1179

(U)

Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER  
2006- b2

(U)

Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that the above-referenced matter must be reported to the 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)

~~Derived from : G-3~~

~~Declassify On: X1~~

Reference: ~~(S)~~ (C) 278-HQ-C1229736-VIO-1113

Details: ~~(S)~~ As noted in the electronic communication (EC), this matter has arisen as a result of an investigation titled

(S)

As part of this investigation, a National Security Letter (NSL) was issued by



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~~SECRET~~

~~SECRET~~

(U) To: [redacted] From: General Counsel  
(S) Re: ~~(S)~~ 278-HQ-C1229736-VIO-1113, 2/10/2006

[redacted] This NSL sought subscriber and toll records for telephone number [redacted]. [redacted] served the NSL and, via an EC dated [redacted] returned to [redacted] a package of material provided by [redacted]. Included in the EC from [redacted] was the name and address of the subscriber to this telephone number.

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(S) ~~(S)~~ When the case agent received the material, he noted that the telephone number subscriber was unknown to him. He checked the telephone number of the subject and determined that the telephone number had been erroneously transposed when the NSL was drawn up from his request; the correct telephone number on his request was [redacted].

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(S) ~~(S)~~ The package of material from [redacted] received from [redacted] has not been opened and will be stored in a secure location pursuant to instructions given in an email of AGC [redacted] to all CDCs dated 11/22/2005.<sup>1</sup>

(S) ~~(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 production of documents by [redacted] pursuant to the erroneous telephone number in the NSL drawn up by [redacted] and served by [redacted] is a matter which must be reported to the IOB. It is.

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(S) ~~(S)~~ Section 2.4 of E.O. 12863, dated 9/13/1993, 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 production of subscriber and toll records by [redacted] of an erroneous subscriber telephone number was done without the authorization required by law. Consequently, in accordance with E.O. 12863 and Section 2-

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<sup>1</sup>This email instructed the CDCs in Field Offices to seal and sequester information improperly received from a carrier pursuant to an NSL.

~~SECRET~~



~~SECRET~~

To: [redacted] From: General Counsel  
Re: (S) 278-HQ-C1229736-VIO-1113, 2/10/2006

b2  
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56 of the NFIPM, the error must be reported to the IOB, which this Office will do.

Set Lead 1: (Action)

[redacted]

AT [redacted]

Return sealed documents to [redacted].

b2  
b4  
b7D  
b7E

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, D.C.

(U) For appropriate action.

1 - Ms. Thomas  
1 - [redacted] (Acting UC) b6  
1 - [redacted] b7C  
1 - IOB Library

◆◆

~~SECRET~~

February 24, 2006

BY COURIER

DECLASSIFIED BY 65179dmh/kst/maj  
ON 08-21-2007

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:

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

Enclosure

1 - 278-HQ-C1229736-VIO-1180

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

~~Derived from: Multiple Sources  
Declassify on: February 10, 2031~~

~~SECRET~~

- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.:
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

MAIL ROOM

FBI/DOJ

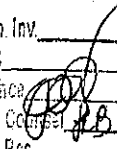
NSL VIO-23977

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

**APPROVED:** 

|                       |                     |                        |
|-----------------------|---------------------|------------------------|
| Crim. Inv. _____      | Inspection _____    | Training _____         |
| CJIS _____            | Laboratory _____    | Off. of EEO _____      |
| Fin. Sec. _____       | National Sec. _____ | Affairs _____          |
| Director _____        | Gen. Counsel _____  | Off. of Public & _____ |
| Deputy Director _____ | Info. Res. _____    | Personnel _____        |
|                       |                     | Cong. Affs. _____      |

~~SECRET~~

DATE: 08-21-2007  
CLASSIFIED BY 65179dmh/ksr/maj  
REASON: 1.4 (C)  
DECLASSIFY ON: 08-21-2032

~~SECRET~~

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WHERE SHOWN OTHERWISE

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

(U) [redacted] FIELD OFFICE  
IOB MATTER 2006-[redacted] ~~(S)~~

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b1 (S) The [redacted] Field Office of the Federal Bureau  
b2 of Investigation has reported an error in conjunction with that  
b4 division's [redacted] investigation of [redacted]. In this  
b7A regard, a telephone number in an NSL to [redacted] was  
b6 erroneously transposed, and [redacted] produced subscriber and toll  
b7C records for a customer who was not the subject of the NSL.

b7D (U) This matter has been reported to the FBI's Office  
b7E of Professional Responsibility for appropriate action.

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

~~SECRET~~

~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

(Rev. 01-31-2003)

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 03/07/2006

To: [redacted]  
Director's Office  
/ General Counsel

Attn: ISS Unit [redacted] b2  
ISS [redacted] b6  
Attn: OPR [redacted] b7C  
Attn: AGC [redacted] b7E

From: [redacted]  
[redacted] Legal Unit  
Contact: CDC [redacted]

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: (S) [redacted] (Pending) b1  
(S) [redacted] (Pending) b2  
(U) ~~(S)~~ 278-HQ-C1229736 (Pending) b6  
b7A  
b7C  
b7D

(U) Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT  
BOARD MATTER  
2006 [redacted] b2

(U) Synopsis: ~~(S)~~ To return material provided pursuant to an NSL  
to the electronic service provider.

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

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO-1113 Serial 1179

Enclosure(s): (S) Enclosed for [redacted] is material provided b1  
by [redacted] b2  
[redacted] pursuant to a National Security Letter b4  
(NSL) issued by [redacted] b7D  
b7E

Details: (S) [redacted] issued an NSL as part of an b1  
investigation titled [redacted] b2  
[redacted] to [redacted] b4  
[redacted] for b6  
subscriber information and [redacted] b7A  
number [redacted] By EC dated 12/30/2005 [redacted] forwarded b7C  
b7D  
b7E

~~SECRET~~

~~SECRET~~

To: [redacted] From: [redacted]  
Re: (S) [redacted] 03/07/2006

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(S) documents responsive to this NSL to [redacted] Upon receipt  
of the documents the [redacted] case agent noted that the  
telephone number was not the subject's [redacted]  
The records were not reviewed and were secured by the CDC  
pending notification of a possible Intelligence Oversight  
Board (IOB) Matter. General Counsel, in the referenced EC,  
directed [redacted] to return this material to [redacted] for  
return to the electronic service provider.

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~~SECRET~~

To: [redacted] From: [redacted]  
Re: (S) [redacted] 03/07/2006

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LEAD(s):

Set Lead 1: (Action)

[redacted]

AT [redacted]

(S) Return the enclosed documents to [redacted]

[redacted]  
[redacted]

b2  
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Set Lead 2: (Info)

DIRECTOR'S OFFICE

AT OPR

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

Set Lead 3: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

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

◆◆

~~SECRET~~

(01/26/1998)

DATE: 08-21-2007  
CLASSIFIED BY 65179dmh/ksr/maj  
REASON: 1.4 (C)  
DECLASSIFY ON: 08-21-2032  
~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 3/24/06

To: Director's Office  
Inspection  
[Redacted]

Attn: [Redacted]  
Attn: CDC

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

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

Drafted By: [Redacted]

(U)

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1315  
(S) [Redacted]

(U)

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

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(U)

Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that the above-referenced matter must be reported to the 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) Derived from : G-3  
Declassify On: X1~~

(U) Reference: ~~(S)~~ 278-HQ-C1229736 Serial 2526

Details: ~~(S)~~ As noted in the electronic communication (EC), this matter has arisen as a result of a National Security Letter (NSL) issued by [Redacted] in a [Redacted]

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~~SECRET~~



(U) To: [redacted] From: General Counsel b2  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/24/2006 b7E

(S) [redacted]

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(S) On April 1, 2005, [redacted] forwarded the results to FBI [redacted] which were placed into [redacted]. When they arrived in [redacted] the case agent quickly reviewed the documents and did not see header information for the requested subject's email address. The agent did not fully understand at that time that no information regarding the subject's email address had been included in the documents.

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(S) ~~(S)~~ In October of the same year, the case agent requested the assistance of another agent who had been assigned to a [redacted] to assist in reviewing the records to determine what information the documents had provided. Upon review, it was discovered that the documents provided no

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(U) ~~(S)~~ The matter was referred to the CDC, who advised that it should be directed to FBIHQ, and that the documents in question should be sealed.

(U) ~~(S)~~ On October 26, 2006, the documents were sealed and placed in the file pending further instructions.

(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 erroneous production by [redacted]

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[redacted] is a matter which must be reported to the IOB. It is.

~~SECRET~~

To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/24/2006

b2  
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~~(S)~~ Section 2.4 of E.O. 12863, dated 9/13/1993, 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 erroneous production by

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(S)

[redacted] 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.

~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel  
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/24/2006

Set Lead 1: (Action)

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[redacted]

AT [redacted]

Return sealed documents to [redacted]

b4  
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Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, D.C.

(U) For appropriate action.

1 - Ms. Thomas  
1 - [redacted] b6  
1 - [redacted] b7C  
1 - IOB Library

◆◆

~~SECRET~~

March 30, 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:

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

Enclosure

1 - 278-HQ-C1229736-VIO-1316

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

Dep. Dir. \_\_\_\_\_  
Chief of Staff \_\_\_\_\_  
Off. of Gen. Counsel \_\_\_\_\_  
Asst. Dir.: \_\_\_\_\_  
Crim. Inv. \_\_\_\_\_  
CJIS \_\_\_\_\_  
Finance \_\_\_\_\_  
Info. Res. \_\_\_\_\_  
Insp. \_\_\_\_\_  
Lab. \_\_\_\_\_  
National Sec. \_\_\_\_\_  
Personnel \_\_\_\_\_  
Training \_\_\_\_\_  
Off. of EEOA \_\_\_\_\_

~~Derived from: Multiple Sources  
Declassify on: March 22, 2031~~

~~SECRET~~

NSL VIO-23987

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

|                  |                       |              |       |               |       |                  |
|------------------|-----------------------|--------------|-------|---------------|-------|------------------|
| <b>APPROVED:</b> | _____                 | Crim. Inv.   | _____ | Inspection    | _____ | Training         |
|                  | _____                 | CJIS         | _____ | Laboratory    | _____ | Off. of EEO      |
|                  | _____                 | Finance      | _____ | National Sec. | _____ | Affairs          |
|                  | Director _____        | Gen. Counsel | _____ | OPR           | _____ | Off. of Public & |
|                  | Deputy Director _____ | Info. Res.   | _____ | Personnel     | _____ | Cong. Affs.      |
|                  |                       |              |       |               |       |                  |

~~SECRET~~

DATE: 08-21-2007  
CLASSIFIED BY 65179dmh/kar/maj  
REASON: 1.4 (C)  
DECLASSIFY ON: 08-31-2032

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

b2

[REDACTED] FIELD OFFICE

b7E

(U) IOB MATTER 2006- [REDACTED] (S)

~~(S)~~ The [REDACTED] Field Office of the Federal Bureau of Investigation has reported an error in conjunction with a response to a National Security Letter (NSL) [REDACTED] (S) [REDACTED] pursuant to the NSL, did not provide records which were related to the subject's email address, as requested, but rather, erroneously provided records pertaining to the domain.

b1

b4

b7D

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

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

~~SECRET~~

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

DATE: 08-21-2007  
CLASSIFIED BY: 65179dmh/ker/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-21-2032

**Precedence:** ROUTINE

**Date:** 01/18/06

**To:** Director's Office

**Attn:** OPR

[Redacted]

**Attn:** CDC

b2  
b7E

**From:** General Counsel

National Security Law Branch/Rm. 7975

**Contact:** [Redacted] Ext. [Redacted]

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

[Redacted]

b2  
b6  
b7C

**Drafted By:** [Redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO-441

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

(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of General Counsel (OGC) that 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~~

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO Serial-1050

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

~~SECRET~~

~~SECRET~~

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

(U)

Details: (S) By electronic communication (EC) October 5, 2005,  
(cited below)<sup>1</sup>, [redacted] reported a possible IOB error in

[redacted]

b1  
b2  
b7E  
b7A

(S)

[redacted]  
[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.

b1  
b2  
b7E  
b7A

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]

(S)

b1  
b6  
b7C  
b7A

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.

[redacted]

b2  
b7E

<sup>1</sup> (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."

b2  
b7E

~~SECRET~~



~~SECRET~~

To: [redacted] From: General Counsel b2  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 01/18/06 b7E

(U)

[redacted]  
[redacted] 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)

~~(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." [redacted]

b1  
b6  
b7C  
b7A

[redacted] 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.

Lead(s):

Set Lead 1: (Action)

[redacted] b2  
b7E

(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~~

To: [redacted] From: General Counsel b2  
Re: (S) 278-HQ-C1229736-VIO, 01/18/06 b7E

(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] b6  
1 - NSLB IOB Library b7C

~~SECRET~~

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

DECLASSIFIED BY 65179dmh/ker/maj  
ON 08-21-2007

Dear Mr. Friedman:

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

Enclosure

- 1 - Ms. Thomas
- 1 - [redacted] (Action UC) b6
- 1 - [redacted] b7C
- 1 - 278-HQ-C1229736-VIO-442

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

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

~~SECRET~~

- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.: \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

MAIL ROOM

FBI/DOJ

NSL VIO-23994

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

|                       |                  |                     |                        |
|-----------------------|------------------|---------------------|------------------------|
| <b>APPROVED:</b>      | Crim. Inv. _____ | Inspection _____    | Training _____         |
|                       | CJIS _____       | Laboratory _____    | Off. of EEO _____      |
|                       | Finance _____    | National Sec. _____ | Affairs _____          |
|                       | Director _____   | Gen. Couns. _____   | Off. of Public & _____ |
| Deputy Director _____ | Info. Res. _____ | Personnel _____     | Cong. Affs. _____      |

~~SECRET~~

DATE: 08-21-2007  
CLASSIFIED BY 65179dmh/ksr/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-21-2032

~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

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

(U) IOB MATTER 2006- [redacted] b2

b2  
b7E

(S) The [redacted] Field Office [redacted] of  
the Federal Bureau of Investigation ("FBI") has reported an error

[redacted]  
[redacted] In this regard, two National Security  
Letters (NSL) were created for two telephone numbers. One

b1  
b2  
b7E

[redacted] subscriber information and toll  
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.

b2  
b7E

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

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

~~SECRET~~

|                       |                  |                     |                        |
|-----------------------|------------------|---------------------|------------------------|
| <b>APPROVED:</b>      | Crim. Inv. _____ | Inspection _____    | Training _____         |
|                       | CJIS _____       | Laboratory _____    | Off. of EEO _____      |
|                       | Finance _____    | Regional Sec. _____ | Affairs _____          |
|                       | Director _____   | Gen. Counsel _____  | Off. of Public & _____ |
| Deputy Director _____ | Info. Res. _____ | Personnel _____     | Cong. Affs. _____      |

~~SECRET~~

(01/26/1998)

DATE: 08-21-2007  
CLASSIFIED BY: 65179dmh/esr/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-21-2032

~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 10/7/05

To:  b2  
b7E

Attn: SAC, CDC

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

Approved By: Thomas Julie F.

*10/14/05*  
*10/14/05*

b6  
 b7C

Drafted By:

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1024

(U) Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER  
2005- b2

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

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

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO-972

Details: (S) As noted in the electronic communication (EC),

b1  
b2  
b4  
b7D  
b7E

~~SECRET~~

~~SECRET~~

b2  
b7E

(U) To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO-578, 10/7/2005

(S)

[redacted]

b1  
b4  
b7D

(S) Although SA [redacted] the case agent at the time, drafted a [redacted] extension request which was forwarded to FBIHQ and uploaded, the [redacted] was not extended. SA [redacted] who inherited the case from SA [redacted] determined on August 8, 2005, that the [redacted] had not been extended and contacted FBIHQ to request a verbal extension.

b1  
b6  
b7C

(S) However, [redacted] took no action in this matter except for the receipt of the billing information from [redacted] pursuant to the NSL which had been issued during the pendency of the [redacted]

b1  
b2  
b4  
b7D  
b7E

(S) Therefore, all of the investigation in this matter was legitimately conducted [redacted]

b1  
b2  
b7E

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language 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, this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons.

(S)

The NSL results contained no toll records, only billing records, since the subject of the NSL only maintained a basic service plan and [redacted] was not responsible for maintaining toll records for the [redacted] line.

b1  
b4  
b7D

~~SECRET~~

~~SECRET~~

(U)

To: [redacted] From: General Counsel b2  
Re: ~~(S)~~ 278-HQ-C1229736-VIO-578, 10/7/2005 b7E

(S) The NSIG provide that "[redacted] including the techniques listed in Part V of these Guidelines..." Section II.C.3. These techniques include the issuance of National Security Letters. NSIG, Section V.12. b1 b2 b7E

(S) Since this NSL was issued [redacted] which was then pending, we do not believe that the belated receipt of the billing records from [redacted] due only to its lateness in responding to the NSL, constitutes a violation of the NSIG or any other guidelines or regulations approved by the Attorney General in accord with E.O. 12333. b1 b2 b4 b7D b7E

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that there was no error committed and thus nothing should be reported to the IOB in this matter. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

~~SECRET~~



~~SECRET~~

To: [redacted] From: General Counsel  
Re: (U) ~~(S)~~ 278-HQ-C1229736-VIO-578, 10/7/2005

b2  
b7E

Set Lead 1: (Info)

[redacted]

1 - [redacted] b6  
1 - IOB Library b7C

◆◆

~~SECRET~~

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 09/12/2005

To: General Counsel

Attn: National Security Law Branch ✓  
Room 7975

Counterintelligence

Attn: CD-2C Unit  
SSA [redacted]

From: [redacted]

Contact: SA [redacted] [redacted]

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

b2  
b6  
b7C  
b7E

Drafted By: [redacted] kpr *KC*

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-972

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

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

~~(U) (S) Derived From : G-3  
Declassify On: 25-X1~~

Details:

(S) 1. [redacted]

b1  
b2

(S) 2. [redacted]

b6  
b7C

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

b7E

(S) [redacted]

~~SECRET~~

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

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

(S) [redacted]  
[redacted] 03/29/2005, Special Agent (SA) [redacted] captioned case agent, drafted a [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). NSL was drafted 12/30/2004 and forwarded to [redacted]. [redacted] did not provide NSL results to FBI until 05/05/2005. The NSL results contained no toll records, only billing information. [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], [redacted] took no other action in this matter after the expiration of the [redacted] as noted above. On 08/08/2005, while attempting to verify the [redacted] date for a communication for the file, writer determined FBIHQ had never responded to the lead set by [redacted] in the [redacted] extension request dated 03/29/2005. 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 "[redacted]"  
[redacted]

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b7C  
b7E

b1  
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b4  
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b7C  
b7D  
b7E

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

b1  
b2  
b7E

~~SECRET~~

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

b2  
b7E

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.

◆◆

~~SECRET~~

3

~~SECRET~~

(01/26/1998)

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 2/06/06

To: Director's Office

Attn: OPR

[Redacted]

b2  
b7E

Attn: CDC

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

From: General Counsel

National Security Affairs/Room 7974

Contact: Julie F. Thomas

Approved By: Thomas Julie F. *JFT*

[Redacted]

b6  
b7C

DATE: 08-22-2007  
CLASSIFIED BY: 65179dmh/mst/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-22-2032

Drafted By:

[Redacted] *JFB*

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-1177

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

(U) Synopsis: ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that the above-referenced matter must be reported to the 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) ~~Derived from : G-3  
Declassify On: X1~~

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO-1114

Details: (S) As noted in the electronic communication (EC), this matter has arisen as a result of a National Security Letter

[Redacted]

b1  
b2  
b7A  
b6  
b7C  
b7E

~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel b2  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/06/2006 b7E

(U)

(S) As part of this investigation, an NSL dated 6/23/05 was issued to [redacted] [redacted] for financial records pertaining to the subject. The NSL was transmitted by EC to [redacted] for service. By EC dated 8/02/05, [redacted] transmitted the results of the NSL received from [redacted].

b4  
b7D  
b2  
b7E

(S) The case agent began reviewing the documents and in December noticed that [redacted] had provided two documents which were unrelated to the subject of the NSL: one is a [redacted] Letter of Authorization for a wire transfer; the second is a letter from an individual who appears to be a [redacted] customer requesting that [redacted] make the wire transfer noted in the first document. The case agent assumed that this customer was a United States person. He made no use of these documents; nothing from them has been uploaded into any database or stored in any file. The case agent informed the Chief Division Counsel (CDC), who requested that the agent forward the documents to him. The CDC has secured these documents pursuant to instructions given by AGC [redacted] in an email to all CDCs dated 11/22/05.<sup>1</sup> [redacted] notes that there is nothing in the NSL which should have led [redacted] to produce those two documents.

b4  
b7D  
b6  
b7C  
b2  
b7E

(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 erroneous production by [redacted] of two documents unrelated to the subject of the NSL is a matter which must be reported to the IOB. It is.

b4  
b7D

~~(S)~~ Section 2.4 of E.O. 12863, dated 9/13/1993, 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

---

<sup>1</sup> This email instructed the CDCs in Field Offices to seal and sequester information improperly received from a carrier pursuant to an NSL.

~~SECRET~~

~~SECRET~~

(U) To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/06/2006

b2  
b7E

(S) intelligence activities that they have reason to believe may be unlawful or contrary to Executive Order or Presidential directive." In this instance, the erroneous production by [redacted] of two documents concerning an individual who is most probably a United States person 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.

b4  
b7D

~~SECRET~~

~~SECRET~~

(U) To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 02/06/2006

Set Lead 1: (Action)

[redacted]

AT [redacted]

b2  
b4  
b7D  
b7E

Return sealed documents to [redacted] and Company.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, D.C.

(U) For appropriate action.

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

b6  
b7C

◆◆

~~SECRET~~



February 24, 2006

BY COURIER

DECLASSIFIED BY 65179dmh/kse/waj  
ON 08-22-2007

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:

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

Enclosure

1 - 278-HQ-C1229736-VIO-1178

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

~~Derived from: Multiple Sources  
Declassify on: February 7, 2031~~

~~SECRET~~

Dep. Dir. \_\_\_\_\_  
Chief of \_\_\_\_\_  
Staff \_\_\_\_\_  
Off. of Gen. \_\_\_\_\_  
Counsel \_\_\_\_\_  
Asst. Dir.: \_\_\_\_\_  
Crim. Inv. \_\_\_\_\_  
CJIS \_\_\_\_\_  
Finance \_\_\_\_\_  
Info. Res. \_\_\_\_\_  
Insp. \_\_\_\_\_  
Lab. \_\_\_\_\_  
National Sec. \_\_\_\_\_  
Personnel \_\_\_\_\_  
Training \_\_\_\_\_  
Off. of EEOA \_\_\_\_\_  
Off. of Public \_\_\_\_\_

NSL VIO-24008

FBI/DO-

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

|                       |                  |                     |                        |
|-----------------------|------------------|---------------------|------------------------|
| <b>APPROVED:</b>      | Crim. Inv. _____ | Inspection _____    | Training _____         |
|                       | CJIS _____       | Laboratory _____    | Off. of EEO _____      |
|                       | Finance _____    | National Sec. _____ | Affairs _____          |
|                       | Director _____   | Gen. Counsel _____  | Off. of Public & _____ |
| Deputy Director _____ | Info. Res. _____ | Personnel _____     | Cong. Affs. _____      |

~~SECRET~~

~~SECRET~~

DATE: 08-22-2007  
CLASSIFIED BY: 65179dmm/ksj/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-22-2032

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

(S) The [redacted] Field Office of the Federal Bureau of Investigation has reported an error in conjunction with that division's [redacted] investigation of [redacted]. In this regard, in response to a National Security Letter (NSL) to [redacted] [redacted] erroneously provided two documents which were unrelated to the subject of the NSL, which were associated with a [redacted] customer who is probably a United States person.

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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~~

~~SECRET~~

~~SECRET~~

(Rev. 01-31-2003)

~~SECRET~~

# FEDERAL BUREAU OF INVESTIGATION

**Precedence:** ROUTINE

**Date:** 03/31/2006

**To:** [Redacted] b2  
 Director's Office b6  
 General Counsel b7C  
 Attn: CDC [Redacted] Squad 1, Legal Unit  
 Attn: OPR [Redacted]  
 Attn: AGC [Redacted] b7E

**From:** [Redacted] ISS Unit  
 Contact: ISS [Redacted]

**Approved By:** [Redacted]

**Drafted By:** [Redacted]:tdv

(U) **Case ID #:** (S) [Redacted] (Pending) 123  
 (S) 278-HQ-C1229736-VIO (Pending) 1285

(U) **Title:** (S) POSSIBLE INTELLIGENCE OVERSIGHT  
 BOARD MATTER  
 2006-[Redacted] b1  
 b2  
 b6  
 b7A  
 b7C  
 b7E

**Synopsis:** (S) NSL material returned to financial institution, [Redacted] b4  
 b7D

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

**Reference:** (S) [Redacted]

**Details:** (S) On 03/31/06, [Redacted] returned documents that were provided to [Redacted] in error by [Redacted] in response to an NSL to [Redacted]  
 [Redacted] b1  
 b2  
 b6  
 b7A  
 b7C  
 b7E

(U) Lead 1, [Redacted] b4  
 b7D

~~SECRET~~

~~SECRET~~

To: [redacted] From: [redacted]  
Re: (S) ~~(S)~~ [redacted], 03/31/2006

(U)

b1  
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b7A  
b7E

LEAD(s) :

Set Lead 1: (Info)

b2  
b7E

[redacted]

AT [redacted]

(U) For information only.

Set Lead 2: (Info)

DIRECTOR'S OFFICE

AT OPR

(U) Read and clear.

Set Lead 3: (Info)

GENERAL COUNSEL

AT WASHINGTON, D.C.

(U) Read and clear.

◆◆

SECRET

(01/26/1998)

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

**Precedence:** ROUTINE

**Date:** 2/27/06

**To:** Director's Office

**Attn:** OPR

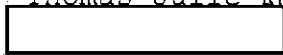


b2  
b7E

**Attn:** CDC

**From:** General Counsel  
National Security Affairs/Room 7947  
**Contact:** Julie F. Thomas

**Approved By:** Thomas Julie F. *got*



*got*  
*BJK*

b2  
b6  
b7C

**Drafted By:**



*frb*

(U) **Case ID #:** ~~(S)~~ 278-HQ-C1229736-VIO - 1229

(U) **Title:** ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER  
2006-

(U) **Synopsis:** ~~(S)~~ It is the opinion of the Office of the General Counsel (OGC) that the above-referenced matter must be reported to the 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) ~~Derived from : G-3  
Declassify On: X1~~

(U) **Reference:** ~~(S)~~ 278-HQ-C1229736-VIO-1159

b1 **Details:** (S) As noted in the electronic communication (EC),  
b2 this matter has arisen as a result of a National Security Letter  
b6  
b7C  
b7E



~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel b2  
Re: (S) 278-HQ-C1229736-VIO, 2/27/2006 b7E

(S) As part of this investigation, an NSL dated 1/9/2006 was issued to [redacted] [redacted] for financial records pertaining to the subject. [redacted] was provided with the full legal name of the subject, his date of birth, social security number and address.

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b4  
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(S) Upon reviewing the documents provided by [redacted] in response to the NSL, [redacted] learned that the material provided by [redacted] was that of a completely different individual, bearing the same name. This unrelated person may be a United States person.

(U) ~~(S)~~ No data regarding the financial records received in error was uploaded into FBI indices nor any other investigative database. The Chief Division Counsel has sealed these documents and will maintain them. [redacted] will be notified of their error.

(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 erroneous production by [redacted] of financial records unrelated to the subject of the NSL is a matter which must be reported to the IOB. It is.

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(U) ~~(S)~~ Section 2.4 of E.O. 12863, dated 9/13/1993, 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 erroneous production by [redacted] [redacted] of financial records concerning an individual who may be a United States person, 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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(U) To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 2/27/2006

Set Lead 1: (Action)

b2  
b7E

[redacted]

AT [redacted] FL

If not already done so, sequester the documents at issue with the CDC and await further instructions regarding disposition by NSLB.

Set Lead 2: (Discretionary)

INSPECTION

AT WASHINGTON, D.C.

(U) For appropriate action.

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

b6  
b7C

♦♦

SECRET



March 15, 2006

BY COURIER

DECLASSIFIED BY 65179dmh/kst/maj  
ON 08-22-2007

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:

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

Enclosure

1 - 278-HQ-C1229736-VIO - 1230

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

~~Derived from: Multiple Sources  
Declassify on: February 27, 2031~~

~~SECRET~~

- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.: \_\_\_\_\_
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

MAIL ROOM

FBI/DOJ

NSL VIO-24016

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

|                  |                       |                       |                        |
|------------------|-----------------------|-----------------------|------------------------|
| <b>APPROVED:</b> | Crim. Inv. _____      | Inspection _____      | Training _____         |
|                  | CJIS _____            | Laboratory _____      | Off. of EEO _____      |
|                  | Finance _____         | National Sec. _____   | Affairs _____          |
|                  | Director _____        | Gen. Coun. <i>JFT</i> | Off. of Public & _____ |
|                  | Deputy Director _____ | Info. Res. _____      | Personnel _____        |
|                  |                       |                       | Cong. Affs. _____      |
|                  |                       |                       |                        |

~~SECRET~~

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

b6

(U)

[redacted] FIELD OFFICE

b7E

IOB MATTER 2006- [redacted] ~~(S)~~

b2

(S) The [redacted] Field Office of the Federal Bureau of Investigation has reported an error in conjunction with that division's [redacted] investigation of [redacted]. In this regard, in response to a National Security Letter (NSL) to [redacted] [redacted] erroneously provided financial records which were unrelated to the subject of the NSL, which were associated with a [redacted] customer who may be a United States person.

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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~~

~~SECRET~~

DATE: 08-22-2007  
CLASSIFIED BY: 65179dmh/rsr/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-22-2032

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

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~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 3/6/07

To: [Redacted] b2  
b7E

Attn: SAC, CDC  
SSA [Redacted] b6  
SA [Redacted] b7C

Counterintelligence

Attn: CD-3A

Inspection

Attn: IIS, CRS [Redacted]  
[Redacted]

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

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

Approved By: Thomas Julie F. [Signature]

Drafted By: [Redacted] [Signature]

b6  
b7C  
DATE: 08-22-2007  
CLASSIFIED BY: 65179dmh/ksr/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-22-2032

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO - 252

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

(U) Synopsis: ~~(S)~~ This Electronic Communication (EC) contains a revision of our initial conclusion (EC dated 11/03/06) that there had been an error reportable to the Intelligence Oversight Board (IOB) in this matter.

(U) ~~(S)~~ This case involved a cellular telephone number subscribed to by the subject of the investigation, who later terminated the coverage (see discussion infra). That same telephone number, unbeknownst to the FBI, was subsequently reassigned to an unknown United States ("US") person. FBI OGC was initially under the misimpression that there had been electronic surveillance of this cellular telephone number, but there was not. In fact, the FBI was in receipt only of telephone toll records for that number, pursuant to a legitimate National Security Letter; there was no unauthorized FISA take on this cellular telephone number, as originally thought. ~~(S)~~ (U)

~~SECRET~~

To: [redacted] From: General Counsel b2  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/06/07 b7E

(U)

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

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

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO 1851

Details: (S) The referenced electronic communication (EC) from the [redacted], reflects that

[redacted]  
[redacted]  
[redacted]

[redacted] A National Security Letter (NSL) was prepared for [redacted] on May 9, 2005 requesting subscriber information.

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(S) [redacted]

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b7E

(S) A review of source reporting from [redacted] on October 28, 2005, revealed that there was a social connection

[redacted]

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b7E

(S) On May 19, 2006, an NSL was prepared requesting

[redacted]

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b7C

~~SECRET~~

To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/06/07

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b6 (S)  
b7C

[redacted]

(S) On [redacted] SA [redacted] received toll records from [redacted] via the [redacted] Field Office in response to the May 19 NSL. The records received were divided between two subscribers: those of [redacted] and those of a second subscriber. The records from [redacted]

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[redacted] terminated on [redacted]. A new subscriber took over the account on [redacted]. Records for this subscriber, a presumed U.S. person, were provided by [redacted] from [redacted].

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

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential Directive." This language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG), effective 10/31/2003, or other guidelines or regulations approved by the Attorney General in accordance with E.O. 12333, dated 12/04/1981, if such provision was designed to ensure the protection of individual rights. Violations of provisions that merely are administrative in nature and not deemed to have been designed to ensure the protection of individual rights are generally not reported to the IOB. The FBI Inspection Division is required, however, to

~~SECRET~~

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To: [redacted] From: General Counsel b2  
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/06/07 b7E

maintain records of such administrative violations for three years so that the Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

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

(S) Here, during an authorized investigation, the FBI properly served an NSL on [redacted] a cellular telephone provider, and received telephone toll records for the requested cellular telephone number [redacted]. However, unbeknownst to the FBI, the subject, [redacted] terminated his subscription to this number [redacted] and a new subscriber, a presumed US person, took over the account [redacted]. Thus, the FBI received information--toll records for this subscriber from [redacted] beyond what it was legally authorized to receive. [redacted] has sequestered the [redacted] records for this period.

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

~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel  
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 3/06/07

b2  
b7E

(U)

Set Lead 1: (Action)

b2  
b7E

[redacted]

AT [redacted]

(S) [redacted] is requested to return to [redacted]  
the sequestered toll records of telephone number [redacted]  
[redacted]

b2  
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b7D  
b7E

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]

b6  
b7C

IOB Library

◆◆

SECRET



April 5, 2007

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:

This letter contains a revision of our initial conclusion that there had been investigative activity 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, with respect to "Intelligence Oversight Board (IOB) Matter, IOB 2006 [redacted] (U) b2

This case involved a cellular telephone number subscribed to by the subject of the investigation, who later terminated the coverage. That same telephone number, unbeknownst to the FBI, was subsequently reassigned to an unknown United States ("US") person. The FBI was under the misimpression that there had been electronic surveillance of this cellular telephone number, but there was not. In fact, the FBI was in receipt only of telephone toll records for that number, pursuant to a legitimate National Security Letter; there was no unauthorized FISA take on this cellular telephone number, as originally thought. ~~(S)~~ (U)

- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.:
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

1 - 278-HQ-C1229736-VIO - 2528

~~SECRET~~

MAIL ROOM

FBI/DOJ

~~SECRET~~

Thus, we erroneously reported this as an error reportable to the IOB, when it was not. (U)

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

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

1 -   
Acting Counsel  
Office of Intelligence Policy and Review  
U.S. Department of Justice  
Room 6150

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b7C

|                       |                  |                     |                        |
|-----------------------|------------------|---------------------|------------------------|
| <b>APPROVED:</b>      | Crim. Inv. _____ | Inspection _____    | Training _____         |
|                       | CJIS _____       | Laboratory _____    | Off. of EEO _____      |
|                       | Finance _____    | National Sec. _____ | Affairs _____          |
|                       | Director _____   | Gen. Counsel _____  | Off. of Public & _____ |
| Deputy Director _____ | Info. Res. _____ | Personnel _____     | Cong. Affs. _____      |

~~SECRET~~

(01/26/1998)

DATE: 08-23-2007  
CLASSIFIED BY 65179dmh/ksj/maj  
REASON: 1.4 (c)  
DECLASSIFY ON: 08-23-2032

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE.

~~SECRET~~

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 3/19/07

To: [Redacted] b2  
b7E

Attn: ASAC [Redacted] b6  
CDC [Redacted] b7C  
CI-2 [Redacted]

Counterintelligence Attn: AD  
Inspection Attn: IIS, CRS [Redacted]

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

Approved By: Thomas Julie F. [Redacted] *RS*

Drafted By: [Redacted] *JPB* b2  
b6

Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO-3186 b7C  
(U) ~~(S)~~ 62F-[Redacted]-A89455-103 b7E

Title: (U) ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER  
2007-[Redacted] b2

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

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

Reference: ~~(S)~~ 278-HQ-C1229736-VIO-Serial 2159  
(U) ~~(S)~~ 62F-[Redacted]-A89455-IOB Serial 21

Details: (S) As noted in the electronic communication (EC)

[Redacted]

[Redacted]

[Redacted] On 8/28/2006, a National Security Letter (NSL) was

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~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel b2  
Re: 278-HQ-C1229736-VIO, 3/19/07 b7E

(S) issued to [redacted] for financial records [redacted]

[redacted] The NSL requested records of transactions [redacted]  
[redacted] through [redacted] Office reported  
delivery of the NSL on 10/24/2006 and retrieval of the requested  
documents on 12/06/2006.

(S) ~~(S)~~ When the [redacted] Field Office [redacted] reviewed the  
records on 2/09/2007, there were nine transactions that occurred  
in December 2004, which was prior to the time period requested in  
the NSL.

(U) ~~(S)~~ The original documents reflecting the information  
which was not requested have been forwarded to [redacted] CDC and  
sequestered. Redacted copies which only reflect information  
requested by the NSL will be retained for the case file.

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

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

<sup>1</sup>The [redacted]

b4  
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~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel. b2  
Re: 278-HQ-C1229736-VIO, 3/19/07 b7E

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

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

(S) Here, during an authorized investigation, the FBI properly served an NSL on [redacted]. In response to the properly served NSL, the FBI obtained financial records containing information beyond what it is legally authorized to receive. The FBI, having ascertained that nine transactions for December 2004 were beyond the scope of the NSL, forwarded the unasked for information to the CDC for sequestering and redacted their files to reflect only information responsive to the NSL.

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

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel  
Re: 278-HQ-C1229736-VIO, 3/19/07

Set Lead 1: (Action)

b2  
b7E

[redacted]

AT [redacted] MASSACHUSETTS

(S) ~~(S)~~ Return original documents which reflect information beyond the scope of the NSL to [redacted]  
[redacted]

b4  
b7D

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas

1 [redacted]  
1 [redacted]

b6  
b7C

1-IOB Library

◆◆

SECRET

(01/26/1998)

DATE: 08-23-2007  
CLASSIFIED BY 65179dmh/kar/maj  
REASON: 1.4 (C)  
DECLASSIFY ON: 08-23-2032

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

~~SECRET~~

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 12/05/06

To: [Redacted]  
Counterintelligence  
Inspection

b2  
b6  
b7C  
b7E

Attn: SAC, CDC  
Attn: CD-2F, Room 8672  
OS/IA [Redacted]  
Attn: IIS

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

Approved By: Thomas Julie F. [Signature]

[Redacted]

b1  
b2  
b6  
b7C  
b7E

Drafted By:

[Redacted] JLB

Case ID #: (U) 278-HQ-C1229736-VIO-1892  
(U) 278-[Redacted]-C76104-452  
(S) [Redacted]

(U) Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER  
2007-[Redacted] b2

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

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

(U) Reference: ~~(S)~~ 278-HQ-C1229736-VIO-1787

Details: (S) As noted in the electronic communication (EC)  
dated 10/03/2006 [Redacted]

[Redacted]

b1  
b2  
b7E

~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel b2  
(U) Re: ~~(S)~~ 478-HQ-C1229736-VIO, 12/05/06 b7E

(S) [redacted]

b1 [redacted]  
b2 [redacted]  
b6 (S) [redacted] initially requested NSL subscriber and toll  
b7C billing information for a telephone number belonging [redacted]  
b7E [redacted] the subject of the investigation.

(S) Based upon the information obtained from that NSL, [redacted] then requested subscriber information for [redacted] telephone numbers belonging to [redacted] subscribers that [redacted] received the results of that subscriber NSL from [redacted] on approximately 9/21/2006. After viewing the compact disc provided by [redacted] on 9/22/06, [redacted] learned that [redacted] had included subscriber information for a telephone number that was not asked for. Consequently, this telephone number and associated subscriber information have not been uploaded and no record of them exists within ACS. [redacted] is maintaining the results of this particular NSL (including the incorrectly provided subscriber information) on a compact disc, which was provided by [redacted] Corporation, in a 1A envelope in the case file.

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b2  
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(S) ~~(S)~~ This NSL was issued during a legitimate [redacted] investigation, [redacted] and the error was the provision of one erroneous subscriber information by the [redacted] that was not asked for. This erroneous telephone number and associated subscriber information have not been uploaded and no record exists within ACS.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated 09/13/1993, mandates that Inspectors General and General Counsel of the Intelligence Community components (in the FBI, the Assistant Director, INSD, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive." This language 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, this language has been interpreted to mandate the reporting of any violation of a provision of The Attorney General's Guidelines for FBI National Security Investigations and Foreign

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~~SECRET~~

To: [redacted] From: General Counsel b2  
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/05/06 b7E

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. On 3/28/2006, NSLB sent a letter to the Counsel for the IOB requesting their concurrence to treat these third party errors as non-reportable, though we will require the field to continue to report any improper collection under an NSL as a potential IOB matter. By letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to OGC, but are not reportable to the IOB.

(S) Here, an error on the part of [redacted] [redacted] resulted in the unintentional acquisition of information. It should be noted that the FBI's response in receiving the unsolicited material was commendable. Upon viewing the compact disc provided by [redacted] and realizing that subscriber information for a telephone number that was not been asked for had been included, [redacted] has maintained the results in a 1A envelope in the case file, and no results of this NSL have been uploaded and no record exists in ACS.

b2  
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(U) ~~(S)~~ Based upon our analysis, the carrier's mistake is not reportable to the IOB as the FBI has not acted unlawfully or contrary to Executive Order or Presidential Directive.

~~SECRET~~

~~SECRET~~

To: [redacted] From: General Counsel  
(U) Re: ~~(S)~~ 278-HQ-C1229736-VIO, 12/05/06

b2  
b7E

Set Lead 1: (Action)

[redacted]

AT [redacted]

(S) Return compact disc with erroneous subscriber information to [redacted] and arrange for delivery of correct information in response to previously issued NSL.

b4  
b7D

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas

1 [redacted]

1 [redacted]

1-IOB Library

b2  
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~~SECRET~~

(01/26/1998)

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

~~SECRET~~

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 1/18/07

To: [redacted]  
Counterintelligence  
Inspection

b2  
b6 Attn: SAC, CDC  
b7C Attn: AD  
b7E Attn: IIS, CRS [redacted]

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

Approved By: Thomas Julie F. [signature]

b2  
b6  
b7C  
b7E

Drafted By: [redacted] JFB

Case ID #: (U) 278-HQ-C1229736-VIO-2156  
(U) ~~(S)~~ 62P [redacted] A89455-100

(U) Title: ~~(S)~~ POSSIBLE INTELLIGENCE OVERSIGHT BOARD MATTER  
2007 [redacted] b2

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

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

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

Details: (S) As noted in the electronic communication (EC)  
dated 10/31/2006, [redacted]

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~~SECRET~~

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

(S) ~~(S)~~ [redacted] initially sent a National Security Letter (NSL) to [redacted]

(S) [redacted] requesting the name, address, length of service, and electronic communication transactional records, to include existing transaction/activity logs and all email header information (not to include message content and/or subject fields), for the address holder of [redacted]

The NSL was served by the [redacted] Field Office and on 10/17/2006, the [redacted] Field Office provided the results of the NSL to the [redacted] Field Office via email.

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b7E

(S) ~~(S)~~ On 10/24/2006, a preliminary review of the results of this NSL revealed that [redacted] had supplied thirty (30) email transactions that included [redacted]

(S) This information appeared to be possible subject line content or similar information. This information was not utilized by the case agent in any analysis nor was it documented in the case file. As of the date of this EC, the [redacted] Field Office was still awaiting the physical results of the NSL. Subsequently,

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(S) [redacted] produced a CD-ROM with the all of the information. This CD-ROM has been stored in a 1-A envelope, and sequestered with the CDC.

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

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

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~~SECRET~~

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

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

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

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

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~~SECRET~~

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

~~SECRET~~

~~SECRET~~

Set Lead 1: (Action)

[REDACTED]

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

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b7E

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Info)

INSPECTION

AT WASHINGTON, DC

(U) Read and clear.

1-Ms. Thomas

[REDACTED]

b6  
b7C

1-IOB Library

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~~SECRET~~

~~SECRET~~

# FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 07/03/2006

To: [Redacted]

Attn: SA [Redacted]

b2

Counterintelligence

Attn: SSA [Redacted]

b6

Inspection

Attn: IIS

b7C

b7E

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

Approved By: Thomas Julie F. [Redacted]

b6

Drafted By: [Redacted]:lk

b7C

Case ID #: (U) 278-HQ-C1229736-VIO-1608 (Pending)

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

(U) ~~(S)~~ Synopsis: It is the opinion of the Office of the General Counsel (OGC) that this matter 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) 278-HQ-C1229736-1345 (See [Redacted] w/o [Redacted]).

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

(U) ~~(S)~~ Details: The referenced electronic communication (EC) from the [Redacted] Division [Redacted], dated 04/18/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, the FBI is required to report this matter to the IOB.

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b7E

~~SECRET~~



~~SECRET~~

To: [redacted] From: Office of the General Counsel b2  
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006 b7E

(S) As indicated in the referenced EC, the subjects, [redacted] investigation utilize a publically accessible website [redacted]

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[redacted] Although the website is publically available, due to the extreme sensitivity of the case, [redacted] did not want to access the website directly, as it might have alerted the subjects to excessive visits to the website.

(U) ~~(S)~~ [redacted] requested, via the National Security Letter (NSL) pursuant to 18 U.S.C. 2709, transactional records from the service provider. In a meeting with the service provider [redacted]

b2  
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b1

(U) ~~(S)~~ At a later date, the service provider requested that the FBI specifically document the request [redacted]

[redacted] Pursuant to this request, on three occasions, [redacted] submitted NSLs requesting: "the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and all images uploaded". The service provider submitted [redacted] pursuant to the NSL requests.

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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 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).

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).

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel b2  
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006 b7E

(U) ~~(S)~~ 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's 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)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information, such as: (1) subscriber information, toll billing records, and electronic communication transactional records (Electronic Communications Privacy Act (ECPA), 18 U.S.C. 2709); (2) financial records (Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)(A)); and (3) consumer information (Fair Credit Reporting Act, 15 U.S.C. 1681u and 1681v). Title 18, U.S.C. 2709, provides that the FBI may seek transactional records from service providers that is relevant to an authorized national security investigation. Section V.12., Investigative Techniques, of the NSIG provides that the NSLs may be issued in conformity with statutory requirements.

(U) ~~(S)~~ In this instance, because [redacted] received the copies of [redacted] via two different avenues, first by simply asking [redacted] and later pursuant to an NSL, we need to address the appropriateness of each of the avenues. b2 b7E

(U) ~~(S)~~ As stated above, [redacted] first obtained copies of [redacted] when they simply asked the service provider to give the FBI copies [redacted]. A question arises whether this "asking" violated the ECPA. We conclude that it does not. According to 18 U.S.C. 2511, Interception of Disclosure of Wire, Oral or Electronic Communications, it is not unlawful to "intercept or access an electronic communication made through an electronic communication system that is configured so that such electronic communication is readily accessible to the general public", 18 U.S.C. 2511(g). In this instance [redacted] requested from the service provider were publicly accessible, thus no violation of ECPA has occurred. b2 b7E

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel. b2  
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006 b7E

(U) ~~(S)~~ Next, we address the issue of whether it was proper for [redacted] to alter the NSL in order to document the FBI's request for [redacted]. The information that can be provided pursuant to an NSL is very specific and it is enumerated in the appropriate U.S. Code. In this instance, [redacted] issued the NSL pursuant to 18 U.S.C. 2709. As noted above, the NSL requested: "the names, addresses, and length of service and electronic communications transactional records, to include existing transaction/activity logs and all images uploaded". The "names, addresses, and length of service and electronic communications transactional records" are all specifically allowed pursuant to 18 U.S.C. 2709.

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(U) ~~(S)~~ This section does not have a "catch-all" authority, nor does it allow for "all images uploaded" as requested in the NSL submitted by [redacted]. Thus, the additional information, "all images uploaded", requests information that is beyond the scope of 18 U.S.C. 2709. Accordingly, it was improper of [redacted] to alter the NSL in order to obtain the information. Because, on three separate occasions, from [redacted] to [redacted] the [redacted] office inappropriately utilized the NSL, it is required that any information received from the service provider that is beyond the scope of an NSL, be sequestered. Only the information that was provided that was beyond the scope of the NSL, specifically the images uploaded, need to be sequestered. The information should continue to remain sealed and sequestered in the CDC's safe.

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(U) ~~(S)~~ Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error needs to be reported to the IOB. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

SECRET

~~SECRET~~

To: [redacted] From: Office of the General Counsel  
Re: (U) 278-HQ-C1229736-VIO, 07/03/2006

b2  
b7E

LEAD(s):

Set Lead 1: (Action)

[redacted]

b2  
b7E

[redacted]

(U) With respect to the information that was improperly obtained, please seal it and sequester it within the CDC's safe. The information should continue to remain sealed and sequestered in the CDC's safe until further direction from OGC.

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

b6  
b7C

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SECRET

August 31, 2006  
BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U) b2

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

Enclosure

1 - 278-HQ-C1229736-VIO - 1609

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

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

~~SECRET~~

- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.:
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

MAIL ROOM

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely,

Julie F. Thomas  
Deputy General Counsel

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

|                       |                  |                     |                   |
|-----------------------|------------------|---------------------|-------------------|
| <b>APPROVED:</b>      | Crim. Inv. _____ | Inspection _____    | Training _____    |
|                       | CJIS _____       | Laboratory _____    | Off. of EEO _____ |
|                       | Finance _____    | National Sec. _____ | Affairs _____     |
|                       | Director _____   | Gen. Counsel _____  | OPR _____         |
| Deputy Director _____ | Info. Res. _____ | Personnel _____     | Cong. Affs. _____ |

~~SECRET~~

NSL VIO-24058

~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] FIELD OFFICE b2  
IOB MATTER 2006-[REDACTED] (U) b7E

(U) ~~(S)~~ By electronic communication dated April 18, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office reported that on three separate occasions, during the time period of [REDACTED] to [REDACTED] the [REDACTED] Field Office inappropriately utilized a National Security Letter (NSL). The [REDACTED] Field Office drafted an NSL requesting transactional records and all images uploaded. [REDACTED]

b2  
b7E

[REDACTED] However, because the information that is allowed to be obtained pursuant to an NSL is very specific, and "all images uploaded" is not specifically allowed pursuant to an NSL, the [REDACTED] Field Office erroneously utilized the NSL. The information that was obtained beyond the scope of the NSL shall be sequestered. The inappropriate utilization of the NSL was in violation of V.12. of The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection.<sup>1</sup> Thus, the matter is being reported to the IOB.

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

~~SECRET~~

~~(S)~~ Section V.12. 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~~

# ATTORNEY WORK PRODUCT

[Redacted] (OGC) (FBI)

**From:** [Redacted] (OGC) (FBI)  
**Sent:** [Redacted] PM  
**To:** [Redacted] (OGC) (FBI); [Redacted] (OGC)(FBI)  
**Cc:** [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: Response to potential IOB

b6  
b7C

~~SECRET~~  
RECORD xxx

DECLASSIFIED BY 65179dmh/xsr/waj  
ON 08-24-2007

Thank you so much for all of your input. I am printing out [Redacted] to do. [Redacted]  
[Redacted] Thanks again for all of your input.

b5  
b6  
b7C

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** [Redacted]  
**To:** [Redacted] (OGC)(FBI)  
**Cc:** [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: Response to potential IOB

b6  
b7C

~~SECRET~~  
RECORD xxx

[Redacted]

b5  
b6  
b7C

-----Original Message-----

**From:** [Redacted] (OGC)(FBI)  
**Sent:** [Redacted]  
**To:** [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Cc:** [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: Response to potential IOB

~~SECRET~~  
RECORD xxx

b5

[Redacted]

[Redacted]  
Assistant General Counsel  
National Security Law Branch  
Office of General Counsel FBI  
[Redacted] Voice  
[Redacted] Pager  
[Redacted] Fax

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b7C

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)



Sent: [redacted]  
To: [redacted] (OGC) (FBI)  
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Subject: RE: Response to potential IOB

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~~SECRET~~  
RECORD xxx

[redacted]

b5

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: [redacted]  
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Subject: RE: Response to potential IOB

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~~SECRET~~  
RECORD xxx

[redacted]

b5

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: [redacted]  
To: [redacted] (OGC) (FBI)  
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Subject: RE: Response to potential IOB

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b7C

~~SECRET~~  
RECORD xxx

[redacted]

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: [redacted]  
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Subject: Response to potential IOB

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b7C

~~SECRET~~  
~~RECORD xxx~~

All,  
As you know [redacted] but of [redacted]

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[redacted]

Thanks in advance for all your help on this tricky issue.

[redacted]  
<< File: 2006-305opn.wpd >>

~~DERIVED FROM: Multiple Sources~~  
~~DECLASSIFY ON: 20310602~~  
~~SECRET~~

~~DERIVED FROM: Multiple Sources~~  
~~DECLASSIFY ON: 20310602~~  
~~SECRET~~

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~~DECLASSIFY ON: 20310602~~  
~~SECRET~~

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 08/30/2006

To: [redacted]

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

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Counterintelligence

Attn: UC CD-2A

Inspection

Attn: IIS

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

Contact: AGC [redacted] [redacted]

Approved By: Thomas Julie F. [redacted] *TLF*

b6  
b7C

Drafted By: [redacted] lk

Case ID #: (U) 278-HQ-C1229736-VIO (Pending) *1651*

Title: (U) INTELLIGENCE OVERSIGHT BOARD MATTER  
2006 [redacted] b2

(U) ~~(S)~~ Synopsis: It is the opinion of the Office of the General Counsel (OGC) that this matter 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) 278-HQ-C1229736-1558

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

(U) Details: ~~(S)~~ The referenced electronic communication (EC) from the [redacted] Division [redacted], dated 07/28/2006, requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, the FBI is required to report this matter to the IOB.

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~~SECRET~~

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To: [redacted] From: Office of the General Counsel  
Re: (U) 278-HQ-C1229736-VIO, 08/30/2006

(S) As indicated in the referenced EC, [redacted] initiated

[redacted]  
[redacted] On 05/31/2006, [redacted] issued a National Security Letter (NSL) requesting subscriber information for three telephone numbers relating to the subject. However, the service provider responded by providing subscriber information for four telephone numbers. After a review, [redacted] determined that the subscriber information that was provided for the fourth telephone number was not related to the three telephone numbers listed in the NSL and was not related to the subject. Accordingly, [redacted] separated, segregated and sealed the unsolicited records that did not pertain to the subject. None of the records have been uploaded to the ACS. Records uploaded [redacted] were deleted on 07/20/2006.

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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 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).

~~(S)~~ 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's 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

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).

~~SECRET~~

~~SECRET~~

b2 To: [redacted] From: Office of the General Counsel  
b7E Re: (U) 278-HQ-C1229736-VIO, 08/30/2006

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)~~ NSLs are a specific type of investigative tool that allows the FBI to obtain certain limited types of information, such as: (1) subscriber information, toll billing records, and electronic communication transactional records (Electronic Communications Privacy Act (ECPA), 18 U.S.C. 2709); (2) financial records (Right to Financial Privacy Act, 12 U.S.C. 3414(a)(5)(A)); and (3) consumer information (Fair Credit Reporting Act, 15 U.S.C. 1681u and 1681v). Title 18, U.S.C. 2709, provides that the FBI may seek subscriber information from service providers that is relevant to an authorized national security investigation. Section V.12., Investigative Techniques, of the NSIG provides that the NSLs may be issued in conformity with statutory requirements.

(U) ~~(S)~~ In this instance, [redacted] issued a lawful NSL to the service provider, and received in response information both within and beyond the scope of the NSL. [redacted] requested subscriber information for three telephone numbers. However, due to service provider error, subscriber information for four telephone numbers was provided. [redacted] determined that the fourth telephone number was not related to the subject and was provided in error by the service provider. Upon noticing this error, [redacted] correctly separated, segregated and sealed the unsolicited information. The error was committed solely by the service provider. [redacted] committed no error substantive, administrative, or otherwise. Nevertheless, [redacted] came into possession of material that the service provider was unauthorized to provide to the FBI under the ECPA. Although [redacted] committed no error itself, the mere receipt of unauthorized material pursuant to a lawfully issued NSL must be reported to the IOB. Further, the unauthorized material, the subscriber information for the fourth telephone number that does not relate to the subject, must remain sealed and sequestered in the CDC's safe.

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(U) ~~(S)~~ Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of E.O. 12863, it is our opinion that this error needs to be reported to the IOB. OGC will prepare a cover letter and a memorandum to report this matter to the IOB.

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To: [redacted] From: Office of the General Counsel b2  
Re: (U) 278-HQ-C1229736-VIO, 08/30/2006 b7E

LEAD(s):

Set Lead 1: (Action)

[redacted]

b2

b7E

[redacted] MA

(U) The unsolicited subscriber information for the fourth telephone number that does not relate to the subject must remain sealed and sequestered within the CDC's safe until further direction from OGC.

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]

b6

b7C

IOB Library

♦♦

SECRET

August 30, 2006

BY COURIER

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

Dear Mr. Friedman:

Enclosed for your information is a self-explanatory memorandum entitled "Intelligence Oversight Board Matter 2006- (U) b2

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

Enclosure

1 - 278-HQ-C1229736-VIO - 1652

UNCLASSIFIED WHEN  
DETACHED FROM  
CLASSIFIED ENCLOSURE

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

~~SECRET~~

- Dep. Dir. \_\_\_\_\_
- Chief of Staff \_\_\_\_\_
- Off. of Gen. Counsel \_\_\_\_\_
- Asst. Dir.:
- Crim. Inv. \_\_\_\_\_
- CJIS \_\_\_\_\_
- Finance \_\_\_\_\_
- Info. Res. \_\_\_\_\_
- Insp. \_\_\_\_\_
- Lab. \_\_\_\_\_
- National Sec. \_\_\_\_\_
- Personnel \_\_\_\_\_
- Training \_\_\_\_\_
- Off. of EEOA \_\_\_\_\_
- Off. of Public & Cong. Affs. \_\_\_\_\_
- Director's Office \_\_\_\_\_

MAIL ROOM

FBI/DOJ

NSL VIO-24067

~~SECRET~~

Mr. Stephen Friedman

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

Sincerely, -

Julie F. Thomas  
Deputy General Counsel

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

|                       |                  |                     |                                    |
|-----------------------|------------------|---------------------|------------------------------------|
| <b>APPROVED:</b>      | Crim. Inv. _____ | Inspection _____    | Training _____                     |
|                       | CJIS _____       | Laboratory _____    | Off. of EEO _____                  |
|                       | Finance _____    | National Sec. _____ | Affairs _____                      |
|                       | Director _____   | Gen. Counsel _____  | OPR _____                          |
| Deputy Director _____ | Info. Res. _____ | Personnel _____     | Off. of Public & Cong. Affs. _____ |

~~SECRET~~



~~SECRET~~

INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER

[REDACTED] FIELD OFFICE  
IOB MATTER 2006-[REDACTED] (U) b2  
b7E

(U) ~~(S)~~ By electronic communication dated July 28, 2006, the Federal Bureau of Investigation (FBI) [REDACTED] Field Office reported that they came into possession of unauthorized material. On May 31, 2006, the [REDACTED] Field Office issued a National Security Letter seeking subscriber information, pursuant to Electronic Communications Privacy Act (ECPA), 18 U.S.C. 2709. The [REDACTED] Field Office sought subscriber information for three telephone numbers. However, the service provider issued subscriber information for four telephone numbers. [REDACTED] Field Office determined that the fourth telephone number was not related to the subject and was provided by error by the service provider. Upon noticing this error, [REDACTED] Field Office correctly segregated and sealed the unsolicited information. The error was committed solely by the service provider. [REDACTED] Field Office committed no error. Nevertheless, [REDACTED] Field Office came into possession of material that the service provider was unauthorized to provide to the FBI under the ECPA. Although [REDACTED] Field Office committed no error itself, the mere receipt of unauthorized material pursuant to a lawfully issued National Security Letter is a violation that must be reported to the Intelligence Oversight Board.

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

~~SECRET~~

~~SECRET~~

**FEDERAL BUREAU OF INVESTIGATION**

Precedence: ROUTINE

Date: 12/18/2006

To: [redacted]

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

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Counterintelligence

Attn: UC CD-2C

Inspection

Attn: IIS

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

Contact: AGC [redacted] [redacted]

Approved By: Thomas Julie H [signature]

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b7C

Drafted By: [redacted]

(U) Case ID #: ~~(S)~~ 278-HQ-C1229736-VIO (Pending) 1941

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

b2

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

(U) ~~Derived From : G-3~~  
~~Declassify On: 25X1~~

(U) Administrative: ~~(S)~~ This electronic communication (EC) contains  
information from the following sources: (1) EC dated 09/11/2006  
from the [redacted] Field Office [redacted] to OGC reporting a  
potential IOB matter; (2) National Security Letter issued by  
[redacted] dated 4/17/2006; and (3) telephone conversations between  
SA [redacted] and AGC [redacted] on 10/22/2006 and 12/15/2006.

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b7E

Reference: (U) ~~(S)~~ 278-HQ-C1229736 Serial 1629 ✓ VIO-

~~SECRET~~

~~SECRET~~

To: [redacted] From: Office of the General Counsel b2  
Re: 278-HQ-C1229736-VIO, 12/18/2006 b7E

(U) ~~(S)~~ Details: By EC dated 09/11/2006, [redacted] requested that OGC review the facts of the captioned matter and determine whether it warrants reporting to the IOB. As explained below, in our opinion, the FBI is not required to report this matter to the IOB. b2 b7E

(U) ~~(S)~~ On 04/17/2006, [redacted] issued an National Security Letter (NSL) pursuant to 18 U.S.C. § 2709 seeking subscriber information for a telephone number relating to a subject of an investigation. On 09/06/2006, [redacted] obtained the NSL results from the service provider. After a review, on 09/11/2006, [redacted] determined that the service provider not only provided the subscriber information as requested pursuant to the NSL, but also provided additional information, such as, all outbound telephone calls placed through the service provider's system. [redacted] did not review or listen to the unsolicited records. b2 b7E

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

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

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To: [redacted] From: Office of the General Counsel b2  
Re: 278-HQ-C1229736-VIO, 12/18/2006 b7E

Counsel to the IOB may review them upon request. The determination as to whether a matter is "administrative in nature" must be made by OGC. Therefore, such administrative violations must be reported as potential IOB matters.

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

(U) - ~~(S)~~ In this investigation [redacted] issued a lawful NSL to the service provider, and received in response information both within and beyond the scope of the NSL. [redacted] requested subscriber information for a telephone number relating to the subject. However, due to service provider error, additional information was provided. [redacted] quickly determined that the additional information was beyond the scope of the NSL. [redacted] did not review or listen to the unsolicited records erroneously provided by the service provider. The erroneously provided information should be segregated to protect the potential privacy interests of United States persons. Further, [redacted] should contact the service provider and ask whether the unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. b2 b7E

(U) Based upon these facts, in accordance with the terms implementing the reporting requirements of Section 2.4 of EO 12863, it is our opinion that this error is not reportable to the IOB<sup>1</sup>. A record of this decision should be maintained in the control file for future review by the Counsel to the IOB.

---

(U) - ~~(S)~~ It is noted that in the past third-party errors were reported to the IOB. However, by letter dated 11/13/2006, the Counsel to the IOB agreed that third party errors in the collection of information pursuant to an NSL must be reported to the OGC, but are not reportable to the IOB.

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To: [redacted] From: Office of the General Counsel b2  
Re: 278-HQ-C1229736-VIO, 12/18/2006 b7E

LEAD(s):

Set Lead 1: (Action)

[redacted]

AT [redacted]

(U) [redacted] should contact the service provider and ask whether the improperly or unintentionally acquired information should be returned or destroyed with appropriate documentation to the file. b2  
b7E

Set Lead 2: (Info)

COUNTERINTELLIGENCE

AT WASHINGTON, DC

(U) For information.

Set Lead 3: (Action)

INSPECTION

AT WASHINGTON, DC

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

cc: Ms. Thomas

[redacted]

IOB Library

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ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 08-24-2007 BY 65179dmh/kxr/maj

## *National Security Letters*

Presented by:

[REDACTED]  
National Security Law Unit  
Office of the General Counsel



May 28, 2003

## *Presentation Overview*

- NSL Types
- Certification Standards
- Package Preparation
- CDC Review
- Authorization
- Questions

## *NSL Types*



## *NSL Types*

- ECPA NSLs 18 USC 2709
  - Subscriber information telephone
  - Electronic communication subscriber information
  - Local & Long Distance Toll billing records
  - Electronic communication transactional records
- RFPA NSLs 12 USC 3414(a)(5)
  - Financial records
- FCRA NSLs 15 USC 1681u & v
  - Consumer Identifying information
  - Identity of financial institutions
  - Credit Report

## *ECPA NSLs*

- Subscriber & Electronic Subscriber
  - name, address, and length of service
- Toll billing
  - name, address, length of service, and local and long distance toll billing records
- Electronic communication transactional records
  - name, address, length of service, and whatever the electronic communication service provider considers to be a transactional record

## *RFPA NSLs*

- Financial records
  - any record held by a financial institution pertaining to a customer's relationship with the financial institution

## FCRA NSLs

- Consumer Identifying information
  - name, address, former addresses, places of employment, or former places of employment
- Identity of financial institutions
  - names and addresses of all financial institutions at which a consumer maintains or has maintained an account
- Credit Report
  - Consumer report and all other information in consumer's file 15 U.S.C. 1681v
  - Counterterrorism only.
  - Not delegated- Do not use until advised by NSLU

## NSL Certification Standards



## NSL Certification Standards

- ECPA & FCRA Certification Standards
- RFPA Certification Standard

## ECPA & FCRA Certification Standard

- the FBI must certify that:
  - the records sought 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

## RFPA Certification Standard

- the FBI must certify that:
  - the financial records are sought for *foreign counterintelligence purposes* 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

## NSL Package Preparation



### *NSL Package Preparation*

- Package consists of two components:
  - NSL (8 types)
  - EC (4 types)
- Before preparation is undertaken, try to ensure that this NSL will not duplicate another already delivered by the FBI or that the information sought is not publicly available

### *The NSL:*

- Structure of the NSL consists of:
  - point of contact address block
  - request paragraph
  - certification paragraph
  - warning paragraph
  - delivery paragraph
  - cooperation paragraph
  - signature block
  - attachment (if applicable)

### *The NSL: Address Block*

- Field Division drafting NSL is responsible for identifying the proper point of contact
- NSLU has provided a list of telecommunications carriers, internet service providers, and financial institutions on its intranet site
- Note: No zip code needed because NSLs must be hand-delivered

### *The NSL: Request Paragraph*

- First paragraph identifies the records or information sought, provides identifying information on the subject to the carrier, financial institution, or credit agency, and cites the statutory authority for issuing the NSL
- Only subscriber and electronic subscriber NSLs need a specific date for the subject, the rest can use a date range or "from inception of account to present"

### *The NSL: Certification Paragraph*

- Contains one of the two certifications previously discussed
- RFPA NSLs require an additional certification that the FBI has complied with all applicable provisions of the RFPA

### *The NSL: Warning Paragraph*

- Cautions the NSL point of contact not to disclose that the FBI has sought the requested information
- Cites the relevant statutory authority for the warning



### *The NSL: Delivery Paragraph*

- Directs the recipient not to deliver requested information or records through the mail, but rather deliver them personally to the delivering Field Division

### *The NSL: Cooperation Paragraph*

- Thanks the point of contact without saying "thank you"

### *The NSL: Signature Block*

- On 11/09/2001, the Director delegated the authority to certify NSLs to the following FBI officials
  - Deputy Director
  - ADs and DADs of CTD and NSD
  - General Counsel and DGC for National Security Affairs
  - ADICs and SACs

### *The NSL: Attachment*

- RFPA NSLs have an attachment that describes the types of information that the financial institution might consider to be financial records
- Transactional Record NSLs have an attachment describing what might constitute electronic communication transactional record

### *The EC*

- Performs at least three, if not four, important functions
  - documents the predication for issuing the NSL
  - records the certifier's approval of the EC and CDC review
  - provides NSLU with reporting data
  - transmits the NSL to the appropriate field division for delivery (if necessary)

### *The EC*

- The structure of the EC consists of:
  - field descriptors
  - details
  - leads

### *The EC: Field Descriptors*

- Follow the ponies
- The word "Field" has been removed from [redacted] "Field Investigation Instituted" descriptor
- US person status indicated in [redacted] "Investigation Instituted" descriptor

### *The EC: Details*

- First paragraph contains the predication for [redacted] the relevance of the requested records
- Second paragraph documents approval and contains the reporting data
- Follow the ponies for the rest

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b7E

### *The EC: Leads*

- Should always be at least three, possibly four leads:
  - Delivering Division
  - OGC
  - FBIHQ substantive unit
  - Office of Origin (if different)

### *CDC Review*



### *CDC Review*

- Use the appropriate checklist
- Ensure that NSL is not being used in a criminal investigation unrelated to international terrorism or clandestine intelligence activities

### *NSL Authorization*



### *NSL Authorization*

- The certifying official must personally sign the NSL and initial the EC
- Certifying officials may not further delegate this authority
- Acting SAC may not certify NSLs even in situations where FBI approval of the acting SAC. DOJ verbal opinion

### *Questions?*



