(OGC) (FBI)	
To:   (OGC) (FBI); (INSD) (FBI); (INSD) (FBI); (INSD) (FBI)   (OGC) (FBI)   (OGC) (FBI)   (INSD)	b6 b7
UNCLASSIFIED DATE 07-19-2007 BY 65179 DMH/TAM/KSR/JB NON-RECORD	
	>6 >7(
	)6 .7 <i>(</i>
Original Message From: (INSD) (FBI) Sent: Wednesday February 28, 2007 1:01 PM To: (OGC) (FBI): (INSD) (FBI); (OGC) (FBI); Subject: RE: Section 215  UNCLASSIFIED NON-RECORD	
Were the documents that ave me also responsive to other items besides #3 and #6 because that is all of the documents that I received so far?	
As for the IOB documents, I received IOB from that pertained to the IOB and NSL request but not the Section 215 audit.  Thanks as usual.  NSL VIO-20094	)

	b2 b6 b70
Original Message From: OGC) (FBI) Sent: Wednesday Enhruary 28, 2007 11:49 AM To: INSD) (FBI) Cc: (INSD) (FBI); (OGC) (FBI); Subject: RE: Section 215	b6 ( <b>одс) (ғв</b> і)
UNCLASSIFIED	
I believe all materials have been provided to you. I think that w which refers to IOBs and can you confirm). In information pertaining to some of the other items in the materia and 06-12.	addition, we have/will provide some
Thanks. <pre>&lt;&lt; File: section 215.pdf &gt;&gt;</pre>	
Original Message From: (INSD) (FBI) Sent: Wednesday, February 28, 2007 10:32 AM To: OGC) (FBI) Cc: (INSD) (FBI); INSD) (FBI) Subject: RE: Section 215	b6 b7C
UNCLASSIFIED NON-RECORD	
Good morning	
	b6 b7C
Thanks for all of your help.	_
Original Message  From: (OGC) (FBI)  Sent: Monday, February 12, 2007 11:00 AM  To: INSD) (FBI)  Cc: INSD) (FBI)  Subject: RE: Section 215	b6 b7C
UNCLASSIFIED NON-RECORD	

Not a problem, but it will probably be something like "documents related to BR #00-06 were provided to OIG." I will pass more information when I have all of the documents collected.

F S T C	Original Message (INSD) (FBI)  ent: Monday, February 12, 2007 10:21 AM  o: OGC) (FBI)  c: (INSD) (FBI)  ubject: RE: Section 215
	INCLASSIFIED ION-RECORD B7C
	b2
	Original Message From: OGC) (FBI) Sent: Mooday Fobry 12, 2007 10:17 AM To: (/INSD) (FBI) Cc: (OGC) (FBI) Subject: RE: Section 215
	UNCLASSIFIED b6 NON-RECORD b70 b2
	We do have some documents. will bring them to you today. In addition, we have several documents  Thank you.
	Original Message From:
	MON-RECORD  Good morning
	I was e-mailing you to check on the status of the OIG audit on Section 215. I know that your office has already contact from the OIG on this request and that your office is working on it but I just wanted to let you know that if you have any responsive documents (to any of the items), you send them to me and I can track them before I send them. We usually do rolling releases for the OIG.
	Let me know what you think.  Thanks in advance for all of your help.
	Inspection Division NSL VIO-20096

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

<u>UNCLASSIFIED</u>

UNCLASSIFIED

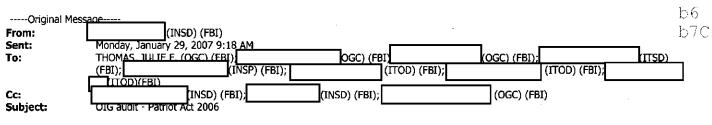
<u>UNCLASSIFIED</u>

<u>UNCLASSIFIED</u>

UNCLASSIFIED

	OGC) (FBI)	
From: Sent: To: Cc:	(OGC) (FBI)  Monday, January 29, 2007 9:24 AM  (OGC) (FBI);  (OGC) (FBI);  (OGC) (FBI);  (OGC) (FBI);  (OGC) (FBI);  (OGC) (FBI);  (OGC) (FBI);	
Subject:	FW: OIG audit - Patriot Act 2006	
UNCLASSIFIED NON-RECORD	ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 07-19-2007 BY 65179 DMH/TAM/KSR/JB	

Please see the attached regarding OIG request. This requires information relating to NSLs, IOBs, PIAs, 2709s and Patriot Act reauthorization.



## UNCLASSIFIED NON-RECORD

Good morning everyone. Here it is again. A new audit on the Patriot Act 2006.

Please take a look at the attached and give me a call if/when you have responsive material so I can turn it over to the OIG. The due date for the attached is Feb. 9, 2007.

Thanks in advance for all of your help and cooperation.



Patriot Act !006.pdf (1,003 KB..

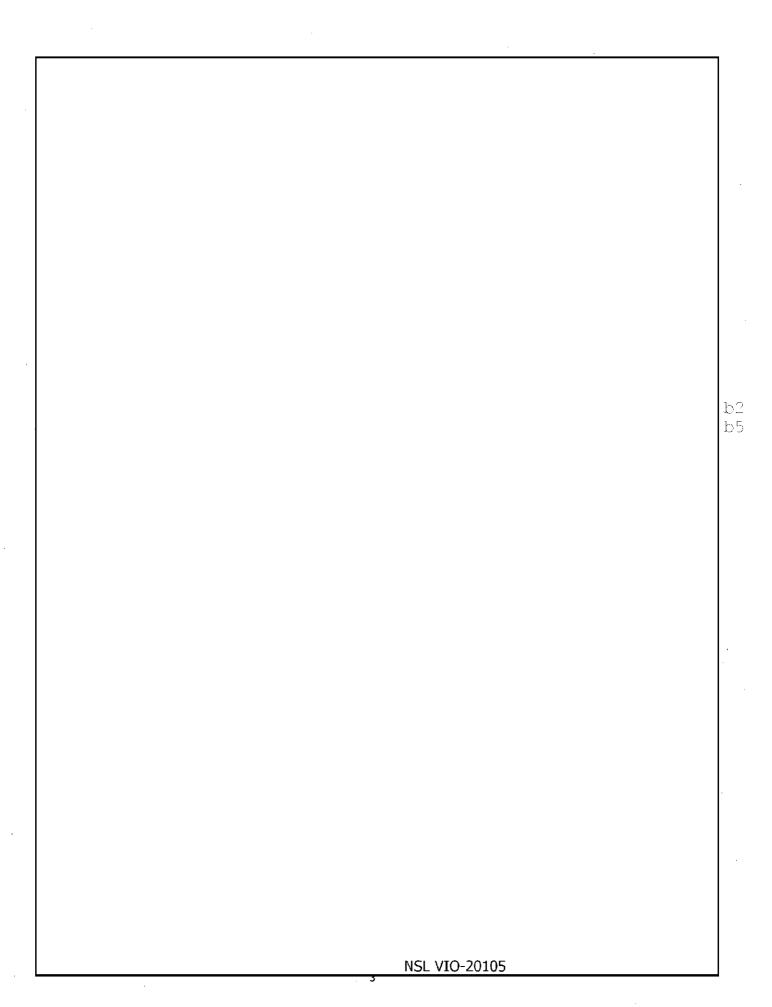
TINSPECTION DIVISION b6
Streetial Request Response Unit (SRRU) b6
b70

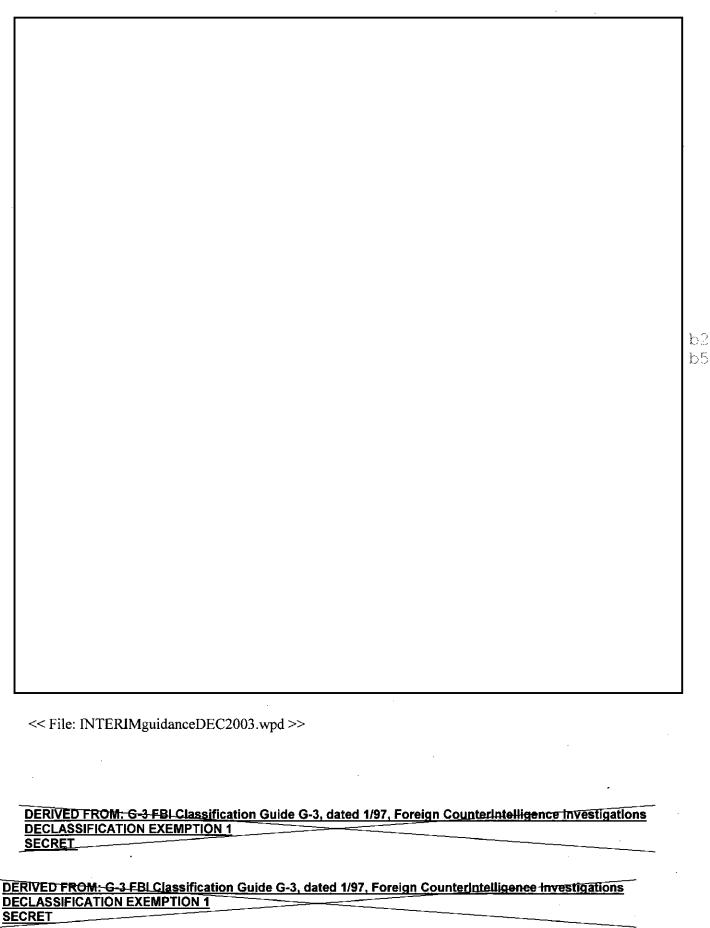
**UNCLASSIFIED** 

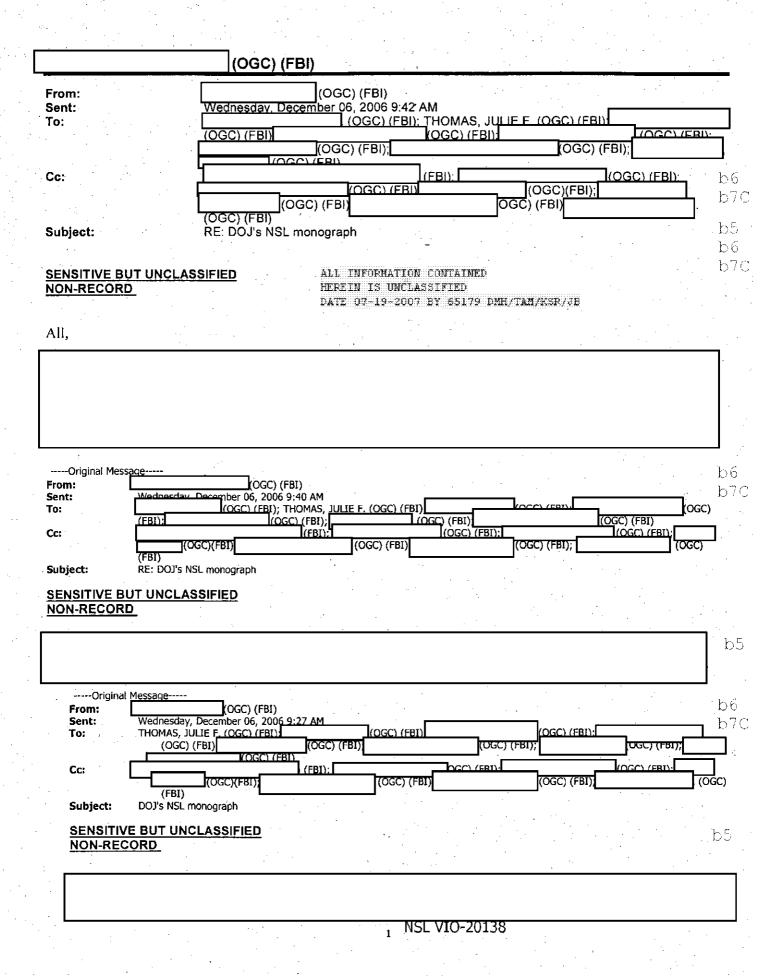
**UNCLASSIFIED** 

	· 	b2 b7E b6
From: Sent: To: Subject:	pgc) (FBI)  FBI)  Wednesday March 28, 2007 2:12 PM  (OGC) (FBI); HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERI (OGC) (FBI)  RE: Further Guidance Relating to IOB Issues	b70
SECRET RECORD JOB	DECLASSIFIED BY 65179 DMH/TAM/KSR/JB ON 07-19-2007  Thanks for your helpful FAQs. Just a few comments in regard to Numbers 7 and 11.	b6 b70
		b.
		 h! b5
		b5 b6 b7 b2 b7
CDC		
Original From: Sent: To: Subject: SECRET RECORS	Message  (OGC) (FBI)  Wednesday, March 28, 2007 11:40 AM  HQ-Div09-NSLB; FBI_ALL CDCs; CAPRONI, VALERIE E. (OGC) (FBI)  Further Guidance Relating to IOB Issues	

b2 b5		
ست الد		
<b>1</b> 4. F.		
307-07		







in Criminal Cases >>				
			•	•
Chief, CLSU/NSLB	<u> </u>			

b2 b6 b7C

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

Amid Concerns, FBI Lapses Went On - washingtonpost.com

Page 1 of 1

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE D7-19-2007 BY 65179 DMM/TAM/KSP/JB

### Amid Concerns, FBI Lapses Went On

Records Collection Brought Internal Questions But Little Scrutiny

By R. Jeffrey Smith and John Solomon Washington Post Staff Writers Sunday, March 18, 2007; A01

FBI counterterrorism officials continued to use flawed procedures to obtain thousands of U.S. telephone: records during a two-year period when bureau lawyers and managers were expressing escalating concerns about the practice, according to senior FBI and Justice Department officials and documents.

FBI lawyers raised the concerns beginning in late October 2004 but did not closely scrutinize the practice until last year, FBI officials acknowledged. They also did not understand the scope of the problem until the Justice Department launched an investigation, FBI officials said.

Under pressure to provide a stronger legal footing, counterterrorism agents last year wrote new letters to phone companies demanding the information the bureau already possessed. At least one senior FBI headquarters official — whom the bureau declined to name — signed these "national security letters" without including the required proof that the letters were linked to FBI counterterrorism or espionage investigations, an FBI official said.

The flawed procedures involved the use of emergency demands for records, called "exigent circumstance" letters, which contained false or undocumented claims. They also included national security letters that were issued without FBI rules being followed. Both types of request were served on three phone companies.

Referring to the exigent circumstance letters, Sen. Charles E. Grassley (R-Iowa) wrote in a letter Fridty to Justice Department Inspector General Glenn A. Fine: "It is . . . difficult to imagine why there should not have been swift and severe consequences for anyone who knowingly signed . . . a letter containing false statements. Anyone at the FBI who knew about that kind of wrongdoing had an obligation to put a stop to it and report it immediately."

A March 9 report by Fine bluntly stated that the FBI's use of the exigency letters "circumvented" the law that governs the FBI's access to personal information about U.S. residents.

The exigency letters, created by the FBI's New York office after the Sept. 11, 2001, attacks, told telephone providers that the FBI needed information immediately and would follow up with subpoents later. There is no basis in the law to compel phone companies to turn over information using such letters, Fine found, and in many cases, agents never followed up with the promised subpoents, he said.

But Fine's report made no mention of the FBI's subsequent efforts to legitimize those actions with improperly prepared national security letters last year.

Fine's report brought a deluge of criticism on the FBI, prompting a news conference at which Director Robert S. Mueller III took responsibility for the lapses. Some lawmakers immediately proposed curtailing the government's expansive anti-terrorism powers under the USA Patriot Act.

In a letter to Fine that was released along with the March 9 report, Mueller acknowledged that the bureau's agents had used unacceptable shortcuts, violated internal policies and made mistakes in their use of exigent circumstance letters.

Mueller also said he had banned the future use of such letters this month, although he defended their value and denied that the agency had intentionally violated the law.

Other FBI officials acknowledged widespread problems but said they involved procedural and documentation failures, not intentional misgathering of Americans' phone records. Mueller ordered a nationwide audit, which began Friday, to determine if the inappropriate use of exigency letters went beyond one headquarters unit.

"We wish, in retrospect, that we had learned about this sooner, corrections had been made and the process was more transparent," FBI Assistant Director John Miller said yesterday.

Fine's report said the bureau's counterterrorism office used the exigency letters at least 739 times between 2003 and 2005 to obtain records related to 3,000 separate phone numbers. FBI officials acknowledged that the process was so flawed that they may have to destroy some phone records to keep them from being used in the future, if the bureau does not find proof they were gathered in connection with an authorized investigation.

Disciplinary action may be taken when the bureau completes an internal audit, a senior FBI official said in an interview at headquarters Friday.

Ann Beeson, an attorney for the ACLU who has sued the FBI in an effort to block some of its data requests, said that if the bureau cannot prove a link between the letters and an ongoing investigation, its requests were "a total fishing expedition."

The FBI agreed that one senior official, who spoke on the condition of anonymity because of forthcoming House and Senate hearings on the matter, would speak for the agency.

Lawmakers have begun to probe who knew about the use of the letters and why the department did not act more swiftly to halt the practice. Grassley asked that Fine turn over to the Senate Judiciary Committee copies of all FBI e-mails related to the letters of demand, as well as transcripts of the interviews Fine conducted on the issue.

The committee has scheduled a hearing for Wednesday, with Mueller as the chief witness. On Tuesday, the House Judiciary Committee intends to question Fine and FBI general counsel Valerie Caproni.

FBI and Justice Department officials said most of the letters at issue were drafted by the Communications Analysis Unit (CAU), which comprises about a dozen people assigned to analyze telephone records and other communications for countenerrorism investigators. They sent the secret requests to three companies — AT&T, Verizon and a third firm whose identity could not be learned. Since the 2001 terrorist attacks, the FBI has been paying the companies' cost of supplying such records almost instantaneously in a form that its agents can readily examine, according to the report and the senior FBI official.

In each letter, the FBI asserted that "due to exigent circumstances, it is requested that records for the attached list of telephone numbers be provided." The bureau promised in most of the letters that subpoenas for the same information "have been submitted to the U.S. Attorney's office who will process and serve them formally."

But the inspector general's probe concluded that many of the letters were "not sent in exigent circumstances" and that "there sometimes were no open or pending national security investigations field

Amid Concerns, FBI Lapses Went On - washingtonpost.com

Page 3 of 1

to the request," contrary to what U.S. law requires. No subpoenas had actually been requested before the letters were sent. The phone companies nonetheless promptly turned over the information, in anticipation of getting a more legally viable document later, FBI officials said.

The use of such letters was virtually "uncontrolled," said an FBI official who was briefed on the issue in early 2005. By that fall, CAU agents had begun creating spreadsheets to track phone records they had collected for a year or more that were not covered by the appropriate documents, according to FBI e-mails and interviews with officials.

A spokesman for AT&T declined to discuss the topic, referring questions to the FBI. Verizon spokesman Peter Thonis, who would not confirm nor deny the existence of an FBI contract with his firm, said that "every day Verizon subpoena units respond to emergency requests from federal, state an i local law enforcement for particular calling records. After 9/11, of course, Verizon responded to FBI emergency requests in terrorist matters, and we had every reason to believe they were legitimate emergency situations."

The inspector general's report said that the wording of the exigency letters was copied from a standard letter that the FBI's New York office used to obtain urgently needed records after the 2001 terrorist bombings. When officials from that office were later reassigned to create the CAU in Washington, the senior FBI official said, "they brought their business practices with them" and continued to use the same letter "for reasons that I cannot explain."

But the unit was not authorized under FBI rules to make such requests, and from the outset in 2003 it asked FBI field offices to submit the promised legal follow-up documents. The offices rarely did so speedily, and in many cases ignored the request altogether.

"In practice, if you have already got the records, the incentive to do the paperwork is reduced," the senior FBI official said.

When a lawyer in the FBI's national security law branch, Patrice Kopistansky, noted in late 2004 that the proper legal justifications were frequently missing or extremely late, she did not advise agents to "change their process," the senior official said. "Our advice was instead to . . . use these letters only ir true emergencies" and institute "covering practices."

These included ensuring that the bureau's agents had opened a related investigation and promptly sen: a formal national security letter to provide legal backing for the demand.

Bassem Youssef, who currently heads the CAU, raised concerns about the tardy legal justifications shortly after he was assigned to the job in early 2005, according to his lawyer, Steve Kohn.

"He discovered they were not in compliance, and then be reported that to his chain of command. They defended the procedures and took no action," Kohn said, adding that "their initial response was to deny the scope of the problem."

Youssef has battled the FBI in court over whether he was denied a promotion because of discrimination based on his ethnicity.

Eventually, the general counsel's office organized a meeting at headquarters on Sept. 26, 2005, where the bureau considered a work-around: Its lawyers proposed creating special, catch-all investigative f.les that could be used to authorize quick phone-records seizures that did not involve open field

' Amid Concerns, FBI Lapses Went On - washingtonpost.com

Page 4 of 4

investigations.

But one official at the meeting, Youssef, argued that genuine emergency requests for the records "were few and far between," according to an e-mail summarizing the meeting that was reviewed by The Washington Post, and the idea was never implemented. The account referred to efforts by one of the bureau's top lawyers to brief "higher ups" in the agency about the problem.

"At some point, they told us there were not that many such letters" still in use, the senior official said.
"We believed the problem had resolved itself... in retrospect, it never got resolved."

One reason that FBI officials did not act more quickly is that Kopistansky and others in the general counsel's office did not review until May 2006 copies of any of the exigent circumstances letters sent to the phone companies from 2003 to 2005. As a result, they were unaware that some of the letters contained false statements about forthcoming subpoenas and urgent deadlines, the senior official said.

Bureau officials ultimately decided to "clean up" the problem by writing seven national security letters designed to provide legal backing for all the telephone records requests that still needed it, the senior FBI official said. In every case, these requests in 2006 covered records already in the FBI's possession and lacked the required cover memos spelling out the investigative requirements for the requests.

At no time did senior FBI officials outside the communications unit attempt to tally how often the exigent circumstances letters had been used, with the result that Mueller and others in senior management did not learn about the scope of the problem until two months ago, when Fine informed them, the senior official said.

#### U.S. Department of Justice



#### Federal Bureau of Investigation

Washington, D. C. 20535-0001

[DRAFTING DIVISION]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
[MONTH, DAY, YEAR]

[MR./MRS./MS.] [COMPLETE NAME OF POC]
[TITLE, IF AVAILABLE]
[NAME OF COMPANY]
[PHYSICAL STREET ADDRESS - NO P.O. BOX]
[CITY, STATE - NO ZIP CODE]

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 07-19-2007 BY 65179 DMH/TAM/KSR/JB

DEAR [MR./MRS./MS.] [LAST NAME]:

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 Privacy Act of 1986) (as amended), you are hereby directed to provide to the Federal Bureau of Investigation (FBI) the name, address, length of service, and local and long distance toll billing records associated with the following:

[NAME, IF KNOWN]

[ADDRESS, IF KNOWN]

[TELEPHONE NUMBER(S), IF KNOWN (000) 000-000]:

[RELEVANT TIME PERIOD]: [ON SPECIFIC DATE(S)]

or [FROM [SPECIFIC DATE] to [[SPECIFIC DATE]
or [PRESENT]]

Please see the attachment following this letter for the types of information that you might consider to be a toll billing record.

If the time period noted above is to the "present," that term is intended to direct production of information to the date of the processing of this letter. If providing information to the date of processing is not feasible, please provide information to the date of receipt of this letter.

In accordance with Title 18, U.S.C., Section 2709(b), I certify that the information sought is relevant to an authorized

investigation to protect against international terrorism or clandestine intelligence activities, and that such an investigation of a United States person is not conducted solely on the basis of activities protected by the First Amendment to the Constitution of the United States.

[Certification: The nondisclosure requirement is not an automatic feature of the NSL. If the supporting EC for this NSL included Option 1 (Invoking the Nondisclosure Requirement) then include the language in the following 3 paragraphs in the NSL.]

In accordance with 18 U.S.C. § 2709(c)(1), I certify that a disclosure of the fact that the FBI has sought or obtained access to the information sought by this letter may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of a person. Accordingly, 18 U.S.C. § 2709(c)(1) and (2) prohibits you, or any officer, employee, or agent of yours, from disclosing this letter, other than to those to whom disclosure is necessary to comply with the letter or to an attorney to obtain legal advice or legal assistance with respect to this letter.

In accordance with 18 U.S.C. § 2709(c)(3), you are directed to notify any persons to whom you have disclosed this letter that they are also subject to the nondisclosure requirement and are therefore also prohibited from disclosing the letter to anyone else.

In accordance with 18 U.S.C. § 2709(c)(4), if the FBI asks for the information, you should identify any person to whom such disclosure has been made or to whom such disclosure will be made. In no instance will you be required to identify any attorney to whom disclosure was made or will be made in order to obtain legal advice or legal assistance with respect to this letter.

#### [Include the following language in all NSLs.]

In accordance with 18 U.S.C. § 3511(a) and (b)(1), you have a right to challenge this letter if compliance would be unreasonable, oppressive, or otherwise unlawful, and you have the right to challenge the nondisclosure requirement, if one is set forth above.

In accordance with 18 U.S.C. § 3511(c), an unlawful failure to comply with this letter, including any nondisclosure requirement, may result in the United States bringing an enforcement action.

You are directed to provide records responsive to this letter [personally to a representative of the [DELIVERING DIVISION] OR through use of a delivery service to [OFFICE OF ORIGIN] OR through secure facsimile] within [xxxx] business days of receipt of this letter.

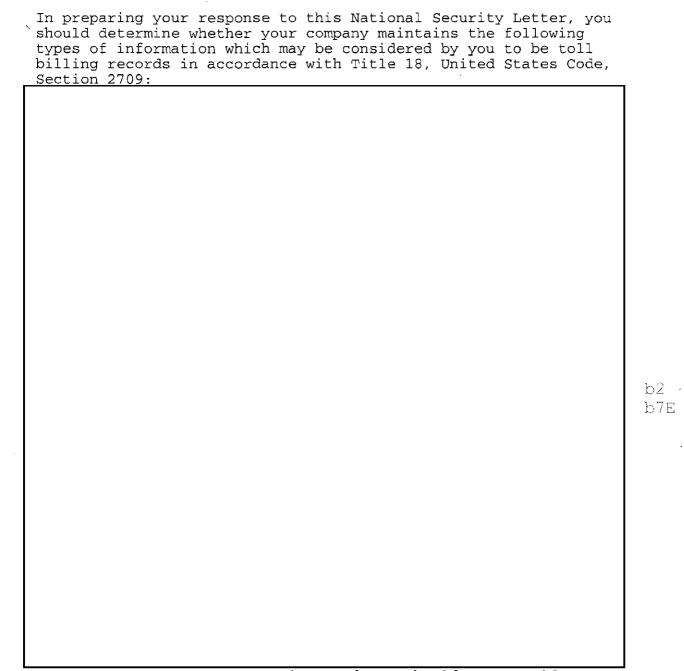
Any questions you have regarding this letter should be directed only to the [[DELIVERING DIVISION] OR [OFFICE OF ORIGIN], depending on whether service is personal or through a delivery service]. Due to security considerations, you should neither send the records through routine mail service nor non-secure fax, nor disclose the substance of this letter in any telephone conversation.

Your cooperation in this matter is greatly appreciated.

Sincerely yours,

[ADIC/SAC NAME]
[ASSISTANT DIRECTOR IN CHARGE/.
SPECIAL AGENT IN CHARGE]

ATTACHMENT



We are not requesting, and you should not provide, information pursuant to this request that would disclose the content of any wire communication, as "content" is defined in Title 18, United States Code, Section 2510(8).

# FEDERAL BUREAU OF INVESTIGATION FOIPA

#### DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

- Total Deleted Page(s) ~ 63 Page 2 ~ Duplicate Page 3 ~ Duplicate
- Page 4  $\sim$  Duplicate Page 5  $\sim$  Duplicate
- Page 6 ~ Duplicate
- Page 11 ~ Outside the Scope
- Page 12 ~ Outside the Scope
- Page 14  $\sim$  Outside the Scope
- Page 15 ~ Outside the Scope
- Page 21 ~ Duplicate
- Page 22 ~ Duplicate
- Page 23  $\sim$  Duplicate
- Page 24 ~ Duplicate
- Page 25 ~ Duplicate
- Page 26 ~ Duplicate
- Page  $27 \sim \text{Duplicate}$
- Page 28 ~ Duplicate
- Page 29 ~ Duplicate
- Page 30 ~ Duplicate
- Page 31 ~ Duplicate
- Page 32 ~ Duplicate
- Page 33 ~ Duplicate
- Page 34 ~ Duplicate
- Page 35 ~ Duplicate
- Page 36 ~ Duplicate
- Page 37 ~ Duplicate
- Page 38 ~ Duplicate
- Page  $39 \sim \text{Duplicate}$
- Page 40 ~ Duplicate
- Page 41  $\sim$  Duplicate
- Page 42 ~ Duplicate
- Page 43 ~ Duplicate
- Page 44 ~ Duplicate
- Page 45 ~ Duplicate
- Page 46 ~ Duplicate
- Page 47 ~ Duplicate
- Page 48 ~ Duplicate
- Page 49  $\sim$  Duplicate
- Page 50  $\sim$  Duplicate Page 51  $\sim$  Duplicate
- Page 58 ~ Outside the Scope
- Page 59 ~ Outside the Scope
- Page 64 ~ Duplicate
- Page 65 ~ Duplicate

- Page 66 ~ Duplicate
- Page  $67 \sim \text{Duplicate}$
- Page 68 ~ b5
- Page 69 ~ b5
- Page 70 ~ b5
- Page 71 ~ b5
- Page 72 ~ b5 Page 73 ~ b5
- Page 74 ~ b5
- Page 75 ~ b5
- Page 76  $\sim$  Duplicate
- Page  $77 \sim \text{Duplicate}$
- Page  $78 \sim \text{Duplicate}$
- Page 79 ~ Duplicate
- Page 80 ~ Duplicate
- Page 81  $\sim$  Duplicate
- Page 82 ~ Duplicate
- Page 83 ~ Duplicate
- Page 84 ~ Duplicate