

[Redacted] OGC) (INT)

From: [Redacted] (OGC) (FBI)
Sent: Thursday, October 13, 2005 6:13 PM
To: [Redacted] (FBI)
Subject: RE: NSL Question

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NON-RECORD



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thanks.

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

From: [Redacted] (FBI)
Sent: Thursday, October 13, 2005 6:02 PM
To: [Redacted] (OGC) (FBI)
Subject: RE: NSL Question

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UNCLASSIFIED
NON-RECORD

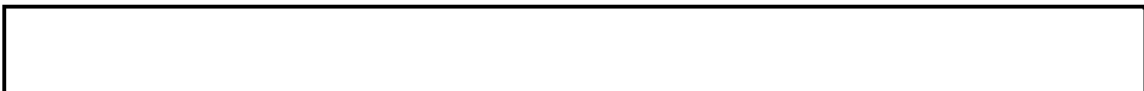
Here is the NSL.

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, October 13, 2005 3:38 PM
To: [Redacted] (FBI)
Subject: RE: NSL Question

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NSL VIO-22559

[Redacted]

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

From: [Redacted] (FBI)
Sent: Thursday, October 13, 2005 5:36 PM
To: [Redacted] (OGC) (FBI)
Subject: NSL Question

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[Redacted] recently served an [Redacted]
[Redacted]
[Redacted]
[Redacted]

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[Redacted] (OGC) (INT)

From: [Redacted] (OGC) (FBI)

Sent: Monday, November 14, 2005 9:39 AM

To: [Redacted] (FBI)

Cc: [Redacted] (FBI)

Subject: RE: NSLs -- Thoughts from [Redacted]

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NSL VIO-22564

6/21/2007

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

From: [redacted] (FBI)
Sent: Monday, November 14, 2005 9:19 AM
To: [redacted] (OGC) (FBI)
Subject: FW: NSLs -- Thoughts from [redacted]

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SENSITIVE BUT UNCLASSIFIED
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[redacted] Division
[redacted]

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-----Original message-----

From: [redacted] (FBI)
Sent: Thursday, November 10, 2005 3:09 PM
To: [redacted] (OGC) (FBI); FBI_ALL CDCs
Cc: Caproni, Valerie E. (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: NSLs

SENSITIVE BUT UNCLASSIFIED
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[redacted]

I agree with your assessment on [redacted]. Generally, in [redacted] we would issue an NSL for [redacted].

[redacted]

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I also wanted to touch on the articles that prompted your email to the field. Neither article mentioned that the U.S. Supreme Court and most of the circuit courts have clearly stated that a person does not hold a privacy interest in their telephone records.

NSL VIO-22565

Persons calling to and from a telephone number do not have a Fourth Amendment privacy interest regarding their subscriber information. United States v. Fregoso, 60 F.3d 1314, 1321 (8th Cir. 1995) (rejecting defendant's challenge to court order permitting phone company to supply subscriber information "for the telephone numbers obtained from the pen register and the caller identification service," holding, "We agree with the magistrate judge's assessment that because this information is listed in phone books and city directories, and at a bare minimum revealed to the phone company to obtain telephone service, there can be no expectation that this information will remain private.").

[Redacted]

[Redacted]

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Smith v. Maryland, 442 U.S. 735, 742-43 (1979) (internal quotations and citations omitted). Moreover, in Smith, the Court stated that it "consistently has held that a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties." Id. at 743-44. See also Katz v. United States, 389 U.S. 347, 361 (1967) (holding that this expectation is not "one that society is prepared to recognize as 'reasonable.'").

In the Post article, the author minimizes the comparison of NSLs to grand jury subpoenas because subpoenas are backward looking and at least have a prosecutor's review. The article also complains that NSLs have no independent judicial review.

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[Redacted]

[Redacted] section 3122 "was not intended to require independent judicial review or relevance; rather, the reviewing court need only verify the completeness of the certification." In re United States, 10 F.3d 931, 935 (2nd Cir. 1993) (citing S. Rep. No. 541, 99th Cong., 2d Sess. 47 (1986), reprinted in 1986 U.S. Code Cong. & Admin. News 3555, 3601), cert. denied, 513 U.S. 812 (1994); see also United States v. Fregoso, 60 F.3d 1314, 1320 (8th Cir. 1995) (holding that the judicial role under Section 3123(a) is ministerial in nature because a proper application under Section 3122 mandates entry of the order).

Anyway, I hope this helps as you battle calls from the media and others.

ADC [Redacted]

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

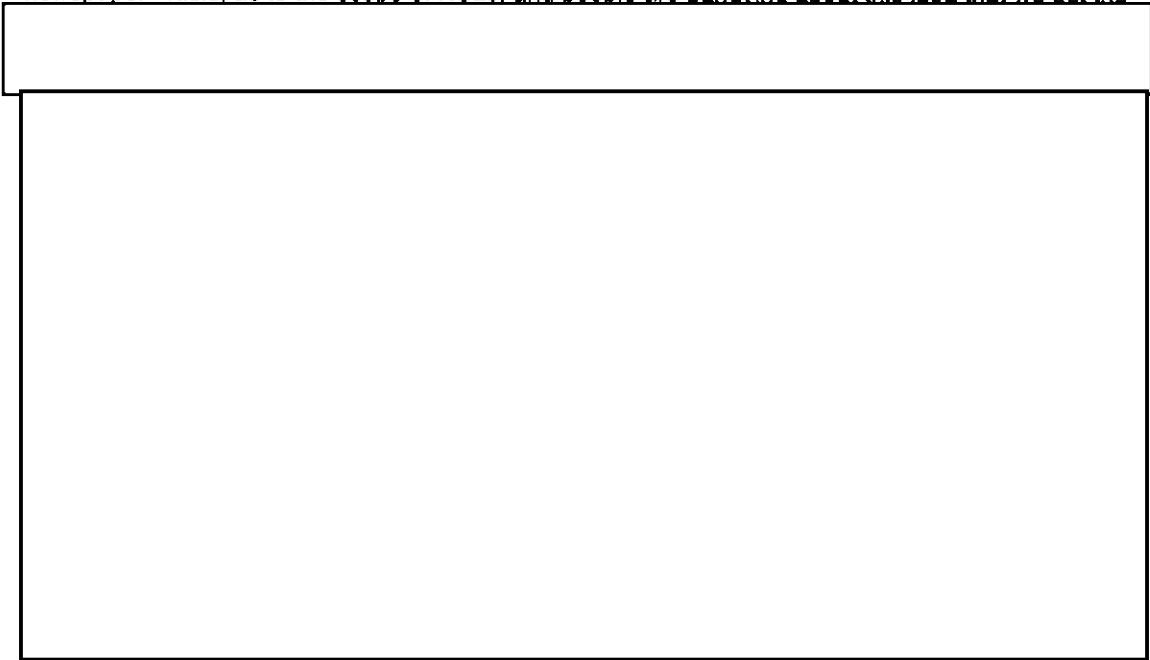
From: [Redacted] (OGC) (FBI)
Sent: Thursday, November 10, 2005 9:22 AM
To: FBI_ALL CDCs
Cc: Caproni, Valerie E. (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)
Subject: NSLS

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NSL VIO-22566

Please help me again. We are getting pummeled with questions here in D.C., in light of a newspaper article, as to the scope of NSLs, and people are bandying about this idea that we get the



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thanks.

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SENSITIVE BUT UNCLASSIFIED

NSL VIO-22567

6/21/2007

[redacted] OGC) (INT)

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 10:27 AM
To: [redacted] (OGC) (FBI); [redacted] OGC) (FBI)
Subject: FW: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
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For newcomers to this issue - this should give you some of the flavor of what's been going on.

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

From: [redacted] OGC) (FBI)
Sent: Friday, October 01, 2004 12:33 PM
To: [redacted] OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] OGC) (FBI); [redacted] OGC); [redacted] OGC) (FBI)
Subject: RE: [redacted]

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[redacted]

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DATE 07-17-2007 BY 65179 DMH/TAM/KSR/JB

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

From: [redacted] OGC) (FBI)
Sent: Friday, October 01, 2004 12:05 PM
To: [redacted] OGC); [redacted] OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] OGC) (FBI); [redacted] OGC)
(FBI)
Subject: RE: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

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[redacted] et al.

[redacted] proposes to use National Security Letters under 18 USC 2709 to obtain subscriber information and "electronic communication transactional records" from [redacted]

[redacted] The records that would be sought through the NSL are the name, address, length of service, and toll-billing records of the user.

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Section 2709 requires electronic communication service providers to comply with duly authorized requests

NSL VIO-22568

for subscriber information and electronic communication transactional records. The proposal by the [redacted] raises one main question: is [redacted] an "electronic communication service provider"?

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[redacted] notes that the electronic communications in this instance are "simply a way of paying for a non-communications related service."

[redacted]

The case cited by [redacted] in support of its proposal addresses a related point, noting that [redacted]

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[redacted]

In 1986, ECPA amended the wiretap statute by adding the concept of electronic communication, which is much broader than wire communication. According to ECPA, electronic communication means "any transfer of . . . data . . . of any nature transmitted in whole or in part by a wire, radio [or other] system [etc.]" 18 USC 2510(12). An electronic communications system is "any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications" and an electronic communications service is "any service which provides users thereof the ability to send or receive wire or electronic communications." 18 USC 2510 (14) and (15).

[redacted]

[redacted]

As a general rule, a communication is an electronic communication protected by federal wiretap law if it is not carried by sound waves and cannot fairly be characterized as containing the human voice. Communications consisting solely of data, for example, . . . are electronic communications." S.Rep. No. 99-541, at 14, reprinted in 1986 USCCAN at 3568. Communication in this context merely means moving data from one place to another.

[redacted]

[redacted]

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

From: [redacted] (OGC)
Sent: Thursday, September 30, 2004 7:26 AM

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NSL VIO-22569

To: [redacted] (OGC) (FBI)
Subject: FW: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] fyi. [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 29, 2004 3:45 PM
To: [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC)
Subject: FW: [redacted]

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I didn't realize you were all on the copy list for a 9/7/04 EC from [redacted] in [redacted] concerning an analysis of [redacted]. So here is the message that I sent to [redacted] and blind copied [redacted].

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

From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 29, 2004 3:41 PM
To: [redacted] (FBI)
Subject: [redacted]

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[redacted] I have read your EC on [redacted]
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Thanks [redacted]

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[redacted] OGC (INT)

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 12:23 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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will do, if [redacted] okay with it [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 12:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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I've read the EC, discussed the matter with [redacted]
[redacted]
[redacted] It makes sense for [redacted] to do the EC since
she's worked the issue to this point.
[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 12:00 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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We should respond back in an EC. Either [redacted] can draft it - it is an ITOS 1 case but I defer to [redacted] if she wants [redacted] to respond. I as well do not concur with [redacted] position.

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 10:26 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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NSL VIO-22571

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ALL-

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[Redacted] Spike [Redacted]

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:37 PM
To: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC); [Redacted] (OGC) (FBI)
Subject: RE: [Redacted]

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I concur with [Redacted] analysis. [Redacted]

[Redacted]

Spike: [Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:33 PM
To: [Redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC); [Redacted] (OGC) (FBI)
Subject: RE: [Redacted]

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NSL VIO 22572

[Redacted]

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

From: [Redacted] OGC (FBI)

Sent: Friday, October 01, 2004 12:05 PM

To: [Redacted] OGC; [Redacted] OGC (FBI)

Cc: BOWMAN, MARION E. (OGC) (FBI); [Redacted] OGC (FBI); [Redacted] OGC (FBI)

Subject: RE: [Redacted]

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[Redacted] et al.

[Redacted] proposes to use National Security Letters under 18 USC 2709 to obtain subscriber information and "electronic communication transactional records" from [Redacted]

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[Redacted] The records that would be sought through the NSL are the name, address, length of service, and toll-billing records of the user.

Section 2709 requires electronic communication service providers to comply with duly authorized requests for subscriber information and electronic communication transactional records. The proposal by the [Redacted]

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[Redacted] raises one main question: is [Redacted] an "electronic communication service provider"?

[Redacted] notes that the electronic communications in this instance [Redacted]

[Redacted]

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The case cited by [Redacted] in support of its proposal addresses a related point, noting that [Redacted]

[Redacted]

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NSL VIO 22573

[Redacted]

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In 1986, ECPA amended the wiretap statute by adding the concept of electronic communication, which is much broader than wire communication. According to ECPA, electronic communication means "any transfer of . . . data . . . of any nature transmitted in whole or in part by a wire, radio [or other] system [etc.]" 18 USC 2510(12). An electronic communications system is "any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications" and an electronic communications service is "any service which provides users thereof the ability to send or receive wire or electronic communications." 18 USC 2510 (14) and (15).

[Redacted]

[Redacted]

[Redacted] "As a general rule, a communication is an electronic communication protected by federal wiretap law if it is not carried by sound waves and cannot fairly be characterized as containing the human voice. Communications consisting solely of data, for example, . . . are electronic communications." S.Rep. No. 99-541, at 14, reprinted in 1986 USCCAN at 3568. Communication in this context merely means moving data from one place to another.

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[Redacted]

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

From: [Redacted] (OGC)
Sent: Thursday, September 30, 2004 7:26 AM
To: [Redacted] (OGC) (FBI)
Subject: FW: [Redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

[Redacted] fyi. [Redacted]

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

NSL VIO-22574

From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 29, 2004 3:45 PM
To: [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC)
Subject: FW: [redacted]

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NON-RECORD

I didn't realize you were all on the copy list for a 9/7/04 EC from [redacted] in [redacted] concerning an analysis of [redacted]

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[redacted] So here is the message that I sent to [redacted] and blind copied [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 29, 2004 3:41 PM
To: [redacted] (FBI)
Subject:

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[redacted] have read your EC on [redacted]

[redacted]

[redacted]

Thanks. [redacted]

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SENSITIVE BUT UNCLASSIFIED

[redacted] OGC (INT)

From: [redacted] (OGC) (FBI)
Sent: Friday, March 24, 2006 3:53 PM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: [redacted] NSLs

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[redacted] discussed this issue with the deputy General Counsel, [redacted]

[redacted]

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Thanks [redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, March 24, 2006 9:22 AM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Subject: RE: [redacted] NSLs

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Nothing has really happened because we don't really have a leg to stand on [redacted]
us. [redacted]

[redacted]

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Julie - may be we can talk about this [redacted]

[redacted]

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-----Original Message-----
From: [redacted] (FBI)
Sent: Thursday, March 23, 2006 6:14 PM
To: [redacted] (OGC) (FBI)
Subject: FW: [redacted] NSLs

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Any latest word on the [redacted] matter or is it still status quo?

-----Original Message-----
From: [redacted] (FBI)
Sent: Thursday, March 23, 2006 11:16 AM

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1 NSL VIO-22576
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To: [redacted] (FBI)
Subject: [redacted] NSLs

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Hi, [redacted]

FYI -- I may be a little late on this, but I thought I would let you know about it anyway. I've had some issues with

[redacted]

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[Redacted] (OGC) (INT)

From: [Redacted] OGC) (FBI)

Sent: Wednesday, July 20, 2005 12:09 PM

To: [Redacted] FBI)

Subject: RE: NSL Question

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DATE 07-17-2007 BY 65179 DMH/TAM/KSR/JE

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As to the ponies, I am not sure when they will get on the website, but if you tell me what ponies you most often use, I'll send you my updated copy, which I haven't proofed yet, and you can work with it, review it to make sure it is okay, and then use it yourself until the formal ones come out.

[Redacted]

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have a copy

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

NSL VIO-22578

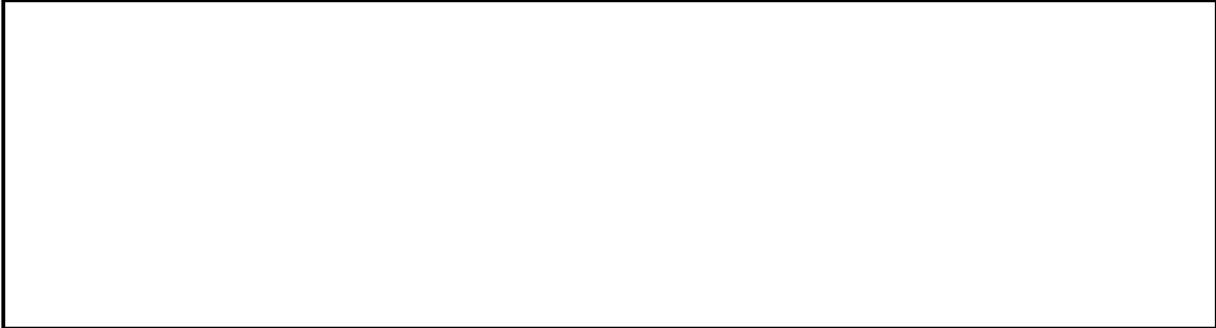
6/21/2007

From: [redacted] (FBI)
Sent: Wednesday, July 20, 2005 11:45 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (FBI); [redacted] (FBI)
Subject: NSL Question

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Hello from [redacted] Our ADC [redacted] has noticed the following language being included in the ECPA NSLs here: the agents are requesting -



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Also, any news on the finalized version of NSL ponies, to include the new delivery options, coming out?

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[redacted] OGC) (INT)

From: [redacted] OGC) (FBI)
Sent: Wednesday, June 09, 2004 9:22 AM
To: [redacted] OGC) (FBI)
Subject: RE: Answer to questions posed by [redacted]

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DATE 07-17-2007 BY 65179 DMH/TAM/KSP/AB

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Yes, they are suggested categories that may be considered to fit within the NSL. If you need a copy, let me know. [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, June 08, 2004 5:04 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: Answer to questions posed by [redacted]

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NON-RECORD

Just checking to see if either of you know the answer to my question re the attachments. Thanks.

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

From: [redacted] OGC) (FBI)
Sent: Monday, June 07, 2004 3:08 PM
To: [redacted] OGC) (FBI)
Subject: RE: Answer to questions posed by [redacted]

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NON-RECORD

[redacted] Are the attachments you reference in #6 the page listing [redacted]
[redacted] if it is something else, can I please get a copy. Thanks.
[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Monday, June 07, 2004 11:01 AM
To: [redacted] (OGC) (FBI)
Subject: Answer to questions posed by [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] here are the answer to questions that were posed by the AUSA [redacted]
[redacted] and myself have agreed to this.

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[redacted]

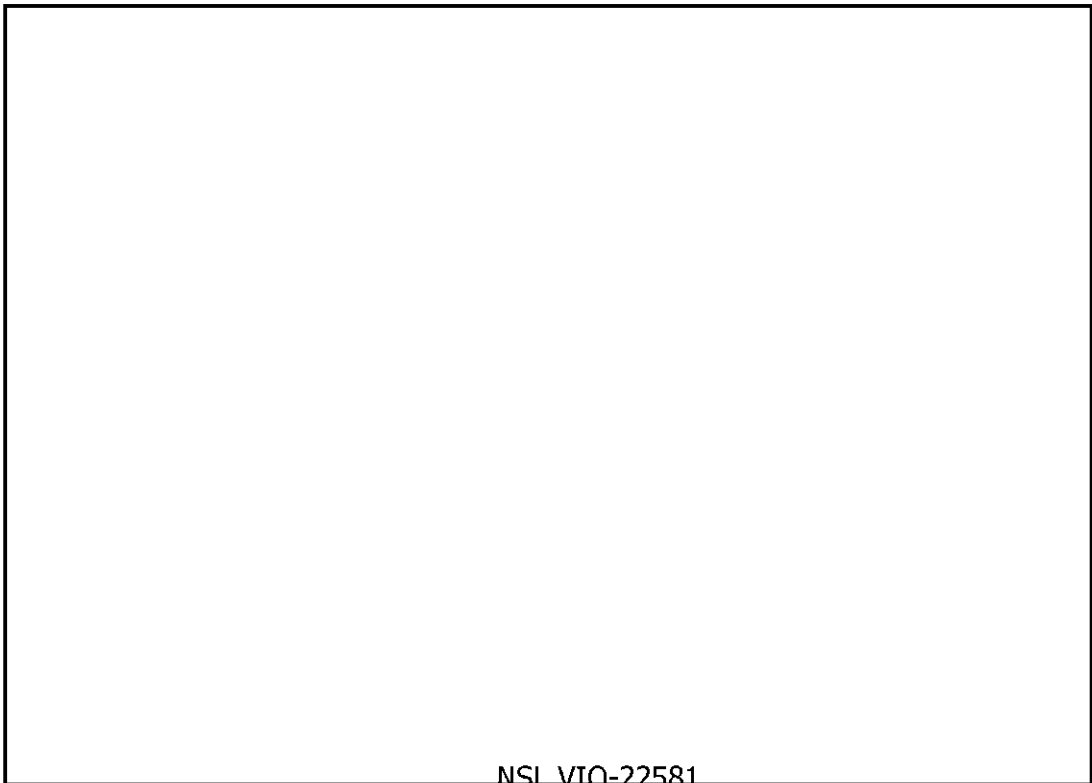
b5

NSL VIO-22580



b5
b2

Under ECPA, the person whose toll billing records were sought had to be a foreign power or agent of a foreign power (AFP) as defined in FISA. This means that for a US Person (USP), there did need to be suspicious conduct, inasmuch as a USP AFP is defined to require that the person is involved in clandestine intelligence activities that may involve a violation of US criminal statutes (50 USC 1801(b)(2)(A), (B)); engaged in sabotage or international terrorism (1801(b)(2)(C); had entered US fraudulently for or on behalf of a foreign power (1801(b)(2)(D); or aiding and betting persons described above (1801(b)(2)(E). For the second subset of the definition of non-USP AFP, 50 USC 1801(b)(1)(B), there was also "individualized suspicion" involved, inasmuch as it includes persons engaged in or aiding persons engaged in clandestine intelligence activities contrary to the interests of the US on behalf of a foreign power. Under ECPA, the telephone for which subscriber information was sought had to have been in communication with persons engaged in international terrorism or clandestine intelligence activities that may involve a criminal law violation or had been in communication with an agent of a foreign power wherein the communication concerned international terrorism or clandestine intelligence activities that may involve a criminal law violation. Under the FCRA, the person whose financial institution information was sought had to be a foreign power or a non-USP official of a foreign power or an agent of a foreign power engaged in international terrorism or clandestine intelligence activities that may involve a criminal law violation. Under the FCRA, the person about whom identifying information was sought needed to be in contact with a foreign power or agent of a foreign power, as defined in FISA. Under the RFPA, the person whose records were sought needed to be a foreign power or an agent of a foreign power as defined in FISA.



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NSL VIO-22581



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hope this helps.

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SENSITIVE BUT UNCLASSIFIED

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SENSITIVE BUT UNCLASSIFIED

NSL VIO-22582

6/21/2007

[redacted] OGC) (INT)

From: [redacted] OGC) (FBI)

Sent: Monday, June 07, 2004 11:01 AM

To: [redacted] OGC) (FBI)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-17-2007 BY 65179 DMH/TAM/KSP/JE

Subject: Answer to questions posed by AUSA Meredith Kotler

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] here are the answer to questions that were posed by the AUSA, [redacted] and myself have agreed to this.

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[redacted]

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Under ECPA, the person whose toll billing records were sought had to be a foreign power or agent of a foreign power (AFP) as defined in FISA. This means that for a US Person (USP), there did need to be suspicious conduct, inasmuch as a USP AFP is defined to require that the person is involved in clandestine intelligence activities that may involve a violation of US criminal statutes (50 USC 1801(b)(2)(A), (B)); engaged in sabotage or international terrorism (1801(b)(2)(C); had entered US fraudulently for or on behalf of a foreign power (1801(b)(2)(D); or aiding and betting persons described above (1801(b)(2)(E). For the second subset of the definition of non-USP AFP, 50 USC 1801(b)(1)(B), there was also "individualized suspicion" involved, inasmuch as it includes persons engaged in or aiding persons engaged in clandestine intelligence activities contrary to the interests of the US on behalf of a foreign power. Under ECPA, the telephone for which subscriber information was sought had to have been in communication with persons engaged in international terrorism or clandestine intelligence activities that may involve a criminal law violation or had been in communication with an agent of a foreign power wherein the communication concerned international terrorism or clandestine intelligence activities that may involve a criminal law violation. Under the FCRA, the person whose financial institution information was sought had to be a foreign power or a non-USP official of a foreign power or an agent of a foreign power engaged in international terrorism or clandestine intelligence activities that may involve a criminal law violation. Under the FCRA, the person about whom identifying information was sought needed to be in contact with a foreign power or agent of a foreign power, as defined in FISA. Under the RFPA, the person whose records were sought needed to be a foreign power or an agent of a foreign power a defined in FISA.

[redacted]

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NSL VIO-22583

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hope this helps

SENSITIVE BUT UNCLASSIFIED

NSL VIO-22584

6/21/2007

[redacted] (OGC) (INT)

From: [redacted] (OGC) (FBI)
Sent: Friday, June 02, 2006 2:09 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Cc: [redacted] (OGC) (FBI)
Subject: FW: [redacted] - in response to email that [redacted] just sent.

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Just so everyone knows, [redacted] per the below, and [redacted]

[redacted]

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Original Message
From: [redacted] (OGC) (FBI)
Sent: Monday, May 08, 2006 4:28 PM
To: [redacted] (OGC) (FBI); [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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NON-RECORD

[Large redacted area]

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PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT PRIOR OGC APPROVAL

[redacted]
Assistant General Counsel
Science & Technology Law Unit
Engineering Research Facility

b6
b7C

Bldg. 27958A Room A-207B
Quantico, Va. 22135

Tel [redacted]
Fax [redacted]
page [redacted]

b2

SCIENCE & TECHNOLOGY LAW UNIT - OFFICE OF THE GENERAL COUNSEL

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

From: [redacted] (OGC) (FBI)
Sent: Monday, May 08, 2006 3:20 PM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Large redacted block]

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Thanks [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, April 11, 2006 7:25 AM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted block]

On the other hand, I think if you ask Julie [redacted]

[Redacted block]

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[Redacted block]



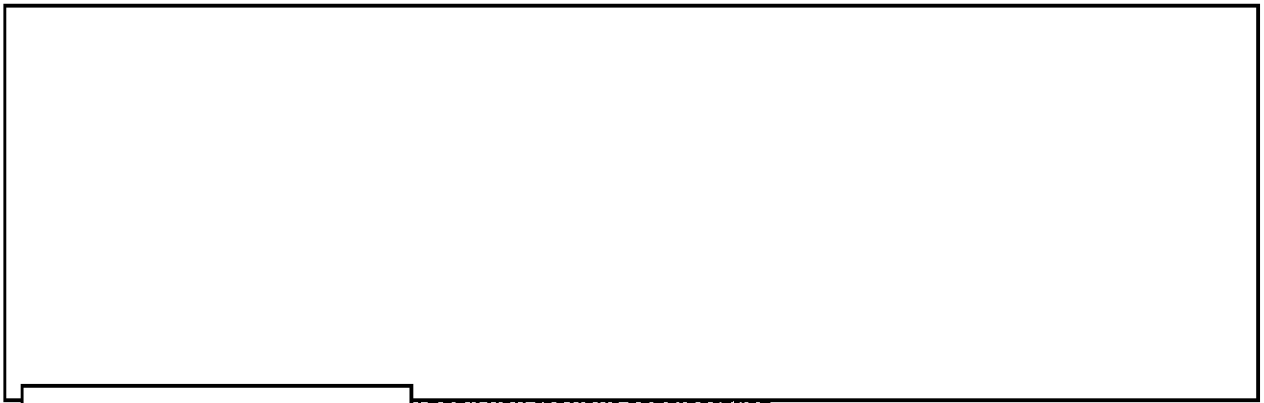
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-----Original Message-----

From: [redacted] (FBI)
Sent: Tuesday, April 11, 2006 7:02 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI)
Subject: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD



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[redacted] Thank you for your consideration.



******This Document Contains Attorney Work Product and Attorney-Client Privileged Communications******

SSA [redacted]
Associate Division Counsel



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[redacted] - I'm not sure if [redacted] put you in the loop on this one, but you probably should be in the loop since you handle the NSL issues with the field.



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SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

[redacted] OGC (INT)

From: [redacted] (OGC) (FBI)
Sent: Friday, March 24, 2006 10:07 AM
To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (FBI); [redacted]
Subject: RE: NSL toll billing records

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NON-RECORD

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

From: [redacted] (FBI)
Sent: Friday, March 24, 2006 8:52 AM
To: [redacted] OGC (FBI)
Cc: [redacted] (FBI); [redacted] (FBI); [redacted] (FBI)
Subject: RE: NSL toll billing records

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[redacted] Because we've always wanted to be careful to stay within the scope of what the statute authorizes. [redacted]

[Large redacted block]

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cc. SSA [redacted]
SSA [redacted]
ISS [redacted]

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

From: [redacted] OGC (FBI)
Sent: Friday, March 24, 2006 7:27 AM
To: FBI ALL CDCs
Cc: [redacted] OGC (FBI); THOMAS, JULIE F. (OGC) (FBI)

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Subject: NSL toll billing records

SENSITIVE BUT UNCLASSIFIED
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Thanks

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

[redacted] (OGC) (INT)

From: [redacted] (OGC) (FBI)
Sent: Tuesday, September 06, 2005 4:40 PM
To: [redacted] (FBI); [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-17-2007 BY 65179 DMH/TAN/KSR/NE

[Large redacted area]

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

From: [redacted] (FBI)
Sent: Tuesday, September 06, 2005 3:21 PM
To: [redacted] (FBI); [redacted] (OGC) (FBI)
Cc: [redacted] (FBI); [redacted] (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] One of our ISS's had some background on this topic. Thought I would pass it along just in case it helps. I've copied it below.

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[redacted]

[Large redacted area]

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[Redacted] Also, just to further clarify [Redacted]
[Redacted]
Hope this helps."

b5

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

From: [Redacted] (FBI)
Sent: Tuesday, August 30, 2005 1:38 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI)
Subject: RE: [Redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

I have asked that [Redacted] ensure that [Redacted]

[Redacted]

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I am on my way out the door to one of our RAs to conduct legal instruction, and will be back in the office on Thursday morning. I will check voice mail regularly while I am gone, so please don't hesitate to call me if you have any questions.

Thanks,

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Friday, August 26, 2005 6:41 AM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI)
Subject: RE: [Redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

thanks [Redacted]

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

From: [Redacted] (FBI)
Sent: Thursday, August 25, 2005 5:29 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI)
Subject: RE: [Redacted]

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

I'll be happy to handle this. I will get with [Redacted] in either later today or in the morning to review this with him. I'll be certain to coordinate with [Redacted]

b6
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NSL VIO-22591

Thanks for your help.

[Redacted]

b6
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-----Original Message-----

From: [Redacted] (OGC) (FBI)
Sent: Wednesday, August 24, 2005 1:41 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI)
Subject: FW: [Redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

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

From: [Redacted] (FBI)
Sent: Wednesday, August 24, 2005 12:04 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (FBI); [Redacted] (FBI)
Subject: RE: [Redacted]

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NON-RECORD

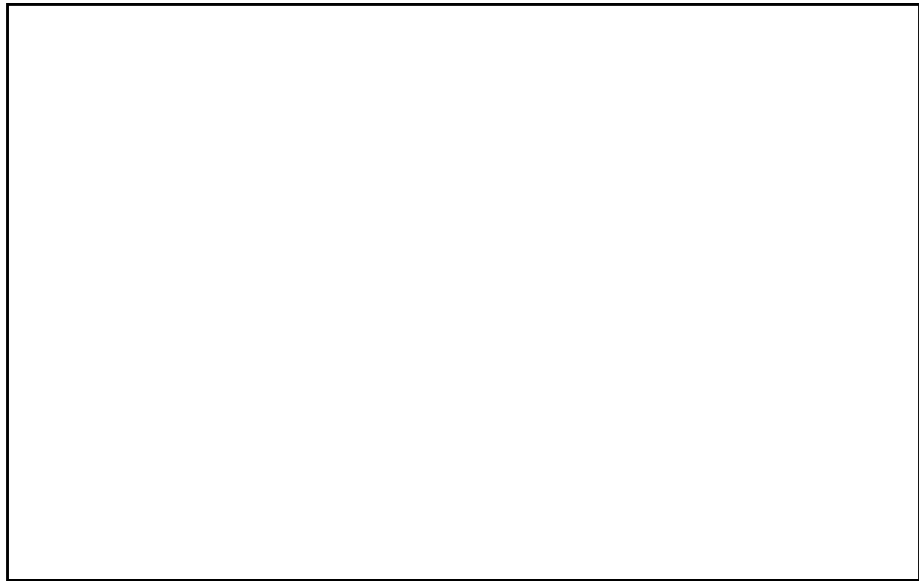
[Redacted]

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I talked with [Redacted] at [Redacted] in regards to your second question [Redacted]

[Redacted]

NSL VIO-22592



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In regards to statute 2709, [redacted]



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

From: [redacted] (OGC) (FBI)

Sent: Wednesday, August 24, 2005 9:12 AM

To: [redacted] (FBI)

Cc: [redacted] (FBI); [redacted] (FBI)

Subject: RE: [redacted]

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thanks. [redacted]

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

From: [redacted] (FBI)

Sent: Wednesday, August 24, 2005 10:01 AM

To: [redacted] (OGC) (FBI)

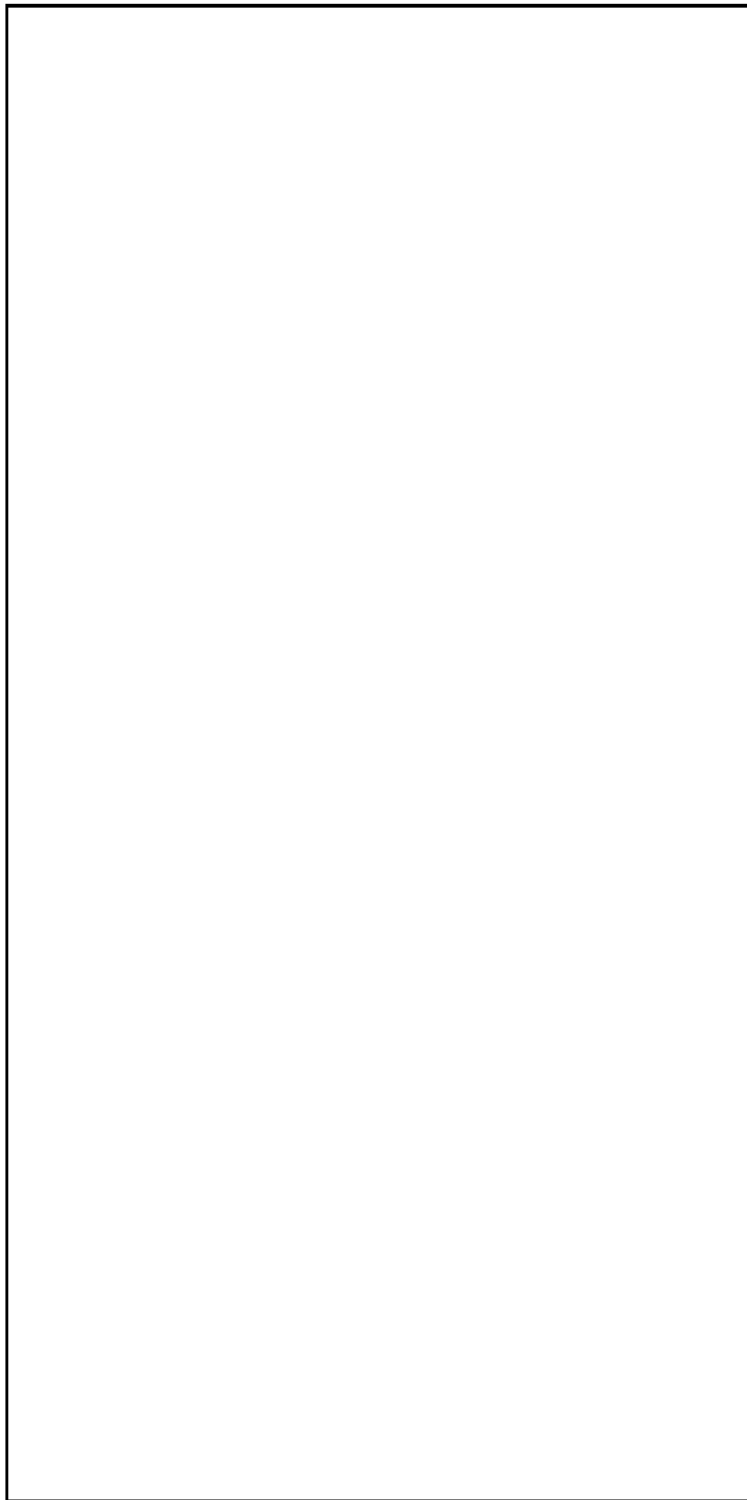
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NSL VIO-22593

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Cc: [redacted] (FBI)
Subject: RE: [redacted]

SENSITIVE BUT UNCLASSIFIED
NON-RECORD



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-----Original Message-----
NSL VIO-22594

From: [redacted] (OGC) (FBI)

Sent: Wednesday, August 24, 2005 6:52 AM

To: [redacted] (FBI)

Cc: [redacted] (FBI); [redacted]

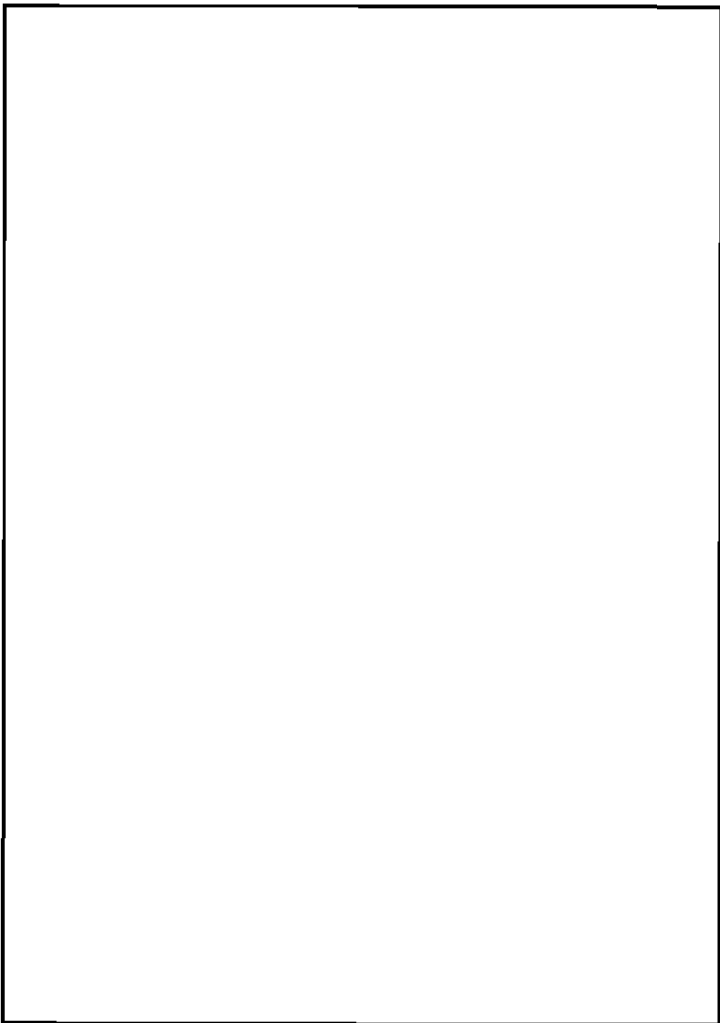
[redacted] (FBI); [redacted] (FBI); [redacted]

[redacted] (FBI); [redacted] (FBI)

Subject: [redacted]

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If you have any questions about this, please direct them to [redacted] who brought this to my attention, although I'd like to be kept in the loop.

thanks for your help.

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[redacted]

SENSITIVE BUT UNCLASSIFIED

NSL VIO-22595

~~SECRET~~

[Redacted] (OGC) (INT)

From: [Redacted] (OGC) (FBI)
Sent: Thursday, December 21, 2006 12:08 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC)(FBI)
Subject: RE:

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DATE: 07-17-2007
CLASSIFIED BY: 65179 DMH/TAM/KSR/JE
REASON: 1.4 (c)
DECLASSIFY ON: 07-17-2032

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(S) ~~SECRET~~
~~RECORD~~ [Redacted]

[Redacted]

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

From: [Redacted] (FBI)
Sent: Thursday, December 21, 2006 12:05 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (FBI)
Subject: FW:

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~~RECORD~~ [Redacted]

[Redacted]

[Redacted]

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OGC's thoughts, please?

[Redacted]

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

From: [Redacted] (FBI)
Sent: Thursday, December 21, 2006 11:54 AM
To: [Redacted] (FBI)
Subject: RE:

(S) ~~SECRET~~
~~RECORD~~ [Redacted]

[Redacted]

[Redacted]

b5
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Any suggestions on how to proceed?

[Redacted]

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

~~SECRET~~

From: [redacted] (FBI)
Sent: Wednesday, December 06, 2006 3:46 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI)
Subject: FW:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

The recommendation and I concur is to

[redacted]

b5

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

From: [redacted] (OGC) (FBI)
Sent: Wednesday, December 06, 2006 3:36 PM
To: [redacted] (FBI)
Subject: RE:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted]

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

From: [redacted] (FBI)
Sent: Wednesday, December 06, 2006 3:23 PM
To: [redacted] (OGC) (FBI)
Subject: RE:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted]

b5

Any ideas how to proceed?

[redacted]

~~SECRET~~

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

From: [redacted] (OGC) (FBI)
Sent: Wednesday, December 06, 2006 3:04 PM
To: [redacted] (FBI)
Subject:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

I got your voice mail. I am not sure how to address this. [redacted]

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SENSITIVE BUT UNCLASSIFIED

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

~~SECRET~~

NSL VIO-22598

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[redacted] (OGC) (INT)

From: [redacted] (OGC) (FBI)
Sent: Thursday, August 31, 2006 3:13 PM
To: [redacted] (FBI)
Subject: RE: [redacted]

(S) ~~SECRET RECORD~~ [redacted]

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DATE: 07-17-2007
CLASSIFIED BY 65179 DMH/TAM/KSR/JE
REASON: 1.4 (c)
DECLASSIFY ON: 07-17-2032

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

The answers are yes, yes.

If you desperately need the info, [redacted]

[redacted]

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[redacted]

b2
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b7D

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

From: [redacted] (FBI)
Sent: Thursday, August 31, 2006 1:50 PM
To: [redacted] (OGC) (FBI)
Subject: FW: [redacted]

(S) ~~SECRET RECORD~~ [redacted]

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[redacted]

This is getting to be a big problem.

Two questions: [redacted]

[redacted]

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

From: [redacted] (FBI)
Sent: Thursday, August 31, 2006 1:35 PM
To: [redacted] (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (FBI)
Subject: [redacted]

(S) ~~SECRET RECORD~~ [redacted]

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[redacted]

Per our conversation earlier [redacted]

[redacted]

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guess I should feel special, at least this time they sent a letter instead of just replying with no info at all.....

This non-response is becoming a real problem [redacted]

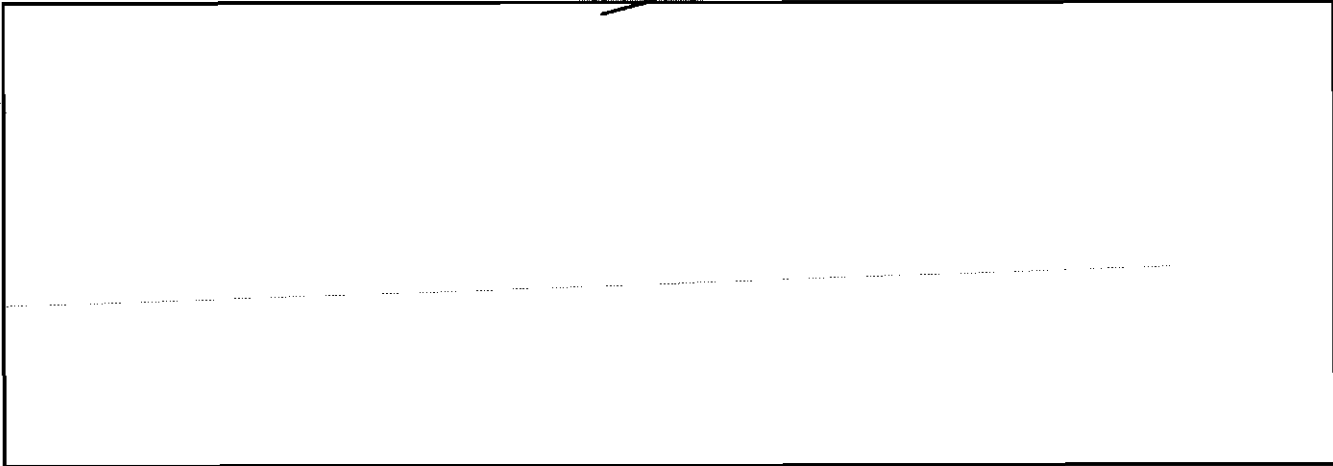
[redacted]

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~~SECRET~~

(S)



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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20310831
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20310831
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20310831
SECRET~~

~~SECRET~~

[Redacted] OGC (INT)

From: [Redacted] (OGC) (FBI)
Sent: Friday, December 22, 2006 9:52 AM
To: [Redacted] (FBI); [Redacted] (FBI)
Cc: [Redacted] (OGC) (FBI); [Redacted] (OGC)(FBI); [Redacted] (FBI); [Redacted] (CD) (FBI)
Subject: RE:

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DATE: 07-17-2007
CLASSIFIED BY 65179 DMH/TAM/KSR/JB
REASON: 1.4 (c)
DECLASSIFY ON: 07-17-2032

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

(S) **SECRET RECORD** [Redacted]

That looks like it should help our [Redacted]
[Redacted]

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

From: [Redacted] (FBI)
Sent: Thursday, December 21, 2006 1:41 PM
To: [Redacted] (FBI); [Redacted] (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI); [Redacted] (OGC)(FBI); [Redacted] (FBI); [Redacted] (D) (FBI)
Subject: RE:

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(S) **SECRET RECORD** [Redacted]

How about:

[Large Redacted Block]

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

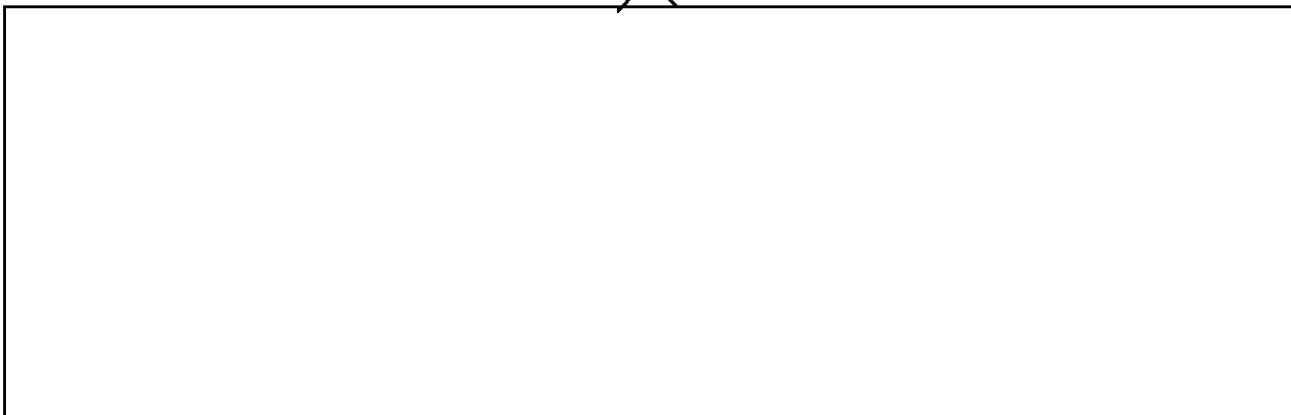
From: [Redacted] (FBI)
Sent: Thursday, December 21, 2006 1:05 PM
To: [Redacted] (OGC) (FBI); [Redacted] (FBI)
Cc: [Redacted] (OGC) (FBI); [Redacted] (OGC)(FBI); [Redacted] (FBI); [Redacted] (CD) (FBI)
Subject: RE:

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(S) **SECRET RECORD** [Redacted]

[Redacted]

b5



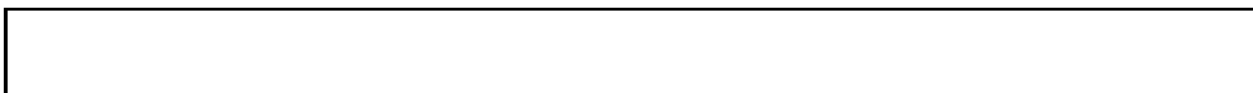
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-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Thursday, December 21, 2006 12:08 PM
To: [redacted] (FBI)
Cc: [redacted] (FBI); [redacted] (OGC) (FBI); [redacted] (OGC)(FBI)
Subject: RE:

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(S) ~~SECRET~~
~~RECORD~~ [redacted]



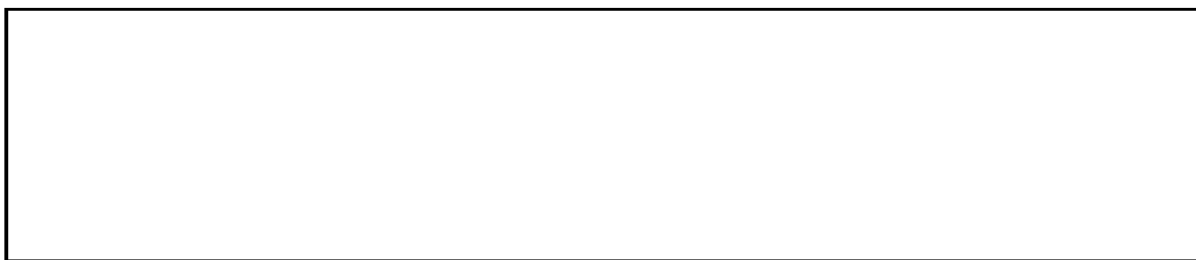
b5

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

From: [redacted] (FBI)
Sent: Thursday, December 21, 2006 12:05 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (FBI)
Subject: FW:

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(S) ~~SECRET~~
~~RECORD~~ [redacted]



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OGC's thoughts, please?

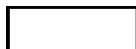


-----Original Message-----

From: [redacted] (FBI)
Sent: Thursday, December 21, 2006 11:54 AM
To: [redacted] (FBI)
Subject: RE:

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(S) ~~SECRET~~
~~RECORD~~ [redacted]



[Redacted]

b5
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[Redacted] Any suggestions on how to proceed?

[Redacted]

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

From: [Redacted] (FBI)
Sent: Wednesday, December 06, 2006 3:46 PM
To: [Redacted] (FBI)
Cc: [Redacted] (FBI)
Subject: FW:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

b5

The recommendation, and I concur, is to [Redacted]

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Wednesday, December 06, 2006 3:36 PM
To: [Redacted] (FBI)
Subject: RE:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

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

From: [Redacted] (FBI)
Sent: Wednesday, December 06, 2006 3:23 PM
To: [Redacted] (OGC) (FBI)
Subject: RE:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

Their points were two:

[Redacted]

b5

~~SECRET~~

[Redacted]

b5

Any ideas how to proceed?

[Redacted]

b5

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

From: [Redacted] (OGC) (FBI)
Sent: Wednesday, December 06, 2006 3:04 PM
To: [Redacted] (FBI)
Subject:

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

I got your voice mail. I am not sure how to address this [Redacted]

[Redacted]

b5

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations
DECLASSIFY ON: 20311221
SECRET~~

[redacted] (OGC) (INT)

From: [redacted] (OGC) (FBI)
Sent: Friday, April 21, 2006 2:12 PM
To: [redacted] (OGC) (FBI)
Subject: FW: Revision of standard attachment to toll billing record NSL

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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DATE 07-17-2007 BY 65179 DMH/TAM/KSR/JB

You have everything, here. No revisions, yet on the transactional record attachment. Awaiting input from the field.

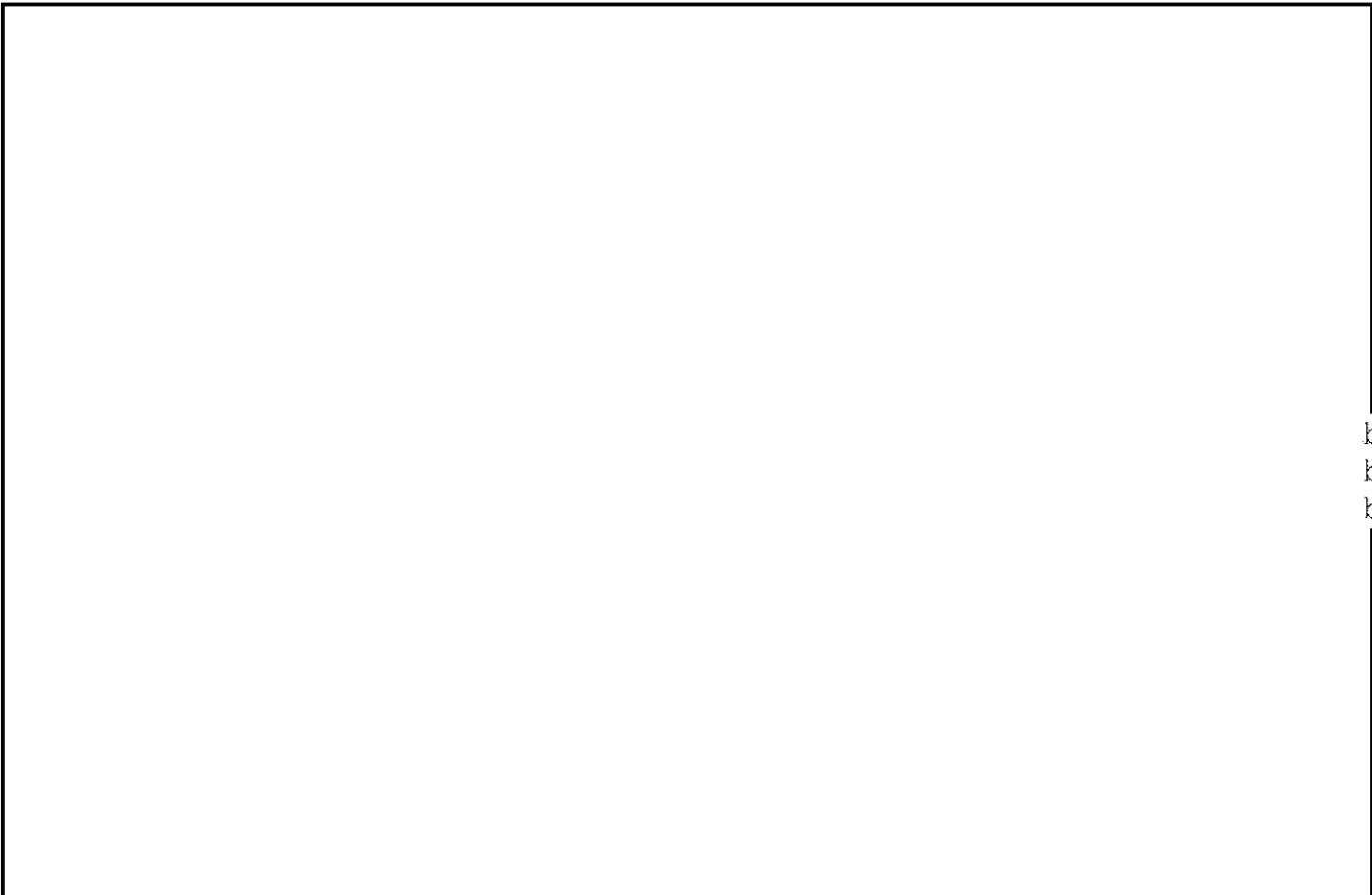
-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Friday, April 21, 2006 12:05 PM
To: FBI ALL CDCs
Cc: [redacted] (OGC)(FBI); [redacted] (OGC) (FBI)
Subject: Revision of standard attachment to toll billing record NSL

b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

We are in the process of replacing the standard attachment to telephone toll billing records on our website. The document is attached below.



b5
b6
b7C



tollbillingattachment
april21,2...



b5



transactionalrecord
nslattachme...

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

[redacted] (OGC) (INT)

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From: [redacted] (OGC) (FBI)
Sent: Wednesday, October 06, 2004 9:05 AM
To: [redacted] (OGC) (FBI)
Subject: FW: [redacted]

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DATE 07-17-2007 BY 65179 DMH/TAM/KSR/JB

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NON-RECORD

Per your email to me, I had already sent this around volunteering to do it if you say it's okay, which I gather it is. So I will do it. [redacted]

b6
b7C

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 12:23 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

will do, if [redacted] okay with it. [redacted]

b6
b7C

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 12:22 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

I've read the EC, discussed the matter with [redacted]
[redacted]
[redacted] It makes sense for [redacted] to do the EC since she's worked the issue to this point.
[redacted]

b5
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-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 12:00 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

NSL VIO-22607

We should respond back in an EC. Either [redacted] can draft it - it is an ITOS I case but I defer to [redacted] if she wants [redacted] to respond. I as well do not concur with [redacted] position.

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

From: [redacted] (OGC) (FBI)
Sent: Tuesday, October 05, 2004 10:26 AM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

ALL-

[Large redacted block]

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[redacted] and Spike [redacted]
[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:37 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

I concur with [redacted] analysis. Ironically [redacted]
Spike: [redacted]

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b7C

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

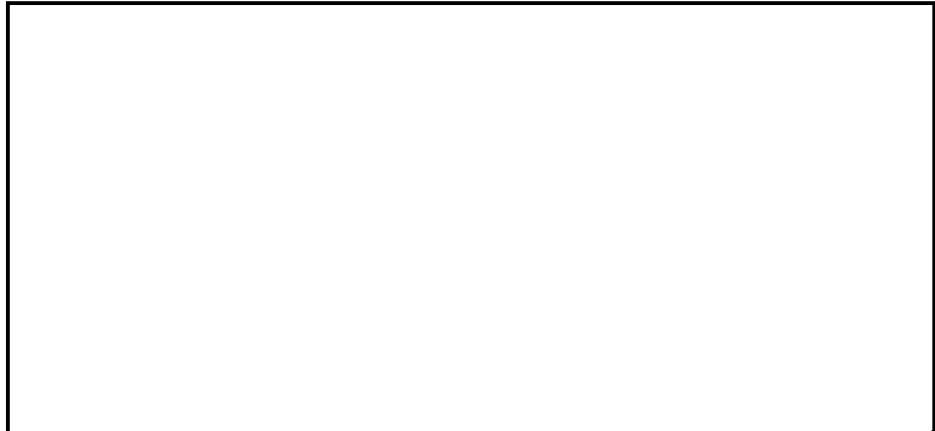
From: [redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:33 PM
To: [redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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SENSITIVE BUT UNCLASSIFIED

NSL VIO-22608

NON-RECORD



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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:05 PM
To: [redacted] (OGC); [redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

[redacted] et al.

[redacted] proposes to use National Security Letters under 18 USC 2709 to obtain subscriber information and "electronic communication transactional records" from [redacted]

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[redacted] The records that would be sought through the NSL are the name, address, length of service, and toll-billing records of the user.

Section 2709 requires electronic communication service providers to comply with duly authorized requests for subscriber information and electronic communication transactional records. The proposal by the [redacted] raises one main question: is [redacted] an "electronic communication service provider"?

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[redacted] notes that the electronic communications in this instance are "simply a way of paying for a non-communications related service." [redacted]

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The case cited by [redacted] in support of its proposal addresses a related point, noting that [redacted]

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NSL VIO-22609

[Redacted]

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[Redacted]

[Redacted] According to ECPA, electronic communication means "any transfer of . . . data . . . of any nature transmitted in whole or in part by a wire, radio [or other] system [etc.]" 18 USC 2510(12). An electronic communications system is "any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications" and an electronic communications service is "any service which provides users thereof the ability to send or receive wire or electronic communications." 18 USC 2510 (14) and (15). [Redacted]

[Redacted]

[Redacted]

[Redacted] As a general rule, a communication is an electronic communication protected by federal wiretap law if it is not carried by sound waves and cannot fairly be characterized as containing the human voice. Communications consisting solely of data, for example, . . . are electronic communications." S.Rep. No. 99-541, at 14; reprinted in 1986 USCCAN at 3568. Communication in this context merely means moving data from one place to another [Redacted]

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[Redacted]

[Redacted]

[Redacted]

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

From: [Redacted] (OGC)
Sent: Thursday, September 30, 2004 7:26 AM

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NSL VIO-22610

To: [redacted] (OGC) (FBI)

Subject: FW: [redacted]

**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

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[redacted] fyi. [redacted]

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

From: [redacted] (OGC) (FBI)

Sent: Wednesday, September 29, 2004 3:45 PM

To: [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC)

Subject: FW: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

I didn't realize you were all on the copy list for a 9/7/04 EC from [redacted] in [redacted] concerning an analysis of [redacted]

[redacted] so here is the message that I sent to [redacted]

and blind copied [redacted]

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

From: [redacted] (OGC) (FBI)

Sent: Wednesday, September 29, 2004 3:41 PM

To: [redacted] (FBI)

Subject: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

[redacted] I have read your EC [redacted]

[Large redacted block]

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[redacted] (per the case you cited [redacted])

[Large redacted block]

Thanks

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b7C

SENSITIVE BUT UNCLASSIFIED

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SENSITIVE BUT UNCLASSIFIED

NSL VIO-22612

6/21/2007

[Redacted] (OGC) (INT)

From: [Redacted] (OGC) (FBI)

Sent: Monday, May 16, 2005 1:11 PM

To: [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)

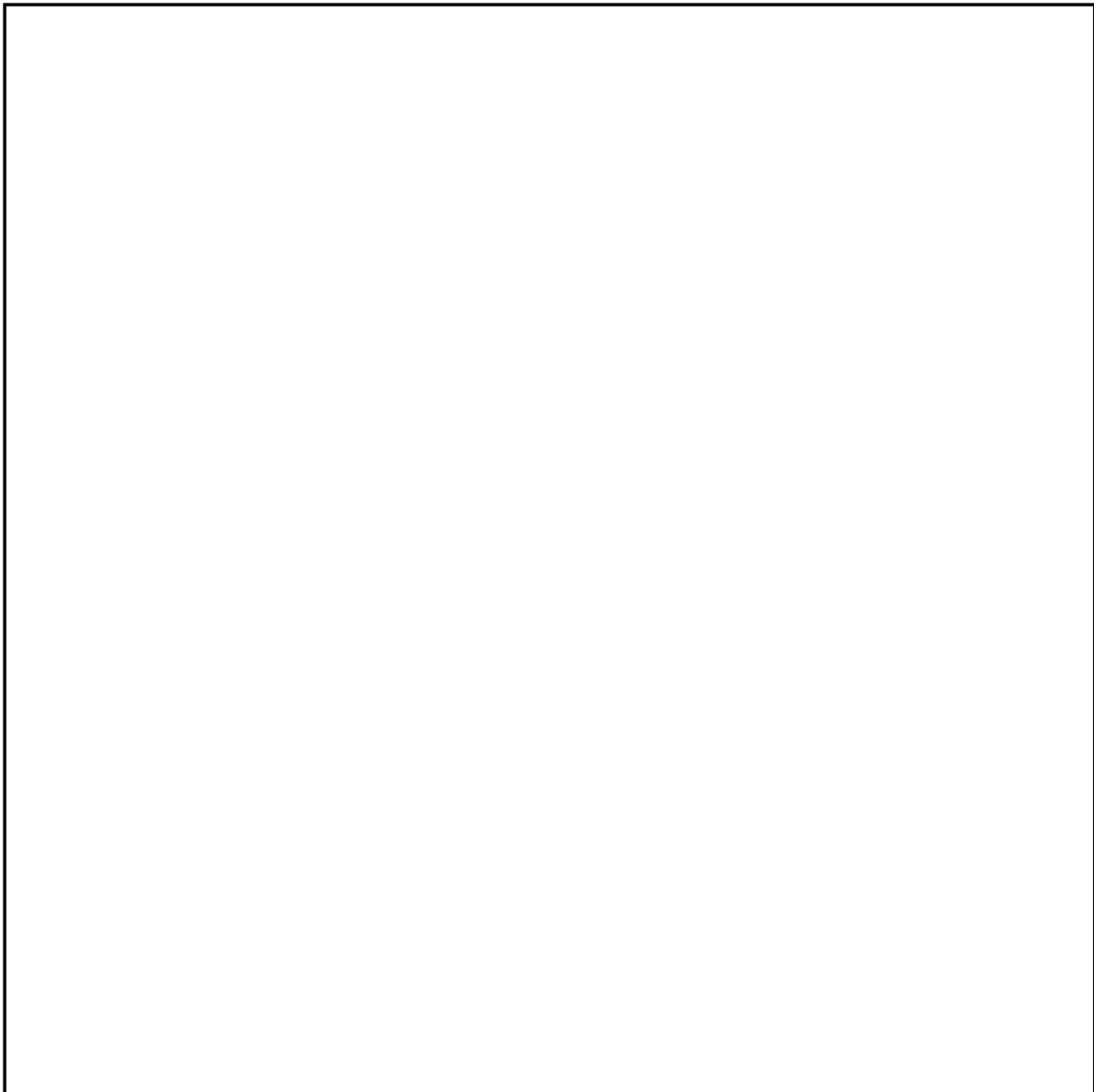
Subject: RE: [Redacted] Proposal to amend ECPA NSL to get [Redacted]

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**SENSITIVE BUT UNCLASSIFIED
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DATE 07-17-2007 BY 65179 DMH/TAM/KSR/IE

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NSL VIO-22613

6/21/2007

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

From: [redacted] (OGC) (FBI)
Sent: Monday, May 16, 2005 12:03 PM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted] proposal to amend ECPA NSL to get [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

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**PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT
PRIOR OGC APPROVAL**

[Redacted signature line]

Associate General Counsel - Unit Chief

[Redacted signature block]

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

From: [redacted] (OGC) (FBI)
Sent: Monday, May 16, 2005 10:23 AM
To: [redacted] (OGC) (FBI)
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted] proposal to amend ECPA NSL to get [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

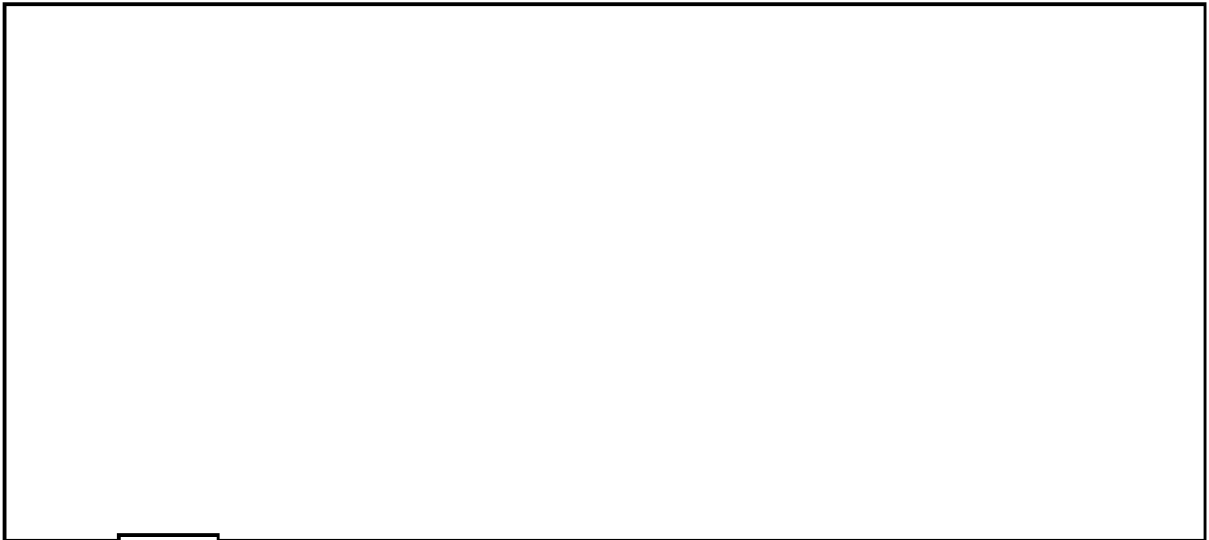
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Thanks, [redacted]

[Redacted signature block]

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NSL VIO-22614



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thanks

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

From: [redacted] (OGC) (FBI)

Sent: Monday, May 16, 2005 9:28 AM

To: [redacted] (OGC) (FBI)

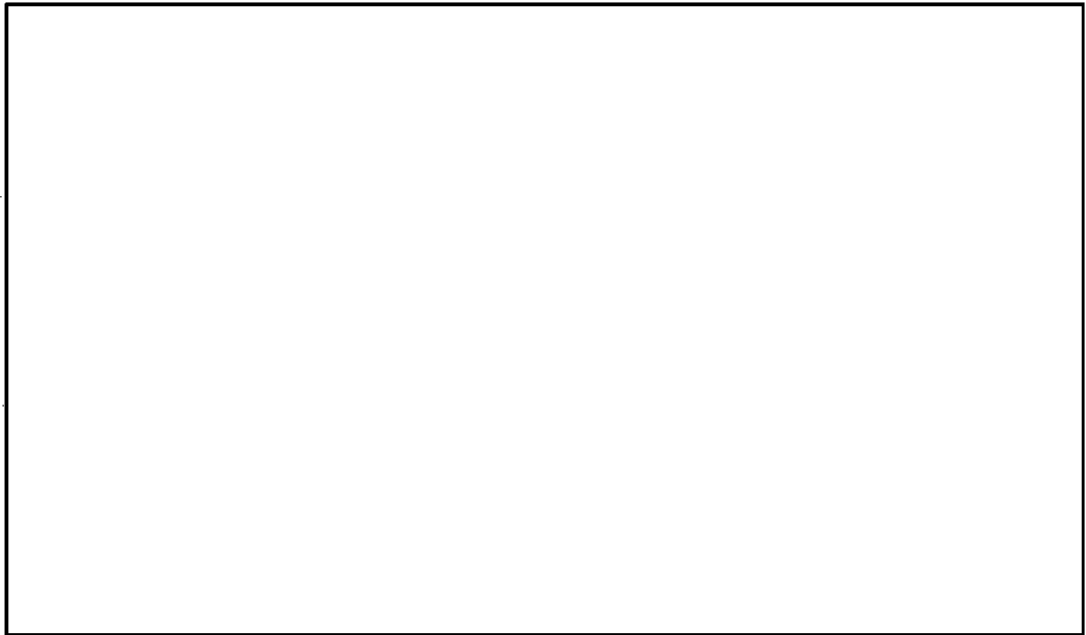
Cc: [redacted] (OGC) (FBI); THOMAS, JULIE E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

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Subject: RE [redacted] Proposal to amend ECPA NSL to get [redacted]

Importance: High

SENSITIVE BUT UNCLASSIFIED
NON-RECORD



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[redacted] the

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order requirements of section 2518(1)(b) to indicate "the nature and type of wire or electronic communications services"

[redacted]

NSL VIO-22615

[Redacted]

[Redacted]

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STLU will draft such a statute to have it standing on the shelf.

[Redacted]

PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT PRIOR OGC APPROVAL

[Redacted]

Associate General Counsel - Unit Chief

[Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, May 05, 2005 5:24 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [Redacted] (OGC) (FBI)
Subject: FW: [Redacted] Proposal to amend ECPA NSL to get [Redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

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thanks. [Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Wednesday, May 04, 2005 5:02 PM
To: [Redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI); [Redacted] (OGC) (FBI)
Subject: [Redacted] Proposal to amend ECPA NSL to get [Redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

I have to respond to an EC from [Redacted] about issuing an amended form ECPA NSL in
NSL VIO-22616

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certain circumstances. [redacted]

[redacted]

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[redacted] says that it often needs to find out what type of service is provided by a telephone company, in order to be able to apply for a FISA. It wants to amend the standard ECPA NSL to a telephone company to include a request for the type of service provided by the provider:

"Under the authority of Executive Order 12333, dated December 4, 1981, and pursuant to Title 18, United States Code (U.S.C.), Section 2709 (Section 201 of the Electronic Communications and Privacy Act of 1986, as amended), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the names, addresses, lengths of service, and electronic communication transactional records, to include [redacted]

[redacted] of the person or entity to whom the following telephone number was registered on [insert date]."

[redacted]

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[redacted]

Please give me your thoughts. [redacted]

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

NSL VIO-22617

6/21/2007

[redacted] (OGC) (INT)

From: [redacted] (OGC) (FBI)

Sent: Tuesday, October 05, 2004 10:26 AM

To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

Subject: RE: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

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[redacted] and Spike [redacted]

[redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:37 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

I concur with [redacted] analysis. Ironically, [redacted]
[redacted] Spike: [redacted]

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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:33 PM
To: [redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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**SENSITIVE BUT UNCLASSIFIED
NON-RECORD**

[redacted]

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NSL VIO-22618



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

From: [redacted] (OGC) (FBI)
Sent: Friday, October 01, 2004 12:05 PM
To: [redacted] (OGC); [redacted] (OGC) (FBI)
Cc: BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: [redacted]

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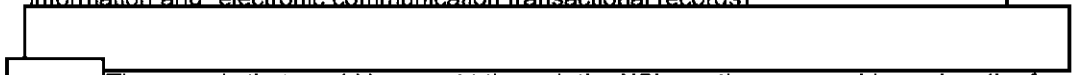
SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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[redacted] et al.

[redacted] proposes to use National Security Letters under 18 USC 2709 to obtain subscriber information and "electronic communication transactional records" [redacted]

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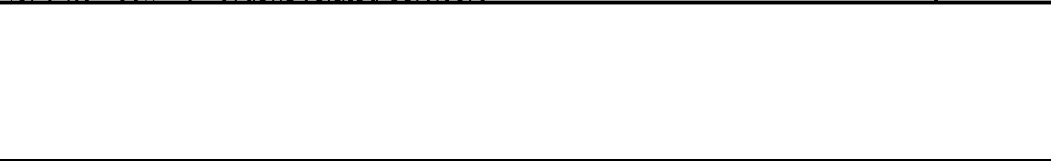
[redacted] The records that would be sought through the NSL are the name, address, length of service, and toll-billing records of the user.

Section 2709 requires electronic communication service providers to comply with duly authorized requests for subscriber information and electronic communication transactional records. The proposal by the [redacted] raises one main question: is [redacted] an "electronic communication service provider"?

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b4

[redacted] notes that the electronic communications in this instance are "simply a way of paying for a non-communications related service." [redacted]

b7D



b5
b6
b7C

The case cited by [redacted] in support of its proposal addresses a related point, noting that [redacted]



b2
b7E
b5

[Redacted]

b5
b2

[Redacted]

[Redacted] According to ECPA, electronic communication means "any transfer of . . . data . . . of any nature transmitted in whole or in part by a wire, radio [or other] system [etc.]" 18 USC 2510(12). An electronic communications system is "any wire, radio, electromagnetic, photooptical or photoelectronic facilities for the transmission of electronic communications" and an electronic communications service is "any service which provides users thereof the ability to send or receive wire or electronic communications." 18 USC 2510 (14) and (15) [Redacted]

[Redacted]

[Redacted]

[Redacted] As a general rule, a communication is an electronic communication protected by federal wiretap law if it is not carried by sound waves and cannot fairly be characterized as containing the human voice. Communications consisting solely of data, for example, . . . are electronic communications." S.Rep. No. 99-541, at 14, reprinted in 1986 USCCAN at 3568. Communication in this context merely means moving data from one place to another [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

b5
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b7C

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

From: [Redacted] (OGC)
Sent: Thursday, September 30, 2004 7:26 AM
To: [Redacted] (OGC) (FBI)
Subject: FW: [Redacted]

b6
b7C
b5

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted] fyi. [Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Wednesday, September 29, 2004 3:45 PM
To: [Redacted] (OGC) (FBI); BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC)
Subject: FW: [Redacted]

b6
b7C
b5

SENSITIVE BUT UNCLASSIFIED

NON-RECORD

I didn't realize you were all on the copy list for a 9/7/04 EC from [redacted] concerning an analysis of [redacted]

[redacted] So here is the message that I sent to [redacted] and blind copied [redacted]

b5
b6
b7C

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

From: [redacted] (OGC) (FBI)
Sent: Wednesday, September 29, 2004 3:41 PM
To: [redacted] (FBI)
Subject:

b2
b7E
b6
b7C

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[redacted] have read your EC on [redacted]

[redacted]

b5
b2
b6
b7C

[redacted] the case you cited [redacted]

[redacted]

[redacted]

Thanks [redacted]

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

NSL VIO-22621

[redacted] (OGC) (INT)

From: [redacted] (OGC) (FBI)
Sent: Friday, March 23, 2007 8:02 AM
To: [redacted] (FBI)
Cc: THOMAS, JULIE F. (OGC) (FBI); [redacted] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

b2
b7E
b6
b7C

[redacted]

b5

[redacted]

[redacted]

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

From: [redacted] (FBI)
Sent: Thursday, March 22, 2007 3:44 PM
To: [redacted] (OGC) (FBI)
Subject: FW: IOB Issues Relating to the Inspection Division's Audit

DECLASSIFIED BY 65179 DMH/TAM/KSR/JB
ON 07-17-2007

b2
b7E
b6
b7C

(U) ~~SECRET~~
~~RECORD IOB~~

[redacted]

What is your take on my question to [redacted]

b6
b7C

Thanks,

[redacted]

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

From: [redacted] (FBI)
Sent: Thursday, March 22, 2007 4:42 PM
To: [redacted] (OGC) (FBI)
Subject: RE: IOB Issues Relating to the Inspection Division's Audit

b2
b7E
b6
b7C

(U) ~~SECRET~~
~~RECORD IOB~~

b6
b7C

[redacted]

[redacted]

b5

Thanks,

[redacted]

b2
b6
b7C

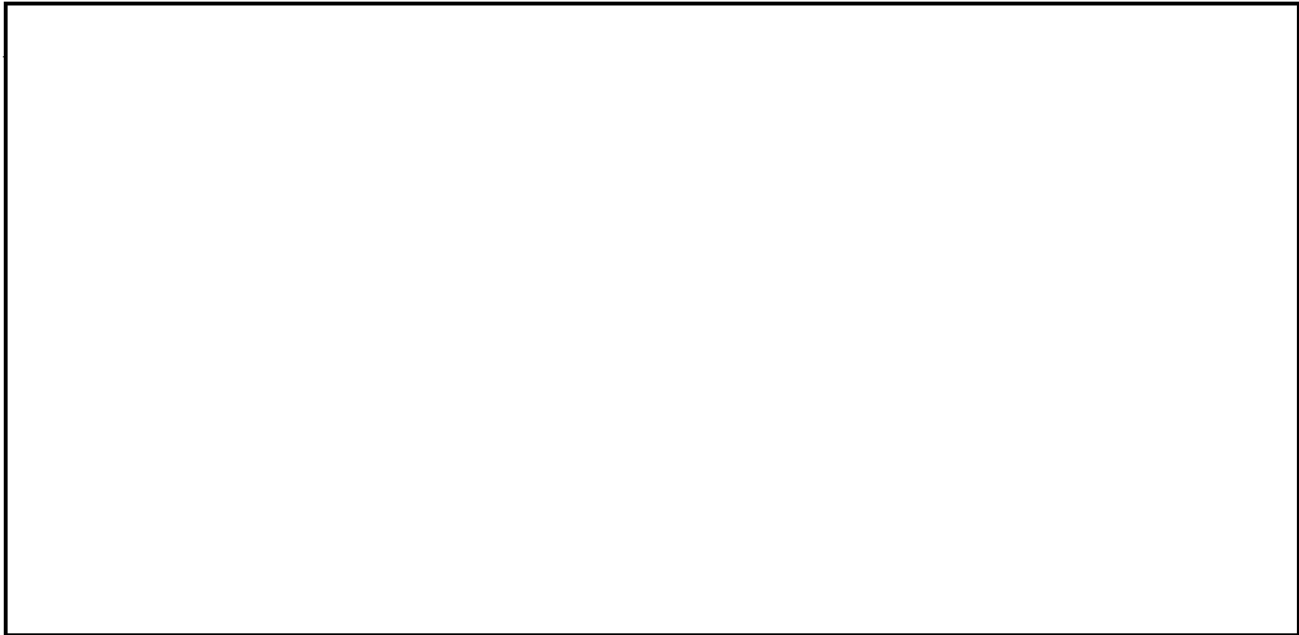
-----Original Message-----

From: [redacted] (OGC) (FBI)
Sent: Wednesday, March 21, 2007 4:22 PM
To: HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI); [redacted] (INSD) (FBI)

b6
b7C

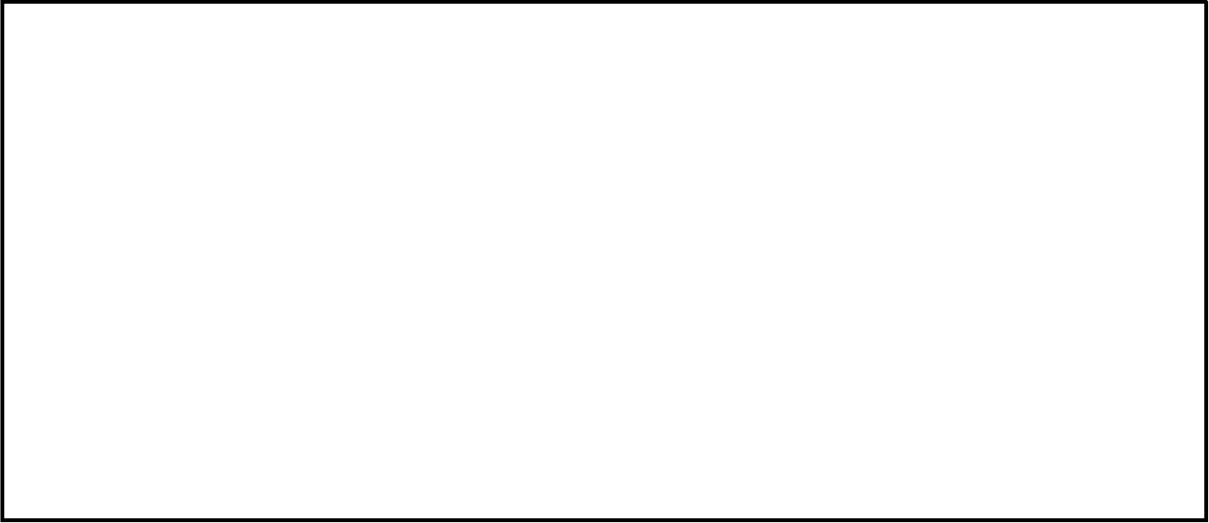
Subject: IOB Issues Relating to the Inspection Division's Audit

(U) ~~SECRET~~
~~RECORD IOB~~



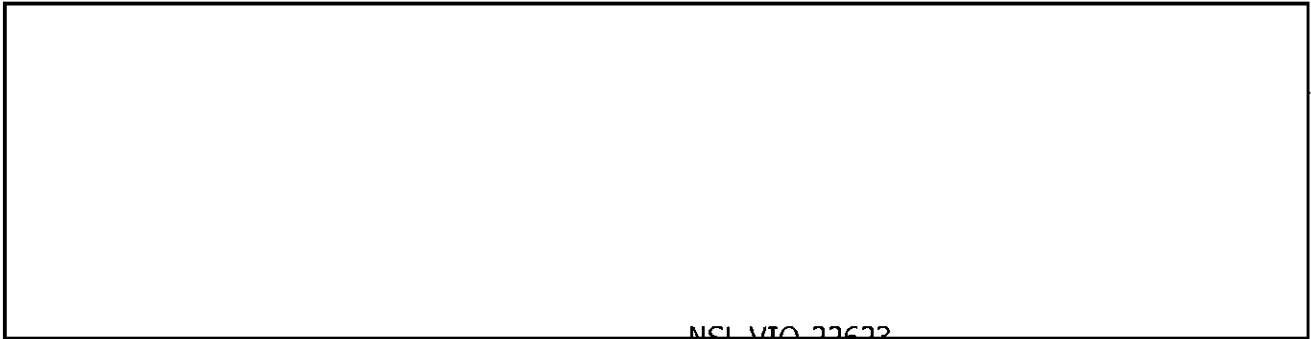
b5
b6
b7C

The following incidents are reportable as potential IOBs matters for adjudication by OGC:



b5

The following incidents are NOT reportable as potential IOBs matters. However, the error will be noted by the AIP:



b5



<< File: IOB Attachment #1--Nov162006POLICY.wpd >>

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFICATION EXEMPTION 1
SECRET~~

[Redacted] (OGC) (INT)

b2
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b4
b7D
b6
b7C

From: [Redacted] (OGC) (FBI)

Sent: Monday, November 14, 2005 10:27 AM

To: [Redacted] (FBI)

Cc: [Redacted] (FBI); THOMAS, JULIE F. (OGC) (FBI); [Redacted] (OGC) (FBI)

Subject: RE: [Redacted] issue specifics

UNCLASSIFIED
NON-RECORD

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-17-2007 BY 65179 DMH/TAM/KSR/JE

[Redacted]

b5
b4
b7D

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

From: [Redacted] (OGC) (FBI)

Sent: Monday, November 14, 2005 9:47 AM

To: [Redacted] (FBI); [Redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)

Cc: [Redacted] (FBI)

Subject: RE: [Redacted] issue specifics

b2
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UNCLASSIFIED
NON-RECORD

[Redacted] to
be toll billing records in accordance with Title 18, United States Code, Section 2709." (emphasis added).

b5

[Redacted]

[Redacted]

[Redacted]

b5
b4
b7D

[Redacted]

b5
b4
b7D

NSL VIO-22628

All the more reason for a legislative amendment to 2709.
PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT
PRIOR OGC APPROVAL

[Redacted]
Assistant General Counsel

[Redacted]

Tel: [Redacted]
Fax: [Redacted]
pager: [Redacted]

[Redacted] OFFICE OF THE GENERAL COUNSEL

b2
b6
b7C

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

From: [Redacted] (FBI)
Sent: Thursday, November 10, 2005 2:27 PM
To: [Redacted] (OGC) (FBI); THOMAS, JULIE F. (OGC) (FBI)
Cc: [Redacted] (FBI); [Redacted] (OGC) (FBI)
Subject: FW: [Redacted] issue specifics

b2
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b6
b7C
b4
b7D

UNCLASSIFIED
NON-RECORD

b6
b7C

Julie [Redacted]

[Redacted]

b5
b6
b7C
b4
b7D

Thank you [Redacted]
BS/CDCA
[Redacted]

b2
b7E
b6
b7C

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

From: [Redacted] (OGC) (FBI)
Sent: Thursday, November 10, 2005 12:16 PM
To: [Redacted] (FBI)
Subject: RE: [Redacted] issue specifics

b2
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b7C
b4
b7D

UNCLASSIFIED
NON-RECORD

NSL VIO-22629



b5
b6
b7C
b4
b7D

thanks.



b2
b7E
b6
b7C
b4
b7D

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

From: [redacted] (FBI)
Sent: Thursday, November 10, 2005 1:25 PM
To: [redacted] (OGC) (FBI)
Subject: [redacted] issue specifics

UNCLASSIFIED
NON-RECORD

b6
b7C
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b7D



RE: our last e-mail traffic about [redacted]



Is it time to get Julie Thomas or [redacted] at NSLB involved, or do you still want the chance to go through your e-mails to her?

Thankx.



b6
b7C

UNCLASSIFIED

UNCLASSIFIED

NSL VIO-22630

[redacted] (OGC) (INT)

From: [redacted] (OGC)(FBI)
Sent: Thursday, March 08, 2007 3:52 PM
To: [redacted] (OGC) (FBI)
Subject: RE:

b6
b7C

UNCLASSIFIED
NON-RECORD

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 07-17-2007 BY 65179 DMH/TAM/KSR/JB

I am awaiting a call back from [redacted] and I will confirm etc.

b4
b7D

[redacted]
Assistant General Counsel
National Security Law Branch
Office of General Counsel FBI

b2
b6
b7C

[redacted] Voice
[redacted] Pager
[redacted] Secure Fax
[redacted] Fax

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

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 08, 2007 3:01 PM
To: [redacted] (OGC)(FBI)
Subject:

b6
b7C

UNCLASSIFIED
NON-RECORD

[redacted]

UNCLASSIFIED

b5
b6
b7C

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION
FOIPA
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