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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/30/2004

To: Director's Office
Counterterrorism

Attn: OPR

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

UC, CONUS III
SAC; CDC
SAC; CDC

[Redacted]

From: General Counsel
National Security Law Branch
Counterterrorism Law Unit I/Room 7975

Contact: [Redacted] (202) 324-[Redacted]

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Approved By: Curran John F

DATE: 11-19-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: E.O. 14176 (c)
DECLASSIFY ON: 11-19-2032

Drafted By: [Redacted]

(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending) Serial 502

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2004-[Redacted]

(U) Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that the above referenced matter does not need to be reported to the Intelligence Oversight Board (IOB). Our analysis follows.

(U) ~~(S) Derived From: FBI SCG G-1, October 1, 1997
Declassify On: June 29, 2029~~

(U) References: (S) 278-HQ-C1229736-VIO Serial 401

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Details: (S) As discussed in the referenced electronic communication (EC), on 2/13/2003, the [Redacted] Division [Redacted]
[Redacted]
"United States person" as that term is defined in Section 1801(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. Section 1801 et seq. [Redacted]

(S) [Redacted] Due to administrative backlog and the subsequent three day holiday weekend, captioned matter was not administratively closed in ACS until [Redacted]

~~SECRET~~

(U) To: ~~Director's Office~~ From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

(U) (S) On 11/07/2003, [redacted] set a routine lead to the [redacted] Division [redacted] to serve a National Security Letter (NSL) in this case. [redacted] served the NSL to the telephone provider [redacted] on 11/14/2003, but [redacted] did not provide the requested telephone records to [redacted] until 02/27/2004, after the [redacted] administrative closure [redacted] of this investigation.

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(U) (S) On 03/03/2004, [redacted] notified [redacted] that they had received the telephone toll records requested by [redacted] NSL, but a check of ACS revealed that [redacted] had closed the investigation. [redacted] subsequently forwarded the collected telephone records to [redacted]. Without reviewing the telephone records, [redacted] sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file.

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(U) (S) Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. For the reasons discussed below, this matter need not be reported to the IOB.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 13, 1993, mandates that Inspectors General and General Counsels of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive". This language was adopted verbatim from E.O. 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (FCIG),¹ or other guidelines

(U) ¹ (S) The FCIG was superseded on October 31, 2003, by the Attorney General's Guidelines for FBI National Security

(U) To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

or regulations approved by the Attorney General in accordance with E.O. 12333, dated December 4, 1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(S) ~~(S)~~ [redacted] The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) authorize the use of National Security Letters in [redacted]

[redacted] Pursuant to this authority, on 11/07/2003 [redacted] lawfully issued a NSL for [redacted] that requested telephone records in this case. On 11/14/2003, [redacted] properly served the NSL on [redacted] subsequent failure to cancel this lead at the time they closed the case was an administrative error that did not affect the lawfulness of the previously served NSL. [redacted] properly sealed and archived the telephone records received from the NSL because the case was no longer open at the time of their receipt.

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

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

Investigations and Foreign Intelligence Collection (NSIG).

~~SECRET~~

(U) To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

~~SECRET~~

(U)

To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

LEAD (s)

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OER, FO, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

[Redacted]

AT [Redacted]

(U) Read and clear.

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Set Lead 4: (Action)

[Redacted]

AT [Redacted]

(U) Read and clear.

1 - Mr. Curran

1 - [Redacted]
1 - [Redacted]

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~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/29/2004

To: Director's Office
Counterterrorism

Attn: OPR
UC, CONUS III
SAC; CDC
SAC; CDC

[Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

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From: General Counsel
National Security Law Branch
Counterterrorism Law Unit T/Room 7975

Contact: [Redacted] (202) 324-[Redacted]

Approved By: Curran John F

DATE: 11-19-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (C)
DECLASSIFY ON: 11-19-2032

Drafted By: [Redacted]

(U)

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

(U)

b2 Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2004-[Redacted]

(U)

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

(U)

~~(S) Derived From: FBI SCG G-1, October 1, 1997
Declassify On: June 28, 2029~~

(U)

References: (S) 278-HQ-C1229736-VIO Serial 401

(S)

Details: (S) As discussed in the referenced electronic communication (EC), [Redacted] Division [Redacted]

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[Redacted] a
"United States person" as that term is defined in section 1801(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. Section 1801 et seq. [Redacted]

[Redacted] Due to administrative backlog and the subsequent [Redacted] captioned matter was not administratively closed in ACS until [Redacted]

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To: Director's Office From: General Counsel
(U) Re: ~~(S)~~ 278-HQ-C1229736-V10, 06/29/2004

(U) ~~(S)~~ On 11/07/2003, [redacted] set a routine lead to the [redacted] Division [redacted] to serve a National Security Letter (NSL) in this case. [redacted] served the NSL to the telephone provider [redacted] on 11/14/2003, but [redacted] did not provide the requested telephone records to [redacted] until 02/27/2004, after [redacted] administrative closure [redacted] of this investigation.

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(U) ~~(S)~~ On 03/03/2004, [redacted] notified [redacted] that they had received the telephone toll records requested by [redacted] NSL, but a check of ACS revealed that [redacted] had closed the investigation. [redacted] subsequently forwarded the collected telephone records to [redacted]. Without reviewing the telephone records, [redacted] sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file.

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

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

~~(U)~~ (S) [redacted] The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) authorize the use of National Security Letters [redacted]
[redacted]

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(U) ~~(S)~~ In this case, [redacted] NSL with [redacted] should have been rescinded on [redacted] or on [redacted] when the investigation was closed. However, due to administrative oversight, [redacted] was not notified that [redacted]

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(U)

To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/29/2004

had closed the investigation and that [redacted] NSL should be rescinded. The FBI's receipt of telephone records in this case from [redacted] on 02/27/2004 was unauthorized because there was no open investigation on the subject at that time. Consequently, in accordance with E.O. 12863 and Section 2-56 of the NEIPM, this error must be reported to the IOB, which this office will do.

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To: ~~Director's Office~~ From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/29/2004

(U)

LEAD (s)

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR, FO, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

[Redacted]

AT

[Redacted]

(U) Read and clear.

Set Lead 4: (Action)

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[Redacted]

AT

[Redacted]

(U) Read and clear.

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1 - Mr. Curran

[Redacted]

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INTELLIGENCE OVERSIGHT BOARD (IOB) MATTER
[redacted] DIVISION
2004-[redacted] (U)

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(S) Investigation of this IOB matter has determined that, [redacted] Division [redacted] a "United States person" as that term is defined in Section 1801(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. Section 1801 et seq. [redacted]

(S) [redacted] due to administrative backlog and the subsequent [redacted] weekend, the investigative case was not administratively closed until [redacted]. On November 07, 2003, [redacted] set a routine lead to the [redacted] Division [redacted] to serve a National Security Letter (NSL) in this case. [redacted] served the NSL to the telephone provider [redacted] on November 14, 2003, but [redacted] did not provide the requested telephone records to [redacted] until February 27, 2004, after [redacted] administrative closure [redacted] of this investigation. On March 3, 2004, [redacted] notified [redacted] that they had received the telephone toll records requested by [redacted] NSL, but that [redacted] [redacted] had subsequently discovered that [redacted] had closed the investigation. [redacted]

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The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) authorize the use of National Security Letters [redacted]. Thus, the FBI's receipt of telephone records in this case from [redacted] on February 27, 2004 was unauthorized because there was no open investigation on the subject at that time. As corrective action, [redacted] subsequently forwarded the collected telephone records to [redacted]. Without reviewing the telephone records, [redacted] sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file. This matter has been referred to the FBI's Office of Professional Responsibility for action deemed appropriate (S).

~~Derived from: FBI SCG G-3
Declassify on: June 28, 2029~~

DATE: 11-19-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4.(c)
DECLASSIFY ON: 11-19-2032

~~SECRET~~

NSL VIO-34297

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

BY COURIER

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

Dear General Scowcroft:

Enclosed for your information is a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, 2004 [redacted]"

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

Enclosure

- 1 - Mr. Curran
- 1 - [redacted]
- 1 - [redacted]
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 11-19-2007

~~Derived from : FBI SSG G-3
Declassify on: June 28, 2029~~

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NSL VIO-34298

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General Brent Spowcroft (USAF Retired)

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

Sincerely,

John F. Curran
Deputy General Counsel

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

- 2 -

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NSL VIO-34299

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/30/2004

To: Director's Office
Counterterrorism

Attn: OPR
UC, CONUS III
SAC; CDC
SAC; CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

From: [Redacted]
General Counsel
National Security Law Branch
Counterterrorism Law Unit I/Room 7975

Contact: [Redacted] (202) 324-[Redacted]

Approved By: Curran John F

DATE: 11-19-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-19-2032

Drafted By: [Redacted]

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(U) Case ID #: (S) 278-HQ-C1229736-VIO (Pending) Serial 502

(U) Title: (S) INTELLIGENCE OVERSIGHT BOARD
b2 MATTER 2004 [Redacted]

(U) Synopsis: (S) It is the opinion of the Office of the General Counsel (OGC) that the above referenced matter does not need to be reported to the Intelligence Oversight Board (IOB). Our analysis follows.

(U) ~~(S) Derived From: FBI SCG G-1, October 1, 1997
Declassify On: June 29, 2029~~

(U) References: (S) 278-HQ-C1229736-VIO Serial 401

Details: (S) As discussed in the referenced electronic communication (EC), [Redacted] Division [Redacted]

(S) [Redacted] a
"United States person" as that term is defined in Section 1801(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. Section 1801 et seq. [Redacted]

(S) [Redacted] Due to administrative backlog and the subsequent [Redacted] weekend, captioned matter was not administratively closed in ACS until [Redacted]

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(U) To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

(U) ~~(S)~~ On 11/07/2003, [redacted] set a routine lead to the [redacted] Division [redacted] to serve a National Security Letter (NSL) in this case. [redacted] served the NSL to the telephone provider [redacted] on 11/14/2003, but [redacted] did not provide the requested telephone records to [redacted] until 02/27/2004, after [redacted] administrative closure [redacted] of this investigation.

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(U) ~~(S)~~ On 03/03/2004, [redacted] notified [redacted] that they had received the telephone toll records requested by [redacted] NSL, but a check of ACS revealed that [redacted] had closed the investigation. [redacted] subsequently forwarded the collected telephone records to [redacted]. Without reviewing the telephone records, [redacted] sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file.

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(U) ~~(S)~~ Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. For the reasons discussed below, this matter need not be reported to the IOB.

(U) Section 2.4 of Executive Order (E.O.) 12863, dated September 13, 1993, mandates that Inspectors General and General Counsels of the Intelligence Community components (in the FBI, the Assistant Director, Inspection Division, and the General Counsel, OGC, respectively) report to the IOB "concerning intelligence activities that they have reason to believe may be unlawful or contrary to Executive order or Presidential directive". This language was adopted verbatim from E.O. 12334, dated December 4, 1981, when the IOB was known as the President's Intelligence Oversight Board (PIOB). By longstanding agreement between the FBI and the IOB (and its predecessor, the PIOB), this language has been interpreted to mandate the reporting of any violation of a provision of the Attorney General Guidelines for FBI Foreign Intelligence Collection and Foreign Counterintelligence Investigations (FCIG),¹ or other guidelines

(U) ~~(S)~~ The FCIG was superseded on October 31, 2003, by the Attorney General's Guidelines for FBI National Security

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(U) To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

or regulations approved by the Attorney General in accordance with E.O. 12333, dated December 4, 1981, if such provision was designed in full or in part to ensure the protection of the individual rights of U.S. persons. Violations of provisions that are essentially administrative in nature need not be reported to the IOB. The FBI is required, however, to maintain records of such administrative violations so that the Counsel to the IOB may review them upon request.

(U)

~~(S)~~ [redacted] The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) authorize the use of National Security Letters [redacted]

[redacted] Pursuant to this authority, on 11/07/2003, [redacted] lawfully issued a NSL for [redacted] that requested telephone records in this case. On 11/14/2003, [redacted] properly served the NSL on [redacted] subsequent failure to cancel this lead at the time they closed the case was an administrative error that did not affect the lawfulness of the previously served NSL. [redacted] properly sealed and archived the telephone records received from the NSL because the case was no longer open at the time of their receipt.

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(U)

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

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

Investigations and Foreign Intelligence Collection (NSIG).

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(U) To: ~~Director's Office~~ From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/30/2004

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(U)

To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VTO, 06/30/2004

LEAD (s)

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR, FC, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

[Redacted]

AT

[Redacted]

(U) Read and clear.

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Set Lead 4: (Action)

[Redacted]

AT

[Redacted]

(U) Read and clear.

1 - Mr. Curran

1 - [Redacted]

1 - [Redacted]

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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 06/29/2004

To: Director's Office
Counterterrorism

Attn: OPR

UC, CONUS III
SAC; CDC
SAC; CDC

ALL INFORMATION CONTAINED
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WHERE SHOWN OTHERWISE

[Redacted]

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From: General Counsel
National Security Law Branch
Counterterrorism Law Unit I/Room 7975

Contact: [Redacted] (202) 324-[Redacted]

Approved By: Curran John F

[Redacted]

DATE: 11-19-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-19-2032

Drafted By:

(U)

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

Title: (S) INTELLIGENCE OVERSIGHT BOARD
MATTER 2004 [Redacted]

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

(U)

(U)

~~Derived From: FBI SCG G-1, October 1, 1997
Declassify On: June 28, 2029~~

References: (S) 278-HQ-C1229736-VIO Serial 401

(U)

Details: (S) As discussed in the referenced electronic communication (EC), [Redacted] Division [Redacted]

(S)

[Redacted] a
"United States person" as that term is defined in Section 1801(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. Section 1801 et seq.

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[Redacted] Due to administrative backlog and the subsequent [Redacted] weekend, captioned matter was not administratively closed in ACS until [Redacted]

(S)

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To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/29/2004

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(U)

~~(S)~~ On 11/07/2003, [redacted] set a routine lead to the [redacted] Division [redacted] to serve a National Security Letter (NSL) in this case. [redacted] served the NSL to the telephone provider [redacted] on 11/14/2003, but [redacted] did not provide the requested telephone records to [redacted] until 02/27/2004, after [redacted] administrative closure [redacted] of this investigation.

(U)

~~(S)~~ On 03/03/2004, [redacted] notified [redacted] that they had received the telephone toll records requested by [redacted] NSL, but a check of ACS revealed that [redacted] had closed the investigation. [redacted] subsequently forwarded the collected telephone records to [redacted]. Without reviewing the telephone records, [redacted] sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file.

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(U)

~~(S)~~ Section 2-56 of the National Foreign Intelligence Program Manual (NFIPM) requires OGC to determine whether the facts related above are required to be reported to the IOB. They must.

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

(U)

~~(S)~~ [redacted] The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) authorize the use of National Security Letters in [redacted]

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(U)

~~(S)~~ In this case, [redacted] NSL with [redacted] should have been rescinded on [redacted] or on [redacted] when the investigation was closed. However, due to administrative oversight, [redacted] was not notified that [redacted]

~~SECRET~~

(U) To: ~~Director's Office~~ From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VIO, 06/29/2004

had closed the investigation and that [redacted] NSL should be rescinded. The FBI's receipt of telephone records in this case from [redacted] on 02/27/2004 was unauthorized because there was no open investigation on the subject at that time. Consequently, in accordance with E.O. 12963 and Section 2-56 of the NEIPM, this error must be reported to the IOE, which this office will do.

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~~SECRET~~

(U) To: Director's Office From: General Counsel
Re: ~~(S)~~ 278-HQ-C1229736-VTO, 06/29/2004

LEAD (s)

Set Lead 1: (Action)

DIRECTOR'S OFFICE

AT OPR, FC, DC

(U) For action deemed appropriate.

Set Lead 2: (Action)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) Read and clear.

Set Lead 3: (Action)

[Redacted]

AT [Redacted]

(U) Read and clear.

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Set Lead 4: (Action)

[Redacted]

AT [Redacted]

(U) Read and clear.

1 - Mr. Curran

1 - [Redacted]
1 - [Redacted]

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INTELLIGENCE OVERSIGHT BOARD (IOE) MATTER

[redacted] DIVISION
2004-[redacted] (U)

(S)

Investigation of this IOE matter has determined that, [redacted] Division [redacted]

[redacted] a "United States person" as that term is defined in Section 1801(i) of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. Section 1801 et seq. [redacted]

(S)

[redacted] Due to administrative backlog and the subsequent [redacted] weekend, the investigative case was not administratively closed until [redacted]. On November 07, 2003, [redacted] set a routine lead to the [redacted] Division [redacted] to serve a National Security Letter (NSL) in this case. [redacted] served the NSL to the telephone provider [redacted] on November 14, 2003, but [redacted] did not provide the requested telephone records to [redacted] until February 27, 2004, after [redacted] administrative closure [redacted] of this investigation. On March 3, 2004, [redacted] notified [redacted] that they had received the telephone toll records requested by [redacted] NSL, but that [redacted] [redacted] had subsequently discovered that [redacted] had closed the investigation. [redacted]

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The Attorney General's Guidelines for FBI National Security Investigations and Foreign Intelligence Collection (NSIG) authorize the use of National Security Letters in [redacted]. Thus, the FBI's receipt of telephone records in this case from [redacted] on February 27, 2004 was unauthorized because there was no open investigation on the subject at that time. As corrective action, [redacted] subsequently forwarded the collected telephone records to [redacted]. Without reviewing the telephone records, [redacted] sealed the telephone records in an envelope and archived the sealed envelope within the closed investigation file. This matter has been referred to the FBI's Office of Professional Responsibility for action deemed appropriate (S).

~~Derived from: FBI SCG G-3
Declassify on: June 28, 2029~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

DATE: 11-19-2007
CLASSIFIED BY: 65179/DNH/KSR/RW
REASON: 1.4.(c)
DECLASSIFY ON: 11-19-2032

~~SECRET~~

NSL VIO-34309

BY COURIER

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

Dear General Scowcroft:

Enclosed for your information is a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, 2004 [redacted]"

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

Enclosure

- 1 - Mr. Curran
- 1 - [redacted]
- 1 - [redacted]
- 1 - [redacted]
- 1 - 278-HQ-C1229736-VIO

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~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 11-19-2007

~~Derived from : FBI SOG G-3
Declassify on: June 28, 2029~~

~~SECRET~~

NSL VIO-34310

~~SECRET~~

General Brent Spowcroft (USAF Retired)

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

Sincerely,

John F. Curran
Deputy General Counsel

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

- 1 - Mr. James Baker
Counsel, Office of Intelligence Policy and Review
U.S. Department of Justice
Room 6150

- 2 -

~~SECRET~~

NSL VIO-34311

~~SECRET~~

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 03/04/2004

To: Counterterrorism

Attn: ITOS 1, Group 3, Team 12,
SSA [redacted]

Office of General Council

Attn: NSLB, Room 7975,
[redacted]

From: [redacted]

Attn: CDC

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

Contact: SA [redacted]

Approved By: [redacted]

DATE: 11-19-2007
CLASSIFIED BY: 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-19-2032

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Drafted By: [redacted]

(U) **Case ID #:** ~~(S)~~ 278-HQ-1229736-VIO (Pending)

(U) **Title:** ~~(S)~~ SSA [redacted]
SA [redacted]
[redacted] DIVISION;
ICB

(U) **Synopsis:** ~~(S)~~ Reporting of possible violation of the Attorney General Guidelines (AGGs) for FBI National Security Investigations and Foreign Intelligence Collection, which may be a reportable violation to the Intelligence Oversight Board (IOB).

Details: (S) [redacted]

[redacted] Division
[redacted] administratively
closed by case agent, via Electronic Communication (EC) dated
[redacted] on [redacted]. Due to
administrative backlog and the subsequent [redacted]
weekend, captioned matter was not administratively closed in ACS

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~~SECRET~~

To: Counterterrorism From: [redacted]
Re: 278-HQ-C1229736 03/04/2004

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until [redacted] Division, [redacted] responsible for closing [redacted] in ACS discovered the investigation had one outstanding lead to [redacted] Division for service of a National Security Letter (NSL) for subscriber information and telephone toll records.

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(U) Due to administrative oversight, [redacted] Division, [redacted] failed to discontinue this outstanding lead to the [redacted] Division prior to drafting the closing EC. On 02/18/2004, the outstanding lead to [redacted] Division was discontinued in ACS by [redacted] Division, but no further direct notification to [redacted] Division was made. At that time, [redacted] Division incorrectly assumed the lead had been discontinued and no further investigation was being conducted.

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(U) [redacted] (S) On 03/03/2004, [redacted] Division contacted [redacted] Division, [redacted] and notified that they had served an NSL in support of [redacted] captioned [redacted] were in receipt of telephone toll records, but a check of ACS had revealed that the matter had been administratively closed by [redacted] Division.

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(U) [redacted] (S) Subsequent checks of ACS revealed that a routine lead was set by [redacted] Division to [redacted] Division to serve the NSL on 11/07/2003 (set in ACS), and assigned at [redacted] Division on 11/10/2003 (routine lead coverage within 60 days). [redacted] Division served the NSL to the telephone provider [redacted] on 11/14/2003, but [redacted] did not provide the requested telephone records until 02/27/2004. The date that [redacted] Division obtained the records was after [redacted] administrative closure of this investigation. [redacted] Division is forwarding the collected telephone records to [redacted] Division. Upon receipt of information from [redacted] no [redacted] personnel will open and/or review the enclosed material. The material will remain in a sealed envelope and be archived within the closed investigative file.

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~~SECRET~~

~~SECRET~~

To: Counterterrorism From: [redacted]
Re: 278-HQ-C1229736 03/04/2004

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LEAD(s) :

Set Lead 1: (Info)

COUNTERTERRORISM

AT WASHINGTON, DC

(U) ~~(S)~~ For ITOS 1, Conus 3, Team 12: Read and clear.

Set Lead 2:

COUNTERTERRORISM

AT WASHINGTON, DC

(U) ~~(S)~~ For Office of General Council (OGC), NSLB:
Referred as possible IOB violation, for appropriate action.

Set Lead 3: (Info)

[redacted]

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b7E

AT [redacted]

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

♦♦

~~SECRET~~

From: [redacted] (OGC) (FBI)
Sent: Thursday, March 09, 2006 4:02 PM
To: HQ-DIV09-OGC; FBI_ALL CDCs; FBI_SAC's; HQ-DIV05-ALL EMPLOYEES;
HQ-DIV13-ALL EMPLOYEES; HQ-DIV16-ALL EMPLOYEES
Subject: New National Security Letter Signature Delegation Authority and new
EC/NSL ponies

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Importance: High

~~SECRET~~

RECORD 319X-HQ-A1487720-OGC

The Director approved an EC this afternoon delegating new signature authorities for National Security NSLs implementing the reauthorized PATRIOT Act. The EC is on the NSLB website along with new ponies for ECs and NSLs. **THE PRIOR EC FORMATS AND NSL FORMATS SHOULD NO LONGER BE USED.**

See attached link.

Please disseminate as appropriate.

[redacted]

b2

[redacted]

Assistant General Counsel
National Security Law Policy and Training Unit
National Security Law Branch
Office of the General Counsel, FBI, JEH, Room 7947
202-324-[redacted]
Unclassified email [redacted]
SIPRnet [redacted]

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b2

[redacted]

This is a Privileged Attorney-Client/Attorney Work Product Communication

~~**DERIVED FROM: Multiple Sources**~~
~~**DECLASSIFY ON: 20160309**~~
~~**SECRET**~~

DECLASSIFIED BY 65179/DMH/KSR/RM
ON 11-19-2007

NSL VIO-34346



U.S. Department of Justice

Federal Bureau of Investigation

~~SECRET~~

Washington, D. C. 20535-0001

BY COURIER

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

Dear General Scowcroft:

Enclosed for your information is a self-explanatory enclosure entitled "Intelligence Oversight Board (IOB) Matter, [redacted] Division, 2004-[redacted]"

b2
b7E

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

Enclosure

~~UNCLASSIFIED WHEN
DETACHED FROM
CLASSIFIED ENCLOSURE~~

~~Derived from : FBI SGG G-3
Declassify on: June 28, 2029~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 11-19-2007

~~SECRET~~

NSL VIO-34347

~~SECRET~~

General Brent Scowcroft (USAF Retired)

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

Sincerely,

John F. Curran
Deputy General Counsel

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

~~SECRET~~

~~SECRET~~

REpossibleIOBviolation.txt

MessageFrom: [redacted] (FBI) b2
Sent: Friday, June 25, 2004 10:47 AM b7E
To: [redacted] (OGC) (FBI) b6
Subject: RE: POSSIBLE IOB Violation b7C

~~SECRET~~
RECORD 278-hq-c1229736 Serial 401

[redacted]

Yes, the information was sent to [redacted] to [redacted]. At that point the information was not reviewed. The package was sealed up and sent to [redacted] in order to be archived.

Thanks for your help.

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[redacted]

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Friday, June 25, 2004 9:35 AM
To: [redacted] (FBI)
Subject: Fw: POSSIBLE IOB Violation

~~SECRET~~
RECORD 278-hq-c1229736 Serial 401

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

[redacted]

I'm following up on my email to you earlier this week. I would appreciate it if you, or someone else on your behalf, can answer the question below so that I can close this IOB,

Thanks

[redacted]

Assistant General Counsel
Counterterrorism Law Unit I
National Security Law Branch
Office of the General Counsel, FBI, JEH, Room 7975
202-324-[redacted]

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b7C
b2
b7E

DATE: 11-19-2007
CLASSIFIED BY 65179/DMH/KSR/RW
REASON: 1.4 (c)
DECLASSIFY ON: 11-19-2032

-----Original Message-----
From: [redacted] (OGC) (FBI)
Sent: Monday, June 21, 2004 2:50 PM
To: [redacted] (FBI)
Subject: POSSIBLE IOB Violation

~~SECRET~~
RECORD 278-hq-c1229736 Serial 401

(S)

I am trying to close out a possible IOB violation that you notified HQ of in case ID # 278-HQ-C1229736 VIO Serial 401 (03/04/2004); concerning [redacted] copy attached.

Can you please verify for me that [redacted] did forward the information collected

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~~SECRET~~

from the NSL to [redacted] and that [redacted] REPossibleIOBviolation.txt has in fact sealed and archived the NSL info as you stated that you planned to do in the last paragraph of you EC?

Thanks
[redacted]

Assistant General Counsel
Counterterrorism Law Unit I
National Security Law Branch
Office of the General Counsel, FBI, JEH, Room 7975
202-324-[redacted]

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~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFY ON: 20290621
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFY ON: 20290621
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations
DECLASSIFY ON: 20290621
SECRET~~



U.S. Department of Justice

Federal Bureau of Investigation

~~SECRET~~

Washington, D. C. 20535-0001

BY COURIER

General Brent Scowcroft (USAF Retired)
Chairman
Intelligence Oversight Board
New Executive Office Building
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Declassify on: June 28, 2029~~

DECLASSIFIED BY 65179/DMH/KSR/RW
ON 11-19-2007

~~SECRET~~

NSL VIO-34386

~~SECRET~~

General Brent Scowcroft (USAF Retired)

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

Sincerely,

John F. Curran
Deputy General Counsel

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

~~SECRET~~

